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NEPAL DEMOCRACY AND GOVERNANCE ASSESSMENT FINAL REPORT

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NEPAL DEMOCRACY AND GOVERNANCE ASSESSMENT

FINAL REPORT



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EXECUTIVE SUMMARY

Nepal today is in the throes of unprecedented political and social change. Across most segments of Nepalese society there are demands and high expectations for change, for the creation of a “New Nepal.” Although Nepal’s transition has been going on for several years, it still is incomplete, with many serious political and governance issues still to be resolved. Therefore, we see the central DG challenge facing Nepal over the next several years as managing this difficult transition. Specifically:

The central “DG challenge” Nepalis face is agreeing upon and achieving a fundamental restructuring of Nepalese politics and government -- including drafting a new constitution, accommodating new political forces and holding elections -- while preserving and strengthening fundamental democratic principles.

The “New Nepal.” Nepal is now a secular republic – the monarchy has been abolished and the king has peacefully left the palace -- but the ultimate shape of the Nepalese polity is still to be decided upon. In particular, the 601-member Constituent Assembly (CA) must address difficult issues of federalism, autonomy, and inclusion. Local governance remains largely nonexistent. Currently there is negligible civilian oversight of the Nepalese Army (NA), which from its formation had always remained loyal and reported directly to the King.

A fundamental reordering is occurring in the absolute and relative influence of Nepal’s major political actors. The monarchy is gone and it seems unlikely that it will be restored. The April elections for the CA affirmed that the Maoists have become the single most important political actor and that Madhesi political organizations are the most important emerging political force. The influence of the Nepali Congress (NC) and CPN-UML has declined significantly, but they remain significant actors due to their organizational presence and, in some instances, their ability to block Maoists.

The Maoist shift to political struggle from armed struggle has led to peace. At least for the time being, all parties elected to the CA are committed to multi-party politics and to promulgating a new constitution. But haggling and delays over the formation of a government show how difficult it will be to govern, and may suggest how difficult it will be to actually reach agreement on the substance of a new constitution.

The November 2006 Comprehensive Peace Agreement (CPA) didn’t address in detail the integration of Maoist People’s Liberation Army (PLA) and the Nepalese Army, so this remains a critical unresolved issue. Moreover, many elements of the CPA have not been implemented.

Finally, there has been a serious decline in law and order, and a shift in violence and human rights abuses from violence between the central government and the Maoists, to non-state political violence and criminality. This is increasingly common across the country, but is particularly true in the Terai.

Looked at in terms of USAID’s Democracy and Governance assessment framework, Nepal faces serious challenges in all five thematic areas. There is at best a ***limited and extremely fragile consensus*** on the future character of the Nepalese polity. Demands and ***expectations for greater inclusion*** are an important driver of Nepalese politics right now, but they will prove difficult to satisfy and will create other problems (probably leading to further weakening of institutions, new conflicts, etc.). There is ***considerable political competition*** involving political parties, NGOs, and the media, but there also is a history of political violence, weak adherence to rules of the game and few sanctions for those who break the rules. The ***rule of law is weak from top to bottom***: the country is operating under an interim constitution, the judiciary and the police are weak, in some areas the Maoists and the YCL impose their own form of justice, and in

parts of the country, especially the Terai, there is growing violence and criminality. Finally, Nepal's historically **weak governance** is further weakened by power sharing, an extended transition, a poor economy, and massive unemployment, particularly among semi-educated youth.

The Challenges Ahead. Nepal is only part way through its political transition—and it will continue to be vulnerable to reversal. Looking ahead, Nepal's political actors and institutions face four fundamental challenges. First, they must **manage unrealistic expectations** for political change, inclusion and improved governance. Second, sooner or later they will have to carry out **security sector reform**. Third, they must somehow **address Nepal's huge governance challenges**, especially: (a) strengthening the rule of law, the absence of which has become a particularly serious problem in the Terai; (b) revitalizing local government, and (c) balancing the competing demands for peace and justice (including accountability for abuses committed during the conflict and in April 2006). Finally, they must **adopt and implement economic policies** that will accelerate economic growth, create jobs and alleviate poverty.

With regard to the DG program environment in Nepal over the next 2-3 years, the team believes it will be dominated by the following key characteristics:

- The CA is the most representative body in Nepal's history, but it also is very unwieldy, controlled by political parties, and is likely to be largely a rubber stamp body.
- The Maoists are the leading drivers of political and social change, but some aspects of their ideology and approach to politics may represent a serious threat to democratic politics.
- The ability of most other political parties and civil society groups to compete with the Maoists is, at best, mixed and not overly promising.
- It appears that issues of federalism, autonomy, and inclusion will dominate politics for the foreseeable future. There are widely varying, unrealistic and contradictory expectations.
- Madhesi demands and militancy will continue to be key factors in determining the trajectory of Nepal's transition.
- The peace process is not complete and can't be viewed in isolation from the political process.
- The multiple challenges of power-sharing, constitution drafting and "state restructuring" will limit the capacity of the national government to address Nepal's serious socio-economic problems.

Proposed DG Strategy. The next 2 to 3 years will continue to be a transitional and fluid period and therefore a DG program must be able to anticipate and respond to key transitional needs in a strategic and timely way. Therefore, the proposed focus of the DG strategy can be expressed as follows:

To help ensure Nepal's continuing transition results in a more democratic, inclusive and peaceful political system. Central to this is supporting key democratic institutions and processes as well as the peace process. Additionally, the US should encourage and support efforts by the Maoists and other political parties to enhance their capacity to engage in democratic politics and governance. In support of this strategy there needs to be a robust effort to monitor and assess the trajectory of democratic politics and governance over the next three years.

This involves addressing key aspects of consensus, competition, inclusion, rule of law and governance; but the DG strategy has to be geared to the overall, multidimensional process of transition, and not any single sector.

Key Elements of the DG Strategy. The proposed DG strategy would provide the framework for supporting key governmental and non-governmental actors to do the following:

- 1) ***Bolster democratic approaches to politics and governance.*** This would include support for human rights organizations, selected civil society/youth groups and coalitions, independent media and democratic political parties.
- 2) ***Address key transitional processes.*** This would include support for addressing key constitutional issues, support for election preparations, and support for the peace process.
- 3) ***Foster greater inclusion.*** This would include support for increasing the participation of women and youth in politics and civic affairs. Attention also needs to be paid to issues of inclusion in the Terai.
- 4) ***Monitor the political transition and improve public understanding of it.*** This should include monitoring: (a) the constitutional drafting process, (b) adherence by all parties to human rights and democratic principles, (c) the political and security situation in the Terai, (d) preparations for elections, and (d) the status of local governance.

“Cross Cutting” or Program-Wide Priorities. We recommend that the DG strategy have four “cross cutting” or program-wide priorities. These are:

- 1) Using a “conflict lens” when designing and implementing all USG programs.
- 2) Maximum possible participation of women and youth.
- 3) Use of the media—especially radio.
- 4) Ensure programs reach and engage key stakeholders outside Kathmandu.

Priorities and Possibilities. Our recommendations for prioritization follow. These are based on an assumption that only moderate levels of funding will be available and the team’s assessment of (a) potential for impact, (b) urgency, (c) capacity and comparative advantage of USG and its partners.

1. What definitely can and should be supported:

- Efforts to address key transitional issues (inside and outside the CA)
- Preparations for the elections
- Human rights capacity building
- Strengthening civil society coalitions
- Youth civic education and leadership training
- Monitoring the political and peace processes

2. What should be supported if there is serious commitment/political will:

- Political party reform
- Civil-military relations and possibly Security Sector Reform

3. Areas that should be monitored with a view to developing programmatic responses if needed:

- The potential challenges to media freedom
- Judicial independence
- New anti-corruption initiatives
- Changes in the status of local government
- The establishment of a Truth and Reconciliation Commission

Other Key Considerations. Finally, the team recommends that, as the DG strategy is developed and implemented, attention be paid to the following:

- First, to maximize impact, there needs to be a focused and well-coordinated USG approach. In particular, the impact of the program will be enhanced by regular, and emphatic public and/or private expressions of USG support for “a more democratic, inclusive and peaceful political system.”
- Second, a high degree of flexibility is essential. Ways to ensure this include:
 - Consider having a comprehensive DG program review every 4 to 6 months over the next two years.
 - Have a small grants component.
 - Regular monitoring.
- Third, donor coordination is essential, especially concerning political party support, human rights and elections.
- Finally, learn from and build on USAID/OTI’s work in the Terai.

I. INTRODUCTION: THE ONGOING STRUGGLE FOR A “NEW NEPAL”

A. The past as prologue

Nepal is a poor country that is fragmented by caste, ethnicity, language and geography. In 1990 it experienced a dramatic political opening and since then it has experienced rapid – and sometimes violent -- political and social change. For most of the last decade the Nepalese people have had to endure political instability and a Maoist insurgency. Given these characteristics, establishing an inclusive and effective democracy has not been easy.

However, it also is the case that many of Nepal’s political and governance woes are the product of attitudes and decisions of Nepal’s high caste-dominated political elite. There are three principal ways in which the elite has failed:

- 1) The failure of successive governments to: a) provide basic services, b) decentralize, and c) make the government more inclusive.
- 2) The failure of the King both to limit and legitimize his role in politics and governance.¹
- 3) The failure of political party leaders to be: a) more inclusive, b) more democratic, and c) more concerned with governance.

As a result, the monarchy, unitary central government and mainstream parties have all been largely discredited. Given these failures, it is not surprising that the Maoists (and perhaps to a lesser extent *Madhesi* groups) have been able to capitalize on dissatisfaction and the absence of other credible elites and institutions.

B. Key aspects of Nepal’s ongoing transition

Beginning in late 2005 the “Seven-Party Alliance” (SPA), led by the Nepali Congress (NC), and the Communist Party of Nepal-Maoist (CPN-M) formed a fragile but ultimately successful alliance against King Gyanendra’s direct royal rule. In April 2006 a two-week “people’s movement” (*Jana Andolan II*) generated widespread mobilization against royal rule and for the return to democracy. This was followed by the eruption of discontent in the Terai, which symbolized the growing importance of *Madhesi* political actors in Nepalese politics.

The November 2006 Comprehensive Peace Agreement (CPA) between the SPA government and the Maoists served as the basis for an interim power sharing arrangement which gave them seats in the interim legislature and brought the Maoists into the government. It also formally concluded the armed struggle between the Maoists and the government. (But it did not specify a process or ultimate end goal for the integration of the two contending armed forces.) The CPA also provides the roadmap for a political process, including the election of a Constituent Assembly (CA), leading to the promulgation of a new constitution. An Interim Constitution (IC), a hastily drafted document with numerous internal contradictions, remains the operative constitution until the CA produces a new one.

¹ His reign began with limited legitimacy due to the Palace massacre of his brother and other family members in 2001.

Elections for the CA were successfully held in April, 2008. The Maoists won a plurality of the CA seats (slightly more than 38 percent of the total seats) but not enough to enable them to claim control of the government. The CA, the most inclusive body in Nepal's history, is responsible for simultaneously drafting the new constitution as well as serving as a legislature. It is now in the early months of a two year term of office.² The CA has met mainly to organize its structures by formulating rules of procedure and appointing its chair and key committees. Work on the constitution has begun only recently.

After protracted political wrangling, the CA elected Maoist Chairman Pushpa Kamal Dahal (“Prachanda”) as Prime Minister. The Maoists then formed a coalition government with the UML and MJF.

In sum, a fundamental reordering is occurring in the absolute and relative influence of Nepal's major political actors. The monarchy is gone and it seems unlikely that it will be restored. The CA elections affirmed that the Maoists have become the single most important political actor in Nepal and that *Madhesi* groups are the most important emerging political force. The influence of the Nepali Congress and CPN-UML has declined significantly, but they remain significant actors due to their organizational presence, their international respectability and their familiarity with government. The CA is likely to be an institutional reflection of these parties. Currently the Army remains largely autonomous of civilian control; and while it has shown a willingness to protect what it sees as its core institutional interests, it doesn't appear to have larger ambitions.

C. The current situation

Nepal's ongoing political transition is incomplete, with many serious political and governance issues still to be resolved. With peace the Maoists have shifted their emphasis from armed struggle to political struggle. But many elements of the CPA have not been implemented.

Nepal is now a secular republic – the monarchy has been abolished and the king has peacefully left the palace -- but the ultimate shape of the Nepalese polity is still to be decided upon. In particular, the CA must address difficult issues of federalism, autonomy, and inclusion. Local governance is still largely in the hands of government agents and to date there are no plans to restore elected local governance any time soon.

At least for the time being, all parties elected to the CA, are committed to promulgating a new constitution and to multi-party politics. But haggling and delays over the formation of a government show how difficult it will be to govern, and may suggest how difficult it will be to actually reach agreement on the substance of a new constitution.

The CPA didn't address in detail the integration of Maoist People's Liberation Army (PLA) and the Nepalese Army (NA), so this remains a critical issue. Integration of the PLA and the NA still has not occurred. Currently there is negligible civilian oversight of the NA, which from its formation was under the control of the King.

In addition, there has been a serious decline in law and order, and a shift in violence and human rights abuses from violence between the central government and the Maoists, to non-state political violence and criminality. This is increasingly common across the country, but is particularly true in the Terai.

² Provisions exist for the CA's term of office to be extended for another six months if this proves necessary; and given the fluid nature of Nepali politics, presumably this could be extended beyond an additional six months if this proves necessary in order to preserve the peace, or to allow the state restructuring process to continue to move forward.

D. The costs of a prolonged political transition

Nepal has been in the throes of a political crisis and conflict for the better part of a decade. While there has been important progress in a variety of areas, it also is an exceedingly slow and uncertain transition. It now has been over two years since the King returned control of the government to political leaders. It has been more than a year and a half since the signing of the CPA. It is expected that it will take another 2+ years to adopt a new constitution -- and even longer to implement its provisions -- and after the Constitution is written, there will need to be new elections.

The length and uncertainty of the transition imposes costs on the Nepalese polity and economy. Ministries have been constrained in the normal performance of their regular duties. Until the Interim Constitution is replaced by the CA's constitution, there will be a high degree of constitutional and legal uncertainty. The attention of the leaders of the government will continue to be more on political issues -- including coalitional politics, drafting the new constitution and preparing for the next elections -- than on governance and economic issues. At the local level, it appears the impact on governance has been varied, depending on the presence and quality of both government agents and the Maoists. But overall, local governance continues to suffer from both a lack of accountability and political uncertainty. And the economic and social costs during this period of social change are virtually uncountable. Dissatisfaction with the pace or direction of change at the national or local levels could fuel new violence and conflicts.

E. About this assessment

This Democracy and Governance Assessment was conducted for USAID by Management Systems International (MSI). The DG assessment team consisted of David Timberman (MSI), David Garner (MSI), Julie Werbel (USAID/DCHA) and Krishna Hachhethu (Centre for Nepal and Asian Studies, Tribhuvan University). The team visited Nepal from June 8 to 27, 2008. It was based in Kathmandu and team members made trips to Pokhara, Biratnagar, Janakpur and Nepalgunj. More than 150 people from government, politics, civil society, the media and the private sector were interviewed. (See Appendix V.)

The first draft of this report was completed in August 2008. Although the final version of this report is dated December 5, 2008, the information contained in it is current only through mid-August 2008. Since then the Maoist leader Pushpa Kamal Dahal ("Prachanda") became Prime Minister and the Maoists formed a coalition government with the UML and MJF. This report does not address the performance of the new government or of the CA.

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This report was written by David Timberman and David Garner, with inputs from Julie Werbel and Krishna Hachhethu. While the authors gladly recognize the significant contributions made by Ms Werbel and Professor Hachhethu, we also want to emphasize that the views expressed in the report are those of the two authors alone and do not necessarily represent the views of the other members of the team. Furthermore, the views expressed in the report do not represent the views or policies of the US Government or USAID.

This assessment looks at democracy and governance in Nepal through the prism of USAID’s DG Assessment framework and then offers recommendations for a DG strategy and possible programs. Section II addresses Inclusion and the Primacy of Identity Politics, Section III addresses Consensus and Cooperation, Section IV addresses Governance and Section V addresses the Rule of Law. Section VI looks at challenges facing Nepal in the coming 2 to 3 years and Section VII contains our conclusions and recommendations. A brief discussion of Nepal’s MCC rankings is included in Appendix I.

II. INCLUSION AND THE PRIMACY OF IDENTITY POLITICS

*“Nepali society is profoundly unequal. Average income in Kathmandu is five times higher than income in the mid-western districts that have become the Maoist heartland, and there are poorer districts still. The majority of Nepal’s people are excluded from most avenues of personal advancement and many sources of justice for reasons of ethnicity, caste, gender, social class, and regional origin. The country is also extremely Kathmandu-centric....”*³

A. Introduction

The issue of inclusion – specifically the lack of it in the past and the explosion of demands for greater inclusion now and in the future – is a fundamental political and social dynamic in Nepal. How the efforts to address demands for greater inclusion play out will have a profound effect on the future viability and legitimacy of the Nepalese nation-state.

Nepal is home to 101 caste or ethnic groups, 91 linguistic groups, and 9 religious groups.⁴ As such, Nepal is a country of minorities— no single group has a majority, and the single largest ethnic or caste group makes up about 16 percent of the total population. For the purposes of this assessment, Nepal’s multitude of groups can usefully be aggregated into three broad and somewhat overlapping categories:

- 1) *Pahadi* or hill people
- 2) *Madhesi* or people who live in the plains, or the Terai; and
- 3) *Janajati* (ethnic/tribal groups).

Superimposed upon parts of this tripartite structure are various Hindu caste systems. Superimposed upon the *pahadi* and some of the *Madhesi* are various Hindu castes, (or jats) including high caste and low caste Hindus, and the Dalits, who are untouchable by higher castes.⁵ *Janajati*, Muslims and some others fall outside of the caste structure.

As a consequence of a historical process of national integration, over the past 200 years most populations were somehow squeezed into the fold of *pahadi* high caste (Brahmin and Chhetri) culture. Under this framework, three pillars – monarchy, Hinduism and the Nepali language were effectively enforced as the components of Nepali nationalism. Over the past 150 years, non-high caste *pahadi* groups have withstood assimilation into the Shah/Rana *pahadi*-dominated state, with its emphasis upon high caste hill Hindu culture and the Nepali language as a defining feature of what it meant to be a citizen of Nepal. Linguistic, religious and cultural diversity, which has always existed in Nepal, became the basis for inequality among different social groups. As a result, today most minorities feel marginalized by the Hindu Brahmin/Chhetri elite.

³ Hutt, *Himalayan ‘People’s War’, Nepal’s Maoist Rebellion*, Hurst & Co, 2004, p. 17.

⁴ The 2001 census enumerated 92 mother tongues spoken in Nepal. Of these only 12 languages were spoken by over 1 percent of the population. Nepali was identified as the mother tongue of 48.6 percent of the population and is dominant in 56 districts. The census shows that the distribution of mother tongue does not coincide with the distribution by ethnicity/caste. See *Unraveling the Mosaic*, pg 63.

⁵ It was only in 1963 that Nepalese law began to require equal justice (or equal punishment) regardless of a person’s caste. Prior to 1963, lower caste individuals were subjected to harsher punishments, because of their lower standing in the karmic scheme of things.

***Representation of Various Castes and Ethnic groups in Cabinets
During Royal Governments and Democratic Governments***

The table below describes the representation of various castes and ethnic groups in both Royal and Democratic Governments.

Castes/ Ethnic Groups	Royal Governments			Democratic Governments			% of pop. in 2001
	No.	%	PSI	No.	%	PSI	
Brahman	187	21.9	1.72	173	35.6	2.80	12.7
Chhetri	264	30.9	1.79	114	23.5	1.36	17.3
Newar	101	11.8	2.15	35	7.2	1.31	5.5
Sub-total:	552	64.4	1.82	322	66.3	1.87	35.5
Madhesi	113	13.2	0.40	92	18.9	0.57	33.0
Hill Social Groups	170	19.9	0.69	64	13.2	0.46	29.0
Others	20	2.3	0.92	8	1.5	0.60	2.5
Sub-total	303	35.4	00	164	33.6	0.52	64.5
Grand Total	855	100		486	100.0		100.0

[Source: *From Exclusion to Inclusion*, pg 99]

Demands for inclusion are in part a reaction to this historical high caste domination, which was reinforced by the monarchy, Rana-led governments, and the State apparatus, which institutionalized exclusion and inequality. For example, for more than 100 years, during the Rana regime from the mid 1800s until 1950, the *Madhesi* had to obtain written permission just to enter the Kathmandu Valley. But these demands also are a reaction to the shortcomings of the 1990 constitution, and its subsequent implementation by the political parties, which typically were dominated by the higher castes.

Since 2007, a number of steps have been taken to improve inclusion:

- Initially the Interim Constitution Drafting Committee consisted of just six men, no women, no Dalits and no representatives of ethnic groups. After protests, a number of women and minorities were added.
- The Citizenship Act of 2007 provided citizenship to some two million people, many in the Terai
- Five *Madhesi* were made Chief District Officers⁶ (CDOs) in January 2008.
- The August 2007 Civil Service Bill reserves 45 percent of designated government posts for women, *Madhesi*, *Janajati* and Dalits.
- Police and Armed Forces regulations have been amended to create reserve quotas for women and marginalized groups.
- And the diversified representation in the CA is without precedent in Nepali history. (See section on CA.)

⁶ Nepal is divided into 75 Districts, as one of the country's major units of government. As the name CDO implies, the CDO is in charge of a District. They are part of a national service, attached to the Ministry of Home, and typically are rotated periodically.

B. The Primacy of identity politics

Identity politics – that is, political behavior rooted in and focused on the demands and aspirations of groups that form on the basis of their ethnic, religious, linguistic or cultural identity – is one of the principal dynamics of Nepalese politics at present.

The ethnicization of politics has been formalized in several provisions of the 2007 interim constitution. The most important provision involves a constitutional guarantee for the representation in the Constituent Assembly (CA) on the basis of caste, ethnicity and region. The CA election results show a decline of national political parties and major gains for parties with an ethno-regional identity, or which combine class and ethnicity. Ethnic and regional based politics, which have been constitutionally prohibited, have become an important characteristic of Nepali politics at present and in the future.⁷ According to Sharma, ethnicity has emerged as “a criterion to assess ‘development,’ its ‘content’ and ‘beneficiaries.’ Notions of ‘participation’ and ‘ownership’ of the state as well as the practice of ‘democracy’ are being tested through the ethnic filter. Ethnicity is used to historically explore the past and derive pointers for the future.”⁸

The disadvantaged of Nepal fall into three large blocs: *Janajati*, *Madhesi* and Dalit, representing more than 60 percent of the national population by any definition, and perhaps as much as 80 percent. Each of these groups has its own organization speaking on behalf of its membership. The Nepal Federation of Indigenous Nationalities (NEFIN) and its 59 member organizations have focused largely on the problems of *Janajati*. The actors championing the cause of *Madhesi* are increasing with the rise of *Madhesi* political parties. These include the Madheshi Janadhikhar Forum (MJF), the Terai Madhesh Loktantrik Party (TMLP), and the Sadhabana Party (NSP). Dalit activism has largely been expressed through the NGO movement with links to various International NGOs, backed by several donors. The Dalit NGO Federation is an umbrella organization of 102 NGOs.

The *Janajati*. Various ethnic groups make up about 35 percent of Nepal’s population. Today these groups are increasingly being identified as ‘the *Janajati*.’ There are approximately 59 different ethnic groups, most of which are broadly animist or Buddhist in their orientation.⁹ Typically, these groups “nurture a historic sense of marginalization from the national power centre. The Rana era...saw a speeding up of the process of molding Nepal into a Hindu state at the expense of other religious belief systems and ways of life.”¹⁰ This molding process often was explicitly directed at the *Janajati* groups, most of which had existed in their own small ethnic enclaves, kingdoms, or homelands prior to 1768, with their own culture, codes, laws, traditions, and governing systems.

Since the unification of Nepal in 1768, however, the cultural territory of these various homelands has been rapidly deconstructed through various mechanisms including migration both east to west and north to south, the assimilation of some of the *Janajati* communities into the dominant Hindu value systems and religious structures, the spread of Nepali as the “national” language, plus the continued centralization of Nepalese administration under the Shah and Rana dynasties.

⁷ Indian politics has followed the same pattern over the past 30 – 40 years.

⁸ Sharma, *Unraveling the Mosaic*, pg 2.

⁹ NEFIN defines one of the qualifications for being a *Janajati* as being of non-Hindu origin. Taken literally, this would exclude almost 80 percent of the population of Nepal from being considered for membership in the *Janajati* community. In the Nepalese cosmology, Hinduism and Buddhism are closely intertwined.

¹⁰ Thapa, *A Kingdom Under Siege*, p. 75

In 1990, during the period of *Jana Andolan I*, most of the *Janajati* hoped the new constitution would incorporate their aspirations to define a document that recognized the plurality of Nepali society. This hope was to remain unfulfilled and the various suggestions made by those groups were ignored in totality. The country's various minority groups condemned the constitution outright since their respective demands for a Constituent Assembly and the recognition of a multiethnic Nepal went unfulfilled.¹¹ As of 2005, government action had consisted of a token reservation policy and creation of commissions for Dalits and Indigenous peoples. Moreover, the Supreme Court overruled efforts to allow the administrative use of languages other than Nepali and invalidated attempts to loosen the criteria for citizenship.¹²

***Madhesi* discontent and militancy in the Terai.** The Terai is now home to about half of Nepal's population. The majority of the inhabitants of the Terai are referred to as *Madhesi*. Historically the *Madhesi* have been excluded from politics, government and the military. Since 2007, however, they have begun to emerge as a potentially very powerful new political force. The *Madhesi* represent the new swing vote in Nepali politics, and are the primary example of emerging new ethno-religious parties chipping away at the dominance of heretofore national political parties. And because of the Terai's strategic location -- most overland trade between India and the Kathmandu valley must pass through it -- the *Madhesi* have the ability to seriously disrupt life in Kathmandu and damage the national economy.

Geographically, the Terai is not one unified strip of territory but comprises three distinct areas: the eastern, the central, and the western Terai. It encompasses great linguistic and social diversity. The Terai proper is now home to four groups of people: 1) indigenous people such as the Tharu, 2) Hindu caste groups who have been there for centuries such as the Mithla and Simraungarthe, 3) recent hill migrants (*pahadis*) who moved to the Madhes over the last 50-100 years, and 4) Indian immigrants.

The *pahadi* population in the Terai has increased substantially from six percent in 1952/54 to 36 percent in 2001.¹³ While Indians were moving into the Terai from North India, *pahadis* were moving down into the Terai from the high Himalayas, taking over lands that had been cleared of malaria through various development projects, and which had become economically important. Over a 50 year period, the number of *pahadi* in the Terai increased by approximately 600 percent. Today, *pahadis* still constitute the largest ethnic or regional group in seven out of the 20 districts in the Terai.

The *Madhesi* population is broadly understood to consist of people of non-hill origin drawn from three distinct groups: Terai *Janajati* groups, Terai Hindu caste groups and Muslims. According to ICG: "*Madhes* generally denotes the plains of eastern and central Terai, while *Madhesi* have been defined as non-*pahadis* with plains languages as their mother tongue regardless of their place of birth or residence. The term encompasses both caste Hindus as well as Muslims and, in some definitions, the indigenous Terai ethnic groups. However, many ethnic groups, especially the Tharu in mid-western Terai and Rajbanshis, claim an independent identity, saying they are the original inhabitants of the Terai, and *Madhesis* came in much later as migrants."¹⁴

There are sharp differences between the *Janajati* and caste groups (e.g., Tharus), and of course Muslim identity is distinct due to religion. As a result, the perception of the *Madhes* as a region and the *Mahesi* as a regional identity are not one and the same thing. "The principal common denominator that binds

¹¹ Thapa, *A Kingdom Under Siege*. pp 34, 35.

¹² ICG Report #99, June 15 2005, pg 14.

¹³ This migration was in part due to major agricultural development projects like the USAID-supported Rapti I project in Chitwan and subsequently the Rapti II project in the lower reaches of Rolpa,

¹⁴ ICG Report #136, July 9, 2007, pg 2.

together the *Madhesi* population as a group is the discriminatory and exclusionary treatment at the hands of the state.”¹⁵

Among the Hinduized *Madhesi*, caste divisions govern social relations, play a significant role in forming political choices, and often shape economic stratification. Among Hindus, Brahmans and Chhetris, primarily Thakurs and Rajputs, are at the top of the caste hierarchy. Dalits are considered impure. There is also a substantial presence of the “middle castes” like the Yadavs, who are otherwise at the bottom of the caste structure but rank above Dalits.

Madhesi discontent and militancy must be seen in the broader context of the centre-periphery divide and the interplay of geography, caste, ethnicity and politics in Nepal. While representing nearly half the population, *Madhesis* hold just over one tenth of senior positions in the public sector. In the army, there are very few senior *Madhesi* officers. Even moderate *Madhesi* intellectuals describe the cumulative effect of living in the Terai under Kathmandu’s domination for the past 150 years as a modern form of “internal colonization.”

For the *Madhesi*, while there may be internal divergence in terms of caste, ethnicity, language and religion, they also share a strong common feeling of being non-*pahadi*, and are bound together by Hindi as a common language, by pan-*Madhesi* culture, and as inhabitants of the same ecological zone. Particularly in the East they occupy contiguous territory. They share a common space, and have some degree of shared economic interests, particularly relative to Kathmandu. Fault lines within the *Madhesi* movement have also been partly – and perhaps temporarily -- suppressed by shared interests in countering *pahadi* domination.

According to the ICG: “*Madhesi* discontent had been rising since it became apparent the April 2006 people’s movement would not lead to rapid addressing of their grievances. Federalism emerged as a key demand of all *Madhesi* groups; armed outfits increased their activities, and Maoist-*Madhesi* tensions escalated, in some cases violently. The parties, happy to be back in power and concentrating on talks with the Maoists, paid little attention to issues or political dynamics. When the draft interim constitution – prepared by the SPA and Maoists without broad consultation – became public in December 2006, it prompted protests. *Madhesi* groups, as well as *Madhesi* MPs across party lines, objected to silence on federalism and what they saw as an unfair electoral system.”¹⁶

Following the April 2006 protest movement, increasing reports of killings and abductions in the Eastern Terai attributed to the Janatantrik Terai Mukti Morcha (JTMM), an armed group which split off from the CPN-M’s Madhesi Mukti Morcha in 2004. JTMM advocates armed struggle for self-determination of the *Madhesi* people. According to OHCHR, violations peaked in July and August 2006. JTMM is thought to have killed several CPN-M cadre; the Maoists retaliated by abducting and torturing several JTMM affiliated people. According to the OHCHR, “With few exceptions the police have not investigated or intervened to stop acts of violence involving the JTMM, or illegal acts of retaliation by the CPN-M. The absence of law enforcement has led to the continuation of retaliatory killings and abductions, creating a climate of fear and uncertainty...”¹⁷ In August 2006, the JTMM split into two factions: the original group led by Jaya Krisha Goit, and the other led by Jwala Singh.¹⁸ According to OHCHR, “JTMM abuses continued up to the end of 2006, including the abduction of some 30 *pahadis*. Some abductions occurred

¹⁵ Sharma *Unraveling the Mosaic*, pg 6.

¹⁶ ICG Report #136, July 9, 2007, pg 12.

¹⁷ OHCHR Nepal 2006 Report, pg 53.

¹⁸ In June 2007 the Goit faction split again.

during transport and commercial strikes (*bandhs*) called by the JTMM... The JTMM and the CPN-M also engaged in open conflict particularly between June and Sept 2006.¹⁹

In late 2006 *Madhesi* groups organized a series of strikes to prevent transportation through the Terai. Following a strike called by the Madhesi Nepal Sadbhavana Party (NSP), serious communal violence broke out between *Madhesis* and *pahadis* in Nepalgunj in Dec 2006.

In January 2007 the Madhesi Janadhikar Forum (MJF, which is also known as the Madhesi Peoples Rights Forum), an NGO which has emerged as a leading force in the *Madhesi* movement²⁰, organized a Terai-wide *bandh* in order to pressure the government to amend the interim constitution to provide for: 1) federalism with autonomy, 2) redrawing of electoral constituencies, and 3) proportional representation of Madhesis in government bodies including the legislature and security forces. The *bandh* was widely observed and resulted in the shutdown of commerce and transportation throughout large areas of southern Nepal, and significantly disrupted the flow of products into Kathmandu..

In late January and early February violence and demonstrations spread to central and eastern Terai. At least 24 people were killed. The violence subsided after Prime Minister Koirala made an announcement on February 7, 2007 that the interim constitution would be amended to address Madhesi demands. In March 2007, an MJF-Maoist clash in Gaur resulted in 27 Maoists being killed and dozens injured. A subsequent OHCHR investigation held law enforcement agencies, the MJF, and the Maoists jointly responsible for the massacre.

In February, 2008 the United Democratic Madhesi Front, a new alliance of three *Madhesi* political parties, called for a Terai-wide *bandh* on February 13. *Bandhs* were called at the same time by the Federal Democratic National Forum, a coalition of indigenous groups and the Federal Republican National Front, which includes the United Tharu National Front, the Madhesi Peoples Rights Forum, the Dalit Janajati Party and other *Madhesi* groups. The imposition of the *bandhs* paralyzed daily life in the Terai and led to violent confrontations between *bandh* supporters and the Police and the Armed Police.

The Dalits. The Dalit communities exist at the very bottom of Nepal's complex social pecking order. They are variously characterized as (i) "untouchables," (ii) "occupational castes" or (iii) "poor and oppressed persons." To over-simplify, but to help define the group, Dalits generally have caste occupations like blacksmithing, leather-working, tailoring, or they are the traditional singers and musicians. Many of them also work as farmers, or as common unskilled laborers.²¹

All Dalits exist within the Hindu caste system, and their social, economic, and political conditions, as well as their health, education, and literacy status are lowest of all population groups in Nepal. Because of methodological and definitional problems, it is difficult to generate a firm number for the population of Dalits in Nepal, but in round numbers, they seem to include about 6 million individuals, and are often said to represent about 20 percent of the national population.

The Dalits are found in all 75 districts of Nepal, and exist in three broad regional groupings: (i) Dalits in the hill (or pahadi) community; (ii) Dalits among the Newars; and (iii) Dalits in the Terai. There are somewhere between 23 and 28 different sub-groups among the Dalit community, and there is a hierarchical order among the Dalits themselves. Thus, in addition to discrimination from the larger national community, there is also discrimination practiced within the Dalit community towards one

¹⁹ OHCHR Nepal Report, January 2007, pg 68.

²⁰ In April 2007, the MJF registered as a political party.

²¹ Traditionally, a higher caste person in the Hindu tradition could not accept water from members of such Dalit castes, or if they did, the higher caste person needed to perform certain rituals to purify himself.

another, with higher “untouchable” Dalits unable to accept food or water from “lower” untouchable Dalits.

By all known social indicators, Dalits are among the poorest of Nepalis. In education and literacy, they are much lower than the national average. Their life expectancy is shorter, and infant mortality is higher. The Human Development Index for Dalits is much lower than the national average. Landlessness is acute among the Dalits, particularly in the Terai. Many Dalit households suffer from severe food deficiencies. Sadly, Dalit women are even more disadvantaged than Dalit men on almost all measurable indicators.

It is interesting to compare the *Madhesi*, the *Janajati* and the Dalits in terms of their political salience. The *Madhesi*, as we have argued above, by virtue of their numbers, location and political mobilization represent a powerful new political force. The *Janajati* are a social movement more than a political movement, and are weakened by their geographical dispersion. The Dalits, as usual, are in the most disadvantageous position. They are scattered in every district of the country, and are always at the bottom of the social hierarchy. In addition, they have the least education and the biggest burdens to overcome. Thus, we would not expect the Dalits to represent a major force in Nepalese politics over the next decade or longer, except in alliance with stronger groups, to the extent that this proves possible.

Nepal’s Disadvantaged Groups: Issues and Agendas

The priorities for the major groups of marginalized populations are as follows:

Social Group	Problem of Exclusion	Agenda for Inclusion
DALIT	Social 1. Caste discrimination	1. Secular state
	Economic 2. Poor Literacy 3. Unemployment 4. Landlessness	2. Free education 3. Seat reservation 4. Alternative livelihoods
	Political 5. Poor representation	5. “Collegiate election”
JANAJATI	Cultural 1. Religion 2. Linguistics discrimination	1. Secular state 2. Official status of Janajati
	Economic 3. Low literacy 4. Unemployment	3. Educational targeting 4. Affirmative action
	Political 5. Poor representation 6. Subjugated in governance	5. Proportional representation 6. Ethnic Autonomy
MADHESI	Cultural 1. Linguistic discrimination	1. Official status to Terai
	Economic 2. Employment bar	2. Recruitment in army
	Political 3. Hill dominance 4. Citizenship problem	3. Regional autonomy 4. Ascertain long-term residents vis-à-vis immigrants

[Source: *From Exclusion to Inclusion*, pg. 35]

C. Women: The invisible majority

Although they constitute a majority of the population, women have played only a marginal role in politics and governance in Nepal. According to UNICEF, “Society assigns tightly defined gender roles to men and women. These stereotypical roles are at the root of prejudiced attitudes that feed into discriminatory practices throughout society. These practices, along with the attitudes that accompany them, have a foundation in the family setting and are reflected in the administrative and legal practices of the country. Together they create a cycle of discrimination that puts women in an inferior position to men and perpetuates their lower status....Many of Nepal’s laws discriminate against women on issues such as property, marriage and family, domestic violence, legal and court proceedings, trafficking and sexual abuse, employment, education, nationality and citizenship....At present, Nepal has about 150 special measures for women spread across 56 laws. However, a number of these “special measures” often result in less freedom and reduced rights for women.”²²

Nepal's 2005 Gender Development Index (GDI) value, 0.520 should be compared to its Human Development Index (HDI) value of 0.534. With Nepal’s GDI value being 97.4 percent of its HDI value, 133 of 156 countries with both HDI and GDI values have a better ratio than Nepal's. Nepal ranks 86th out of 93 countries in the Gender Empowerment Measure (GEM), with a value of 0.351. The GEM reveals whether women take an active part in economic and political life. It tracks the share of seats in parliament held by women; of female legislators, senior officials and managers; and of female professional and technical workers, along with the gender disparity in earned income, reflecting economic independence. Differing from the GDI, the GEM exposes inequality in opportunities in selected areas.

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The high level of women’s participation in the CA is a very positive development and should improve Nepal’s gender indicators somewhat. But this must be viewed in the context of a long history of very limited women’s participation in politics. Of a total of 1,302 ministers between 1951 and 2005, there have been only 25 women ministers, and most of them were assistant ministers. Most of these, in turn, have been Brahmin and Chhetri.²³ In a similar manner, female representation in the House of Representatives was only 3.4 percent in 1991 and 5.8 percent in 1999. And among women, the greater share were Brahmins.²⁴ The level of female participation in the civil service also is very low, amounting to approximately 9 percent in 2004. At the higher levels of the civil service the presence of women is significantly lower.²⁵

The participation of women in local government institutions has been scant, except at the Ward level. The royal ordinance on local governance in 1997 provided for mandatory representation of women at the Ward level by holding a separate election.

²² UNICEF 2006 Report, Chapter 4.

²³ *Yadav*, in *From Exclusion to Inclusion*, pg 102.

²⁴ *Shrestha*, in *From Exclusion to Inclusion*, table 7, pg 76.

²⁵ *Ibid*, pg 77.

FEMALE REPRESENTATION IN LOCAL GOVERNMENT INSTITUTIONS, 1997 TO 2002

Local Committees/ Councils/ Municipalities	Total Representation (Number)	Female Participation (Percent)
District Councils	10,000	1.5
District Development Committees	1,117	6.7
Municipalities	4,146	19.5
Village Development Committees	50,857	7.7
Village Councils	183,865	2.1
Ward Committees	176,031	20.0

[Source: *From Exclusion to Inclusion*, Table 5, pg 75]

D. Youth: Numerous and mobilized

Almost half Nepal's 30 million citizens are under 18 years of age and nearly 60 percent are under 24. They are increasingly literate, at least somewhat educated, and largely unemployed. Unlike Western Europe and the United States which will be dominated by older populations for the next several decades, the importance of the youth vote will increase over the next few years, if only because of demographics.

In 1965, only 21,000 Nepali students were enrolled in secondary schools. By 1971, six years later, this number increased nearly six fold, to approximately 120,000 secondary school students. By 1986, the number had risen to almost half a million students, and by the year 2000, Nepal had nearly a million secondary school students. This represents an increase of secondary school students of more than 4,700 percent over 35 years.

Nepalese youth feel disempowered and alienated for many reasons. Some of this comes from "ageism" and the typical hierarchical nature of Nepalese society. Some "youth" and student leaders are still working as youth leaders when they are in their 40s, giving a somewhat unusual definition to 'youth.' Much of the alienation for youth comes from demographics and the economic context in which they live. They go to school in increasing numbers, but when they graduate, there are no jobs. There are somewhere between 500,000 and 700,000 new entrants into the labor force each year and probably less than half of these ever find formal jobs.

So it is not surprising that many join student unions, parties or more militant groups (or criminal groups) and agitate for what they think will offer them a better future.²⁶ In 2007 national survey, 36 percent of youth respondents said they participated in a political protest or movement.²⁷ The survey also revealed that youth participation in CBO/NGO civil society activities more than tripled from ten percent in 2004 to 33 percent in 2007. Youth participation in party activities increased from 11 to 25 percent.²⁸ Student unions are organized and do strike, either on their own or in support of other organizations. According to one observer, "Young Nepal has been at the forefront of the recent rambunctious, often violent pro-

²⁶ Indeed, groups like the Young Communist League (YCL) are becoming increasingly important as alternative employment vehicles. In some cases, the Maoists (particularly the YCL) appear to represent a movement for those young people who are unable to gain access to the formal system.

²⁷ Hachhethu, *Nepal in Transition*, pg 30.

²⁸ *Ibid*, pg 33.

democracy protests...They came of age after democracy came to Nepal in April 1990, and they have tasted the fruits and failures of electoral politics. They have seen a Maoist rebellion put much of the countryside through the wringer...They have taken the lion's share of police beatings..."²⁹

In most of Nepal's political parties, which are dominated by older higher caste individuals, young people are neither respected nor promoted. This appears to be substantially less true among the Maoists, however, which are oriented around merit. Among the Maoists, a young person can quickly be promoted, depending upon his or her leadership qualities. The Nepali Congress had only 17 FPTP candidates (7.8 percent) below 40 years old, whereas the Maoists had 126 candidates under 40 (52.5 percent). According to Maoist chairman Pushpa Dahal (aka Prachanda), almost 60 percent of the Maoists' winning candidates were under 40.

Each party has its own student wing, which becomes very active during election periods. Politically active students affiliate with one of the political parties or their sister organizations. They are funded and nurtured by politicians. Most of the traditional political parties' leaders were once leaders of their student wings.

Political Party	Student Wing
Nepali Congress	Nepal Vidyarthi Sangh
CPN-UML	Akhil Nepal Vidyarthi Sangathan
CPN-Maoist	Akhil Nepal Vidyarthi Sangathan Krantikari
NSP	Nepal Sadbhavana Vidyarthi Manch

[Source: *Local Governance in Nepal*, pg 176-177]

Finally, Nepalese youth constitute a huge electoral constituency, and they spoke loudly in the CA elections. Voters 35 years old or younger constituted about one-half of all registered voters. First-time voters numbered in the millions representing around 22 per cent of the electorate.³⁰

²⁹ Somini Sengupta in *International Herald Tribune*, April 15-16 2006, pg 1.

³⁰ ICG Report #155, July 3, 2008, pg 17.

III. CONSENSUS AND COMPETITION

In Nepal today issues of consensus and competition are, in a sense, different sides of the same coin. For this reason both consensus and competition are discussed together in this section.

To the extent that there is any consensus in Nepal, it is limited, fluid and ultimately fragile. The limited nature of consensus has the effect of placing few limits on the scope or nature of political competition. It also creates the challenge of – and the opportunity to -- create a new national consensus. At the same time, the character and focus of competition in Nepal is both shaped by and concerned with defining the very nature of the Nepalese polity. For this to be successful, ultimately it must be rooted in some sort of national consensus.

A. The search for consensus

Nepal is in the throes of unprecedented political and social change. The country's ongoing political transition is incomplete, with many serious political and governance issues still to be resolved. Across most segments of Nepalese society there are demands and high expectations for change, but as yet no solid consensus about the nature or character of such changes.

The recent conflict and the ongoing process of writing a new constitution are indicators of the difficulty of achieving national consensus. Consensus is fundamentally difficult to achieve due to multiple castes and ethnic groups and the variation that exists across regions, coupled with a long history of past exploitations of one group by another. Moreover, consensus also becomes problematic when politics are driven by competing ideologies. There always has been an ideological dimension to party politics in Nepal, but with the ascendancy of the Maoists ideology it is now more central – and potentially contentious -- than it was in the recent past. Finally, consensus is difficult to achieve when groups feel that they have been victimized; the priority of these groups tends to be focused on redressing their grievances rather than attending to broader national considerations.

To the extent that there was ever a consensus in Nepal, to a considerable degree it was a product of the dominance of the views of the Brahmin-Chhetri political elites. To some extent, the autocratic behavior of both the Ranas and the Shahs from 1850 to 1990 helped to create a consensus in the past that was defined by high caste Hindu practices and *pahadi* dominance over a Nepali-speaking state, coupled with much elite capture of state resources.³¹

Since 1990, the collapse of that past consensus and the Maoist insurgency that followed it has helped to create a new provisional and fragile consensus on a few key issues. First, most Nepalis seem to share a belief in the necessity of the Nepalese nation-state. While people are still struggling with a new Constitution, with its implied promise of a federal system, there seems to be little if any support for separatism. Second, the monarchy is now gone, and in its place Nepal is now a secular republic. This idea seems likely to be one that will last, and will be assimilated into whatever new structures of government evolve over the next few years. Third, there appears to be a widespread preference for peace. Most Nepalis most of the time seem convinced that it is better to struggle in the political arena, rather than to resort to armed struggle. Fourth, the legitimacy of electoral competition through the mechanisms of

³¹ Look at Singha Durbar and the old USAID compound as just two examples of the many Rana Palaces that once dotted the Kathmandu Valley.

multiple political parties competing for office seems fairly well rooted, although some Maoists may not really subscribe to this idea.

Consensus is fragile or absent in a number of important ways:

- First, while there seems to be widespread agreement about the need for greater inclusion of all castes and ethnic groups into the mechanisms of governance, this agreement might start to evaporate once it produces actual winners and losers.
- Second, the general idea of federalism seems to be popular for the moment, and may currently represent a political safety valve for the country. But as the Constitution drafting process goes forward, and when it becomes more clear what degree of autonomy the regions will actually have, then the idea of federalism or regional autonomy may prove very contentious.
- Third, if the political situation deteriorates, or the temporary consensus that allows the CA to function begins to fray, or the world economy goes dramatically down hill, then more Nepalis might cease to believe in the legitimacy of electoral competition.
- Fourth, the future role of the Army and the security services is a fragile area. If this is not handled properly, it might become a flashpoint, and could once again start to fray any consensus.
- Fifth, over the past few years, many expectations have been raised that will prove difficult to deliver. While some Maoist ideas may sound attractive, the desirability of genuinely Maoist or communist approaches to politics, governance, and social transformation is likely to prove contentious as time moves forward. How the idea of Maoism or communism may come to terms with ancient Nepalese values and belief systems is something to watch closely.
- Sixth, language policies could become an issue. During the Rana and Shah Regimes, Nepali was “the” national language. Now there is a move to go back to ethnic and regional languages. What happens with languages in Nepal, and how this might relate to federalism and the regions of the country is something to watch.
- Finally, future economic policies will certainly prove contentious. How much of the economy should be state owned? Should the government “control the commanding heights”? What should the role of the private sector really be? What are the prospects for entrepreneurship? What happens with land reform? And how do these kinds of economic decisions relate to larger decisions about core values, and how do they play out in the political arena?

In the short-term, several conditions, institutions and processes will positively and negatively affect consensus building in Nepal:

- First, the Maoist presence and the conflict over the shape of Nepal’s future were experienced across much of the country, so it was a national, not a regional or isolated experience. As a consequence of this national struggle, there now seems to be a widely shared sense that it is necessary to move past military confrontation towards “political” solutions. This idea was at the core of the Comprehensive Peace Agreement, to which all parties subscribed. So at least for awhile this seems to support approaches to politics and governance that are based on inter-party bargaining (and a degree of “brinkmanship”) and an acceptance of coalitional politics.

- Second, the mainstream political parties have been national in character and aspiration and more pragmatic (or opportunistic) than ideological. However, with the advent of Maoists onto the Nepalese political scene, ideology has taken on a new importance, and at this point there is no consensus about any broadly-shared national ideology.
- Third, the Constituent Assembly is charged with drafting a new Constitution. It certainly is the most representative body in Nepal's history, although it will probably serve more as a legitimizing body for whatever constitution may be drafted, rather than as a drafting agency. However, if it can truly legitimize the new constitution, it may begin a process that can lead to a new consensus about the rules of the political game.

B. Competition

The quality of political competition in Nepal is mixed and as with virtually every other aspect of Nepalese politics, subject to change. On the one hand, with the end of royal rule there has been a return to genuine – and with the addition of the Maoists and *Madhesi* parties – more inclusive multi-party political competition. A multitude of traditional and new political parties successfully contested the April CA elections and are now participating in drafting the constitution and running the government. There also has been a restoration of political freedoms that allow civil society and the media to engage fully in political discourse.

On the other hand, in part due to the limited consensus that exists in Nepal, competition is dangerously unbounded and prone to excess. Historically, Nepal's political elites have not always been strict adherents to the rules of the game and there have been few legal penalties imposed upon violators. Now there are many new political actors and the commitment of some of these actors to democratic and non-violent politics is recent and not necessarily enduring. Additionally, traditional parties which have been the biggest losers over the last year, may see the need to adopt more militant and muscular approaches to politics. Within the critical institutional arenas of the CA and the coalition government, at some point serious disagreements over policies, ideology and the distribution of power could lead to ruptures.

Underlying and driving all of this are multiple and huge political, social and economic interests that are at stake. Implicit in the demands for greater inclusiveness and for state restructuring, as well as in the Maoist and *Madhesi* agendas, is a fundamental redistribution of power in Nepalese society. By definition this involves winners and losers.

The key political actors are: the Maoists, the mainstream political parties, the *Madhesi* parties, *Janajati* groups and civil society and the media. (At this time, the Army does not appear to have political aspirations beyond institutional self-preservation.) The key arenas for competition include: electoral competition, power-sharing within the government, the CA, control over or access to state resources and patronage, control or influence over the security sector, control or influence over the media and influence at the regional and local level.

B. Electoral competition: The CA election

The election of the 601 seat Constituent Assembly originally was scheduled to take place in June 2007.³² It was then postponed until November 2007, and then postponed once again until April, 2008. Delays in holding the election were largely due to disagreements over the electoral system, together with *Madhesi* demands for greater representation.

³² 575 seats are elected and 26 are appointed by the cabinet.

The election itself used a mixed system: First Past the Post (FPTP) for 240 seats (40 percent) and closed list Proportional Representation (PR) for 335 (56 percent) of seats. The interim constitution also called for 1/3 of all candidates to be women.

Seventy-four political parties registered for the CA election and 55 ultimately fielded candidates. The election law requires that in the FPTP races the major parties “must pay proper attention to the representation of oppressed groups, poor farmers, laborers and the disabled” without including any guidelines. For the PR race, the parties had to have at least 34 candidates on their list. For parties with 101 or more candidates (essentially just the NC, UML and Maoists) there were quotas for *Janajatis*, *Madhesis*, Dalits and other groups.

Updating (but not purging) of registration data prior to the CA elections resulted in 17.6 million registered voters – an increase of 15 percent from 2006. There also was a program to accelerate giving citizenship certificates across the country -- which was particularly important in the Terai where there had long been a systematic effort to deny citizenship certificates. Nevertheless, there remained some concerns about undercounting of *Madhesis* and other minority groups on the electoral rolls. In addition, there was a problem for IDPs and migrants, who had to return to their “home” districts in order to change the district where they were registered to vote. Finally, the cut off for registration wasn’t extended despite the two postponements in the election. Therefore, up to a million youth who turned 18 during 2007 were disenfranchised.

According to IFES, “The pre-election environment was marred by a high level of political violence, intimidation and other breaches of the Code of Conduct. Media and observers clearly reported that the Maoists instigated significantly more incidents than the other parties, but also that there were violations of the Code of Conduct by most of the major political contenders. The Election Commission (EC) executed the final preparations for election day in an effective and credible manner, helping increase confidence among the public that the election would take place. However, where the EC fell short in many stakeholders’ view was in failing to enforce the Code of Conduct and in not issuing sanctions against perpetrators involved in any of the many well documented breaches of the Code of Conduct...Many stakeholders feel that while the larger parties all tried in various ways to influence the result, the Maoists did have the upper hand on influencing the result through violence and intimidation.”³³

According to the Carter Center, “preparations by the Election Commission of Nepal were remarkably effective despite security and logistical challenges. The voter registration process suffered due to circumstances largely beyond the commission’s control and left a large number of young, landless, and migrant workers disenfranchised on election day. Constituency delimitation was a controversial process that, although imperfect, was ultimately accepted by all parties. Voter and civic education efforts could be increased and improved upon for future elections.”³⁴

The election was subjected to monitoring by some 61,000 domestic and 800 international election observers. The domestic groups included the democracy and Election alliance of Nepal (DEAN), the National Election Monitoring Alliance (NEMA) the national Election Observation Committee (NEOC) and the General Election Observation Committee (GEOC). International groups involved in monitoring included UNMIN, the Carter Center, the European Union and the Asian Network for Free Elections (ANFREL).

³³ *Nepal Operational Report* for the period April 1-23, 2008, IFES Nepal, pg 1.

³⁴ *2008 Nepal Election Final Report*, The Carter Center, November 2008.

The election was finally held on April 10. On election day, 11 million out of 17.6 million registered voters (approximately 62 percent) went to the polls. Re-polling was necessary in only about a 100 of more than 9,800 polling centers, and was completed by April 19. Counting was completed by April 23.

The Maoists ended up winning 38.3 percent of the CA seats. Out of the 29 women elected directly under the FPTP system, 23 are members of the CPN-M. The Maoists won 42 of 116 direct seats in the Terai, mostly in the West. (The Tharus in the West and the Rajbanshis in the East voted Maoist.) *Pahadis*, who are increasingly afraid of *Madhesi* militancy, shifted from voting CPN-UML to voting for the Maoists. Maoists also gained support of Dalits and the landless, in part because Madhesi parties don't address their needs.

The success of the Maoists was a surprise to most observers and perhaps to the Maoists themselves. While Maoist and YCL intimidation – and concerns about a resumption of the conflict -- certainly played a role in the Maoist victory, it is equally the case the Maoists were well organized, ran an effective campaign and positioned themselves as the party that can bring change to Nepal. It also appears they benefited from an anti-incumbent vote against the NC and the UML.

Nepal's two largest mainstream parties, the NC and the CPN-UML won only 19.1 percent and 17.9 percent respectively. The NC did poorly in its traditional base in the Terai while the UML was decimated in its traditional stronghold in the Kathmandu valley. The mainstream parties – and the NC in particular – were out of touch with the electorate, offered slates of candidates dominated by traditional party leaders (many who lost), and ran their campaigns using outmoded methods and messages.

The next three most successful parties are all *Madhesi*: the MJF won 8.7 percent, the TMLP won 3.5 percent and the Sadbhavana Party won 1.6 percent. Only three other parties (one of them royalist, one of them communist) won five or more CA seats. Sixteen other parties won representation in the CA, but with only four or fewer seats.

In the Terai the NC was the big loser. According to Prashant Jha, contributing editor to *Himal South Asia*: “The NC faces a real threat of extinction in the Terai if it does not engage in immediate introspection, change its mindset, and encourage young, articulate *Madhesis* to emerge at the district and national leadership positions...The support that the NC still had in *Madhes* had a lot to do with the fact that it controlled power centers and the bureaucracy. With its decline in power, the party can't even rely on patronage.”³⁵

C. The Maoists: What do they really want?

Following the collapse of the Soviet Union, and more than 30 years since Mao's death, it is difficult for most westerners to place Nepal's Maoists into context. While it is difficult to believe they are either genuine communists or Maoists, the facts and the documentation clearly confirm that they are. A key to understanding them is to appreciate that they have adopted and adapted elements of Marxism, Leninism and Maoism to give themselves a set of goals, strategies and tactics that have made them a highly successful political force.

Maoist goals. Shortly before going underground and commencing a guerrilla war against the state, in September 1995, the Central Committee of the CPN (M) had adopted a 'Plan for the Historic Initiation of the People's War' with the following key provisions:

³⁵ Quoted in *Hardnews* (India), June 2008, pg 30.

- “The plan ... would be based on the lessons of Marxism-Leninism-Maoist regarding revolutionary violence.
- “This plan on initiation of the people’s war would be based on the principle that *everything is an illusion except state power* [our emphasis]. The Party expresses its firm commitments to wage relentless struggle against all forms of deviationist thoughts....
- “This plan would be based on ... completing the new democratic revolution after the destruction of feudalism and imperialism, then immediately moving towards socialism, and by way of cultural revolutions based on the theory of continuous revolution under the dictatorship of the proletariat, marching to communism – the golden future of the whole of humanity.”

Then at the launch of their People’s War, the Maoists submitted a 40 point list of demands, only some of which were overtly communist or radical in nature. Over the last several years, Maoist thinking has evolved from their earlier harder-line traditional communist notions. Since the end of the 1990s, for example, they have gradually moderated their stance, with a conditional acceptance of multiparty democracy. Since the royal coup, Prachanda called for other parties to join the struggle for a “multi-party people’s democratic republic.”

However, while they accept the idea of a bourgeois democratic republic, they accept it only as a stepping stone on the way to a true “people’s republic.” In May 2003, for example, they adopted “Development of Democracy in the Twenty-First Century.” This allowed them to enter into dialogue and participate with other Nepalese political parties leading up to the Comprehensive Peace Agreement (CPA). However, their commitment to pluralistic politics and society remains far from definitive, their future course will depend on both internal and external factors, and beneath the surface, they seem to retain an authoritarian Leninist outlook.

The Maoists definition of “new people’s democracy” seems to consist of four core elements: (i) dominance of the CPN (M), (ii) “democratic centralism”, (iii) tolerance of other “patriotic, democratic and leftist parties”, and (iv) deprivation of political rights to “people of reactionary classes.”

With regard to their economic program, according to the ICG: “Their economic plans offer a hybrid model incorporating capitalist elements on a strongly nationalist frame...The basic idea is that the “commanding heights” of the economy should be controlled by the state, while the rest is left to private capital.”³⁶ This approach would involve changing production relations by confiscating land from “feudals” and capital from the “comprador-bureaucratic classes” It also would involve a highly protected and regulated economy to ensure “independence and self-reliant development.” It might also involve a stronger orientation towards China, and a modest movement away from India.

Maoist strategy and tactics. For the Maoists, tactical flexibility is placed in service of its strategic objectives. As the ICG has noted, the Maoist strategy has been fairly consistent since the early 1990s, but since they adapt tactics to changing circumstances, observers are often confused.

For Maoists, politics and the use of force are different sides of the same coin. In the past they have had no qualms about using violence and intimidation to advance their strategic agenda: they have assassinated officials and party leaders and abducted thousands of school teachers and students and forced them to undergo political education. They also used child soldiers, and through the YCL, they continue to rely on both intimidation and extortion. According to Baburam Bhattarai, the Maoist’s number two after Prachanda, their success has been due to “a fusion of bullet and ballot.”³⁷

³⁶ ICG Report #104, October 27, 2005, pg 5.

³⁷ Quoted in *Hardnews* (India), June 2008, pg 22.

They have repeatedly used both “carrots and sticks” in the sense that they have tried to become the champion of Nepal’s poor and disadvantaged groups at the same time that they have used violence and intimidation to weaken their rivals and ensure the cooperation of the citizenry. They grew as a political organization because of their appeal to ethnic groups, disadvantaged castes, and women. By 2007, their calls for abolishing the monarchy and convening a CA had gained them considerable mainstream support. In the CA elections, it appears many people voted for them because they wanted peace and change. At the same time, the Maoists have not hesitated to murder or intimidate representatives of other political parties and to impose social controls by decree and through the use of “people’s courts.” As a result, many Nepalis are afraid or distrustful of the Maoists, whereas they are not afraid of other political parties.

The Maoists are skilled propagandists, producing publications, running FM radio stations and using the domestic and international media to promote their points of view. They also have used “united fronts” to isolate and defeat opponents, particularly the monarchy. They have established a range of fraternal organizations – student, women, professional, ethnic, etc -- to boost their popularity, identify recruits, and gain influence over political agendas. Two of the most important have been the students union, ANNFSUR(R) and the Nepal Trade Union Federation (Revolutionary), which brings together some dozen nominal unions.

The People’s Liberation Army. The People’s Liberation Army (PLA) was formally launched in September 2001, although clearly it had already existed in a precursor form for several years. By 2004 they were reported to have good electronic communications capacity, including radios and satellite phones. In August 2004 they were strong enough to announce they were beginning the “strategic offensive” stage of their campaign. This involved plans to expand the PLA to 3 divisions, made up of 29 battalions in 9 brigades, including a new division to be deployed around Kathmandu. According to the ICG, the Maoists also planned to raise a 100,000 strong “peoples’ militia.”³⁸ As of 2005, the Maoists claimed they had more than 10,000 armed guerrillas in nine brigades. Women constituted 30-40 percent of the guerrilla force. It is estimated that they had about 25,000 militia, who tended to be poorly armed, although the arms situation was improving, both by raiding equipment from the RNA, and apparently via purchases on the international arms bazaar of India. Given the decentralized nature of the guerilla war and Nepal’s terrain, the Maoists have had a history of recurring ‘command and control’ problems. But as these problems emerged, they were usually effectively dealt with by the party and military leadership.

The Young Communist League. The YCL originally was formed by the Maoists during the “people’s war,” during which time it “waged ideological and political struggles, participated in different people’s movements, rural class struggle and...played an important role to complete the preparation of people’s war.”³⁹ It was re-established as an above-ground organization in December 2006. At its first national convention in Kathmandu in February 2007 a 45-member Central Committee was announced. The five leaders of the YCL are all senior PLA commanders.

At last initially, the core of YCL leadership and membership was composed of members of the PLA who wanted to avoid cantonment under the CPA. But according to a recent ICG report, the YCL has grown exponentially. While there are no accurate figures on the true strength of the YCL, some informed estimates suggest it could already be as high as 300,000 to 400,000 (although not all of these are full-time activists).

According to the YCL, the organization’s goal is “to uphold, apply and develop the revolutionary ideas of Marxism-Leninism-Maoism and Prachanda Path and to organize and mobilize broad youth and carrying out (sic) propaganda among the masses. It seeks to mobilize youth for multiple purposes, including to

³⁸ ICG Report # 91, February 9, 2005, pg 4.

³⁹ From YCL website, www.ycl.org.np.

promote revolution and to fight against caste discrimination, “all non-proletariat thinking and trends,” corruption and drug addiction. It seeks to do this through national campaigns and activities as well as by engaging in development works, tree plantation, traffic management and sanitation programs.

The YCL is considerably less benign than it tries to appear. YCL cadre frequently have used murder, violence and kidnappings to intimidate people, threaten opponents and raise money for the Maoists. In the run up to the April CA elections, there were many reports of YCL intimidation of voters and candidates. The YCL has continued to extort money for local businesses and more recently it has started muscling its way into controlling government contracts at the DDC level. And there are growing indications that some YCL cadre are moving to become criminal gangs, perhaps only loosely connected to the formal YCL organization.

Maoist leaders have also indicated that they would like to boost YCL membership to one million.⁴⁰ According to the ICG: “The Maoists want and need the YCL but cannot sustain it by legitimate means; they can improve its disciplinary record, but only if they want to and devote significant energy to the task. So far, efforts have been unconvincing.”⁴¹

Groups like the YCL represent a powerful double-edged sword for the Maoists and the Nepalese polity. On the one hand, they may represent one of the few organized ways to begin to create jobs, or to structure organizations that can somehow soak up the vast numbers of young people that exist across Nepal. But at the same time, organizing and supervising the YCL and other similar groups that might be established by other political parties represents a huge challenge for a party’s leadership.

Assessment of Maoist strengths and weaknesses. According to the ICG, the Maoists “probably remain Nepal’s most disciplined and effective political force, but they are not immune to miscalculation, internal disputes and personality clashes.”⁴² And there is a tendency for the YCL cadre and perhaps others in the party to become increasingly criminalized, drawing upon the experience of political parties across North India. Unlike the other political parties in Nepal, however, the Maoists have had a clear goals and a set of strategies for achieving them. And according to the ICG, by 2005, the Maoists were Nepal’s richest political party.

It appears the Maoist enjoy considerable popular support, at least at this time. Even prior to winning 30 percent of the vote in the CA, survey data suggested a growing comfort level with the Maoists. Survey data from 2007 indicate that people saw the Maoists as the political organization with “the greatest sympathy to promote the cause of the backward communities.”⁴³ Sixty-seven percent of respondents believed or strongly believed that the Maoists are committed to a multi-party system. (The *Madhesi* respondents remained much more skeptical of the Maoists.) But only 49 percent of respondents had “some” or “a great deal” of trust in the Maoists.⁴⁴

Writing in 2003, Thapa observed that support for the Maoists “is not because people have been sold on the vague idea of a ‘people’s democracy,’ but rather they have been attracted by the promise of a more just and equitable society.”⁴⁵ And as Michael Hutt has written, “The practical ideology which appealed to so many villagers was based on a rhetoric of agrarian reform, land redistributing, and economic

⁴⁰ ICG Report #156, July 3, 2008, p. 3

⁴¹ Ibid, pg 3.

⁴² ICG Report # 128, February 26, 2007, pg 19.

⁴³ Hachhethu, *Nepal in Transition*, pg 129. It is possible that some of the support expressed may have been in response to Maoist intimidation

⁴⁴ Hachhethu, *Nepal in Transition*, pgs 54-55.

⁴⁵ Thapa, *A Kingdom Under Siege*, pg 178.

empowerment, and not of ethnic struggle. However, those who have been disenfranchised in rural Nepal are in many instances ethnic minorities, so the two ideas are often conflated.”⁴⁶

The Maoists have been better at asserting their control over and mobilizing support in rural areas than in urban centers, especially in Kathmandu. But it is important to note that they received significant support in urban areas in the CA elections, including in Kathmandu.

The Maoists also have been very good at calibrating their ideology and tactics depending on the situation and their audiences. According to Hutt: “Despite being often accused of dogmatism by their detractors, the Nepali Maoists display a remarkable degree of ideological mobility and deliberate ambiguity, and have proved to be particularly dexterous in maintaining contradictory positions.”⁴⁷ As further confirmation of this propensity, when members of the DG Assessment Team met with a Maoist spokesman in Kathmandu, his first opening statement was, “We are pragmatic, not dogmatic.” It seemed to represent a well rehearsed opening statement designed to appeal to a Western audience.

Unlike Nepal’s other political parties, the Maoists have maintained organizational unity and have not suffered any major splits to date.⁴⁸ The most serious tensions have been with their ethnic front organizations. But the Maoists are not monolithic and as they have grown in size and importance, their internal dynamics necessarily become more complex. Moreover, they must reconcile and balance a fairly rigid doctrine (Marxism-Leninism-Maoism) and their long term strategic vision (communism), with the tactical flexibility they know is needed to advance their agenda. Clearly there is plenty of room for internal disagreement over strategy and tactics, and so there is some potential for future splits within the movement. (For example, there has been an intense debate within the party over when, whether, and how to exercise electoral power.) And as the Maoists begin governing, they have multiple, new and different constituencies which they must satisfy, including their cadre, the PLA and the YCL, voters and other supporters, India, international financial institutions and donors, and various regional and international constituencies. This will put additional new pressures on the Maoist leadership.

Given past trajectories within the Nepalese communist movement, it may prove difficult for the Maoists to remain unified.⁴⁹ Some people, for example, speculate that it may prove harder to preserve party discipline when the Maoists are an above ground party with clear responsibilities for governing, and having to make day-to-day compromises with other above ground parties.

The Maoists have had to balance centralized policymaking (democratic centralism) with decentralized operations. Their willingness to use violence, combined with their rapid growth and command and control problems has led to frequent excesses and abuses. It is not entirely clear whether they have the will, or even the organizational capacity to reign in the use of violence by their YCL cadre.

Human rights groups have repeatedly expressed concern about Maoist “peoples’ courts” and “law enforcement,” which often involved abductions and extra-legal punishments. In April 2006 the Maoists published a statement declaring general respect for and commitment to international humanitarian law and human rights principles and norms. According to the OHCHR, after the signing of the CPA in

⁴⁶ Hutt, *Himalayan ‘People’s War’, Nepal’s Maoist Rebellion*, pg 103.

⁴⁷ Ibid, pg 221.

⁴⁸ Thapa writes, “The 1960 takeover by King Mahendra affected the CPN more than any other party. In the case of the CPN...it saw the beginning of a process of splits and mergers that continue to this day – a process that led to the emergence of the Communist party of Nepal (Maoist) more than three decades later.”

⁴⁹ Since the Communist Party of Nepal was initially founded in 1949, there have already been 9 or 10 splits among the various Communist parties. The present CPN (Maoist) is actually a recombination of different strands that had previously split.

November 2006 there was a sharp reduction in abductions, except in the Central region. But over a year later, in February 2008 the OHCHR reported, “The statements in November 2007 by Chairman Prachanda that directives had been given to stop abductions and other abuses were very important, but were not fully complied with and need to be matched with concrete steps to implement the directives, including cooperation in handing those responsible over to State authorities for investigation and prosecution.”⁵⁰

D. The mainstream political parties

From 1990 until the ascendancy of the Maoists, two political parties – the Nepali Congress (NC) and the CPN-UML—along with the King--were the most important political actors in Nepal.

The NC has always been a broad based, multi-ethnic, national political party. But at the same time, it also has been one of the most conservative; and even though there were historic tensions between the NC and the Palace, the NC was reluctant to end the monarchy and adopt federalism. The CPN-UML began as a militant leftist party and gradually became essentially social democratic in nature.

Both parties have been national in their reach and orientation. Both have led governments at different times (although the NC much more of the time). Both have had organizations that enabled them to contest politics at the local level, with the CPN-UML winning the largest share of positions in the last local elections held in 1999.

Both parties also have maintained active student and youth arms. The NC-affiliated student and youth organizations appear to have largely ossified, and its affiliated union is weak. The CPN-UML student and youth groups are considerably stronger and the UML student organization has been quite militant in response to recent hikes in fuel prices. Some leaders of the UML say that the entire party needs to be more militant and reach out to youth.

The two parties have suffered many of the same shortcomings. First, the leadership of both parties is predominantly high caste. Second, the leadership of both parties has been dominated by a single figure or a family, most notably the Koirala clan in the NC. Third, both parties have suffered from frequent and serious factional splits.⁵¹ And finally, because of their leadership and structures, these parties have done a poor job of aggregating and representing diverse constituencies and interests.

In late 2005 the ICG observed: “The parliamentary parties have lost touch with their own support bases and the electorate at large. Since the last general election in 1999, active interaction with voters has been minimal. While extra-parliamentary forces steadily consolidated their positions, the main parliamentary parties – and factions within each of them – were preoccupied with using their urban cadres to pursue purely partisan objectives...At the same time, the dissolution of local elected bodies exacerbated their problems, reducing opportunities to replenish their ranks and keep in daily contact with the public...Few tears were shed when Gyanendra sidelined them after October 2002. Nor could they boast of having addressed the fundamental grievances that drove support for the Maoists.”⁵²

Moreover, the parties’ activities in the countryside were seriously constrained by the conflict: Local party leaders, especially from the CPN-UML, were frequently the targets of Maoist violence.⁵³ But as the ICG

⁵⁰ OHCHR Nepal Report, February 18, 2008, pg 11.

⁵¹ Until recently, the NC was formally split into two factions, one head by G.P Koirala and one headed by former Prime Minister Sher Bahadur Deuba.

⁵² ICG Report # 106, November 28, 2005, pg 4.

⁵³ Most NC local leaders deserted the villages. It was principally the UML cadre who tried to maintain a presence for which they were routinely targeted.

reported in late 2006, “The parties haven’t 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, but seems to reflect more a lack of will.”⁵⁴

Still, there appears to be considerable support – or at least acceptance—of parties. In a 2007 national survey, 57 percent of respondents said they had “some” or “a great deal” of trust in political parties.⁵⁵ (At that time, only 49 percent had “some” or “a great deal” of trust in the Maoists.) Twenty-three percent of respondents said they were “close” to a political party and 22 percent of respondents said they had participated in a political party activity. Men were three times more likely to participate than women, educated much more likely than illiterates, and unlike in the West, there was significantly higher participation among those under 30 than those over 30.⁵⁶

The mainstream parties have been slow to adjust to the Maoists, to the new political situation, and to new demands. The major parties generally are “down, but not yet out.” The CA election shows that much of the electorate wants to give the Maoists a chance, but the election does not represent a complete rejection of the traditional parties.

E. Madhesi political actors

As already noted, *Madhesi* groups are becoming more influential because of rising political expectations, because they have the resources and leadership to mobilize people, and because they occupy a niche that gives them the lever to stop trade and traffic into the hills of Nepal, and particularly into Kathmandu. Thus they can strangle the center economically.

Over the past few years, there has been a growing sense of regional identity across the eastern Terai. For example, the proportion of people of *Madhesi* origin (including caste as well as ethnic members) who preferred to identify themselves with their ethnic or regional base rather than their national identity increased from 19 percent in 2004 to 46 percent in 2007.⁵⁷

The eastern and central Terai are two places that have strongly resisted Maoist inroads.. The Maoists won seats to the CA in the western Terai, for example, but the *Madhesi* parties swept most of the seats in the East. Generally speaking, caste regulations were more strictly applied in the Maithili speaking Hindu caste communities in the east central Terai districts. Whether there is a causal relationship is not clear. In the western Terai, the Muslims are one of the predominant groups, constituting 35 percent of the population. While they won only one seat in the CA, they are also becoming more politically active.

Based on the CA elections, two *Madhesi* parties emerged as dominant. The MJF won 52 seats and the TMLP won 20, while SP (Sadbhavana Party (RM faction) won 9 seats. The MJF started as an NGO, organizing *bandhs*. The MJF was surprisingly well organized, for a new party, but in fact many of its leaders come from other national parties (including both NC and royalists). It is led by Upendra Yadav, a former Maoist. Its strength is principally in the eastern Terai. It is known for being flexible and willing to flex its muscles and it is alleged to have ties to criminal groups.

⁵⁴ ICG Report #126, December 15, 2006, pg 27.

⁵⁵ Hachhethu, *Nepal in Transition*, pg 54. For purposes of comparison, 78 percent of respondents said they had trust in the Election Commission, 75 percent had trust in the judiciary, 65 percent had trust in the Army and 59 percent had trust in the Police.

⁵⁶ Hachhethu, *Nepal in Transition*, pg 37.

⁵⁷ Hachhethu, unpublished paper on *Ethnic and Regional Politics*, pg. 3.

With 52 CA seats, the MJF should have significant influence in the formation of the new government and the drafting of the constitution. Some of its demands include: (i) equal rights and opportunities for Madhesi, (ii) autonomy and a federal state in a federal system, (iii) a Proportional Representation (PR) electoral system, and (iv) proportional participation in services and government, including the National Army.

F. The *Janajatis*

Today, we would characterize the *Janajatis* as a new and still loosely defined political movement with weak internal unity. As one informant said, the *Janajati* movement is “An umbrella with holes in it.” We see it as more of a social movement rather than a political federation likely to achieve significant traction.

Among the 59 *Janajati* groups, there are notable groups like the Magars, the Tamangs, the Limbu, and somewhat more ambiguously, the Newars. At some level, although with many qualifications, the most important group among the *Janajati* are the Newars, because of their relative size, role in Nepali society, presence in Kathmandu and their wealth and education. But the Newars are divided as to whether they are *Janajati* or not, and so apparently is the larger *Janajati* community.⁵⁸ As a practical matter, most Newars don’t seem to meet the definition for being a *Janajati*, if only because the majority of them are Hindus.

Echoing their geographical distribution across Nepal, in the Constituent Assembly, the *Janajatis* are also divided among multiple parties. The Maoists, for example have 93 members. The Nepali Congress has 37 seats, while the UML has 36. In the CA, NEFIN has begun to work with the *Janajati* CA members urging them to join together to form a *Janajati* Caucus. But the question remains: to what extent will the political parties, in particular CPN (Maoist) allow their respective CA members to work together as members of a *Janajati* caucus?⁵⁹

The present leaders of the *Janajati* movement are somewhat outside the political mainstream, and do not have a strong political base or platform from which to operate. The *Janajati* groups are not contiguous; instead they are scattered geographically across the country. They are far from homogeneous in their interests, demands, or expectations. Furthermore, they are divided among several political parties in the Constituent Assembly. We suspect that the *Janajati* will remain an important social movement or lobbying group, working to erode the role of caste, and to continuing to chip away at traditional Hindu higher caste dominance in the political structures of the state, but we do not expect them to achieve significant political traction as an organized political movement. The movement may also stumble or fragment as the constitution drafting process goes forward, as the reality of federalism renders dreams of

⁵⁸ The Newars as a group are neither quite a caste, nor exactly an ethnic group. Some anthropologists suggest they really are simply an amalgamation of the various migrants who happened to move into the Kathmandu Valley over the centuries. As such, the Newari hierarchy and caste structure extends from high caste “Newari” Brahmins (now thought to be largely extinct), to high caste Hindu Newars (like the Shresthas and the Pradhans) to various important “middle caste jhapus (who are the farmers and artisans of the Valley, some of whom may regard themselves as Buddhists), to Newari “untouchables” or Dalits who handle the unclean work of butchering, making shoes, etc. Much of the role of caste as it came to function in Nepal was actually a form of economic specialization, where a father’s job was passed on to his sons and grandsons. Further, the Hindus tend to regard Buddhism as simply an offshoot of Hinduism, with the two traditions closely intertwined in many Newari households, so it becomes difficult to differentiate between the two, and somewhat hard to know who is really a “Buddhist,” or what it might really mean in the context of the *Janajati* movement.

⁵⁹ As currently structured, members of individual political parties in the Constituent Assembly are bound to their party leadership, and this relationship takes precedence over representing the interests of their individual constituencies, or representing a larger constituency like the *Janajati*, the *Madhesi*, or the Dalits.

competing autonomous homelands unrealistic or unachievable. Neither their political nor their geographical interests are sufficiently concentrated to give them significant leverage.

G. Civil society

The picture of Nepalese civil society is a mixed one: it is fairly vibrant, but also fractious, partisan and dependent upon donor funding. There are hundreds of different Nepali NGOs and Community Based Organizations (CBOs) representing thousands of different interests. There are apex groups like NEFIN that seek to aggregate the interests of the *Janajati* community, but there are always dissenting groups that are outliers to the apex leadership. Further, if Forest User Groups and other more local CBOs are included, then Nepal can count tens of thousands of civil society groups.

In a 2007 survey, 29 percent of respondents said they participated in activities organized by CBOs, NGOs or other civil society organizations, 25 percent said they participated in activities organized by women's organizations, 22 percent in activities organized by political parties, and 16 percent in activities organized by Ethnic, Dalit, or *Madhesi* organizations.⁶⁰

Because there are so many civil society groups, however, and because they seek to address so many issues, it is hard to aggregate their voice into a meaningful political force. Typically, they represent too many competing interests to join together, unless there is one clearly agreed and widely understood objective.⁶¹ The movement against the King may represent the only example when that happened. It became much more popular when civil society groups joined hands with political parties to force the King to give up royal absolute-ism. However this probably represents a unique event when most of Kathmandu could rally around a single political issue.

Today, civil society is substantially divided by pro- and anti-Maoist sentiments, and increasingly differentiated by caste, ethnic and regional issues and identities. As the constitution drafting process goes forward, it seems likely that civil society may fracture further, particularly because of constitutional issues like federalism and autonomy. Civil society is also quite partisan, with many NGOs closely linked to a political party. As the time grows closer for the next election, it seems likely that civil society groups will fracture further along partisan lines. Different groups within civil society hold different expectations for the constitution, for example, and the whole issue of federalism seems likely to stress any consensus within civil society. Also, to some extent, the whole idea of "civil society" is virtually an oxymoron in a society where militancy is already widely embraced, and may grow stronger.

In terms of funding, and the objectives they seek to pursue, many civil society NGOs are dependent upon foreign funding (as is the government). Some Nepalis see NGOs as running after foreign funding, and there is substantial truth to this. The international community by its funding decisions often helps determine the priorities for Nepali civil society. For many reasons, civil society itself may eventually want to address whether it should establish a 'Code of Conduct' for NGOs. Of course reaching agreement upon such a code could also prove contentious and divisive, and there is a possibility that the Maoists if they assume control over government will unilaterally try to establish such a Code of Conduct.

⁶⁰ Hachhethu, *Nepal in Transition*, pg 31.

⁶¹ There is a precedent for this to happen, however. During *Jana Andolan II*, after the political parties had tried for several months to force the issue of the King's seizure of authoritarian power and achieved little traction, they eventually turned to civil society, asking them to call their members out on the streets to protest against former King Gyanendra. Although people were generally fed up with the parties, they were more fed up with the King, and thus joined hands with parties, and hundreds of thousands of citizens in Kathmandu came out onto the streets. The rest, as they say, is history.

Sometimes in some countries, unions are classed as part of civil society. In Nepal, however, unions are more typically party-affiliated. The Maoists, for example, control the hotel workers' union. Student groups also sometimes qualify as members of civil society, but in Nepal most are also closely affiliated with a political party.

Maoists for their part have shown themselves skeptical of (non-Maoist) civil society groups, seeing them as bourgeois, dominated by Brahmins and Chhetris and foreign-influenced. The Maoists by their ideology and behavior clearly represent a dramatically different constituency. Maoists have made it clear they don't like NGOs and will seek to place restrictions on them if they can. An important challenge for civil society may be whether it can resist such restrictions, either individually or in some organized fashion.

Two other groups deserve mention under the heading of civil society. First, human Rights groups have been relatively active over the past decade, but have received substantial help, support and assistance from UNMIN and OHCHR, and have sometimes operated under their umbrella. If UNMIN or OHCHR begin to phase down or pull out of Nepal, this could have a chilling effect upon Human Rights reporting in Nepal.

Second, business interest groups, like Chambers of Commerce, can also be players in civil society. Generally, up until now, business has tended to accommodate whoever was in power in Kathmandu. But the Maoists are expected to take a different approach to "compradore bureaucratic" business interests, as well as to running the Nepalese economy. Will businesses be able to work with the Maoists? It remains to be seen, and may depend upon the approaches that the Maoists finally take to the "compradors." In any case, it appears that relationships may prove difficult, and business groups will probably find it difficult to make much progress over the next few years. In theory, the necessary enabling environment for business might be established by some broader coalition of civil society groups, parties, and the media, as well as the international community that would help to develop a set of checks and balances, creating space for business interests as part of a larger civil society movement in the New Nepal.

H. The media

The media has played a critical role in Nepal's development since 1990 and currently faces an environment characterized by both opportunity and new challenges. Since 1990, there has been a huge growth in Nepali media. As of April, 2007, according to official data, Nepal had more than 4,600 newspapers registered throughout the country. These included 341 daily newspapers and 1667 weeklies. More than 3000 newspapers come out in Nepali, and there were 376 English language publications. According to the Press Council of Nepal, the country has seven TV stations and 77 licensed FM stations as of July 2007.⁶² In Kathmandu alone, there are more than 20 FM stations that do news and interviews.

Radio and television audiences have gone up dramatically just over the past few years. In a 2004 survey, only 36 percent of respondents said they listened to the radio for news. By 2007 this number had grown to 76 percent. Polls suggest a similar increase for TV audiences.⁶³

The country has relatively good radio network coverage, with wide listenership, both for national stations and to local FM stations. Among radio stations, local stations predominate, with mixed reports about their quality and capacity for local reporting. Local stations are important because they give voice to regional and ethnic interests. However, they can also inflame local incidents, sometimes with inaccurate or biased reporting. Local stations also are clearly vulnerable to multiple pressures, including from local officials, politicians and businessmen, social and religious groups, and militant and extremist groups.

⁶² Hachhethu, *Nepal in Transition*, pg 26.

⁶³ Ibid, pg 27.

The Maoists have their own 'Radio Gundaki' as well as other FM stations. They reportedly have been starting radio listeners' clubs, where members of the YCL or other Maoist-oriented audiences listen to programs together at a community center. Sometimes stations host call-in radio programs, where listeners call to report on actions they deem inappropriate.

How has the mainstream media responded to the Maoists? It is difficult to generalize, although some journalists say Nepali media has not really challenged the Maoists, perhaps for understandable reasons. It is often dangerous, and some journalists were abducted and then disappeared during the war, and many others have been threatened. One targeted assassination (e.g., Birendra Shah) can have a chilling effect on an entire community of journalists, and simple threatening queries can stop many journalists from doing their job. Journalists in the Terai, often from the hills, face threats from *Madhesi* militant groups.

The 1990 Constitution formally guaranteed freedom of the press, and the interim constitution repeats this guarantee, but the new document includes restrictive provisions which could be very broadly interpreted. Some sources suggest that the Federation of Nepali Journalists has been well funded and has done a good job protecting journalists. However, when the King assumed control in February 2005, the government exercised direct and indirect censorship over the print and broadcast media. Further, journalists reported to the DG team that there already was a lot of self-censorship on radio broadcasting in Nepal's 75 Districts.

In May 2005, Nepal was placed on the International Press Institute's Watch List. According to its website, "In Nepal, the April 2008 Constituent Assembly elections campaign was plagued by violence against, and efforts to intimidate, journalists...with the CPN-Maoists, associated with many attacks on journalists..."⁶⁴ The same site then describes what it calls an unsettling development, in May, 2008, when Prachanda, in a victory speech openly warned a media organization of "serious consequences" if it continued to criticize his party. Prachanda declared that the party would "no longer tolerate criticism", given that it had been elected by the people.

In another speech, (June 14, 2008) Maoist leader Mohan Baidya ('Kiran') said his party would go for a third model of 'press freedom,' which was neither Communist nor the Parliamentary model. He also said that autonomy alone for Radio Nepal "was not going to solve the problem, because it was associated with the old feudal mentality."⁶⁵

To be sure, the media, like most other institutions in Nepal, remain dominated by the upper castes, and investigative and economic journalism are still weak. But the media represents a major key to disseminating information about state restructuring efforts including activities of the CA, progress on drafting the constitution, and the implications of federalism. Media will be key to reporting the activities of civil society, and for aggregating the voice of civil society. A vibrant media is important to help Nepalis understand the country's efforts to restructure its social, political, and economic institutions. It would be tragic if it is silenced, or muted.

⁶⁴ IPI Watch List report, June 2008 Update.

⁶⁵ *Himalayan Times*, 14 June, 2008, p. 3.

IV. GOVERNANCE

Governance in Nepal currently is shaped by four fundamental factors: 1) a history of limited – and often poorly used -- government resources and capacity, 2) the promulgation and application of an interim constitution that will be in effect until the Constituent Assembly drafts and promulgates a new constitution, 3) the challenges inherent in having multi-party power sharing, 4) the highly varied status of local governance around the country.

A. Governance under the Interim Constitution

The SPA government established a small Interim Constitution Drafting Committee in July 2006. However, the non-inclusive composition of the Committee – the six members were all-male and led by a former Supreme Court Justice – led to widespread protests. As a result, 10 additional members – including four women and a Dalit representative – were added.

A draft interim constitution (IC) was signed by the SPA government and the Maoists in mid-December 2006 and promulgated on 15 January 2007. The IC is the product of political negotiation and compromise; it does not represent a true consensus. Its provisions reflect competing and in some cases conflicting party priorities. The IC can be amended – and has been more than three times so far, by a two-thirds vote of the Constituent Assembly.

The IC tilts power heavily toward the executive branch. According to the ICG: “The interim constitution has granted the prime minister and cabinet sweeping authority, subject to minimal checks and balances; the compromised independence of institutions such as the judiciary has weakened the principle of separation of powers. The inclusion of provisions such as the unrestricted authority to grant pardons suggests that interim arrangements may enable the political elite to sweep past misdeeds under the carpet.”⁶⁶ But the executive branch was and will continue to be weakened by jockeying for power and patronage, substantive differences among the parties, and positioning for the next round of elections.

Under the IC, the executive power is vested in a Council of Ministers headed by the Prime Minister. The Council of Ministers appoints the Army Chief and is authorized to “control, mobilize and manage” the Army. Ministers also constitute the National Security Council (NSC), whose powers aren’t enumerated. But at the present time the military remains largely autonomous with civilian authorities willing or able to exercise only limited control over it.

The IC provides for a largely ceremonial President with specified powers, mostly of appointment. In May-June there was a vigorous debate among the parties over the authority of the office and who should become the first president. As part of the ongoing process of negotiating the new political order, it finally was agreed that the presidency would be limited to be a largely ceremonial head of state.

Prior to the convening of the CA, a 328-member Legislature-Parliament had law making powers. The “legislature-parliament” consisted of the 205 members of parliament elected in 1999, 73 appointed by the Maoists and 48 appointed by the SPA. According to ICG, “The [Maoist’s] selection of interim legislature members was a masterstroke, with the diverse contingent in stark contrast to the conspicuously unrepresentative delegations of the mainstream parties. The latter sacrificed a chance to win back ground by using their “civil society” nominations to give seats to their own inner circles.”⁶⁷

⁶⁶ ICG Report #128, February 26, 2007, pg i.

⁶⁷ Ibid, pg 19.

The interim “Legislature-Parliament” was given authority to amend the interim constitution by a two-thirds vote. Using this authority, the 3rd amendment to the interim constitution, passed in December 2007, stated that Nepal would become a federal democratic republic. Under the IC, a two-thirds majority is required for a no confidence motion to pass.

A Constitutional Council has a pivotal role in making a number of key appointments, including the chief justice of the Supreme Court, the chief of the CIAA, and the head of the Election Commission. The Constitutional Council is led by the Prime Minister and contains three ministers of his choice, along with the Chief Justice, the Chairman of the CA, and the leader of the opposition.

B. The Constituent Assembly

Convening a Constituent Assembly was a key political demand of the major parties including the NC since 1950, but it remained on hold for decades. There wasn't one convened for drafting the 1990 constitution. Instead a nine member committee of lawyers prepared the constitution and King Birendra promulgated it. The idea of a CA became increasingly popular over the last 5 years, when it became a key Maoist demand.

The 601-member Constituent Assembly (CA) elected in April is tasked with drafting a new constitution at the same time that it serves as a legislature. It has two years to complete its work on the constitution, with the possibility of a six-month extension. It is the only representative political institution in the country right now, the most inclusive representative body in Nepal's history and among the most representative parliaments in the world. However, given the power of party leaders and the relative inexperience of many of the CA members, the CA is unlikely to act independently or effectively. But given the requirement that there be consensus or failing that, a 2/3 supra-majority, there also is the possibility that groups within the CA could become obstructionist.

Out of 101 caste/ethnic groups reported in the population census more than 60 groups have found a place in the CA. In terms of its caste/ethnic composition the CA is a major departure from the past as the representation of the hill Hindu high castes, the Brahmin and Chhetri, have been reduced substantially from 56 to 63 percent in the House of Representatives of the 1990s to 34 percent in the CA -- only 3 percentage points higher than their share of the total population (31 percent). For the first time in the history of Nepal, the *Madhesis* (including caste, ethnic, Dalit and Muslims) have gained a higher representation (34 percent) than their combined share of the population (31 percent). This compares positively with their past record of representation at around 20 percent. The *Janajatis* (both hill and Terai) also have 34 percent. Although it is 3 percentage points lower than their share of the population (37 percent), it still is a significant improvement over its representation in the past, which was around 25 percent. Representation of Dalits also increased from less than 1 percent to 8 percent. Having one third women in the CA is also a new phenomenon and is an enormous increase over past figures.

SOCIETAL REPRESENTATION IN PARLIAMENT IN THE PAST AND THE CA AT PRESENT

Caste/ethnicity	Population (%)	House of Representatives (%) of 205 seats			CA	
		1991	1994	1999	No	%
Hill high castes	30.8	56	63	60	196	34
Hill ethnic	28.5	24	18	20	147	26
Madheshi caste	14.8	9	11	14	124	22
Madheshi ethnic	8.7	9	7	5	45	8
Muslim	4.3	2	1	1	16	3
Dalit	12.9	0.5	-	-	47	8
Total					575	100
Women	50	3	3	6	190	33

Sixteen out of a total of 56 parties which contested the CA election are ethnic or regionally based parties. But none of them -- except the three *Madhesi* political parties -- are among the nine parties which gained CA seats under the FPTP election. Only three *Janajati*-based political parties (Federal Democratic National Forum, Rashtriya Janamukti Party and Nepa Rashtriya Party) and one Dalit-based political party (Dalit Janajati Party) were able to enter the CA through PR, but with insignificant seats (a total of six representatives from these four minor parties). Some *Madheshi* parties, however, gained significantly and the number of their representation in the CA is: MJF (52 seats), TMLP (21 seats), SP (9 seats) and NSP-Ananda Devi (2 seats). This suggests that politics of the Terai will be led by *Madheshi* parties whereas the NEFIN will remain as the main platform for representing the *Janajati* movement for the near future.

On the negative side, the CA is weak on autonomy and expertise. About 70 percent of its members are new faces. It has limited internal organizational capacity, and in fact it is rarely actually convened. When it does meet, debate is limited, in part by the inexperience of the members and their unfamiliarity with constitution drafting and parliamentary procedures, and in part by the leadership of the political parties, which does not encourage public debate, but generally prefers to settle most things behind closed doors, among a handful of party leaders. In the words of a recent ICG report, "The Party Leaders...have little respect for the supposed sovereignty of the CA and wish to keep all decision-making power in a few hands. This bodes ill for the legitimacy of the constitution-writing process."⁶⁸

Reflecting provisions in both the CPA and the IC, decision making in the CA is supposed to be based on consensus. When consensus does not prove possible, then decisions are to be made by a 2/3 vote. Perhaps more seriously in terms of developing a meaningful Parliamentary democracy, party members can't speak for their constituents' interests if it is in any way against their party's position. Disagreement with a party's position appears to be grounds for suspension or expulsion from the party. Obviously this party domination over individual members of the CA can make it difficult for members to formally represent the interests of their constituents and thus seriously compromises the idea of representative democracy for the duration of this CA.

Further, caucuses that might cross party lines appear to be unlikely to be formed in the current CA, except perhaps for the *Madhesi* parties, which appear to be in a somewhat unique position relative to their constituents, given the geographical territory they represent. Even with the *Madhesi* parties, caucuses will only happen with the active support of party leadership.

The CA serves a joint function. On the one hand, it is mandated to prepare a constitution; on the other hand, it is designed to serve as an interim Parliament. The CA's dual functions saves costs and perhaps it

⁶⁸ ICG Report # 156, July 3, 2008, pg ii.

reduced some amount of electoral complications, but it raises the risk of trade offs between its constitution-making and legislative functions. At this time, the functional role of the current CA seems open to many questions, and whether it will ever constitute a meaningful organ of government remains to be seen. At some level, the role of the CA appears to be more symbolic than substantive, as part of Nepal's larger political transition process. In effect, it becomes a holding environment, and is simply a legitimating device for decisions that are actually reached outside the CA.

C. The Army, civil-military relations and security sector reform

The Nepalese Army (NA) is one of Nepal's stronger institutions.⁶⁹ Until the end of the monarchy, it was loyal to the King and under the control of the palace.⁷⁰ The King was its supreme commander and appointed the Commander-in-Chief. From 1990 onwards, the Office of the Prime Minister exercised nominal control over the defense portfolio, while the defense ministry served as little more than a procurement agency.⁷¹ Since 2006, the Army has gone through a major reorientation, from being an army of the King, to an army of the State.⁷² Currently, it operates largely independently of civilian authority and with minimal line ministry or parliamentary oversight.

The NA has contributed a substantial number of troops to UN peacekeeping missions worldwide.⁷³ But until it was ordered to fight the Maoists in the first state of emergency (2001), the Army was not a battle hardened corps of soldiers. The Army was beefed up beginning in 2001, from 48,000 to 93,000 soldiers. Between 2005 and 2007 the RNA directed the counter-insurgency operations of the 15,000-strong Armed Police and the 46,500-strong Nepal Police.

Prior to the CPA, the Army saw its mandate as being to either defeat the Maoists or force them to the negotiating table so that a political solution could be found. During the conflict, human rights organizations documented serious and widespread abuses by Army officers and soldiers. Many reports indicated that rural Nepali citizens were more intimidated by and fearful of the Army than the Maoists. The 1990 constitution restricted civilian courts from intervening with military courts, except in limited circumstances.

The Army is considered to be fairly professional, but its senior officer corps is family/caste-based (largely Chhetris) or from a few specialized castes, such as the Rana and Gurung.⁷⁴ Officer rank is based on time in grade (and politics) rather than merit. India retains substantial influence and it is said that one of the factional divisions within the officer corps is between those who have been trained in India and those who have been trained in the US.

The Army does not have a tradition of being politically active. That said, several sources suggest it was deeply involved in the 2005 royal coup [see various ICG reports]. The current Army Chief Rookmangud

⁶⁹ In a 2007 survey, 57.1 percent of respondents said they had "some" or "a great deal" of trust in the Army. This level is roughly comparable to levels of trust expressed in other political and government institutions. See *Nepal in Transition*, pg 116.

⁷⁰ Until 2006 the Army was known as the Royal Nepal Army or RNA.

⁷¹ In July 2001 the Army declined to obey Prime Minister GP Koirala's order for them to move on Maoists in Rolpa District, precipitating his resignation.

⁷² The interim constitution gives the Council of Ministers the authority to "control, mobilize and manage the Nepali Army" and appoint its commanders.

⁷³ Additionally, Approximately 3,400 Nepalese Gurkhas serve in the British Army and 40,000 are in the Indian Army.

⁷⁴ There are virtually no *Madhesis* in the senior ranks of the Army and as a result, they are demanding greater representation in it. The ethnic composition of the army is not publicly available.

Katawal has been fairly outspoken and may be more political than his counterparts.⁷⁵ In December 2006 the ICG observed, “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.”⁷⁶ And in February 2007 ICG further noted: “The NA successfully – and crudely – pressured the post-April government not to interfere in its chain of command... The NA remains wary of the peace process and suspicious of both the Maoists and the mainstream parties. Nevertheless it has been conspicuously well behaved in its involvement in the mechanics of the peace process.”⁷⁷ It has remained in cantonment since the CPA was signed.

Security Sector Reform (SSR) remains largely misunderstood by key interlocutors in the peace and political processes. For the NA, SSR is seen as leading to the integration of the PLA into its ranks. For the Maoists, SSR is equated with DDR (Disarmament, Demobilization and Reintegration), which they see as a veiled effort by other parties to force the PLA to demobilize. As a result, although the Maoists agreed to have PLA arms placed in UN-monitored weapons containers, little has been done to advance demobilization and (re)integration. Indeed, rather than demobilizing, the Maoists insisted that the CPA and the Arms Monitoring Agreement allow the PLA chain of command to continue to operate inside the cantonment centers.

D. The civil service and public administration

The Nepalese state has always had a limited capacity to deliver basic services outside of cities and towns. This is partly due to the country’s challenging geography, poor infrastructure and limited resources; but it also is due to the weaknesses of public administration and the civil service. The conflict with the Maoists further limited the presence and efficacy of the civil service, as many civil servants were unable or unwilling to serve in conflict-affected areas.

Like every other important institution in Nepal, the civil service is dominated by upper caste Brahmins and Chhetris. According to the OHCHR, in August 2006 the cabinet announced that 45 percent of civil service jobs would be reserved for Dalits, *Madhesis* and other ethnic groups. One third of all reserved positions will be for women.⁷⁸ But as of early 2007, there was no implementing legislation.

There is almost no tradition of civil service autonomy. Under the Panchayat system, the civil service was an extension of the palace. With the advent of multiparty politics in 1991, the civil service became increasingly politicized along party lines. (In the early 1990s the NC-led government decapitated the leadership of the civil service.) Inter-party competition led to favoritism and nepotism in recruitment, placement, and the promotion of the civil servants. Between 2002 and 2007, when parties were no longer in power, the civil service had to look towards the Palace once again, where loyalty to the King replaced whatever merit had been left in the system.

Nepal’s civil service system is large and opaque. Pay is low and working conditions are poor. Procedures are cumbersome and there is little interest in transparency and participation. Not surprisingly, corruption is a major problem.

⁷⁵ Katwal is seen as something of an outsider: He is not from the traditional officer clan and initially was seen as being strongly pro-royalist (he was adopted as a child by the Palace and the king was responsible for his ascension through the ranks). But he also has a good relationship with now ex-Prime Minister G.P. Koirala.

⁷⁶ ICG Report #126, December 15, 2006, pg 1.

⁷⁷ ICG Report, #128, February 26, 2007, pg 21.

⁷⁸ OHCHR Nepal Report, September 2006, pg 60.

Members of the civil service rotate geographically and across ministries. (There are some specialized services such as for the parliament and the judiciary.) Regular and mandatory transfers appear to have little to do with merit or making the best use of expertise. This issue was cited by the Asian Development Bank as one of the major constraints to developing a responsive civil service system.⁷⁹ Of course the problem of short rotations means there is little continuity in program implementation in the field.

At the sub-national level, with the absence of elected local bodies, Chief District Officers (CDOs) and others civil servants have the daunting challenge of trying to balance the demands of politicians (including the Maoists), citizens and bureaucratic requirements.

However, the civil service — along with the judiciary—has played an important role over the course of Nepal’s ongoing political turmoil by maintaining at least some services and modest governmental presence in the Kathmandu Valley and district capitals.⁸⁰ Without this, there would be practically no State to speak of. According to the ICG: “The bureaucracy has been a source of stability in a turbulent period – especially given its ability to work according to unwritten conventions amid legal and constitutional uncertainty. But this stability could also obstruct constitutional change. The civil service is highly unrepresentative, enjoys its centralized authority, is conservative in its day-to-day behavior and does not stand up to political leaders (be they the king or party politicians) when they violate the rules of government.”⁸¹

E. Local government

Given Nepal’s rugged geography, and its history of power and resources being concentrated in Kathmandu and other urban areas, the capacity of local government has been and continues to be a critical DG issue. As the ICG has noted, “Local self-government has been promised by the centre since the never-enacted 1948 Government of Nepal Act, which envisaged village and town councils... Post 1990 five-year development plans also promised decentralization but implementation and the distribution of funds fell short.”⁸²

Moreover, with federalism apparently inevitable and with differing notions of “autonomy” being considered, it seems likely that there also will have to be consideration of the authority and composition of local governments. Finally, the success the Maoists have had in influencing or controlling a large portion of the countryside – which involved supplanting the government, police and mainstream parties – makes the local level an increasingly important political arena.⁸³

Local government under the LSGA. The 1999 Local Self-Government Act (LSGA) ushered in a new local government structure based on Village Development Committees (VDCs) in the countryside and municipal governments in the towns. Citizens directly elected members of the 3,913 VDCs and the 58 municipalities on the basis of wards. Each VDC also directly elected a chairman, while each municipality elected a mayor. These officials, along with their directly elected deputies, then elected the Chairman and 9-17 members (depending on the district’s population) to the District Development Committees (DDC) of

⁷⁹ Frequent rotations were typically forced by the Palace, to prevent civil servants from building up a clientele that could support coups. Thus, frequent rotations were a coup prevention technique.

⁸⁰ In a 2007 national survey, 54.9 percent of respondents said they had some or a great deal of trust in the civil service. See *Nepal in Transition*, pg 116.

⁸¹ ICG Report #128, February 26, 2007, pg 22.

⁸² ICG Report #99, June 15, 2005, pg 16.

⁸³ A nationwide survey by the UN OCHA in July 2006 found that 68 percent of VDC Secretaries were still displaced from their villages. Currently many VDC secretaries still are displaced, but now they are displaced mostly in the Terai, because of *Madhesi* militant groups. See Thapa, pg 143.

which there were 75 throughout Nepal. Yet another element in all three bodies (VDC, municipality, and DDC) comprised several nominated members—one of whom had to be a woman. Finally, all Members of Parliament (MPs) elected within a district were included as ex-officio members of the DDC.

These units were the primary policy-making organs for delivering state services to the public, with the various line ministries (health, education, agriculture, etc.) responsible for the actual delivery itself under the aegis of the relevant elected body. Of course there were many inefficiencies in this system, with local councils and line ministry personnel contending for control in delivering services, and MPs interfering with what should have been the prerogatives of the local bodies. Nonetheless, services were delivered on a more or less regular basis, at least up to the point where the Maoist insurgency constrained such efforts toward the end of the decade.⁸⁴ These services were instrumental in raising the country's Human Development Index from .418 in 1990 to .488 in 2000, and to .504 in 2004. This was a significant achievement, particularly given the levels of conflict.

From a political point of view, the LSGA represents an important effort to make local government participatory. Under LSGA, more than 200,000 people were elected to VDC positions. Of this, 35,000 women were elected at the Ward level. LSGA required at least one female representative for each Ward. LSGA also has a provision for constituting 3 member arbitration committees in VDC and municipalities.

Elections were conducted for all these local bodies in 1992 and again in 1997, with the Nepali Congress winning an absolute majority of votes (and most of the seats) in 1992, followed by UML majorities at all levels in 1997. The year 2002 should have seen the third local election, but local polls were suspended and all elected office-holders left office at the end of their terms. Since then, these bodies have been functioning under state control through civil servants, basically managed by the Ministry of Local Development in Kathmandu. What had been a reasonably serious effort at actual devolution of power was reversed in favor of renewed control from the center during a period of renewed royal authoritarianism. It will be interesting to see what may happen next as the CA completes the drafting of the new constitution, and the nation tries to move towards a federalist structure.

The current situation. Despite the importance of local governance, the SPA + Maoist government has not taken major steps to address the issue. As a result, the status of local government across the country appears to be highly varied and its prospects are unclear. This is what we do know:

- There were several attempts by the major political parties to come to an agreement regarding power sharing (meaning holding seats in VDC/municipalities and DDCs) at the local level, but apparently these attempts failed. As a result, it appears that the determination of local power sharing arrangements is being left up to the parties at the local level. In some places this is being determined based on how the major parties did in 1997; in some places it is done based on the CA election results; and in some areas smaller parties have been accommodated depending on their own strength/influence at those areas.
- However, despite the parties' informal representation in the local bodies, the centrally appointed bureaucracy has the final say in decision making since the parties' representatives are invited, not elected.
- It can be assumed that there are both “pros” and “cons” to having bureaucrats running local governments. On the positive side, it reduces the propensity for partisan decision making and it may provide for somewhat higher technical competencies. On the “negative side”, it results in less responsiveness, participation and accountability. It is unclear whether or not it results in less

⁸⁴ As of 2003, it was estimated that the Maoists had destroyed “more than a third of the country's 3,913 village development committee (VDC) offices, which according to the Ministry of Local Development, would cost a minimum of Rs 400 million to rebuild.

corruption, but there certainly are fulsome reports at the local levels of misallocation of resources by decision makers.

- Local elections are unlikely until after the new Constitution is promulgated and the next round of national elections are held.

F. Corruption

In 2007, Transparency International's corruption perception index ranked Nepal as the 131st most corrupt country among the 179 included in the cross-country database. Nepal's low ranking is due to weak integrity systems and a lack of transparency within the bureaucracy and the impunity enjoyed by most politicians and high level officials. Additionally, during the conflict there was little ability to account for government funds outside of municipalities.

On paper, the Commission for the Investigation of Abuse of Authority (CIAA) and Nepal's legal framework are nominally functional, but in practice there has been limited political will as well as inadequate capacity for enforcement.

The Maoists have portrayed themselves as being tough on official corruption, but apparently they don't consider their "fund-raising" activities a form of corruption. The Maoist election manifesto states that the CIAA and other independent bodies "shall be restructured to make them independent, effective and efficient." It also calls for "an alternative body to be arranged to make society and state bodies free of corruption."⁸⁵

Commission for the Investigation of Abuse of Authority (CIAA). The CIAA is an independent governmental anticorruption agency with a broad mandate to initiate, investigate, and prosecute cases of official corruption. In the past it has had some success and has investigated a number of high-profile corruption cases that have led to prosecutions. The CIAA believes that it has had a deterrent effect and an impact on reducing corruption.

The CIAA has the authority to investigate corruption charges for all public officials and parastatals except the Army and members of other constitutional commissions. It has the power to issue warrants and detain suspects for a period of up to six months in the case of special investigations. Investigators also have wide access to bank statements, government documents, and other information relevant to a case.

Under law there should be five commissioners, but currently there are only two. The incumbents have been at odds with each other and have brought the Commission into disrepute. The CIAA has approximately 100 investigators, most of whom are police and lawyers from other parts of the government. The CIAA does not have a staff based outside of Kathmandu and must rely on Chief District Officers (CDOs), who have been delegated the authority of the CIAA at the district level.

A large number of CIAA cases involve bank fraud. Other types of cases include misappropriation of funds, fake certificates, and bribery. Another CIAA function is to investigate misconduct or improper use of resources of the government that may not be criminal. In such instances, the CIAA can make recommendations to government offices regarding ways to improve systems.

CIAA cases are tried before the Special Court. There have been several convictions of high-profile persons, but there is a visible lack of political will to enforce these decisions. The district courts are responsible for enforcement. Another challenge is resolving the cases within the six-month time limit.

⁸⁵ *Good Governance*, March-April 2008, pg 32.

V. RULE OF LAW

The rule of law in Nepal is weak from top to bottom. In some ways this is not surprising: Nepal is emerging from a decade of conflict and currently is operating under a hastily-crafted interim constitution. The judiciary has a mixed track record, in terms of its independence, its impartiality and its accessibility to poor Nepalis. While it has exerted some effort to address human rights violations during the conflict, it has been largely unwilling or unable to tackle the longstanding tradition of elite impunity in Nepal. Meanwhile, the police are poorly equipped to fight crime or uphold the law. In recent years the Maoists have stepped into the void and administered their own brand of “justice” through village-level “people’s courts.

The quality and integrity of the justice sector is a function of the combined performance of the judiciary, the Office of the Attorney General (AGO), the legal profession, the police and the prisons. In Nepal the quality of the courts is, at best, mixed, and not surprisingly it declines as one moves from the Supreme Court down to the District Courts. As a result, most decisions are appealed and many end up with the Supreme Court. Further, judgments are rarely enforced. Nevertheless, in a 2007 national survey, 59.6 percent of respondents said they had some or a great deal of trust in the courts.⁸⁶

The Office of the Attorney General (OAG) is an independent constitutional body responsible for providing advice to the government on legal and constitutional matters and for representing it in legal cases. According to one USAID partner familiar with the OAG, “The effectiveness of the organization depends on the individual appointed as Attorney General. During the [3-year life of the USAID-funded] project, there were four different attorney generals with the result that the OAG was ineffective. In general, the OAG needs substantial improvement in the quality of its staff.”⁸⁷

It is the team’s impression that the Police have limited capacity to mount effective criminal investigations and are susceptible to inducements to drop or limit their investigation,

Finally, the integrity of the justice sector is mixed. There is some degree of corruption in the judiciary and the AGO, though it is difficult to ascertain how much. Likewise, there is thought to be widespread corruption within the police.

A. The judicial system

Consideration here is given to three broad aspects of the judicial system: 1) judicial independence and activism and 2) access to justice.

Judicial independence and activism. The judiciary enjoys substantial but not total independence. The preamble to the IC calls for judicial independence and the Supreme Court (SC) is accorded the authority to define laws and void any law contradicting the Constitution. But Article 100(2) states that the SC should adhere to the spirit of *Loktantra* (democracy) and the People’s Movement, suggesting that the Court should be guided by politics rather than by the law.⁸⁸ Also, the Prime Minister appoints the Chief Justice on the recommendation of the Constitutional Council—rather than the Council itself making the appointment. Finally, holding parliamentary hearings to review potential SC appointees also politicizes the process.

⁸⁶ Hachhethu, *Nepal in Transition*, pg 117.

⁸⁷ ARD 2007 Nepal Rule of Law Project Final Report, pg 25

⁸⁸ INSEC 2007 Yearbook, pg 9.

Supreme Court judges (one chief and up to 14 judges) are appointed by the Prime Minister on recommendation of the Judicial Council. The court has remained relatively apolitical and is attempting to lead the judicial branch in acting as a check on the power of the executive.⁸⁹ The stature and position of the Chief Justice appears to be critical in this regard. The Supreme Court also sets the tone for lower courts and provides precedents that should be followed by the lower courts.

The Supreme Court has issued some praiseworthy judgments. According to INSEC, a leading human rights organization, “The Supreme Court decision regarding inquiry on missing persons during conflict, the issue of compensation and action against the culprits was an important step towards ending impunity...Likewise, the judiciary has been able to demonstrate judicial activism by directing the government to respect constitutional and legal rights of citizens to information...”⁹⁰

Access to justice. Nepal has a three-tiered court system, with district courts in each of the 75 districts, 16 appellate courts, and one Supreme Court.⁹¹ In general, going to court is an expensive and time consuming process and thus not one undertaken by most citizens. During the conflict, the number of cases received and processed by district courts declined, as court staff were unable to issue summons, and plaintiffs, witnesses, and others found it difficult to reach the courts. These “no shows” have led to long delays and a growing case backlog. In some areas, the Maoists prevented disputants from coming to the government court system and handled disputes through their own “people’s courts.” Even more prevalent are the number of people who use informal or customary mechanisms to settle disputes rather than access the formal justice system.

B. Protection of human rights: Impunity still the norm

In the CPA, the government and the Maoists “reconfirm their commitment to the respect and protection of human rights and commitment to international humanitarian law.”⁹² Both sides agreed to “make public the status of every disappeared person and held as captive.”⁹³

Unfortunately, the end of the conflict between the Maoists and the Nepalese state has not made for a significantly more promising outlook for human rights. Although rights violations by state actors have declined, there continue to be serious violations by non-state actors, including the Maoists, Terai militants, and other political/criminal organizations. Moreover, the current power holders have been unwilling to enforce any accountability for abuses that occurred during the conflict. According to the OHCHR, the government, the Maoists and the military haven’t honored commitments to investigate and hold people accountable for rights abuses that occurred during the conflict. Hundreds of cases of conflict-related disappearances remain unsolved. Their unwillingness to address past abuses raises serious questions about their commitment to protecting human rights in the future.

The human rights infrastructure in Nepal is substantial, but still is relatively weak in the face of the Maoists, militant groups, criminal gangs, the Army and Police. The key pillars of this infrastructure are

⁸⁹ In early 2007 the ICG cautioned that, “Dissatisfaction within the judiciary (and among lawyers of various political persuasions) over the interim constitution’s concentration of executive power may lead to challenges to government authority.” ICG report, 26 February 2007, pg 22.

⁹⁰ INSEC 2007 Yearbook, pg 80.

⁹¹ Nepal also has a number of special courts. One is for cases of official corruption and treason which are heard by the special court as the first court of hearing. This special court handles cases referred directly by the Commission to Investigate Abuse of Authority (CIAA).

⁹² CPA, Section 7.11

⁹³ CPA, section 7.3.2

the NHRC, the OHCHR and the Courts. Additionally, Nepal has some large and well established human rights NGOs and a reasonably vigorous media.

The NHRC. The interim Constitution elevated the Nepal Human Rights Commission (NHRC) to an independent constitutional body. The NCHR has the authority to investigate and recommend legal action, but it doesn't have any judicial or enforcement authority of its own. According to INSEC, during the seven year life of the NHRC, it has recommended legal action and compensation in 147 cases, but only 16 recommendations have been acted upon.⁹⁴

In July 2006, the royal government appointed Chair and Commissioners of the NHRC resigned. In December 2006 the NC-lead government named a new Chair and Commissioners under the revised Human Rights Commission Act. But according to the OHCHR, "the lack of consultation in the selection process was widely criticized."⁹⁵ A new Chair and Commissioners were not appointed until September 2007. Currently the NHRC is undertaking a three-year strategic plan for 2008-2010. The CPA has accorded an important monitoring role to the NHRC.

The role of the judiciary. According to the OHCHR, "The judiciary's role in pursuing accountability for human rights violations to date remains very limited. Numerous *habeas corpus* petitions relating to long-term disappearances have remained pending before the Supreme Court for many years. Writs filed since the start of the conflict, in which petitioners are seeking the intervention of the courts to push relevant authorities to start investigations, award compensation or provide information also remain pending."⁹⁶ In December 2006 the Supreme Court finally heard 22 of 27 *habeas corpus* cases. Decisions were to be rendered in early 2007. In June 2007 the Supreme Court issued a ground-breaking decision on several cases of disappearance, by which it ordered the government to enact a law to criminalize enforced disappearances in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance; to establish a commission of inquiry into conflict-related disappearances in compliance with international standards; to prosecute those responsible for disappearances; and to provide compensation to victims' families." Unfortunately, according to the OHCHR, as of August 2008 the court order had not been implemented by the government.⁹⁷

C. Law enforcement: The role of the Police and Maoists

Nepal, which used to be one of the safest countries in the world, is now subject to a breakdown of law and order. This is the consequence of two closely inter-related dynamics: 1) the increased use of violence and intimidation for political and criminal ends, and 2) the inability or unwillingness of the Police to respond effectively. In its report on the human rights situation in 2007, INSEC observed that "Impunity and crime mounted this year due to the apathy and passivity of the state."⁹⁸

Increasingly in the "New Nepal" – and especially in the Terai -- there is a dangerous weaving together of political and criminal interests and a growing willingness to use violence and intimidation for political and criminal ends. The Maoists for their part have systematically used violence to get rid of or intimidate their opponents, and to some extent other parties are learning from their example.

Across the Terai, criminality appears to have grown worse since the elections for the Constituent Assembly in April 2008. On the one hand, the "lid is off" and political parties apparently are seeking to

⁹⁴ INSEC 2007 Yearbook, pg 95.

⁹⁵ OHCHR Nepal Report, January 2007, pg 59.

⁹⁶ OHCHR Nepal Report, September 2006, pg 57.

⁹⁷ OHCHR Nepal Report, 18 February 2008, pg 16

⁹⁸ INSEC 2007 Yearbook, pg 3.

recoup the cost of the elections through extortions, kidnappings, and the payment of protection money. At the same time, there seems to be a growing number of free-lance thugs, who are simply taking advantage of the chaos to profit from criminality. Across the Terai, there are now multiple criminal gangs, which often work in collusion with the local police, and which sometimes use the political parties as a cover. In effect, hired thugs seem to be for sale to the highest bidders, which may include the political parties.

There also seems to be a pattern of ethnic-based criminal intimidation taking place across the Terai. Higher caste individuals, typically meaning the *pahadi*, are being kidnapped, or their children are being kidnapped, and their families are forced to sell their land or possessions at knock-down prices to save their lives. Land seizures of various sorts are also becoming an increasingly important law and order issue.

Despite these problems, it is noteworthy that a national survey taken in March 2007, 46.6 percent of the respondents said that they felt “more safe” than a year before (41.4 percent said there was no change).⁹⁹ This increase in a feeling of safety was attributable largely to the political settlement and the peace agreement.

The role of the police. Traditionally Nepal had a relatively small security sector, with a police force responsible for maintaining law and order, and a largely ceremonial Army devoted to the king (and involved in international peacekeeping missions). The police proved incapable of responding effectively to the Maoist insurgency, and in 2001 the Army (somewhat reluctantly) assumed responsibility.

There are approximately 48,000 police officers and an additional 15,000 armed police officers. There are three tiers of entry into the police force: constable level, which requires primary education; deputy sub-inspector level, which requires secondary education; and officer level, which requires higher education. The three tiers tend to fill out along caste lines, and there is little promotion between tiers. Only about 500 police officers are women.

Outside of urban areas, police presence and performance is inadequate to maintain law and order. During the conflict the Police were generally restricted to district centers and their periphery -- 1,168 of 1,968 police posts -- almost 60 percent -- were abandoned. The Police also have been implicated in the widespread human rights abuses that occurred during the conflict, including illegal detention and torture.

Even with the end of the conflict, civilian police presence does not reach many communities.¹⁰⁰ By 2007 the majority of abandoned police posts had been re-established, despite obstacles that included initial CPN-M opposition and the actions of armed groups. But according to OHCHR, “Nevertheless, many still suffered from a lack of infrastructure and equipment. Many police and local authorities complained about lack of support and directives from the national authorities, frequently citing insufficient resources and directives as the reason for not taking action to protect human rights, improve law and order and reduce impunity.”¹⁰¹

Across much of the country, the police have been “demoralized,” and in many cases seem to have been instructed to stay in their offices, or their barracks, and not to exercise local police-keeping functions. In late 2006 the ICG reported: “An immediate characteristic of the transitional period – one much

⁹⁹ Hachhethu, *Nepal in Transition*, pg 107.

¹⁰⁰ In a 2007 national survey, 51 percent of the respondents said they had some or a great deal of trust in the police. More than 40 percent of respondents said they would approach their neighbors first if they were in physical danger and needed help; while only 29 percent said they would go to the police first. See *Nepal in Transition*, pg 116-117.

¹⁰¹ OHCHR Nepal Report, 18 February 2008, pg 7.

highlighted by the press – was increased criminality in cities, especially Kathmandu... 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.... The government re-established 53 police units in urban areas after April, but the Maoists resisted police deployment along highways and in rural areas. In many instances the police accepted de facto Maoist dominance and in effect recognized the rebels as a parallel authority.”¹⁰²

According to the OHCHR, “Political pressure on police, such as threats and intimidation to release those arrested who are linked to the major political parties, particularly CPN-M, have contributed to ongoing impunity for abuses and acts of violence. OHCHR documented numerous cases in which detainees linked to CPN-M, MPRF, mainstream political parties and other organizations were arrested, only to be released following negotiations often involving SPA/CPN-M and or the CDO. While such mediation serves to reduce immediate tensions locally, it has not fundamentally changed the patterns of abuse and violence, and had reinforced the perception that violence may be committed with impunity, therefore also undermining police morale.”¹⁰³

The Need to Address Police Reform

From: *Policing in Nepal: A Collection of Essays*, SaferWorld, Sept 2007.

Although Nepal’s Interim Government has recently established a committee to look at questions of security sector reform, the focus has so far been on the question of army downsizing and the possible incorporation of Maoist ex-combatants into the military. There has been almost no open discussion of how this may affect the country’s two police structures, the NPF and APF. In the present context, with the army confined to barracks under the terms of the peace accord, planned elections and growing crime rates, this looks increasingly like an oversight.

In particular, the role of the NPF in coming years will be crucial. Its wide-ranging mandate includes the maintenance of public order, crime prevention, protection of life and property, criminal investigation, intelligence and arrest, traffic control, community mediation and even emergency relief. The majority of NPF posts have now been reestablished and a new metropolitan police service introduced in Kathmandu; 8,000 new recruits are sought and there are plans to introduce around 70,000 ‘bonded police’ to provide security during the coming Constituent Assembly elections.

*Nevertheless, these measures do not tackle the underlying problems which NPF officers, many of them dedicated professionals, face day-to-day. These include public distrust, poor training and resources, low morale and psychological trauma, varying degrees of corruption and impunity, politicisation and the lack of an overall vision for the organisation’s development. Important questions therefore arise about the future role of the organisation and how it is to develop over time. [from *Policing in Nepal*, 2007, pg. 2]*

The Maoist approach to “law enforcement” In early 2007 the OHCHR reported: “The absence of effective policing in rural areas quickly emerged as a major human rights challenge after the ceasefire, a void which has repeatedly been filled by the often abusive parallel “law enforcement” activities and “people’s courts” of the CPN (M). The perceived weakness and often inaction of the police and courts,

¹⁰² ICG Report #126, December 15, 2006, pg 5.

¹⁰³ OHCHR Nepal Report, February 18, 2008, pg 18.

and the resulting lack of confidence in the State's capacity to enforce law and order, facilitated the extension of CPN (M) "law enforcement" activities and "people's courts."¹⁰⁴

In early 2008 the OHCHR reported: "Although "people's courts" and other CPN-M parallel structures were mostly dismantled by April 2007, parallel CPN-M "law enforcement" activities intensified again and there were persistent reports of abuses, especially by the Young Communist League (YCL), which was re-established in December 2006 as a militant political organization under the direct leadership of the CPN-M. Largely composed of former Maoist army and militia members, its leaders often described security and law enforcement as one of its main functions."¹⁰⁵

¹⁰⁴ OHCHR Jan 07 report, pg 61.

¹⁰⁵ OHCHR 18 Feb 08 report, pg 7.

VI. A ROUGH ROAD AHEAD

A. The Challenges Ahead

What does this analysis suggest about the prospects for democratic politics and governance in Nepal? Looking ahead, we see four fundamental challenges:

- 1) Managing political and social change
- 2) Security sector reform
- 3) Coping with weak government institutions
- 4) Adopting policies that will accelerate economic growth, create jobs, and alleviate poverty.

Political and social change: A peaceful revolution? Nepal is witnessing a simultaneous struggle to redistribute political power and keep the peace. This struggle involves not just power to the Maoists, but also power to Madhesis, Janajatis and Dalits, and in important but usually unstated ways, taking power away from Brahmins and Chhetris. It will also involve managing the process of drafting a new constitution that results in fundamental “state restructuring” (especially federalism and greater inclusion). And it will involve responding to the Maoists and their “revolutionary” agenda. Are they pragmatic social democrats, real Maoists or the next Cambodian Peoples Party? What happens with the integration of PLA forces into the Nepal Army? What about the agenda of “radical” land reform? How will the Maoists exercise control over national government agencies? Can mainstream parties and institutions check and balance the Maoists or will they all fall victim to Maoist “salami tactics”? What needs to be done to accommodate new political and social groups and forces, especially the Madhesis, Janajatis, and youth more generally? What happens with the new power of identity-based politics?

Security Sector Reform: Who will control the guns? The integration of the two armed forces and rolling back the YCL are important issues. Also a new paradigm for civil-military relations needs to be established, along with creating a new mission for the NA. Finally, professionalism in both the Army and Police will need to be improved.

Coping with the continuing weakness of government institutions in general and law and order in particular. Nepal faces huge governance challenges:

- Managing expectations for inclusion and improved governance;
- The competing demands for peace and justice (including accountability during conflict and in April 2006);
- Revitalizing local government; and
- Law and order, which is a serious problem in the Terai and a more mixed picture elsewhere.

Adoption of policies that will accelerate economic growth, job creation and poverty alleviation. Nepal faces huge challenges from a growing labor force for which there are no jobs. There are perhaps 500,000 new entrants to the labor force every year and declining opportunities in the agricultural sector. As population grows bigger, per capita land holdings grow smaller. The economy faces more and more students, growing inflation, plus higher prices for fuel and food. While levels of absolute poverty have gone down, still nearly 4 out of 10 Nepalis live below the poverty line. Sandwiched between two giants, the Nepalese economy is not able to compete with India or China, or find profitable niches to which it can contribute. Nepali workforce is not sufficiently competitive in regional or world markets. Today,

Nepal's economy is largely kept afloat from remittance income, typically for the least attractive and least profitable work.

B. Likely Conditions and Trends

Looking ahead, the DG program environment will be shaped by the following conditions and trends:

The challenges inherent in power sharing and governing. Almost any coalition government will lack stability and coherence. Relations among the SPA parties are likely to be characterized by continuing negotiations and recurring crises and delays. Politics and policymaking will play out amid periodic strikes and demonstrations in response to political and socio-economic conditions. It is possible that parties will pull out of the government from time to time. The Maoists will move to expand their influence throughout the national government and extend it at the local level. The Madhesi parties and other groups in the Terai will be influential in terms of the political balance, and the issue of state restructuring. Positioning and preparations for elections will begin soon, and at some level may already have begun. Agreement on the future electoral system is likely to be a contentious issue, and could easily be linked with the move towards federalism.

The functioning of the Constituent Assembly. It is likely that most key decisions regarding the constitution writing process will happen outside the CA. It seems unlikely that the CA will play a major substantive role in the drafting. Many members do not appear to have formal qualifications for such a task, and at least 37 of them reportedly can not read or write. So the role of the CA will be to validate and legitimize, not initiate, the provisions of the constitution.

It is not clear exactly how the constitutional drafting process will actually proceed. One scenario suggests that drafting the constitution might proceed in a piece-meal fashion, with individual passages of the constitution being drafted incrementally, and then being voted on in "packets," rather than some Committee coming up with a complete draft, and then having the CA vote yeah or nay on the whole thing. It might prove easier to get passage of a document that was broken down into smaller more digestible chunks of text, rather than trying to get passage of an entire document. Presumably other scenarios will also be explored, and eventually, somehow, a new constitution will be drafted. Implementing it, of course will be another story, and probably another struggle.

The behavior of the Maoists. The Maoists will be under pressure to accommodate multiple, disparate and competing constituencies inside and outside the organization. On the one hand, they are a party with an agenda for revolutionary political and social change. They have large numbers of cadres, soldier, and supporters who are expecting a "New Nepal." On the other hand, they also are the largest party in the government and CA and therefore have to engage in the complexities of governance, compromise and show that they can get things done. And they are under domestic and international pressure to follow democratic practices, curb the militant and illegal activities of the YCL, and respect human rights.

As a result, it is likely that there will be divisions and tensions within the Maoist leadership over ideology and strategy, their role in government and the CA, integration, and the next round of elections. These divisions could lead to splits within the movement, but given the internal discipline the organization has maintained to date, a major split is possible but doesn't seem likely.

It can be expected that the Maoists will do whatever they can to win an outright majority in the next election. They will extend the reach of their political apparatus at the national and local levels (and into the police and Army, if they can). In Kathmandu and in the media, they will emphasize their commitment to multiparty democracy. Outside Kathmandu (and to their cadre) they will be more radical and militant.

They will try to marginalize the CPN (CPN-UML) and bring the smaller communist parties into their orbit.

At this time the future of the YCL is impossible to predict. Can it be demobilized? Transformed? Controlled? Will it morph into competing criminal gangs? Could it become Nepal's answer to the Red Guards? Clearly no one knows, most likely including the party leadership.

The ability of the NC and CPN-UML to reform and adapt.¹⁰⁶ Despite being the big loser in the CA elections, the NC still is an important political institution. But its days may be numbered if it doesn't reform and reinvent itself in a hurry. The NC still has some mass support as a centrist party associated with liberal democracy and national unity. But its behavior before and since the CA elections doesn't suggest the leadership understands the extent to which they were rejected in the elections, and that the political ground is shifting under their feet. It still is dominated by the Koirala clan and driven by personal and factional considerations. And it runs the risk of appearing obstructionist and out of touch.

The CPN-UML also was dealt a serious blow in the CA elections. The CPN-UML suffers from many of the same problems as the NC, but it does have the advantage of being more internally democratic and having some reform-minded leaders. As a leftist party, the CPN-UML faces two related challenges: 1) where it positions itself on the political spectrum vis-à-vis the Maoists, and 2) rebuilding its local cadre and support base, much of which supported the Maoists in the CA elections.

Development s with the *Madhesi* and in the Terai. The *Madhesi* have become a significant counter balance to both traditional Kathmandu elites and the Maoists. Over the past decade or two, the leadership of the Madhes typically has come from the Yadavs,¹⁰⁷ Shahs, and other Terai-based Hindu caste groups. This will almost certainly change. The leadership may diversify, or the political parties may start to fracture along caste and ethnic fault lines. Thus, we expect to see a second shoe fall.

Among the *Madhesi*, for example, there already is a Yadav – non-Yadav split. It seems probable that the next phase of the movement will be driven by lower caste, *Janajati*, or Muslim demands. Also, there are several different languages spoken in the Terai, which may complicate efforts to build a united approach to Kathmandu. According to the ICG: “The current formation [of the political parties in the Terai] looks like only the first round of the battle for representation. Dalits, Muslims, and Terai minorities have yet to form or find parties to promote their interests. The experience of neighboring Indian states suggests that further flux is almost inevitable.”¹⁰⁸

Across the Terai, there probably will be a sharper split between the non-Maoist Eastern Terai (dominated by the major *Madhesi* parties) and the Maoist influenced Western Terai. There may be some regional struggles between the two wings of the Terai, and it will be interesting to see what might happen with the Central Terai. There will certainly be some level of de facto ethnic cleansing by forcing *pahadi* landowners to sell their property, or other extortionist moves to drive them out of the Terai. Following the patterns of Bihar and North India, there will be increasing violence and criminality, probably with a strengthening nexus between criminal factions (on both sides of the border) and the *Madhesi* political leadership. Thugs will become more involved in politics, and politicians will become more involved in thugery. Probably there will be more competition between and among various criminal gangs, most of

¹⁰⁶ The royalist parties are very small and divided and therefore aren't expected to play a significant role in the foreseeable future. To the extent that they survive at all, they will need to reinvent themselves perhaps as more conservative, pro-business parties.

¹⁰⁷ Across the Terai, there is a substantial presence of the “middle caste” like the Yadavs, who otherwise are closer to the bottom of the caste structure, but rank above Dalits.

¹⁰⁸ ICG Report #156, July 3, 2008, pg 10.

which will be associated with various political parties. Over the next several years, the criminalization of the Terai will probably lead to greater levels of social disorganization, and perhaps some flight to urban areas. The region probably will become more fragmented, while smuggling of goods and trafficking – particularly trafficking of Nepalese women from the Terai-- may increase.

How other disadvantaged groups pursue their interests. Though the *Janajati*, *Madhesi* and Dalits share a common feeling of discrimination from the hill high castes Brahmin and Chhetri, the alliance between and among Nepal's three major disadvantaged blocs is unlikely to occur either in or out of the CA. There was a lone case in the past that crossed *pahadi* (ethnic)- division when they protested against the Supreme Court decision of barring the use of mother tongues in local government. Otherwise, there is big psychological gap between *Janajati* and *Madhesi* and between higher castes and Dalits. They are divided not only because their preferences are different, their interests clash on several major issues. For instance, some *Madhesi* cry for 'one madhesh one pradesh' (one single unit for the whole 20 Terai districts) but the NEFIN has vehemently opposed it, and so do some parts of the Terai, particularly the Tharu. Nevertheless both the NEFIN and *Madhesi* parties prefer ethnic-based all out PR system. The former has pleaded for representation of all groups, at least one from each of the tiny minority groups, whereas the *Madhesi* parties strongly argue for allocation of electoral constituency on the basis of population distribution. The main concern of the Dalits is reservation in addition to population based representation of social groups. Basically, however, they won't join together because for all of them it's close to being a zero sum game. Given Nepal's severe resource constraints, they are all fighting over the same piece of pie, along with the existing Brahmin and Chhetri elite stakeholders. If someone wins, someone else loses.

The pace and nature of integration and sustaining the peace process. Despite limited progress to date, on-going negotiations will ultimately lead to some integration of PLA forces into the Army and other security forces. Issues that affect junior and mid-level officers, such as rank parity and retirement considerations, as well as debates over group versus individual integration remain stumbling blocks to a final agreement. In the end, it is likely that only about one-third of the 20,000 PLA currently encamped will be formally integrated into the security forces (to include the civilian and armed police as well as the Army). Once an agreement is reached, the remaining combatants will be formally or informally reintegrated into society, or may join the YCL. The incorporation of PLA squads into the NA will put additional pressure on an already bloated force and leave it potentially vulnerable to agitation from within, particularly among junior officers who may have faced systemic discrimination.

Other elements of the CPA and other political agreements that are supposed to be implemented include (i) return of land; (ii) return of other property seized by Maoists; (iii) land reform, and (iv) establishment of a Truth and Reconciliation Committee (TRC).¹⁰⁹

Finally, multiple other threats to peace exist. Some of these include YCL and *Madhesi* militancy. In the Terai, there will certainly be more strikes and violence if aspirations from the CA aren't seen as being met. There will probably be *Madhesi* vs. Maoist conflicts over politics and resources in the Terai. There will almost certainly be some level of communal violence, conflict over access to land, and as the Constitution drafting process proceeds, there will be violence in the run-up to the next election.

¹⁰⁹ The CPA calls for the creation of a "high-level" Truth and Reconciliation Commission "to investigate truth about those who have seriously violated human rights and those who were involved in crimes against humanity in the course of the war and to create an environment for reconciliation in the society." In July 2007 the government circulated a draft TRC bill, but according to the OHCHR it contained provisions contrary to the treaty obligations of Nepal and international principles. In particular, it failed to guarantee the commission's independence, providing considerable leeway for government interference. Following intense national and international pressure, the government withdrew the draft bill, saying that further consultations were necessary.

The pace and extent of state restructuring. The issue of “state restructuring” – that is, switching from a unitary to a federal state and allowing for greater “autonomy” and/or “self determination” – is likely to be the most complex, time consuming and contentious aspect of constitution drafting, and then will carry over into an implementation phase, as the country tries to put into place whatever may be agreed in the Constitution. In Nepal, advocates for federalism and autonomy historically have been associated with ethnic and regional movements, like the *Madhesi* and the *Janajati*. NEFIN has long advocated federalism or provincial autonomy. In recent years it has been the Maoists and the Madhesis who have pushed federalism most strongly. It was the Madhes movement of January, 2007 which finally compelled the Nepali government to insert a provision for the establishment of federalism into the Interim Constitution. While pressures were building for this change, it was the *Madhesi* who provided the political horsepower to compel this change.

Groups have advocated for “ethnic homelands” and the Maoists called for “self-determination” and “autonomous governments” demarcated along nominally ethnic lines. According to ICG: “Maoists leaders are now careful to avoid talk of “self-determination” that might suggest a right to secede. Backing off from the Maoists’ initial proposal of nine ethnically defined federal units, Bhattarai suggested that there should be “roughly” nine to eleven provinces, that self-determination applies in “principle” but not in “practice”, and that linguistic and territorial divisions also matter.”¹¹⁰

The positions of most political parties are differentiated by three main issues: 1) criteria for constituting federal units, 2) the total number of federal units, and 3) division of powers between the center and the federal units. Currently, the biggest issue is the criteria for delineation of federal (and/or autonomous) units. At issue is what mix of geography, ethnicity and linguistic considerations should be used to determine the composition of the federal units. Delineation also has to take into account vastly different water and natural resource endowments. Proposals fall along the continuum from the token to the extreme.

The NC is a reluctant proponent of federalism. The CPN-UML advocates dividing the country into 14 zones. Both the NC and CPN-UML believe federal units should be multi-ethnic. Several *Madhesi* parties advocate making all 20 Terai districts into a single unit. Not surprisingly, NEFIN and Tharu parties vehemently oppose this, and the Dalits might come to oppose it, based upon further considerations.

Coming to an agreement that provides for genuine and significant federalism and autonomy could be a major stumbling block to the entire constitutional drafting process. So the result could be a watered-down or ambiguous agreement, or one which defers a final agreement until a later time. Whatever the nature of the agreement, it will take years to implement it, and if it is done in a hasty manner, there could be serious problems.

So far, little thought has been given to the future financial viability of federal and/or autonomous units. Currently, only 5 to 10 of 75 districts are economically self-sufficient, so for the rest there still will be a heavy reliance on the center. There also has been little consideration of the impact of federalism on the national government’s revenue stream, the civil service and judiciary, the police, local government, and elections.

The ICG has cautioned: “Territorial division along ethnic lines risks consolidating new injustice rather than more fairly allocating political power....Whatever model is chosen must take into consideration Nepal’s limited administrative capacities and fiscal realities. A system that could not deliver services

¹¹⁰ ICG Report #128, February 26, 2007, pg 25, fn 206.

would hardly further social inclusion. Moreover, a sub-national system of governments cannot function without sufficient fiscal resources, which entails a national system of fiscal redistribution.”¹¹¹

The economy and poverty alleviation. Nepal faces severe economic challenges. Most of its industry is out of date, and the enabling environment is hardly conducive to foreign investment. In any case, the Maoists seek to extend state control over much of the economy, which will further discourage investors. The Government has a number of State Owned Enterprises, which are over-staffed and under performing.¹¹² They should be restructured, rationalized, or sold off to the private sector. Given the acute employment problems across the country, and the general political climate, however, there is little reason to expect this to happen any time in this decade. Inflation is certain to be a major problem for the economy, and for the people. Given the current state of the world economy, and the world’s food supply, simply getting enough food to most people may prove to be a severe challenge to the Government over the next two years.

In a 2007 nation-wide survey, almost half of respondents (49.4 percent) cited economic hardship as one of the two major problems/ challenges facing Nepal.¹¹³ With per capita income of about \$311 a year and poverty incidence of 38 percent, Nepal is one of the poorest countries in the world. The 2005 HDI for Nepal is 0.534, which gives the country a rank of 142nd out of 177 countries with data.

According to the Economist Intelligence Unit, Nepal’s macro-economic revival hinges in large part on the ability of the government to maintain law and order, as the current poor security situation limits the Nepal government’s capacity to spend money and boost rural incomes. However, given the large share of GDP contributed by the agricultural sector (at 35 percent), crop-growing conditions will remain the most important determinant of overall economic growth. Remittances will remain a lifeline for the economy over the next several years, particularly given that more Nepalis are seeking work abroad. If a peaceful transition allows for it, annual GDP growth could rise to 3-4 percent in 2008/09. However, the more likely scenario is that a precarious political situation will restrict growth to 2.5-3 percent in that year, and even that might prove optimistic.¹¹⁴

The good news: Public opinion favors democracy and peace. Despite the shortcomings and failures of democracy in Nepal, there seems to be fairly deep-rooted support for it. A July 2004 nationwide poll found that 60 percent of respondents favored democracy with a constitutional monarchy, 17 percent favored democracy without a monarchy, 9 percent favored a return to the Panchayat system, and only 2 percent favored absolute monarchy. In another nationwide poll later in 2004, 62 percent of respondents agreed that “democracy is always preferable to any other form of government” while only 10 percent thought authoritarianism was acceptable.¹¹⁵ In the 2007 survey, 51 percent agreed with the statement that “democracy is preferable to any other kind of government, while 21 percent agreed that “it doesn’t matter to people like me whether we have a democracy or a dictatorship.”¹¹⁶

¹¹¹ ICG Report #99, June 15, 2005, pg 15.

¹¹² SOEs like the Nepal Oil Company owe tens of millions of dollars to the Indian Oil Company, which has largely stopped delivery of oil. The Nepalese government has subsidized the price of oil for many years, a practice it couldn’t afford at the old price of oil, and certainly can’t afford now.

¹¹³ Hachhethu, *Nepal in Transition*, pg 118. Weak government was second (21.1 percent) and “uncivil agitation” was third (17 percent). “Don’t know/no response” was 29.5 percent

¹¹⁴ EIU Nepal Country Report, February 2008.

¹¹⁵ ICG Report #36, February 24, 2005, pg 3.

¹¹⁶ Hachhethu, *Nepal in Transition*, pg 113. 24 percent did not know or had no response.

Using expressions of “trust” as a crude indicator of the legitimacy and/or efficacy of state and political institutions, it is interesting to note that the levels of trust expressed in 2007 do not suggest a broad dissatisfaction with these institutions¹¹⁷:

TRUST IN STATE/POLITICAL INSTITUTIONS: 2007

(Combined figures for “some trust and “a great deal of trust”)

Trust in		Election Commission	Courts	Civil Service	Army	Police	Government	Political Parties	Maoists
Total	Parliamentarians	85	72	71	66	70	80	87	55
	Citizens	78	75	64	65	59	68	57	49
By sex	Male	79	74	61	66	57	67	58	45
	Female	76	76	56	65	60	67	56	48
By area	Rural	77	74	64	65	58	68	58	50
	Urban	83	76	62	69	62	64	50	41
By region	Mountain	79	78	71	60	57	79	63	54
	Hills	86	81	72	67	61	75	63	57
	Terai	69	77	53	65	57	58	49	39
By age group	Young	79	76	64	64	58	67	58	53
	Old	75	71	52	70	61	69	55	41
By education	Illiterate	72	73	63	66	61	69	55	44
	Educated	88	78	63	65	62	70	62	43

[Source: *Nepal in Transition*, pg 39]

Reflecting developments in Nepal, between 2004 and 2007 there have been some significant changes in the level of trust in state and political institutions. Trust in government increased slightly from 63 percent in 2004 to 68 percent in 2007 and trust in political parties (excluding the Maoists) increased slightly from 53 percent to 57 percent. Trust in the Army declined from 72 percent to 65 percent and trust in the police declined from 65 percent to 59 percent.

It is interesting to note that those who expressed trust in the mainstream political parties, excluding the Maoists, constituted 57 percent, significantly higher than the percentage who expressed trust in the Maoists (49 percent). However, 67 percent of the respondents also believed that the Maoists had transformed themselves into a party committed to multiparty democracy. It may be notable that the percentage of respondents who expressed trust in the Maoists (49 percent) was considerably lower than the percentage of respondents who believed in the Maoists transformation to multiparty democracy (67 percent). This suggests that a significant number of people believed that in the Maoist’s transformation but still did not trust the party. Not surprisingly, the majority of respondents (57 percent) expressed their doubts about the sincerity of the Maoist’s transformation.

Finally, it is not surprising that the large majority of Nepalis want peace. Almost 54 percent of respondents in the 2007 national survey expected the *Jana Andolan II* to result in “peace and reconciliation.”¹¹⁸ 52.7 percent of respondents expected that “peace and order” would be the outcome of the election of the CA.¹¹⁹ And when asked what the best means for fulfilling the demands of backward communities, almost no one chose violence.¹²⁰

¹¹⁷ Unfortunately the survey questionnaire did not disaggregate national government from local government.

¹¹⁸ Hachhethu, *Nepal in Transition*, pg 112.

¹¹⁹ Ibid, pg 127. Interestingly, the expectations of parliamentarians surveyed were very different: the large majority saw “state restructuring” and “framing a new political structure” as the main results of the election of the CA.

¹²⁰ Ibid, pg 130.

VII. PROPOSED DG STRATEGY AND PROGRAM RECOMMENDATIONS

A. Conclusions concerning inclusion, consensus, competition, rule of law and governance

Inclusion: Critical, but hugely problematic. A history of exclusion has created a powerful movement demanding much more inclusion with religious, caste, ethnic, regional, demographic, and gender dimensions. Thus, inclusion is a key driver of politics and represents a huge challenge for the future. The CA is the most inclusive body ever, but there are huge and differing expectations for it and within it. Rapid or radical inclusion would be destabilizing, would create new winners and losers, and to the extent that Brahmins and Chhetris were displaced, would displace most of the country's trained human resources.

Consensus: It is more rhetorical and tactical than real. There appears to be some broad and solid consensus on some of the basic issues, including peace, secularism, the establishment of the republic, plus some form of federalism. But at this time there is no consensus on what form federalism should take. There are seriously differing notions of what democracy involves. There is rhetorical consensus on the need for social change and particularly the need for greater inclusion, but it is not clear what will happen when there are winners and losers from this process. Maoists have accepted peaceful multi-party politics for the time being, but their acceptance may prove to be tactical and qualified. The new constitution will be just a first step in trying to forge a new consensus; under the best of circumstances it will take years afterwards for genuine consensus to develop.

Competition: Multiple arenas, high stakes and few constraints. There are multiple arenas and forms of competition: electoral, coalitional, parliamentary, control of key state agencies, public support and mobilization (e.g. strikes), and use of violence and intimidation. The principal arenas right now are the CA and the constitution drafting process, control over the state apparatus and control (or neutralization) of the armed forces. For the moment, the Maoists have opted for peaceful competition, but they haven't completely repudiated armed conflict and the use of intimidation (YCL and CA elections). Maoist ideology and goals don't support liberal democracy. *Madhesi* groups also are prepared to use militancy and violence. Very few checks exist on the use of violence and abuse of the political system. Mainstream parties are in a serious state of disarray, so their ability to compete – and to promote democratic approaches – is seriously weakened. The media is influential, but also vulnerable to control. Civil society is divided and elements of it are highly partisan, but it can be an influential actor sometimes.

Rule of Law: Traditionally weak, currently overwhelmed... There are problems from top to bottom, as a result injustice and widespread elite impunity. Currently the Nepalese polity is operating under a hastily-drafted interim constitution. The court system is slow, expensive and somewhat corrupt. The Supreme Court is something of an exception, but it is overloaded and is not immune to politics and corruption. And many court decisions not enforced. Independent constitutional commissions like the Election Commission, CIAA and the National Human Rights Commission have some authority and credibility, but their capacity to have major impact is limited. (Human rights protections currently are bolstered by the presence of the UN's OHCHR.) The Army, which was responsible for many HR abuses during the conflict, currently operates largely autonomously, with negligible civilian oversight. The Police didn't have a good reputation before the conflict, and then withdrew from most of the countryside. They have now largely returned to their posts, but seem reluctant to intervene, or have done so in a ham-handed fashion. Maoists have routinely attempted to undermine the rule of law: disappearances, extortion, people courts, and intimidation by the YCL are important indicators.

Governance: Power-sharing and a prolonged transition add to Nepal’s historic governance woes.

Nepal has a history of centralized, personalized and ineffective government. The civil service typically is bureaucratic, inefficient and corrupt, but has provided some continuity, stability, and services throughout the conflict and political turmoil. With the current government operating under an interim constitution, and with the problems of power sharing lurking among disparate groups, governance is even more problematic today. There will be no elected local government for at least two years, and probably longer. Civil-military relations are in flux and the Police have been paralyzed. Nepal’s five independent constitutional commissions¹²¹ have proven to be important to maintaining checks and balances and strengthening the rule of law and governance in Nepal, but can’t replace the government, and typically operate within a larger framework that is seriously dysfunctional.

B. Looking ahead: Eight major premises

The team’s recommendations are rooted in the following eight premises regarding the DG programming environment in Nepal over the next several years:

1. Nepal is only part way through its political transition—and it remains vulnerable to reversal.
2. The CA is the most representative body in Nepal’s history. But it also is very unwieldy, controlled by political parties, and likely to be largely a rubber stamp body.
3. The Maoists are the leading drivers of political and social change, but some aspects of their ideology and approach to politics may represent a serious threat to democratic politics.
4. The ability of most other political parties and civil society groups to compete with the Maoists is, at best, mixed.
5. It appears that issues of inclusion, federalism and autonomy will dominate politics for the foreseeable future. There are widely varying, unrealistic and contradictory expectations.

INDICATORS OF THE CONSOLIDATION OF MAOIST CONTROL

- Expanding levels of violence and/or expanding role of YCL
- Restraints on press freedom; politically-based licensing, growing intimidation of journalists
- Expansion of Maoist programs that don’t have any legal basis
- Expanding intelligence services or mechanisms
- Increased control over regulatory authorities
- Development and implementation of Codes of Conduct for NGOs
- Centralization of donor assistance under Government control
- Increased Maoist influence over school curricula
- Appointments/promotions within civil service, commissions and judiciary
- Election and political party laws
- Inappropriate control or manipulation of the CA?
- Behavior of Maoist cadre outside of Kathmandu
- Behavior of Maoist unions
- Maoist-India relations
- Overt manipulations of the CDOs, LDOs, and VDCs.
- Nationalization of industries
- Controls over communications (telephones, etc)
- Forced appropriations of farms in the guise of land reform?
- Continued collectivization of farms (It was already happening in places like Rolpa)
- Inappropriate controls placed on the police, or use of police authority to promote partisan objectives.
- Moves against religious institutions

¹²¹ The five independent bodies are the: (i) Commission for the Investigation of Abuse of Authority (CIAA), (ii) Public Service Commission, (iii) Office of the Attorney General, (iv) Election Commission, and (v) Auditor General. All are independent and accountable to Parliament. The heads and members of these bodies are appointed by Prime Minister on the recommendation of the Constitutional Council.

6. The Madhesi demands and militancy have become key factors in determining the trajectory of Nepal's transition.
7. The peace process is not complete and can't be viewed in isolation of the political process.
8. For at least the next two years, the multiple challenges of power-sharing, constitution drafting and "state restructuring" will limit the capacity of the national government to address Nepal's serious socio-economic problems.

C. Statement of the "central DG challenge" facing Nepal

Nepal is still in transition, and to a considerable extent, its long term political prospects depend on the choices made and the processes used over the next several years. Therefore, we see the central DG challenge facing Nepal over the next 2 to 3 years as managing this difficult transition. This can be summarized as follows:

The central "DG challenge" Nepalis face is agreeing upon and achieving a fundamental restructuring of Nepalese politics and government -- including drafting a new constitution, accommodating new political forces and holding elections -- while preserving and strengthening fundamental democratic principles.

D. Recommendations for the DG strategy

Statement of the Proposed DG Strategy. The underlying premise is that the next 2 to 3 years will continue to be a transitional and fluid period and therefore a DG program must be able to anticipate and respond to key transitional needs in a strategic and timely way. Therefore, the proposed DG strategy can be expressed as follows:

To help ensure Nepal's continuing transition results in a more democratic, inclusive and peaceful political system. Central to this is supporting key democratic institutions and processes as well as the peace process. Additionally, the US should encourage and support efforts by the Maoists and other political parties to enhance their capacity to engage in democratic politics and governance. In support of this strategy there needs to be a robust effort to monitor and assess the trajectory of democratic politics and governance over the next three years.

This involves addressing key aspects of consensus, competition, inclusion, rule of law and governance, but the DG strategy has to be geared to the over all, multidimensional process of transition, and not any single sector.

Key Elements of the Strategy. The proposed DG strategy would provide the framework for supporting key governmental and non-governmental actors in Nepal to do the following:

- **Strengthen and unify the champions of democratic politics and values.** By "champions" we mean individuals and groups, in government, civil society, academia and the media, who are both committed to democracy and have the ability to play a leading role.
- **Address key transitional processes,** including drafting and ratifying the constitution, restructuring the state, and advancing electoral and party reform,

- *Foster greater political inclusion*, particularly for women and youth.
- *Monitor the transition* and improve public understanding of it.

“Cross Cutting” or Program-Wide Priorities. We recommend that the DG strategy have four “cross cutting” or program-wide priorities. These are:

- 1) *Use a “conflict lens” when designing and implementing all programs.* This means ascertaining in advance how the design and implementation of ALL programs and interventions will impact (positively or negatively, intentionally or unintentionally) existing or potential conflict. At a minimum, using a “conflict lens” should result in programs that “do no harm” and are conflict sensitive. This is particularly important for all future programming in the Terai.
- 2) *Maximum possible participation of women and youth.* Women have been the under-represented “silent majority” in Nepalese politics and governance. Youth have been far more vocal – and militant – and therefore need to be engaged as much as possible.
- 3) *Use of the media—especially radio.* Given Nepal’s geography and literacy levels, the only cost-effective way to reach large numbers of Nepalese is through the media, and radio in particular.
- 4) *Ensure programs reach key stakeholders outside the Kathmandu valley.* It will be particularly important to reach and engage groups across the Terai.

E. Illustrative projects/activities

1. Strengthen and unify the champions of democratic politics and values:

- *Strengthen capacity to protect human rights.* This could include support for the NHRC, human rights groups, the media and a Truth and Reconciliation Commission, if a credible one is formed.
- *Strategic and targeted support to selected civil society groups* for coalition building, strategic advocacy campaigns, public opinion polling, analysis, and youth leadership programs.
- *Protection and support for independent media*—especially outside Kathmandu. This could include support for media associations, for monitoring of media freedom and for the protection of journalists.
- *Political party reform.* The character and needs of Nepal’s political parties vary considerably. The NC and UML are very different from the Maoists and all of them are very different from the new *Madhesi* parties. So a program supporting party reform would need to be tailored to the different parties’ needs. Second, given the uncertainty surrounding the future trajectory of a number of Nepal’s political parties, a program should involve explicit conditionalities and be performance-based. Third, while the next round of elections provides a useful entre for working with parties, the program should have at its core efforts to make all parties more democratic, non-violent and inclusive (especially regarding women). Special attention might be paid to democratizing and professionalizing party student and youth wings.

2. Address key transitional processes -- and link the political and peace processes:

- **Prepare for the next elections.** Elections will be held after the promulgation of the new constitution. These elections will be critical to Nepal's political transition; so it is essential that they be democratic, credible and peaceful. To ensure that they are, USAID should be prepared to join with other donors to support the strengthening of the Nepal Election Commission, to support compilation of a new voters list, to assist election law reform and to strengthen the capacity of domestic election monitoring.
- **Sustain the peace process.** Important elements of the peace process remain unfinished. Failure to move ahead could undermine trust and increase the potential for conflict to recur. To sustain the peace process support could be provided to:
 - Broaden the discussion of civil-military relations and Security Sector Reform. This could include support for analysis, dialogues and media outreach.
 - Expand and strengthen Peace Committees or other local conflict mediation/mitigation mechanisms.
 - Monitoring compliance with the CPA. This might best be done jointly by a team of local and international organizations.
- **Support for Nepalese efforts to agree upon a new structures for the state,** especially relating to federalism and autonomy. This might include support for:
 - Technical Assistance to the CA and possibly to the State Restructuring Committee (currently being provided by TAF and PILPG)
 - Public education (workshops, seminars) on federal models and options
 - Media training, radio programming and public dialogues outside of Kathmandu
- **If possible and warranted, assist the Maoists to better understand selected governance and policy issues.** These could include issues such as human rights law, decentralization, economic reform, agriculture and Natural Resource Management policies.

3. Foster greater political inclusion:

- **Encourage the involvement of youth and students in building a democratic civic culture.** This might include support for:
 - Youth/student leadership and conflict resolution training.
 - Cultivating youth entrepreneurs and/or social entrepreneurs (perhaps through the FNCCI)
 - Increasing youth and student involvement in election monitoring
 - Civic education and skills development programs for political party student and youth wings.
 - Facilitating linkages between Nepalese and foreign student and youth groups.
- **Help to make the women members of the CA more influential and effective** (currently being done by NDI.)
- **Engage labor groups:** USAID could consider supporting a multi-sectoral labor-business-government consultative body under ILO auspices.

4. Monitor the transition and increase public understanding of it:

- Periodic public opinion surveying on key issues (in support of other objectives as well as for monitoring purposes).
- Robust and regular monitoring and analysis (domestic and international) of the political situation, peace process and compliance with the CPA, and widely disseminate findings to stimulate broader public dialogue.
- The PAO media monitoring and Public Diplomacy activities in support of democratic politics and government.

F. Priorities and possibilities

1. What definitely can and should be supported:

- Efforts to address key transitional issues (inside and outside the CA)
- Preparations for the elections
- Human rights capacity building
- Strengthening civil society coalitions
- Youth civic education and leadership training
- Monitoring the political and peace processes

2. What should be supported if there is serious commitment/political will:

- Political party reform
- Civil-military relations and possibly Security Sector Reform

3. Areas that should be monitored with a view to developing programmatic responses if needed:

- The potential challenges to media freedom
- Judicial independence
- New anti-corruption initiatives
- Changes in the status of local government
- The establishment of a Truth and Reconciliation Commission

G. What is not included and why?

- Support for institutional strengthening of the judiciary. Reasons: The current situation is too uncertain and programming in this area would require an expensive, long term commitment. But USAID should look for opportunities to support judicial independence and judicial leadership relating to human rights.
- Support for anti-corruption. Reasons: The current situation is too uncertain and it does not appear to be a Nepali priority right now. Also the credibility and impact of the CIAA is low.
- Support for civil service reform. Reasons: The current situation is too fluid and programming in this area would require an expensive, long term commitment.

- Local government strengthening: Reasons: Local governments are elected and the future of local/district governments is unclear; a large multi-donor effort already underway (The USG could contribute to it, but not until it becomes clear what is going to happen with local government over the next two years.)

H. Other key considerations

- To maximize impact, there needs to be a focused and well-coordinated USG approach. The impact of the program will be enhanced by public and/or private expressions of USG support for “a more democratic, inclusive and peaceful political system.”
- A high degree of flexibility is essential. Ways to ensure this include:
 - Consider having a comprehensive DG program review every 4 - 6 months over the next two years.
 - Have a small grants component.
 - Regular monitoring
- The importance of donor coordination, especially concerning party support, human rights and elections.
- Learn from and build on OTI’s work.

Appendix I: Nepal and the MCC

The team was asked to comment on programs to improve Nepal's MCC indicators. To do this, it is first necessary to understand Nepal's MCC scores. These are based on two Freedom House measures and four World Governance Indicators.

The two Freedom House measures are:

- 1) **Political Rights:** Within this basket, Nepal's score is weakest on "functions of government". The Freedom House score for "functions of government" is based on the following considerations:
 - Do the freely elected head of government and national legislative representatives determine government policies?
 - Is the government free from pervasive corruption?
 - Is the government accountable to the electorate between elections and does it operate with openness and transparency?
- 2) **Civil Liberties:** Within this basket, Nepal's score is weakest on the "rule of law". The Freedom House score for "rule of law" is based on the following considerations:
 - Is there an independent judiciary?
 - Does the rule of law prevail in civil and criminal matters? Are the police under direct civilian control?
 - Is there protection from terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system? Is there freedom from war and insurgencies?
 - Do laws, policies and practices guarantee equal treatment of various segments of the population?

The four World Governance Indicators and Nepal's MCC performance on them are:

- 1) **Voice and Accountability:** Defined by the WGI as "the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media." Although Nepal was slightly below the median in 2007, it can be expected to move above it in 2008.
- 2) **Government Effectiveness:** Defined by the WGI as "the quality of public services, the capacity of the civil service and its independence from political pressures; the quality of policy formulation." Nepal has consistently hovered around the median; there is no reason to expect this to drop and with the formation of a new government it could rise.
- 3) **Rule of Law:** Defined by the WGI as "the extent to which agents have confidence in and abide by the rules of society, including the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence." Throughout the conflict, Nepal has scored above the median, but this could drop on account of the Maoist victory and the rise in violent crime.
- 4) **Control of Corruption:** Defined by the WGI as "the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests." Nepal's score has dropped but is still above the median.

This analysis suggests that if there is a MCC Threshold program it should focus on controlling corruption and strengthening the rule of law. Based on the experiences of the MCC Threshold programs in Indonesia and the Philippines, for a Threshold program to succeed in Nepal it would require:

- Genuine commitment and political will on the part of political/ judicial leadership and commitment that is sustained over the life of the program;
- A multi-faceted approach to bolstering anti-corruption efforts including supporting the CIAA, the judiciary and civil society.
- Extraordinarily competent and rapid project implementation, given the two year timeframe for Threshold programs.
- A realistic assessment of the absorptive capacity of Nepalese institutions and groups.

Appendix II: Review of Political Developments Since 2005

Nepal is in the throes of unprecedented political and social change. It is impossible, therefore, to predict where Nepal's political transition will eventually end up. But understanding where it has come offers useful insights into where it might be headed.

Nepal has been faced with a political crisis and a general decline of democratic practices since the mid-1990s. The Maoist insurgency began in 1996. Nepal's decade-old democracy was seriously compromised in 2002 when King Gyanendra began appointing governments. But the current situation primarily relates directly back to 2005.

The 2005 “royal coup.” King Gyanendra ascended to the throne in June 2001 after his brother, King Birendra and eight other members of the royal family were shot and killed, apparently by Crown Prince Dipendra, who then killed himself. In October 2002 King Gyanendra suspended normal democratic procedures and appointed ministers by royal decree. Between October 2002 and February 2005 he appointed and dismissed four prime ministers. On February 1, 2005 he staged a “royal coup”¹²² which effectively placed the country back under a royal dictatorship. He dismissed the prime minister and government, adjourned the parliament, placed a number of leading politicians under house arrest, and declared a state of emergency. At that time, the King enjoyed support of the Army and initially most Nepalis weren't sorry to see the politicians sidelined.

In May 2005 the seven sidelined parties formed the Seven-Party Alliance (SPA). In October the King called for municipal elections in early 2006 and a general election by mid-April 2007. The political parties, however, rejected the King's proposal and boycotted the municipal elections.

The SPA and *Jana Andolan II* (“People's Movement”). In mid-November 2005 the members of the SPA reached a 12 point agreement with the Maoists. The parties and the Maoists agreed to oppose “autocratic” or absolute monarchy. The Maoists formally accepted multiparty politics and expressed a readiness to disarm in advance of elections. The mainstream parties committed themselves to a process of constitutional change involving the election of a Constituent Assembly, a key Maoist demand, but an idea which originated with King Thirbhuwan in the 1950s, shortly after the Ranas were overthrown.

The November 2005 12-point agreement between the SPA and the Maoists laid the foundation for the April 2006 “people's movement” or *Jana Andolan II*. This began on April 6 with a nation-wide strike called by the seven political parties. The key demands were reinstatement of the parliament, the end of autocratic rule of the king and establishment of republic through the election to a constituent assembly that would formally abolish the monarchy. The strike was endorsed by the Maoists, who supported the growing anti-monarchy sentiment. Civil society groups and professionals also participated. In some instances, more than 100,000 people took to the streets. The parties themselves were surprised by the intensity of the protests. Over the two-week period of demonstrations, at least 22 people were killed, more than 9,000 wounded, and more than 3,000 were arrested.

On April 21 the King offered to return the prime ministership to a leader designated by the mainstream parties. This was rejected by the SPA, which continued to press for the restoration of the parliament along with the total hand over of executive power. The King then agreed to the restoration of the parliament, which was acceptable to the parties, but not to the Maoists. Maoist leader Prachanda said the alliance had

¹²² Much as his father, King Mahendra had done in 1960, when he moved to establish the partyless *Panchayat* system, which was effectively a soft royal dictatorship,

committed “another historic mistake.” G.P. Koirala, the head of the Nepali Congress Party, (NC), became the Prime Minister and a new government was formed.

The SPA government. The SPA government declared a ceasefire with the Maoists, released hundreds of Maoist rebels from jail, and lifted terrorist charges against their senior members. The rights to freedom of association, expression and assembly were largely restored. Restrictions on the media were lifted. A Commission, headed by former Supreme Court Justice Rajamajhi, was formed to investigate responsibility for the violence the preceding November.¹²³ In May, the parliament passed a resolution calling for Nepal to become a secular state, stripping the King of his historical and social positions including the head of State and also ending his control over the Armed Forces. In the following seven months it passed no less than 31 acts, with parliamentary committees considering a dozen more bills. This represented the most prolific legislative burst of any government since immediately after 1990.¹²⁴

Meanwhile, according to ICG: “While the Maoists negotiated in the capital, 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. Before being cantoned, their fighters had set up highway checkpoints to monitor vehicles and collect money. Political workers shifted from villages to open offices in towns and cities.”¹²⁵

The Comprehensive Peace Agreement (CPA): The Maoists Opt for Political Struggle over Armed Struggle. The Maoist “Peoples’ War” began in 1996, but it wasn’t until sometime in 2001 that it escalated with the intervention of the Royal Nepalese Army (RNA.)¹²⁶ By 2005 Maoist influence spread to over two-thirds of the countryside and the government’s control was limited largely to district capitals. At the same time, though, the Maoists couldn’t make major gains in larger towns and cities. Between 2002 and 2007 the RNA more than doubled in size from less than 50,000 to almost 95,000 soldiers. Over 10 years of the conflict, some 13,000 Nepalis were killed, and perhaps 200,000 people were formally displaced, although this does not seem to count the number of people who elected to migrate to India or abroad in search of work, in order to avoid the conflict.

Between 2001 and 2004 there were two official rounds of negotiations between the government and the Maoists. In April 2005 secret talks between the NC and the Maoists began in New Delhi and in September and October the talks were broadened to include the members of the SPA. In October 2005 the Maoists held a central committee meeting in Chunbang, Rukum where it was agreed to break the triangular stalemate with the monarchy and parliamentary parties by establishing an alliance with the “capitalist parliamentary forces” against the “feudal monarchy.” It also passed a new program for working towards a democratic republic through a multiparty system. According to the ICG, “The Chunbang meeting not only resolved the internal debate and restored BhatTerai to the leadership but also placed the Maoists much more firmly on a moderate path.”¹²⁷

¹²³ In November 2006 the Rayamajhi Commission issued a report blaming the King and 200 senior government officials for the violence.

¹²⁴ ICG Report #126, December 15, 2006, pg 3.

¹²⁵ Ibid, pg 5.

¹²⁶ The late King Birendra had always insisted that the issue with the Maoist was a political matter, which needed to be solved through political, not military means. However, after Birendra’s assassination, his brother, Gyanendra decided to use the Royal Nepalese Army to go after the Maoists.

¹²⁷ ICG Report #132, May 18, 2007, pg 5.

As previously noted, in April-May 2006 the interim Seven Party Alliance government declared a ceasefire with the Maoists, released hundreds of rebels from jail, and lifted terrorist charges against their senior members. In May, 2006 the SPA government and the Maoists began formal talks and agreed upon a 25-point Code of Conduct. In mid-June G.P. Koirala and Prachanda met in public for the first time.

According to the ICG: “It is to the credit of the government and the Maoists that the peace process has been largely internally driven rather than internationally imposed and that the key political players have shown a willingness to recognize and learn from past errors.” But the ICG also noted that the negotiations over the CPA were characterized by “a lack of solid dialogue mechanisms, poor facilitation, little attention to confidence-building and an opaque, elite-driven approach.”¹²⁸

The CPA between the SPA and the Maoists was signed on 21 November 2006. At the heart of the CPA was agreement on the rough outlines of a political process that would bring the Maoists into mainstream politics and government, declare Nepal a republic, hold elections for a CA, and promulgate a new constitution.

The Maoists and the government agreed to end the conflict and place their armed forces in cantonments, (with UN monitoring) while the Maoists agreed to join the government and a new interim parliament. But the CPA left unresolved the issue of integration of armed forces.¹²⁹ Initially, 31,000 Maoist personnel were placed in cantonment sites and their weapons stored and registered. UNMIN then proceeded to verify that about 19,600 of the 31,000 were indeed Maoist combatants.¹³⁰ The CPA also fails to address the issue of the future of Maoist militia or members of the Young Communist League (YCL).

To date, the immediate and overarching objectives of the CPA have been met, but many provisions of the CPA have been weakly implemented, if at all. A Truth and Reconciliation Commission called for in the CPA has not yet been formed. Neither party has followed through on their commitment to release information on people who disappeared during the conflict. The reintegration and rehabilitation of Internally Displaced Persons (IDPs) has been slow and piecemeal. Aside from providing travel expenses for their return, little has been done to facilitate the overall process for relocation of the IDPs.¹³¹

The Maoists join the Government. A 22-member government was formed on April 1, 2007, which included 5 Maoist ministers. According to the ICG: “Although [the Maoists] failed to win control of the most powerful ministries, they carefully selected their consolation prizes, choosing ministries which increase their influence in critical areas.” These included Information and Communications (which gave them influence over the state-owned media), Local Development (influence over local government and politics), Forestry (influence over resources and forest user groups), and Housing and Town Planning (control over urban areas and some infrastructure). The Maoists repeatedly promised to run in elections and abide by the results. At the same time, the Maoists and their YCL continued their rights abuses and extortion.

¹²⁸ ICG Report #126, December 15, 2006, pg i.

¹²⁹ The team was told that The Nepali term used in the CPA means “adjustment” or “accommodation.” The CPA does not specify if it is the RA or the PLA who will do the most adjusting and accommodating.

¹³⁰ Under the CPA, any person under 18 as of May 2006 was not considered a Maoist combatant. A problem arose following the signing of the CPA when in late 2006 the Maoist leadership directed the PLA to recruit thousands of children in violation of the various peace accords. The UNMIN managed in some cases to catch the Maoists and identify some of these children during the verification process. As a result, many of the 31,000 “Maoists” cantoned were not Maoist personnel at all; they were new, post-cease-fire recruits and as such did not qualify.

¹³¹ Based on the number of registered IDPs, the government estimates there still are 44,831 IDPs in the country, while NGOs and international agencies put their actual numbers at between 50,000 and 70,000.

In August 2007 the Maoists announced 21 demands on the government, including declaration of a republic. Citing the slow pace of change, the five CPN-M ministers resigned, and elections for the CA were postponed for a second time. Then, following further negotiations between the government and the Maoists, a breakthrough was reached in December 2007 and the Maoist ministers rejoined the government. The 23 point agreement recognized Nepal as a federal democratic republic (to be adopted at the first meeting of the CA), included a political road map leading to elections in April 2008, and expanded the number of CA seats.

The Constituent Assembly Elections. The CA elections originally were scheduled to take place in June 2007. These were then postponed until November 2007, and then postponed once again until April, 2008. Delays in holding the elections were largely due to disagreements over the electoral system, together with Madhesi demands for greater representation.

The election was finally held on April 10. On election day, 11 million out of 17.6 million registered voters (approx 60 percent) went to the polls. Re-polling was necessary in only about a 100 of more than 9,800 polling centers, and was completed by April 19. Counting was completed by April 23.

The Maoists ended up winning 38.3 percent of the CA seats. Nepal's two largest mainstream parties, the NC and the CPN-UML won only 19.1 percent and 17.9 percent respectively. The next three most successful parties are all *Madhesi*: the MJF won 8.7 percent, the TMLP won 3.5 percent and the Sadbhavana Party won 1.6 percent. Only three other parties (one of them royalist, one of them communist) won five or more CA seats. Sixteen other parties won representation in the CA, but with only four or fewer seats.

The CA convenes. The CA convened for the first time on May 28.¹³² At the first meeting of the CA, the monarchy was abolished and Nepal was declared a republic. The CA also adopted interim procedures and passed a further amendment to the interim constitution creating a ceremonial presidency. Since its first, historic meeting, the CA has reconvened only periodically.

Wrangling over the new government. Since June the formation of the new government has been delayed by wrangling over three intertwined issues, all of which relate to who will exercise government power. First, although the Maoists captured a sizeable plurality of the vote, they do not command a majority of the seats in the CA – even if they form an alliance with the smaller communist parties. So negotiations over the leadership and composition of a coalition “unity government” continue until the time of drafting this Assessment.

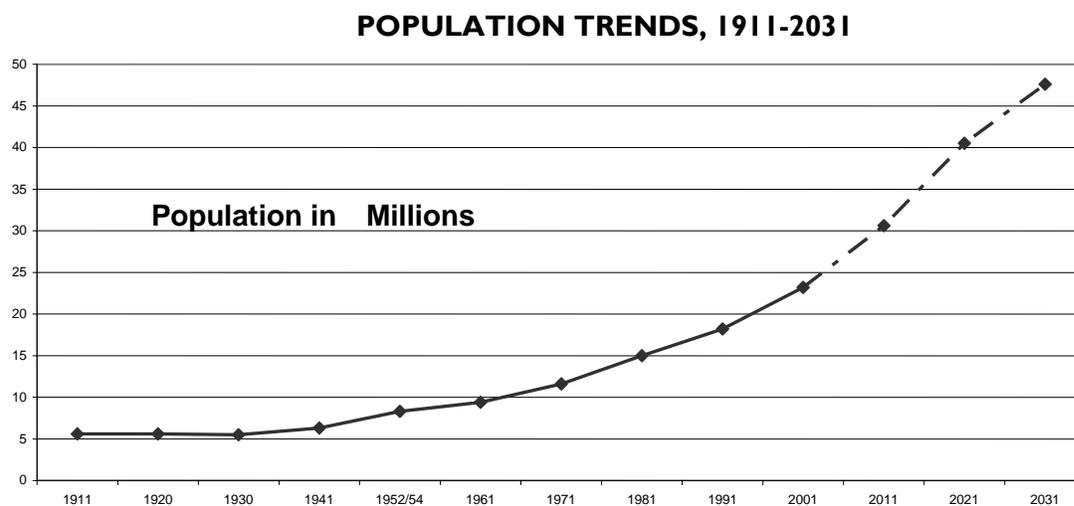
The second issue was the provision for government formation and removal. The interim constitution requires a two-thirds majority to remove a government; with the Maoists controlling almost 40 percent of the seats in the CA, the mainstream parties balked because the 2/3 requirement would make it impossible to unseat a Maoist government. This issue was resolved in July.

The third issue was the presidency and who would fill the position as head of state. The Maoists initially wanted Prachanda; it appears G.P. Koirala and the NC hoped that Koirala would become president as a way to continue to influence the government more informally. This deadlock was broken on July 21 when the CA elected as president Ram Baran Yadav, a Madhesi member of the NC.

¹³² The CA convened without the 26 nominated members, who hadn't been appointed as of mid-August.

Appendix III: Societal Changes and Stresses

Demographic pressure. Over the last three decades, the population of Nepal has essentially doubled, from 15 million people in 1981 to an estimated 30 million people by sometime in 2009. For Nepal, such continued dramatic population increases are virtually guaranteed over the next several decades, because of the country's demographics, with almost half the population being 18 years old or younger. At the present rate of growth (variously estimated at 2.1 to 2.3 percent per year), the national population would reach 40 million people in another 13 to 14 years, and could reach 50 million people in about 25 years, sometime in the early 2030s (as shown on the graph, below). Of course such demographics and the doubling of the population have had important implications for Nepalese culture. It has already provoked significant social change, and put severe stress upon the society, and these tensions will continue, and grow worse. The Table below shows Nepalese population trends from 1911 through 2009, with projections at the current rate of growth through 2021 and 2031.



Of course such a dramatic increase in population correlates inversely with per capita land holdings. Because of Nepal's topography and geology, the total amount of cultivable land is largely fixed, with only slightly more than 20 percent of the land area being cultivable. To increase cultivable land holdings, farmers would have to clear more forests, carve out more terraces, or move onto increasingly marginal lands, causing more and more erosion. In 1981, when Nepal had a population of 15 million people, per capita *cultivable* land holdings were 0.2 hectares. Today, with an estimated population of almost 30 million people, per capita *cultivable* holdings have been cut in half, to approximately 0.1 ha. When Nepal reaches 40 million people in another 13 – 14 years, cultivable land holdings will decrease further to approximately 0.07 ha per individual. The combination of too many people and too little land puts a huge stress on Nepali families, traditions, culture, its economy, and its political system.

Land issues increasingly came to the fore in 2007, with forced evictions by the Maoists, conflicts between landowners and the landless and land seizures by various organizations, including Tharu-led groups and the JTMM. The CPA included a commitment to establish "scientific" land reform, but there were delays in setting up an appropriate mechanism."¹³³ Land conflicts have also been aggravated by the movement of Internally Displaced People (IDPs).

¹³³ OHCHR Nepal Report, 18 February 2008, pg 14.

Urbanization. The current population of the Kathmandu Valley is crudely estimated at about 2 million people, and seems to be growing at a rate of nearly five percent per year. The UNDP says, “if present growth continues, the population of the valley in 2020 will reach 2.5 million”, but this seems to be overly conservative.¹³⁴ It is roughly estimated that 98 percent of all Nepali families now have at least one family member living and working in Kathmandu.

Greater access to information. Nepal has gone from being virtually a non-literate society to one with a relatively high level of literacy. In 1951, for example, only two percent of all Nepalis were literate. By 1981, the literacy rate had reached about 23 percent; by 2005, more than half the entire population was literate, with literacy among males was somewhat higher at about 65 percent.

Books, newspapers, local, national and international radio, the movies, and in urban areas the internet have all given Nepalis much greater access to information. But even with such improved access, in a 2007 survey, 1/3 of respondents did not know about the *Jana Andolan II*, which probably says more about their levels of ‘political consciousness’ than it says about their access to information.¹³⁵

Unemployment. Even in the 1990s, when Nepal’s economy was growing at four percent annually, it was unable to absorb the estimated 500,000 young people who join the labor force each year.¹³⁶ Some figures suggest the number of new entrants to the labor force now is actually closer to 700,000 per year. Jobs for most entrants to the labor force are almost non-existent. While hard data on employment are hard to come by, one anecdote helps to place the magnitude of the problem into context. A few years ago, when the Nepal Electricity Authority sought applications for new mid-level jobs, it received 120,000 applications for 600 vacancies, a rate of 200 applicants per seat.

Overseas workers and remittances. Overseas employment, with its attendant benefits and costs, has emerged as a major source of employment for Nepalese workers over the last decade. While reliable data do not exist, a director of the Central Bank of Nepal told the DG Assessment team that there are nearly four million Nepalis working outside of Nepal, including nearly one million who are working in Southeast Asia, the Middle East or western countries, and 2 – 3 million Nepalis working in lower-skilled jobs in India.

According to the ADB, remittance income more than doubled from \$641 million in FY2001 to about \$2.0 billion in FY2007, about 20 percent of GDP. The Bank also credits remittance income as “the key contributor to the 11 percent decline in poverty between FY1996 and FY2004.”¹³⁷ Money from these workers has become the main driver of consumption in Nepal and serves as an important safety valve for social stress.

Changes in traditional beliefs and relationships: caste and religion. Although the caste system is deeply rooted in Nepal, it is not immutable. According to a prominent Nepalese anthropologist, “Recently, as the Indian Hindu upper class itself becomes less attached to caste, this Indian alienation from caste has been echoed among high class people in Nepal as well. There is a difference in the perspective of caste hierarchy, in the eyes of the Bahun-Chhetri and that of the other ethnic people...and the perspective is changing even more radically in the eyes of younger people today. There is a tendency for the caste outlook to be replaced by a class outlook....” In fact, says this writer, in Nepal, “economic or

¹³⁴ Other back-of-the-envelope calculations suggest the Valley could easily reach 2.5 million people by about 2010, and 3 million people by 2015.

¹³⁵ Hachhethu, *Nepal in Transition*, pg 28.

¹³⁶ Thapa, *A Kingdom Under Siege*, pg 58.

¹³⁷ *Asian Development Outlook 2008*, Nepal Chapter, Asian Development Bank, from ADB website.

political considerations tend to divide people rather than caste distinctions.” However, he warns, since Nepal does have a history of caste relationships, “... there is a danger of the development of a new secularized caste system, where the socially mobile consolidate their position by blocking out their competitors or those closely behind them.”¹³⁸

Nepal continues to be predominantly a Hindu society, and such societies believe in social stratification on the basis of birth, with Brahmins and Chhetri being placed at the top of the hierarchy. But such a belief system is changing, and it appears more and more decisions are being made according to class interests, not caste or religious interests. According to recent polls, the total number of Nepalis describing themselves as Hindus has decreased over the past few years from more than 86 percent to about 80.5 percent, and we expect this decline to continue. The Janajati, representing perhaps more than 35 percent of the population of the country, seem to define themselves increasingly as non-Hindus and generally as Buddhists. More significantly, groups like the Madhesi are defining themselves by their ethnic and regional interests. The Dalits who are at the bottom of the social pecking order in the Hindu scheme of things have relatively little reason to subscribe to belief systems that stress “untouchability.”

Religion does not appear to represent a major flash point in the Nepalese polity, at least at a national level. Even though Nepal is now nominally secular, it still shares certain commonalities in terms of religious values. For example, in Nepal, where Buddhism and Hinduism have co-existed side by side for millennia, it is very hard to disaggregate the two, because religious practices are so intimately intertwined. Similarly, it is hard to differentiate between the animist and the Hindu practices. Thus, as efforts are made to restructure the Nepalese state over the next few years, we expect most of the political action to be defined largely in terms of ethnicity, autonomy, federalism, and probably through assorted set-asides for different groups, rather than in overt religious conflict. Nepal is not India. And the Muslims, who constitute only a small part of the population, will probably be accommodated through set asides, and seats in the Parliament.

Summing up. In sum, an increasingly literate and educated society is able to read about what is happening around the country, and around the world. Populations are rising, while landholdings are shrinking. Nepali students graduate from schools, only to find no jobs are available. Men – and increasingly women – migrate abroad, in many cases simply to find work in order to support their families, in some cases perhaps to escape discrimination and conflict. Women are doing more of the work that men used to do. There are even isolated anecdotal reports, for example, of women occasionally plowing the fields and roofing the houses, something that was totally unknown in the past. Relations are changing between men and women, in part because women are doing more of the men’s work, as the men migrate to India, in order to earn remittances to send home to their families.

As the age pyramid tilts dramatically towards youth, young people are seeking a more dominant role in society in keeping with their numbers. Young men (and increasingly young women) are picking up guns to effect social change, rather than waiting to be reborn into a higher caste. At the same time, except for the Constituent Assembly, the remainder of the entire state machinery, including the political parties, the bureaucracy, and the courts are still dominated by male Brahmins and Chhetri. Their interests will be threatened under a more inclusive system. Social stress is clearly something that will continue to be an important factor in Nepalese life for a long time to come.

¹³⁸ Bista, *Fatalism and Development*, pgs 44, 55, and 156.

Appendix IV: International Actors

A. India

Traditionally, Nepal has fallen within India's sphere of influence, economically, culturally, and politically. Living in the shadow of India, Nepal for its part clearly has a well developed sense of paranoia about its "big neighbor." This paranoia colors much of what Nepalis see, sometimes with justification. A knowledgeable student of India-Nepal relations has observed: "India is characterized by its use of 'covert coercion' as an instrument of regional policy. The major advantage of this form of coercion is its plausible deniability."¹³⁹ This approach of 'covert coercion' seems to have characterized significant parts of India's behavior relative to Nepal over the past fifty years.¹⁴⁰ India is also seen as utilizing a "divide and rule" in its policies towards Nepal. According to Hutt, "even as the Indian government stepped forward to condemn the Maoists and offer the Nepali army some military hardware, newspaper reports suggested that the Maoists continued to receive supplies and shelter in India. By supporting and supplying both sides of the civil war in Nepal, New Delhi has perfected the imperial art of divide and rule."¹⁴¹ A more charitable explanation is that India for its own purposes has simply been trying to stay in touch with both sides, and one indicator of this has been its willingness to host some of the peace negotiations at the Indian Embassy in Kathmandu.

At the same time, New Delhi clearly appreciates the implications of a Maoist-led government in Nepal and especially the potential threat to its own security that could result from links between the Maoists and the Indian radical left. According to Thapa: "there exists a real danger of a physical tie-up with Indian Maoist groups spreading in an arc from Nepal, through Bihar, Jharkhand, parts of West Bengal, Chhattisgarh, Madhya Pradesh, all the way to Andhra Pradesh. Nepal's Maoists have received support from Indian ultra-leftists in terms of shelter and training and possibly in gaining access to the underground arms bazaar in India."¹⁴² While reliable information is difficult to obtain, there is likely substantial trans-border movement of arms. The shipment of other illicit goods, as well as trafficking of individuals between India and Nepal, is clearly documented.

While Delhi is concerned about instability in Nepal and has supported the peace process, it is most likely the Indian government will continue to dabble discretely in Nepalese affairs, albeit typically covertly, while being mindful of its own far-reaching problems with the Naxalites, which Prime Minister Manmohan Singh once described as India's single biggest domestic security problem

There also are published reports that the Indian government remains "happy to shield the Nepal Army from democratic reform."¹⁴³ And it is important to note that the Indian army also includes some 40,000 Nepali Gurkhas and maintains close army-to-army links.

With regard to the Terai, at some level the border is almost invisible, with people moving back and forth, constantly. Families live on both sides of the border, and sometimes it is hard to say where North India stops and the Terai starts, culturally, economically, and increasingly politically. Criminal gangs easily move back and forth, taking refuge as it is convenient. In some ways, Nepal, and particularly the Terai is more influenced by Bihar and other north Indian states than it is by formal policy decisions in New Delhi.

¹³⁹ Hutt, *Himalayan 'People's War', Nepal's Maoist Rebellion*, pg 199.

¹⁴⁰ Also consider Goa, Sikkim, and Bhutan.

¹⁴¹ Hutt, *Himalayan 'People's War', Nepal's Maoist Rebellion*, pg 223.

¹⁴² Thapa, *A Kingdom Under Siege*, pg 174.

¹⁴³ ICG Report #136, July 9, 2007, pg 11.

In many ways, it appears that India expects Nepali politics to follow a trajectory similar to its own. All of India's major national parties have suffered from the rise of regional, ethnic and caste-based parties that have eroded their former support base. Following this model, Nepali politics will probably see an increased focus on ethnicity and caste-oriented vote banks, and a natural process of different ethnic and regional groups agitating for greater representation. India may expect Nepal's traditional, national political parties to find it hard to cater to identity-based aspirations and therefore lose ground to identity-based parties.

B. China

During the People's War, China largely left the government or Nepal to deal with the Maoist insurgency on its own. In fact, the Chinese sought to disavow any perceived links between the land of Mao and Nepal's Maoists while expressing support for the Nepali Government's position.¹⁴⁴ Now that Maoists are in government, and presumably will assume a larger measure of control over government decisions, we expect the Chinese to continue their same posture of opportunistic neutrality. In general, the policy of the government of China simply is to support any incumbent government, as for example Myanmar. Thus, it seems likely that the Chinese will simply continue their passive support, without much reference to day-to-day decisions. So long as Nepal maintains a façade of parliamentary legitimacy, Chinese will stay quiet. Over time it might look for opportunities involving hydropower, or other natural resources important for Chinese growth.

C. The UN

The United Nations Mission in Nepal (UNMIN) is a special political mission to support the peace process in Nepal. It was established at the request of the then Seven-Party Alliance Government and the Maoists, which requested UN assistance to establish a free and fair atmosphere for the election of the Constituent Assembly and the entire peace process. UNMIN was established in January, 2007, and is scheduled to cease operations in January, 2009. It maintains a 24-hour presence at the weapons storage areas of the seven main Maoist army containment sites and the barracks of the Nepalese Army. It has a mandate to:

- Monitor the management of arms and armed personnel of the Nepal Army and the Maoist army, in line with the provisions of the CPA;
- Assist the parties through a Joint Monitoring Coordinating Committee in implementing their agreement on the management of arms and armed personnel;
- Assist in monitoring ceasefire arrangements; and
- It provided technical assistance to the Election Commission in planning, preparing, and conducting the elections for the CA in a free and fair atmosphere.

The Office of the UN High Commissioner for Human Rights (OHCHR) was established in May 2005 with the aim of protecting human rights in the context of the armed conflict and threats to democratic rights. The parties to the CPA expressly requested OHCHR to take responsibility for monitoring the human rights situation during the peace process, and UNMIN works closely with OHCHR in this regard.

D. Bilateral Donors

Nepal continues to rely heavily upon external financing. Foreign assistance financed a substantial percent of the development expenditures over the past decade. Domestic resource mobilization continues to be a

¹⁴⁴ Thapa, *A Kingdom Under Siege*, pg 193.

critical issue. Among multilateral institutions, ADB and the World Bank are the major donors in Nepal (see below.) Among bilateral donors, Japan is the largest, with its assistance targeted at poverty reduction through programs supporting enhanced agricultural productivity, regionally balanced income generation and infrastructure development, and expansion of social services. United Nations agencies (UNDP, World Food Program, and United Nations Children's Fund) are also active in Nepal. Other major bilateral donors include Denmark, Germany, Switzerland, the United Kingdom, and the United States. These donors provide assistance across a number of sectors, making donor coordination essential. Improved collaboration is particularly important in power development, water resource management, and the delivery of education and health services.

E. The World Bank

The main objective of the World Bank's activities in Nepal is poverty reduction. To stimulate broad-based economic growth, the Bank's assistance focuses on removing bottlenecks to growth, such as the excessive interference of the state and lack of adequate infrastructure. The Bank's assistance over the last few years has focused on strengthening the quality of public expenditure, the soundness of the financial system, and the investment climate. Currently, the Bank's country program in Nepal focuses on four areas: 1) infrastructure, 2) human development, 3) social inclusion,¹⁴⁵ 4) post-conflict work.¹⁴⁶ As of June, 2008, the World Bank Group's operations active credits and grants in Nepal total US\$850 million.

F. The ADB

The ADB's strategic approach for Nepal from 2005 – 2009 has involved fostering an inclusive development process to contribute to poverty reduction. An indicative level of \$350 million was programmed for 2005-2007, corresponding to an average assistance program of \$117 million per annum. The ADB's Nepal program is supporting good governance in several ways. Under the rubric of "Regional Development" it will assist the Government to establish institutional capacity for participatory regional planning, strategy formulation, and priority setting to facilitate decentralization and improve coherence of public investment programs. The Bank also will support good governance by building capacity of key public institutions, especially at local level, to deliver essential services, improving quality of the public service and helping combat corruption.

¹⁴⁵ The Bank is working on strengthening policy dialogues by reaching out to marginalized groups, which are often overlooked by existing institutions. Specifically, community-based projects, such as the Rural Water and Sanitation Project and the Poverty Alleviation Fund have started to focus on issues of inclusion more vigorously.

¹⁴⁶ In FY08 the Bank approved an Emergency Peace Support Project to help the government of Nepal fulfill commitments made under the Comprehensive Peace Agreement. In addition, the project will also help the government pilot reintegration initiatives.

Appendix V: Interviews Conducted

PERSON / GROUP	POSITION / INSTITUTION	LOCATION
Kedar Khadka	Director, good Governance Project, Pro Public	Anamnagar
Prof. Khatri		Baluwatar
Shantosh Bista	DANIDA	Baluwatar
Anil Jha	SP Leader	Baneshwor
Daman Dhungana	Peace Process	Battisputali
Hari Sharma	Administrator, Alliance for Social Dialogue, Social Science Baha	Battisputali
Narayan Man Bijukche	NWPP President	Bhaktapur
Bitu Babu Shreevastav	National Coordination Officer, (UN OCHA)	Biratnagar
Dilli Bahadur Karki	Advocate, Supreme Law Associates	Biratnagar
Sandesh Dass Shrestha	Director, BFM 91.2, (radio station)	Biratnagar
Sanjay Kumar Mandal	Deputy Director, Jeevan Bikas Samaj	Biratnagar
Sita Ram Rai	Advocate, & President, Morang Bar Association	Biratnagar
Yogendra Mandall	Executive Director, Jeevan Bikas Samaj	Biratnagar
Janajati Mahashang		Dhobighat
Om Gurung		Dhobighat
Bidur Mainali	General Secretary MuAN, (Municipal Association of Nepal)	Dillibazar
Hiramani Ghimire	DFID Senior Nepali Advisor	Ekantakuna
K.P Oli	CPN-UML Standing Committee Member	Ghatthaghar
Subodh Pyakurel	Human Rights, INSEC	Kalanki
Krishna Pahadi	Human Rights Society	Kalikaasthan
Akhilesh Upadhyaya	NDI	Kathmandu
Amb. Nancy Powell	US Embassy	Kathmandu
Anil Kumar Jha	General Secretary: Sadbhawana Party, & Member, Constituent Assembly	Kathmandu
Ann Bennett	US Embassy	Kathmandu
Beth Paige	USAID Mission Director	Kathmandu
Bill Martin	US Embassy	Kathmandu
Chij Kumar Shrestha	World Education	Kathmandu
Chitra Lekha Maeessey	OHCHR	Kathmandu
Darren Nance	Field Director, International Election Observation Mission, The Carter Center	Kathmandu
Darren Nance	Carter Center	Kathmandu
David Johnson	OHCHR	Kathmandu
David, Bishnu and Shebhan	USAID	Kathmandu
Deepak Thapa	Director, Social Science Baha	Kathmandu
Diawary Bouare	Asssistant Country Director, CARE/Nepal	Kathmandu
Dominic Cardy	Country Director, National Democratic Institute	Kathmandu
Govind Das Shrestha	TAF	Kathmandu
Jason Katz	The Carter Center	Kathmandu

PERSON / GROUP	POSITION / INSTITUTION	LOCATION
Jason M. Wolfe	Enterprise Development Advisor, USAID	Kathmandu
Khim Lal Devkota	Member, Legislature-Parliament (CPN (Maoist))	Kathmandu
Krishna Hachhethu	Centre for Nepal and Asian Studies, Tribhuvan University	Kathmandu
Lok Raj Baral	Professor & Executive Chairman, Nepal Centre for Contemporary Studies (NCCS)	Kathmandu
Manohar Prasad Bhattarai	Act. Secretary General, Legislature-Parliament Secretariat	Kathmandu
Marl Larsen	Public affairs Officer, US Embassy	Kathmandu
Melissa Rosser	Country Representative, Office of Transition Initiatives, USAID	Kathmandu
Nick Langton	Country Representative, the Asia Foundation	Kathmandu
Pasang Sherpa	Fed. Of Indigenius Nationalities	Kathmandu
Peter Burleigh	U.S. Ambassador (Retired) with The Carter Center	Kathmandu
Prateek Pradhan	Editor, The Kathmandu Post	Kathmandu
Prof. Sridhar K. Khatri	Executive Director, South Asia Centre for Policy Studies (SACEPS)	Kathmandu
Prof. Bishwambher Prakuryal	PhD candidate, Tribuvan University, Central Department of Economics	Kathmandu
Ram Krishna Timalsena	Supreme Court	Kathmandu
Rhoderick Chalmers	Deputy South Asia Project Director, International Crisis Group	Kathmandu
Sagar Prasai	Deputy country Representative, the Asia Foundation	Kathmandu
Santosh Bisht	Senior Advisor, Elections/Democratic Process Component, DANIDA/HUGOU	Kathmandu
Sarah Levit-Shore	Electoral Project Coordinator, The Carter Center	Kathmandu
Sharad Neupane	UNDP	Kathmandu
Siobian Smith	OHCHR	Kathmandu
Tony Chan	Deputy Director, USAID/Nepal	Kathmandu
Yubaraj Sangroula	Executive Director, Kathmandu School of Law, Purbanchal University	Kathmandu
Yubraj Ghimire	Editor, Samay	Kathmandu
George A. Semertsidis	Special Agent, U.S. Dept of State, Bureau of Diplomatic Security	Kathmandu
Serena Rix Tripathee	Country Director, Search for Common Ground	Kathmandu
Shyam Shrestha	Peace Process	Kirtipur
Alka Pathak	CARE	Krishna Galli
Durga Sob	President, FEDO (Feminist Dalit Organization)	Lalitpur
Hridesh Tripathi	TMLP Leader	Lalitpur
Lal Babu Yadav	Political Science Lecturer, Patan Multiple Campus, Tribhuvan University	Lalitpur
Pashupati Sumsher Rana	RPP Leader	Mahargung
Yubraj Shangraula	KTM School of Law	Naya Thimi
Achyut Prasain	FNCCI	Nepalgunj
Basudev Gyawali	Nepal Bar Association, Banke District	Nepalgunj
Draupali Oli	Federation of Community Forest Users Groups, Banke, District	Nepalgunj
Durga Rokaya	Federation of Nepalese Journalist, Banke District	Nepalgunj
Ganaga Neupane	Federation of Nepalese Journalist, Banke District	Nepalgunj
Goma Paudel	Janajagaran Women's Organization	Nepalgunj
Jagadish Bahadur	Madhesi Janadhikar Forum, Banke	Nepalgunj

PERSON / GROUP	POSITION / INSTITUTION	LOCATION
Singh		
Jay Sing K.C.	Federation of Nepalese Journalist, Banke District	Nepalgunj
Jhalak Gaire	Federation of Nepalese Journalist, Banke District	Nepalgunj
Khum Basnet	Democracy and Election Alliance Nepal, Regional Coordinator	Nepalgunj
Krishna Man Shrestha	Nepali Congress, Banke District Committee	Nepalgunj
Krishna Sapkota	Mainapokhari VDC, Bardiya	Nepalgunj
Lok Bahadur Shah	Nepal Bar Association, Banke District	Nepalgunj
Madhav Pathak	Nepal Bar Association, Banke District	Nepalgunj
Pawan Shah	Federation of Community Forest Users Groups, Banke, District	Nepalgunj
Salauddin Siddhiqui	Lawyer/Civil Society Leader	Nepalgunj
Shanta Dhakal	CPN-UML, Bheri Zone	Nepalgunj
Sukra Rishi Chaulagain	Federation of Nepalese Journalist, Banke District	Nepalgunj
Tapta Paudel	Federation of Community Forest Users Groups, Banke, District	Nepalgunj
Vijay Kumar Gupta	Terai Madhesh Democratic Party	Nepalgunj
Kanak Mani Dixit	Editor, Himal	Patandhoka
Ananda Raj Mulmi	Former President of the Federation of the Nepal Chambers, Commerce and Industry (FNCCI)	Pokhara
Astaman Pradhananga	Newar Khala	Pokhara
Bali Ram Singh	Chief District Officer	Pokhara
Bishwa Prakash Lamichane	Chairman of the Pokhara Valley Urban Development Project, Kaski.	Pokhara
Chaturakhar Adhikari	Former Chairman of the Lekhnath Chambers, Commerce and Industry (LCCI)	Pokhara
Deependra Shrestha	Radio Annapurna F.M.	Pokhara
Dipak Shrestha	Chairman of the Pokhara Chambers, Commerce and Industry (PCCI)	Pokhara
Girdhari Subedi	Advocate, Pokhara Appellate Court	Pokhara
Hom Bahadur Gurung	Gurung Youth Forum	Pokhara
Indra Kala Adhikari	P. N. Campus (TU)	Pokhara
Jak Bahadur Thapa Magar.	Chairman of the Nepal Magar Association (NMA), Central Committee	Pokhara
Karma Gurung	Tamu Dhin Kaski	Pokhara
Khaga Raj Adhikari	CPN UML and Former MP	Pokhara
Meena Gurung	Professional Women's Clubs	Pokhara
Naresh Shenker Palikhe	Nepali Congress and Former Deputy Mayor of the Pokhara	Pokhara
Pundya Prasad Paudel	CPN UML, District Committee and former President of the District Development Committee, Kaski	Pokhara
Raj Sharma	Radio Gundaki	Pokhara
Rajendra Adhikai	Radio Gundaki	Pokhara
Sher Bahadur Gurung	Tamu Dhin Kaski	Pokhara
Sundar Kumar Shrestha	Pokhara Tourism Council	Pokhara

PERSON / GROUP	POSITION / INSTITUTION	LOCATION
Uma Nath Baral	Lecturer, Tribhuvan University	Pokhara
Yagya Bahadur Thapa	Nepali Congress	Pokhara
Hemraj Lamichhane	ADDCN	Sanepa
Krishna Bdr. Bhattachan	ILO	Sanepa
Naya Bato	ILO	Sanepa
Shree Govind Shah (Madhesi)		Sanepa
Sushil Koirala	Vice President, Nepali Congress	Sanepa
Udaya S. Rana	Vice President, Nepal Tarun Dal, Executive Member, District Committee, Nepali Congress,	Sanepa
Upendra Yadav	MJF Convener	Sankhamul
Bed Prasad Siwakoti	CIAA Chief	Tangal
Byran Chapman	Def Attache	
David Garner		
David Timberman		
Hans Siebert		
Karen Kaplan	OTI	
Madhav Kumar		
Mandira Sharma		
Minendra Rijal	NC Central Committee Member	
Mokshya Maharjan	CARE	
Mukta Singh Lama	Janjati	
Nirmal Rijal	Equal Access	
Patrick Kelly	DoD	
Peter Erben	IFES	
Retrief Oliver	AED	
Sarwar Lateef	World Bank	
Som Lal Subedi	Ministry of Local Development	

Appendix VI: Map of Nepal



[Source: *CIA World Factbook 2008*]

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