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Nepal: An Analysis of the Crisis

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- Der Maoisten-Konflikt sowie die Auflösung des Parlaments und die Absetzung der gewählten Regierung haben Nepal in eine tiefe Staatskrise geführt.
- Über 7000 Menschen sind im Laufe des siebenjährigen Maoisten-Konflikts bereits umgekommen.
- Die politischen Parteien sind mehr an der Sicherung der eigenen Macht interessiert, als daran gemeinsam eine Lösung für das Gemeinwohl zu entwickeln.
- Der Druck der internationalen Geber veranlasst die Regierung zu ersten Reformen.
- Nach der Einführung der Demokratie 1991 haben die politischen Parteien bei der Umsetzung demokratischer Kultur versagt. Klientelismus, Korruption und Staatsversagen tragen zu einer allgemeinen Unzufriedenheit mit dem demokratischen System bei.
- Die Zentralisierung der politischen Macht und der Verfall politischer Werte hat ein Vakuum im ländlichen Raum entstehen lassen, dass die Maoisten mit Parallelstrukturen und ihrer kommunistischen Ideologie ausfüllen.
- Soziale Ungleichheit und Ungerechtigkeit führen zu einer weiteren Entfremdung der Bevölkerung vom Staat und lassen den Konflikt eskalieren.
- Eine Konfliktlösung kann nur dann gefunden werden, wenn die politischen Parteien, die Maoisten und der König gemeinsam die Lösung der strukturellen Probleme angehen.
- Zur Konfliktlösung wäre die Einsetzung eines neutralen internationalen Mediators förderlich.

Nepal is facing a deep crisis of governance. The seven-year old Maoist insurgency has challenged the state's legitimate monopoly and created a counter political space in the minds of the people and on the ground. Violent conflicts have claimed the lives of over 7,383 Nepalese. 5,431 were killed by the security forces and 1,952 by the Maoists. Among those murdered by Maoists 979 are policemen, 223 army personnel and 750 civilians. Security forces killed 4,708 Maoists and 723 civilians.

The deteriorating security environment led to the cancellation of national elections set for November 13th 2002. On September 29th in a meeting of six parliamentary parties convened by the then Prime Minister Sher Bahadur Deuba, all the parties unanimously ruled out the possibility of holding the elections amidst escalating Maoist violence and subsequently urged him to either defer the elections and constitute an all-party government or revive the dissolved House of Representatives. This was demanded contrary to the Constitutional stipulation to conduct elections within six

months of the dissolution of the House. On October 3rd premier Deuba recommended the King to defer the elections by using Article 127 of the Constitution. King Gyanendra sacked him a day later on the ground of "incompetence" to hold elections. He subsequently called on the parties to recommend a prime ministerial candidate to head a government that would hold elections after bringing the security situation under control.

When the parties failed to do so, the King appointed Lokendra Bahadur Chand as the new Prime Minister of Nepal with a mandate to restore law and order, hold mid-term elections as well as elections of the local bodies which were dissolved in July, solve the Maoist insurgency, implement development works and stop the economy from sliding further downhill. Mainstream political parties, except Rastriya Prajatantra Party (RPP) and Nepal Sadbhavana Party (NSP), have branded the King's assumption of executive power as "unconstitutional" and are pressurizing him to "correct his mistakes".

The Political Parties' Positions

In 1990 the united Nepali Congress (NC), the United Left Front (ULF), an accommodative King and a weak Maoist group as well as the single demand for the restoration of multiparty democracy made the latter's implementation possible. Today a divided NC, a divided ULF, an assertive monarchy, and an armed Maoist group lead the state into crisis. There is a lack of cohesiveness in the demands of parliamentary political parties. They neither succeed in breaking the deadlock with the King nor in becoming a potent force bringing the Maoist to the negotiation table. They rather appear to be capitalizing on the conflict between the state organs and the Maoists by seeking a political space within that conflict. The past 12 years of governance, or mal-governance, has left little on their side which they can legitimately utilize to be in the political mainstream once again.

Nepali Congress (NC) leader Girija Prasad Koirala wants the King to "revive the dissolved House of Representatives," rejects the formation of a Constituent Assembly demanded by some of his partymen and the Maoists and seeks to solve the Maoist conflict within the parameters of the Constitution. He would want to go against the Constitution only to the extent of the restoration of the dissolved House, for which there is no constitutional provision. He agrees to amend the Constitution but without altering its basic features, such as Constitutional monarchy, multi-party democracy, people's sovereignty and human rights. Koirala accuses the King of orchestrating the split in the NC and other political parties. After the civic reception organized in the honor of the King on January 3rd he said, "the King is leading the group of regressive forces in the country".

Communist Party of Nepal, Unified Marxist-Leninist (CPN-UML) General-Secretary Madhav Kumar Nepal prefers the formation of a "government by major parties" under Article 128 of the Constitution and the initiation of constitutional reforms. The article was inserted in the Constitution to legitimize the rule of the interim government of 1990 which oversaw the drafting of the Constitution. If odds persist on the amendment of the Constitution then a referendum on the Constituent Assembly can be held so as to bring the CPN-Maoist to the negotiation table. Terming the King's October 4th step "regressive," CPN-UML, NC and United Front Nepal (UFN) announced protest programs to "safeguard the achievements of the 1990s people's movement, to meet the challenges against the nation and democracy, and to protect constitutional norms and democratic values." The UML also announced a month-long public awareness program which began at a national meet in the capital on November 19th. Nepal had then said, "The King does not have the right to sack or appoint a Prime Minister. The King has done both. If he does not correct his constitutional mistakes, they will be

forced to launch a decisive battle against the King, which will ultimately uproot the monarchy."

The break-away *Nepali Congress (Democratic)* calls for the restoration of Sher Bahadur Deuba's government, the status quo ante, and asks the King to remain within constitutional bounds. It also asked the Maoists to renounce violence and enter into peace talks. On October 21st at an all-party meeting organized by Deuba, six political parties (CPN-UML, RPP, NSP, People's Front Nepal, Nepal Workers and Peasants' Party and NC (Democratic)) pledged to jointly fight against all "regressive steps" endangering multi-party democracy. They, however, opposed Deuba's proposal to take immediate action against the King's move to oust an elected government and to form a non-party government.

Rastriya Prajatantra Party (RPP) points out that no single party can relieve the country of the crises. It also highlights the need for a "consensus" and "alliance" among different political parties. The December Convention of the RPP in Pokhara concluded its meeting saying, "The King's cooperation is a must to get rid of the present problems including the Maoist one." This conclusion has also been shared by the NSP. The RPP chairman, Pashupati S. Rana, has started meeting with the leaders of the parliamentary parties in order to mediate between the King and them, facilitate communication, moderate their position and help resolve the crisis facing the nation.

CPN-Marxist-Leninist (CPN-ML) prefers an "all-party government," criticizes the monopolist and exclusionary tendency of the big parties and suggests that the government and the Maoists renounce violence, call a cease-fire and hold peace talks. CPN-ML leader C. P. Mainali prefers to strengthen the King's role in foreign policy matters but suggests the democratization of the Royal institution and bring the army under civilian control.

CPN-Maoist leader Puspa Kamal Dahal (Prachanda) in October revealed two ways of exit from the current crisis. Either, the formation of a constituent assembly to draft a new constitution through talks between CPN-Maoist, all the other major political parties, the intellectuals and the King. Or, to go ahead with the decisive and historical struggle if the first demand is not met. In December he said, "For a peaceful, positive and progressive political outlet, the party's meeting has formed a high level committee at the center to hold talks with the old regime (the government), provided that a conducive environment is ensured." Newspapers speculate that No.2 Maoist leader Dr. Baburam Bhattarai heads the committee. The party has also decided to stop the targeting of political leaders of other parties and development infrastructure directly linked to the people's welfare. He, however, warned the cadres of other parties to stop spying against them and announced "action programs" such as mass mobilization, rallies, public gatherings, attack

against government targets from January 15th to 28th and a nationwide bandh or shut down of educational institutions, vehicle mobility, shops, etc from February 13th to 14th.

The present establishment perceives that big parties are disengaged from the people, caught in internal leadership rivalry and cannot pose any serious challenge to the regime. The implication of several top level leaders in corruption cases by the Commission for the Investigation of Abuse of Authority (CIAA), the co-optation of aspiring individual politicians into the structure of the government, and calls for meetings by the Prime Minister with the leaders of other parties regarding the security situation, elections and power sharing have been used by the government to neutralize a fractious opposition. The government has also asked human rights activists to facilitate negotiation with the Maoists and is reported to have set up teams for negotiations. If on the one hand, Home Minister D. B. Thapa says that "the government will consider a "give and take" measure if the Maoists choose peaceful ways" on the other hand the government has constituted a "United Special Task Force" consisting of army and police personnel to crush the Maoist "terrorism". The task force comprises 20,000 security personnel, taken equally from the military and police forces, and fully equipped with recently purchased weapons from Belgium and the United States. The US has provided \$17 million in military equipment and is sending American soldiers to train the Nepalese army.

Recent Developments

The high intensity conflict started in Nepal due to the failure of the third round of peace talks in November 2001 resulting in the declaration of a state of emergency in the country and the suspension of fundamental rights of people. There is mass migration of poor youths from the far-west and mid-hills of Nepal to India and Nepalese urban towns in order to escape forced conscription by the Maoists while landlords, government officials, businessmen and rich people are migrating to escape the Maoist threat leaving behind old people, children, the disabled and women. Fear of implication by security forces has added another dimension to this.

The National Human Rights Commission (NHRC) has asked the government to declare a cease-fire to create an atmosphere for talks, bring the Maoists to the negotiation table, halt killing of people in "fake encounters," follow minimum norms of human rights and stop the use of excessive force to suppress the Maoists. It has demanded an independent probe into mass killings reported during security operations, penalties for the wrong doers and compensation for the victims. Accordingly, it has sent a letter to the Maoist leader, Prachanda, urging him to stop all sorts of killings including unarmed security personnel and personnel on leave, kidnapping and torture of captive

persons, and to follow the principles mentioned in Article 3 of the Geneva Convention and observe the minimum norms of international human rights practices.

Recently, on the governance front, with the cooperation of donor agencies, the government has initiated some reforms. For example, in the restructuring of the annual budget it has defined the priority of poverty alleviation as the foremost goal and improvement of security as the second most important goal of the government. This has led to the dropping of many low priority projects. Anti-corruption agencies like the CIAA have been empowered to take action against the corrupt and the civil code has been amended to empower women.

Causes of Conflict

Protracted democratic transition

Nepal faces governmental instability. It has had 12 prime ministers within 12 years of multiparty rule. After the restoration of multiparty democracy in 1990, political consciousness and institutional complexity have increased and many progressive laws have been passed. But, due to the government's inability to manage people's representation and political competition, the nation could not steer itself in the right direction and deliver the requisite public goods. The distribution of power and checks among the executive, legislature and judiciary remained highly unstable. In the transition phase, the multi-party regime persisted without improving its quality and maintaining its equilibrium between the four vectors of governance, i.e. the state, the market, civil society and international regime. Law and order became especially weak as each government withdrew many criminal cases.

Deficiency of state authority

The post-1991 regime subordinated the state power to its executive arm. The government itself found its powers rooted in the power of a particular political party leader or a coalition of minor parties making legislature and the public weak. In many cases, particular politicians held the reins of the executive. At the same time, the state also faced a legitimacy crisis due to neo-liberal economic policies that sought the roll back of the state, anti-state discourse of human rights and civil society groups, extra-constitutional challenges posed by the Maoists and the donor regime that pushed the agenda of market-maximalism and state minimalism. The dissolved Lower House of Parliament furthermore did not represent adequately the ethnic minorities and the Dalits.

The lack of consensus among the political parties to follow the constitution itself and the disharmonious socialization of party cadres and voters by political leaders have created an

agitational mass that enables the emergence of conflicts. Factionalism in the party, a weak parliament and the executive lacking party ownership, weakened the structure of governance in more ways than one. In the policy realm, the hegemony of majoritarian policy left no legitimate space for the opposition to negotiate. Majoritarian policies thus made political opposition semi-loyal or disloyal as it provoked anti-systemic and revolutionary oppositions. In the process, it caused the politicization and polarization of the bureaucracy, police and public institutions and eroded their neutrality, efficiency and professionalism.

Feudalization of governmental power

There has also remained an incompatibility between the liberal constitution and the neo-liberal policies. Frightened by the egalitarian effects of democracy, the political class began to bypass the vision and spirit of the Constitution and sought to create a two-class society. The division of people into private and public through education and socialization is producing a dualistic political culture in the country. Private and public schools and universities, hospitals, communication, service facilities, etc. were based on the economic model of profit-maximization to institutionalize the status quo. Nepal's political class thus created a subsidiary state with soft-state policies where poor subsidized the rich, rule of law remained weak and culture of impunity remained very strong.

Political Centralization

At the super-structural level, penetration of the powerful interest groups into the state weakened its relative autonomy, embeddedness and capacity and caused extreme centralization. The dissolution of the elected legislature and local bodies in 2002 has further reinforced a tendency toward the centralization of power by the executive and weakened the power of the Village Development Committees (VDC), municipalities and the District Development Committees (DDC) and their federations. Maoists have also destroyed more than half of VDC office buildings contributing further to the centralization tendencies. This prevented the poor and marginalized the needed voice, social mobility and full exercise of citizenship rights. Immediately after the first local election 400 VDCs were deprived of secretaries, now 1,200 of them do not have a secretary (the only civil servant in the VDC), about 900 teachers' posts are vacant, there is a retreat of police posts, market institutions, banks, commerce, air services, civil society, etc. This retreat of the state from the periphery has caused an "authority vacuum" to be filled by CPN-Maoists. Local self-governments also suffered disability due to a lack of capacity, authority and resources, counter-structures and parallel initiatives by donors and the government. Local politics thus became only a strategy to co-opt local elites in a network of organization and patronage.

Erosion of Political Ideology

Nepalese leadership is neither admirable for the gifts of leadership, nor do they possess a sense of accountability. It is basically a personalized leadership devoid of Constitutional vision, political will and institutional memory. Due to increasing loss in their respective ideologies, political leaders have a tendency to split their parties and to reunite, all in a day's work of individual power struggles. At the voters and cadres level too, one can see mass migration from the opposition to government party causing instability at the level of local politics. This tendency of the leaders of the main parties helped the CPN-Maoist leaders to cash in on the frustration of the cadres of the parties by dangling the carrot of its revolutionary goal of communism.

Economic Disparity

The uniform application of the national economic policy in the hunting, pastoral, peasant, industrial and informational economies of Nepal has caused the decomposition of the whole by the part. These policies have helped in the growth of a few urban areas but in terms of distribution at the gender, regional, caste, class and sectoral levels the gaps have widened even further. The mid and far-western hills where conflicts are deeply rooted especially suffer gross neglect in development and basic infrastructure. The main reason for this is that policy-makers seemed either unimaginative about local knowledge and conditions, or appeared to be non-organic intellectuals or even non-stakeholders of the society. Market radicalism of the right and class radicalism of the left were therefore capable of coming to the same platform to share a common rejection of democracy.

The IMF, the World Bank and other donors' lending has always been considered by the elite and the media as the government's success in striking a deal. But, the donor-driven "structural adjustment" failed. Cuts in subsidy in agricultural and industrial sectors have led to production crises, job layoffs, migration of youth to urban areas and other countries and, consequently, regular political and trade union strikes which badly affected even the success stories of tourism. Privatization resulted in asset stripping rather than wealth-creation. The sizable budget deficit refused to budge. Financing the deficit eventually ran the government into trouble. Policy acrobatics caused the alienation of external sources of financing and investments.

Decline in production, skewed distribution of income and weak investments in the productive sector of the economy added another dimension to the crisis. Noted development expert Madhukar Rana argues that "genuine entrepreneurship has been taken over by a mafia-like enterprise system by those in a position to muster clout and thereby influence

the state owned or state-controlled banks to recklessly lend to them at the cost of the depositors, taxpayers and the poor." The inability of the political leadership to protect the weak against the strong and the heavy reliance on non-political forces, i.e. the army, police and bureaucracy, to maintain political order further created an anti-democratic spiral and conflict escalation.

Distributional Conflicts

There is an uneven exercise of sovereign power by age, gender, caste, ethnicity and regions affecting the lower side of the scale, despite the promise of freedom, equality, democracy, human rights and sovereignty by the Constitution. The associational, mobilizational and agitational strategies of women, trade unions, human rights activists, ethnic groups, Dalits, janajatis (indigenous people), etc for identity, opportunities and power have helped to germinate grievances and conflict aggravating collective action problem. These tendencies have affected the "integrative" and "adaptive" capacity of the political system and also fuelled conflicts of the suppressed and manifest nature.

Ways out of the Conflict

Conflicts become inevitable when public order is imposed against great inequalities and deprivation. Just as the sources of conflicts in Nepal are greatly diverse, so too are the means of resolving them. The solution to structural conflicts (between the government and the Maoists) requires a structural transformation of the political sphere. The solution to manifest conflicts (between the government and all the opposition parties) requires fairness in the power sharing mechanism and establishing good governance. And, the solution to suppressed conflicts (between the government and societal forces) requires liberation, entitlements and social opportunities for the people as promised by the Constitution. One can analyze the options that have widely been discussed in the country.

First, the Maoists' goal of establishing communism is geopolitically untenable and politically unfeasible at the moment.

Second, the physical liquidation of Maoists has proved to be a false choice so far. The security operations have neither fully controlled the Maoists nor even fully isolated them from the people. Political stability can be achieved only if governance is capable of addressing the structural causes of the Maoist problem through ample economic opportunities and political structures that ensure equitable representation of people of diverse origins. The establishment has only proved that Maoists cannot win. Any possibility of involving foreign armies in the solution of these structural conflicts might help the Maoist to convert a class war into a war of national liberation.

Third, finding a middle ground is the only feasible option. The government should agree to fulfill the legitimate demands of the Maoists related to the public interest. It helps to enlist their cooperation for shared interests. Rule of law should be the basis for regulating social interactions at all levels and decentralization of poverty alleviation programs, employment opportunities and skill-oriented educational programs are required in the most backward areas to ameliorate the conditions of unemployed youths, Dalits, indigenous people, and the poor. There is also a need to promote easy access and transparency in the judicial process, corruption free political and administrative services, carry out reforms in the election process to ensure its fairness, and the democratization of internal activities of the parties. Dialogue with the Maoist political leadership helps to weaken its hard-liners who may be trying to continue guerrilla activities. After arms are laid down, democracy should be allowed to function according to the Constitutional norms. The establishment has to build an atmosphere of trust among the political parties and mobilize civil societies and friendly countries to get their active support.

Finding this middle ground is no easy task. An international facilitator from a neutral country might help to identify common interests and facilitate the process of negotiations.

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