

News Update from Nepal

April 8, 2005

The establishment

The political regime in Nepal is facing four-cornered challenges – anguished India, the USA and the UK; the Maoist insurgency; human rights debates in Geneva; and the agitation of fractious opposition political parties. Since King Gyanendra assumed direct executive power on February 1, 2005, he gave the international community and the Nepalese a clear choice - either support his regime or the Maoists. On April 4 he reiterated, “The alternative to democracy is democracy, not terrorism”, and added that the Royal Nepalese Army (RNA) had to be mobilized to prevent further deteriorating of the law and order situation in the country due to terrorism and to secure all the Nepalese suffering from terrorism and safeguarding their fundamental rights. He has embarked on institutionalizing long-term changes that are likely to survive the state of emergency. On March 14 the government issued an ordinance paving the way for the appointment of administrators in five development regions and 14 zones of the country by the king. The King has issued the Local Administration (Fifth Amendment) Ordinance 2005 to strengthen the state’s control on society and facilitate service delivery. The government has also stopped giving advertisements to the private media and supports only those “working for the nation and crown.”

On March 27 the Vice-Chairman of the Council of Ministers Dr. Tulsi Giri met the president of the newly formed Rastriya Janashakti Party (RJP) Surya B. Thapa and asked him to take initiative to convene a dialogue between the King and opposition leaders. Giri said the king would be ready to go together with the parliamentary political parties provided the latter agreed to fight terrorism, control corruption, make bureaucracy transparent and independent and maintain financial discipline.

On March 21 the government of Nepal, displeased by the meetings of foreign diplomats with opposition leaders, has sent a note to foreign missions, including India, asking them to abide by provisions of the Vienna Convention and discharge of their duty. A high level Foreign Ministry official said, “We will cooperate with them if they inform the government before meeting any political party leader.” The government’s reaction came after a few diplomatic heads including American and Indian Ambassadors to Nepal tried to meet Sher Bahadur Deuba, Girija P. Koirala and Madhav Kumar Nepal while they were under house arrest.

Opposition political parties

The leaders of the parliamentary political parties believe in constitutional monarchy and multi-party democracy and are regularly organizing sit-in strikes demanding the reactivation of the constitutional process. After his release from house detention on April 1, Nepali Congress (NC) President G. P. Koirala reiterated his earlier demand for the “reinstatement of the parliament” as a way out of the present political crisis. However, President of NC (Democratic) Sher B. Deuba argued, “The king should call

leaders of political parties to discuss the future course of action.” He believed that only an all-party government can resolve Nepal’s political crisis. On April 3 Koirala and Deuba agreed to set up a joint mechanism to work towards party unification and suggest ways to intensify the five-party movement against the royal regime. In a bid to draw up a common road map, Koirala also met the leaders of CPN-UML, Nepal Workers’ and Peasants’ Party (NWPP) and Rastriya Prajatantra Party (RPP). While NC and NWPP laid stress on the restoration of the House of Representatives, the CPN-UML and NC (D) do not share this view. On March 27 the CPN-UML has formed a seven-member committee headed by senior leader K.P. Oli for bringing the democratic forces back on track and resolving the Maoist insurgency. CPN-UML is preparing for a April 8 joint demonstration against the February 1 royal proclamation.

Nevertheless, young leaders of each political party are articulating the need for a change in leadership. Expressing serious dissatisfaction with the party’s central leadership, younger generation leaders of the CPN-UML in Dang demanded immediate expulsion of “inefficient” and “defamed” leaders. On March 30 Oli ruled out any reconciliation with the government chaired by the King until the latter restores civil liberties, ends emergency rule and frees all detained political leaders, cadres, journalists and other professionals. He ruled out any coordination and cooperation with the Maoists at the present situation. On March 20, the Delhi meeting of the party leaders, dissidents and exiles supported “new democracy” in Nepal and urged the divided political parties including the Maoists to agree on a common agenda.

Communist Party of Nepal-Maoist (CPN-Maoist)

While the Maoist rebellion continues in the rural areas, a worrying tranquillity prevails in the capital city, Kathmandu and urban areas. The Maoists are struggling to forge an alliance with the parliamentary political parties against the establishment and have developed a soft attitude towards political leaders. The political leaders, however, ask them to renounce violence in order to have a collective fight for democracy and human rights. On March 23 Home Minister Dan Bahadur Shahi said “the government will no more ask Maoists to come for negotiation.” He said, “the rift within the Maoist outfits has boosted the morale of the government.” The Royal Nepalese Army (RNA) claimed that the top Maoist ideologue, Dr. Baburam Bhattarai has been relinquished of responsibilities in the party. Politburo member, Dev Gurung, replaced him. This has created open rifts in the party. The government also dissolved the High-Level Peace Committee and its Sub-Committee formed by the then Deuba government on August 12, 2004 to initiate peace process with the Maoists.

The Spokesman of RNA Dipak Gurung defended human rights records of the army claiming that the RNA has investigated 40 cases of human rights abuses so far, already jailed 44 personnel, dismissed 31 from their job and demoted 12 personnel. He also told the donors that the security situation has improved after the King’s takeover. The government is struggling to foil a fresh blockade by the Maoists to cut off Kathmandu from the rest of the country beginning from April 2 for 11 days.

On March 30 the US Bureau of Democracy, Human Rights and Labor said that successful political resolution of the Maoist insurgency was a fundamental precondition for major improvements in the areas of human rights and democracy. It said, “Pervasive corruption and social, economic, gender, caste and ethnic inequalities make many Nepalese susceptible to Maoist influence and propaganda.”

Highlighting the institutional weakness that hampered the Nepalese government's ability to respond appropriately and effectively to rights violations, the report stated "violence against women, trafficking, child labor and the impact of insurgency-related violence on children have remained serious rights concerns."

Geo-strategic contest

A new geopolitical realignment is putting Nepal in a vortex of cross-pressure. The US geo-strategy and war on terrorism challenged China's influence in the Central and South Asian regions. The UK, the USA and India continue to coordinate their policies in the region and have strengthened the Nepalese army's deterrent capability against the Maoists. But, after the king's takeover, they have suspended military aid, expressed concern about Nepal being pushed towards China and mounted a joint pressure to reverse the King's takeover. On March 18 the British Health Minister Gareth Thomas said, "In the current environment, we consider it inappropriate to continue support to the police, prison services and Prime Minister's office. We will not continue programs in the face of increased and unacceptable risks in Nepal." Out of the total amount of Rs. 324.48 million committed for various programs the UK cancelled the unspent Rs 175.76 million. He said, "The UK remains deeply concerned about human rights situation in Nepal."

Reacting to this move, the Vice-Chairman of the Council of Ministers Kirti Nidhi Bista asserted, "The Nepalese would not die if foreign donors stopped their assistance. As our ancestors had survived on the sweat of their of toil and bravery without external support, their descendents will also survive with a sense of integrity." He, however, hoped to get "cooperation from the international community to combat terrorism." On March 19 former army chief and a Standing Committee member of State Council, Sachchit Shumsher Rana revealed, "China has offered military cooperation to combat terrorism. In case Britain, India and America completely stop military aid to Nepal, we will have to take the Chinese offer."

China's strategy of preventing the US strategy of "encircling China's south western border" defines Nepal's importance to Beijing. The increased diplomatic profile of India's rivals, China and Pakistan, in Nepal has evoked the strategic concern of India and the Western powers as they view that the Chinese policy of "active defense," entry into free trade arrangements and security initiatives with the Association of South East Asian Nations (ASEAN), strengthened ties with Russia and Central Asia, strategic partnership between Moscow and Beijing and security beef-up in Xinjing-Afghan and Tibetan border and close ties with Pakistan, Nepal, Bangladesh and Myanmar will significantly reduce their influence in the region. On March 20 the Chinese Ambassador to Nepal, Sun Heping, said, "The Chinese perspective on Nepal will never change. It will continue to support the economic development of Nepal as it has been doing and will provide help to the maximum capacity. China is concerned about the security situation in Nepal as a neighbor." He said, "Mutual support enhances understanding and creates power."

Chinese Minister for Foreign Affairs Li Zhaoxing made a two-day visit in Nepal on March 31 and appreciated Nepal's one China policy. On April 6 Chinese Ambassador to Nepal, Sun Heping, stressed the need for "national reconciliation" among the King, political parties and people to solve the problems facing the country. He said, "Nepal can solve its problem on its own...we want peace and stability restored with national

reconciliation.” He said, “ China’s Foreign Minister Li Zhaoxiang who visited Nepal on March 31-April 1 presented a five-point proposal for strengthening and deepening bilateral cooperation in various fields, included among them are expanding economic and trade cooperation; promoting bilateral exchanges in the fields of science and technology; human resources training; enhancing exchanges and cooperation between Tibet and Nepal; and strengthening coordination and cooperation in international matters.” Once railway links between Beijing and Lhasa are established by 2006, Tibet may decide to extend the lines to Nepal.

The Nepalese and the Chinese counterpart also discussed several agendas including Nepal’s proposal to China seeking permission to supply food and essentials to remote districts from the Tibet route. China has agreed to send a team for a feasibility study of the Conservation Research Center for the King Mahendra Trust for Nature Conservation and provided Rs 24,000,000 to Nepal to this effect. Both sides agreed to hold a joint secretary level talk in May on border supervision in Beijing and start a passenger bus service from Kathmandu to Lhasa from May 1. The King is attending the Boao Forum for Asia in Hainan Province of China on April 22-24 and will hold talks with the Chinese President Hu Jintao on matters of mutual interest. Nepal lent support to “the anti-secession legislation enacted by the Chinese National People’s Congress” hoping for “the reunification of Taiwan with the People’s Republic of China” while China is expected to defend Nepal at the annual session of the UN Human Rights Commission going on in Geneva.

Hina Rabbani Khar, Pakistani Minister of State for Economic Affairs, arrived in Kathmandu to participate in the Nepal-Pakistan Joint Economic Council (JEC). She told the press, “We have offered an US\$ 5 million annual credit line as soft loans to Nepal for industrial procurement and part of it can possibly be used in arms deals.” Responding to a question whether Pakistan could provide military supplies to Nepal she said, “Pakistan would consider providing military assistance to Nepal if the Nepali government made a formal request.” On March 18 the US Ambassador to Nepal, James F. Moriarty, commented on the reports that China and Pakistan are ready to offer military assistance to Nepal. He posed, “It is not easy for them to do so, taking into consideration the international scenario.” On April 5 the USA postponed its military training program to the Royal Nepalese Army (RNA) citing “administrative reasons.” For the past one decade, the US Pacific Command has been conducting trainings for the RNA two to three times every year.

In the absence of USA, the UK and India, China and Japan are seeking to expand their clout in the Himalayan region. China cannot afford that Nepal will become a failed state in its underbelly – Tibet, and also fears its spillover in China’s Xinjiang region. Japan announced that it would extend a \$17 million grant to Nepal for development assistance after the U.S., India and UK pulled their aid. The grant will free up funds for Nepal to spend on military expenditure. Japan’s geo-strategy aims to gain influence on China’s southwestern border, an attempt to contain China’s rise on the western front.

Nepal’s development partners, especially the Asian Development Bank, the European Commission, Norway, Swiss Development Cooperation, United Nations Development Program and the US Agency for International Development, are trying to pilot the “Principles for Good International Engagement in Fragile States” including Nepal covering issues such as priority interventions, alignment, donor coherence and

coordination, aid instruments and aid allocation. The UK in collaboration with the World Bank will lead Nepal and the common approach will serve as a basis for discussion at a meeting proposed for lead donors in Paris on May 10, 2005.

Human Rights Condition

On March 24 the Chairman of National Human Rights Commission (NHRC) Nayan Bahadur Khatri said that the “human rights situation is deteriorating. But it is not alarming as claimed by some human rights NGOs. The Commission officials are now granted easy access to any detention center. They have visited many such centers and monitored the situation of detainees.” On April 6 the NHRC, however, strongly urged the government not to instigate “anti-Maoist” vigilantes in the future so as to prevent the loss of lives and property as that which happened in Kapilvasu district. So far 49 people have died in such mob action. The Human Rights Promotion Center (HRPC) of the Office of Prime Minister revealed that the government would not stop those who are fully involved in protection and promotion of human rights. On March 31 in a historic verdict upholding the rights of the Nepalese people, the Supreme Court also said that the people can exercise both non-suspended fundamental and legal rights even during the state of emergency and can move to the court for constitutional and legal remedy if their non-suspended rights are infringed.

The 61st session of the UN Human Rights Commission (UNHRC) in Geneva began discussion on Item Agenda 9 regarding Nepal’s worsening human rights situation. Lobbying to establish a Special Rapporteur in Nepal, representatives of 25 Human Rights NGOs of Nepal urged members of the UNHCR to pass a resolution under Item 9 and also urged to request the government and Maoists to fully respect human rights and humanitarian laws. Switzerland is considering tabling a resolution. Last year it had proposed a draft resolution asking the 53-member countries to vote for moving Nepal from Agenda 19 to Agenda 9. The item Agenda 19 implies that the country’s human rights record is in a serious situation but can be improved through advisory services and technical cooperation from member countries while Agenda 9 implies that the nation is systematically violating human rights and is beyond rectification, a situation that calls for the appointment of special rapporteur for international human rights monitoring, restoration of fundamental rights and signing of the human rights accord between the state and Maoists. On March 30 Secretary-General of Amnesty International (AI), Irene Khan urged in a statement, “The UNHCHR has to act decisively to improve the human rights situation in Nepal” and called on the Commission “to adopt a strong resolution establishing a Special Rapporteur on Nepal ensuring a strong human rights monitoring presence in the country.” She said: “The pursuit of security cannot be at the expense of justice and respect for human rights.”

On April 4 the Asian Legal Resource Center (ALRC) presented its report “Zero Rule of Law” at the 61st session of the UNCHR in Geneva. It urged the UN Commission to take serious initiatives towards ending the practices of large-scale disappearances, killings and torture in Nepal and ensuring thorough investigation into atrocities that have already been committed. It urged the commission to focus on effective monitoring and intervention in Nepal. It also criticized the international community for ignoring the crisis in Nepal which has resulted in the destruction of basic institutions such as court, law enforcement units and the bureaucracy. It said, “A regime for human rights protection in Nepal no longer exists because the legal system has

ceased to function. The courts' reluctance to entertain *habeas corpus* writs for disappeared persons speaks to the wider policy approving of forced disappearances and concomitant gross abuse of human rights. Where court orders are issued they are invariably ignored or otherwise violated."

In a letter to the Asian Human Rights Commission, the UN Under Secretary-General for peace keeping operations Jean-Marie Guehenno told (March 25), "In light of the compelling information that you and others have brought to our attention with regards to the RNA's human rights records, we will be keeping under review the participation of members of the RNA in our operations.

The 292nd session of the governing board of International Labor Office discussed the problem of basic rights in Nepal. The governing body issued a statement saying "trade union activities have been severely limited, with any union meeting requiring prior authorization from public officials, which is contrary to fundamental ILO standards." The committee drew special attention to the case of Nepal concerning the arrest and detention of trade unionists strike of workers engaged in a variety of services, restriction on the right of workers to stage peaceful demonstration and to put up banners. The International Confederation of Free Trade Unions (ICFTU) General-Secretary for Asia and Pacific Regional Organization Noriyuki Suzuki on March 29 argued, "The current political situation goes against international financial institutions' commitment to preserve and promote core labor standards, including the right to form a union, collective bargaining, good governance and social dialogue. Given this backdrop, we recommend that the World Bank, International Monetary Fund and the Asian development Bank stop their lending to Nepal."

Corruption

On March 21 the Royal Commission for Corruption Control (RCCC) interrogated six senior ministers of Deuba government (Dr. Mohammed Mohasin, Hom Nath Dahal, Purna Bahadur Khadka, Badri P. Mandal, Yub Raj Gyawali and Jogmehar Shrestha) and 21 individuals who had received the fund from the Prime Minister's Assistance Fund. The RCCC officials claimed they summoned the former ministers suspecting irregularities while distributing state funds to "some political activists and others" before Dasain festival. The cabinet decision had approved distribution of Rs. 40 million.

On April 4 a writ petition has been filed at the Supreme Court against the RCCC charging it with interfering in a sub-judiced matter pending before the apex court. RCCC had caught Pyuthan District Court judge Birendra Kumar Karna in the bribery case and handed over his case to the Supreme Court. The same day Judicial Council led by Chief Justice Hari Prasad Sharma formed an inquiry committee under the chairman of Supreme Court judge Min B. Raymajhi to investigate the alleged involvement of Karna in the bribery case.

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