

News Update from Nepal

June 9, 2005

The Establishment

The establishment in Nepal is trying to consolidate the authority of the state in society through various measures, such as beefing up security measures, extending the control of the administration, dismantling the base of the Maoists and calling the political parties for reconciliation. On May 27 King Gyanendra in his address called on the leaders of the agitating seven-party alliance "to shoulder the responsibility of making all democratic institutions effective through free and fair elections." He said, "We have consistently held discussions with everyone in the interest of the nation, people and democracy and will continue to do so in the future. We wish to see political parties becoming popular and effective, engaging in the exercise of a mature multiparty democracy, dedicated to the welfare of the nation and people and to peace and good governance, in accordance with people's aspirations."

Defending the existing Constitution of Nepal 1990 the King argued, "At a time when the nation is grappling with terrorism, the shared commitment and involvement of all political parties sharing faith in democracy is essential to give permanency to the gradually improving peace and security situation in the country." He added, "Necessary preparations have already been initiated to hold these elections, and activate in stages all elected bodies which have suffered a setback during the past three years." However, King Gyanendra reiterated that the February 1 decision was taken to safeguard democracy from terrorism and to ensure that the democratic form of governance, stalled due to growing disturbances, was made effective and meaningful. He added, "Smaller nations must always remain alert in safeguarding their identity." Speaking to selected editors at the royal palace on May 31, the King said, "The role of the King of Nepal is for the Nepali people to decide, not for foreigners."

On June 1 the Speaker of the dissolved Parliament, Tara Nath Ranabhat, while rationalizing the royal takeover, argued, "The King has expressed commitment to democracy at home and abroad. Let us move ahead with this agenda. It is for the welfare of the country, and the constitution too will be reactivated. Even if a referendum were held now, the King would not lose.... But there will be a turbulence." On June 5 the Vice-Chairman of the Council of Ministers Dr. Tulsi Giri challenged the agitating lawyers and politicians to move to the Supreme Court instead of taking to the streets if they want the dissolved House of Representatives reinstated. "Lawyers have to exercise legal power by moving to the apex court. Leave street protests to the political parties." He asked, "How can a dead body be revived? Persons responsible for maintaining law and order have no right to violate the government's prohibitory orders. If they defy the government's orders, then security forces can stop them." To refurbish its image, the government on May 18 released several political leaders and students from various parties following Supreme

Court's orders. But political hardliners such as Ram Chandra Paudel, Bal Krishna Khand and others and human rights activist Krishna Pahadi are still in jail.

The government is likely to increase the budget for the Royal Nepalese Army (RNA). The Ministry of Defense (MoD) is currently working on a three-year budget and demanded Rs. 18 billion for the fiscal year 2005/06. The hike in the defense budget is sought to finance the RNA's plan to recruit 13,000 more persons to add to its current strength of 85,000 and buy helicopters and military equipment. Political parties and civil society, however, fear that fighting insurgency militarily can weaken democracy.

Oppositional Politics

The Nepali Congress (NC) President G. P Koirala dubbed the "royal address as a critique and advise to the political parties." NC spokesman Arjun Narshing KC accused the King of "systematically dismantling all the pillars of democracy with a view to establishing an authoritarian rule." The CPN-UML leader Jhala Nath Khanal asserted, "The alliance would not support the King's move which aims at finding a military solution to the Maoist insurgency."

On May 8 leaders of the seven-party alliance (NC, CPN-UML, NC (Democratic), People's Front Nepal (PFN), Nepal Workers and Peasants' Party (NeWPP), Nepal Sadbhavana Party (NSP-Anand Devi) and United Left Front) announced a six-point "common minimum program to end the king's direct rule and to restore democracy and people's sovereignty." Pointing out the absence of parliament as the major cause behind the current crisis, the common program promises to fight collectively to reinstate the dissolved House of Representatives through people's movement. The common program involves: a) Reinstatement of the House of Representatives to activate the constitutional process, b) formation of an all-party government, c) management of the armed conflict and the attainment of durable peace, d) adoption of all democratic options including constituent assembly elections to settle the Maoist insurgency, e) commitment to a forward-looking reform agenda including the provision of a referendum on the constitution to decide on crucial national issues, and f) reform in the constitution to patch up all loopholes for autocracy.

NC president Koirala said, "We believe the restructuring of the state and formulation of the constitution through a constituent assembly is the only viable option to mainstream the Maoists." The Joint Movement Coordinating Committee (JMCC) of these parties organized a series of protest programs beginning May 21, and made public a code of conduct to maintain discipline and non-violence in the course of the movement. While CPN-UML General-Secretary Madhav Kumar Nepal preferred a national debate as to "whether or not democracy and monarchy can move hand in hand in Nepal," Pari Thapa, Vice-Chairman of People's Front Nepal (PFN) said, "The joint agitation of political parties should aim at restructuring the state and break the centralization of power on traditional forces."

On May 16 India, the EU and the UK welcomed the common program announced by the seven-party alliance to address Nepal's political crisis. The government expressed

“strong displeasure” with the ambassadors of India and the UK and told them to “refrain from suggestive and subjective remarks on the internal political affairs of the kingdom.” The ambassadors were told that while the government appreciated the concerns and interests of friendly countries in the peace and stability of the country, “it firmly believes that political issues in Nepal are something for the Nepalese to resolve by themselves and that the political discourse of the country is its sovereign decision.” On May 21 Indian External Affairs Minister K. Natwar Singh, while welcoming the “common minimum programs”, assured exiled Nepali political leaders in India of continuing “support for democracy in Nepal. We will make sure that our assistance will not be used against democratic forces at any point.” Singh also advised Nepal’s now-united political parties against forging a strategic alliance with the Maoists against monarchy as pitched for by the rebel leader’s post February 1.

On May 24 the US Ambassador to Nepal James F. Moriarty argued, “*We continue to believe that the main problem here is insurgency*” and suggested three conditions to deal with the Maoists: unity among the legitimate political forces in the country, the whole international community should tell the Maoists that they are not going to take over power in Nepal and that the former was not going to allow that to happen, and the Maoists have to be convinced that they are not going to win militarily and that they have to come back and negotiate seriously. He declared, “I believe that if the palace and the parties don’t work together there is a good chance of the Maoists ending up taking over power.”

On May 27, political leaders of the seven-party alliance asked the king to choose between absolute democracy and a republic. NC president Koirala said, “The seven political parties are agitating for absolute democracy, whereas students are doing so for a republican set up. And I ask the king to choose between two.” He warned, “If the king continues to ignore the people, they also have the right to renounce the monarch.” The NC also expelled its elected Central Working Committee member Prakash Koirala from the party for asking the party men to support the King’s takeover and pressure is mounting for the resignation of the Speaker of parliament, Taranath Ranabhat.

On June 2, after the Speaker rejected to chair the “special joint session of parliament” organized in a public place in Patan by the seven-party alliance, Deputy Speaker Chitra Lekha Yadav shouldered the responsibility. The mock session of parliament designed to highlight the agitation of parties adopted a 13-point resolution that *inter alia* approved the six-point road map adopted by the seven-party alliance on May 8 to resolve the national crisis. They also decided that Members of Parliament would not take any salary and allowance from the state fund for the period that the House did not exist, formation of an all-party government after the reinstatement of the House, condemned the government’s arbitrary amendments to the parliament-made laws through ordinances and urged the government to stop interference on bureaucratic structures. The other demands involved dissolution of the Royal Commission on Corruption Control (RCCC), release of political leaders and human rights activists, provide press freedom and engage in the resolution of the national problem. Except Rastriya Prajatantra Party (RPP) all other parliamentary parties participated in the session.

On June 5 Girija P Koirala left for India to express gratitude to the Indian leaders for their support to the democratic movement in Nepal. During his talk, the Indian Defense Minister Pranab Mukherjee told Koirala, "The common platform could be the basis for dialogue on an eventual political settlement of the conflict based on multi-party democracy and constitutional monarchy." He suggested the parties and the king to work for a national consensus. Koirala also met several Indian leaders and government officials. CPN-UML and NC (D) leaders are also doing similar consultations with Indian leaders on how to resolve Nepal's political crisis. The prospect for reconciliation between the parties and the establishment as suggested by the international community does not seem in the offing. Their support for a constituent assembly might inspire the Maoists but alienate the regime. Similarly, the regime and the CPN (M) reject the option for the revival of the dissolved parliament.

CPN-Maoist's Changing Strategy

The CPN (M) is following a number of tactics to get support from India and the Western powers who have differences with the establishment, creating rift and rivalry among the ruling classes, coaxing the seven-party alliance for a cooperative action for the establishment of a republican set up and launching a military offensive to weaken the regime. On May 20 RNA made public an audio-taped voice of CPN (M) Chairman Prachanda, which claimed "India's call to the Maoist rebels for dialogue." In the audiotape, he said, "The Indian government has called our party for dialogue, proposed directly and indirectly, to revoke action against Dr. Baburam Bhattarai and invited party central leaders to India for talks." He said, "India has assured security there." He also claimed India had sought withdrawal of action against Dr. Baburam Bhattarai as a condition for releasing the Maoist leaders Mohan Baidya and C.P. Gajurel stranded in Indian jails. Although the Indian Embassy in Kathmandu questioned the authenticity of the audiotape played by the RNA, Prachanda confirmed that the tape was the old one from a different context.

On May 25 *The Times of India* reported that Dr. Baburam Bhattarai held talks with the Communist Party of India (Marxist) General-Secretary Prakash Karat and sought his party's support for the Maoist insurgency in Nepal. It also said that the meeting between the two was facilitated by the Indian intelligence agencies to convince the Maoists to join the pro-democracy movement spearheaded by the seven political parties in Nepal. On May 27 in a statement Prachanda said Dr. Bhattarai and Mahara were "assigned" to hold meetings with the Indian government and political parties so as to create an atmosphere conducive for the "pro-democracy movement in Nepal." In an interview to BBC Nepali service on May 30 Dr. Bhattarai confirmed his meeting with Indian leaders. He said, "In the absence of an understanding between India, China, the United States and the European Union, there will be no sustainable outlet and peace moves. Comrade Krishna Bahadur Mahara and I have been sent here (India) to do international work." The seven-party alliance and the international community, however, ask the CPN (M) to shun violence for such a cooperative action.

In the second week of May four major Maoist offensives against security forces took place in Sirha, Gaighat, Sindhuli and Kailali, which caused the death of more than two hundred Maoists and 35 security personnel. To frustrate the government's efforts to cre-

ate authority in society, the Maoists shot the government-appointed Coordinators of the District Monitoring Committee of Chitwan and Kapilvastu districts, continued their program of political indoctrination and abduction. On May 15 the RNA revealed that 1,270 members of 292 families of the RNA have been displaced from their homes. These events frighten the parliamentary parties' search for an alliance with the CPN (M). This means triangular conflict among the regime, the seven-party alliance and the CPN (M) will continue to produce mutually hurting deadlock for some time to come.

Military Assistance to Nepal

On May 9 US Under Secretary of State for South Asian Affairs, Christina Rocca arrived in Nepal for her three-day visit to take stock of post-February 1 developments. Rocca said her government encouraged political party leaders and the king to jointly confront the CPN-Maoist and address the country's serious development problems. She said, "The US military assistance is under review" adding that "There are specific provisions in US law that prohibit us from engaging with military units that have been involved in human rights abuses." She, however, confirmed the continuation of development assistance, "We want to help the people of Nepal." Recently, the US, the UK and India have resumed their non-lethal military assistance to Nepal. Two instructors from the US army have begun a two-week-long course on International Law of Armed Conflict to officers of the RNA.

In the Lok Sabha, the Indian Premier, Dr. Manmohan Singh, said that India has "vital stake" in the security and development of Nepal and that it sought cooperative interaction to promote peace, security and well-being of the people of the Himalayan Kingdom. "Our only concern is that Nepal should approach the new era of modernization with a strong commitment to the twin pillars of Nepal's nationhood, namely constitutional monarchy and multi-party democracy." On May 10, India announced that it has decided to release some of the military supplies currently in the pipeline, which mainly includes vehicles. The Cabinet Committee on Security (CCS) also resolved to place the question of future arms shipments to Nepal "under constant review." On May 30 responding to the worries expressed by ministers in Nepal, Dr. Singh said, "India has no intention to interfere in the internal affairs of Nepal. Our attempts to encourage democracy in our neighborhood should not be construed as unwanted interference. The monarchy and all the political parties must come together to ensure that the polity functions effectively."

International Cooperation

The approach of the international community in Nepal is neither fully coordinated nor coherent. Principally, donors are adopting three positions: withdrawal of official aid due to what they call "shrinking development space", wait-and-see and inventing strategies of engagements with the fragile state either through humanitarian support or through community development approaches. On May 13 two major donors supporting community forestry programmes in Nepal have stopped aid citing "monitoring problems at the field level." The move is a major setback to community-based forest conservation in 53 districts. As per the commitment, DANIDA was supposed to release Rs 13.1 million, while DFID had pledged to release Rs 9.85 million for the third quarter.

On May 14, ten donors - UN, DFID, SNV, DANIDA, GTZ, Embassy of Finland, JICA, Canadian International Development Agency (CIDA), Norwegian Embassy and Swiss Agency for Development and Cooperation - jointly issued a statement against Maoists for beating the two NGO staff of GTZ, Rural Community Infrastructure Works Program, in Kukatiya VDC of Kalikot district. It said, "This action seriously contravenes the Basic Operating Guidelines (BOGs) which are the basis for these donors' engagement in Nepal. The BOGs donors have consistently made it clear that they will not operate where they cannot guarantee the safety of their staff. As a result, WFP, DFID, GTZ and SNV have decided to suspend their work in Kalikot." The donors also expect the CPN (M) leadership to provide an apology for this violent incident. It said, "Donors look forward to a positive Maoist response to this incident and a clear commitment from the CPN (M) to the Basic Operating Guidelines throughout Nepal.

Human Rights and Civil Society

The human rights condition in Nepal continues to deteriorate. The RNA officials revealed that at least 12,200 people have been killed since the Maoist launched an armed rebellion in February 1996. Out of those killed, 8,000 are Maoists and 2,100 are security forces and the public. Media, human rights organizations, trade unions and the Nepal Bar Association (NBA) are in the forefront of the human rights struggle in Nepal. On May 11 the recently appointed UN Human Rights Chief in Nepal Ian Martin said, "Improvements in the human rights situation can contribute to the goal of achieving peace. Ending or reducing impunity is one of the primary tasks of our office in Nepal. We will ensure that those responsible for human rights violations are brought to justice. The Office of the High Commissioner for Human Rights (OHCHR) has been established in Nepal to help establish accountability for human rights abuses and prevent further violations." On the clash between national and international laws, Martin said, "while a government has the right to enact anti-terrorist and other legislations, and impose an emergency, such laws would have to conform to international human rights standards - chiefly the International Covenant on Civil and Political Rights - to which Nepal is a signatory."

On May 22 the King promulgated the Human Rights Commission (first amendment) Ordinance 2005. Twenty-five human rights organizations strongly condemned the recent amendments in the Human Rights Act, 1997. They also fear that the "Nepal Act Related to Media" is aimed at "strangling the free media." According to the Ordinance no individual or organization will be provided with license to operate radio, television and publications at the same time, or will the license be issued at different times. The Ordinance also mandates that individuals and organizations would have to choose any two media within one year. Failure to do so would mean revocation of the radio or television license. The FM stations have been barred from publishing any "news-related program," no broadcaster can simultaneously air a program from different places. All the media associations criticized this move. Attorney-General Pawan Kumar Ojha, however, defended the amendment saying, "The amendments are for regulating the media, not for curbing it." Journalists across the country are organizing various protest activities against the government's newly passed press law.

On May 27 the King reappointed Nayan B. Khatri as Chairman of NHRC for five years. Other members are: senior journalist Gokul Pokhrel, former Justice Sushila Singh Shilu, Chief of Human Rights Organization of Nepal (HURON) Sudip Pathak and former election commissioner Dr. Ram Dayal Rakesh. Twenty-five human rights organizations of Nepal appealed to the International Coordinating Committee (ICC) of human rights to "review" the membership of the NHRC. They said, "The credibility of the NHRC has been jeopardized by the appointment of new members through an amendment in the NHRC Act 1997 in an "illegal manner. The main criteria for the selection was their political stance in favor of the royal takeover rather than their competence and independence as human rights experts." Ian Martin, chief of Nepal Office of the OHCHR said that there is absence of public inclusion in the selection process of members of the NHRC. He said, "We had strongly urged for continuity of the NHRC."

The NHRC fact-finding mission has held security personnel responsible for the shooting on students in Janajyoti Campus, Mahendranagar on April 29. On the incident of Soman VDC in Nawalparasi districts, where the Maoists had killed 10 civilians on the charge of being members of an anti-Maoist retaliation committee on April 15, it urged the government to discourage formation of retaliation committees and forcible recruitment of civilians to such committees. It also recommended the government to provide compensation to the families of those killed. Despite these suggestions, locals in Paklihawa bordering India have been living in terror as anti-Maoist vigilante groups have planned 1,500 booby traps in the entire village targeting Maoists. Locals are scared of possible explosions and retaliation by Maoists rebels. In Kapilvastu district a total of 75 people have already been killed in such violence. On June 7, 38 people were killed and 72 others wounded when a crowded bus detonated a landmine planted by Maoists in Chitwan. The CPN (M) chairman Prachanda said that the incident was a "serious mistake" and that his party will investigate this matter. The OHCHR called the attack a "grave breach of international humanitarian law" and said the perpetrators should be brought to justice. Political leaders and human rights organizations condemned this event as a crime against humanity.

Human Rights Watch (HRW), Amnesty International (AI) and International Commission of Jurists (ICJ) in a joint letter addressed to Maoist chairman Prachanda questioned the credibility of his repeated public commitments to respect international human rights and humanitarian laws in the past. The *AI Report 2005: A Dangerous New Agenda* said, "The security forces were responsible for an unprecedented number of disappearances, a rise in unlawful killings, and arbitrary arrests and torture. In the face of Supreme Court Orders to respond to habeas corpus petitions, military authorities consistently issued false denials, or failed to respond in substance.... Maoist rebels deliberately killed civilians, including local government officials, members of political parties and those who refused to accede to extortion demands or were considered informants."

The UN Committee for the Rights of Child at the Office of the UN High Commissioner for Human Rights (OHCHR) noted with "grave concern reports of abduction and forcible conscription of children by armed groups for political indoctrination and their use as combatants, informants, cooks or porters and as human shield. The government forces

target the under 18s suspected to be members of armed groups.” It also expressed concern over alarming reports of disappearances and arbitrary detention and use of children as spies and messengers by government forces.”

On June 4 a national conference of lawyers expressed serious concern over the eroding supremacy of the Constitution, rule of law and the independence of the judiciary in Nepal. Article 127 of the Constitution has been misused to curtail human rights, to destroy the constitution and to derail the democratic and political process in the country. They also blamed that the present government has no constitutional ground. A 17-point resolution passed by the Bar said, “The act and announcement of the assumption of power by the king on February 1 and the subsequent formation of the government under the monarch’s chairmanship are completely unconstitutional and this assembly strongly condemns the continuation of such a government which should be scrapped immediately.”

Politics of Corruption

On May 16 the RCCC filed a charge sheet against former premier Sher B. Deuba and ex-minister Prakash M. Singh for allegedly embezzling Rs 376 million while granting the contract for the construction of the access road of the Melamchi Project. It charged a collective fine equivalent to the “amassed” amount from all the six people accused of scam and 13 years of jail for them. On May 17 Chairman of RCCC Bhakta Bahadur Koirala advised Deuba and Singh to give their statements before the court. Both of them had maintained that they would not speak before the RCCC considering it illegal. The government suspended secretary Tika Datta Niraula from his post in the same cases. On May 31 the RCCC issued orders to release Deuba, Singh, three officials and a contractor, on bail amounting Rs 5million each. It has launched a probe into the nine-year old government decision to privatize 16-state owned companies during the G. P. Koirala regime. Complaints claimed that the government had acted beyond the privatization policy passed by the Cabinet in 1996.

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