



Say Peace First

CS Center

Conflict Study Center

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Situation Update XIV

Diagnostic Dialysis of the Peace Pact in Nepal

November 17, 2006

The absolute rule of King Gyanendra paved way to bridge the gap between the Seven Party Alliance (SPA) and Communist Party of Nepal (Maoists) or CPN (Maoist) and culminated in the 19 day long Popular Movement II, also known as April Movement. The King and the Constitution of the Kingdom of Nepal, 1990 have been suspended, but the Parliament formed by that Constitution was reinstated and is functioning. Passing through various twists and turns, the historical agreement was signed between the Government of Nepal (GoN) and the Maoists on November 8. The 11-years long armed conflict was halted and both the parties have initiated for Comprehensive Peace Accord (CPA). There were different opinions from different sections of Nepali society on the agreement – some welcomed it whereas some others were critical and even against it. No political forces, except Maoists, celebrated the signing of the Agreement for three days.

The cadres of Nepali Congress (NC) have not been able to go to the rural areas despite instructions given by the one-man-leader Girija Prasad Koirala, the President of the NC. The CPN (UML) is dissatisfied because of the lack of party list proportional election system and referendum on Monarchy along with the fear of 'secret' meetings between the Prime Minister (PM) and Maoist Supremo Prachanda. The CPN (UML) is suspicious with the 'pact' between Girija and Prachanda as the Maoists publicly supported the PM to be continued even after the inclusion of them in the Interim Parliament (IP) and Interim Government (IG). On the other side, the community forces are trying to bridge the difference between the Maoists and the UML by forming front in them, which endorses the PM post, for either UML or the Maoists. Similarly, the pro-monarchy forces are claiming for referendum to decide on the fate of monarchy. Why these two forces (pro-monarchical and UML) are for referendum has confused the masses. The monarchical forces are also claiming for their share in the IP and IG.

The High Level Probe Commission headed by Rayamajhi has earlier claimed the King and his ministers were responsible for the loss of lives and properties during the Popular Movement II, but now he has turned against the stand of action to them. He wants to have the scapegoats from the junior levels and let go scot-free the seniors for instance King Gyanendra and his Council of Ministers. The invitation by the Indian Press, Hindustan Times, to participate Prachanda in the Hindustan Leadership Summit made the leaders of the SPA and GoN are skeptical to feel downsized their political heights. The 67 district presidents of NC (D) out of 75 have been pressurizing the party on the agenda for republic, but the leadership is confused whereas they fear the consequence similar to that of CPN (ML) in 1999 general elections (the faction splitting from CPN-UML got not a single seat in the parliament although it received 6 percent of the popular vote). Disagreeing with the decision to include Maoists in the forthcoming IP and IG, the US Assistant Secretary of State for South and Central Asian Affairs, Richard Baucher, said that they would not fund ministries and programs led by Maoists and commented that the US is still treating Maoists as terrorists.

It is widely known that there are many treaties, agreements, understandings and consensuses done by the government, whereas the implementation and practice are feeble. There have emerged problems in implementation of the historical agreement between the GoN and Maoists within a week of its signing. The much awaited a CPA that was to be signed yesterday has failed due to some fundamental and tactical differences. What are in the CPA drafted by the GoN and disagreed by the Maoists? The key points in the 10-point draft of the CPA by the Peace Secretariat (where great majority of members are from SPA) of the GoN are as follows:

#	Issue	Description
1	Truce	
1.1	Armed Action and Mobilization of Armed Forces	<ul style="list-style-type: none"> ▪ Non-involvement of armed actions from both sides against civilians ▪ No killings, ambushing, disappearances/ abductions, illegal detentions and custody ▪ No seizure of personal and public property
		<ul style="list-style-type: none"> ▪ Non-involvement in mental torture and destruction of infrastructure by both sides <ul style="list-style-type: none"> ○ Non use of weapons ○ Non interference on each-others arms storage, seize and seizures ○ Non placement of land mines ○ Non sabotage and aerial attack ▪ No recruitment and transportation of weaponry by both sides <ul style="list-style-type: none"> ○ Nepali Army shall limit its activities except issues on national security ○ Non interference on each-others arms storage, seize and seizures ○ Nepali Army could monitor and check at the international borders and customs points for trafficking of arms and ammunitions ▪ No person shall be allowed to move around with arms and ammunitions ▪ Both the sides would publicly announce the locations of land mines within 30 days and cooperate to remove those by 60 days ▪ Both the sides shall not present with combat fatigues and with weapons in public assemblies ▪ However the Nepali Army shall continue to work for protection of sovereignty, integrity, development, natural disaster management, national parks and reserves, Bank, etc. ▪ Nepal police and armed police shall jointly continue maintaining law and order ▪ Each side shall not address the other as an enemy ▪ Both sides shall return the confiscated private and public properties within 30 days of agreement
1.2	Freedom of Movement	<ul style="list-style-type: none"> ▪ To maintain law and order, both police forces shall be allowed to unrestricted movement and establish their offices ▪ Army personnel of both sides shall visit their homes and commute to public places without arms and combat fatigues ▪ Government and public officials shall be free move for their assignments ▪ Both sides shall not restrict mobility of UN, international funding agencies, diplomatic missions, press, I/NGOs, election monitor, and tourists
1.3	Extortions	<ul style="list-style-type: none"> ▪ No one shall perform forced collection of donations and forced labor
1.4	Normalization of Situation	<ul style="list-style-type: none"> ▪ Both the sides shall release detainees within 15 days of Accord ▪ Both the sides shall issue information on names, alias' and home addresses regarding disappeared persons within 60 days of Accord ▪ Both sides shall support and cooperate the coordination through National Peace Secretariat for reconciliation to the conflict affected and displaced people ▪ A Commission shall be formed to find Truth and Facts on incidences during armed conflict ▪ Both the sides shall commit to renounce war, aggression, retaliation, armed violence, and counter-violence ▪ Both the sides shall withdraw the political cases, allegations, claims, appeals and under-consideration court cases and the government shall release the detainees ▪ A Commission shall be formed to find Truth and Facts on incidences during armed conflict ▪ Both the sides shall without political prejudice let the displaced people return and use their property, maintain the record of the infrastructure and property destroyed during armed conflict, and rehabilitation and socialization of the displaced persons and return seized property during conflict within one month ▪ Both sides shall commit not to discriminate and pressure the families of Maoists and Security forces
2	Permanent Truce	<ul style="list-style-type: none"> ▪ Both sides commit to end the war and to enduring cease fire for sustainable peace based on the Historical Agreement of November 8, 2006, which shall be the key policy for protracted peace ▪ After confinement of Nepali Army in barracks and Maoist Army in Cantonments the use, procession and of arms and use of violence shall be deemed punishable by law ▪ Both Armies shall not be used to propagate and not affiliate for or against any side
3	Multi Party Democracy	<ul style="list-style-type: none"> ▪ Both sides commit to comply with the universally accepted basic human rights, fundamental rights of citizens, plural competitive system, sovereignty to the people, constitutional balance and control, and rule of law based on separation of powers ▪ Both sides shall commit to development and promotion of multi-party society, monitoring and vigilance of civil society, press freedom, right to information, transparency of activities and accountability of parties, participation, presumptions, fair, capable and corruption-free administration
4	Basic Principles of Human Rights	<ul style="list-style-type: none"> ▪ Both sides commit to abide by Universal Declaration of Human Rights, International Humanitarian Laws and Basic Principles and Values of Human Rights
5	Compliance to Human Rights	<ul style="list-style-type: none"> ▪ Human Rights and Protection of Fundamental Human Rights (right to life, right to personal dignity, right to freedom and security, freedom to movement, civil and

Dr. Baburam Bhattarai, Maoist second leader, slashed at the GoN for making public the 'confidential' draft of the CPA without consulting them by the Peace Secretariat and Government

The following are the factors for failure of yesterday's Accord:

- Maoists claim that the Preamble of the Accord should include People's War as democracy was reinstated due to it and that the Maoist People's War has oriented towards political mission, socio-economic transformation and restructuring of the state.
- Maoists have proposed to add that *the country has moved forward to CA elections, Inclusive and Federal Democracy* in the issue of Permanent Cease Fire and the clause *use, procession and of arms and use of violence shall be deemed punishable by law.*
- Maoists demanded to proclaim the CPA and Interim Constitution (IC) on the same day. They fear the GoN is purposely procrastinating the announcement of IC.

The Maoists had intensified its armed movement across nation claiming for Federal Structure of Government, Proportional Representation, National-Regional Autonomy and Right to Self-Determination but those were missing in the Political Agreement of November 8. As they received tremendous pressure from different corners, they had put proposed Federal Democracy in the CPA.

Besides the Maoists claims, we find some difficulties to implement the draft issues of the CPA within time-bound. They are:

- Nepali Army shall continue to work for protection of sovereignty, integrity, development, natural disaster management, national parks and reserves, Bank, etc.
- No recruitment and transportation of weaponry by both sides; No person shall be allowed to move around with arms and ammunitions; Nepali Army shall limit its activities except issues on national security; and Nepali Army could monitor and check at the international borders and customs points for trafficking of arms and ammunitions
- Both the sides would publicly announce the locations of land mines within 30 days and cooperate to remove those by 60 days
- Both the sides shall not present with combat fatigues and with weapons in public assemblies
- Both sides shall return the confiscated private and public properties within 30 days of agreement
- No one shall perform forced collection of donations and forced labor
- Both the sides shall release detainees within 15 days of Accord
- Both the sides shall issue information on names, alias' and home addresses regarding disappeared persons within 60 days of Accord
- Both the sides shall withdraw the political cases, allegations, claims, appeals and under-consideration court cases and the government shall release the detainees
- Both the sides shall without political prejudice let the displaced people return and use their property, maintain the record of the infrastructure and property destroyed during armed conflict, and rehabilitation and socialization of the displaced persons and return seized property during conflict within one month
- Both sides agree not to repeat past mistakes and gradually correct them individually and collectively
- In place of Peace Commission a powerful National Peace Coordination and Rehabilitation Commission(NPCRC) shall be formed to reconcile society and implement National Peace Accord by consensus
- The NPCRC shall manage rehabilitation of the conflict-induced displaced persons and families and reconstruction of destroyed infrastructures
- Local Peace Councils shall be formed under the NPCRC

The Maoists have threatened cadres of other political parties in different parts of the country along with extortions even after the signing the Agreement on November 8. They have continued prohibitions on expansion of and organization and political parties within their impact

Both the GoN and recruitment to their around or the going on. The threats from the Maoists common people are of genuine peace.

Immediate after the between the SPAM, the

Maoists held its first ever meeting on November 12, 2006 at Fulbari VDC of Kavre district has made the critical decisions. Prachanda proposed a 9-point political agenda for restructuring of organization in relation to the changed political scenario, including the following:

- Form a four-member task force headed by Ram Bahadur Thapa alias Badal to study on transformation of the war-oriented organizational structure, identify the list for the IP and IG and submit a report to the party within a week.
- Form another four-member committee headed by Nanda Kishor Pun alias Pasang to prepare exact statistics on Maoist combatants and weapons and liaise with UN monitoring team along with the selection of participants from Maoist army to IP.

**Comment on the Situation Update XIII
from US Ambassador to Nepal**

From: **Moriarty, James F**
To: Conflict Study Center
Date: Nov 13, 2006 10:24 AM
Subject: RE: Situation Update XIII

If you are implying in your very first paragraph that my President should stand trial before a tribunal, I strenuously object. I also can not see the relevance of such a comment to your Update.

restructuring of campaigns of other political area.

Maoists have upscaled armies as if a war was preparations for a war were abductions, extortions and have not subsided. The anxious of materialization

political agreement central committee of the

- The 73 Maoist representatives to IP would consist of ethnicity, region, gender and socio-cultural diversity having competent political capacities.
- Discussions were held on Krishna Bahadur Mahara, the Maoist Talks Team Coordinator, to lead the Maoist team to the government.
- Issue directive urging Maoist local party cadres to remain vigilant against conspiracy on historical agreement.
- Approach leftists and non-leftist forces for political polarization to form a Republican Front

A joint team of GoN, Maoists and UN Weapon Monitoring Team for Nepal completed the visits to proposed sites for Cantonments to host Maoist Army.

The activities and actions of Maoists seem similar to CPN (ML) in 1990s the then (UML). The commoners and laypeople have begun to say that a second UML has been born.

The people feel as if political parties have chewed pebbles instead of burger. The five significant agendas agreed by GoN and Maoists are obvious for delay: weapons management, Interim Constitution, Interim Parliament, Interim Government and Constituent Assembly elections.

The most critical point missing in the CPA is the implementation of 'Culture of Impunity'. Nepal is a country of semi-colonialism, feudalism and bureaucratic capitalism with a lot of money, muscle and mafia games. It is available in political parties to bureaucracy and judiciary. The issues of corruptions in politics and bureaucracy including diplomatic missions have slightly been raised in the past whereas that about judiciary and security sectors has not been raised. The advocates who work as mediators for corruption between the judiciary and the clients have not been targeted. Commission on Investigation of Abuse of Authority displayed childish pranks to control corruption and failed to operate as a competent, matured and responsible institution. The CPA has no provisions to strengthen/restructure it.

The issues pertaining to street children, trafficking of persons and populations who are **bhoka, nanga, nimukha, rogi, ra ashikhit** (hungry, naked, destitute, sick and illiterate) have not been addressed. Although the CPA has a lot of provisions on arms and combatants, it fails to deal with the crucial issues on downsizing the army, removals of and actions to senior officers and inclusion of Maoist combatants into army along with projection on what after six months in cantonments. Similarly, no word has been mentioned about Maoist Militia. Indeed, peace cannot be bargained and bartered with justice.

The most significant challenge to CPA is the implementation. Neither the UN nor any reliable and trustworthy institution is involved to mediate, facilitate and witness the current peace process in Nepal, which could have made the implementation more effective through their physical, moral and financial involvement in it. People do not have faith in stringent implementation and they use the politics, political parties and political leaders while reproaching and rebuking their children or neighbors. The Nepali politics, political parties and political leaders are themselves responsible and accountable to these because of money, muscle and mafia games they play rather than play with the mind. How to make a 'New Nepal' is to be principal concern of all as there are still smoke coming out of the ambers, only a huff of wind is adequate to spark the prairie to fire again in Nepal.

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