



THE CARTER CENTER INTERNATIONAL OBSERVATION MISSION IN NEPAL

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Executive Summary

Nepal has made significant progress on the path to peace and inclusive democracy over the past three years, but the future of the process now appears in question. Reminiscent of politics in the 1990s, political leaders in Kathmandu are focused on zero-sum power politics at the expense of the constitution drafting, peace process, and provision of basic government services. The current political stalemate in Kathmandu is leading to a worrying move away from the common agenda set out in the Comprehensive Peace Agreement (CPA) and subsequent political agreements. At the same time, rising challenges at the local level are being largely ignored.

Since June 2009, The Carter Center has observed Nepal's constitutional and peace processes to identify obstacles and opportunities to their advancement. Following on the Center's international election observation mission, the Center has deployed 15 long-term observers representing nine different nationalities to all five of Nepal's development regions. Carter Center observers report on key constitutional and peace process issues, reaching not only to district headquarters but also to the village level. This report presents the Carter Center's findings and recommendations based on meetings with a range of stakeholders, including political parties, government officials, security officials, civil society representatives, marginalized groups, members of the international community, and common citizens. The summary of key findings and recommendations below is followed by a detailed report.

SUMMARY OF KEY FINDINGS

Constitutional Process

1. While the Constituent Assembly has made progress since its inception, The Carter Center is concerned by the delays in the constitution drafting process.
2. The lack of substantive public dialogue on the issue of state restructuring at the national level has left a vacuum that is presently being filled by ethnic-based organizations and other groups at the local level.
3. In general, citizens appear alienated from the constitutional process and prioritize basic needs, such as irrigation, education, health, food security, employment, and "peace."

Peace Process

4. While much commendable progress has been made in the peace process, there remain significant outstanding obligations to address. Primary among these is the fulfillment of commitments regarding integration and rehabilitation of Maoist combatants, the immediate discharge of disqualified combatants, and democratization of the Nepal Army, as per the CPA and the Agreement on Monitoring of the

Management of Arms and Armies.

5. The International Labor Organization Indigenous & Tribal Peoples' Convention 169 has articulated new responsibilities for the government towards Adivasi/Janajati communities, but is being misused by some ethnic-based organizations to justify unlawful actions.
6. While in many districts land return and reform reportedly are not overt sources of conflict at present, there are some areas in which these issues continue to provoke disputes and violence.
7. Progress has been made in establishing Local Peace Committees; however, politicization curbs functioning in many districts.
8. The process of providing relief to conflict-affected persons is ongoing in most districts; however, it has reportedly been a source of concern in some areas.

Security Environment

9. The increased aggressiveness of certain ethnic-based organizations threatens security.
10. YCL violence appears to have decreased across all regions, but prominent incidents continue to be reported. YCL and Youth Force activities now appear increasingly aimed at financial gain.
11. Weak law enforcement against politically affiliated individuals is perpetuating the long-standing culture of political impunity.
12. The activities of armed groups continue to plague the security environment, particularly in the Tarai. While positive instances of police effectiveness have been noted, there are some groups who express concern about the government's new security strategy.

SUMMARY OF KEY RECOMMENDATIONS

- Constitute a national unity government composed of all major political parties in order to enable constitution drafting efforts, implementation of the peace process, and basic governance to move forward, recognizing that ultimately this is in the direct interest of all parties.
- Activate the proposed High Level Political Mechanism and an effective Peace Process Monitoring Mechanism.
- Immediately begin the discharge process for disqualified Maoist combatants.
- Activate the Army Integration Special Committee with participation from all major parties.
- Elect a Chairman of the Constitutional Committee of the CA.
- Seek effective means to solicit the input of concerned marginalized groups on the issue of state restructuring.
- Seek citizen input in a clear and straightforward manner on contentious constitutional issues most frequently raised at the local level.
- Widely and accurately inform the public about Nepal's commitments under ILO 169.
- Comply with all commitments in the CPA in regards to the unconditional return of property and the formulation of policies for scientific land reform.
- Study effective Local Peace Committees and make attempts to replicate the factors that have contributed to their success.
- Ensure that conflict-affected persons receive equitable treatment in the ongoing compensation process and that the process is transparent and accountable.
- Prosecute individuals who commit criminal activities, regardless of political affiliation.
- Comply with all relevant human rights standards when implementing the government's new security strategy.

I. NATIONAL FINDINGS

While the Constituent Assembly (CA) has made progress since its inception, The Carter Center is concerned by the delays in the constitution drafting process. Overall, the lack of agreement on a set of basic principles by all major parties has made it difficult for the CA to function effectively. The CA calendar has been amended five times already and a sixth amendment is likely, with only five of 11 committees having completed their Concept Papers and the September 6 deadline fast approaching. Contentious issues such as state restructuring, the system of government, and control of natural resources appear stalled by a lack of consensus. The CA calendar delays have been largely offset by cutting significant portions of the second and final planned public consultation period, a worrying setback to the CA's commitment to ensuring a participatory process. Meanwhile, several of the Concept Papers that have been submitted contain notes of dissent on key issues, indicating consensus in those committees has not yet been reached. Additionally, the Constitutional Committee – charged with putting together the first draft of the constitution – has been without a Chairman and thus non-functional for nearly three months, an indication of the low priority major parties presently place on the constitutional process.

Additionally, while much commendable progress has been made in the peace process, there remain significant outstanding obligations to address. Primary among these is the fulfillment of commitments regarding integration and rehabilitation of Maoist combatants, the immediate discharge of disqualified combatants, and democratization of the Nepal Army, as per the CPA (Clauses 4.4 and 4.7) and the Agreement on Monitoring of the Management of Arms and Armies (AMMAA, Clauses 4.1.3. and 4.2.1). Additionally, a number of Commissions have not yet been established or fully activated, including: the Commission to Investigate the Disappeared, the High-Level Commission for the Restructuring of the State, the Commission to Study and Give Recommendations on Scientific Land Reform, the National Peace and Rehabilitation Commission, and the Truth and Reconciliation Commission (June 2008 agreement, Clause 5). The Carter Center is encouraged by the Ministry of Peace and Reconstruction's recent continuation of hearings on the draft TRC bill.

Overall, the failure to institute a monitoring body with a mandate to evaluate progress on the CPA and other agreements has allowed all parties to avoid fulfilling promises. Moreover, politicians' frequent public backpedaling on the clear commitments within the CPA and subsequent agreements is contributing to an environment of mistrust and is allowing hardliners to gain ground. Multiple sources note that Nepal is moving away from a politics of consensus towards a politics of conflict – essentially a step backwards.

The historic achievements of the past few years provide clear evidence that Nepal's political actors can overcome immense challenges when they work together towards a common goal. It is now time for public and private renewal of past commitments in order to further the constitution drafting and peace process. All stakeholders should recognize the dangers of political brinkmanship at this time in Nepal's history. While all sides have legitimate grievances and reason to question the sincerity of the others, it is imperative that the government, political parties, civil society, and the international community recognize there is no better way forward than swift compromises by all parties that will allow Nepal's transition to sustainable peace and inclusive democracy to regain forward momentum.

II. LOCAL-LEVEL FINDINGS

A. Constitutional Process

- 1. The lack of substantive public dialogue on the issue of state restructuring at the national level has left a vacuum that is presently being filled by ethnic-based organizations and other groups at the local level.**

Managing inclusivity, particularly in a country as diverse as Nepal, is extremely difficult. Historically, there are a number of groups that have been marginalized and denied access to power within the Nepali state structure. The Carter Center has consistently stated that these groups – Madhesis, Adivasis/Janajatis, Dalits, women, “backwards regions”, religious minorities, and others – have legitimate grievances that require serious

consideration by the government, Constituent Assembly, political parties, the international community, and others. Nepal took a commendable first step by ensuring a greater degree of inclusiveness in the CA than in any other elected body in the country's history, but the government's efforts cannot end there. For many – but not all – of these groups, the issues of federalism and state restructuring seem to provide a potential opportunity to address longstanding historical injustices and ensure the rights of their communities for the future.

At the same time, there has been seemingly little public debate at the national level about the issue of state restructuring. Furthermore, what little discussion has taken place is not filtering down to the local level. As a result, Carter Center observers report that across the country, marginalized groups, and ethnic-based organizations in particular, are unilaterally framing the debate on state restructuring from their own perspective and raising expectations among their respective communities. These groups are promoting demands ranging from official recognition of basic rights, inclusion of local languages in national and local official use, and multiple citizenship certificates, to rights over development policymaking and control of natural resources, to autonomous ethnic states. It remains unclear the extent to which these organizations have grassroots support or are in fact being largely driven by local activist elites, but it is certain that they are the dominant voices in the state restructuring debate at the local level.

Over at least the past two months, organizations representing Gurungs, Limbus, Newars, Tamangs, Tharus, Madhesis, and others have promoted their demands for autonomous ethnic, linguistic, or cultural federal states by conducting numerous public activities such as bandhs, community meetings, and sign posting. Bandhs organized by the UCPN(M)-affiliated Newa Joint Struggle Committee and Tamsaling Joint Struggle Committee around the Kathmandu Valley in June were held to pressure the government to create their respective autonomous states. The Tamuwani Autonomous State Committee in Lamjung District has erected large billboards welcoming visitors to the “Tamuwani Autonomous State.” The Federal Limbuwan State Council – Lingden (FLSC-Lingden) recently publicized a draft constitution for a Limbuwan federal state for discussion and comment in nine Eastern districts. Regional identities are also coming into the forefront, with a Sherpa community posting a sign at the entry gate of Dolakha district saying “Welcome to Himalayan State.” Some groups are taking steps to coordinate their efforts vis-à-vis other ethnic-based groups as a means of strengthening their positions. The Federal Democratic National Forum (FDNF), presently led by Laxman Tharu, represents a political alliance among multiple ethnic organizations, including the Federal Limbuwan State Council, Tamangsaling Autonomous State Council, Tharuhat Autonomous State Council, Khambuwan Autonomous State Council and other groups. The FDNF is now reportedly planning nationwide protest programs.

The drive for autonomous ethnic states is seemingly leading other groups to stake claims to smaller areas, possibly for fear of being subsumed within a larger state of which they do not feel a part. Thami, Surel and Jirel communities in Dolakha have reportedly begun asking for a provision of autonomy within a Tamsaling state. The Rajbanshi community in Morang district reportedly has begun demanding a separate “Birat Federal State.” And the Chhetri community in Palpa recently submitted a petition to the local government asking for an autonomous area, while Chhetris in Kaski are reportedly soliciting funds to implement “pressure programs” to demand government recognition.

Carter Center observers also note that in some areas the efforts of ethnic groups are leaving general citizens anxious about the implications of state-restructuring and concerned about the protections of minority rights in potential new states. Gurung citizens in a mixed-ethnicity VDC in Kaski expressed apprehension regarding the fate of their non-Gurung neighbors, asking Carter Center observers if they would be forced to leave a Tamuwani federal state. Muslims interviewed in Morang expressed concern that their voice, particularly during elections, would be dampened if the Tarai was divided into states dominated by a single cultural majority. In Dolakha, Brahmins, Chhetris and Dalits interviewed said they felt excluded from the federalism discussions because they will not get an ethnic state. Overall, the increasing fragmentation into ever-smaller identity-based groups allows the potential for positive recognition of Nepal's diverse and multi-cultural population, but risks possible negative consequences for the country's social fabric if not managed effectively.

by the central government. Ineffective management of the concerns of identity-based groups also has the potential to weaken national political parties and strengthen ethnic and political regionalism.

2. In general, citizens appear alienated from the constitutional process and prioritize basic needs, such as irrigation, education, health, food security, employment, and “peace.”

The Carter Center strongly commends the noteworthy and admirable attempts, mainly by NGOs, to inform and engage citizens in the constitutional process. However, in contrast to the efforts undertaken in advance of the CA election, the reach of constitutional awareness programs to general citizens appears to be very limited. Carter Center observers report that there are few to no constitutional materials to be found at the local level. In part, this can be traced to the relatively low priority placed by senior political leaders on the constitutional process, which has thus led to relatively low engagement by citizens at the local level.

Some of the most positive examples of civic awareness Carter Center observers noted were radio programs on the CA process in which CA members answer questions from the audience. For example, a weekly radio show produced by Chadani Nepal, a local NGO in Rupandehi, airs in Rupandehi, Nawalparasi, and Kapilbastu districts and has CA members address local questions regarding the new constitution. By contrast, other local radio programs in multiple districts have been criticized for constitutional programs with no opportunity for dialogue between listeners and presenters and for an extensive use of overly technical language. Many people say they are either working while these programs are on or they do not understand these programs and thus they lose interest. The Carter Center has also heard numerous positive reports of various groups collecting citizen opinions and submitting them to the CA or the public. However, many of the groups producing submissions to the CA have reportedly not received any acknowledgement that their suggestions have been received – a simple step which could help with public relations between the CA and local civil society groups.

Additionally, while the CA opinion gathering held in February and March 2009 was a laudable initiative in that it helped CA members engage their constituents, the majority of citizens interviewed by TCC observers felt the questionnaires were too long, technical, and complicated; doubted that their opinions would be incorporated; and in some cases complained that political parties dominated or mishandled the process. A significant number of citizens were either unaware that the opinion gathering process had taken place or felt there was not enough effort undertaken to solicit their opinion. Some citizens were also unhappy with the language used on the questionnaire, such as in Kapilbastu, where it was reported that few citizens understood the Nepali forms and most preferred to fill out forms in local languages.

Finally, residents in each district visited repeatedly prioritized basic needs, such as irrigation, education, health, food security, employment, and “peace” over all other political and constitutional issues. Many citizens are hopeful that the constitution will be drafted because they have expectations that it will result in specific local changes, such as bus fare reductions or increased agricultural development assistance for farmers. With citizens equating the constitution with good governance and basic services, political leaders face a crisis of expectations that could risk greater public disaffection. Political leaders must find a way to meet or manage citizen expectations or else risk losing the support of those who are awaiting a peace dividend and may become increasingly willing to turn to alternative forces.

B. Peace Process

3. The International Labor Organization Indigenous & Tribal Peoples’ Convention 169 (ILO 169) has articulated new responsibilities for the government towards Adivasi/Janajati communities, but is being misused by some ethnic-based organizations to justify unlawful actions.

ILO 169 was ratified by Nepal in September 2007, in compliance with Clause 11 of the agreement between the Government of Nepal and Janajatis, signed on August 7, 2007. The Convention guarantees indigenous and tribal peoples wide-ranging rights concerning land use, natural resources, involvement in local development,

and consultation regarding legislative or administrative measures which may affect them directly. Ethnic-based organizations across all regions have raised the importance of ILO 169. In some districts, such as Morang and Dolakha, ethnic-based organizations are taking peaceful steps to educate their communities on their rights under ILO 169, and intend to use the document as an advocacy tool in discussions with the government. The government, for its part, has created an “ILO 169 Implementation Task Force” that is presently working on a report regarding how to bring Nepal into compliance with the provisions of the Convention.

However, similar to the constitutional process, the present lack of information from the central level in regards to implementation of ILO 169 is being exploited by certain organizations at the local level. In some districts visited, Carter Center observers report that activists have unilaterally been interfering in local government affairs using the Convention as a justification for unlawful actions. For example in Kailali district, the Tharu Autonomous State Council (TASC) has solicited public tenders and collected taxes on the use of natural resources. Observers reported that a notice dated April 6, 2009 was posted on the door of a VDC office in Kailali district saying the VDC Secretary is not to collect taxes on natural resources and claiming TASC should do so based on the terms of ILO 169. In July, TASC published an announcement in local newspapers requesting that all public tenders on natural resources be submitted within seven days to them instead of the District Development Committee (DDC) and the VDCs. In Dang district, TASC has also been issuing tender notices for the extraction of stones from rivers.

4. While in many districts land return and reform reportedly are not overt sources of conflict at present, there are some areas in which these issues continue to provoke disputes and violence.

The challenges regarding land issues at the local level are complex and underscore the need for an effectively structured, well implemented property return process in conjunction with the formulation of land reform policies, as stipulated in the CPA (Clauses 3.7 and 5.1.8) and subsequent agreements. There are reports, mainly in the Tarai, of unlawful property deals brokered by UCPN(M) cadres, crop harvests being seized or returned only conditionally, and landowners being attacked upon return by UCPN(M) supporters. Though return of property is reportedly underway or nearly complete in most districts visited, there continue to be allegations in Dang, Banke, Bardiya, Kailali, and Rupandehi that the UCPN(M) is either demanding shares or confiscating harvests from previously captured land, or taking a cut of the profits on sales of seized property.

In Bardiya, the UCPN(M) district-in-charge, Chief District Officer (CDO), and other local stakeholders reached an agreement in early 2009 that stipulated landowners whose property was seized would be allowed to return. According to a local official, the UCPN(M) has returned seized properties; however, local UCPN(M) representatives admit to mediating deals between individual landowners and tenants that specify the share of the harvests that will go to the landowner, the amount of land that the landowner must cultivate, and whether new tenants may be moved onto the land. In two VDCs, interlocutors said that most landowners have not returned and are not collecting their harvest shares from tenants. In Kailali, two prominent landowners tried to recover their land after speaking with high-level UCPN(M) leaders, who reportedly then committed to return it. However, lower-level UCPN(M) leaders allegedly did not comply. Local UCPN(M) representatives confirmed that the land had not been returned, but claimed that it had been confiscated by “the people.” In one VDC, local leaders further noted that they had proposed to one landowner that he could return if he gave part of his land to small farmers.

One common response from UCPN(M) representatives is that in some cases it is not possible to expel the people who have since settled on the seized land. Much of the land has been reportedly distributed to small farmers or occupied by landless people. In June, freed Kamaiyas in Kailali district padlocked a municipality building for two weeks to press the government to draw attention to their demands for land. While meetings have been held to try and address the problem, political party leaders and local government officials say that a solution would need to come in the form of policies and decisions at the national level. The different cases observed by the Carter Center illustrate that property return and the formulation of land reform policies will need to go hand-in-hand to achieve equitable solutions and avert continued future conflicts.

5. Progress has been made in establishing Local Peace Committees (LPCs); however, politicization curbs functioning in many districts.

Local Peace Committees (LPCs) have been established in most districts visited; however, the functioning of LPCs varies greatly among districts. The failure of parties to work together in good faith at the central level is a contributing factor to the uneven functioning of the LPCs locally. In a small number of districts observed, LPCs are reportedly playing an effective role in dealing with local level issues. For example, in June, the Dadeldhura LPC conducted an event attended by NC, UML and the UCPN(M) to promote improved relations between party youth wings that was reportedly considered to be successful by participants. Nonetheless, in the majority of other districts visited the LPCs do not appear to be playing a significant peace building role and their establishment and functioning often remains stalled due to disagreements over the leadership and composition of the LPC. The Dolakha LPC has been unable to function because each party wants to ensure that the LPC Coordinator is a member from their party ranks. Carter Center observers have noted similar disputes in other districts. This appears to be due in large part to the role that LPCs play in the compensation process for conflict-affected persons.

Other challenges for LPCs include: a lack of clarity among LPC members about their role; complaints about inclusiveness and representativeness of various groups (in at least one case an LPC office was padlocked due to this issue); an alleged lack of sufficient funds to support the work; a lack of training for LPC members; multiple changes to the Terms of Reference and deputed staff; and a general lack of awareness or interest amongst the public. Additionally, in some districts, it appears that though LPC members are aware of their broad Terms of Reference, they are reluctant to take this on and are waiting for specific instructions from the central level.

6. The process of providing relief to conflict-affected persons is ongoing in most districts; however, it has reportedly been a source of concern in some areas.

Preliminary reports indicate that in all districts visited the compensation process is underway. In some cases, the greater number of stakeholders involved (all parties, civil society, local government officials) helps to provide greater transparency and sufficient checks and balances. However, in other cases it has been reported that political parties may be prioritizing applications submitted by their own supporters and that allegedly persons with political affiliations are more likely to have their applications considered. An LPC member in Banke told TCC observers that parties' recommendations for who should receive compensation were accepted without much discussion. Other possible concerns include reports that the application process can be overly cumbersome and in some instances difficult to understand, and that not all conflict-affected persons appear to be receiving compensation at the same rate. Priority seems to be given to families of the deceased over families of the disappeared or the disabled, possibly due to the increased difficulty of verifying or deciding such cases.

Furthermore, preliminary reports indicate that the government's efforts at relief to conflict-affected persons have perhaps been overly focused on financial compensation and may have unintentionally excluded certain categories of the conflict-affected, such as rape victims. For example, in Kaski, a local NGO worker said that cases of rape and other sexual violence that occurred during the conflict have not been addressed and that most female conflict victims are in need of psycho-social counseling. An NGO worker in Banke told TCC observers that she was tortured during the conflict and wanted her "health" back. The government may need to conceive of "relief" more broadly to ensure the needs of victims who suffered physical or emotional trauma are addressed. Finally, some observers have noted that certain victims are unwilling to accept the government's financial compensation packages because they fear these are being offered in lieu of justice and full reparations later on.

C. Security Environment

7. The increased aggressiveness of certain ethnic-based organizations threatens security.

Several of the more well-organized ethnic-based groups appear to be taking unlawful steps to strengthen their ability to push for autonomous states. These activities are at least in part enabled by the weakness of the state at the central level. The TASC, for example, is reportedly forming a Tharu “Army” in the Mid-Western and Far-Western Tarai. In the words of one Tharu youth interviewed, “they are working for our rights and [will] take our issues to the central level. They make people at the center listen to us.” Additionally, Tharu activists in the Far Western Region set fire to a number of VDC offices in Kailali and threatened local government officials during their two-week protest in April and May 2009. As a result, several VDC Secretaries have had to relocate to perform their duties. A few VDC Secretaries have also noted threats and extortion requests previous to and after the protests. Finally, there are also reports that some Limbu and Kirant groups in the Eastern region have allegedly been involved in illegal activities, including forced donations, unlawful taxation, inter-group clashes, and making threats against other ethnic communities. The FLSC-Sanjuwan is reportedly using the “whole timers” terminology that was used by the Maoists during the conflict.

8. YCL violence appears to have decreased across all regions, but prominent incidents continue to be reported. YCL and Youth Force activities now appear increasingly aimed at financial gain.

It has been reported to TCC observers that the UCPN(M) youth wing, the Young Communist League (YCL) has overall decreased its violent activities, but is continuing to engage in a range of unlawful actions in many districts. For example, in Kaski it was reported that YCL cadres attacked members of the Rastriya Prajatantra Party-Nepal (RPP-N) petitioning for a referendum on the monarchy and a Hindu state. Since June, Carter Center observers have noted that YCL has actively enforced bandhs in Banke, Kailali, Lalitpur, and Surkhet.

However, YCL activities reported by TCC observers now appear aimed increasingly at obtaining financial gains, for example, by taking a cut of major government and private party contracts and deals. YCL cadres have reportedly been engaged in brokering real estate deals and taking percentage cuts of the profits in Kaski. In Rupandehi, the YCL is allegedly using intimidation to obtain development contracts for beneficiaries, and taking a cut of the deal for “mediation services.” The UML youth wing, Youth Force (YF), is also reportedly conducting similar activities in some areas, creating tensions between the YCL and the YF. Civil society in Dolakha claim that the YCL and the YF have been interfering in local contract tender processes for some time. In Lamjung, contracts for delivery of building materials and valuable recyclables around a hydroelectricity project have been a source of clashes between the two youth groups in the last few months, and party officials claim that the police have refused to investigate the allegations. UML and the UCPN(M) representatives in Gorkha say clashes between the YCL and Youth Force, on a range of issues, are an ongoing problem.

9. Weak law enforcement against politically affiliated individuals is perpetuating the long-standing culture of political impunity.

The Carter Center is encouraged by Home Minister Bhim Rawal’s repeated public commitments to enforce the rule of law impartially and his statements urging political parties to avoid sheltering individuals involved in criminal activities. The weak security environment, exacerbated during Nepal’s post-conflict period by previous central level decisions not to strongly enforce the rule of law for political reasons, has led to an environment that is conducive to insecurity. The security situation now remains volatile in many districts as politically-affiliated individuals bear little or no accountability for their actions. Police in some districts ignore illegal party cadre behavior for fear of promulgating instability. Local officials in Kavrepalanchok reportedly refused to pursue investigations on charges filed by the UCPN(M) and UML following tit-for-tat attacks on their respective party offices, leaving parties to deal with the problem. As a result, the UCPN(M) publicly stated that they would take strong action against those individuals they believe to be responsible, including UML and NC cadres. While there are some positive reports in particular districts of impartial law enforcement, these tend to be attributed to the influence of the individual DSP or CDO in charge.

Additionally, police in many districts expect political party intervention or interference in their affairs, often telling TCC observers that they face pressure from political party leaders to release their cadres. Conflicts between political parties tend to be addressed directly by the parties themselves. When police have sought to take on cases involving party cadres or supporters, local or national political party officials frequently attempt to block police action. In Bardiya, Dolakha, and Morang, there is an expectation that political party cadres will be released when pressure is applied by local leaders. The net result is that political party cadres are only beholden to their respective political parties, if at all, and are otherwise able to act with near complete impunity.

In some districts, citizens have turned to political parties for justice, either because they are instructed by parties to do so or because the police and the court systems are ineffective at the local level. One group in Kavrepalanchok claimed that parties have been interfering with the justice system in remote villages by forcing citizens to first obtain permission from them before filing their cases. There are still allegedly instances where, instead of bringing cases to the state authorities, people turn to the Maoists as they are considered more effective. In Kaski, it was reported that, rather than approaching police or courts to resolve conflicts, the YCL is receiving requests from citizens to provide mediation. This poses a concern for the legitimacy of the Nepali state's existing justice system.

10. The activities of armed groups continue to plague the security environment, particularly in the Tarai. While positive instances of police effectiveness have been noted, there are some groups who express concern about the government's new security strategy.

There have been reports of armed group activities, including extortion, threats of violence, and weapons smuggling across the India-Nepal border, in all regions. While the level of activities varies among districts, there have been several reports that new or previously unknown groups have emerged in Kailali, Rupandehi, Kapilbastu, and Morang. Police have made some progress in dealing with armed groups in some districts, such as Parsa where cross-border cooperation between the Indian and Nepali police appears in part to have helped in curbing criminal activities, and in Banke where the establishment of an Armed Police Force post allegedly helped reduce armed group activity in several VDCs.

The government has recently unveiled a new security strategy with an increased emphasis on enforcing the rule of law at the local level. Home Minister Rawal has made repeated public statements claiming that only criminal groups will be targeted by the strategy and requesting support from all sides. While many view this as a welcome development, some groups (notably Limbus, Madhesis, and others) have expressed concerns to Carter Center observers that they may be unfairly targeted. It is incumbent upon the Nepal Police to carry out their mandate objectively in order to gain public support. Recent allegations that the police have used lethal force inappropriately in "encounters" with armed group leaders in the Tarai should be fully investigated and have the potential to inflame tensions within the local community if found to be credible. In sum, while the government's recently unveiled security strategy represents a positive initiative to enforce the rule of law, it risks alienating some sections of the population if not equally and universally applied - including to party youth wings and cadres - and accompanied by genuine respect for human rights as well as "hearts and minds" programs to win over the support of local communities.

III. RECOMMENDATIONS

The Carter Center notes that the political environment at the national level has deteriorated since the April 10, 2008 CA elections. The narrow focus on short-term, central-level political maneuvering has come at the expense of the peace process, constitution drafting, and basic governance. More importantly, politicians appear indifferent to or unaware of the risk that their inaction may result in a further erosion of support at the local level, an increased inability to control local developments in the future, and the rise of alternative forces seeking to fill the void. This report attempts to draw connections between gaps at the central level and the consequences at the local level, which may not necessarily be visible in Kathmandu. While it is clear that not all issues can be dealt with immediately, it is hoped that the relevant actors will take note of specific recommendations that may be in their direct interest to act upon. The Center wishes to thank the Nepali

officials, political party members, civic activists, and citizens, as well as representatives of the international community, who have generously offered their time and energy to facilitate this report. The following recommendations are put forward in the spirit of cooperation and respect, and with the hope that they will provide useful discussion points for future action.

- **Constitute a national unity government composed of all major political parties in order to enable constitution drafting efforts, implementation of the peace process, and basic governance to move forward, recognizing that ultimately this is in the direct interest of all parties.** Additionally, cease all obstructionist tactics, including the ongoing disruption of parliament by the UCPN(M), and refrain from making inflammatory comments against the spirit of the CPA.
- **Activate the proposed High Level Political Mechanism to resolve political disputes and a Peace Process Monitoring Mechanism to assess implementation of agreements, in order to curb the eroding legitimacy of all major parties.** Mark progress achieved to date in the peace process, specifically on the common agenda established by the CPA and subsequent agreements; examine what agreement terms have yet to be implemented; commit to step-by-step procedures for executing remaining agenda items; and resolve disputes over interpretation of terms stipulated in those agreements.
- **Immediately begin the discharge process for disqualified Maoist combatants as agreed to in the AMMAA, in order to demonstrate to the Nepali public and the international community the UCPN(M)'s commitment to the peace process.** Continue the process to inform disqualified combatants of their possible options and make them aware of the forthcoming discharge process, its timeline, and the terms already agreed upon by all parties.
- **Activate the Army Integration Special Committee (AISC) with participation from all major parties.** The AISC, with support from the technical committee, should discuss realistic options for the integration and rehabilitation of Maoist combatants and the formulation of a detailed action plan for democratization of the Nepal Army, as called for in the CPA and AMMAA. These steps should be taken in recognition of the political reality that the peace process cannot be concluded until these issues are resolved.
- **Elect a Chairman of the Constitutional Committee in order to advance the constitution drafting process and demonstrate seriousness to the Nepali public.** In addition, senior party leaders should actively devote time to resolving fundamental disagreements on the basic principles of the new constitution, in order to enable CA Committees to function effectively.
- **Seek effective means to solicit the input of concerned marginalized groups on the issue of state restructuring in which the competing claims and practical implications of various forms of federalism are debated.** This could include a “stakeholders’ conference” attended by senior leaders of all major political parties as well as leaders of organizations pushing for various forms of state restructuring. Such an event should be part of coordinated efforts to begin a substantive, national dialogue on the issue of state restructuring that can be passed down to the local level and can accurately inform citizens of the possible options. To ward off spoilers, take steps to promote moderate voices sincerely seeking to contribute to the debate and marginalize radicals seeking self-promotion alone. The international community should also consider additional workshops specifically targeted to ethnic organizations to inform their policy formulation and advocacy efforts.
- **Seek citizen input in a clear and straightforward manner on contentious constitutional issues most frequently raised at the local level, including, but not limited to, job reservations, language recognition, and state restructuring.** Possible approaches to soliciting citizen input may include focus group research or public opinion polling. In the same vein, inform citizens about constitutional issues that will affect their daily lives and manage expectations to mitigate disaffection. Consider

radio call-in programs, public debates, community dramas, or civic education volunteers in the style used previously by the Election Commission.

- **Accurately inform the public about ILO 169 and the steps being taken to bring Nepal into compliance with the Convention.** The government should also include representative Adivasi/Janajati groups in its planning for how to implement the Convention.
- **Comply with all commitments in the CPA in regards to the unconditional return of property and the formulation of policies for scientific land reform by the government, realizing that the complex challenges of land conflicts will continue to plague the peace process and Nepal's future peace until adequately resolved.** Consider conducting a high-level all-party assessment mission to evaluate the status and obstacles to property return in heavily affected districts and to inform policymaking on land reform.
- **Study effective LPCs based on clear criterion and make attempts to replicate the factors that have contributed to their success.** Seek means for establishing the LPCs as a credible peacebuilding mechanism in the districts.
- **Ensure that conflict-affected persons receive equitable treatment in the ongoing compensation process and that the process is transparent and accountable.** Additionally, consider expanding efforts to include non-financial relief to address the needs of individuals suffering from physical, mental, and emotional trauma.
- **Prosecute individuals who commit criminal activities regardless of political affiliation, including party supporters and members of youth wings, to prevent a descent into lawlessness which could become increasingly difficult for any state actor to control.** Take lawful action against criminal violations such as extortion and unlawful taxation, which are carried out by various groups with differing political agendas but have the same net result on the security environment.
- **Comply with all relevant human rights standards when implementing the government's new security strategy in order to ensure that the benefits of the strategy are not obscured by negative public perceptions.** Local law enforcement should remain actively engaged with communities, inform communities about changes in strategy, and demonstrate and uphold commitment to due process to the fullest extent possible.