

UNMIN Election Report No 2, 30 March 2008

This report has been prepared by the United Nations Mission in Nepal (UNMIN), in conjunction with the Office of the High Commissioner for Human Rights (OHCHR) in Nepal. The United Nations was requested to assist in creating a free and fair atmosphere for the election of a Constituent Assembly, including through UNMIN's monitoring of the ceasefire and the management of arms and armies and OHCHR's human rights monitoring.

Conditions for Constituent Assembly election on 10 April 2008

Across much of the country, campaigning has continued in an enthusiastic and relatively peaceful manner, but a significant number of districts have experienced a surge in incidents involving clashes between different political party supporters. The main threats to peaceful campaigning were continuing acts of violence by armed groups in the Terai, and obstruction, intimidation and violence carried out by supporters of political parties against candidates and supporters of competing parties, as well as intimidation of voters. The gravest incidents during the past week were the killings of two cadres of the Communist Party of Nepal-Maoist (CPN-M) in Kapilvastu and Solukhumbu, which bring the total number of violent deaths of Maoists since 5 February to at least seven; and the bomb attack at a mosque in Biratnagar which left two dead on 29 March. While the full details of these incidents remain unclear, the killings, violence and intimidation are stark reminders of the responsibility of the authorities and the political parties to create and maintain a conducive environment for the election. Also of deep concern are widespread reports, confirmed by UNMIN and OHCHR monitoring and investigation, of continued Maoist intimidation of rival parties and voters, with clashes between the CPN-M and the Unified Marxist-Leninist (UML), Nepali Congress and Rastrya Prajatantra parties becoming frequent. The 24 March recommitment by the national leaders of the Seven-Party Alliance (SPA) to engage in peaceful campaigning and not to interfere in each other's electoral activities, while welcome, has not so far succeeded in having the desired impact. District-level agreements, while having a positive influence in some districts, are also often not being adhered to. There has been little or no reported progress on implementation of commitments in the SPA's 23-point agreement regarded by different parties as of importance in the pre-election context, including compensation to victims of the conflict, return of property and investigation of disappearances. UNMIN has intensified its monitoring of arms and armies during this crucial period, but there have been cases of Maoist combatants leaving their cantonments to engage in political campaigning, and in some instances in uniform and with perimeter security weapons to provide security for senior party leaders.

1. Violence by groups opposed to the election

The Government's invitation to four armed groups – the Madhesi Mukti Tigers, United Janatantrik Terai Mukti Morcha (U-JTMM), Terai Cobra and Janatantrik Terai Mukti Morcha-Rajan Mukti – to participate in dialogue, and their initial acceptance (despite certain preconditions) was encouraging. However, violence and threats from groups declaring their opposition to the election have continued, contributing to insecurity and fear, especially in parts of the eastern, central and mid-western Terai. Improvised explosive devices (IEDs) detonated or were deactivated by police in several Terai districts including Sunsari, Morang and Kapilvastu. Some of them exploded near party offices or houses of candidates (including the Nepali Congress office in Kapilvastu and the house of a Rastrya Prajatantra Party candidate in Saptari) or during campaign activities (such as occurred with the Nepali Congress in Saptari). These incidents contribute to a climate of apprehension that is particularly acute in villages along the border with India. In other cases candidates were directly targeted by armed groups. For example, a UML candidate was attacked in Saptari and a CPN-M candidate was abducted in

Siraha, in both cases while they were engaged in campaign activities. Other party candidates have reported receiving death threats by telephone, including threats by the U-JTMM against candidates from the Nepali Congress, UML, CPN-M and Madhesi People's Rights Forum (MPRF) in Kapilvastu. A voter educator was abducted by an armed group in Saptari on 22 March. There continue to be warnings of plans to derail the election and undermine the peace process through violent acts such as the assassination of political leaders, which would outrage the nation and the international community. The bomb attack at a mosque at Sarauchiya in Biratnagar on 29 March left two dead and others seriously injured. This deliberate targeting of a place of religious worship will outrage Nepalis of all communities, and the authorities should make all efforts to ensure that the direct perpetrators and any others responsible for this crime are promptly identified and brought to justice.

2. Violations of human rights and the electoral code of conduct

The gravest incidents reported in the last week were the fatal shootings of Maoist cadres in Kapilvastu on 22 March and in Solukhumbu on 26 March. The U-JTMM has reportedly claimed responsibility for the killing in Kapilvastu of CPN-M area committee member Shiv Kurmi. However, the Maoists have claimed that Nepali Congress played a role in the murder, and maintained the victim had been threatened by the Nepali Congress on a number of occasions. Reprisals were taken by Maoists against Nepali Congress property in the days following the killing. OHCHR has been informed that the police do not intend to pursue those already identified as alleged perpetrators until after the election as a result of political pressure not to do so. However, prompt and effective action in bringing the perpetrator or perpetrators of the killing to justice is all the more important given the recent history of communal tensions and violence in the Kapilvastu area. Similarly, it is imperative that the Nepal Police are known to be conducting a prompt and impartial investigation following the killings of two CPN-M cadres in Rolpa on 18 March. The clash in Solukhumbu on 26 March, in which a Nepali Congress candidate and supporters were also injured, also remains under investigation, with the CPN-M and the Nepali Congress presenting starkly different versions of the events. Both parties accuse the other of instigating the incident, disrupting their pre-planned campaign venue, using firearms, and inflicting significant casualties. Of particular concern is the allegation that members of the Armed Police Force (APF) or Nepal Police used lethal force where it was not strictly necessary or took a partisan position in the clash.

UNMIN and OHCHR have received numerous reports of incidents related to the electoral campaign, many of which resulted in injuries. The largest number of allegations received in the past week related to the disruption of UML campaign activities by Maoist cadres, including their Young Communist League (YCL). Assaults of UML candidates and supporters by Maoists were reported in several districts, including Baitadi, Dhading, Rupandehi, Siraha, Chitwan, Jhapa and Rasuwa. In some of these cases, UML members or supporters were not only attacked and beaten but also allegedly detained for a number of hours. It is of further concern that in some of these districts violent incidents demonstrated an increased pattern of premeditation. CPN-M cadres have also been accused of disrupting campaign activities of other parties, including activities carried out by Rastriya Prajatantra Party (RPP) and RPP-Nepal in Dhankuta and Rolpa, and by the Nepali Congress in Khotang, Rolpa, Lamjung and Makwanpur.

Reports of violent incidents involving other political parties include alleged assaults by MPRF members on Nepali Congress supporters in Sunsari, clashes between MPRF (Biswas faction) and the Sadhbhavana Party (SP) in Sunsari and between Nepali Congress and Terai Madhes Democratic Party supporters in Sarlahi, and an alleged assault on Maoists by Nepali Congress supporters in Tanahun.

Lower-level yet damaging threats and intimidation are widely reported. UNMIN and OHCHR have received numerous reports that during door-to-door campaigning voters are being told by political parties - particularly the CPN-M - that their vote will not actually be secret and that voters will face reprisals if they do not vote as instructed. Reports of this behavior were particularly prevalent in Gulmi, Kalikot and Agharkhanchi.

The recruitment of temporary police has concluded in most districts and newly-recruited police are now scheduled to undertake a single week of training. Temporary police were primarily recruited from local youth and students, mainly in their early twenties. There are reports that in several districts

the major political parties played a significant role in the recruitment process, calling into question the principle that temporary police should not have party affiliations. For instance, organisations representing disadvantaged Tharu agricultural workers in the Far-Western Region have complained that many candidates from their communities were rejected in favour of less qualified candidates recommended by mainstream political parties. The government quotas recently established for increasing the access of marginalised groups to the police were not applied in the recruitment of temporary police.

In discussion with several political parties, UNMIN and OHCHR have heard of plans to recruit volunteers, particularly from their youth wings, to be present outside polling stations on Election Day. OHCHR also received reports from several districts, including Kalikot and Kailali, that the YCL is providing training to their volunteers. YCL members have stated that they need such volunteers to ensure the fairness of the process, claiming that the Nepali Congress is making use of State machinery and that the UML has the support of most civil society organizations involved in election monitoring activities. However a large presence of youth in and around polling stations on Election Day could escalate tensions and lead to increased intimidation and violence, and even the anticipation that large groups of youths are likely to be present could generate sufficient apprehension to deter potential voters.

UNMIN has also received continuing reports of misuse of State resources and unequal access to Government resources and police security. Smaller parties report that they are less able to rely on the services of the State to support them in campaigning, while without police protection some candidates feel uncomfortable campaigning in the more disturbed constituencies.

Some parties have expressed concerns about the use by CPN-M Chairman Prachanda of helicopter transport for campaign activities in violation of the Code of Conduct. Others have claimed that the use of Government helicopters for medical evacuation purposes has not been made equally available to all parties.

3. Monitoring of arms and armies

The December 2006 Agreement on Monitoring of the Management of Arms and Armies (AMMAA) provides in relation to the Nepal Army that “Maintenance and replacement of lethal weapons will take place only with the determination of the interim government or agreement of both parties” (4.2.4.5), while “Unauthorised replenishment of military equipment” is a violation (5.3.4). During the night of 24/25 March, in Butwal, Maoist YCL intercepted and blocked for some time a government convoy escorted by APF which they alleged was carrying arms and called for it to be inspected by UNMIN. A clash ensued between APF personnel and YCL cadres before the trucks proceeded to APF barracks in Bardaghat. The YCL has no authority to act as a parallel enforcement body and to intercept the movement of goods or persons. Government statements indicated that the trucks contained equipment for the APF and Nepal Police. UNMIN regrets that the APF at Bardaghat barracks did not permit UNMIN arms monitors to inspect the trucks until their contents had been off-loaded, and UNMIN is therefore unable to confirm the contents or the recipient.

Three members of the Maoist army in possession of two rifles were detained by Nepal Police in Rolpa district on 24 March. UNMIN arms monitors were deployed to the site to inspect the weapons and found that the weapons had been registered by UNMIN and were dedicated for perimeter security in the Tila cantonment site, a satellite camp of the main cantonment site in Rolpa. The Maoist army stated that the team was returning after providing security for Deputy Commander Pasang. Under the AMMAA, weapons authorised to be retained out of weapons’ containers at the cantonment sites are “to be used only for clearly defined perimeter security by designated guards”. The rifles have been returned to the Maoist cantonment site, and the matter will be reported to the next meeting of the Joint Monitoring Coordination Committee (JMCC).

UNMIN recognises the importance of adequate security arrangements for leaders and candidates of all parties. Special security arrangements for the Maoist leadership were agreed upon in a signed Understanding negotiated between the Government and the CPN-M in mid-2007. UNMIN was not involved in these negotiations, but as requested by the parties UNMIN registered the weapons and the

personnel agreed to be retained outside cantonments for leadership security in accordance with this Understanding. The Understanding states that members of the special security team will be in civilian clothes and will not display their weapons. The Understanding did not address the possibility of any additional leadership security in the context of the election.

During the past week some Maoist combatants have temporarily left their cantonments in uniform and carrying weapons to attend and provide security at election rallies addressed by senior Maoist leaders. UNMIN has maintained its around-the-clock surveillance at the cantonment of weapons storage containers, from which no weapons have been removed, but the use of perimeter security weapons away from the designated cantonment site is a violation of the AMMAA and is being reported to the JMCC. The Election Commission has also expressed its concern to UNMIN on this issue. UNMIN has made clear to the leadership of the CPN-M that it is a breach of the AMMAA for personnel and/or weapons from Maoist army cantonments to be present at meetings outside the cantonments, including for the purpose of providing leadership security. In this connection, it should be understood that UNMIN has been mandated at the request of the parties to monitor the AMMAA: it has no enforcement authority, but reports violations to the parties and as appropriate to the international community and the public. On 29 March CPN-M Chairman Prachanda assured UNMIN that no further such incidents will occur.

Chairman Prachanda has confirmed to UNMIN that he has ordered that no further leave be granted to members of the Maoist army and that those already on leave at the time of the order are to return to their cantonments. UNMIN's arms monitors have intensified efforts to verify the numbers of combatants in the Maoist army cantonments and the rate with which personnel remain on leave. UNMIN's investigations indicate that far in excess of the 12% maximum were absent from the cantonment site in Surkhet during the first week in March, but by 24 March a count of combatants monitored by UNMIN found 10% on leave. A head count at the Rolpa cantonments found 8% of verified combatants still on leave. Further headcounts on 28 March were not carried out pending further orders from the Maoist leadership, but Chairman Prachanda assured UNMIN on 29 March that they may proceed. UNMIN has also investigated in affected communities reports that members of the Maoist army have been engaged in election activity. It has confirmed that Maoist army personnel from the Surkhet cantonments, including senior commanders, entered parts of Kalikot and participated in political activities: as a result, other parties reported that their own ability to campaign was considerably curtailed and there was an increase in threats and interference in electoral activity.

Helicopter movements by the Nepal Army in support of the Election Commission have not been formally notified to the JMCC with the stipulated period of notice.

4. Recommendations

- The campaigning political parties should act immediately to end the cycle of violence and retaliation, and should respect fully the election Code of Conduct and human rights standards. Dissemination of false and intimidating information, such as that voting will not be secret and voters will face reprisals, or threats that any result may lead to a return to war, should cease. All parties should withdraw plans, or make clear that they have no plans, for the presence of large groups from their youth wings at polling centres on Election Day.
- The police should be allowed to carry out their duties without political interference or pressure from any quarter. They have a responsibility to investigate promptly, thoroughly and impartially incidents of politically-related violence, particularly killings of party cadres. Political actors should refrain from reprisals or exerting pressure on the police. Security for candidates and campaign events should be provided with impartiality and independence, and with restraint in the use of force and firearms.
- There should be strict adherence to the Agreement on Monitoring of the Management of Arms and Armies, an arrangement intended to prevent interference by either army in the electoral process. The suspension of leave during the election period should be enforced, and the armies should cooperate with UNMIN in respecting notification procedures and enhanced monitoring arrangements. There should be transparency, especially among the parties represented in the Interim Government, regarding the transport of supplies for the Nepal Police and APF, as well as for the Nepal Army. The Maoist army should end the repeated

incidents of temporary departure from cantonments to participate in rallies or other election activities, as well as the use of uniformed personnel and perimeter security weapons from cantonments for the protection of leaders and events.

- In the spirit of the Comprehensive Peace Agreement and the Interim Constitution, political leaders should stress their commitment to work together in partnership after the election.
- Forces tempted to try to disrupt the election should recognise the backlash this would provoke and should respect the overwhelming desire of the people of Nepal, supported by the international community, to see the election of the Constituent Assembly as the democratic basis for determining the future of the nation.