

UNMIN Election Report No 3, 6 April 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 the Constituent Assembly election on 10 April 2008

The momentum for the election has continued during the past week. Positive developments included a recommitment by three major parties of the Seven-Party Alliance to campaign peacefully and cooperate at the district level. However these commitments need to translate into reality on the ground – which has too often not been the case. While campaigning was peaceful in many constituencies, incidents of election-related violence and intimidation by party workers continued, with frequent and sometimes severe clashes between political parties in many districts. The Young Communist League and other Maoist cadres continued to be involved in the largest proportion of these incidents. There is also mounting evidence of State resources being deployed for partisan ends.

Perhaps the most positive feature of the last week was the restraint and responsibility demonstrated in the face of the deliberately provocative bombing of a mosque in Biratnagar on 29 March, which caused the deaths of two persons and injuries to others. The Nepal Defense Army claimed responsibility for the attack. The people of Biratnagar resisted the apparent attempt to incite inter-communal violence and responded with moderation and dignity.

While the decision of the Nepal Police, supported by the Armed Police Force, to increase security in sensitive districts is welcome, police inconsistency in enforcing the law during the pre-electoral period risks encouraging an atmosphere where all actors feel they can behave with impunity. Those who violate the law should be arrested and brought to justice; the pattern of arrests followed by release without proper enforcement of the law has contributed to the continuing violence.

1. Violence by groups opposed to the election

Talks between the Government and armed groups in the Terai have regrettably failed to materialize before the election, and the actions or threats of actions by these groups continued to create an environment of fear and intimidation in many locations. Local administrations engaged in talks with Indian counterparts immediately across the border regarding the tightening of border security in the final run-up to the election and on election day, including a 3-day closure of the border.

While the number of abductions by armed groups decreased slightly, there was a considerable increase in the detonation of improvised explosive devices (IEDs), some of them powerful and several clearly targeting the electoral process. One example was a pressure cooker bomb that exploded in the Nepali Congress (NC) district office in Sunsari on 31 March. In a particularly egregious act, an IED was hurled at a passenger bus in Siraha on 2 April, injuring at least three people. A disturbing new development was the use of IEDs by armed groups in the hilly districts of Taplejung and Bhojpur. The explosion of a number of IEDs in Kathmandu on 4 and 5 April raises further concerns regarding final efforts to cause apprehension and disrupt the election in this way.

Violent attacks against candidates and party workers increased with some serious injuries resulting, although fortunately no further deaths. An NC member and a Madhesi People's Rights Forum

(MPRF) district chairperson were shot and injured by unidentified armed groups respectively in Sunsari on 29 March and in Kapilvastu on 31 March. A Dalit Janajati Party candidate was abducted on 29 March in Saptari, while a Nepal Workers and Peasants Party member was abducted on 31 March in Siraha. Human rights organisations were reportedly advised to refrain from monitoring certain VDCs in the south of Sunsari district by armed groups aiming to intensify their activities in those areas. However, there was a reduction in the activity of armed group activity in the Mid-Western region, against the background of recent arrests of a number of cadres of the Janatantrik Terai Mukti Morcha - Jwala Singh (JTMM-JS).

After the failure to initiate talks between the Government and four armed groups – the Madhesi Mukti Tigers, United Janatantrik Terai Mukti Morcha, Terai Cobra and Janatantrik Terai Mukti Morcha-Rajan Mukti – groups announced a 2-day strike from 31 March to 1 April and an indefinite strike from 7 April onwards. The JTMM-JS and the Akhil Terai Mukti Morcha announced a strike and other measures aimed at disrupting the election commencing on 2 April. While reports indicate that campaigning is continuing, the threat and uncertainty that accompanies such announcements contributes to the climate of fear in which candidates and voters function. Despite these conditions the enthusiasm of voters remained high across the Terai.

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

Despite the recent restatement of commitment by the three major parties of the Seven-Party Alliance to peaceful campaigning, UNMIN and OHCHR continued to receive reports of clashes between party supporters on a daily basis. In particular, the level of assaults, obstructions and intimidation by cadres of the CPN-M remained high, particularly in hill districts, with the number of short-term abductions and detentions increasing. The many incidents involving the Maoists included the abduction of eight Rastriya Prajatantra Party members in Sindhupalchowk on 25 March; the abduction of five NC members in Nawalparasi on 26 March; the beating of Communist Party of Nepal-Unified Marxist-Leninist (UML) members in Dolakha on 26 March; the beatings of NC members in Dhading on 27 March, and a UML cadre in Dhading on 30 March; an attack on an NC candidate and supporters in Rasuwa on 1 April; and attacks on RPP and UML supporters in Chitwan on 2 and 3 April. Other recent incidents are still being investigated by UNMIN and OHCHR. In some districts, UML has now limited its campaign activities to district headquarters because of security fears. Notwithstanding this, UNMIN and OHCHR have observed campaign activities continuing without obvious problems in many districts and constituencies visited.

Incidents involving other parties most commonly took the form of clashes and disruptions of campaigning. For example, a scuffle took place between MPRF and NC supporters in Sunsari on 25 March; MPRF and Terai-Madhes Democratic Party (TMDDP) supporters clashed in Banke on 27 March; and UML members allegedly beat two NC members just after the conclusion of a NC electoral programme in Lamjung on 26 March. On 31 March Communist Party of Nepal-United supporters stabbed the Janamorcha Nepal candidate in Kavrepalanchok constituency 1.

An incident involving supporters of the NC, UML and CPN-M in Dadeldhura on 30 March was only brought under control following the imposition of a curfew by the local administration. There were reportedly 27 people injured and the NC and CPN-M party offices were both vandalised. In another serious clash, several NC and CPN-M supporters as well as police officers were injured on 31 March in Tanahun.

OHCHR investigated incidents in Pakarbas VDC, Ramechhap district, that occurred on 28 and 29 March involving the CPN-M and UML. OHCHR found that while the Maoists continued to obstruct meetings of other political parties in remote areas of Ramechhap, UML members forcibly interrupted a Maoist women's cultural group programme on 28 March; and during the evening of the same day a Maoist cadre was attacked and sustained a head injury. OHCHR has also confirmed that the following day Maoist cadres surrounded the villages in the affected VDC and seized five UML supporters for several hours. Two of the UML supporters were off-duty Nepal Army personnel who appeared to have been involved in campaign activities. OHCHR also found that the Maoists searched and entered many private houses without permission, spreading fear among local villagers who told OHCHR that they may decide not to vote due to the risk of further violence on election day. OHCHR is seriously

concerned that there will be further violence in Ramechhap as the CPN-M District-in-charge, Rajan Dahal, stated that violence against those who oppose the Maoists is legitimate.

UNMIN was able to verify that the death of Maoist district committee member Ganga Bhujel in Solukhumbu on 26 March was the result of police shooting. It appears that both the CPN-M and NC had plans to conduct programmes in the same location on 26 March and that the local administration did not take due care to ensure that competing political party rallies were not held on the same day and thus avert possible confrontation. Fights broke out between members of the two parties in which several were injured. Police accompanying NC candidate Bal Bahadur KC to the area opened fire during the clash. UNMIN was unable to find any evidence that Maoist cadres present at the site were armed with guns or khukuris, and the NC candidate appears to have engaged in attempts to disrupt the CPN-M event. UNMIN is concerned that the police may have acted in a partial manner and used excessive force. It is imperative that the authorities undertake an impartial investigation into this killing and that the leadership of both the NC and CPN-M work with the authorities to avoid further escalation of tension in Solukhumbu.

In a welcome development, OHCHR obtained confirmation that the police had initiated an investigation into the killing of a CPN-M member in Kapilavastu on 22 March. It had earlier been reported that political pressure had prevented hospital staff from carrying out a proper autopsy on the victim.

UNMIN and OHCHR have received disturbing reports from voters that candidates and political parties are planning to influence voters in a number of “traditional” ways in the days prior to polling and on election day. Reports indicate that the police have acted in a partisan manner in some districts, such as Solukhumbu and Dadeldhura. Voters have reported plans to buy votes directly through “donations” of food, clothing and other goods, or by using local leaders as brokers who will “guarantee” the votes of local communities in exchange for cash payments, as well as attempts to intimidate Dalits and other vulnerable populations into voting according to the wishes of influential landlords and local leaders. It is also alleged that there are plans to selectively prevent voters from approaching the polling centres in order to vote.

UNMIN and OHCHR are concerned by reports that members of traditionally marginalised communities face specific threats and difficulties in the electoral process. For example, OHCHR verified that three Dalit supporters of the CPN-M were beaten in Kailali on 23 March by upper-caste supporters of NC and UML who verbally and physically abused the victims, telling them that “Dalits cannot do politics”. Four people were arrested by police in relation to the incidents, but were subsequently released following an inter-party agreement mediated by police that was reportedly undertaken without any consultation with the victims. Dalit organisations in Kanchanpur claimed that Dalits have been pressured to vote for candidates supported by their landlords. In another form of discrimination, reports were received that in Siraha female candidates were not provided with adequate security by the local administration, impairing their ability to campaign freely. It was also reported to OHCHR that security was denied to Dalit Janjati Party candidates campaigning in Danusha on the grounds that the administration could only provide security to candidates travelling in vehicles.

Minors are participating extensively in campaigns organised by the three main parties, sometimes comprising up to 50 per cent of the crowds at rallies. While the voluntary participation of children in lawful political activities is acceptable, UNMIN has found that some children were paid or received other incentives to participate. UNMIN is also concerned that the natural interest of young people in politics is being manipulated, and that a disproportionate number of disadvantaged children are being targeted by party organisers. Of particular concern has been the use of children, including young children, by the Maoist Young Communist League (YCL) in rallies and election-related violence in Ramechhap and Gorkha districts. The NC has also mobilised youth for campaigning who ended up in violent confrontations, such as in the Solukhumbu incident, while the UML has been operating in schools with children as young as nine or ten years.

UNMIN and OHCHR continued to receive reports from voters, local authorities and parties themselves that the youth wings of political parties are likely to be involved in the obstruction of

political activities on election day which could heighten the risk of violence. UNMIN and OHCHR have verified reports from several districts of physical training given to the YCL, including in the use of sticks and *khukuris*, and of plans to deploy YCL with sticks on polling day. The UML is reported as planning to mobilise up to 100 youths per polling centre.

3. Monitoring of arms and armies

UNMIN's arms monitors have intensified monitoring of Maoist army personnel in the cantonments, and monitoring of the Nepal Army (NA) in the 50 new deployment sites where the NA is currently providing security.

The NA is currently deployed to 540 positions, varying from platoon (40) to battalion (800) level, including main border crossings, vital installations and main trunk roads and junctions. Some movements will be involved on election day in order to enable personnel from locations where the numbers do not warrant a polling centre to vote at polling locations at barracks.

The Maoist army remains cantoned at 28 sites, each of which will have its own polling location nearby. UNMIN has continued to carry out head counts at Maoist army cantonment sites, and all divisions and subordinate battalions/brigades have been controlled by head count once or more since 24 March. Numbers present conform to authorised strength after verification, with those on leave within the 12 per cent limit, although not all those on leave had yet returned to cantonments after the general order to do so was given.

The investigation of reports of possible breaches on the Agreement on Monitoring the Management of Arms and Armies is given priority despite the limitation of resources beyond those required for monitoring Maoist army cantonments and NA barracks and positions. In particular, UNMIN gives priority to investigating reports that Maoist army personnel have come out of cantonments to engage in political activity or reports of unauthorised movement or activity of NA units. While some reports of the presence in communities of Maoist army personnel have been substantiated and reported to the Joint Monitoring Coordination Committee (JMCC), in several cases investigations by arms monitors and civil affairs officers found no evidence to support the allegations, which in some cases may have incorrectly identified YCL or other party members as Maoist army members registered at cantonments.

On 29 March, the NA prepared to carry out military operations in response to the seizure by CPN-M cadres of two NA personnel apparently on leave in the incident in Ramechhap reported above. UNMIN expressed strong concern to the Government that the preparations were out of proportion to the incident and could result in a military confrontation with serious consequences for the peace process. Although these operations were called off after the NA personnel were handed over to the police, the matter should have remained a law enforcement issue, and in the context of the Comprehensive Peace Agreement any military operation should be undertaken only with Government authorisation. UNMIN and OHCHR have not yet been allowed to interview the NA personnel involved.

The JMCC met on 30 March and is scheduled to meet again on 8 April. The irregularity of meetings, which is due to the non-availability of Maoist army representatives, is not satisfactory.

4. Recommendations

- In the remaining final days before the 10 April election, all political forces committed to the election must work together for the success of the ballot, setting aside short-term partisan interests in order not to risk endangering the election and the peace process. The integrity and credibility of the election must stand above any other considerations.
- The CPN-M and its YCL must in the days ahead, including on polling day, cease their intimidation and interference with the democratic rights of other parties and candidates.

- The CPN-M leadership should ensure that its stated readiness to abide by the outcome of the election authenticated through the established procedures is not undermined by contradictory statements.
- All parties should end the use of State resources and influence as well as other undemocratic methods of vote-garnering.
- All parties should confirm and support the Election Commission's assurance to voters of the absolute secrecy of the ballot. Voters should cast their ballots without fear of their vote being known to anyone, and without regard to violence, intimidation or inducements.
- The Seven-Party Alliance should confirm publicly its intention to work together after the election and to reach out to the wider political forces to ensure that the future political course would be an inclusive one.
- Those opposed to the election and the goal of establishing a Constituent Assembly that aims to represent the diversity of the nation and embody the sovereignty of the people of Nepal should accept the democratic course set out by the People's Movement and be prepared to accept the will of the people. Dissatisfaction with the modalities of the election must not stand in the way of the people's right to freely participate in the ballot. Disruptive activities by various armed groups such as enforced strikes, intimidation, the threat and use of violence, including the detonation of explosives, should end. They only help to undermine and delegitimise the cause they are supposed to advance and the perpetrators. Any attempt to hamper the political process is not only ultimately futile but also carries the risk of a serious backlash.