



THE CARTER CENTER NEPAL SECOND INTERIM REPORT

November 2009

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I. Introduction

November 2009 marks the three-year anniversary of Nepal's Comprehensive Peace Agreement (CPA). Historic milestones have been achieved over the last three years; however, the promise of the peace process remains unfulfilled as yet. Many of the commitments laid out in the CPA are unimplemented or partially implemented. The major parties to the peace agreement appear increasingly mistrustful of each other, and the constituencies in favor of compromise and consensus have grown smaller on all sides. Meanwhile, those interested in abandoning the CPA commitments are speaking out more boldly than ever before.

It is in this context, that the Carter Center presents its report on public security. One of the key promises made to the Nepali people was that along with peace would come security and rule of law. Three years after the signing of the CPA, what is the reality of the security environment as perceived by Nepali citizens around the country? Which individuals or groups are responsible for causing the main security problems and what strategies are they using? How effective are police and state institutions in preventing and responding to insecurity? And finally, what are the security risks for the future and what could be done to avert these problems and improve the situation?

The first half of this report describes the security environment as perceived by citizens, parties, activists, and officials in a number of key regions around the country. The second half of the report considers "cross-cutting" security issues – issues that are relevant across the country. The final section of the report puts forward suggestions and recommendations for the future.

It is important to note that the focus of this report is confined to issues that ordinary citizens perceive as immediate threats to peace and security and which might directly jeopardize the peace process or constitution drafting process. These issues include rule of law violations such as killings, beatings, abductions, extortions, threats, intimidation, bandhs, and other similar measures. The report does not intend to address broader security issues such as the justice system and transitional justice, the security sector and security sector reform, food security, or domestic violence and gender crimes – all of which are critically important but remain outside the scope of this effort.

Since June 2009, The Carter Center has observed Nepal's constitutional and peace processes to identify obstacles and opportunities to their advancement. Following on its international election observation mission, the Center has deployed 15 long-term observers representing nine different nationalities in small teams around the country. Carter Center observers travel not only to district headquarters but also to the village level, meeting with a wide range of stakeholders including citizens, government officials, security officials, political parties, civil society leaders, human rights activists, marginalized groups, members of the international community, and others. To date, Carter Center observers have visited 50 of Nepal's 75 districts, representing the Tarai, Hills, and Mountains.

II. Notable Security Issues by Region¹

a. Eastern, Central, and Western Tarai

In the Eastern, Central and Western Tarai, the security environment is poor. Positively, public perceptions are that the security situation has been improving since early 2009. However, it remains unclear whether these improvements are sustainable.

Across the Eastern, Central and Western Tarai, citizens, government officials, human rights activists, and journalists reported that the security environment is poor, but that it has been improving since early 2009. Specifically, they note that criminal activities are still occurring; however, the rates of such activities as well as the activities of known armed groups have been decreasing in recent months. Many factors have been cited as reasons for this improvement. However, a large number of interviewees expressed concerns that the situation could easily worsen again in the near future.

Killings, abductions, threats, extortion, and bandhs² continue to be reported across Eastern, Central and Western Tarai districts. Among ordinary villagers, demands for donations from small criminal outfits, looting, and theft constitute the biggest concerns, particularly for those who live near the Indian border. The majority of extortion threats are primarily targeted at local administrators (DAO staff and VDC secretaries) and businessmen. Carter Center observers have been told that many extortion threats in recent months have emanated from small or unknown criminal outfits believed to have no political agenda. A VDC secretary in one Central Tarai district was recently abducted by a criminal outfit and now travels to and from his VDC in an Armed Police Force (APF) vehicle due to continued threats. Moreover, a large number of extortion threats by phone are reportedly being made by individuals who are alleged to be operating from Indian territory or using unregistered mobile telephone numbers.

Although reports of criminal incidents persist, it is generally perceived that the rate of incidents has decreased in recent months.³ Increased police presence, notably the establishment of new APF posts, and Nepal-India cross border cooperation seems to have had the most positive impact in curbing armed groups and general criminal activities. Citizens in Jhapa, Saptari and Siraha claimed that the presence of APF posts in some border area VDCs has helped to reduce the prevalence of incidents. A police representative in one eastern Tarai district told observers that a joint training involving Nepalese and Indian security forces was held in India in recent months, while in two separate districts there have been reports by local police saying that a number of wanted criminals who have been caught operating in Indian territory have been handed over to Nepalese authorities.

¹ The Carter Center uses Nepal's five development regions as its frame of reference in addressing issues by region. For example, when the Center references the Eastern, Central, and Western Tarai, it is referring to the Tarai districts which are located in the Eastern, Central and Western Development Regions. This definition remains consistent throughout the report.

² "Bandh" is a Nepali word meaning "close" or "shut down" and is a form of protest used in Nepal and elsewhere in South Asia to shut down activity at a particular place.

³ Data provided by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) supports this perception: across the Eastern, Central and Western Tarai, OCHA figures tracking killings, abductions, explosions, and criminal activities show that overall, the number of security-related incidents reported over the last eight months has shown a decrease from a high of 104 in March 2009 to 59 in October 2009. Furthermore, incidents have decreased by more than 25 percent in the current six month period (May to October 2009) as compared to the previous period (November 2008 to April 2009). One of the most significant reported decreases comes from the Central Tarai, where the number of abductions reported decreased by almost 75 percent from 43 in the previous six month period to 11 in the current period. These data trends indicate that a positive change in the security environment began while the UCPN(M)-led government was in power and continued under the current UML-led government.

Other factors have also reportedly contributed to the recent improvement of the security environment in different districts. For example, the government's decision in July to engage in talks with several armed groups and the splintering of some groups into smaller, less organized factions have reportedly led to a decrease in major armed group activity. A change in local administration (specifically a new Chief District Officer and/or Superintendent of Police) has been credited as a key factor in at least three Tarai districts. In Nawalparasi, a local NGO credited local government officials with reducing forced donations by "90 percent" in the past few months while human rights activists estimated that "up to 40 arrests" of armed group cadres have been made during the same period.

Of serious concern to The Carter Center are reports of alleged "encounters"⁴ which resulted in the killing of known armed group members in July in Dhanusa and Siraha. The Center was informed that in the period of one week in Siraha, Madhesh Mukti Rastriya Janatantrik leader Ram Narayan Mahato (a.k.a. "Manager Mahato" or "Sandesh") and Madhesi Mukti Tigers senior leader Parashuram Yadav were reportedly killed in "encounters" with police. Human rights activists, journalists, and others interviewed expressed serious concern to Carter Center observers that some of these incidents may constitute extrajudicial killings and the Center believes that impartial and thorough investigations of these and other reports of similar incidents is required immediately.

Despite the widespread perception that the security environment has been improving, there is concern that the progress which has been made is temporary or could be easily reversed should circumstances change. Some journalists and human rights activists believed that armed group leaders who are not engaged in talks with the government are remaining quiet, given increased police presence and recent reports of encounters, but may resurface again soon. Concerns were also expressed that armed group activity levels would increase should government talks with armed groups fall apart. At present, three rounds of talks between the Ministry of Peace and Reconstruction and representatives of armed groups have been held; a fourth round of dialogue to discuss political issues is about to begin. Finally, many believe that the activities of armed or criminal groups could spike again now that the harvest and holiday seasons have passed.

Of interest in Kathmandu and some concern to government officials and citizens in a small number districts are the activities of the Matrika Yadav-led CPN(M). Matrika Yadav is widely known among citizens, whose opinions of him ranged from positive to dismissive. Perceptions among local officials and police interviewed are that CPN(M)-Matrika Yadav is not a major security threat at present, but that he is active and capable of becoming both a powerful political actor and a destabilizing force. There are also reports that his organizational strength has become stronger over the last several months.

Thus far, the primary activities of CPN(M)-Matrika Yadav have reportedly been land seizures and demands for money from VDC budgets, businessmen, and citizens. The party is alleged to have seized land from landowners - or "re-seized" land captured by UCPN(M) cadres or armed groups - in Dhanusa, Nawalparasi, and Siraha. In Dhanusa, a CPN(M)-Matrika Yadav representative claimed the party had seized more than 1,200 bighas of land and redistributed to more than 250 persons "on a temporary basis while waiting for revolutionary land reform." TCC observers visited one VDC where land was reportedly seized and were told by one citizen that CPN(M)-Matrika Yadav was taking 50 percent of his crop harvest.

⁴ The term "encounter" has been used by Carter Center interviewees to refer to an incident in which police claim that an individual was killed in cross-fire. These claims are often called into question by human rights activists, journalists, and others.

There have been some reports that CPN(M)-Matrika Yadav is seeking to extend his organization by reaching out to other groups and recruiting PLA combatants who have left cantonments. A CPN(M)-Matrika Yadav representative in Bara told observers that the party is seeking ties with some Madhesi parties, including MJF-Madhesh, Sadbhavana Party-Gupta, and the Tarai-Madhesh Forum, as well as some armed groups, including JTMM-Goit, JTMM-Prithvi, and a group led by Ram Vilas. In multiple districts, observers were told that Matrika Yadav was seeking an alliance with his former Maoist party counterpart and current Tharuhat Autonomous State Council (TASC) leader Laxman Tharu to form a pan-Tarai movement. TCC observers have also been told of PLA combatants joining CPN(M)-Matrika Yadav, including two dozen who left the Chulachuli cantonment in Ilam earlier this year. A UCPN(M) representative in Saptari claimed that some PLA combatants - including seven or eight of which he was directly aware - have left the cantonments and joined CPN(M)-Matrika Yadav, though this could not be verified by observers and it appears that reports of large numbers of disgruntled PLA joining Yadav's faction have been exaggerated.

b. Eastern Hills

In the Eastern Hills, the security environment is fair for ordinary citizens, but poor for government officials and businessmen.

The security situation in the Eastern Hills is reported to be fair according to ordinary citizens. However threats to government officials and businessmen posed by the Kirat Janawadi Workers Party (KJWP), Matrika Yadav-led CPN(M), YCL, and Federal Limbuwan State Council (FLSC) factions have been cause for concern.

KJWP and CPN(M)-Matrika Yadav have reportedly been targeting government officials and the general public for extortion, while the YCL is active in collection donations and creating "psychological fear" in some VDCs. Within the last four months, both KJWP and CPN(M)-Matrika Yadav reportedly issued letters to VDC secretaries asking for a portion of local development budgets in Udayapur, in some cases requesting up to 200,000 Nepali rupees from each budget. In Bhojpur, reported clashes between UCPN(M) and KJWP cadres, arrests of key KJWP cadres at the national level, and the splintering of the party at the local level have reportedly resulted in an overall reduction in KJWP activity in recent months. However the group remains active in remote parts of the district. In early November, KJWP cadres allegedly issued threatening letters to school teachers in VDCs in Bhojpur near the Khotang border demanding that they give four days' salary to the group. Underscoring the threat from KJWP is that the group is alleged to be openly carrying arms in a number of remote VDCs in Udayapur and its cadres have been requesting that citizens give their small arms to the group. A civil society representative told observers that many citizens gave their weapons to police during the armed conflict for safe keeping and now KJWP is telling citizens to reclaim those weapons and hand them over to the group. At present, one KJWP faction is engaged in dialogue with the Ministry of Peace and Reconstruction and, in mid-November, signed a three-point agreement that promised future talks concerning the group's demands.

In regard to Limbu groups, citizens have reported that all three FLSC factions – one led by Kumar Lingden, another by Sanjuhang Palungwa, and a smaller faction known as FLSC-Revolutionary – have been active in requesting donations in Panchthar. It was also reported that journalists have received threats from Limbuwan cadres. When asked directly about threats by FLSC-Lingden cadres against journalists, the group's leaders claim that such actions are not sanctioned by the party. Regarding donation requests, it appears that the groups primarily seek funds from businessmen and local commodity exporters. In some cases, FLSC factions have used threatening language and imposed deadlines for making payments to press their requests; Carter Center observers were shown one such letter allegedly signed by an FLSC-Lingden representative. Additionally, observers report that FLSC cadres, as well as

persons purportedly posing as Limbuwan cadres, have been collecting donations along main roads. Such requests have reportedly been reduced recently due to regular police patrolling along the highway between Panchthar and Jhapa and other factors. It is important to note that these activities take place in the political context of a constitution drafting process which these groups hope to influence in favor of their demands, specifically the demand for a Limbuwan state. However, regardless of the justification, all of these activities themselves pose a concern for the security environment.

c. Mid Western and Far Western Tarai

In the Mid Western and Far Western Tarai, the security situation is fair.

In the Mid Western and Far Western Tarai, the security situation is fair, and reportedly more positive than in the Eastern, Central and Western Tarai. In Banke, Dang, and Kailali, armed and criminal group activity has reportedly been low and generally confined to petty crime such as robbery, with some exceptions. Incidents of threatening actions by UCPN(M) cadres is of concern in multiple districts as are reports of tax collection by YCL and Youth Force in Kailali. Additionally, the activities of two Tharu groups led by Laxman Tharu - the Tharuhat Autonomous State Council (TASC) and Tharuhat Joint Struggle Committee (TJSC) - continue to be of some concern to government officials and businessmen.

Carter Center observers received a number of concerning reports of threatening actions by UCPN(M) cadres in Kailali. In August, Maoist supporters reportedly attacked the newly-appointed chairman of a local committee – and member of an opposing political party – and have since been prevented him from taking up his post. As well, in September, local UCPN(M) representatives ordered cadres to loot paddy crops in two VDCs, telling observers that it was because the peace process was “not moving forward.” Land has been a source of conflict between Maoist cadres and landowners in Mid Western and Far Western Tarai districts such as Bardiya, where disputes over land issues - land that remains unreturned, conditionally returned, or has been newly seized by the Maoists – constitute an ongoing problem⁵. In addition, there are multiple reports of YCL allegedly extorting money from government officials and businessmen as well as both YCL and Youth Force collecting taxes from vehicles traveling along main roads in various parts of Kailali (For more on YCL and Youth Force activities please see page 11).

Meanwhile, the Tharu advocacy group TASC has formed a “peaceful army” called the Tharuhat *Sena* and has been collecting taxes using International Labor Organization Convention 169 (ILO 169)⁶ as the justification. Observers in Banke witnessed several teen-aged “tax collectors” who were soliciting taxes from trucks carrying timber and other resources along main roads. In addition, both TASC and TJSC have reportedly been blocking local tender processes on projects they believe to be against Tharu interests or sought funds from contracts that are issued. One contractor interviewed said that several contractors protested against such taxation a few months ago, but relented after TASC cadres threatened to destroy their equipment saying “we can’t take the risk.” TASC representatives claim that all of the above activities are simply pressure tactics to encourage action on the part of the government to address their concerns.

⁵ The Carter Center’s “First Interim Report” released on 26 August 2009 discusses some of the complexities regarding land issues at the local level. The Center found that while in many districts land issues were reportedly not overt sources of conflict however there were some areas in which disputes over land were a source of tension or even clashes at the local level.

⁶ ILO 169 was ratified by the Government of Nepal in September 2007, in compliance with clause 11 of the agreement between the government and Janajatis signed on 7 August 2007, and articulates new responsibilities for the government towards indigenous peoples. The government has created an ILO 169 Action Plan, which is currently pending in Cabinet, in order to bring Nepali laws and practices into compliance with the Convention. However, the Convention states that it comes into effect 12 months after the signing, i.e. September 2008 and, as a result, a very small number of organizations have begun to proactively implement ILO 169 based on that stipulation.

d. Central, Western, Mid Western, and Far Western Hills and Mountains

In the Central, Western, Mid Western, and Far Western Hill and Mountain districts across the country, the security environment is reported as generally calm, but the perception of a Maoist threat lingers in the minds of citizens as a legacy of the conflict. There are also a very small number of remote areas where Maoist cadres reportedly exert strong influence.

In most districts visited outside the Tarai and Eastern Hills, the security environment is reported to be generally quiet. The biggest problems for ordinary citizens appear to be petty crime such as robbery and theft, with some exceptions. YCL and, to some extent, Youth Force cadres are active in extorting money and making commissions on tenders, particularly in Western Hill districts. Additionally, inter-party tensions have been generally low aside from the recent Maoist black flag programs. (For more on YCL and Youth Force activities, as well as the recent Maoist protest programs, please see pages 11 and 12).

Observers noted that, despite few recent incidents of violence, the perception of a Maoist threat lingers in the minds of citizens as a legacy of the armed conflict. This is particularly the case in Hill districts that were heavily affected during the decade-long conflict. As only three years have passed since the signing of the CPA, recent statements by UCPN(M) leaders regarding another people's movement and a possible return to violence have raised considerable concern among ordinary citizens. In Dailekh, villagers were careful not to criticize the Maoists because, as one villager put it, "at any time anything could happen." The situation for other political parties in many Hill districts has reportedly improved since the 2008 CA election and major political party representatives claim that they are able to conduct party activities in most VDCs. However, these claims are largely untested as there have been very few programs or events organized by political parties during the observation period.

The security situation also appears to be mainly quiet in the Far Western Hills; however, there are remote pockets along the Baitadi-Darchula border area where Maoist cadres allegedly exert strong influence. There are reports that police posts around the border area have recently been attacked by Maoists following arguments between party cadres and police, such as in Baitadi where a clash between Maoists and police at a post in Sirkot VDC reportedly left four police officers injured. Political parties have also allegedly been prevented from conducting activities either due to threat or fear of reprisal. UML and NC representatives in Darchula district headquarters told observers that they have not felt secure to travel to a particular VDC on the border area after four NC members received direct threats from Maoist cadres. In a nearby VDC, where NC and UML party workers spoke of frequent harassment, the local UCPN(M) representative told Carter Center observers that "everyone [here] is a Maoist."

Finally, Carter Center observers report that the vast majority of ethnic-based organizations and other marginalized groups are conducting entirely peaceful activities focused on ensuring that the rights of all people are addressed fairly in the new constitution. For example, organizing activities by Gurung, Dalit, Magar, Muslim, Tamang, women's organizations, and others are largely peaceful.

III. Cross-Cutting Security Issues

a. Special Security Plan

The Government of Nepal has enacted a “Special Program for Effective Peace and Security, Ending Impunity and Protecting Human Rights, 2066 [2009-10],” often referred to as the Special Security Program or Special Security Plan (SSP). Given the recent implementation date of the SSP (August/September 2009), it is not possible for the Carter Center to assess its effectiveness. Additionally, the specific details of the plan have not been fully publicized, making it difficult to observe which trends can or cannot rightfully be attributed to the SSP’s implementation. However, the Center has received copies of the Code of Conduct to be followed by security personnel and government staff from the Ministry of Home Affairs. This document places emphasis on effective implementation of existing laws including the Local Administration Act, controlling road obstructions and serious crime, and notes that special security plans have been developed for “high priority” areas including the Kathmandu valley, the Tarai, and the Eastern and Mid-Western Hills. It also calls for an awareness campaign on the SSP around the country.

While it is unclear whether the SSP can be cited as the sole reason, since the time of its implementation observers have noted increased emphasis in selected high priority districts on clearing chakkajams⁷ and bandhs; preventing armed group activities; and increased police presence, notably through the establishment of new Armed Police Force posts. In the past few months, APF posts have reportedly been established in areas that are either considered to be “hot spots” or along main roads in proximity to areas of concern as mentioned earlier in the report. In discussions with the Center, local government officials and police have credited the plan with boosting police morale. To bolster police presence in districts with more pressing security concerns, observers report that in some cases manpower has been diverted from other districts where the security environment is generally calm.

While nearly all interviewees in high priority districts acknowledge the need to improve security, some have the perception that the SSP is unfairly targeted at them. UCPN(M) representatives in several districts alleged that the Plan was aimed at suppressing their protest programs or thwarting plans for a future mass movement. In Eastern, Central, and Western Tarai districts such as Bara Rupandehi, and Siraha, many Madhesi party representatives have raised concerns that Madhesis are being unfairly targeted by the SSP though they referenced no specific incidents of concern since the Plan was launched. Additionally, some ethnic-based organizations, notably the FLSC factions in the Eastern Hills and TASC in the Far Western and Mid Western Tarai, believe that the SSP is designed to curb their activities, though they also have not reported any specific complaints regarding police behavior thus far. One cause for concern cited by these groups is the reportedly minimal consultation with them prior to the SSP’s implementation which has, in turn, led them to be suspicious about the government’s intentions.

Many citizens living in priority districts where the SSP is being implemented had not heard of it. None of the citizens interviewed said that local officials had come to their villages to inform them about the SSP, but many noted that police vehicles are now patrolling around or through their villages. In Panchthar, radio announcements were reportedly broadcast to inform citizens about the Plan, but did not appear to have a significant impact on public awareness. In most districts, those who were aware of the Plan’s existence, generally through radio or newspaper reports, offered mixed viewpoints about its value and intentions. In the Eastern and Central Tarai, some citizens claimed that the Plan was necessary to reduce

⁷ The word “chakka” refers to a vehicle tire in Nepali. A chakkajam is a form of protest used by political activists in Nepal and elsewhere in South Asia, where a political party, organization, or community calls for all vehicle travel to be halted.

bandhs and control armed group activities - especially the latter as it has become a pervasive concern for businessmen and ordinary citizens alike. Despite a noticeably increased police presence, observers have continued to hear citizens say that more police posts are needed and complain that police do not respond fast enough when incidents occur.

b. Challenges to Police Effectiveness

In nearly all districts visited, government officials, police, and human rights activists have noted incidents of political party interference in police affairs. The problem of party interference cuts across party lines and ranges from discreet phone calls from high-ranking politicians to mass gatherings outside police stations to press for the release of party cadres. A police inspector in one Central Tarai district complained of “maximum interference” by political parties. The CDO in an Eastern Tarai district said that he has released party cadres in order to stave off gatherings outside police stations which could worsen the security situation. In Palpa, police noted an incident in September when Maoist party cadres gathered outside the police station and chanted party slogans until party cadres arrested for kidnapping were released. Police in one Tarai district claimed to be able to resist political pressure more easily in the district headquarters but said it was difficult to do so in remote areas where there is not as much manpower and direct retribution against police is of concern.

Another challenge that appears to be of significant concern in some parts of the Tarai is alleged ties between political parties and members of armed groups. In the Eastern and Central Tarai, many government officials, political party representatives, human rights activists, and citizens claimed that a number of parties either have direct or indirect links with armed or criminal groups. In one Eastern Tarai district, it was commonly stated that parties have used such groups to threaten other party activists or intimidate their supporters and, in a few cases, known armed group members who have been arrested by police have been found to be party members. In one Central Tarai district, a local government official reported a recent incident where an armed group member was caught delivering an extortion letter and was also found in possession of a party village secretary card. Charges were reportedly dropped against the perpetrator after the party discussed the matter with police.

Finally, reports of corruption have negatively affected citizen opinion of both government officials and police. Public confidence is particularly low in the Eastern, Central and Western Tarai where it is widely perceived that both are involved in corruption schemes or complicit in the activities of armed or criminal groups. Observers were told by multiple sources in one Central Tarai district that civil servant and police posts in the Tarai were “sold”, and thereafter the purchasers collude with criminal groups involved in smuggling and looting to make their money back. Human rights activists and journalists in the Eastern and Central Tarai told observers of alleged incidents where collusive members of police had reportedly called to “tip off” criminals who were about to be arrested. Some citizens interviewed in Siraha said they were reluctant to provide police with information about the activities of armed and criminal groups as the officers could be allied with armed groups.

c. YCL and Youth Force Activities

The Young Communist League (YCL) and Youth Force (YF) are active in the majority of districts visited by observers. The majority of reports concerning YCL and, to a lesser extent, YF activities have been regarding interference in contract tender processes, “tax collection” or forced donations. Clashes between YCL and YF have been reported in a few districts by Carter Center observers including Darchula, Kailali, Gorkha, Lamjung, and Myagdi.

Interference in local contract tender processes is of concern to government officials, police and businessmen in nearly half of all districts visited, particularly in Western Hill districts. The YCL is reported to be interfering in contract tender processes in districts such as Arghakhanchi, Baglung, Banke, Dang, Gulmi, Syangja, and Tanahun; both YCL and YF are reported to be interfering in Darchula, Dhankuta, Lamjung, and Makwanpur. Such interference generally includes seeking to direct tenders to party-affiliated contractors, blocking the issuing of contracts to businesses affiliated with other political parties, or soliciting brokerage commissions on contracts that have been issued. In Baglung, YCL has reportedly been aggressively interfering in government tenders and one tender was reportedly canceled because of YCL threats of what would happen should their contractor not receive the tender. A dispute among Maoist cadres in one Western Hill district reportedly ensued after the “profit” earned by YCL from brokering a zonal hospital contract on behalf of the party was reportedly pocketed by a local UCPN(M) leader.

In addition to interference in tender processes, forced donation requests and “tax collection” by YCL and, to a lesser extent, YF, have also been reported. In several Hill districts as well as a number of Tarai districts, allegations of YCL cadres soliciting forced donations were reported to observers. In one Eastern Tarai district, YCL requested a donation from the desk clerk at the hotel where Carter Center observers were staying. Meanwhile, YCL and YF have been collecting “taxes” from vehicles at the Indian border in Kailali: in October, a dispute reportedly took place between youth wing cadres after YF members tried to collect taxes in the same area as YCL. “Taxes” have also reportedly been collected by YCL cadres on the profits of smugglers and illegal loggers in Rautahat.

d. Maoist Protest Programs

During the first phase of Maoist protest programs, Maoist leaders used aggressive rhetoric when addressing public gatherings and sporadic clashes between protestors and police erupted in several districts during “black flag” demonstrations. By contrast, the second phase of protest programs had a peaceful and “festive” atmosphere, though both central and district level administrative offices were shut down and a small number of confrontations were reported. The Carter Center commends the government, the police, and the Maoists for the restraint shown during the protest programs as well as for the relatively peaceful nature of the programs to date.

Ongoing since August, black flag demonstrations against government ministers reportedly led to increased tensions in some areas, and in multiple districts resulted in clashes between Maoists and the police or other party cadres. For example, violent clashes between the police and Maoists were reported to Carter Center observers in Syangja, Rupandehi, Dang and Kailali after Maoist cadres began throwing stones at the vehicles of government ministers during black flag demonstrations. In Chitwan, Maoist cadres reportedly clashed with members of the Tarun Dal in late October when black flags were displayed at former NC Prime Minister Sher Bahadur Deuba. Multiple journalists told Carter Center observers that the clash was a “spontaneous” incident between Tarun Dal and Maoist cadres rather than a pre-meditated attack by one against the other. Maoist cadres subsequently displayed black flags at Minister of Defense Bidhya Bhandari during her trip to Chitwan in mid-November without incident. Meanwhile, in Nawalparasi, Carter Center observers were told that Maoist cadres were chased away by MJF-Democratic and TMLP cadres when they began to display black flags at a government minister in September.

During the second week of September, TCC directly observed Maoist mass rallies in Kaski, Kailali, and Doti which were also part of the Maoists’ first round of protest programs. The rhetoric used by Maoist leaders to address the audience was generally aggressive in tone and referred to the need to “fight” and “wipe out” the current government and prepare for another mass movement. Despite the aggressive language, the programs themselves were generally peaceful with no clashes reportedly taking place

between Maoists and police in any of the locations. All three rallies were observed to be well attended (approximately 2,000 in Doti and 5,000 in both Kailali and Kaski) and participants at the programs were transported from neighboring districts to Kaski and Kailali. A strong presence of school children was noted in Kaski and it was reported to observers that the Maoists had visited schools and told principals to send children from grades 8, 9 and 10 to the rally for “political education.”

During the first two weeks of November, TCC directly observed several events as part of the second phase of Maoist protest programs in several districts across the country. Maoist picketing of District Administration Offices in Kailali, Banke, Tanahu, Morang and Kathmandu districts the first week of November was observed to be entirely peaceful in nature and festive in tone with singing and dancing in the areas visited by observers. The vast majority of participants who attended the program were Maoist party members from the district or nearby districts who claimed to have received no compensation for their attendance; others in attendance included members of Maoist-affiliated groups, including ethnic, caste, and trade union wings. In each location, several hundred members were in attendance. The police presence was sizeable - approximately one police officer for every five protestors – and was appropriate and restrained. Like the protests observed at the district level, the Maoist picketing of Singha Darbar was also largely peaceful but disruptive of government functioning.

e. Reliance on “Andolans”

TCC observers have been increasingly told by interviewees in recent months about various groups’ plans to hold another “andolan” - or mass movement - in the near future to press for implementation of their demands. Local level Maoist representatives continue to use the word “andolan” with frequency and in Syangja and Baglung, Maoist cadres claimed they have been going “door-to-door” in villages to inform citizens about their upcoming plans for an andolan. In Bara, the Maoist-affiliated Madhesi Rastriya Mukti Morcha has been organizing committees and making wall paintings in anticipation of another andolan. In addition to the Maoists, several Madhesi parties have been publicly announcing planned andolans through rallies and media outlets, including MJF-Yadav, TMLP, and CPN(M)-Matrika Yadav. Ethnic-based and marginalized groups have also threatened andolans if their demands are not met in the new constitution, including Dalit, Gurung and Tharu groups.

While observers report that the constant references to “andolans” are often just rhetoric to capture government attention and motivate cadres, such language has consequences. Particularly in areas heavily affected by the conflict, Maoist threats of an andolan raise concerns among general citizens. In Dailekh, villagers who were affected by the conflict expressed their concern to Carter Center observers upon hearing about a new andolan after the holiday season on the radio. Given the fragile peace which currently exists, the large number of group who believe they will need to resort to an “andolan” to realize their demands is concerning.

IV. Conclusion and Recommendations

Three years after the signing of the CPA, Nepal remains in the midst of a challenging transition process between conflict and lasting peace. At the time of writing, the UCPN(M) has announced a third phase of protest programs to take place in December 2009 that includes protests around the country, declaration of autonomous states, and a nationwide general strike that could become indefinite. However, on 23 November the party also suspended its long-term blockade of the Legislature-Parliament – for three days only – to allow the much-needed passage of the budget, demonstrating continued capacity for compromise when urgently required. Additional hard compromises by all sides are necessary immediately to restore faith in Nepal’s fragile peace process and enable it to move forward once again.

While political leaders in Kathmandu struggle to find consensus, citizens are losing hope that their core desires – lasting peace, public security, economic development, and inclusion - will be fully realized. The Carter Center is encouraged by the improved security environment in the most troubled areas of the Tarai, but recognizes that a broad political consensus at the national level will be necessary to ensure that these improvements are sustainable and to strengthen the rule of law throughout Nepal. At the same time, it is important for Nepal to deal with the legacy of fear from the conflict and to re-establish a state presence throughout the country. Finally, the immediate challenges which currently threaten security are diverse in nature and the appropriate responses must also be. Purely criminal activities necessitate the application of the rule of law, with respect for due process and human rights, and effective law enforcement free from political interference and corruption. Activities underpinned by political motivations such as the Maoist protest programs, disputes over land, and tax collection using ILO 169 as justification are more complex, and necessitate political solutions as well involving engagement and dialogue to be addressed effectively.

Now is not the time to become complacent. Forces inside and outside the process retain the potential to block state functioning. The Maoists seemingly have this capacity around the country, though they are not currently exercising it; armed group activity could increase yet again in the Tarai; and mobilizing ethnic groups could obstruct the process if they are unhappy with the direction the new constitution appears to be heading. The rhetoric of various groups – including the Government, the Maoists, and a small number of ethnic-group leaders – is worrying, but has not yet translated into serious confrontation. What is needed most urgently is broad commitment at the central level by all sides to a set of clear general principles for strengthening public security and rule of law, as well as localized solutions to specific district level problems that differ from region to region.

The Center wishes to thank the Nepali officials, political party members, civic activists, media members, 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.

To All Parties to the Peace Process:

- **Take immediate steps to resolve the ongoing deadlock in Kathmandu to advance the peace process and enhance security around the country.** Cease all provocative comments against the peace process and in violation of commitments agreed to in the CPA as well as disruptive tactics such as blocking the functioning of the Legislature-Parliament.

- **Follow through on the commitment to form a Peace Process Monitoring Mechanism** that can investigate and report on violations of the CPA and subsequent agreements, and with the power to hold all parties accountable for their statements and actions.

To the Government of Nepal:

- **Intensify efforts to inform citizens, political parties, marginalized groups, and community organizations living in “high priority” districts about the objectives of the Special Security Plan.** Accurate information provided by local officials and police through community-level interaction programs would dispel misunderstandings and strengthen links between the government and the affected population, ultimately enhancing the SSP’s effectiveness.
- **Continue the ongoing efforts to increase police presence around the country.** In addition to current high priority districts, consider targeting areas where the reach of the state and rule of law has historically been weak.
- **Take action against individuals who commit acts of corruption.** Article 3.11 of the CPA committed signatories to holding public servants accountable for corruption. Begin initiatives to reduce corruption by selecting a few emblematic cases for prosecution.
- **Conduct detailed and impartial investigations into reports of “encounters” to ensure that police actions conformed with existing laws and international human rights standards.** The investigations should be conducted by an independent body, the findings publicized and appropriate action taken against anyone found to have violated these standards.
- **Inform the public about ILO 169 and the government’s implementation efforts thus far, and continue to take steps to bring Nepal into compliance with the Convention.** Engage in dialogue with representative Adivasi/Janajati groups and international legal experts to seek a common understanding of ILO 169. There is risk that the gap in understanding between officials and Adivasi/Janajati groups regarding ILO 169 may become a source of increased tension or even conflict.

To the Police:

- **Comply with all relevant human rights standards to demonstrate police integrity and promote public confidence.** Local law enforcement should remain actively engaged with communities, inform communities about changes in police strategies, and demonstrate and uphold commitment to due process to the fullest extent possible.

To All Political Parties:

- **Cease all political violence, extortion, and threats, in compliance with previous commitments** agreed to in the CPA, May 2006 Code of Conduct, and subsequent agreements, and take action against party cadres who violate these standards.
- **Refrain from intervention in police affairs and take action against party cadres who violate this principle.** Articles 7.1.3 and 8.1 of the CPA expressed the commitment of signatories to the upholding of the rule of law to discourage impunity and promote accountability. The persistent interference by political parties in police affairs demonstrates to citizens that parties are above the law

and unaccountable for their actions. To demonstrate a genuine commitment to ending impunity, the rule of law should be evenly applied to politically-affiliated individuals and citizens who commit crimes.

- **Promote positive youth wing activities and stop activities that threaten peace.** YCL cadres and, to a lesser extent YF, are considered to be security concerns rather than future leaders. In April 2008, the UCPN(M) and UML committed to strictly controlling impunity and upholding the rule of law in an eight-point agreement. A June 2008 agreement signed by the CPA signatories stipulated that any paramilitary functions carried out by YCL activities would be terminated.
- **Take action against party cadres who interfere in contract tender processes and extort funds from government officials, businessmen, and general citizens.** While interference and extortion threaten local government and businesses, they also threaten the country's development and could lead to substantially reduced direct investment from domestic and foreign private sectors as well as international donors.
- **Build citizen confidence at the local level by conducting multi-party activities which reaffirm all parties' commitment to peaceful and democratic competition.** Activities such as joint civic education programs or multi-party programs involving youth wings would enhance public confidence in the democratic process. Such activities could be focused on areas that were either conflict-affected or flashpoints of conflict during the 2008 CA elections.

To Ethnic-Based Organizations:

- **Ensure that agendas are advanced peacefully.** Many legitimate demands based on historical grievances should be addressed through the constitution drafting process and state restructuring debates. However, activities that are threatening or involve soliciting involuntary donations have a negative impact on the security environment regardless of their basis and may serve to discredit otherwise legitimate political concerns.