



Brief Overview of Political Dispute Resolution at the Local Level in Nepal
December 30, 2010

I. Introduction and Executive Summary

This document summarizes Carter Center observations to date on methods of political dispute resolution at the district and village level as well as the role of political parties more broadly in local-level conflict resolution. It also provides a brief overview of findings on non-political disputes and conflict resolution mechanisms.¹ Specific examples are provided wherever possible in order to illustrate broader findings. The report is intended to serve as a brief overview and background document for individuals or organizations seeking to better understand current practices on political and non-political dispute resolution at the local level.

Main Findings:

1. Serious political disputes, such as clashes between political party cadres, are most often handled directly between the political parties involved, and sometimes in all-party meetings. They are less frequently handled through the judicial system or Local Peace Committees (LPCs).
2. Budget and development-related disputes are typically handled through the all-party mechanisms of the District Development Committees (DDC) and Village Development Committees (VDC).
3. In a minority of districts visited, LPCs have helped to address a small number of disputes. With few exceptions, these LPCs have so far limited themselves to serious political disputes and have not been involved in wider efforts to address local conflicts.
4. Unified Communist Party of Nepal (Maoist) “People’s Courts” appear to no longer exist. However, some interlocutors have raised concerns that UCPN(M) cadres continue to have an outside role in dispute resolution in certain areas.
5. Although political parties often assist cadres involved in personal disputes, they do not generally appear to have a major role in resolving most disputes between citizens.
6. At the VDC and district levels, police and courts often encourage disputants to pursue mediation rather than legal action in all but the most “serious” cases.
7. A large majority of disputes do not involve political parties or party members, and most are handled largely outside of state mechanisms.

¹ For more in-depth information on public security, the police, and courts, readers are encouraged to consult several reports available on the Saferworld website: <http://www.saferworld.org.uk/search-resources.php?pubType=Report&country=8>.

II. Methodology

Between July and September 2010, Carter Center observers visited fifteen districts (two mountain, seven hill, six Tarai) with a focus on sources of local disputes and the methods of their resolution. Observers spoke with citizens, political party members, government and security officials, and civil society representatives. This report also draws on interviews conducted by observers since June 2009, when the Center began its current project to observe the peace process and constitutional process.

III. General Findings

1. Serious political disputes, such as clashes between political party cadres, are most often handled directly between the political parties involved, and sometimes in all-party meetings. They are less frequently handled through the judicial system or Local Peace Committees.

Political disputes and clashes, including those that result in injuries, are most often resolved between the involved political parties directly, rather than in all-party meetings or through judicial processes. District administrators and police, who are reluctant to expose themselves to political pressure, often encourage and facilitate political parties to resolve their internal and inter-party disputes privately. For example, in Dadeldhura in October 2010, an internal dispute between factions of the UML Youth Federation (YF) following the YF's national conference in Janakpur resulted in the stabbing of a senior district-level UML leader. Although police and administrators threatened to make arrests, they allowed the party several days to resolve the issue internally and in the end no arrests were made. Observers have noted similar examples throughout the country, and interlocutors in districts including Rupandehi, Dhanusha, and Morang noted a strong preference by parties, police, and administrators for "private" resolution of political party disputes. Additionally, in a Western Region district where political cases rarely come before the administration, the CDO told Carter Center observers that he has stalled in issuing a recommendation in a pending case for fear of "upsetting social harmony."

By contrast, in some districts serious political disputes are brought before all-party meetings called by the CDO or police. Interlocutors in several districts noted that cases that present broader risks to security in the district may be handled in all-party forums. For example, in Kanchanpur, all-party meetings and joint investigations helped settle tensions between the UCPN(M) and UML student wings following a clash at a university campus in June 2010. However, it appears that, in most districts, disputes are more often resolved directly between the political parties involved, as described above. Formal complaints or court cases, when filed, are often not acted upon, and are instead used by the political parties and administration as bargaining points in resolving the dispute through mediation.

Agreements between political parties after clashes may involve apologies, payment of medical care for injuries, compensation for property damage, and promises not to repeat such behavior. In Gorkha, a dispute over VDC-level school management committee elections in June 2010 resulted in a series of clashes that left UCPN(M) and Nepali Congress (NC) cadres injured. District leaders of the two parties declined to press charges against the others' cadres and agreed on a seven-point code of conduct to prevent future violence, although a clash the following day undermined confidence that the agreement would be respected. In Baglung, members of the Maoist Young Communist League (YCL) reportedly agreed to pay compensation to several NC cadres following a clash in April 2010.

2. Budget and development-related disputes are typically handled through the all-party mechanisms of the District Development Committees (DDC) and Village Development Committees (VDC).

Budget and development-related disputes are among the most common sources of political disagreement

at the district and VDC levels. In the absence of local elected bodies, district and VDC all-party mechanisms chaired by the Local Development Officer (LDO) and VDC secretary, respectively, manage local development expenditures.² Political parties compete for influence in these bodies, as well as for control of “users committees,” which manage specific projects. Sources of tension range from disagreements over budget allocations to allegations of corruption or misappropriation of funds. The stakes for parties can be high; numerous government, political party, and civil society interlocutors have noted to Carter Center observers that local development spending is a major source of political patronage for parties at the district and VDC levels. An LDO in the Eastern Region complained, “This is not ‘loktantra’ [democracy] we live in, it is ‘loot-tantra’.”

Political parties, through the all-party mechanisms, are the main actors that determine how local development funds are allocated and, likewise, are the major actors in resolving any disputes. Failure of political parties to reach consensus on local budget issues can lead to delays in the release of funds for development works, sometimes for many months; as a VDC secretary in Sunsari told observers, “without political consensus, development work in the VDCs is impossible.”

3. In a minority of districts visited, Local Peace Committees (LPCs) have helped to address a small number of disputes. With few exceptions, these LPCs have so far limited themselves to serious political disputes and have not been involved in wider efforts to address local conflicts.

In a minority of districts visited, LPCs have helped to address a small number of disputes, mostly conflicts between political parties. In Surkhet, the LPC became involved following a clash between UML and UCPN(M) cadres in April 2010, in which senior district leaders of both parties were injured. Political party, civil society, and government representatives praised the LPC’s role in responding to this incident and in handling a small number of less serious disputes. In Dhankuta, several interlocutors praised the LPC’s efforts to address disputes among political parties related to users committees for development projects, appointment of teachers, and school management committees – all areas that are common sources of partisan disputes. However, Carter Center observers have found that only in very few cases have LPCs worked to address the broad range of disputes faced by citizens. Rather, reflecting the strong role of political parties on the committees,³ they have focused almost exclusively on handling political or politicized disputes.

VDC-level LPCs have been formed in many districts. So far, they appear to be largely inactive, having received little in the way of instructions, training, or funding from the national or district levels. Nearly all district-level LPCs that received funding from the Ministry of Peace and Reconstruction included a request for mediation training for their members, reportedly on the suggestion of the Ministry. An LPC coordinator in the Far West believed that district-level LPC members are meant to help train VDC members in conflict mediation, and the Ministry has reaffirmed its position⁴ that addressing local-level conflict is the core of the LPC mandate.

However, instead of a focus on conflict resolution, the main focus of most LPCs has been soliciting and reviewing applications for interim relief from conflict victims. Relatively few political party interlocutors at the local level acknowledge the LPCs as having importance beyond this task. The preference of parties to resolve their disputes privately, or in other forums such as in all-party meetings, appears to have limited the utility of the LPC as a conflict-resolution body in many districts. For

² These “all-party mechanisms” are formal structures provided for in a Ministry of Local Development circular in August 2006 and intended to be interim bodies in the absence of local government elections. In contrast, the all-party meetings referred to in Section 1 are informal, and are called by the district administration or police to build political consensus on sensitive issues.

³ Although LPCs have quotas for civil society, conflict victims, and minority representatives which are filled on a formally non-party basis, observers are frequently told that in practice these positions are filled in accordance with party nominations and that most LPC members are perceived to have a party affiliation. For more on LPCs, please see the Carter Center’s November 23, 2010 report on local political and peace process trends, available online at: <http://www.cartercenter.org/news/pr/nepal-112310.html>.

⁴ Workshop hosted by the Ministry of Peace and Reconstruction, December 16, 2010.

example, in one Far Western district, the LPC coordinator and secretary both noted that conflicts in the district were being handled by other mechanisms, and that there was no need for the LPC to become involved. In other districts, partisan disputes within the LPC have limited its ability to function overall, and especially as a dispute resolution body.

4. UCPN(M) “People’s Courts” appear to no longer exist. However, some interlocutors have raised concerns that UCPN(M) cadres continue to have an outsize role in dispute resolution in certain areas.

Although there have been isolated reports in the national media about alleged UCPN(M) parallel justice mechanisms, and Maoist leaders have sometimes threatened to re-establish parallel structures, Carter Center observers have not been able to validate any such reports. “People’s Courts” appear to be no longer operative, including in Maoist strongholds. For example, all interlocutors interviewed by Carter Center observers in Rukum in November 2009 refuted a national media report that “People’s Courts” were operating in the district.

In remote hill and mountain areas, where state presence is especially thin, police often rely on citizens and local political party members to assist with investigations and, sometimes, to locate and apprehend suspects. Maoist strength in these remote locations means that their cadres often have a role disproportionate to those of other parties. Police and administration views on such “assistance” are mixed. Sometimes this assistance is welcomed by the police and is not considered to be political interference in police work; district and VDC-level officials in several Mid-Western districts have said that the assistance of political parties in regards to investigations and locating suspects is useful because of sparse police resources. In a few areas, however, especially those that are considered Maoist strongholds, interlocutors have raised concerns that UCPN(M) cadres continue to have an outsize role in dispute resolution; for example, police in a remote area of a Far Western district complained that Maoists sometimes hampered investigations, and that Maoist cadres are reportedly involved in “punishing” offenders in some districts.

5. Although political parties often assist cadres involved in personal disputes, they do not generally appear to have a major role in resolving most disputes between citizens.

Political party cadres involved in personal disputes often approach their party for assistance. As a senior district official in Gorkha said, “Political parties use pressure to influence non-political cases if their cadres and sympathizers are involved.” For instance, observers in a Western Region district documented a case in which a street vendor affiliated to a UCPN(M) union came under pressure from a neighboring shopkeeper to move her stall. A union representative mediated the case and facilitated a settlement between the shopkeeper and the street vendor. Although the street vendor was satisfied, the shopkeeper complained that he received “threatening phone calls” from the party and felt intimidated during the mediation process. Similarly, personal disputes between people of different party affiliations can become politicized when disputants mobilize their fellow party members to intervene. For example, in the Far Western Region, a reportedly personal dispute between two individuals, one associated with the NC and the other with the UCPN(M), became political when the Maoist member called other local Maoists to the police station, where discussions were ongoing.

When asked by Carter Center observers, few politically unaffiliated citizens at the VDC level cited political parties as a means of conflict resolution.⁵ More frequently, local party representatives are

⁵ Polling data from Interdisciplinary Analysts and Saferworld published in March 2010 indicates that when asked “Who do you go to, in general, in order to seek justice?” only 1 percent of respondents said political parties and another 1 percent said political youth groups. Additionally, though 67 percent of respondents reported having heard of political youth groups as a type of justice and dispute resolution system, only 4 percent of respondents reported contacting them for resolving a problem. (Interdisciplinary

called upon to help mediate disputes in their capacity as prominent citizens. Often, small disputes between citizens are resolved through the mediation of a council of prominent local residents (see Section 7, below); party representatives are frequently among the more prominent citizens, along with teachers, respected elders, and “intellectuals.” However, in certain districts, party youth wings reportedly play a larger role in dispute resolution, including for example the Limbuwan Volunteers and YCL in Jhapa and the YCL in some areas of Baitadi and Jajarkot.

6. At the VDC and district level, police and courts often encourage disputants to pursue mediation rather than legal action in all but the most “serious” cases.

Police and courts frequently encourage disputants to resolve cases privately. This is both to reduce the workload on the administration as well as out of a belief that locally mediated results are preferable to official adjudication. As one CDO said, “usually the law is set aside in hopes that a more mutually acceptable solution can be found.” Furthermore, courts are widely considered to be slow and expensive, and the backlog of cases makes timely resolution of many disputes unfeasible. Some Nepalis also hesitate to approach the legal system because they believe that the police and courts are biased toward the wealthy.⁶

In some civil cases, encouragement to avoid judicial processes is institutionalized. For example, the government has established “reconciliation centers” in some district courts; people who have filed court cases are often asked to try to resolve their disputes with the assistance of these government-sponsored informal mechanisms rather than proceed with the court case. Several civil society and government officials in Kanchanpur reported that this mechanism can resolve cases amicably and lessen the personal tensions that can accompany litigation. Lawyers and officials in some districts also noted that numerous antiquated Panchayat-era laws, which sometimes contradict both one another and more recent legislation, are still on the books, and can make it difficult to pursue some types of cases.

There are also social pressures that drive the use of informal mechanisms. As a lawyer in Palpa noted, “there is intense pressure not to take a case out of the village.” Carter Center observers overall have noted a belief that local problems should be settled by local people. Several interlocutors said that formal mechanisms may provide a legal sanction, such as a fine or imprisonment, but that they do not resolve the social consequences of the action or the underlying cause of the disputes. In Kaski, for example, several citizens noted that bringing cases to the police can create “bitterness” in the village, making informal processes preferable.

However, some human rights defenders believe that the pressure for mediation goes too far. In Siraha, one activist said “the police are sidelining too many cases.... A lot of citizens are not receiving justice.” Another felt that police were negligent in refusing to accept certain cases, including cases related to “women’s issues.” Although informal processes often may succeed in maintaining social harmony, they can also reinforce historical patterns of class, gender, and caste marginalization.⁷

7. A large majority of disputes do not involve political parties or party members, and most are handled largely outside of state mechanisms.

The majority of private disputes are handled partly or entirely through informal processes rather than

Analysts and Saferworld, “Treading Water? Security and justice in Nepal in 2009,” pp. 44, 46. Available at <http://www.saferworld.org.uk/smartweb/resources/view-resource/441>.

⁶ According to recent polling data, 42 percent of Nepalis say that the police do not treat all groups equally. Of these, 86 percent say that the police treat poor people unfairly. Similarly, 29 percent say the courts do not treat all groups equally, of which 89 percent say the poor are treated unfairly (Interdisciplinary Analysts and Saferworld, forthcoming; cited with permission). See also Interdisciplinary Analysts and Saferworld, “Treading Water? Security and justice in Nepal in 2009,” op.cit.

⁷ See, for example, the discussion of informal mechanisms in Saferworld’s paper “Justice should be blind, but is the international community’s support to informal justice mechanisms in Nepal given blindly?” (Forthcoming; cited with permission).

through administrative or judicial mechanisms. Although “serious” cases, such as murder and kidnapping, as well as certain civil matters such as divorce, are handled largely by the police or courts, a wide range of other offenses and disputes are resolved partly or primarily through informal means. Interviewees listed domestic disputes and domestic violence, petty theft, road accidents, land boundary disputes, and alcohol-fueled fights as common sources of disputes that are often handled at least partly through informal mediation.

Observers found a variety of informal conflict resolution mechanisms used in villages and municipalities. Among the most common model of conflict resolution at the VDC-level is a panel of 5-10 local “intellectuals” or prominent citizens, who hear testimony from both sides and any witnesses, and either mediate or adjudicate the dispute. Panel membership is often ad hoc; the same citizens do not necessarily hear every dispute. In addition to prominent citizens, in some VDCs the leaders of youth clubs, mothers groups, microcredit or savings organizations, and other community-based organizations are called upon to assist in mediating disputes. Observers also noted NGO-sponsored “mediation centers” operating in a small number of VDCs. Some ethnic groups have also retained traditional councils or leaders, such as the Tharu *badghar*. Police and local government officers also frequently participate in or facilitate mediation on an informal basis.

The specific mix of actors involved in mediation varies according to the preference of the individuals involved, the type of conflict, the cultural and institutional resources locally available, and local norms. Disputants often have some discretion over who will mediate the cases, and certain organizations are more likely to mediate certain kinds of disputes. For example, in Surkhet, some mothers groups offer mediation of family disputes, and district Chambers of Commerce and Industry help resolve some disputes between businesses. In VDCs where a police post is established, the police may be the first group approached by disputants and they may also play an important role in mediation, even when no case is formally filed.

IV. Conclusion

Carter Center observers have documented a variety of mechanisms by which parties and citizens address political and non-political disputes. The functioning of these mechanisms can vary by district according to local institutions, politics, and cultures. Deeper understanding of the sources of local conflicts and the methods of their resolution can assist administrators, police, and civil society in reducing the frequency of disputes and more effectively supporting the formal and informal institutions that manage them. The Center hopes that this brief report will encourage further investigation on these issues and build on the positive work already being done by a number of other organizations.

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