



THE CARTER CENTER URGES SWIFT RESOLUTION TO NEPAL'S POLITICAL DEADLOCK, ISSUES REPORT ON LOCAL POLITICAL AND PEACE PROCESS TRENDS

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Kathmandu... Mistrust among Nepal's political leaders, failure to implement previous commitments, and repeated unsuccessful efforts to form a new government pose threats to the peace process and constitutional drafting. Swift resolution to the ongoing political deadlock is needed to get the process back on track. Meanwhile, key deadlines are approaching rapidly: the U.N. Mission in Nepal is scheduled to leave in January 2011 and the deadline for a new constitution is May 28, 2011.

Given the very short timeframe, the Center urges Nepal's leaders to continue and intensify their efforts to reach a broadly acceptable negotiated solution, including a detailed and time-bound plan for the formation of a new government and resolution of key peace process issues, in particular the integration and rehabilitation of Maoist combatants remaining in the cantonments.

In support of these efforts to advance the peace process, the Center today has released a report covering key constitutional, identity group, peace process, and security environment trends across the country. The report is based on more than 3,000 interviews at the national and local levels and serves as an update to the Center's previous trends analysis published in August 2009. Main findings include:

- Citizens are increasingly disillusioned by the constitutional process and pessimistic that the constitution will be written on time. Additionally, citizen understanding of the process remains low, particularly in regards to federalism and its implications for Nepal.
- Many Adivasi and Janajati organizations appear to have become less publicly active over the past year, but as their underlying constitutional demands remain yet to be fully addressed they may increase their activities again in the future. Meanwhile, Brahmin and Chhetri groups continue to organize in districts around the country, largely in opposition to ethnic federalism. Finally, Madhesi citizens are disappointed in the lack of political progress by their leaders but continue to support the demands that fueled the 2007 Madhesi movement.
- Local-level commitments in the peace process on land return, interim relief to conflict affected persons, and local peace-building efforts have been partly implemented, though significant

challenges remain to be addressed. Meanwhile, government efforts on land reform appear to have stalled, and planned commissions such as the Commission of Inquiry on Disappearances, the Truth and Reconciliation Commission, and the State Restructuring Commission remain outstanding.

- The security environment remains poor in the Tarai, with small and unknown criminal groups increasingly responsible for insecurity. Weak law enforcement and political intervention in police affairs around the country continue to undermine the rule of law and to strengthen the culture of impunity. Meanwhile, political party youth wings continue to interfere in contract tender processes and engage in widely publicized acts of sporadic violence.

The Carter Center recommends that the Constituent Assembly, with support from civil society and the international community, increase efforts to publicize basic information about the constitutional process. Efforts should be made to inform citizens about progress to date, current debates, and sensitive issues such as federalism. As well, plans to hold a second public consultation process after the completion of the first draft of the new constitution should go forward. The government also should form the already agreed upon State Restructuring Commission.

Furthermore, the Center recommends that the UCPN(M) return land seized during the conflict found to be remaining under its control, Nepal's political parties agree on a mechanism to deal with complex land return cases, and the government initiate discussions on a common minimum program for land reform. The government also should ensure that all eligible conflict affected persons are able to access the ongoing interim relief process and that provisions are made to extend support beyond interim relief. Additionally, the government should form the Commission of Inquiry on Disappearances and the Truth and Reconciliation Commission, and ensure full compliance with human rights standards.

Finally, to prevent entrenched insecurity which could become increasingly difficult to control, the Center recommends that Nepal's authorities prosecute individuals who commit criminal activities regardless of political affiliation, and continue ongoing efforts to increase police presence and India-Nepal cross border cooperation.

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Working to build peace in Nepal since 2003, the Carter Center deployed an international election observation mission to observe the 2008 constituent assembly elections. The Center has remained in country to monitor the constitution drafting efforts and the peace process, with a focus on the local level. Read all the Carter Center reports on Nepal's peace process at <http://cartercenter.org/countries/nepal-peace.html>

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I. Introduction and Methodology

This brief report provides a general summary of key constitutional, identity group, peace process, and security trends since the start of the Carter Center's observation project in June 2009, and is intended as an update to the Center's August 2009 trends analysis report.¹ The findings noted here are based on information gathered by Carter Center observers, who have visited more than 60 districts and conducted more than 3,000 interviews with local government officials, political party representatives, civil society members, indigenous and marginalized group representatives, journalists, citizens, and international community representatives. The Center has also referenced findings from its subsequent public reports released in November 2009, February 2010, and June 2010, on the security environment, constitutional issues, and land issues, respectively. These reports offer more detailed information, including analysis, examples, figures and quotes, which are not contained in this summary report. The full text of all Carter Center reports is available at: <http://cartercenter.org/countries/nepal-peace.html>

The Carter Center wishes to thank the Nepali officials, political party members, civic activists, citizens, and representatives of the international community who have generously offered their time and energy to facilitate this report.

II. National Context

Nepal's peace process has resulted in many historic achievements, including agreement to a code of conduct, signing of a Comprehensive Peace Agreement (CPA), creation of a joint interim government and interim constitution, holding of successful Constituent Assembly elections, and a peaceful transfer of power. However, for more than one year, the process has been deadlocked due to disputes over government formation, failures of implementation on all sides, and a growing trust deficit. Partly due to this ongoing deadlock, the Constituent Assembly (CA) failed to meet its May 2010 deadline and consequently its tenure was extended until May 2011. Additionally, after seven extensions, with little concrete progress by Nepal's political leaders on the integration and rehabilitation of verified Maoist combatants and in response to the request of the government and political parties, the United Nations Mission in Nepal (UNMIN) expects to close on January 15, 2011 when its current mandate expires.

Positively, there has been some progress in the last year. Verified minors and late recruits were discharged from the Maoist cantonments in early 2010. Additionally, all 11 Concept Papers of the CA have been drafted, their "gaps and overlaps" analyzed, and a comprehensive list of over 200 outstanding questions developed. A recently created Task Force of senior leaders to address contentious constitutional issues also appears to have achieved some success, including key decisions on the judicial system in the new constitution.

At the same time, much work remains undone. Implementation of the integration and rehabilitation of Maoist combatants remaining in the cantonments is outstanding. Despite a September 13 agreement to "bring the Maoist Army combatants under the Special Committee without delay"² this process appears not yet to have been completed, and the Coordinator of the planned Secretariat has not yet been appointed. Additionally, land seized during the conflict in multiple districts has yet to be returned, land reform policies are yet to be formulated or implemented, conflict victims are yet to receive full reparations or even interim relief in some cases, and the formation of several high-level commissions, such as the State Restructuring Commission, Commission of Inquiry on Disappearances, and Truth and

¹ The August 2009 report is available on the internet at <http://cartercenter.org/news/pr/nepal-082609.html>; click on "English" or "Nepali" to read the full text.

² http://www.unmin.org.np/downloads/keydocs/Govt_Maoist_Four_Point_Agreement_13Sep10_ENG.pdf

Reconciliation Commission has not taken place. Appointments of chiefs of most of the constitutional commissions are also pending.

In the weeks prior to publication, political leaders held continuous senior level negotiations to find a resolution to the political deadlock and to begin to address a number of the issues noted above. This is a positive step and the Center strongly hopes that, despite renewed controversy, these talks will continue and will lead to concrete progress on the peace process, constitution drafting, and government formation.

III. Local Level Findings

The following local level findings are organized into four categories: constitutional issues, identity group activities, peace process issues, and the security environment. In all sections, the trends observed are listed in bold with summary explanations below.

A. CONSTITUTIONAL ISSUES

1. Citizens are increasingly disillusioned by the constitutional process, and most are pessimistic that the constitution will be written by May 2011.

Over the last year, an increasing number of citizens interviewed by Carter Center observers have been critical of the constitutional drafting process, and many currently believe that the constitution will not be drafted on time. The vast majority of citizens blame the major political parties and political leaders as a group, rather than singling out any one particular party or politician. In districts across the country interviewees complained that the parties are “only playing politics” or “only caring for the Prime Minister's seat.” Citizens largely perceive CA members and party leaders as favoring self-interest over statesmanship. Many point to the ongoing failure of political parties to agree on a prime minister as indicative of an eventual failure to write the constitution on time.

However, thus far this disillusionment with national political leaders has not resulted in a rejection of the current process. Most citizens continue to say that they see no alternative to negotiation and consensus among the major political parties.

2. Citizen understanding of the constitutional process remains generally low. In particular, there appears to be little understanding of the concept of federalism, and some citizens remain concerned about its implementation in Nepal.

Many citizens have little information about the constitutional process and a minority are unaware of it entirely. The level of knowledge among citizens appears to decrease when moving from urban centers to more remote areas, and women are often found to be less knowledgeable about the constitution than men. Although many Nepalis listen to radio news, some citizens say they have learned little from these programs apart from the fact that the constitution is behind schedule.

Observers have noted little significant change in public understanding of federalism since the Center's February 2010 report *Federalism and Constitutional Issues in Nepal: Perspectives from the Local Level*. Although political parties and civil society organizations have held some events regarding federalism, their broader impact is unclear. Even among Nepalis who have heard of federalism, their level of understanding about what federalism means in practice is often highly limited. In Rolpa, for example, observers noted that members of political parties advocating for federalism often could explain little more than the new state boundaries for which their parties were advocating. Party members, as well as a

smaller number of citizens, expressed a desire for increased, non-partisan information on state restructuring.

Without a clear agreement at the national level on how state restructuring will be implemented in Nepal, federalism can seem abstract, unclear, and even irrelevant at the local level. However, the low level of understanding leaves open the potential for misperceptions and rumors to spread rapidly. The Carter Center has already found some evidence of this spread (as detailed more thoroughly in the Center's February 2010 report) and continues to receive similar reports from around the country, particularly regarding misperceptions or concerns about ethnic federalism. In addition, some citizens express more generalized fears to Carter Center observers that federalism could create conflict in the future or that it will "divide" or "disintegrate" the nation.

B. IDENTITY GROUP ACTIVITIES

3. Many Adivasi and Janajati organizations appear to have become less publicly active over the past year, but their underlying concerns have yet to be fully addressed and activities could increase in the future.

In much of 2009, Adivasi and Janajati organizations were promoting demands for autonomous states and organizing bandhs and community meetings to raise public awareness. However, while many ethnic-based organizations remain active, the Center has observed a general decrease in the public activities of these groups. Several ethnic-based organizations such as the Tharuhat Autonomous State Council (TASC), Newa Joint Struggle Committee, and numerous other groups have been less visible over the past several months. Additionally, the small number of ethnic-based organizations that have engaged in "taxation," sometimes invoking the International Labor Organization Convention Concerning Indigenous and Tribal Peoples (ILO 169), appear to have reduced these activities as well.³

The reasons for the general decrease in activity are varied. Internal divisions and splits have hampered the functioning of some of the more active groups and coalitions. For example, Khambuwani and Kirat groups in the Eastern Hills have been beset by factionalism and some factions have become inactive. Disagreements within the Federal Democratic National Front (FDNF) caused the organization to formally split into two factions in mid-2010, which has disrupted its member organizations. The Tharuhat movement has also been seemingly fragmented after Laxman Tharu's attempt to forge an alliance with Madhesi Janadikar Forum Nepal leader Upendra Yadav in early 2010 failed. Additionally, some ethnic-based group representatives say they are waiting for political leaders to shift their focus from government formation back to constitutional issues. Seasonal factors are also relevant, as the harvest season, monsoon, and recent holidays were responsible for an overall reduction in all kinds of political activity at the local level. Finally, observers have also noted police and district administration efforts to crack down on bandhs and taxation, activities which have been used by some groups as pressure tactics over the past year.

It is important to note that although many Adivasi and Janajati organizations' public activities have decreased, the underlying issues and concerns of these groups are yet to be addressed, and prior agreements between the government and these organizations remain largely unimplemented. For these reasons, activities could increase again in the future at opportune moments, and particularly in regards to key constitutional decisions or debates. One example of renewed activity is the recent bandh held by a

³ As noted in previous Carter Center reports, the government of Nepal ratified ILO 169 in September 2007. The convention articulates new responsibilities for the government toward indigenous people, particularly in regards to their consultation on and participation in the management of natural resources.

faction of the Federal Limbuwan State Council (FLSC) in late October in nine districts in the Eastern Region to obstruct the voter registration process until a Limbuwan Province has been created.

4. Brahmin and Chhetri activists are organizing district and VDC-level committees in many districts. However, their public activities have been few, and the potential of these organizations is yet to be tested.

In its February 2010 report, the Center noted that Chhetri and Brahmin groups were emerging at the local level with the goal of influencing the constitutional debate, notably against ethnic federalism. At the time, the Chhetri Samaj had begun forming district-level committees throughout the Western Region to demand recognition of Chhetris as an indigenous group and to campaign against ethnic federalism. Since that time, the Chhetri Samaj has established district-level and VDC-level offices in nearly all districts in the Western Region. Observers have also found that the Chhetri Samaj, Brahmin Samaj, Khas-Chhetri Ekta Samaj, and/or like-minded groups have established chapters in many districts throughout the country. Although these groups are not conducting many activities at present, they are extending their organizational reach and capacity.

Brahmin and Chhetri organizations have reportedly encountered some opposition from other groups at the local level, most notably the Maoists. In Dhankuta, the Maoists reportedly pressed their cadres to give up membership in the Khas-Chhetri Ekta Samaj, claiming that, because Brahmins and Chhetris are the dominant political group, their demands should not be prioritized. In February, Young Communist League (YCL) cadres reportedly obstructed Chhetri Samaj members in Gorkha who were traveling to Kathmandu to participate in a rally opposing ethnic federalism. A Chhetri Samaj member in Gorkha said, “We expect problems from the Maoists, but we are willing to face those.”

Although the most overt opposition to Brahmin and Chhetri organizing has been from the Maoists thus far, the contrast between the platforms of Brahmin and Chhetri organizations and those of Adivasi and Janajati groups could lead to tensions in the future. The potential for tension is exacerbated by misinformation and fear; one Brahmin man in Kaski told observers he participated in a Brahmin Samaj rally because he feared he would “lose [his] citizenship in a Tamuwan state.”

5. Many Madhesi citizens appear disappointed in the performance of Tarai-based parties to date, but continue to support the underlying demands that fueled the 2007 Madhesi andolan.

Fragmentation of the Madhes movement at the national level has disappointed many citizens who supported the 2007 protests and voted for Tarai-based parties in April 2008. In Siraha, citizens and civil society members noted increasing discontent with Madhesi political leaders; supporters complained that party leaders had quickly forgotten their commitments after being elected. Disappointment is felt by some party cadres as well; for example, two Tarai Madhes Loktantrik Party (TMLP) members in the Mid-West stated that “Madhesi parties should not have joined the government. They are not doing anything from the government level and we cannot protest on the streets for our agenda since our own party is in government.” Many Madhesi citizens and party members in Banke voiced the need for the Madhes movement to reunify. “If Madhesi parties do not come together the achievements of Madhes movement will die. We must put aside our differences for a while. As long as the constitution is not written we must be together.”

C. PEACE PROCESS

- 6. Although the Maoists have returned much of the land that they seized during the conflict in the Hills, Mountains, and some parts of the Tarai, in the Mid and Far-Western Tarai there remains a large amount of unreturned or conditionally returned land.**

The Carter Center's June 2010 report, *Land Commitments in Nepal's Peace Process: What Has Been Achieved to Date?*, noted that the Maoists appear to have returned the majority of land seized during the conflict in the Hills and Mountains as well as in some parts of the Tarai. However, in the Far and Mid-Western Tarai, it appears that the Maoists have still not returned most of the land that was seized during the conflict. For example, as of February 2010, they appeared to continue to hold the vast majority of land captured during the conflict in Kailali district. There are no formal mechanisms for land return, leading some landowners to engage in informal negotiations with Maoists and tenants to regain use of their land. In these cases, local Maoist representatives have stipulated conditions that vary by case but have included: large one-time payments; provision of regular crop shares to the Maoists; retention of tenants working the land; an increased share of crops to tenants; and a pledge not to sell the land. Finally, while some landowners have approached the district administration for assistance, the majority are reluctant to pursue legal and administrative means, believing local authorities to be either unwilling or unable to address their cases. Many landowners are not willing to accede to Maoist conditions and are waiting for a political solution from the national level.

- 7. Landless people, peasants, freed Kamaiyas, and other vulnerable groups continue to expect land reform from the government, as promised in the CPA. On some occasions, these unaddressed grievances have been exploited by political actors and, in a few cases, politically-backed land occupations have culminated in violent clashes with the government.**

In the November 2006 CPA and several subsequent agreements, the government and parties agreed to work toward comprehensive land reform and other policies to, as it is stated in the interim constitution, "provide land to the economically backward classes."⁴ Although some groups have received temporary or permanent ownership of small parcels of government land, further progress has stalled, and frustration with the government remains among landless people, freed Kamaiyas, and other economically marginal rural residents.

Political parties, particularly UCPN(M) and CPN(M)-Matrika Yadav, have been using land as an organizing issue and tactic to pressure the government. Over the past year there have been several contentious, party-backed public land occupations by landless people and peasants which have culminated in open conflict. While occupations of public land have been ongoing for decades and are often tolerated by local government officials, some recent occupations have been supported or organized by the UCPN(M) or CPN(M)-Matrika Yadav for partisan purposes and have provoked violent confrontations with local authorities. The most notable example came in December 2009, when between 15,000 to 20,000 squatters from across Far and Mid-Western Nepal occupied the Dudejhari Forest in Kailali with the backing of the UCPN(M). The forest occupation coincided with Maoist protest programs promoting nationalism and from the outset appeared aimed at provoking confrontation with the government. On December 5, local security forces entered the squatter camp and set fire to the settlements, prompting a clash between police and squatters in which four people died, including one policeman. The Center's June 2010 report details cases of similar smaller-scale occupations undertaken with the political backing of the UCPN(M) or CPN(M)-Matrika Yadav in Dang, Morang, and Nawalparasi within the past year.

⁴ The Interim Constitution of Nepal (2063), Article 33 (d1)(i) available at: <http://www.ccd.org.np/new/publications/interim.pdf>

8. The process of providing relief to conflict-affected persons is ongoing, with the most progress made in issuing relief to families of the deceased. Party interference, challenges in verifying applications, weak communication with poor and marginalized communities, and limited provisions for the needs of some victims remain serious concerns.

A majority of families of people killed during the conflict appear to have received interim relief from the government. Although all other categories of conflict-affected persons appear to lag behind to some degree, positive progress has been made in the past year.

Despite this progress, multiple challenges continue to hamper the process of providing interim relief to conflict-affected persons at the local level. Many citizens do not understand the process of applying for relief or complain that it is too complicated. Because the District Administration Office (DAO) generally does not have the capacity to reach out to conflict-affected persons or investigate applications for relief in most cases, it falls to political parties or the Local Peace Committee (LPC) to facilitate this effort. At the same time, local authorities and many civil society actors continue to lament the politicization of the process claiming that conflict-affected persons who are political party supporters are being compensated while many individuals who do not have political affiliations are left without recourse. Additionally, the process of providing relief after applications have been approved is reportedly delayed by central level bureaucracy; Chief District Officers (CDOs) often say that the Ministry of Peace and Reconstruction (MoPR) is slow to release funds to the local level.

Carter Center observers also note that there is widespread expectation among conflict-affected persons that the government will provide additional support. Many local level interviewees, including local government officials, LPC members, political party representatives, civil society members and ordinary citizens, have spoken of the need for greater financial compensation and additional support, including counseling, medical treatment and skills training. Several interviewees have told observers that 100,000 rupees is insufficient for a family to overcome the loss of a primary income earner. Moreover, the funds provided for medical treatment - particularly ongoing treatment - is not considered enough by many victims. A Maoist cadre living in Kailali, who was injured during the conflict, said he had received funds for initial treatment but, although his doctor advised additional treatment, was told that MoPR would not fund it. Some individuals have also experienced difficulty trying to prove their injuries were conflict-related. A VDC office assistant in the Mid-West, who claimed to have been injured by the Maoists during the conflict, said he was unable to receive assistance for the physical and psychological trauma he suffered. He told observers he could not provide sufficient evidence he had sustained his injuries during the conflict and gave up on his efforts after contacting multiple government offices to no avail. Finally, some groups of victims, notably rape, sexual violence, and torture victims, have had particular trouble in obtaining sufficient interim relief and specialized support services such as psycho-social counseling.

9. As compared to one year ago, a larger number of Local Peace Committees are formed and holding meetings. However, LPC functioning varies significantly by district and their overall effectiveness is unclear.

In its August 2009 report, the Center noted that LPCs had been established in most districts visited but that their level of functioning varied greatly among districts. Key challenges included: inter-party disputes over LPC composition, commonly over leadership; perceived lack of support from the government; lack of funds; and lack of clarity among LPC members about their role. Over the past year, the Ministry of Peace and Reconstruction has worked to overcome some of the challenges that have hampered LPC functioning, notably by allocating funds, deploying staff to the district level, and holding regional workshops for LPC staff and selected members. These efforts have yielded some success. Between July and early September 2010, Carter Center observers visited 15 districts and found LPCs to be formed and

meeting in 12 of them. The remaining LPCs were still not formed or were inactive due to disputes among political parties over who would be the coordinator.

Most LPCs continue to see their main task as soliciting and reviewing applications from conflict victims for interim relief. However, a majority also say that they have undertaken at least some other activities. This change appears to be largely the result of a provision under which LPCs could submit activity proposals to the MoPR and in return receive a budget of up to 600,000 rupees. Many LPCs list similar sets of activities, which suggests that the MoPR issued specific guidance to LPC members and staff about possible programming. In particular, in a number of districts LPCs say that they have conducted skills training for conflict victims, run radio ads or programs, and provided conflict mediation training to LPC members.

Despite the increase in activity, the effectiveness of LPCs as local-level peace-building bodies is unclear. In the large majority of districts visited, LPCs appear to play no role in conflict resolution, and in all cases citizens are overwhelmingly unaware of the existence of LPCs, even where VDC-level LPCs have been formed. However, in a minority of districts visited, observers did find examples of LPCs working to resolve serious instances of local conflict. Interviewees in Bhaktapur, Surkhet, and Banke spoke positively of the LPC's role in specific cases. Nonetheless, the importance of the LPC relative to other formal and informal conflict resolution mechanisms was unclear. Finally, some interlocutors also express concern that political parties have overwhelming influence in many LPCs, including in the appointment of LPC members under the conflict victim, minority and civil society quotas. The admission of one LPC coordinator in the Western Region that “even all the NGO members are from political parties” echoes complaints heard by observers in many districts.

D. SECURITY ENVIRONMENT

10. The security environment in many Tarai districts remains poor, particularly in the Eastern and Central Regions. Small groups of questionable strength and seemingly without political agendas are increasingly behind criminal activities.

Despite some reports of improved security as compared to the previous year, armed group activity overall remains a serious concern in most Tarai districts, particularly in the Eastern and Central regions. Reports of armed group activities have fluctuated from month to month across the Tarai, with small, lesser known or unknown criminal groups – seemingly without political agendas – increasingly responsible for incidents of threats, extortion, IEDs, abductions, and killings. Groups such as JTMM-Singh and ATMM-Goit have reportedly been less active; interviewees believe that they are either suffering from splits or other leadership challenges, or maintaining a low profile due to increased vigilance of security forces on both sides of the Indian border.

Government officials and businessmen have been the primary targets of criminal activities in the Tarai. District administration and VDC secretaries report that extortion letters frequently carry the names and logos of heretofore unknown groups; many of these groups targeted government officials around the time of the partial release of local government budget funds in 2010. Representatives from the business community often receive extortion threats via phone calls from Indian numbers or unregistered mobile phones. A local business representative in Parsa told observers that “phones have become the arms” of criminal groups and that these threats have prompted businesses to close and dissuaded would-be entrepreneurs from investing in the Tarai.

Although the security environment in the Far and Mid Western Tarai remains better than elsewhere in the Tarai, Carter Center observers have noted an increase in criminal activity in the past six months in these

districts. Some interviewees in the Mid and Far West have noted that opportunistic individuals are exploiting the weakness or lack of state presence, and that the police often take little or no action in response.

11. Weak law enforcement and political interference in police affairs continue to undermine the rule of law.

Political parties continue to exert pressure on police to release their cadres when incidents occur, rendering local authorities unable to address political disputes. More often than not, political parties take matters into their own hands and seek to resolve such disputes outside of formal mechanisms, often with the encouragement of the police. Police in one Mid-Western district told observers in July 2010 that they encourage parties to solve party-related disputes among themselves because police intervention would probably not be effective. Police in many districts also report that their superiors appear unwilling to take any action against politically-affiliated individuals for fear of being transferred. While some party-related problems require political solutions, the lack of a police deterrent in these and other cases has contributed to a cycle of political violence and public perceptions of political parties being above the law.

The perceived nexus between political parties and armed groups in the Tarai has also undermined police willingness and ability to curb criminality. In some districts, observers have heard frequent allegations of police complicity in corruption and criminal activities; interviewees claim that police either overlook such activities or “tip off” criminals who are about to be arrested. The Center continues to receive seemingly credible reports of incidents which corroborate allegations of collusion between political parties, armed groups, and local officials. In one Central Tarai district, observers were told of a case in which a journalist received a threat from an armed group after reporting on police involvement in timber smuggling. A party representative in the Eastern Tarai cited poor pay as the incentive for civil servants to “make extra money illegally by joining hands with criminals and smugglers.” A civil society representative said the result is a climate of anarchy in which influential industrialists, landlords, and other political leaders must pay members of criminal groups for protection.

Finally, continuing allegations of police involvement in extrajudicial killings in parts of the Tarai have further undermined public and civil society confidence in the state’s commitment to the rule of law and human rights.⁵

12. YCL and other party youth wing activity remains mostly low-profile, with continued involvement in tender processes and sporadic, widely publicized violence.

In general, the YCL and other party youth wings have maintained a low public profile in most districts visited in the last five months. The period leading up to and during the May 2010 Maoist protest programs witnessed a spike in YCL activity: physical training programs, extortion and forced donation requests (from in-kind donations of food from villagers to up to 500,000 rupees from large businesses), and strict enforcement of a nationwide indefinite bandh in the first week of May. Since the May 2010 protest programs, youth wing activity has decreased. Although there have been sporadic, widely-publicized reports of violent incidents between YCL cadres and members of others parties, interlocutors in most districts report that overall youth wing activity remains much below the levels observed in the period before the CA election.

⁵ For further details, see the report of the Office of the High Commissioner for Human Rights in Nepal (OHCHR), “Investigating Allegations of Extra-Judicial Killings in the Terai,” July 2010.

Nonetheless, party youth wings, most commonly the YCL and the UML's Youth Force (YF)⁶ continue to interfere in local contract tender processes in many districts visited. Such interference generally involves directing tenders to party-supported contractors and soliciting commissions on contracts in exchange for their assistance. During visits in July and August, many interviewees in Kailali, Kanchanpur, and Dadeldhura noted that the YCL is involved, to varying extents, in activities that bring the party or individual members financial gain. Alleged activities include extortion of businessmen and smuggling of goods and resources. In Dang, YF was reported to have been involved in securing tenders on behalf of contractors and taking brokerage commissions on the deals. Competition for financial gain through tenders, taxation, and donations has created tensions between the YCL and YF in many districts, seemingly more so than political or ideological disagreements.

IV. Conclusions and Recommendations

Political deadlock at the national level has largely prevented progress on the challenges which need to be addressed at the district and VDC levels. The Center has found that citizens are increasingly disillusioned with political parties and have grown more pessimistic about the prospect of a new constitution. Additionally, local level commitments in the peace process on land return and support to conflict victims have been only partly implemented, while government efforts on land reform appear to have stalled, and planned commissions such as the Commission of Inquiry on Disappearances, the Truth and Reconciliation Commission, and the State Restructuring Commission remain outstanding. Moreover, a proliferation of alternative forces – political groups seeking to advance their agendas as well as criminal groups seeking opportunistic gains – continues to fill the vacuum created by the absence of the state in many places. While the strength of such forces is often unclear or overstated, the mushrooming of political groups is in part indicative of the fact that political parties are not adequately addressing issues of importance at the local level. Meanwhile, the increasing number of criminal groups appears in part due to the absence of the state and the inability or unwillingness of the state to take action in many areas.

In this context, the following recommendations are put forward in a spirit of cooperation and respect, and with the hope that they will provide useful discussion points for future action.

RECOMMENDATIONS:

Overall Process

- 1. Nepal's political parties should swiftly resolve the deadlock on government formation and peace process issues in order to enable constitution drafting efforts, integration and rehabilitation of Maoist combatants, and basic governance to move forward.** It is critical for a broadly acceptable political agreement to be reached on a new government, peace process issues, and constitutional issues in order for Nepal to make sustainable progress towards peace, stability, and a new constitution. Ultimately such progress is in the direct interest of all parties.
- 2. Nepal's political parties should ensure that there is a clear and widely agreed plan for UNMIN's expected departure on January 15, 2011 to facilitate a smooth transfer of relevant responsibilities.** There are now less than 60 days until UNMIN plans to depart Nepal. Efforts to achieve as much progress as possible prior to this date should be made, and a clear plan for how to address any gaps left after UNMIN's expected departure should be formulated and agreed upon. In particular, parties should agree on the future of the Agreement on Monitoring of the

⁶ Formally, the Youth Force has been integrated into the UML Youth Federation Nepal. However, in some areas the Youth Force seemingly still operates as a separate entity.

Management of Arms and Armies (AMMAA), including an alternative dispute resolution mechanism to the Joint Monitoring and Coordination Committee (JMCC) currently chaired by UNMIN, and what supervision roles the Secretariat should assume following UNMIN's departure to avoid a potential monitoring vacuum.

Constitutional Issues:

3. **The Constituent Assembly and CA members, with support from civil society and the international community, should increase efforts to widely publicize basic information about constitutional issues and the CA process. Efforts should be made to inform citizens of progress achieved, raise awareness about the ongoing debates within the CA, and dispel myths about sensitive issues such as federalism.** Increasing the use of efforts such as radio call-in programs, public debates, community dramas, and/or civic education volunteers should be considered, as well as programs aimed at opinion leaders. Additionally, targeted efforts should be made to inform citizens of planned provisions related to language, social, and cultural rights as these areas appear to be of special interest to many citizens.
4. **The CA should ensure that sufficient time is preserved in the constitutional schedule for the planned second public consultation to take place in a well-organized and inclusive manner.** The CA conducted a public consultation process in early 2009 and is expected to conduct a second public consultation after the first draft of the new constitution has been finalized. This public consultation should take place, and sufficient time, energy, and funds should be allocated for its planning and well-organized execution.
5. **The government should form the already agreed upon State Restructuring Commission to study and propose recommendations for the implementation of federalism.** The March 2010 agreement to form a State Restructuring Commission composed of lawmakers and nonpartisan experts was a positive development. Efforts should be made without delay to form the commission so that its recommendations can be taken under consideration during the constitution drafting process.

Peace Process

6. **The UCPN(M) should return land found to be remaining under its control, and Nepal's political parties should agree on a mechanism to address complex land return cases. At the same time, the government should initiate inclusive discussions on a common minimum program to implement and enact land reform.** As the Maoists have signed multiple agreements committing to return the land seized by their party during the conflict, they should implement this commitment wherever possible. Additionally, a mechanism should be agreed that would facilitate resolution of complex or disputed cases employing a range of possible solutions, including: compensation, resettlement, long-term government loans or distribution of tenancy rights where appropriate. Moreover, as the CPA states that policies for scientific land reform would be developed, parties should work towards identifying a common minimum program which could be implemented regarding land reform. Such a program could be based on recommendations of previous land reform commissions.
7. **The government should ensure that all eligible conflict affected persons are able to access the ongoing interim relief process and that provisions are made to extend support beyond interim relief, including a comprehensive reparations program in the future.** Although the process of providing interim relief is progressing relatively well, concerns have been raised that

certain groups of individuals have not been sufficiently reached – particularly those without political affiliation, those who are poor or illiterate, those living in more remote areas, and those with non-monetary needs. The Ministry of Peace and Reconstruction should ensure that guidelines for the process are clear, information about the process is well-publicized, and that there is sufficient coordination between all relevant Ministries. Moreover, it should consider expanding its efforts, in cooperation with relevant partners, to facilitate psycho-social counseling, necessary medical treatment, skills trainings, and other specialized support where needed. Finally, the Commission of Inquiry on the Disappeared and the Truth and Reconciliation Commission should be formed.

8. **The Ministry of Peace and Reconstruction should continue its support to effective LPCs based on clear criteria and assess whether it is possible to replicate the factors that have contributed to their success.** The government's commitment to LPCs should be followed through with persistent evaluation and strengthening efforts on the ground. Some LPCs have the potential to be credible peace building mechanisms, but require consistent and ongoing support to ensure their successful functioning.

Security Environment:

9. **Authorities should prosecute individuals who commit criminal activities regardless of political affiliation, including party supporters and members of youth wings, to prevent entrenched insecurity which could become increasingly difficult for any state actor to control.** The persistent interference by political parties in police affairs and unwillingness or inability of police to arrest party cadres demonstrates to citizens that parties are above the law. Of additional concern is ongoing party youth wing interference in tender processes and sporadic violent incidents.
10. **The government should continue ongoing efforts to increase police presence and India-Nepal cross-border cooperation.** Increased police presence and patrols have seemingly had a deterrent effect on criminal groups and have been largely welcomed by citizens. Moreover, India-Nepal cross-border cooperation appears to be prompting well-known armed groups to maintain a lower profile and thus seems to have reduced criminal activity.