



Say Peace First

CS Center

Conflict Study Center

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Situation Update 68 (Unedited Version)

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Nepal's CA Polls on Third Attempt and Its Challenges

CA polls were postponed two-times in the past (June and November 2006) and the third attempt, April 10, is the historic day to Nepal. As the date for CA polls is drawing closer, the activities of the contesting parties have increased. There are clashes between United Marxist-Leninist (UML), Nepali Congress (NC), Rastriya Prajatantra Party (RPP), Janashakti Party with Maoist activists in various districts. The conflict between the Maoist including UML and the NC in Dadeldhura district, far-western part of Nepal, where former Prime Minister (PM) Sher Bahadur Deuba of NC has contesting, have led to curfew for some days. In several places, the NC has claimed Maoists, particularly Young Communist League (YCL) attacks on them, while Maoists have responded that the attacks were by the people as they were out of contact with public for a long time. The quarrel between NC vs. UML, NC vs. Madhesi Janaadhikar Forum (MJF), Janamorcha Nepal vs. CPN (United), etc. are prominent at present Nepal. The JTMM (Jwala Singh), waging armed conflict in Tarai, has killed a candidate of United People's Front in Bardiya district and the same group including other violent groups are also allegedly responsible for abductions to the candidates¹, intimidation to the people not to vote for CA polls, bombing, etc. are serious concerns of security dimensions. A bomb blasted by an unidentified person in a mosque at Biratnagar has taken the lives of two-persons and left many injured.

The UML has filed a complaint at the Election Commission (EC) on breach of the Code of Conduct (CoC), mostly contending the Maoists, whereas the NC has filed to both Maoists and the MJF led by Upendra Yadav. The EC has asked clarification to four-candidate (two-Maoists, one-Nepali Congress and one-CPN-United). Similarly, as the officials denied to go to the rural areas due to poor security situation, the EC has increased their insurance to 1.5 million from one-million. In some mountain regions, the officials could not go at the polling centers due to heavy snowfalls and hurricanes. Some polling booths are one-day full walk in distances.

Prachanda has cancelled his all programs outside Kathmandu since March 29 because of insecurity. Last week, while Prachanda was addressing people at Lahan, a Nepal army-man in civilian clothes was caught with pistol and two-other was escaped. During the course of campaigning for the polls, the Maoists have lost eight of their cadres due to attacks by unidentified groups, UML and NC. On April Fool's day, a 10-pt agreement on non-attacking Each Other has been reached between the party chiefs of the Maoists, NC and UML. Most of the clauses belong to free, fair and peaceful CA elections (For details please see in the box).

The world is watching Nepal's CA polls with keen interest. The Carter Center and European Union Election Observation Mission to Nepal including many other international organizations have established their offices and initiated their activities in Nepal. Representing Jimmy Carter, his wife is arriving Kathmandu on April 7 together with observers. It is estimated that over 1,000 foreign observers will observe the polls in Nepal. Ichal Supriyadi, Mission Coordinator of Asian

10-point Agreement on Non-Attack

(April 1, 2008)

1. Non interference in each-other's election campaigns and create environment to hold the activities peacefully
2. Stop provocative expressions about other parties
3. Prevent threat, torture and mental pressure to voters; the perpetrators shall be punished by police
4. Discontinue hindrances to election campaigning by pother parties, cadres and well-wishers on the grounds that it is its base area
5. Full compliance to the CA polls CoC
6. Not allow carrying weapons of any kind to terrorize and incite others
7. Form a mechanism involving representatives of the political parties and civil society for peaceful poll
8. Set up a hotline at the district administration offices to gather information on breach of CoC and violation of peaceful election environment, and meet legal procedures to punish anyone involved in such incidences
9. Take strict measures to punish the persons involved in killings during poll campaigns
10. Form an effective monitoring committee at the central level comprised of civil society personalities to solve the present problems and free and fair election; it will also stress implementation of the 23-point Agreement on December 23, 2007.

¹ Unidentified groups have abducted the candidates Bijay Mahato of Nepal Majdoor Kisan Party in Siraha and Bhgawant Thakur an independent candidate in Dhanusa districts of central Tarai Nepal.

Network for Free Election (ANFREL) issued a press release on April 1 that there is no political will to vigorously pursue those who break the law; it is the consequence of the culture of impunity in Nepal. It is true that many individuals who have been blacklisted on public in the past are candidates for the CA polls too.

Dr. Ram Sharan Mahat besides the former UN employee remains a minister holding the portfolio of Finance Ministry for a long period from NC. In April 1998, Nima Tshering of Manang was arrested in Australia with the red-passport belonging to the then Finance Minister Dr. Ram Sharan Mahat. Amir Gurung of NC was arrested with a red passport of then Assistant Minister for Health Ram Chandra Adhikary, and former state minister Hasta Bahadur Malla of NC while trying to send three women to London using red passports, was arrested in New Delhi. The Indian authorities released Hasta Bahadur Malla after the Nepalese ambassador intervened. The Nepali Congress expelled Adhikary and Malla from the party for a period of one year. However, the NC party neither suspended nor asked clarification to Mahat, he is immune. Moreover, he is the coordinator of CA polls campaigns and is raising good fund from the industrialists and businesspersons. Some of the other NC parliamentarians who misused the passports were: Bala Bahadur KC, Mani Lama, Meen B. Khatri, Bipin Koirala, Paltan Gurung, Chinkaji Shrestha, Anis Ansari, Mahendra Dhoj G.C., Rajdev Goit, Dr. Dhruva Sharma, Ramjanam Chaudhary, Deepakjung Shah, Chakra Bahadur Shahi, Moti Prasad Pahari, Gopalji Jung Shah, Surendra Hamal, Krishna Prasad Gautam, Sushil Man Sherchan, Surendra Prasad Chaudhary and Devendra Kandel.

The UML parliamentarians were also involved in red-passport scandals, namely, Jhalanath Khanal, Iswar Pokhrel, Kashinath Adhikary, Majhital Tharu Thanet, Dana Lal Chaudhary, Jhalanath Khanal, Ishwor Pokharel, Dev Shankar Poudel, Bhim Bahadur Rawal, Himanchal Bhattarai, Ram Nath Dhakal, Birodh Khatiwada, Jagrit Prasad Bhetwal, Mitharam Sharma Bajagain, Lila Shrestha (Subba), Nil Bahadur Tilija. Keshab Lal Shrestha, Hemraj Rai, Jagat Bahadur Bogati, Dev Bahadur Poudel, Ram Lakhan Mahato and Hikmat Bahadur Shahi were from ML (splinter of the UML). Ravindra Nath Sharma, Khovari Raya, Dr. Prakash Chandra Lohani and Rajiv Parajuli were from the Rasriya Prajatantra Party (The Nepal Digest: March 10, 1999).

The passport issue was denounced in all quarters and there was great public pressure against impunity. However, no report was issued nor any action taken against these MPs. INTERPOL informed the government that more than 40 Nepali MPs had misused red passports whereas Regmi's report stated that 50 MPs were implicated. The government formed a three-member commission led by Sri Kant Regmi, special secretary of the then Ministry of Home for investigation, the report is yet to be public. The most remarkable part is that all the names mentioned above are being candidates for CA polls. The NC, UML, etc. have been campaigning for the CA polls similar to the regular previous parliamentary elections. Does Nepali believe that such members (if they are elected) would constructively and creatively work for the new constitution? Does Nepali be lucky enough to build a new Nepal from them?

The CoC and Election Observation (EO) are the critical agendas for these days. It has been found that some EOs who have received the permission for observation have breached the CoC. The essential qualifications for EO are refrained from membership of any political party, at least SLC graduate, not standing as a candidate for election (direct or proportionate) and possess Nepali citizenship. However, many of the EOs designated by different organizations have been accredited license by the EC, which do not fulfill the above criteria. Dr. Arju Deuba, the ex-PM Deuba's wife who is a candidate for NC's proportionate list has received a license through Socialist International. Similarly, Tara Nath Dahal, Chief, the government owned news agency RSS (Rastriya Samachar Samiti), has received an EO license. Arju's license has been recently cancelled by the EC. The Article 29 of the Election Commission Act stipulates that the EC could fine upto NRs. 100-thousand and cancel his/her candidacy. However, no such actions have been taken yet.

On minutely assessing the International EOs, we get four types of them: First, the UNMIN, EU, Jimmy Carter, etc. seem honest to observe the CA polls. Second, few are involving to review/develop their future policies and strategies to Nepal after CA polls. Third, some are trying to stop to ascend power by any means to communists. Last, others have not analyzed the Maoists as legal force, but moreover tag them terrorist, 'wish' for protracted conflict in Nepal so that long-term strategy to deal with India and China could be developed and played from Nepal, as Nepal lies at strategic-geopolitical location of both. The second and the third types would report that Maoists have rigged the booths and there was no free and fair election if they won and the election was free, fair and peacefully held if the Maoists are defeated. Similarly they are trying to create wide rifts between the communists; not let them unite and to reach the State power. The national EOs seems to work clandestinely for making grounds to have the parties they are affiliated with win rather humanitarian grounds.

Prachanda claimed that UML and NC are puppets of India and USA and he added that it will be the defeat of India and USA if UML and NC are defeated. They are not UML and NC, but they are India and USA (Kantipur Daily: April 3, 2008). Matrika Yadav, Minister of Forest and Soil Conservation stated that India has granted 70 million Nepalese currency to NC to defeat them. It is evident that there are two lines of thought of the Maoists for the CA polls: hold the government reins if they get votes as they expect and if not organize the people for people's revolt against the State. British Ambassador to Nepal Dr. Andrew Hall said, "This is an historic opportunities... who comes first and who comes second in the elections is secondary." Indeed, there are both possibilities: win or loose. The Maoists should accept the result if it faces defeat

quantitatively; it is its success qualitatively – in the sense that the country has adopted the agendas it has initiated and raised since a long.

Either the CoC has been violated or the attention of the CoC has been attracted in the following points:

- The publicity materials should be in 75 grams paper of 180 sq. in
- The language for the election campaign should be respectful and dignified
- No posters should be posted or distributed, and wall scribbling and banner hoisting is not allowed
- The demonstrations/processions and gatherings should not restrain public mobility
- Other political parties should not create obstacles to the processions or meetings of any other party
- The marchers in processions, participants of meetings and vehicles for propaganda for election campaigns should carry flags of 10X18 inches
- No two parties should organize processions on the same road and rallies on the same venue
- No public speaking system should be used except informing the masses for rallies
- Either two light vehicles or two horses could be used for campaigning; the EC should be provided information of the vehicles/horses in prior
- No threat or force should be used against any candidate or obstruct his/her campaigning or shut him/her
- Any critique should only be limited to the policies and programs of the concerned party; not over individual
- The public officials, Ministers and opposition leaders should not use the public occasions for election campaigning
- The officers and personnel designated for polls, observation personnel, security personnel and voluntary EOs should not engage in campaigning in favor or against any political party/candidate
- The information and news broadcast/publication should be unprejudiced and objective, including candidate/party; etc.

There are a lot of challenges for free and fair election in Nepal. Similarly, there is concern over the acceptance of the results of the polls. The efforts of the Indian Communist leaders to adjustment of seats between UML and Maoist for the polls through Foreign Minister Sahana Pradhan (as she returned from a program in India) have been in vain. The donor agencies and international communities who did not contribute enough for peace process and development activities in transitional period have opened their purses wide for EOs. It is worthy to note and regrettable that the EC/government has the lack of monitoring mechanism of the large hoard of EOs. The members of the political parties who participated in designing the CoC have been violating it. Who can guarantee that the CA or any resolutions for instance New Constitution they pass will not be violated again?

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