



Say Peace First

CS Center

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Situation Update XVI

Another Milestone for Peace: Army and Arms Management in Nepal

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On November 28, 2006 Government talks team coordinator and Minister of Home Affairs, Krishna Prasad Sitaula, and Maoist talks team coordinator, Krishna Bahadur Mahara, signed the long awaited and controversial "Agreement on Monitoring of the Management of Arms and Armies " (AMMAA) in the presence of the United Nations representative.. The Agreement was reached after six days of intense negotiations, two days late according to the original deadline. The Agreement was handed over to Jan Eric Wilhemson, Military Advisor to the UN mission in Nepal, to be sent to Ian Martin, the Personal Representative of the UN Secretary-General, at the UN Headquarters in New York.

The **preamble** of the AMMAA consists of four provisions: (i) to guarantee the fundamental rights of the Nepali people to take part in constituent assembly elections in a free and fair environment without fear; (ii) to declare the beginning of a new chapter of peaceful democratic governance, ending the 11-year long armed conflict, to accomplish, through the constituent assembly, sovereignty for the Nepali people in the form of a progressive political outlet, a democratically restructured state, and social-economic-cultural transformation; and (iii) to fully observe the terms of the bilateral agreement witnessed by the United Nations; and (iv) to seek UN assistance in monitoring the management of the arms and armies on both sides by UN civilian personnel by confining the Maoist Army (MA) combatants and their weapons within designated cantonments and monitoring the Nepal Army (NA) to ensure that it remains in its barracks and its weapons are not used.

The Development of Arms Management

The initiation of the peace process in Nepal took place long before the seven months' period after the People's Movement II. The 12-point agreement between SPA and Maoists (SPAM) in New Delhi was signed on November 12, 2005, recognizing CPN (Maoist) as a political force instead of terrorists, whose goal was to end the absolute rule of the king and restore peace, democracy, and social justice. The 25-point Code of Conduct of May 26, 2006 reinforced the effort to affect a non-violent solution to the ongoing conflict. The 8-point Agreement of June 16, 2006 recognized two ruling authorities – the old governed by SPA and the new governed by the Maoists. The 5-point Agreement requesting UN Assistance on August 9, 2006 placed both the NA and MA on the same footing. The recognition of the Maoists as one of the principal actors and democratic forces brought forth the historic 6-point Political Agreement of November 8, 2006 and the Comprehensive Peace Accord of November 21, 2006. All these documents identified Army and Arms Management as a high priority:

The **12-pt Understanding**, stipulated placing the armed Maoist force and the royal army under the supervision of the UN or some other reliable agency and to conduct the CA elections in a free and fair manner.

Similarly, the **8-pt Accord**, mandated UN assistance in the monitoring and management of the armies and arms of both the government and the Maoist sides as a means to ensure free and fair election to the CA.

The **5-pt Agreement**, called for UN Assistance in three key areas relating to Army and Arms Management: to monitor compliance to the code of conduct by both the sides during a truce; to monitor and verify the confinement of Maoist combatants and their weapons within designated cantonments; and to monitor the NA to ensure that it remained in its barracks and its weapons were not used for or against any side

The **25-point Code of Conduct** had several points relating to Army and Arms Management. The first was not to mobilize, display or use armed forces in a manner intended to spread fear and terror among the people. The second prohibited either side from attacking or destroying each other's military or security installations, laying down mines or engaging in ambushes, recruiting new people to their military, and spying on each other. The third stipulates against participating in public meetings, conferences or other political activities in combat dress or carrying arms.

The **6-point Political Agreement** and **10-point Comprehensive Peace Accord** focused on democratization and restructuring both armies for Free and Fair Constituent Assembly Elections. And specified special measures for both armies as follows:

- **Maoist Army:** The Combatants are to be confined in 7 main cantonments and 21 satellite cantonments (three around each main cantonment). Arms and ammunition are to be placed in the cantonments under a single lock with the exception of those needed for the security of the cantonments; the key to be retained by the Maoists. The UN team will monitor the entire process with electronic devices, including sirens. Food and supplies for the MA in the cantonments are to be provided by GoN. The Interim Council of Ministers (ICM) shall form a Special Committee for supervision, management and rehabilitation of the combatants whereas the security management of the Maoist leaders is to be done in consultation with GoN
- **Nepal Army:** The NA is to remain confined into their barracks. Their arms are not to be used against any side. In addition, a number of arms and ammunition proportionate to that of the Maoists are to be stored in secure place under a single lock with the key retained by the Army. The entire process is to be monitored by a UN team with electronic devices, including sirens. The new Army Act would provide for the control, management and mobilization of the army. An

extensive Action Plan for democratization is to be formulated by the Interim Council of Ministers through a process of political consensus incorporating suggestions by the concerned committee of Interim Parliament. The NA would continue its security services to the international borders, conservation parks, banks, airports, electricity, telecommunication, central secretariat and VIPs

Army and Arms Management Design of the AMMAA

The First Cantonment is situated at Chulachuli in Ilam and includes Biplap-Srijana Smriti at Danabari, Ilam; Ratna-Shakuntal Smriti Tandi Morang; and Chintang-Sukhani at Yangshila, Morang. The Second Cantonment is situated at Dudhauri in Sindhuli and comprises Bishal-Kumar Smriti at Tribeni, Udaypur; Rambriksha Smriti at Kalijore, Sarlahi and Solu-Salleri Jana Kalyan at Sindhuli. The Third Cantonment is situated at Banepa, Kavre and consists of Basu-Smriti at Tinchowk, Kavre; Bethan Smriti at Namobuddha, Kavre; and Pratap Smriti at Kamidanda, Kavre. The Fourth Cantonment is located at Chitung Danda at Palpa consists of Paribartan Smriti at Thulokot, Kaski-Tanahun; Basanta Smriti at Tingire, Palpa-Arghakhanchi; and Krishna Sen Smriti at Jhingamara, Rupandehi. The Fifth Cantonment is located at Dhawang, Rolpa and consists of Mangalsen First at Tila, Rolpa; Jawahar Smriti at Chaupatta, Dang; and Dirgha Smriti at Holleri, Rolpa. The Sixth Cantonment is situated at Dasrathpur, Surkhet comprising Jeet Smriti at Dasrathpur, Surkhet; Ghorahi-Satbariya at Lek Pharsa, Surkhet; and Pili Smriti at Kalyan, Surkhet. The Seventh Cantonment is located at Lisne Gam at Masuriya, Kailali; Bahubir Yoddha at Sahajpur, Kailali; and Lokesh Smriti at Chisapani, Kailali. The strategic location of the Maoists are evident through their concentration in the Central and Mid-western Regions, the latter is the place of initiation, origin and base of Maoist People's War whereas the former rings the capital.

The tripartite AMMAA stipulates seven points: (i) Modalities of agreements, (ii) Reporting and Verification, (iii) Redeployment and Concentration of Forces, (iv) MA Cantonments, Barracking of the NA and Arms Control, (v) Compliance with the Agreement, (vi) UN Mission, and (vii) Miscellaneous.

The aim of the Agreement is to establish the authority to conduct routine patrols to prevent illegal trafficking of weapons, explosives or raw materials for use assembling weapons at the international borders. It also restricts the recruitment of children younger than 18 years into the armed forces, which is good news for all of us, as children clearly ought not be the targets of recruitment efforts. If those under 18 are released from the cantonments an accurate estimate underage individuals serving as Maoist combatants will be obtained. This will also shed light on the frequent allegations in the newspapers that the Maoists abducted children to serve in their army. If this turns out to be the case, it will be seen that trainees have replaced senior MAs for the CA elections. These trainees will receive both political and physical training inside the main/satellite cantonments. Surprisingly little has been said about the timing of the implementation of the AMMAA. Many critical issues can only be resolved by the new cabinet and that cabinet cannot be formed until a new constitution is in place. Despite the wording of the Accord which states that both sides are committed to creating a government record that identifies public and private buildings, land and other properties that were seized during the last 11 years so they can be returned to their rightful owners immediately this will prove impossible without the presence of the U.N.

A Joint Monitoring Coordination Committee (JMCC) will be formed to monitor, report and coordinate the agreement. The JMCC will be chaired by the UN Mission with two deputies each from NA and MA. Joint Monitoring Team (JMTs) comprised of UN, NA and MA representatives will assist the JMCC at the local level. There will be 30 weapons maintained for the security of each of the main cantonments and 15 for each satellite cantonments. Equal number of arms of the NA shall be stored. Arms and munitions will be stored inside white boxes surrounded by a solid fence. Monitoring will be conducted by CCTV. The NA shall continue its responsibilities and the military and semi-military posts at checkpoints and transits will be dismantled. The NA is permitted engage in armed exercises whereas the MA is not. The control, mobilization and management of the NA is to be done according to the Army Act of 2006, which is in contradiction to JMCC. The Interim Council of Ministers shall form a Special Committee to supervise, integrate and rehabilitate the MA. The combatants enrolled prior to signing of the Code of Conduct on May 26, 2006 shall be deemed as members of the MA and confined to its cantonments.

There is provision to train the NA on democratic values and human rights in an effort enhance its democratic and inclusive character. There is no such provision for the MA. Physical fitness, qualification, and status are necessary qualifications to join the NA, but ideological commitment is the primary qualification to join the MA. The integration of such diverse armies is not an easy task. The number of arms for MA cantonments is fixed whereas there is no such commitment for MA security. What will happen if there is a coup d'etat? This is a very crucial question. How secure will the Maoist leaders be? As a whole, the AMMAA takes a liberal stance toward the NA but is more restrictive toward the MA.

Conclusion

The Political Agreement signed in the early morning of November 8 and the Comprehensive Peace Accord signed on November 21, 2006 mark a new era for Nepal and Nepalis. These agreements have had positive effect on the Indian government its people. For example, Mohan Vaidya, alias Kiran, and CP Gajurel, alias Gaurav, will soon be released. The former was charged with operating Maoist activities in India and the latter with possession of a fake passport by the Indian Local Police. Although the Courts dismissed the charges a few months back, the local police held both but the charges have been withdrawn by the State Government. They entered Nepal at 9.30 pm yesterday through Kakarvita and arrived in Kathmandu on December 1, 2006. The news of their release has created tensions within the CPN (Maoist). Neither of these high ranking leaders were involved in or even informed of the peace process beginning with the meetings at Siligurhi (India), Rolpa and extending through the Comprehensive Peace Accord and the AMMAA. Back in Nepal they must be reintegrated into the Maoist fold and they may not be pleased with some of the steps taken in their absence. Further, some of the influential leaders and deputy commanders, who have adopted a wait and see policy regarding the peace process, have been waiting for them. Kiran is widely believed to be the brain behind the Maoist philosophy and the least tainted of the Maoist leadership. There were three strong forces during the Popular Movement I (1990): Nepali Congress, United Left Front and the United National People's Movement in which the former two stood for Multi-Party Democracy with Constitutional

Monarchy; whereas the latter endorsed the provision of a Constitutional Assembly (CA); the CPN (Maoists) the then CPN (Mashal), led the latter forces. Kiran, the then Secretary General of the CPN (Mashal) resigned when his proposal for CA elections failed and his position was vacant for many months. Ultimately it was filled by Prachanda¹. Gaurav played vital role in propagating and building networks for People's War throughout the world.

In an effort to strengthen the bilateral relationship between India and Nepal, Pranab Mukharjee will visit Nepal on December 17, 2006 to invite PM Girija to attend the 14th SAARC Summit. In addition, Shiva Shankar Menon, Secretary, Ministry for Foreign Affairs, India just completed a three-day visit to Nepal. This was his first visit to Nepal as the Indian Secretary. These relationships would be further strengthened Indo-Nepal treaties and agreements were revised in every 10 years in the interest of the people of both nations.

Pressure from the rank and file, sister organizations, nationalities, Dalits, and civil society recently led Prachanda, speaking at a forum organized by Extensive National Democratic Republic Front on November 29, to say that their goal is to form a new Federal State guaranteeing regional and ethnic/linguistic autonomy in lieu of the Unitary Central Government, a goal that has been temporarily postponed until after the CA elections. He also said that although he favored a proportional representative system of election, a mixed proportional representative model was the outcome of the recent negotiations leading to the Accord. He said the King worked actively to ensure the failure of the CA elections and claimed that the *Terai Janatantrik Mukti Morcha* (who split from the Maoists two years ago) was supported by the palace.

This kind of behind the scenes manipulation of the political landscape is not new in Nepal. Ram Chandra Paudel, Secretary General of the Nepali Congress, has commented that one has only to go to Nirmal Niwas (King Gyanendra's Palace) to find Maoists who are currently leading the Peace Secretariat as architects of the peace process on behalf of the Government of Nepal (GoN). The PM Girija Prasad Koirala observed, "The Maoists, who have been waging terrorist activities in the country, are supported by the Royal Palace and sheltered in India." Responding to the PM, Madhab Kumar Nepal, Secretary General of CPN (UML) said, "Not just the Royal Palace and India, but also the Nepali Congress is behind the Maoist insurgency." (Pathak: 2006:1) Both leaders have played a significant role in designing the peace process. BP Koirala, the elder brother of Girija Prasad Koirala, was the first advocate for CA elections in Nepal 56 years ago. The then King, Mahendra, father of King Gyanendra, delayed the CA elections and refused to allow them to be held. BP Koirala bowed before the King, against the demands of the people, and participated in the first general elections. He became the PM, but was sacked two years later and a party-less absolute monarchy reigned for the next 30 years. There is a risk that history may repeat itself 56 years later, as the story in the box below illustrates.

Nepali army and police personnel posted in seven places (Bangladesh, China, India, Pakistan, UK, USA and UN/New York) around the world Attachés are still information King rather than of Foreign The DIG, Deepak the the AIG/Intelligence, Shah, are very King, and have their posts in the Peace Accord signed. These not report to the because their bureaucracy is The Attachés in and Pakistan during the King's There are the GoN to

Controversial Decisions on Promotion to Army Personnel by the Cabinet of Ministers

The Cabinet meeting held after a long time, on November 27, 2006 for half an hour decided to promote some of the infamous senior army personnel. Among the lucky ones included Dilip Sumsher Rana (leader of the Bhairab Nath Battalion responsible for disappearance of 49 persons at the end of 2003/for more see UNOHCHR report of May 2006) promoted to Division Chief, Toran Bahadur Singh (Assistant Army Secretary to the King) promoted to Division Chief, Dhana Bahadur Sah (pilot for Royal Palace) promoted to Full Colonel, Dilip Rayamajhi (son of Ex-President Standing Committee of the Privy Council assigned in UN Peace Keeping Mission at Congo) promoted to Mission Chief, Sharad Neupane (disclaiming the disappearance at Bhairab Nath Battalion and who has not undergone Defense Training) promoted to Major General of Finance, Raj Kumar Khadka (Colonel of Royal Palace) promoted to Full Colonel, etc.

The Ministers from CPN (UML), Jana Morcha Nepal, and even from Nepali Congress present at the Meeting opined not to promote the blacklisted army officials for gross violations of human rights during Popular Movement II. However, the PM, became asthmatic upon hearing opposition to the motion for promotion. Dr. Bhagwan Koirala, cardio surgeon, was called urgently when he was performing funeral rituals of his mother in Palpa, far away to the west from Kathmandu. Narendra Bikrm Nembang, Minister for Law and General Secretary to NC, also supported other Ministers. Bhoj Raj Ghimire, Chief Secretary of the Cabinet, also requested to reconsider the proposal to promotion. However, the motion was approved upon the instructions by the PM.

(Source: *Jana Aastha*, Vernacular Weekly, November 29, 2006)

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Rabindra close to the remained at India even after has been Attachés do Ambassador position in the higher than his. Bangladesh were appointed active reign. pressures on assign Military

Attachés to Russia and Sri Lanka. All of them were appointed without consulting the Maoists. These examples illustrate the active influence of the King (*Nepal Samacharpatra*: Vernacular Daily: November 30, 2006).

On the other hand, Dr. Baburam Bhatrai told *Jana Aastha* (November 29, 2006), "The protracted People's War has not ended, but only its armed form." He has vowed to continue it, albeit in a peaceful form. In reality, the Maoists have adopted the peace process as an offensive strategy, initiated three years ago. The Maoists have entered into another form of struggle by accepting multi-party competitive democracy and peaceful means. By entering the parliament, they are trading the battlefield for what the Nepali people see as a dirty political game not a problem-solving body.

The AMMAA is silent on issues related to the Militia that has worked closely with the Maoist PLA. If we consider CPN (Maoist) as a vehicle, the PLA is its engine and the Militia is its wheels. The Militia has with the PLA in all their past military actions. The PLA was stationed at specific locations in their impact areas, whereas the Militia was spread throughout the countryside in small rural units, i.e. wards in the Village Development Committees. Tasks, like collecting and extorting donations, communicating party policies to the people, assisting the People's Courts, providing security to local leaders, and espionage activities were conducted by the Militia. They possess local made and small arms. And, they have problems sustaining themselves in the countryside. The failure of the Peace Accord to address the Militia has real implications for achieving overall peace. The Militia has been left out in the provisions to integrate the MA and NA. The earlier Maoist

¹ For more see: Pathak Bishnu, 2006, *Politics of People's War and Human Rights in Nepal*

proposal to combine the Militia and police for security during CA elections was not included in the Peace Accord and Arms Agreement.

The GoN spends 20-25 percent of its annual national budget for security. But, there is no provision for salary to MA. One issue worthy of consideration is whether the MA should be paid salaries and other benefits in addition to rations as is the case with the Nepali Army. The UN mission is in Nepal to monitor the MA and their Arms along with the Nepali Army and their Arms. UN Mission officials are highly paid for their work creating a potential for imbalance between those doing and those being monitored. This may not be the most conducive situation in which to attain peace. The implementation of the Peace Accord is as crucial a concern as the signing of the agreement. This issue must be considered by not only the political actors and the UN Mission, but also by the civil society and donors. As Martin Luther King Jr. reminded us, "Injustice made everywhere is a challenge to justice everywhere."

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