

Nepal at the Crossroads
**Testimony of
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Subcommittee on Near Eastern and South Asian Affairs**

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It is a pleasure to appear today to discuss the rapidly evolving situation in Nepal, and I would like to thank the Chairman for his interest in a topic that has often slipped below the radar screen for many in Congress and the public.

Democracy and the people have spoken in Nepal. While I do not want to dwell on the specifics of how democracy came to be restored in Nepal, I do think there are a number of important lessons that we need to carry forward as we look at the immense challenges that lie ahead for Nepal and the international community in the search for a durable peace. First and foremost, for a U.S. perspective, we need to understand that for many Nepalese, democracy was seen as a hard won victory secured not *because* of American leadership, but *despite* American involvement.

Rightly or wrongly, U.S. diplomacy was seen as tilted heavily in favor of King Gyanendra, the Royal Nepalese Army and a military solution to a Maoist insurgency that has claimed close to 13,000 lives. While the State Department would certainly object to this characterization, and I agree that the administration's approach should be regarded with some nuance, it is important to understand that the political parties in Nepal have not always had an easy experience with U.S. diplomacy. That said, I think Assistant Secretary Richard Boucher, for whom I have great respect, has done a very good job of setting a different tone since assuming his new post and during his recent visit to the region. His sense of initiative has been tremendously useful in getting our relations with Nepal back on better footing.

I think it is also important to note that the widespread street protests in Nepal were not just people mobilizing against an autocratic monarchy. I also believe very much that this was an expression of popular will for a credible peace process. There was widespread dissatisfaction among Nepalese, and even lower ranking members of the Royal Nepalese

Army, that the king did not respond positively to an earlier unilateral ceasefire by the Maoists or by the agreement between the Maoists and the seven major political parties. If you travel in any village in Nepal, it is abundantly clear that this is a war that will need to be settled by negotiation not force. But let me be clear: this does not necessarily mean that the Maoist insurgents are truly committed to peace. Instead, it means that the people of Nepal and its political parties believe, as do I, that it high time to thoroughly test the willingness of the Maoists to enter a serious and well-structured peace process and return to mainstream democratic politics.

Looking forward, Nepal faces immense challenges. The country is trying to simultaneously manage a fragile coalition government, navigate a three-way peace process, provide sufficient security that elections can be held and politicians can operate openly – all the while managing an inclusive, sweeping and entirely new process for rewriting the constitution. This would not be an easy feat in the best managed of countries, much less one that is still reeling from years of war, underdevelopment and exclusion.

This also makes it all the more vital that the major players in the international community speak with one voice. We have urged that the United States, India and the United Kingdom form a Contact Group to cooperate on key implementation issues to support peace and democracy, and feel that such a coordinated approach is more important than ever. While generally moving in the same direction on policy, the U.S, India and the UK have at times struggled to fully harmonize their positions, placing a greater burden on a Nepalese political system that is already straining at the limits of its capacity.

There are a number of important practical steps that should be urgently taken by the international community. Obviously, international involvement is conditioned upon such support being desired and requested by the legitimate government of Nepal. Fortunately, there is every indication that the Seven Party Alliance government is eager for such international support as long as it does not trod on its sovereignty and is designed in a sensible and limited fashion. In that spirit, I think we should probably not talk about the international community mediating a peace process, rather an international approach that offers specific technical support and expertise to help Nepal move forward.

International leadership will be particularly crucial in helping design and deploy and international ceasefire monitoring mission in conjunction with the government of Nepal. Having seen first-hand how the 2003 ceasefire between the Royal Nepalese Army and the

Maoists crumbled under the weight of suspicion, distrust and mutual provocation, it is absolutely essential that a modest monitoring mission be deployed to help report on incidents when they occur, engage the concerned parties and prevent small incidents from snowballing out of control. This need not be a large or heavily armed mission, but it does need to be nimble and it does need to have sufficient reach to get into the countryside.

It may well be most appropriate to expand the existing UN Office of the High Commissioner for Human Rights (OHCHR) operation in Nepal to tackle this task in conjunction with the government. OHCHR enjoys a very good and rightly earned reputation in Nepal for its work, and its presence in the field since it has been deployed has made a considerable impact in curbing human rights abuses. This monitoring presence would assist with supervision of Maoist and government forces, and would be a logical precursor to efforts that would be necessary as Nepal explores possible disarmament and demobilization proposals as part of a potential peace agreement.

There may well be roles for other UN agencies as we move forward, as well as individual governments. In each case I think it is most important that we carefully define the mission, call on those actors who can provide the specific technical skills most in need and avoid efforts that would imply outside actors were being given a central role in political functions better decided by the Nepalese.

The second area that is ripe for international support and assistance is in the realm of the constituent assembly. The constituent assembly has long been a goal of the Maoists, and the restored parliament signaled its intention to move forward with a constituent assembly as one of its first acts. While the phrase “constituent assembly” has often been repeated as mantra, there is considerable cloudiness about how this process will work. Certainly, the idea of having some sort of constitutional convention is welcome, and the existing constitution was essentially negotiated in smoke-filled rooms late at night. Given Nepal’s crippling legacy of exclusion and discrimination based upon caste, class, gender, ethnicity and region, a more inclusive constitution should be the foundation upon which a stable polity is built.

However, tremendous work needs to be done to carry off a constituent assembly effectively. Deciding, essentially from scratch, what type of government and electoral system would best serve Nepal is a complicated question, and international donors and experts can provide a great service by helping Nepalese educate themselves about the pros and cons of the different models of governance. This is not the proper forum to

debate the relative merits of issues such as proportional representation, first-past-the-post balloting or set asides for women and ethnic minorities. However, this debate must take place in Nepal, and given Nepal's limited and sometimes troubled democratic experience, it would greatly benefit all those involved if they were given exposure to such alternative models or could discuss them with parliamentarians living under such systems.

The actual conduct of the constituent assembly is another area that calls for the preparation of significant groundwork. By almost all estimations, a constituent assembly would require either the elections of delegates to prepare and debate the constitution or, at the very least, public ratification of a constitution once prepared. In any case, Nepal has not conducted a free and fair election in a number of years, and political parties need genuine assurances that security on the ground has truly improved for them to feel comfortable discussing politics and platforms in remote areas.

The United States, and its likeminded allies, can also play a key function in maintaining the momentum for peace. Nepal, and its people, have both been through a lot. The more quickly they see improvement in basic "breadbasket" issues, the more likely peace is to stay on track. Development and humanitarian assistance can help consolidate the peace and open up space for economic development. It would also be helpful if international financial institutions gave their highest priority to promoting macro-economic stability rather than forcing through ambitious reform proposals at a time when a slightly wobbly coalition government is poorly positioned to deliver on such reforms. It is important that we remember that the new government is fragile and interim. Its legitimacy is based on popular support for a peace process and democracy; it is not a full-fledged government with legislative and governance capacities.

Several other steps would also be very useful for the U.S. government to embrace:

-- There should be no resumption of lethal military assistance to Nepal until the Royal Nepalese Army is fully under civilian government and such aid is requested by a democratic government. Any resumption of U.S. military aid that did not meet these basic criteria would be seen as a dangerous and provocative measure by the Maoists and many mainstream politicians.

-- Channel all contacts through the civilian government, with engagement with the military predicated on concrete steps being taken to operationalise democratic control.

Offer the government practical expertise on civilian oversight of the military, including through the budget process and oversight of senior appointments.

-- Maintain pressure for the full and transparent investigation of human rights abuses, including unresolved cases of forced disappearance, and for adequate sentencing of those convicted, while acknowledging that transitional justice is a sensitive national issue that will be best resolved as part of the peace negotiations.

-- Develop practical assistance plans to build politicians' and civil servants' professional management capacities.

The greatest enemy of a lasting peace in Nepal will likely not be the Royal Nepalese Army, politicians or the Maoists. Instead, the greatest enemy of the current peace process will probably be delays, misunderstandings and logistical headaches on the ground. It will be bureaucratic snags in donor headquarters and in prolonged discussions about ceasefire monitoring or election observers. It will be resentment among citizens, soldiers and guerillas that the dividends of peace have yet to materialize. This need not be the case.

There is no time to rest upon the laurels of the inspiring and heroic outpouring of support for democracy in Nepal. It is time to roll up our collective sleeves and tackle the hard work that remains.

For recent International Crisis Group reports on Nepal see: www.crisisgroup.org

Nepal: From People Power to Peace?, Asia Report N°115, 10 May 2006.

Nepal's Crisis: Mobilising International Influence, Asia Briefing N°49, 19 April 2006.

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