

19

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Nepal
A Failing State or a State in Transition?

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CONTENTS

I. Defining Failing States	2
II. Implementing the Peace Process	4
III. Trouble in Terai	13
IV. Other Human Security Issues	19
V. Is Nepal a Failing State?	22
VI. Bibliography	27

I. Defining Failing States

When Nepal made the initial transition to democracy in 1990, euphoria swept the nation as the autocratic partyless *panchayat* period came to an end. However, as the new system failed to deliver greater economic opportunities and change in politics, disillusionment and antipathy towards the state began to grow. It was within this context that the decade-long civil war would ultimately flourish which crippled Nepali infrastructure and many rural communities in the former Himalayan Kingdom.

While a ceasefire between the government and Maoist rebels was reached in November 2006, the security dynamics in Nepal remained fragile and extremely volatile. As a result, the *Fund for Peace with Foreign Policy* magazine has ranked Nepal among the twenty five failing states in the world for the last three years and is deemed to be 'on alert' for potential collapse.¹

The modest intention of this essay is to question the above assertion that Nepal is a failing state. To this end, it shall firstly outline the broad definition of failing states. Secondly, it will offer an overview of the key security problems which face Nepal and offer solutions to deal with them effectively in the future. Following from this, the paper shall analyse the current security dynamic through the prism of failing states provided by the *Fund for Peace/Foreign Policy*. Using this evidence as well as incorporating key literature on failing states, the essay shall critique the claim that Nepal is a failing state; and in doing so, will finally offer some conclusions about the usefulness of creating indexes such as the FSI as a basis for comparison between so-called 'failing states.'

"Failed" or "failing states" is a highly diffused and contestable concept. Indeed, it

is often used inappropriately by scholars and policy makers, who often replace "failed" or "failing" state with other descriptions such as 'poorly performing,' 'fragile,' or 'weak,' which are conceptually vague and cause huge difficulties when it comes to analysis.² Nevertheless, the term failing state has gained currency in the international security discourse since the end of the Cold War. It has also become particularly prominent in guiding US national security and foreign policy after the terrorist attacks on 11 September 2001 and subsequent wars in Iraq and Afghanistan.³ As Francis Fukayama states, "in the wake of America's recent experiences in reconstructing Afghanistan and Iraq, it should be abundantly clear that state weakness and failure is the single most critical threat to US national security."⁴

Despite the plethora of opinions, which has sought to describe the term, several common themes run through most descriptions of failing states.⁵ Broadly speaking these conceptions pivot around the description that a failing state is one which "can no longer perform its basic security, development functions and that has no effective control over its territory and

²Daniel Thürer, "The "failed state" and International Law," *International Review of the Red Cross*, No.836 (December 1999): 732, <http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList314/438B7C44BDEAC7A3C1256B66005DCAAB>

³ Mark Berger and Douglas Borer, "The Long War: insurgency, counterinsurgency and collapsing states," *Third World Quarterly*, Vol.28, No.2, (2007): 197-198

⁴ Francis Fukayama, "On the Brink: Weak States and US National Security," *Report for the Commission on Weak States and US National Security* (June 2004), http://www.cgdev.org/section/initiatives/_archive/weakstates

⁵ For other definitions see USAID, OECD, www.oecd.org or the US Commission on Weak States, http://www.cgdev.org/section/initiatives/_archive/weakstates

borders.”⁶ More specifically such states have conceded the “monopoly on the legitimate use of force, the erosion of legitimate authority to make collective decisions and...the inability to interact with other states as a full member of the international community.”⁷

Consequently, the *Fund for Peace* in accordance with *Foreign Policy* magazine has produced a Failed States Index (FSI) since 2005 which ranks every recognised state in the world according to twelve indicators, marked out of ten, such as demographic pressures, uneven economic development along group lines or the widespread violation of human rights.⁸ Since 2006 it has named Nepal in the bottom twenty five failing states in the world as well; and on first glance, the world’s newest republic does appear to meet such criteria of failing states outlined by the Index.⁹ Given the Index is highly respected and that it encapsulates the key features of most descriptions of failing states, for the purposes of this essay, I shall analyse the security situation in Nepal through this prism.¹⁰

⁶ Crisis States Research Centre, “Crisis, Fragile and Failed States Definitions used by the CSRC”, Crisis States Workshop, LSE, London, March 2006, <http://www.crisisstates.com/download/drc/FailedState.pdf>

⁷ See Appendix B for other FSI indicators.

⁸

http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=102&Itemid=327#5

⁹ Ibid.

¹⁰ The World Bank has produced a ranking system which stresses economic stability as criteria for weak states – as it has found a positive correlation between poor economic performance and instability – consequently redefining fragile states as Low-Income Countries Under Stress (LICUS) which exhibit “weak policies, institutions, and governance.” See http://www.worldbank.org/ieg/licus/licus05_map.html. Similarly, The *Vision for Humanity* has generated the Global Peace Index which generated a list of weak states, but due to a lack of adequate or reliable data, has not included Nepal. See

<http://www.visionofhumanity.org/gpi/results/rankings/2008/>

II. Implementing the Peace Process

Although Article 146 of Interim Constitution stipulates the rehabilitation and integration of former People's Liberation Army (PLA) soldiers verified by the UN Mission in Nepal (UNMIN) into the Nepali Army (NA)¹¹, the amalgamation of the two security forces continues to be an elusive goal. On the one hand, the Communist Party of Nepal [Maoist] (CPN-M) demands a full integration of the 19,602 qualified combatants into the NA, while on the other, the NA refuses to admit any politically-indoctrinated soldiers from the PLA into its forces. And although both sides have adjusted their dogmatic line since their initial stalemate after the 2006 ceasefire, both in private and in public, a resolution has not been forthcoming. Over the last few months a Special Committee, consisting of two members of the CPN-M, with one each from the UML and the MJF, has been formed to facilitate amalgamation. However, this process has been in limbo ever since the Nepali Congress (NC) pulled out of the committee and would only join if its Terms of Reference were altered.¹²

There are several key sticking points over the amalgamation. The first issue is to do

with control.¹³ As one analyst said, "it's not about the soldiers: it's about the future generals"¹⁴ Who will have the top jobs? Will they be divided amongst the ruling coalition's political parties like the current government? Secondly, the NA is concerned about morale within its ranks, should the PLA be integrated into the army. Many PLA are farmers who are poorly educated and do not have adequate military training.¹⁵ What is more, the NA and PLA were sworn enemies for over ten years during the civil war. Therefore, how can soldiers with different levels of training and discipline and who have been shooting at each other for over ten years, be expected to unite and fight along side each other? Finally, the current standing army is too inflated and expensive to sustain for a country as poor as Nepal. However, downsizing of the army is bound to have another negative impact on the morale within the NA, as well as those PLA and NA who are released by their respective armed forces.

Yet the Army's resistance to the admission of politically-indoctrinated soldiers to maintain the "a-political stance" of the NA is unjustified.¹⁶ The army has always been a political body for years as it was closely allied to the monarchy during the civil war.¹⁷ Rather, the NA does not want to relinquish the unprecedented autonomy it has enjoyed

¹¹ The Maoists sent 31,000 PLA to the military cantonments who were subsequently screened for their eligibility by the UN on account of two criteria: firstly, they had to have joined before 25 May 2006; and secondly, they had to have been born before 25 May 1988. After two screening processes, 19,602 were verified as meeting the criteria (15,756 men and 3,846 women). For more, see *The Interim Constitution of Nepal 2063 [2007]*, (United Nations: Nepal, 2008), http://www.undp.org.np/constitutionbuilding/constitutionnepal/constitutionfile/Interim_Constitution_bilingual.pdf

¹² "Ruling coalition fails to court NC into special committee", *nepalnews.com*, 2 December 2008; "NC acting Prez warns against 'wholesale' army integration", *nepalnews.com*, 13 October 2008, www.nepalnews.com

¹³ Prashant Jha, "Army Amalgamation: The integration debate is not only about numbers, but control," *Nepali Times*, 24-30 October 2008, <http://www.nepalnews.com>

¹⁴ Author's Interview with Manish Thapa, The Asian Study Centre for Political & Conflict Transformation, Kathmandu, 7 November 2008.

¹⁵ Author's Interview with Major-General Ashok Mehta, India International Centre (IIC), New Delhi, 29 October 2008.

¹⁶ "Army detached from politics," *nepalnews.com*, 22 September 2008, <http://www.nepalnews.com/>

¹⁷ Lok Raj Baral, "Introduction," in *Nepal: New Frontiers of Restructuring of State*, ed. Lok Raj Baral (New Delhi: Adroit, 2008), 4-5

over recent months – indeed, it is the only military force in the world that receives directly from the UN rather than being channelled through government apparatus.¹⁸ Its lack of accountability can also be seen by the fact that no one in the Army has been brought to justice over the gross human rights violations it committed during the civil war.¹⁹ Nepal's ethnic diversity has also been historically underrepresented amongst the NA's cadres. This criticism not only emanates from the Maoists, but from groups such as the Madhesis, who demand to see a more open, democratic and accountable army leadership which has for too long been monopolised by *paharis* at the exclusion of other minorities.²⁰ The Army, therefore, needs to change.

Having said this, the NA feels a merger of the two armed forces is an attempt by the CPN-M to gain an upper hand over the military.²¹ It would be grossly naïve to assume that the Maoists fought a decade-long civil war without any aspiration to gain some control of the armed forces.²² As a result, rather than allowing group entry of former PLA into a single battalion, those verified PLA who are integrated – and they will have to be – will be scattered around other battalions in the NA.²³ Various

¹⁸ Jha, "Army Amalgamation", 24-30 October

¹⁹ See HRW, "Waiting for Justice: Unpunished crimes from Nepal's armed conflict", (USA: HRW, September, 2008),

http://www.hrw.org/sites/default/files/reports/nepal0908web_0.pdf

²⁰ R. Chalmers, "Nepal's Security and Strategic Prospects: IPCS Seminar Report", IPCS, (Delhi, 5 November 2008)

²¹ D. Kumar, "Nepal's Future: Order in Paradox," *AAKROSH*, Vol.11, No.40, (July 2008): 28

²² "Govt forms Land Reform Commission," *nepalnews.com*, 10 December 2008.

²³ Jha, "Army Amalgamation", 24-30 October

²³ Contrary to other security issues, internal Maoist divisions between dogmatic and pragmatic cadres are not particularly pronounced over army amalgamation. Divisions are only likely to occur if numbers of those who are eventually integrated are drastically less than hoped for or anticipated.

Author's interview with Major-General Ashok Mehta, India International Centre (IIC), New Delhi, 29 October 2008

alternatives for those PLA who do not make the grade have also been suggested over recent months. Other ideas have included making former PLA into a "social army"²⁴, which would help with development and rebuilding infrastructure programmes, a border security force or an armed police force. Whilst these are important suggestions, which demonstrate the political and social imagination of Nepali politicians when they cooperate, some PLA have to be rehabilitated and sent back to their villages. However, their reintegration will be an extremely hazardous exercise. Having been subjected to Maoist propaganda and hollow promises from the Maoist leadership during their incarceration in military cantonments for several years, these former PLA are bound to be angry and disillusioned. Thus, it would be extremely dangerous to allow these personnel to roam Nepali villages without any effort to rehabilitate them, who would be vulnerable to the rapacious clutches of the militarised Youth Communist League (YCL) or rising number of armed groups throughout the country.

Whilst debate over army integration is indispensable, discussion has taken too long and all too often descended into the Kathmandu-centric bickering, which haunts Nepali politics. A committee needs to be formed quickly that demands that all parties involved be flexible. The CPN-M's leadership has suggested that there would be a referendum over the amalgamation of the NA and PLA if the Special Committee was unable to reach a decision – something that the Nepali Congress (NC) has manipulated to delay the process.²⁵ The NA, NC and dissident voices in other parties need to accept that the CPN-M has been given a political mandate by the people and their demands for integration cannot be ignored. Yet the CPN-M must also accept that they

²⁴ "Defence Minister Thapa talks about developing NA as 'social army'", *nepalnews.com*, 1 October 2008, <http://www.nepalnews.com>

²⁵ "Maoist leader opts for referendum on army integration if there's no consensus", <http://www.nepalnews.com/archive/2008/nov/nov02/news08.php>

cannot have a separate army in a multiparty electoral system, and must make every effort to dissolve the PLA and provide adequate rehabilitation for those who are not integrated.

Other than the amalgamation of the two armed forces, the drafting of the new constitution is the most pressing task which confronts the peace process. However, as with integration, writing the constitution has been a painstaking exercise. The formation of a committee to draft a new constitution was concluded over six months after the elections in late October 2008 - a process continually hampered by endless squabbling, particularly over the right of political parties to use whips on their members.²⁶

Federalism: Ethnic versus Geography?

There are several key tensions within the constitution writing process. The first is the debate over federalism. Given that the Interim Constitution has committed Nepal to a federalist structure, the question is not whether Nepal will be federal, but what shape its federalism will take.²⁷ While these can, broadly speaking, be defined as either ethnic or geographical conceptions of federalism,²⁸ such categorisations are too simplistic. For instance, consider the position of the Madhesi movement. Major political parties such as the Madhesi Janadhikar Forum (MJF), Madhesi intellectuals and civil society leaders argue

²⁶ "Whip dispute mars formulation of CA regulations," 5 November 2008, <http://www.nepalnews.com/archive/2008/nov/nov05/news12.php>

²⁷ Andreas Follesday, "On Federalism, Ethnicity and Human Rights in Nepal", in *Facets of Federalism – a Nepalnews Discussion*, http://www.nepalnews.com/archive/2008/jul/federal_interviews.php

²⁸ "Geography should be the first basis for federal division of the country: Tripathi," 25 July 2008; "Ethnicity-based federalism is a must: Dev Gurung", 13 July 2008; "Current zonal-based federalism will be more practicable: NWPP leader" See *Facets of Federalism – a Nepalnews Discussion*, http://www.nepalnews.com/archive/2008/jul/federal_interviews.php

for a three-state federal structure based on the mountain, hill and plain geographical regions of Nepal.²⁹ However, while they argue federal states should be created along these boundaries, they conceptualise a unified, Madhesi race that would live harmoniously in the Terai should they be granted regional autonomy. Therefore, Madhesi perceptions of geographical-based federalism are also rooted in their perception of ethnicity.

Similar to the debate over army amalgamation, the variety of opinions would appear to be a positive indication of a thriving democracy. However, the burgeoning role of ethnic, caste and religious identities in Nepali politics, especially since the *Jan Andolan II* in 2006, has led to a proliferation of historically marginalised ethnic groups declaring their desire for regional self-determination, or even secession, within the new federal framework.³⁰ However, these are often in conflict with one another. Although the Limbuwans in the far east³¹ and the Tharus in the far and Midwest³² shall be discussed in greater details below, it is important to note that they are two increasingly prominent groups who desire regional autonomy, yet whose desired states

²⁹ Nepal Election Portal, *Summary of MJF Manifesto*, (April 2008),

<http://www.nepalelectionportal.org/EN/political-parties/partydetails/madhesi-jan-adhikar-forum-nepal.php>. Also Author's interview with Abdul

Satar Ansari, Muslim civil society figure, Madhesi Intellectuals Society, Biratnagar, 10 November 2008; Author's interview with MJF Biratnagar Youth leader, Rangali, Morang, 11 November 2008; Author's interview with Rajendra Prashad Sah, senior MJF and civil society leader, Sava's Inn Hotel, Biratnagar, 12 November 2008; Author's interview with Jay Ram Yadhav, MJF activist, MJF City Headquarters, Biratnagar, 12 November 2008.

³⁰ International Crisis Group (ICG), "Nepal's Troubled Tarai region", Asia Report N°136, 9 July 2007: 9

³¹ "Nine eastern districts reel under Limbuwan bandh", *nepalnews.com*, 30 November 2008

³² "Tharuhat Liberation Army is formed", *nepalnews.com*, 4 November 2008, <http://www.nepalnews.com>

transcend geographical boundaries which include districts in the Terai. How would federalism appease these competing agendas?

What is more, how do *paharis* fit into this paradigm? According to the MJF, once Madhesi/Terai autonomy is achieved, the top jobs in politics, banks, the police, the army and so forth – which have previously been dominated and over-represented by the *paharis* – will be distributed amongst various ethnic and caste groups relative to their population in the Terai.³³ Yet what will happen to those *paharis* who have been made unemployed?³⁴ Furthermore, if Madhesis argue that their people are poorly educated because they have been marginalised from development in Nepal for so long, can they ensure Madhesis who take these jobs will be qualified to fulfil them satisfactorily? And what about the numerous ethnic or religious minorities other than the Tharus and the Limbuwans, such as Muslims, Dalits or Kimbuwans? Quite legitimately, they argue that they have also been marginalised or oppressed by the state for centuries and thus, will demand recognition in the new constitution and/or federal arrangement of Nepal. Therefore, whilst ethnic federalism is a powerful rallying cry and in the short term a tempting political option, in practice and in the long term, it is fraught with danger.³⁵

Conversely, ethnic grievances also render geographical federalism a tricky option. It has been shown how splitting Nepal along its physical geographic boundaries could, and probably would, result in conflict

³³ Author's interview with Rajendra Prashad Sah, senior MJF and civil society leader, Sava's Inn Hotel, Biratnagar, 12 November 2008; Author's interview with Jay Ram Yadhav, MJF activist, MJF City Headquarters, Biratnagar, 12 November 2008

³⁴ Prashant Jha, "Save the Madhes," *The Nepali Times*, 12-18 December 2008

³⁵ "Constitutional experts say ethnicity-based federalism won't work", *nepalnews.com*, 26 January 2009; K.M. Dixit, "Ethnicity based federalism will invite division," *nepalnews.com*, 11 July 2008, <http://www.nepalnews.com>

between Madhesis and ethnic groups such as the Tharus who do consider themselves to have a different identity. There are very few natural boundaries between certain ethnic minorities as most regions of Nepal are ethnically, deeply heterogeneous.³⁶ What's more, if Nepal is split up into federal units along geographical lines, then who determines control over certain physical geographical features which transcend regional boundaries? For instance, if a dam needs to be built for hydroelectric power in either the mountains or the hills, who pays for it? If the dam needs to be opened, this could potentially cause flooding in the plains. So whose authority does it ultimately fall under – the state, the hill or Terai federal government?³⁷ Furthermore, under recent agreements between Kathmandu and New Delhi, Nepal will also supply a substantial part of northern India's growing energy demands.³⁸ Therefore, how will external relations with India affect, or be affected, by federalism?

Land Reform

There are also pressing land reform issues. Article 19 of the Interim Constitution states that all Nepali citizens have a right to private property.³⁹ Furthermore, both the CPA and seven-party agreements (SPA) stipulated that. However, "compensation for victims...and return of property seized during the conflict"⁴⁰ remain unfulfilled objectives of the peace process. Thus, land reform has been almost non-existent until now. The CPN-M has exploited the

³⁶ See "Nepal National Population Census, 2001", Central Bureau of Statistics, 2001, Kathmandu, <http://www.cbs.gov.np>

³⁷ Author's interview with Manish Thapa, Asian Study Centre for Political & Conflict Transformation, Kathmandu, 7 November 2008.

³⁸ "Taskforce to review 1950 Treaty to be formed: Joint Statement", *nepalnews.com*, 1 September 2008 <http://www.nepalnews.com>

³⁹ *The Interim Constitution of Nepal: 2063 [2007]*, (United Nations: Nepal, 2008), 115

⁴⁰ U.N. Security Council, *Secretary-General Request of Nepal for United Nations assistance in support of its peace process*, (U.N.: U.N., 24 October 2008), [S/2008/670], 5

ambiguous phrase “unjustifiably” seized property in the CPA in order to stall the return of private property acquired during the civil war.⁴¹ Another key problem is the lack of data available. Records of purchase and ownership are extremely limited, having either been destroyed in the conflict or never having existed at all. Therefore, the newly formed Land Reform Commission in December 2008⁴² is going to have huge problems in returning land to its owners.⁴³

Party Politics

Finally, intra and inter-party politics will once again play a hugely significant role in what shape the constitution will take. In particular, is the importance of internal division within the CPN-M’s leadership. Rival dogmatic and pragmatic factions exist over how the Maoists will achieve their ultimate goal of a people’s republic.⁴⁴ For instance, suggestions made by Bhattarai over whether Nepal should pursue a goal towards a federal or people’s republic agenda led to the postponement of a Maoist cadre’s conference for several days last month that have once again severely tested internal relations.⁴⁵ Land reform, a central aspect of

any Communist government, is also going to challenge the ability of Prachanda to appease dogmatic factions within the party’s leadership. What is more, the potential for instability and ideological tensions between the Maoist’s cadres has become more acute after the unification over the CPN-M and Masal.⁴⁶

Yet other political parties, and in particular the NC, have also been unhelpful. Whilst the NC are not within the government and cannot be accused of being a fifth column, their decision to sit in opposition and be obstinate to the ongoing political process has proven troublesome. The NC argues that the CPN-M is not committed to multi-party democracy and has expressed reservations over the alliance between the United Marxist-Leninist (UML) and the Maoists in various political committees.⁴⁷ As a result, the CPN-M has become increasingly frustrated at not being able to create a consensus and has threatened to pull out of the government over the writing of the constitution and army amalgamation⁴⁸; and if some dogmatists had their way, it could lead to a Maoist faction returning to the jungle and the gun, a possibility which has been made more likely in the wake of the more orthodox and revolutionary Masal’s inclusion into the CPN-M.⁴⁹ Obviously, this would be

⁴¹ D. Kumar, “Nepal’s Future: Order in Paradox,” *AAKROSH*, Vol.11, No.40, (July 2008): 30

⁴² “Govt forms Land Reform Commission,” *nepalnews.com*, 10 December 2008, <http://www.nepalnews.com/archive/2008/dec/dec10/news11.php>

⁴³ Author’s interview with Prashant Jha, Lalitpur, Kathmandu, 4 November 2008

⁴⁴ The description ‘dogmatists and pragmatists’ is preferred to ‘hardliners and softliners’ for two reasons. Firstly, ‘hard and softliners’ is too simplistic to aptly describe the divisions within the Maoists which are far more nuanced. For instance, it is not ‘soft’ to have agreed to the peace process (ICG Report). Secondly, the ultimate goal of the Maoists remains the same – a people’s republic. Therefore, it is how they achieve this goal that is contested rather than the goal itself (Author’s interview with Major-General Ashok Mehta, India International Centre (IIC), New Delhi, 29 October 2008).

⁴⁵ “Differences within Maoists force postponement of cadres’ conference,” *nepalnews.com*, 20 November 2008 <http://www.nepalnews.com/archive/2008/nov/nov20/news02.php>

⁴⁶ Although the unification of the Maoists and Masal has been likely ever since the April elections, there had been key ideological differences, with the latter demanding the adoption of Marxism, Leninism and Maoism exclusively, while the former wanted to include the ‘Prachandapath’ vision as well. See Kantipur Online Reporter, “Jana Morcha, Masal merge” *Kantipur Report*, 4 January 2009, <http://www.kantipuronline.com/capsule.php?&nid=173630>

⁴⁷ D. Simkhada, “Who will lead the committees?” *Nepali Times*, 5-11 December 2008

⁴⁸ “PM signals he will act tough, says NC impeding govt progress,” *nepalnews.com*, 9 December 2008, <http://www.nepalnews.com/archive/2008/dec/dec09/news13.php>

⁴⁹ “PM Reiterates Revolt warning,” *nepalnews.com*, 15 January 2009, www.nepalnews.com

disastrous for Nepali democracy and threaten the future stability of Nepal.

The future of drafting the constitution appears bleak. The process has taken far too long and consensus has been difficult to forge. Key disputes and future problems within potential federal models – ethnic and geographical – have not been resolved and it would be foolish to assume ethnic violence would cease once a new constitution is written. Furthermore, it would also be “naïve to expect that when a new Constitution is drafted and introduced in Nepal [17] months from now, all of a sudden state officials will no longer be corrupt, security forces will stop committing arbitrary arrests and torture, and judges will independently deliver their verdicts on the merits of the cases they handle.”⁵⁰ Change cannot be implemented successfully in the current political climate. However, a resolution to the current ethnic unrest throughout the country, effective accountability, as well as the far-reaching change demanded by the Nepali electorate, will not be possible without a new constitution. As Nepal has never been federal, no one is sure what self-determination or autonomy entails, which creates the space for compromise. Federalism could mark the most radical redistribution of power even in Nepal; and while political, civil society and ethnic minority actors have certainly not addressed major sticking points in their perceptions of federalism, a consensus will only be reached through dialogue. The future of the country is therefore open to a new era of politics. This process needs to be supported by international actors such as the UNDP and specialist INGOs who, in spite of their current unpopularity with Nepali political parties, must provide guidance and technical

⁵⁰ Kim Soo A, “New Constitution alone cannot reform Nepal” [UPI Asia](http://www.upi.com/Asia/2008/10/15/new-constitution-needs-extra-thought-before-enacted/), Hong Kong, 15 October 2008, <http://us.oneworld.net/issues/corruption-transparency/-/article/358025-new-constitution-needs-extra-thought-before-enacted>

support for writing the constitution.⁵¹

Demilitarising Political Party Youth Wings

The YCL

As the UN Secretary-General Ban Ki-Moon stressed in October 2008, “the peace process faces continuing challenges at the local level.”⁵² In particular, this refers to dismantling the paramilitary structures of political party youth wings, most notably the Youth Communist League (YCL).⁵³ While the number of violent activities committed by the YCL has decreased since the April elections, they continue to be involved in a series of nasty and brutal incidents. However, demilitarising the YCL has proven difficult for several reasons. Firstly, the paramilitary structure is the core of the YCL. Following their first national conference in February 2007, a YCL press release stated that it was a “militant organization” whose duties “helping to conduct the elections in a free and fair manner; being vigilant against conspiracies in relation to the elections; playing an active role in fighting attempts by ‘regressive royal forces’ to avoid the elections...”⁵⁴ While being involved in electoral politics was not necessarily a violation of the peace process, the Office of the High Commissioner for Human Rights-Nepal (OHCHR) argued the YCL would resort to illicit, violent methods in preserving “law and order” around the

⁵¹ The UNDP’s Support to Participatory Constitution Building in Nepal (SPCBN), which offers technical assistance to drafting the constitution, is an important and necessary step. See UNDP’s “Support to Participatory Constitution Building in Nepal (SPCBN)”, <http://www.undp.org.np/crisis/projects/spcbs/index.php?ProgramID=71>

⁵² U.N. Security Council, “Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process,” [S/2008/670], (U.N, New York, 24 October 2008): 5

⁵³ For history of YCL, see SATP, <http://www.satp.org/satporgtp/countries/nepal/terroristoutfits/YCL.html>

⁵⁴ OHCHR Pamphlet, “Allegations of Human Rights Abuses by the Youth Communist League (YCL),” OHCHR, Kathmandu, June 2007, 28

election.⁵⁵ Such reservations were justified. During the elections, the YCL committed several electoral violations, which mainly included physically intimidating voters and candidates that have been extensively documented by UNMIN.⁵⁶ Thus, the demilitarisation of the YCL would extinguish the very essence of the organisation.

Furthermore, the YCL has a substantial membership, including one million members nationwide, 50,000 active members and 7,000 'whole-timers'.⁵⁷ Given the nature of the YCL's membership, which is scattered across the country and has enjoyed considerable autonomy for some time, ensuring a disparate group of impassioned and volatile youths follow a centralised order, would be extremely difficult. The state's security forces have found it almost impossible to curb their activities, as many rural police and security posts either lack the capacity, inclination or, more often, because they are prone to bribery and corruption from the YCL.⁵⁸

American analysts in particular tend to focus on the YCL "as the harbinger of post-peace anarchy and violence in Nepal."⁵⁹ However, to depict the YCL as renegade thugs, hated and feared by everyone, is misleading. For example, to argue that YCL's activities ravaged and paralysed the electoral process would be a gross overstatement and disingenuous. Not only did all political parties engaged in violence and physical

intimidation against rival candidates and voters, the Nepali elections were deemed relatively free and fair and hailed as extremely successful.⁶⁰ Furthermore, there are many components of the YCL's activities, including undertaking and protecting development projects, which cannot be dismissed as a PR exercise to front its illegal activities.⁶¹ In some cases, the YCL fulfils a function which local governance cannot and has subsequently become more popular, or rather, is seen as more legitimate than the state's security forces. For example, I heard one story of a wife who threatened to call the YCL, rather than the police, if her husband continued to physically abuse her. Such accounts are not uncommon.⁶²

To this end, the YCL often complains that the media presents an unfair and biased image of its activities and that many accusations levelled at its membership, of violence against innocent civilians and rival youth wings, are inaccurate.⁶³ However, while there is some justification for these grievances held by the YCL, considerable evidence from anecdotal accounts of YCL brutality to the analysis conducted by Nepali and International human rights groups, suggests that the YCL does indulge in illegal and terrorising activities which must be halted.

Imitation

The demilitarisation of the YCL has become more complicated since the time of the CPA and the writing of the Interim Constitution

⁵⁵ Ibid. 29

⁵⁶ "UNMIN Election Report No 3", United Nations, Nepal, 6 April 2008, <http://www.unmin.org.np/downloads/publications/2008-04-06-UNMIN.Election.Report.3.ENG.pdf>

⁵⁷ Of these 7,000 whole-timers, 1,200 live and operate in Kathmandu. Thus, whilst they are scattered across the country, they maintain an effective power base in the centre. D. Kumar, "Nepal's Future: Order in Paradox," *AAKROSH*, Vol.11, No.40, (July 2008): 31

⁵⁸ Author's interview with Prashant Jha, Lalitpur, Kathmandu, 4 November 2008

⁵⁹ Jason Miklian, "Nepal – The (Flawed) View from the United States," *Strategic Analysis*, Vol.32, No.3, (May 2008): 350

⁶⁰ "UNMIN Election Report No 3," United Nations, Nepal, 6 April 2008, <http://www.unmin.org.np/downloads/publications/2008-04-06-UNMIN.Election.Report.3.ENG.pdf>

⁶¹ See South Asian Terrorism Portal, www.satp.org/satporgtp/countries/nepal/terroristoutfits/YCL.html

⁶² Author's interview with Manish Thapa, Asian Study Centre for Political & Conflict Transformation, Kathmandu, 7 November 2008

⁶³ Author's interview with Head of Biratnagar YCL, Biratnagar, 11 November 2008; Author's interview with Banked District Chairman of YCL, Nepalgunj, 14 November 2008

because other political parties have replicated its militarised youth wing model. Rival youth wings now include the Unified Marxist-Leninist's (UML) Youth Force (YF) and the MJF's Youth Forum. Although they are not as sophisticated as the YCL, these wings have nevertheless adopted an organisational structure similar to that of the YCL.⁶⁴ Moreover, all youth wings illegally target and recruit children from schools and youth groups for the misuse of political activities.⁶⁵ Frequent clashes occur between the YCL, YF and MJF-Youth Forum.⁶⁶ However, although the YCL have instigated or been involved in many of these incidents, they are not the sole perpetrators of violence as the YF and MJF's Youth Forum are equally to blame for violent clashes that actively target YCL members.⁶⁷ This tit-for-tat violence has terrorised local populations to the extent that some locals have begun to emigrate from their villages to nearby towns or even abroad.⁶⁸

What Can be Done About them?

The biggest problem for the CPN-M, however, is that it does not know what to do with the YCL cadres and members once

⁶⁴ Based on a centralised nucleus with an area, district, city and village level hierarchy emanating from the centre. Author's interview with MJF-Youth Forum leader in Biratnagar, Rangali,

⁶⁵ In particular, see U.N. Security Council, "Secretary-General Report on children and armed conflict in Nepal," December 2006 and O. Housden, "In a weak state", IPCS Special Report on Reintegration of CAAFAGs in Nepal.

⁶⁶ "Youth cadre killed in Dhading", 2 October 2008, "Dozens injured in YCL-YF clash", 27 October 2008, "Youth organisations accuse each other of promoting impunity, unruly acts", 2 November 2008, www.nepalnews.com. Also, see www.satp.org/satporgtp/countries/nepal/terroristoutfits/YCL.html

⁶⁷ The most severe attack against the YCL occurred in Gaur, Rautahat District (Central Region) when 27 CPN-M members, that included many YCL cadres, were massacred in March 2007. OHCHR Pamphlet, "Allegations of Human Rights Abuses by the Youth Communist League (YCL)," OHCHR, Kathmandu, June 2007, 29

⁶⁸ For example, in Jante, Morang, Kathmandu Post Reporter, "YCL, YF bad blood spurs exodus," *Kathmandu Post*, 7 December 2008.

its paramilitary structure has been dismantled.

The rafts of measures outlined above for those PLA who do not make it to the NA are not available to the Maoist leadership for the militarized members of the YCL.⁶⁹ To a large extent, this is because the CPN-M will hope that many former PLA, especially disqualified minors and young adults who are released from the military cantonments, will be incorporated into the YCL.⁷⁰ The YCL fulfils valuable functions for the CPN-M such as mobilising the youth vote, which is an invaluable vote bank in Nepali politics, and rebuilding local infrastructure. It was revived in 2006 for precisely this reason as the Maoist leadership realised its membership was too thin to effectively mobilise grassroots support once it had entered the multi-party, democratic system.⁷¹ Consequently, demilitarising the YCL removes one potential outlet for former PLA combatants to be utilised effectively by the Maoists and would reduce their potency at the grassroots level.

The Maoists must stick to the peace process and demilitarise the YCL. However, the YCL has enjoyed considerable autonomy for some time and many of its members will not like being reined in. A crucial advantage for the CPN-M is that although the YCL has operated relatively autonomously, it is also responsive to the centralised leadership.⁷² While all political parties should dissolve their military youth structures and

⁶⁹ Author's interview with Major-General Ashok Mehta, India International Centre (IIC), New Delhi, 29 October 2008

⁷⁰ Many ex-child PLA, especially those disillusioned with reintegration projects organised by the CAAFAG working group for example, have already joined the YCL.

⁷¹ Author's interview with Manish Thapa, Asian Study Centre for Political & Conflict Transformation, Kathmandu, 7 November 2008

⁷² The decreasing number of YCL violations committed over recent months is most likely a directive from its cadres in order to improve public relations. Author's interview with Major-General Ashok Mehta, India International Centre (IIC), New Delhi, 29 October 2008

halt all illegal political violence, the CPN-M must take the lead and find imaginative alternatives for its youth cadres quickly. As the *bandh* and subsequent riots in response to the alleged murder of two youths by the YCL in Kathmandu during November 2008 illustrated, Nepalis will not tolerate the YCL's murderous activities anymore.⁷³

⁷³ "Two youths abducted by YCL found killed; protests in Kathmandu," *nepalnews.com*, 19 November 2008, <http://www.nepalnews.com>

III. Trouble in Terai

Militant Identity Politics

The Terai is the most unstable and deeply troubled region of Nepal. Despite being Nepal's industrial and agricultural heartland, it is wracked by lawlessness and sporadic violence which has escalated out of the control of local and state security forces. Militant groups representing the interests of not only the Madhesis, but also other numerous ethnic and caste groups, are increasing. To make the situation more complicated, the Terai is also plagued by a host of criminal activities, ranging from petty smuggling to regional counterfeit currency rings, which are linked to armed political activity.

Historic Madhesi Grievances

The Madhesi cause has been catapulted to the fore of Nepali politics ever since the *Jan Andolan II* in spring 2006. While it would be beyond the scope of this paper to provide a deep analysis of the Madhesi movement, it is important to reiterate that Madhesis have historically felt marginalised by the *paharis* (hill people) who they feel, have dominated political, social and cultural life in Nepal, on the basis of their culture, religion and ethnicity.⁷⁴ Indeed, “modern Nepali

⁷⁴ Data on the presence of ethnic or caste minorities indicates that Madhesi claims that they have been excluded from politics in favour of the *Pahari*, upper castes, are legitimate. The representation of Madhesis in Cabinet or constitutional bodies has traditionally been a fraction of the *paharis*. In Koirala's cabinet in 2001, Madhesis held four out of possible 25 Ministerial posts; only two Madhesis were members of Constitutional bodies (versus 17 *Paharis*) and four Chief of Government Corporations and Committees, whilst *paharis* constituted the 52 other available posts. *Table 9, Madhesi Representation in Cabinet, Constitutional Bodies and other Important Posts*, in Amresh Kumar Singh, “Restructuring of the Nepali State: A Madhesi Perspective,” in *Nepal: New Frontiers of Restructuring of State*, ed. Lok Raj Baral (New Delhi: Adroit, 2008), 111.

nationalism, largely conceived and institutionalised in the latter half of the twentieth century, [that] was shaped around the monarchy, Hinduism and the Nepali language,” is a concept that Madhesis feel is deeply restrictive and discriminatory against their culture.⁷⁵

Madhesi Armed Groups

While there are numerous pro-Madhesis armed groups, the main actors are the Janatantrik Terai Mukti Morcha – Jaya Krishna Goit (JTMM-G), JTMM-Jawala Singh (JTMM-JS), Akhil Terai Mukti Morcha (ATMM), the Nepal Defence Army, Madhesi tigers, Terai Madhesi Mukti Tigers, Terai Cobra, Terai Liberation Force and the Madhesi Virus Killers.⁷⁶ It is important to note that many of these are former Maoists⁷⁷

Furthermore, as of 2007, the Proportional Share Index (PSI) rating of Terai Madhesis vis-à-vis their representation in the National legislature was 0.66, despite constituting 33 per cent of the national population. Conversely, the PSI of Bahuns and Chetris stood at 2.58 and 1.04 respectively, *Table 8: Representation of Different castes and Ethnic Groups in National Legislature*, [according to the 2007 Interim Constitution] in *Ibid.*: 110

⁷⁵ International Crisis Group (ICG), “Nepal's Troubled Tarai region”, Asia Report N°136, 9 July 2007, 2-5,

http://www.crisisgroup.org/library/documents/asia/south_asia/136_nepal_s_troubled_tarai_region.pdf

⁷⁶ The ATMM, Pawan Giri-led SJTMM and JTMM-J, formally unified into the *Terai Janatantrik Party* in January 2009. See “Three Terai rebel organisations unite,” *nepalnews.com*, 14 January 2009.

⁷⁷ The Maoists sought to incorporate the Madhesis into the insurgency during the Nepali civil war. Throughout the conflict, the Maoists mobilised ethnic minority participation in the insurgency. Indeed, their success depended on these ties. Whilst Madhesi involvement in the conflict came much later in the conflict, their support nevertheless became extremely important in building the strength of the rebellion. The CPN-M's calls for greater regional autonomy and self-determination certainly resonated with the Madhesi movement. However, the Madhesis quickly became

– such as Jawala Singh and Goit – and the organisational structure and recruitment strategies of these groups mirror the CPN-M during the civil war.⁷⁸ Crucially, the speed with which new groups have been formed means that they have little time to consolidate their structures. Bickering between group cadres, that has increasingly become defined by inter-caste squabbles, often leads to factional divides which threatens the loose association of most armed groups in the Terai.⁷⁹ Thus, they are prone to constant splintering and reforming as new groups. As a result of their weak organisational structure, it is also difficult to determine the goals of these groups. Although most armed Madhesi rebels espouse ‘regional or Madhesi autonomy’,⁸⁰ their ultimate goals are unclear. So too is their relationship with mainstream Madhesi political parties, as they have not agreed upon a “common party or individual to represent them.”⁸¹

disillusioned with the Maoists for failing to implement and act upon their pro-Madhesi rhetoric. In 2004, some Madhesi in the Maoists Jawala Singh and Jai Krishna Goit, separated, to form the JTMM.

<http://www.satp.org/satporgtp/countries/nepal/terroristoutfits/jtmmg.html>

Subsequently, the number of armed groups in the Terai towards the end of the civil war grew and violence increased after the ceasefire in late 2006 and early 2007 (See International Crisis Group (ICG), “Nepal’s Troubled Tarai region,” Asia Report N°136, 9 July 2007.

⁷⁸ U.N. Security Council, “Secretary-General Report on children and armed conflict in Nepal,” December 2006, 6

⁷⁹ Prashant Jha, “Madhesi movement splintered by caste and militancy,” *Nepali Times*, 21-27 November 2008

<http://www.nepalitimes.com.np/issue/2008/10/20/PainSpeaking/15293>

⁸⁰ The major exception was the ATMM which demanded total Terai/Madhesi secession from Nepal, but after their unification with JTMM-JS and Pawan Giri, it is unclear whether their ultimate goal will be independence or regional autonomy.

⁸¹ “Nepal: Talks crucial to prevent upsurge in Terai violence – rights groups,” IRIN News, 21 October 2008

<http://www.irinnews.org/Report.aspx?ReportId=81024>

More is known about their military capability and source of weapons. The flat physical geography of the Terai means that these groups do not have the natural advantages of the hills for successful guerrilla training and warfare which the Maoists enjoyed. Moreover, most analysts believe armed Madhesi groups are poorly armed and trained. In an interview with an ATMM military commander, I was told that their military arsenal consisted of small arms which are smuggled over the India-Nepal border, often through Bihar.⁸² Nevertheless, the rapid proliferation of armed groups means there is a severe information deficit about their long-term strategies and political ambitions.

Other Ethnic and Religious Minorities

The Limbuwans

By rapidly opening the political arena to ethnic minorities, “ethno-politics has become a major paradigm for reclaiming social space” in Nepali politics.⁸³ The Terai, no different than any other region of Nepal, is host to numerous ethnic minorities which have begun expressing their grievances through violence and do not associate themselves with the Madhesi movement. An important illustration of this phenomenon are the Limbuwans. The *Sanghiya Limbuwan Rajyaparisad* [Federal Limbuwan State Council (FLSC)] has demanded that nine Districts lying east of the Arun River – Panchthar, Taplejung, Terhathum, Sankhusabha, Ilam, Jhapa, Dhankuta, Sunsari and Morang – should be declared the Limbuwan State.⁸⁴ They have resorted to

⁸² One can assume they are low-grade weapons, given the low-intensity nature of violence and small-scale attacks in the Terai. Author’s interview with ATMM District Commander for Sunsari District, Sunsari, 13 November 2008

⁸³ D. Kumar, “Nepal’s Future: Order in Paradox,” *AAKROSH*, Vol.11, No.40, (July 2008): 35

⁸⁴ The FLSC’s vision of federal Nepal is an arrangement of autonomous regions demarcated along the traditional boundaries of ethnic groups. SATP, “Nepal: Assessment 2008,” <http://www.satp.org/satporgtp/countries/nepal/index.html>

sporadic violence and organized strikes which have caused considerable disruption to hundreds of workers and brought everyday life to a standstill.⁸⁵

The Tharus

In early November 2008, the Autonomous Tharuhat National Council created the Tharuhat Liberation Army in the far-western district of Kailali with the intention "to make the revolt of the indigenous people successful".⁸⁶ Indeed, Mr. Laxman Tharu, one of the primary instigators of the movement said, "The government of Nepal has so far ignored the demands of the Tharu community and that we want the entire Tarai plains of Nepal be declared the Tharu Autonomous Region [and]...if our demands are not met within three months, we are ready to wage yet another peoples' revolt."⁸⁷ Indeed, the Tharu intelligentsia in particular, fundamentally object to being referred to as Madhesi and wish to distance themselves from "all Madhes, one state."⁸⁸

What is more, reports of Tharus requesting donations from villagers, especially in Dang where there is a large Tharu population, in support of their insurgency have now become increasingly common.⁸⁹ However, the Tharu intelligentsia is too disaggregated from grassroots support to pose a huge threat to local security forces. The Tharu community is scattered over a wide area and only in several districts do they have a

majority.⁹⁰ Laxman Tharu has also admitted their arsenal is not particularly sophisticated.⁹¹ As a result, raising an effective insurgency is highly unlikely. However, this will not preclude further low intensity violence in Tharu regions that is bound to lead to displacement and violence against many innocent civilians.

Muslims

The difference of political opinions within the Muslim population, which stretches across the Terai, is striking. While most Muslims in the East and especially around Biratnagar tend to support the MJF, in mid and far western regions, support for other political parties, such as the CPN-M, UML, as well as the MJF, is mixed.⁹² It is important to stress that Muslims as of yet, have not become militant. On the contrary, Muslim participation in civil society is beginning to flourish in some corners of the Terai.⁹³ However, there has been speculation for some time that an increasing number of madarasas in the Terai have been funded by organisations in the Gulf with radical agendas.⁹⁴ Such accusations, predominantly emanating from the Indian Intelligence authorities, have also maintained that Pakistan's Inter-Services Intelligence (ISI) operates along in the Terai in order to exploit the open border for anti-Indian

⁸⁵ "Nine eastern districts reel under Limbuwan bandh", 30 November 2008; "FLSC strike cripples eastern Nepal for 2nd day", 1 December 2008, www.nepalnews.com

⁸⁶ "Tharuhat Liberation Army is formed", *nepalnews.com*, 4 November 2008, <http://www.nepalnews.com/archive/2008/nov/nov04/news06.php>

⁸⁷ "Nepal: Tharu Revolt imminent if identity ignored," *Telegraph Weekly Magazine*, 25 October 2008, http://www.telegraphnepal.com/news_det.php?news_id=4497

⁸⁸ *Ibid.*

⁸⁹ Author's interview with (Anon) civil society leader, Nepalgunj, Banke, 15 November 2008

⁹⁰ See "Nepal National Population Census, 2001," *Central Bureau of Statistics*, 2001, Kathmandu, <http://www.cbs.gov.np>

⁹¹ "Nepal: Tharu Revolt imminent if identity ignored," *Telegraph Weekly Magazine*, 25 October 2008, http://www.telegraphnepal.com/news_det.php?news_id=4497

⁹² Author's interview with Abdul Satar Ansari, Muslim civil society figure, Madhesi Intellectuals Society, Biratnagar, 10 November 2008.

⁹³ Muslim civil society figures such as Hasan Ansari, Head of the Eastern Nepal Civil Society (Biratnagar), Imam Haida, senior figure of Jamiyantul Olma Nepal, have sought to register madrasas with the Nepali government and the Fatima Foundation, a women's rights organisation in Nepalgunj

⁹⁴ Author's interview with Ambassador K.V.Rajan, Institute for Higher Education (IILM), Delhi, 30 October 2009

activities.⁹⁵ Indeed, the hijacking of an Indian Airlines plane which was bound for Delhi from Kathmandu on Christmas Eve, 1999 was by a Pakistani who had allegedly been living in Nepal - an incident which soured Indian-Nepali relations.⁹⁶ While there is no smoke without fire and the ISI is most likely to have some presence in the Terai – such as ISI's links to counterfeit currency which shall be discussed below – it is difficult to provide a clear picture. Indeed many claims about ISI's influence in Nepal are either unsubstantiated or exaggerated by the Indian government to deflect from their own intelligence failings.⁹⁷

In order to reduce low-intensity violence in the Terai, Madhesi have to be included into the political process.⁹⁸ On the face of it, initial developments under the new coalition government were encouraging, with the Madhesi Janadhikar Forum (MJF) forming part of the current ruling government coalition.⁹⁹ Indeed, the new Constituent Assembly is the most inclusive and representative political institution ever created in the history of Nepal.¹⁰⁰ Madhesi

political parties and their grievances therefore, now occupy considerable political space in Kathmandu. However, for Madhesi this is simply rhetoric and many do not feel they are adequately represented in the government. For instance, although they are in government they are not involved in major political committees, neither do they have enough top jobs in relation to their representation of the population. At the grassroots level, many Madhesi have not seen any visible change either. As one local told me, “whenever and wherever I go [to the bank, police station, hospital] all I see is *pahari*.”¹⁰¹ Therefore if change is going to be deep and long lasting, the psyche in Kathmandu must transform dramatically to include ethnic and caste minorities into central and local politics.

However, there is also an onus on the Madhesi leadership to shift the direction of the movement. Popular feeling in the Terai towards Madhesi cadres is beginning to change, as disillusion grows towards both the political process and fear of armed groups. As Prashant Jha notes, one of the big questions for the future is which “political force will capitalise on this growing disillusionment with the Madhesi outfits and the resultant political vacuum.”¹⁰² Secondly, the Madhesi movement has already begun to exhibit the same caste and hierarchal ambivalence towards smaller, more marginalised ethnic minorities as say those *paharis* who had historically oppressed them. The Tharus and Muslims in the far west in particular, are frequently dismissed by Madhesi intellectuals as “backward,” “simple” or “who don't understand or know what they want.” The Madhesi movement accuses major political parties, and particularly the CPN-M of provoking their cause in order to drive a wedge into

⁹⁵ For more, see International Crisis Group (ICG), “Nepal's Troubled Tarai region”, Asia Report N°136, 9 July 2007, 2-5,

http://www.crisisgroup.org/library/documents/asia/south_asia/136_nepal_s_troubled_tarai_region.pdf

⁹⁶ “Nepal suffers Hijack Fallout,” *BBC News*, 25 February 2000,

http://news.bbc.co.uk/2/hi/south_asia/656684.stm

⁹⁷ In an Indian intelligence report about ISI and madararas in the Terai, the Shisul Uloom madrassa was accused of training and supplying Islamic militants. Not only is this madrasa tiny – 2000 square feet – it is surrounded by a big Hindu population who would have quickly reported any suspicious behaviour. Author's interview with Imam Haida, Shahbazia Madrasa, Biratnagar, 11 November 2008

⁹⁸ International Crisis Group (ICG), “Nepal's Troubled Tarai region,” Asia Report N°136, 9 July 2007, 32,

http://www.crisisgroup.org/library/documents/asia/south_asia/136_nepal_s_troubled_tarai_region.pdf

⁹⁹ ICG, “Nepal's New Political Landscape,” Asia Report N°156, 3 July 2008, 10

¹⁰⁰ Oliver Housden, (Ambassador KV Rajan), “Emerging Situation in Nepal and Implications for

India,” *Seminar Report for IPCS, CLAWS, Delhi*, 23 September 2008

¹⁰¹ Author's interview with local villagers in Biratnagar, 11 November 2008

¹⁰² Prashant Jha, “Madhesi movement splintered by caste and militancy,” *Nepali Times*, 21-27 November 2008

Madhesi solidarity.¹⁰³ While this is partially accurate, it is also grossly patronising to assume that Muslims or Tharus cannot think for themselves. Many Muslims in the mid-west, for example, continue to support the CPN-M because they were the first and only party in their manifesto to advocate positive discrimination and political representation in favour of Muslims.¹⁰⁴ Furthermore, the Limbuwans who demand autonomy for nine states, several of which are in the Terai, present another challenge to the Madhesi movement. As the major ethnic-based party in Nepali politics, Madhesi parties and especially the MJF must recognise these demands in their political discourse and the new political landscape of Nepal. As with the difficulties over the shape of federalism, accommodating such a disparate range of demands will be far from easy; but to ignore such voices would increase the possibility of more groups resorting to violence to achieve their goals.

Criminal Gangs and Activities

Other than groups with a political agenda, the Terai is host to numerous criminal groups as well. Yet, as with armed Madhesi groups, there is a gaping information deficit about the source and actors involved in criminal activity. However, there are several observations which can be noted. Firstly, the source of this problem in many respects is similar to that of armed political insurrection. Historic exclusion from politics and economic under development have left many ethnic, religious and lower caste minorities adrift and with minimal choices and opportunities. Depending on where one is in the Terai, it is common to find that the most marginalised groups tend

¹⁰³ Author's interview with Abdul Satar Ansari, Muslim civil society figure, Madhesi Intellectuals Society, Biratnagar, 10 November 2008; Author's interview with MJF Biratnagar Youth leader, Rangali, Morang, 11 November 2008; Author's interview with Rajendra Prashad Sah, senior MJF and civil society leader, Sava's Inn Hotel, Biratnagar, 12 November 2008

¹⁰⁴ Author's interview with Vice-President of Fatima Foundation, Nepalgunj, 15 November 2008

to be involved in criminal activities. For example, Muslims in the mid-west and especially in Nepalgunj, who are more illiterate and unemployed than other groups, have been involved in smuggling sugar, detergent or oil.¹⁰⁵

The open border has facilitated the growth of criminal activity in the Terai. This is certainly not a new phenomenon as the porous nature of the border has been exploited by the illegal importation of timber, the drugs economy, and stone and pebble smuggling for cheap construction materials in India.¹⁰⁶ However, more worrying was the recent discovery of counterfeit currency in Birgunj in November 2008. The scale of the operation – Nepal is the primary conduit of fake Indian currency in the subcontinent – is particularly worrying.¹⁰⁷ As Bhaban Singh, an elected member as the CA member notes, the amount of Rupees currently being smuggled suggests that "politicians and policemen are involved in the fake currency racket. Otherwise how can so much cash come in through Kathmandu?"¹⁰⁸ What is more, the Indian government maintains the racket was organised by Inter-Service Intelligence (ISI) Agency in order to "fund terror and subvert the Indian economy,"¹⁰⁹ once again fuelling speculation about the presence of ISI and radical Islam in Nepal.

This evidence illustrates the conceptual problem of defining the source of unrest in the Terai. It is almost impossible to disaggregate political and criminal activities because they are often linked to one another. This is not only illustrated by the alleged links between ISI and the counterfeit currency ring but also by the supply of weapons by criminal gangs to armed

¹⁰⁵ Ibid.

¹⁰⁶ Author's interview with Prashant Jha, Lalitpur, Kathmandu, 4 November 2008

¹⁰⁷ VK Shashikumar, "Real or fake?", *Nepali Times*, 31 October – 6 November 2008

¹⁰⁸ VK Shashikumar, "Politicians and police are involved. Otherwise how can so much fake currency be smuggled?", *Nepali Times*, 31 October – 6 November 2008

¹⁰⁹ Ibid.

political groups. Thus, the problem in the Terai is both a socio-political and law and order issue. Yet this is not solely because of an ineffective government in Nepal. The open border facilitates illegal activities as India, especially Bihar, has become a safe haven for criminal and armed political actors.¹¹⁰ Thus, the Indian government must engage with Nepal to improve collaborative governance to bolster security in the Terai.¹¹¹ What is more, the lack of information about these groups severely limits the mandate of what peace talks can realistically achieve. Research centres, such as the Asian Study Centre for Political and Conflict Transformation, want to work on this issue, but since it is seen as bottomless pit, the study remains drastically under funded.¹¹² However, the collection of reliable data about key actors in the Terai would be a huge step forward in aiding the peace process..

¹¹⁰ For example, both Jai Krishna Goit and Jawala Singh live in Bihar

¹¹¹ Given the porous nature of the border and the fact that many Indians and Nepalis use the border everyday, politically and logistically, closing the border is a non-starter.

¹¹² Author's interview with Manish Thapa, Asian Study Centre for Political & Conflict Transformation, Kathmandu, 7 November 2008

IV. Other Human Security Issues

Preserving Human Rights

Culture of Impunity

The culture of impunity towards protecting basic human rights pervades Nepal and is another major roadblock in the peace process.¹¹³ While Nepal has signed up to numerous international laws, bills, and legislation, human rights abuses have persisted and those who have committed atrocities in the past have not been brought to justice.¹¹⁴ For example, Article 5.2.5 of the CPA stated that a High Level Truth and Reconciliation Commission [TRC] should be established with the objective of investigating truth about those who have seriously violated human rights and who were involved in crimes against humanity in the course of the war and to create an environment for reconciliation in the society.¹¹⁵ However, as an Amnesty International Report in 2007 highlighted, the Draft TRC has “made unlawful recommendation of amnesty for crimes under international law...and makes no provisions for prosecutions post-investigations.”¹¹⁶ Thus, the government has

¹¹³ There is a severe danger of using phrases such as ‘culture of impunity’ or ‘culture of violence’ because it can lead to blanket descriptions of particular phenomena which may or may not be related to one another. Nevertheless, there does seem to be a contemptible attitude, from political parties to the state’s security forces, towards basic human rights.

¹¹⁴ HRW, “Waiting for Justice: Unpunished crimes from Nepal’s armed conflict”, USA, September 2008, 7, http://www.hrw.org/sites/default/files/reports/nepal_0908web_0.pdf

¹¹⁵ “Article 5.2.5. CPA, Concluded Between the Government of Nepal and The CPN-M,” 21 November 2006, Official English translation, published on the website of the Ministry of Peace and Reconstruction of Nepal, http://www.peace.gov.np/admin/doc/CPA_eng-ver-corrected.pdf.

¹¹⁶ Amnesty International (AI) Report, “Nepal: Reconciliation doesn’t mean impunity,” AI, London, 13 August 2008, 8-9,

tended to be neither receptive or act upon advice offered by human rights and civil society groups.¹¹⁷ Having said this, it has been encouraging that a “Disappearances Bill” was formulated in November 2008, after considerable pressure from national and human rights organisations. However, as the HRW and Advocacy Forum reiterated in a joint statement, adequate prosecution and compensation for victims, which so far has not been forthcoming, must accompany this bill.¹¹⁸

The Tibetans

The fragile status of human rights is highlighted by the government’s zero-tolerance towards anti-Chinese activity, brutally demonstrated during the crackdown on pro-Tibet demonstrations around the Beijing Olympics.¹¹⁹ Over one hundred of those illegally detained by the police after these protests have been threatened with deportation and are currently under the care of the UNHCR.¹²⁰ The coalition government and particularly the Maoist’s policy towards ‘Free Tibet’ protesters shifted due to diplomatic pressure applied by the Chinese government.¹²¹ However, while the

<http://www.amnesty.org/en/library/asset/ASA31/006/2007/en/dom-ASA310062007en.pdf>

¹¹⁷ “NHRC rues lack of action on its recommendations,” *nepalnews.com*, 10 December 2008

¹¹⁸ “Nepal: Adopt Bill on ‘Disappearances’: Prosecutions and Compensation Should Follow to Ensure Accountability,” 25 November 2008, <http://www.hrw.org/en/news/2008/11/25/nepal-adopt-bill-disappearances>

¹¹⁹ See HRW Report, “Appeasing China: Restricting the Rights of Tibetans in Nepal”, HRW, New York, 23 July 2008

¹²⁰ “Nepal to tackle illegal Tibetans,” *BBC News*, 13 September 2008, http://news.bbc.co.uk/1/hi/world/south_asia/7613664.stm

¹²¹ “Yang seeks curb on anti-China activities” *Kantipur Report*, 4 December 2008, <http://www.kantipuronline.com>; “Stable Nepal crucial for stability of Tibet: Chinese envoy,”

influence of China on Nepal's policy towards Tibetan exiles has grown since the Maoists won the elections, the fear amongst the Tibetan community is that all political parties are now closer to Beijing¹²² to the extent that no party will revise their policy towards anti-Chinese movements.¹²³ However, the policy towards Tibetan protesters is part of a wider trend in Nepali politics. As Kumar explains, "the security perception of the Nepali state is being increasingly equated with the threats to regime safety, the consequence has been the constraining of its ability to safeguard human security and the deliberate undermining of the rights and needs of the people with its military forays"¹²⁴

Beyond Preventing Armed Violence: Response to Humanitarian Crises

Flooding

Human security not only involves the ability of the government to broker peace deals and respect democratic rules, but also to respond to large-scale humanitarian disasters. Nepal, as the World Food Programme's (WFP) country representative for Nepal, Richard Ragan states, is a

"forgotten humanitarian emergency."¹²⁵ For example, flooding in mid and far western Nepal after torrential rain during September 2008 has led to the displacement of nearly 180,000, who have desperately required basic food and shelter in order to survive.¹²⁶ According to aid agencies, the worst-affected people by the flooding have been the poorest sections of these societies, such as Tharus, Raji and the Badi. The Coordinator of the CSO Community Support Group (CSO), Khem Bhatta, a local NGO working with the Badi community, commented that "they don't have enough food. Most of their homes and farms are completely destroyed, all of which could make their lives more difficult; and this is just the tip of the iceberg."¹²⁷

Food Security

Nepal's devastating flooding has exacerbated the rapidly deteriorating food security in Nepal, which was initially triggered by the global rise of food prices. While the Kosi flooding in August 2008 savaged the people of Bihar, it displaced 60,000 people in Sunsari district without homes or nourishment.¹²⁸ Crop failures have made the food crisis worse in nine mid and far western districts, which the WFP estimates has left more than 300,000 people desperately short of food.¹²⁹ Although the UN has provided \$3m to rural communities to ease the burden caused by the hike in food prices,¹³⁰ the poor infrastructure of

nepalnews.com, 12 December 2008,

<http://www.nepalnews.com>

¹²² Author's interviews with Tibetan refugees in Nepal, Tibetan Refugee Camp, Lalitpur, 16 November 2008

¹²³ For China, Nepal has always been strategically important given its proximity to Tibet. "Ensuring Nepal's neutrality on the issue of Tibet, and securing active Nepali cooperation to prevent Tibetans from launching anti-China activities was Beijing's primary objective in Nepal." See Manish Dabhade and Harsh V. Pant, "Coping with challenges to sovereignty: Sino-Indian rivalry and Nepal's foreign policy," *Contemporary South Asia*, 13(2), (June 2004): 159. However, the rapidly expanding Chinese economy means that Sino-Nepali relations will be even more crucial for Kathmandu to maintain.

¹²⁴ Dhruva Kumar, *Nepali State, Society and Human Security: An Infinite Discourse* (Dhaka: The University Press, 2008), 45

¹²⁵ "Nepal: Building a food bridge to survive the lean times", *IRIN News*, 17 November 2008, <http://www.irinnews.org/Report.aspx?ReportId=81485>

¹²⁶ "Number of flood displaced reaches 180,000," *IRIN News*, 29 September 2008, <http://www.irinnews.org/Report.aspx?ReportId=80645>

¹²⁷ Ibid.

¹²⁸ "Nepal: Food insecurity intensifies in the wake of floods," *IRIN News*, 8 October 2008, <http://www.irinnews.org/Report.aspx?ReportId=80734>

¹²⁹ "Nepal: Building a food bridge to survive the lean times", *IRIN News*, 17 November 2008, <http://www.irinnews.org/Report.aspx?ReportId=81485>

¹³⁰ "UN provides \$3 m to help rural communities in

Nepal means these places are difficult to access as humanitarian security in affected regions remains extremely fragile.

Earthquakes

Finally, a National Society for Earthquake Technology (NSET) report in December, stated that many Nepali buildings, and particularly schools, are extremely vulnerable to earthquakes. However, the lack of measures taken by the government thus far to reduce the devastation that would accompany an earthquake, as Amod Dixit, executive director of NSET explains, has caused “serious concern to experts in Kathmandu, one of the most seismically-active cities in the world.”¹³¹

The government must respond to these other aspects of human security. If Tibetans – indeed all ethnic, caste or religious minorities – are denied the space to articulate their demands peacefully, then the possibility of violence is bound to increase. However, Nepal’s relationship with China means that it is unlikely the government will relax its stance towards Tibetan protesters. Yet as has previously been noted, Nepali political culture has to change and start respecting domestic and international human rights laws. Furthermore, greater engagement with national human rights groups such as Advocacy Forum or the National Human Rights Commission (NHRC) is required to create a far-reaching impact. International pressure must also be applied to bring those who committed gross violations of human rights to justice. Even a single high-profile conviction could dramatically change the perception of justice and boost the popularity of state bodies at the grassroots level in Nepal.

Secondly, the Nepali government has failed

Nepal cope with hike in food prices,” *nepalnews*, 4 December 2008,

<http://www.nepalnews.com/>

¹³¹ “Nepal: Schoolchildren face earthquakes risk,” *IRIN News*, 4 December 2008,

<http://www.irinnews.org/Report.aspx?ReportId=81805>

to respond to or make adequate provisions for impending humanitarian crises. While there are some aspects of humanitarian or natural disasters which are beyond the control of the government, such as an earthquake, monsoon flooding or rising global food prices, action can be taken to reduce their impact. However, the prevailing ambivalence of the current administration towards humanitarian crises renders implementation of vital preventative measures doubtful. As a result, humanitarian support will rest upon the international community and NGOs to respond to these disasters.¹³² Yet there is also a responsibility on regional actors, especially India, to assist Nepal. The Kosi flooding, for example, was the result on the one hand of the Nepali government shirking its responsibility to maintain the river banks in Sunsari district, and on the other hand, the Indian government not providing adequate funding, which is enshrined in the bilateral Friendship Treaty signed in 1953.¹³³

¹³² For example, the UN Search and Rescue Advisory Group has launched an earthquake evacuation programme for schools and hospitals which will begin in April 2009, although so far, there has been limited government involvement. See “International Earthquake exercise planned for April,” *IRIN News*, 9 January 2009

¹³³ Bappa Majumdar, “Inept response to floods outrages India,” 3 September 2008, <http://www.reuters.com>

V. Is Nepal a Failing State?

On a generalised conceptual level and in accordance with key literature, this analysis suggests that Nepal represents a failing state. Firstly, the failure to amalgamate two standing armies is profoundly destabilising. “A political party functioning under a bourgeois political system elected to power cannot have separate army whether under the supreme command of its chairman or designating it as a separate security organ under the state’s command but integral to the party itself during the...transition to a republican order.”¹³⁴ Furthermore, the delayed writing of the constitution has adversely affected the government’s capability to implement the peace process, deliver public services and ensure stability. Macro political issues in Nepal are without doubt in turmoil.

More specifically, the framework provided by the FSI also appears to have considerable explanatory power in conceptualising Nepali insecurity. Firstly, the plight and fight of the Madhesi movement and the consequent low intensity violence in the Terai appears to be a classic example of the FSI’s third social indicator, “Legacy of Vengeance-Seeking Group Grievance or Group Paranoia.” According to the Index, grievances are “based on recent or past injustices, which could date back centuries. Including atrocities committed with impunity communal groups and/or specific groups singled out by state authorities or by dominant groups for persecution or repression [as well as]...institutionalised political exclusion.”¹³⁵ The armed Madhesi, Tharu and Limbuwan insurgencies are movements are rooted in historic grievances.

Secondly, the exponential rise of armed political and criminal groups in the last several years has escalated beyond the control of the police and paralysed the state’s security forces. In particular, they have become susceptible to rampant corruption from most violent actors such as the YCL, armed Madhesi political groups and organised crime networks. When I mentioned my fieldwork and interest in Nepalese politics to local Nepalis, the common reply was “corruption.” I heard several accounts from local peasants who had complained to the local constabulary about physical intimidation from landlords who were ignored because they could not pay the policeman a satisfactory bribe.¹³⁶ The eroding state structure at the local level that I witnessed is a classic illustration of the FSI’s seventh indicator, “criminalization and/or deligitimisation of the state”. Finally, the degeneration of law and order has not only affected communal safety, but has also exacerbated the “progressive deterioration of public services” (political indicator number eight). *Bandhs* are constantly organised by political groups that have severely affected Nepali productivity and exposed the inability of the government to provide satisfactory public services, such as health, education and public transportation, to ordinary Nepalis.¹³⁷

A Troublesome Concept

Who is Responsible?

Whilst Nepal does exhibit characteristics of the failing state, the model provided by the FSI is far too simplistic to explain why so

¹³⁴ D. Kumar, “Nepal’s Future: Order in Paradox,” *AAKROSH*, Vol.11, No.40, (July 2008): 16-42

¹³⁵

http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=102&Itemid=327#
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¹³⁶ Author’s interview with local villagers in Rangali, Morang, 12 November 2008

¹³⁷ U.N. Security Council, “Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process [S/2008/670],” U.N, New York, 24 October 2008,

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many aspects of the Nepali state apparatus are weak. For example, one common argument against the use of the term failing states is that it suggests these countries were once successful.¹³⁸ However, such assumptions are often bogus: Nepal is no different. Persistent structural inequality, a total democratic deficit, and rampant elitism and structural discrimination were some of the characteristics of Nepal during the latter half of the twentieth century.¹³⁹ As we have seen, the new democratic regime has inherited these problems and failed to make a clean break from the past. Thus, to call Nepal a 'failed state' suggests viewing its current problems in isolation of the present government, which historic and contextual evidence illustrates is an unjustified claim.

Similarly, as Stewart Patrick notes, "the failed state epithet lays the culpability for state weakness and its attendants spillovers squarely at the feet of dysfunctional governments and societies in the developing world. Although this framing provides cognitive consolidation to the comfortable, it ignores the source of state weakness are often in part a function of sins of omission or commission in the global north."¹⁴⁰ For example, as criminal and armed groups exploit the border and use Bihar as a base for their illegal activity, the unrest in the Terai cannot be seen purely as a failure of the Nepali government to maintain security.

While little attention has traditionally been paid to Nepal by the United States, the rise of the CPN-M towards the end of the 1990s and especially after 11th September meant dealing with Nepal became a higher priority for the Americans. The Maoists were named – and still have not been removed despite

¹³⁸ Rosa Brooks, "Failed States or the State as Failure?" *University of Chicago Law Review*, Vol.72., No.1159 (Autumn 2005)

¹³⁹ For more on the history of Nepal, see John Whelpton, *A History of Nepal* (UK: Cambridge University Press, March 2005)

¹⁴⁰ Stewart Patrick, "'Failed' States and Global Security," *International Studies Review*, 9 (2007): 6473

their election victory – on the infamous worldwide list of terrorist organisations.¹⁴¹ As a result, UA support was offered to the government and the army, which committed numerous human rights abuses throughout the war, and considerable funds have been channelled through NGOs associated with the Nepali Congress rather than any other leftist parties.¹⁴² Furthermore, the obsessive focus on the CPN-M as 'terrorists' has inadvertently led to a poor analysis of the unrest in the Belt. By conglomerating all "groups into a singular ethnic 'Terai' problem," American analysts fail to appreciate the nuances and intricacies of violence in the Terai.¹⁴³

Humanitarian and Natural Disasters

The issue of culpability can also be seen in the capacity of the government to respond to natural or humanitarian disasters. Obviously, determining the source blame after a large-scale disaster is extremely difficult. From the examples we have seen, the government could be blamed for their inadequate provision or capacity to respond to some natural disasters. The failure to respond to flood victims in the mid and far-west, the poorly maintained river banks of the Kosi and the inadequate provision made for earthquake safety are three examples of where the government has failed, or could potentially fail, to preserve human and food security when the situation could have been under their control. As a result, if INGOs had not reacted then these crises would have been worse.¹⁴⁴

¹⁴¹ "Nepal Maoists to stay on US terrorists' list," *Rediff News*, India, 7 May 2008, <http://www.rediff.com/news/2008/may/07nepal.htm>

¹⁴² Author's interview with Manish Thapa, Asian Study Centre for Political & Conflict Transformation, Kathmandu, 7 November 2008

¹⁴³ Jason Miklian, "Nepal – The (Flawed) View from the United States," *Strategic Analysis*, Vol.32, No.3, (May 2008): 350-351

¹⁴⁴ "UN provides \$3 m to help rural communities in Nepal cope with hike in food prices," *nepalnews.com*, 4 December 2008, <http://www.nepalnews.com/>

Staggeringly, the FSI does not include the impact of humanitarian disasters on the stability of weak states. Point two of social indicators, “massive movement of refugees and internally displaced peoples” suggests that larger humanitarian problems, such as disease, a lack of clean water, food shortages and so forth which leads to mass displacement are the result of random or targeted violence.¹⁴⁵ However, humanitarian disasters are not solely caused by internal violence, as threats to food and human security in Sunsari and western Nepal have illustrated. This is not to condemn the government. Firstly, many factors that either cause or exacerbate humanitarian crises are beyond the control of any government. For example, the Nepali government could not legislate for the intensity of flooding in the mid to west or global rising food prices. Neither could it prevent the Kosi flooding. As with armed political unrest in the Terai, the Indian government must share the responsibility for this disaster as well. Indeed, what these two events tragically remind governments of is that no state can deal with large-scale problems in isolation. Before labelling countries as desperately poor as Nepal as ‘failing’, there needs to be a realistic assessment of what they can achieve, and how bilateral, regional and international linkages can be improved to assist them.¹⁴⁶

Inequality and Conflict

Economically Nepal is one of the most structurally unequal and poverty-stricken nations in the world, illustrated by its poorest score of 9.5 for economic indicator number five, “uneven economic development along group line,” in the FSI. However, what type of inequality does this refer to? Regional? Ethnic? Caste? Given the different types of inequalities, this presents conceptual problems with the Fund for Peace’s premise that profound inequality

causes conflict. According to the Index, the “rise of communal nationalism based on real or perceived group inequalities” increases the threat of violence,¹⁴⁷ an idea common to most explanations of failing states such as those promulgated by the World Bank or the US Commission on Weak States.¹⁴⁸ While Nepal might appear to be a positive correlation between inequality and violence, this begs the question which type of inequality causes conflict? If an insurgent in the Tharuhat rebel groups is a Tharu, Dalit from Rolpa – all of which are marginalised from Nepali development – with which one do they identify most strongly to ultimately join the rebellion? Does one type of inequality lead to a greater likelihood of violence?

However, the correlation between inequality and conflict can also be contested within the Nepali paradigm. With reference to the Maoist insurgency, Sonali Deraniyagala notes that “in the early years of the conflict, it did not appear that support for the Maoist rebels was particularly strong among disadvantaged ethnic or caste groups... However, support for the guerrillas amongst these groups increased significantly as the conflict progressed... [which] reflects their economic and social exclusion.”¹⁴⁹ Consequently, an appreciation of how the dynamic of conflicts has evolved as well as identifying the root causes of a conflict is essential to ensure a peaceful resolution.¹⁵⁰ As we have seen, this is especially true in understanding the current context of the

¹⁴⁷ <http://www.fundforpeace.org>

¹⁴⁸ See *Commission on Weak States and US National Security* (US, June 2004),

<http://www.cgdev.org/section/initiatives/archive/weakstates> or World Bank’s, *Low Income Countries Under Stress (LICUS)*,

<http://www.worldbank.org/ieg/licus>

¹⁴⁹ Sonali Deraniyagala, “The Political Economy of Civil Conflict in Nepal,” *Oxford Development Studies*, Vol.33, No.1, (March 2005): 54

¹⁵⁰ Susan Woodward, “Do the Root Causes of Civil War Matter? On Using Knowledge to Improve Peacebuilding Interventions,” *Journal of Intervention and State-Building*, Vol.1(2) (Spring 2007): 144

¹⁴⁵ See Appendix B, www.fundforpeace.org

¹⁴⁶ Susan Woodward, “Failed states: The power of words,” *Special Edition: Failed States, Enjeux-International Journal*, (2006), <http://www.enjeux-internationaux.org/articles/num11/en/failed.htm>

Terai where multiple actors, all of whom interact with each other in some capacity, with competing ethnic, political and criminal agendas are operating. The context is likely to change again in the future. Therefore, even though Nepal might consistently get a poor rating in the failed states index because of violence in the Terai, this is unhelpful when trying to understand why the conflict persists. Furthermore, through highlighting the dubious basis for explaining violence as well as the failure to appreciate how violence changes, the foundation of all failing states literature must also be questioned.

Great Strides Have Been Taken

One of the greatest flaws of the Index is that it does not distinguish between the type and legitimacy of different failed states.¹⁵¹ The political context of a state, especially one that is making a transition to democracy, is the most important variable when analysing its security. For instance, Nepal is sandwiched between Burundi and Yemen in the FSI. Yet other than a similar FSI score, what similarities or differences do these countries have politically, socially or culturally? Similarly, Nepal is a democracy but is ranked lower than Syria (31) and Iran (49) that are authoritarian states. This may provoke an important discussion on whether democracy should be considered the most desirable form of governance in

¹⁵¹ The FSI does recognise the anomaly that some states which are on high alert may exhibit some positive characteristics, whereas states which are deemed more stable may show some critical indicators. "It is important to note that these ratings do not necessarily forecast when states may experience violence or collapse. Rather, they measure vulnerability to collapse or conflict. All countries in the red, orange, or yellow categories display features that make significant parts of their societies and institutions vulnerable to failure. The pace and direction of change, either positive or negative, varies. Some in the yellow zone may be failing at a faster rate than those in the more dangerous orange or red zones, and therefore could experience violence sooner. Conversely, some in the red zone, though critical, may exhibit some positive signs of recovery or be deteriorating slowly, giving them time to adopt mitigating strategies," <http://www.fundforpeace.org>

maintaining security. However, given the Index makes no provision for a state's political situation, comparison based on FSI ratings alone will not generate any meaningful analysis on the source of unrest in countries experiencing conflict.

Indeed, in spite of every security problem which faces Nepal, there have been many positives over the last twelve months. For example, according to UNMIN, the April elections were extremely successful. Despite some incidents of violence, physical intimidation and corruption, these elections were deemed relatively free and fair. The CA is the most representative body ever assimilated in Nepal's history and includes more women than any equivalent political institution in South Asia;¹⁵² and while the electorate may have become disillusioned with how Nepali democracy has manifested, Nepalis are still passionately committed to the concept of democracy. The current arguments stressing decentralization and federalism, which seek to redistribute power to local governance structures, are a signal that the people want some form of autonomy to shape their own futures. Such sentiments cannot be quantified in an abstract index.

Nepal: A State in Transition

State formation – or perhaps reformation – in the twenty-first century developing world is not the internal, organic phenomenon it was for imperial sixteenth century Europe. It is a multifaceted and complicated process which involves domestic pressures and international assistance that, in some cases, could take decades to complete. Nepal is one such state, struggling to make the transition from an absolute authoritarian monarchical rule to a multi-party democratic republic within a turbulent, changing global order. I have shown that while the Himalayan republic exhibits characteristics of failing states as defined by the FSI, the

¹⁵² ICG, "Nepal's New Political Landscape," Asia Report N°156, 3 July 2008, 28

Index cannot explain *why* violence and unrest have persisted since the 2006 ceasefire. Furthermore, many of Nepal's security problems are not identified by criteria in the FSI, such as humanitarian or natural disasters. Although the Nepali government may be partly responsible for these crises, the source of many problems Nepal faces lie either beyond its borders or in the past. As a result, the Nepali paradigm has highlighted how oversimplified models such as the FSI are unhelpful in understanding patterns of instability and violence across individual contexts.

No state can fully guarantee the safety of its own people, and it is only through partnerships with other actors that human security can be strengthened. Nepali security demands urgent attention and critical engagement from regional and international players, and particularly from the Indian government, which is essential to ensure Nepal's stable transition. The peaceful elections in April and popular commitment to democracy are two positive signs for the future; and if the government is willing to snap out of its insular Kathmandu-centrism and engage with the democratic system, then Nepal will make its successful transition to democracy.

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