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Analysis: Humanitarian fallout from Nepal's constitutional stalemate



Photo: Phuong Tran/IRIN

Counting casualties in Nepal's transition

KATHMANDU, 28 June 2012 (IRIN) - One month after Nepal's prime minister dissolved parliament on 28 May, IRIN takes a look at the humanitarian consequences of the country's ongoing constitutional deadlock and the rapid succession of governments, in which four prime ministers have held office in the past four years.

The near 600 members of the Constituent Assembly (CA), who were elected in 2008 to draft a new constitution as part of a [2006 peace deal](#) after a decade of civil war, failed to meet the fourth and final deadline to draft a post-conflict constitution on 27 May.

One of the main deal-breakers was a lack of agreement on how to constitute the federal system. [Various parties](#) proposed states based on ethnicity, language or geography, but ultimately the politicians failed to agree on how to administer the country, or what to name the new states.

"[An] understanding of how to recognize identity, and how to balance diversity, is still unresolved. And what [does] identity mean... individual, group, or national?" asked Sapana Pradhan-Malla, a lawyer and recent member of the CA.

The mid-July deadline for approving a national budget will soon be reached, dozens of bills are yet to be ratified, including ones to end caste discrimination and determine reparations for people who disappeared during the civil war, while 3,100 former rebels in cantonments await word on their reintegration into the national army.

Army integration

A key demand of a November 2011 peace deal was to integrate former rebels into the national army. Most of the 17,000 Maoist fighters eligible for government-funded "retirement" packages of up to US\$9,000 each took the money, while some 3,100 decided to try and join the national army.

Control of the rebel cantonments, where the fighters have lived since the 2006 peace deal, switched from Maoist to state control in mid-April, but integration into the national army cannot proceed without government approval, said Bala Nanda Sharma, a retired army general and coordinator of the multi-party Army Integration Special Committee.

On 10 May, the committee sent the prime minister request via the Defence Ministry to clarify how to determine a fighter's age and level of formal education, two deciding factors for joining the army. Should the results of the UN verification process in 2008 be used, or the current levels? Sharma told IRIN the committee has so far not received a reply, delaying progress.

“We have been discussing the ways with security agencies to integrate the combatants who have opted for integration,” Prime Minister Baburam Bhattarai’s political advisor, Devendra Poudel, told IRIN on 19 June. “The issue is also being discussed in the [ruling] party meeting, but we have not yet decided how we should go about it.”

Robert Piper, the UN Resident and Humanitarian Coordinator for Nepal, told IRIN that integrating the fighters - a key step in honouring the November peace deal - was a “big concern” because having the fighters in cantonments is not “tenable”.

Pending bills

There were 38 bills the legislative committee was reviewing before it disbanded, including three considered critical.

- The Bill on Disappearances (Crime and Punishment) Act (2008), which seeks to criminalize the enforced disappearances that occurred during the insurgency period between 1996 and 2006, claiming almost 18,000 lives according to government estimates; set up a commission to investigate past cases; prosecute perpetrators; and provide reparation to the victims.

- The Bill on the Truth and Reconciliation Commission (2007), which proposes establishing a commission to investigate “gross violations of human rights and crimes against humanity”, committed during the conflict.

- The National Dalit Commission Act 2011, which prohibits caste-based discrimination and “untouchability” practices against [Dalits](#), considered to be the lowest among some 100 ethnic and other groups in Nepal.

“The new government or the parliament can scrap, amend or endorse the bills,” said Ek Raj Bhandari, a former parliamentarian and coordinator of the legislative committee that finalizes bills before parliamentary endorsement. “Until then the bills will be there in the legislative committee.” He told IRIN it is unclear what happens next.

Pradhan-Malla said the impasse heightens political impunity and delays justice to the victims of conflict.

The Disaster Management Act, five years in the making, was scheduled to be introduced shortly in parliament. Andrew Martin, head of the humanitarian support unit at the Office of Coordination of Humanitarian Affairs (OCHA) in the capital, Kathmandu, said those plans are now on hold.

“If a [large earthquake](#) happens in Kathmandu, government structures are insufficient. There is not enough capacity on disaster preparedness... Changing ministers and political insecurity leave [people] with a shallow knowledge of preparedness,” Martin said.

The [National Society for Earthquake Technology-Nepal](#), a local NGO, said if an earthquake of the same magnitude that struck [Haiti in January 2010](#) hit Kathmandu, it would kill an estimated 200,000 people, severely injure another 200,000, displace 1.5 million, and damage 60 percent of homes beyond repair.

While 69 of the country’s 75 districts have local emergency response plans, there is still no plan detailing how international aid workers would quickly get staff and equipment into the country, who would set up emergency hospitals and channel electricity to camps for displaced persons, or how to track families - all points under negotiation.

Late, partial budget

Three weeks from the deadline for approving the 2013 budget, a leading opposition party lawmaker in the recent CA, Ram Sharan Mahat, has warned that political instability will make it difficult to get approval for increased spending without “full political consensus”. Mahat, who has been finance minister five times, could only present one-third of the total budget one year due to political stalemate.

“In these cases, we can only pass a partial budget to ensure ongoing activities are not hampered... There cannot be a policy shift or new budgetary programmes... due to political turmoil, which creates economic uncertainty.”

The 2008-2009 budget was delayed by two months, in 2010-2011 it was four months late, as was the 2011-2012 budget.



Photo: Sagar Shrestha/IRIN
Some 200 women are among the 3,100 former Maoist rebels awaiting army integration

Late budgets choke off needed funds for development said [Chandan Sapkota, an economist at the South Asia Watch on Trade, Economics and Environment office in Kathmandu](#). "A delayed budget means a halt in work due to shortage of funds to pay for workers and materials. We saw this... leading to [a financial institution] liquidity problem...and halt in rural development work for several months," the researcher told IRIN.

Little time is left in a fiscal year by the time local government authorities have the money to invite bids. Anagha Neelakantan, senior analyst of South Asia for the International Crisis Group (ICG), a conflict resolution NGO, said the current stalemate threatens to worsen local governance, where there is already a weak tendering process burdened by allegations of nepotism and corruption.

The UK Department for International Development (DfID) one of the country's largest bilateral donors, has expressed concern about the loss of the parliamentary Public Accounts Committee.

"We can't take unnecessary risks with our money," said Dominic O'Neill, DfID's director in Nepal, local media reported. The donor has pledged [\\$516 million](#) from 2011 to 2015.

Strikes

In May, 48 districts in Nepal reported a combined 257 days of "bandhs" or transportation strikes, mostly linked to political disputes, according to [UN tracking](#). Political parties and interest groups called for strikes that shut down roads, customs offices and businesses, cut off delivery routes for farmers, led to medicine stock-outs and left thousands of passengers stranded.

Delivery backlogs caused by the May strikes, coupled with rising fuel costs linked to an ongoing energy crisis and late payments by the state-owned oil company to its supplier in India, increased the World Food Programme's transport costs to get emergency food supplies to the mountains in the mid-west and far west regions by up to 70 percent in June, said the agency's deputy director in Nepal, Nicolas Oberlin.

A 2009 regional breakdown of the [Global Hunger Index](#), said Nepal's mid-western mountain region had among the highest levels of hunger worldwide, just above the Democratic Republic of Congo in Central Africa.

Though the strikes have subsided, some opposition parties have pledged a month of protest, starting on 18 June, to unseat the prime minister. He announced in late May that elections would be held on 22 November, and a caretaker government headed by himself would remain in place until then.

A lack of understanding in communities about federalism risks more violence, noted the ICG's Neelakantan. "We are already seeing how social polarization has heightened suspicion and communal violence."

Local media reported that more than 30 people were injured when the supporters and opponents of a federal model of states created along ethnic lines clashed in Kailali District in the country's Far West region in mid-May.

At present Nepal is divided into five regions from east to west - Far West, Mid-West, West, Central and East - with control held by the central government in Kathmandu.

UN Resident Piper said the rise of aggressive identity-based politics and a recent increase in street violence has been troubling. "Federalism will not go away. This discussion will be revisited and needs to be managed differently."

When IRIN asked a community of farmers in Banibhar village, 20km outside of Nepalgunj in western Nepal, what they understood by the federalist issue holding up the constitution, Kul Bahadar Shahi, 53, asked: "What is a constitution?"

His main concern is how transport strikes and aggressive tactics to prevent anyone from using the road affect his ability to transport produce. "I have to think twice before loading a truck with perishables."



Photo: Naresh Newar/IRIN
Street protests leading to the latest constitution draft deadline



Photo: Phuong Tran/IRIN
Let's talk about strikes, instead

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Theme(s): [Food Security](#), [Governance](#), [Conflict](#),

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