



Security Council

Distr.: General
2 September 2010

Original: English

Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1921 (2010), by which the Council, following the request of the Government of Nepal and the recommendation of the Secretary-General, renewed the mandate of the United Nations Mission in Nepal (UNMIN) until 15 September 2010. UNMIN was established as a special political mission in 2007 with a mandate that includes the monitoring of the management of arms and armed personnel of the Nepal Army and the Communist Party of Nepal-Maoist (CPN-M), which is now the Unified Communist Party of Nepal-Maoist (UCPN-M). This report reviews the progress of the peace process and the implementation of the mandate of UNMIN since my last report to the Security Council, of 28 April 2010 (S/2010/214).

II. Progress of the peace process

2. During the reporting period there has been no substantive progress on the main outstanding tasks of the peace process, namely resolving the future of the two armies and completing the drafting of the constitution. The parties were preoccupied by their intense political differences related to the extension of the term of the Constituent Assembly and the election of a new Prime Minister, both of which became linked to the issue of the integration and rehabilitation of Maoist army personnel. A constitutional crisis over the expiry of the term of the Constituent Assembly was averted when UCPN-M, the Communist Party of Nepal-Unified Marxist Leninist (UML), and the Nepali Congress concluded a three-point agreement by which they committed themselves to move forward by consensus to complete the remaining tasks of the peace process; to extend the Constituent Assembly's tenure by one year; and to pave the way for a consensus government through the resignation of the Prime Minister.

3. The Prime Minister, Madhav Kumar Nepal, submitted his resignation on 30 June in a televised address. As the deadline set by the President for inter-party negotiations to form a consensus government passed without an agreement, Parliament was convened to elect a Prime Minister by an absolute majority vote. The voting started on 21 July, but after five rounds neither of the two remaining nominees, Ram Chandra Poudel of the Nepali Congress and Pushpa Kamal Dahal



“Prachanda” of UCPN-M, had secured a majority. Each candidate needs the support of other parties, but those with significant vote blocs have remained neutral. UML has resolved only to support a candidate who can command a two-thirds majority. The Madheshi parties reunited on 16 July to revive the United Democratic Madheshi Front (UDMF) and again became the fourth largest political force in the Constituent Assembly. UDMF requested the contesting parties to make clear their positions on several Madheshi issues but has remained neutral in the voting.

4. The Supreme Court ruled late in July that the matter of whether recruitment by the Nepal Army violated the peace agreements was not within its jurisdiction, but fell under the purview of the Joint Monitoring Coordination Committee. This verdict was interpreted by the Nepal Army as allowing it to begin fresh recruitment, on the basis that it invalidated a stay order against recruitment issued by the same court. The Nepal Army advertised 3,464 positions, which was followed by a Maoist army statement that it, too, would begin to recruit. UNMIN wrote to both the Government and UCPN-M and reiterated publicly its consistent position that any recruitment by either army constitutes a breach of the Agreement on the Monitoring of the Management of Arms and Armies.

5. The Nepal Army spokesperson has stated that the Joint Monitoring Coordination Committee, the designated forum for addressing matters pertaining to the Agreement on the Monitoring of the Management of Arms and Armies, is now “irrelevant” following the formation of the Legislature Parliament, and that the Army should no longer remain under UNMIN monitoring. The Chief of Army Staff was reported as saying that the UNMIN mandate should not be extended.

6. UNMIN has continued its consultations with representatives of the major political parties regarding possible arrangements for its withdrawal and the transfer of its residual monitoring responsibilities. However, those representatives have maintained the view that this would be premature in the current political climate. The persistent efforts of UNMIN in this regard, in accordance with Security Council resolutions, included a “non-paper” intended to encourage discussions and forward thinking on the technical details of the integration and rehabilitation process, subject to essential political decisions being taken by the parties on the numbers and modalities for integration. The “non-paper”, which was made available in June to a limited number of party interlocutors, placed technical activities against a timeline and showed that an estimated 39 weeks could be needed to organize the orderly discharge of Maoist army personnel, including time needed to equip the Government’s implementing institutions; to brief, register and profile personnel inside the cantonments, and physically regroup them; to plan the integration and rehabilitation in greater detail and to organize the logistics, staffing, coordination and funding aspects of this major exercise. The “non-paper” was leaked to the media and given a distorted interpretation, for which UNMIN was then criticized for allegedly exceeding its mandate.

A. Drafting of the Constitution

7. Since my last report, and following the extension of its term on 28 May, the Constituent Assembly amended its schedule of work for the eleventh time and identified 13 April 2011 as the date for the promulgation of the new constitution. According to the schedule, the Constitutional Committee will prepare the first draft

of the constitution by mid-November 2010. The timeline for the remaining steps of the process is to be determined by the Business Advisory Committee of the Constituent Assembly.

8. The decision to establish a State Restructuring Commission remains suspended, owing to the ongoing standoff on government formation, despite agreement among the three major parties that it would start work by 31 July and report within two months to the Constitutional Committee on the names, numbers and boundaries of proposed federal units. UDMF and the Nepal Federation of Indigenous Nationalities oppose the Commission on the grounds that decisions on the formation of federal units fall under the jurisdiction of the Committee on Restructuring the State and Distribution of State Power, which has already proposed 14 federal units based on ethnic identity. Seventeen small political parties represented in the Constituent Assembly have also opposed the Commission, saying that they were not consulted on its formation.

B. Integration and rehabilitation of Maoist army personnel

9. The Special Committee to supervise, integrate and rehabilitate Maoist army personnel has not achieved a quorum in its meetings during the reporting period because of the non-attendance of some members, principally UCPN-M, which has not participated for several months. No agreement has been reached on previous proposals, including the 112-day action plan submitted by the Prime Minister in January and the establishment of a supervisory mechanism and code of conduct for the Maoist army, first proposed by the Technical Committee in September 2009. Discussions on integration and rehabilitation have been held bilaterally between the political parties, the three major parties each tabling a separate proposal. The positions broadly converge on bringing Maoist army personnel under the supervision of the Special Committee as a first step, and on their separation into groups according to their future preference for political work, for integration into the security forces, and for “rehabilitation”, including vocational training, education and employment. Serious disagreements persist on key issues such as the number of Maoist personnel to be integrated into the Nepal Army and other security forces, their eligibility criteria, whether they integrate individually or in groups, and the sequencing and time frame for the implementation process.

10. The Technical Committee, whose tenure has been extended to mid-September, has engaged in consultations with the international community on technical preparations for possible support to the discharge, rehabilitation and integration of the 19,602 Maoist army personnel. UNMIN and the United Nations Development Programme (UNDP), together with the donor community, made a joint presentation to the Technical Committee, outlining lessons learned from the discharge from the Maoist army earlier in 2010 of minors and late recruits, as well as from international discharge and rehabilitation processes. UNMIN continues to meet regularly with the Technical Committee and to convene coordination meetings at which donors and international organizations share information related to integration and rehabilitation. At these and other forums, the Mission has urged that greater attention be paid to the technical planning of this process.

C. Other challenges facing the peace process

11. No major incidents were reported during the rally called on 1 May by UCPN-M to unseat the Government, but tensions were high and sporadic clashes were observed in several districts during the six subsequent days of the strike. The Nepal Office of the United Nations High Commissioner for Human Rights (OHCHR) estimated that more than 200 people were injured as a result of the activities of UCPN-M or the police or in clashes between parties. According to OHCHR, the Nepal Police and Armed Police Force were deployed in numbers commensurate with those of the protestors and operated in a professional manner to prevent an escalation of violence. A number of counter-protests calling for an end to the strikes were held across the country, including a large “peace rally” organized by the Federation of Nepal Chamber of Commerce and Industries and civil society groups in Kathmandu a day before the strike was called off.

12. Insecurity and reports of lawlessness persist, predominantly in the Tarai and the eastern hills, including violent clashes between political party-affiliated organizations, especially their youth wings. OHCHR has documented 24 such incidents since early May. Numerous injuries, and two deaths, have been reported, including the stabbing on 8 July of a UML leader in Okhaldhunga district in eastern Nepal, reportedly by UCPN-M cadres. Intense competition for control of local power structures and resources, struggle over political space, differences in ideology and the escalation of personal quarrels have been the primary impetus for the clashes. Moreover, during the reporting period, OHCHR received reports of three cases of alleged extrajudicial executions by the security forces, taking the total number of reported incidents of this type since January 2009 to 24.

13. Extortion by armed groups and ethnic-based organizations has increased, largely targeting local government officials, teachers and businessmen, particularly in the eastern hill districts. Despite increased police patrolling and their own disorganized structures, these organizations maintain the capacity for large-scale extortion, aided by the remoteness and hilly terrain of the areas where they operate. As a result of threats, secretaries of Village Development Committees, the highest State authority at this level, tendered their resignation en masse between 18 June and 28 July, rendering governmental services unavailable to rural populations in 14 districts across the country. In response, the Government decided on 30 July to deploy security personnel and intensify joint patrolling by the Nepal Police and Armed Police Force at Village Development Committee offices and the secretaries’ residences.

III. Activities of the United Nations Mission in Nepal

A. Arms monitoring

14. The Arms Monitoring Office continued to monitor the compliance of the Nepal Army and the Maoist army with the Agreement on the Monitoring of the Management of Arms and Armies, maintaining round-the-clock surveillance of the Nepal Army weapons storage site and the weapons storage areas at the seven main cantonment sites of the Maoist army. Arms monitors also visited the satellite cantonment sites on a regular basis and conducted other operations using mobile

teams. At the request of the Ministry of Peace and Reconstruction, arms monitors observed salary payments to Maoist army personnel for the period from mid-May to mid-July.

15. During the reporting period, the Joint Monitoring Coordination Committee met five times and considered six alleged violations, of which one was substantiated, two dismissed and three remain under investigation.

B. Child protection

16. The Child Protection Unit continued to provide advisory support to OHCHR, UNICEF and UNDP in the implementation of rehabilitation programmes for former Maoist army personnel disqualified as minors, as well as to the United Nations mechanism for monitoring compliance with the discharge action plan.

C. Political affairs

17. The Political Affairs Office continued to monitor, analyse and report on the implications of the overall political situation for the peace process and to assist Mission leadership in supporting the peace process. Political affairs officers have maintained regular contacts with a broad range of Government officials, political party representatives, civil society organizations and international actors. The activities of groups opposed to the peace process, their potential to disrupt progress, the dynamics among the political parties, and the role of traditionally marginalized groups were monitored. The Office followed the proceedings of the Constituent Assembly and the work of its committees in preparing the new constitution.

D. Public information

18. The Public Information and Translation Unit continued to monitor and engage with the media, disseminating products related to the work of the Mission and setting the record straight on a range of issues.

E. Safety and security

19. The security situation in Kathmandu has been generally calm and stable during the reporting period, notwithstanding clashes during the general strike called by UCPN-M early in May. Three separate low-intensity improvised explosive devices were detonated outside the International Convention Centre, which houses UNMIN and the Constituent Assembly, but caused no injuries or damage to property. Five civilians were injured, however, by an improvised explosive device placed outside a nursing home in Kathmandu. There were no direct threats made against Mission staff or property during the reporting period but an effigy of my Representative in Nepal was burnt in Birgunj in the Central region on 19 July by a little-known group, reportedly in reaction to the leaked “non-paper” on the integration and rehabilitation of Maoist army personnel.

F. Mission support

20. The mission support component, operating under the constraints of a short mandate, has continued to provide logistics, security and medical services for UNMIN activities throughout the Mission area, priority being given to the cantonment sites. As at 24 August 2010, 248 of the authorized 278 personnel were serving in the Mission. Of 183 civilian personnel, 35.3 per cent were women. Of the 51 substantive staff, 35.2 per cent are women, while 26.5 per cent of 132 administrative staff are women. Currently, 3 of the 72 arms monitors serving with the Mission are women. Gender representation in this area is dependent on the nomination of candidates by Member States. As a result of UNMIN efforts to recruit national staff from traditionally marginalized groups, 39.2 per cent of the 123 national staff are from traditionally marginalized groups, and 37.5 per cent are women.

IV. Human rights

21. In June, the Government and OHCHR agreed to renew the OHCHR country office agreement for one year, and the phased closure of all offices outside Kathmandu. OHCHR agreed to continue its cooperation with the National Human Rights Commission of Nepal and build the capacity of civil society organizations. The High Commissioner received assurances from the Government that OHCHR will continue to exercise its mandate independently to monitor and report on the human rights situation in Nepal, to have full access to places of detention and to interview detainees in private, to have access to all sectors of government and to obtain official documentation as required.

22. Despite repeated commitments on the part of both the Government and UCPN-M there has been no quantifiable progress in holding to account perpetrators of human rights violations. The Nepal Army continues to disregard a warrant for the arrest of the officer accused in the torture and killing of a 15-year-old, Maina Sunuwar, in 2004, and has reportedly exonerated him in a Court of Inquiry it established to probe the circumstances of his repatriation from the United Nations Mission in the Central African Republic and Chad in 2009. For its part, the UCPN-M leadership has continued its non-cooperation with criminal investigations into the alleged crimes of its cadres both during and since the conflict, including the killing of 36 civilians in the bombing of a public bus in Chitwan district in 2005 and the other killings.

23. The United Nations monitoring mechanism continued its work of monitoring adherence by UCPN-M to commitments made in the action plan, signed in December 2009 with the Government, for the formal discharge of Maoist army personnel disqualified during the verification process in 2007 as minors and late recruits. The mechanism is led by OHCHR and UNICEF, with advisory support from the UNMIN Child Protection Unit. Concerns were raised over the safety of a United Nations-registered former child soldier who addressed the Security Council about her experience. Her real name was made public by media in Nepal and she was reportedly threatened by Maoist army personnel. The mechanism confirmed no further harassment.

V. United Nations country team coordination

24. The economic situation continues to be adversely affected by the political stalemate. Pending the formation of a new government, the Finance Minister presented a special financial bill in lieu of a budget in July. This emergency procedure, used also in 2009/10, provides the Government with automatic access to one third of the prior year's budget as a bridging arrangement, but creates challenges for the Executive. The outgoing Government substantially advanced the preparation of the next three-year plan (2010/13) around the core theme of "Employment-centric inclusive development".

25. With the support of the United Nations country team, the Government produced its latest Millennium Development Goal progress report, recording, despite the political uncertainties, significant progress in most of the Goals, in particular on gender equality, child health, maternal health and combating HIV/AIDS, malaria and other diseases. Goals which Nepal will struggle to reach on the basis of current trends include eradicating extreme poverty and hunger, and ensuring environmental sustainability. Of particular concern is whether further progress in the countdown to 2015 will be shared more evenly across Nepal's 75 districts, ethnic communities and castes and between women and men, in order to ensure the kind of development that will bolster peace. In order to improve the effectiveness of their support to the peace process, development partners continued work on a comprehensive peace and development strategy to be completed by September, prepared jointly with international financial institutions and bilateral donors in consultation with the Government and local partners. Facilitated by the United Nations Resident Coordinator in coordination with UNMIN and the country team, the strategy identified priorities for development support addressing both short-term and longer-term elements of the Comprehensive Peace Agreement.

26. The inter-agency rehabilitation programme for the 4,008 disqualified personnel verified as minors and late recruits and discharged from the Maoist army earlier in 2010 continued to receive new applicants throughout the reporting period. The programme, managed by UNICEF, UNDP, the United Nations Population Fund and the International Labour Organization, provides counselling, community support and access to rehabilitation packages. To date, 2,000 of those discharged (50 per cent of the eligible total) have made contact with the programme and 800 are currently taking courses. The first batch of 194 graduates is now being assisted to find employment.

27. Humanitarian needs and acute vulnerability remain of serious concern in Nepal, in particular with hunger and malnutrition emerging as a silent crisis. With inflation rates at around 14 per cent in 2010, food prices have surpassed those at the height of the international food crisis of 2008, placing those already vulnerable to food insecurity at an even greater risk. The World Food Programme has been able to raise \$73 million (95 per cent for their part of the humanitarian appeal request) from other sources, including a \$36 million commitment from the Government of Nepal with World Bank funding. All funds are going towards activities focused on a range of short- and medium-term food security and agriculture-related interventions providing assistance to around 2.2 million people in Nepal. The Food and Agriculture Organization of the United Nations has assisted around 103,111 households in 10 food insecure districts to meet their planting needs for the summer cropping season. At the end of 2009, the Central Emergency Response Fund had

allocated \$6 million to support food aid activities and an additional allocation is planned in 2010 through the Fund window for underfunded emergencies to further assist humanitarian activities in the country.

VI. Observations

28. Nepal's peace process remains stalled, with few signs of a consensual way forward. The major parties are preoccupied by profound internal fissures and the question of power-sharing. While the extension of the Constituent Assembly by one year averted a grave political vacuum, over three months have passed without notable headway in the peace process.

29. UNMIN has continued to pursue the request of the Security Council to work with the parties to make arrangements for its departure. Interlocutors from all major parties have underlined, however, that they see no alternative to UNMIN monitoring at present. To help speed the creation of conditions that would enable the Mission to conclude its tasks, UNMIN has consistently and assiduously urged the parties to agree on measures that could be taken in the short term, and has made proposals to that end, ranging from steps to improve monitoring arrangements to strengthening preparedness for integration and rehabilitation. A non-paper prepared by UNMIN to stimulate discussion was leaked to the press, and its purpose misconstrued, leading to strong criticism of UNMIN for having exceeded its mandate, including, regrettably, from the highest levels of government.

30. Despite the sustained efforts of the United Nations Mission in Nepal, little progress has been made towards the conditions for its departure, as the continuing political stalemate has precluded the necessary cooperation among the parties. Six extensions of the mandate of the United Nations Mission in Nepal have taken place on the unfulfilled expectation, and the commitment of the Government, that the remaining key tasks of the peace process would be brought to a close. Those commitments have become unrealistic in the absence of a consensual approach. Following the resignation of the Prime Minister, Madhav Kumar Nepal, at the end of June, I encouraged the parties to intensify efforts towards the formation of a consensus government, and at the time of writing this remains my hope.

31. It should be recalled that the original intention in the Comprehensive Peace Agreement was to address contentious issues through a consensus government comprising the two parties to the peace process. The Agreement was founded on parallel commitments, including the integration and rehabilitation of the Maoist army, to be resolved through the Special Committee, and an action plan established by the Council of Ministers for the democratization of the Nepal Army, determining its appropriate size, developing its national and inclusive character, and training it in the norms and values of democracy and human rights. UNMIN has repeatedly pressed for action on both points, before and after the Constituent Assembly elections, and has long warned of serious implications for the hard-won gains of the peace process if the future of the two armies were not addressed promptly.

32. It is the view of many that UNMIN contributes to maintaining continued calm and avoiding escalation through its presence and a successful arms monitoring and dispute resolution regime. On the other hand, its seemingly indefinite presence may be taken for granted, and the Mission is repeatedly made a scapegoat for matters

which lie beyond its mandate. As I have stated before, the United Nations interest is to see UNMIN complete its mandated tasks and bring closure to its work in Nepal.

33. Since January 2010, the Council has acceded to two requests for four-month extensions of the Mission. I am not in favour of repeated extensions of the Mission's mandate in an atmosphere of persistent and unfounded criticism that complicates its ability to function. These short extensions carry significant management difficulties for the Mission, while having had no discernible effect in expediting the political decisions required for the Mission to complete its work.

34. The present situation whereby Nepal is governed by a caretaker government and the main focus of the political parties is on government formation has not been conducive to sustained engagement over the future role of the Mission. Under these circumstances, I recommend that the current mandate of UNMIN be rolled over by the Council in order to permit the necessary discussions to take place with a duly formed government.

35. Should these discussions offer neither clarity over the role of the Mission nor any prospect of consensus among the parties to the Comprehensive Peace Agreement and the Agreement on the Monitoring of the Management of Arms and Armies regarding a realistic and time-bound fulfilment of their commitments concerning the armies and the phasing-out of UNMIN monitoring, then I will propose alternative measures to the Council, including the possible termination of the mandate of the United Nations Mission in Nepal.

36. I do not underestimate the challenge for the parties to implement the fundamental changes agreed in the Comprehensive Peace Agreement. It is my firm view, however, that at this critical juncture of the peace process this challenge should be met through a consensual and negotiated process. To this end, I call on the parties to invest greater effort in serious and sustained political dialogue. The choice between continued inertia and a fresh momentum is in the hands of the national leadership. With the passage of time and the current political context adding to the risks inherent in breaches of past agreements, all parties should make scrupulous efforts to respect those agreements, with particular emphasis on commitments pertaining to the armed personnel of the Government and the Maoists.

37. I would like to convey my appreciation to the members of the Security Council and other Member States for their continued support to Nepal and to the work of the United Nations in support of Nepal's peace process. I would also like to thank my Representative, Karin Landgren, and her staff, as well as partner organizations in Nepal, for their dedicated efforts.