

Human Rights Situation in Nepal after Loktantra

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1. Background

The day of 24 April 2006 will always be remembered as the historical day in the contemporary Nepal. The year 2006 began with the nationwide wave of protests against the king's direct rule. On the fourth month of the year, the king bowed down before people's power and Loktantra awoke. With Loktantra in place and subsequent lifting of restrictions on civil and political rights, Human Rights situation of the country started to improve.

Contrary to this, the year 2005 will always be remembered as the 'black year' in the history of the country. On 1 February 2005, the king assumed direct executive authority as Chairman of the Council of Ministers and imposed restriction on the basic fundamental rights of the citizens. The authoritarian King suspended the fundamental constitutional rights of the citizens. People were denied their right to freedom of expression, right to peaceful assembly, right to freedom of movement among other. However, Nepali people couldn't resist the situation and took up to the street in the initiative of the political parties demanding the restoration of democracy and human rights. The political parties had already intensified their struggle against the authoritarian regime led by the king since 2005 but never on such a scale as of April 2006. The struggle of the political parties turned into a movement by the time of April 2006 with the support of people of every walk of life. The 12-point understanding signed between the SPA (Severn Party Alliance) and the CPN (Maoist) in New Delhi 27 November 2005 also laid the foundation for the movement.

Finally the movement that lasted for 19 days (6 -24 April) was able to make a history by overthrowing the king's regime and restoring democracy and the human rights in the country. 19 people gained martyrdom and thousands injured with some permanently disability to achieve the feat. Also, the role played by the international community including the United Nations on pressurizing the king to restore democracy and human rights in the country is also laudable.

2. Peace Process in Nepal

Peace process in Nepal gained momentum after 26 April after the CPN (Maoist) prolonged the unilateral ceasefire by three months. Soon after the reinstatement of the parliament, the government got engaged into dialogue with the Maoists. Dialogue revolved round the issues of monarchy, democratization and reformation of the army, interim constitution, legislature, formation of the government including the Maoists and the Constituent Assembly election. Series of discussions between the SPA and the CPN

(Maoist) yielded crucial results like signing of the Comprehensive Peace Accord (CPA) on 21 November 2006, the signing of Tripartite Agreement on Monitoring of Arms and Armies between the government of Nepal and CPN (Maoist) party on 28 November 2006 and signed by the United Nations on 8 December, formation of interim parliament and promulgation of the Interim Constitution 2063 on 15 January 2007, and formation of the interim government including the CPN (Maoist) on 1 April 2007.

The signing of the CPA was a milestone to formally put an end to decade long armed conflict initiated by the CPN (Maoist) party and bring the Maoist party into the mainstream polity. Through the signing of the CPA, the government and the Maoist party leadership expressed their commitment to end violence, respect human rights and dignity of the people. However, implementation of the commitments has always been under questions as there has been series of human rights violations from the cadres of the CPN (Maoist) party.

After the signing of the CPA, a completely new government was formed including the Maoist party. The Maoists joined the government with their own political agenda including the Constituent Assembly election for the restructuring of the state. Maoists looked dominant in raising different issues of state reconstruction inside the parliament. However, among many differences between the political parties and the CPN (Maoist) party, the date of the Constituent Assembly was first scheduled for June 2007 but it was postponed following some last minute demands put forward by the Maoist party, which could not get consent among all the political parties. The date was again re-scheduled for 22 November 2007. The re-scheduled election could not again be conducted as different political parties remained divided on two issues, i) declaration of republican state before the Constituent Assembly election, and ii) Fully Proportional System for the Constituent Assembly election. Initially these issues were raised only by the CPN (Maoist) party, which did not receive support from any other political parties but by the time of re-scheduled CA election date, other political parties except the Nepali Congress had supported these issues.

With the postponement of the CA election for the second time, Nepali people pray for the consent among the political parties on the disputed issues and declaration of the unalterable date for the CA election.

2.1. Unrest in Terai: Threat to the peace process

The formation and emergence of the armed groups in Terai region is deteriorating the peace situation in the country. Earlier only two groups Jantantrik Terai Mukti Morcha led by Jwala Singh and Jay Krishna Goit, both splinter groups of the CPN (Maoist) party, had taken up arms in the region keeping different demands.

However, the number of such organized armed groups after the beginning of peace process with the Maoist party has reached a dozen. Such groups in the name of fighting for their political demands have been carrying out different criminal activities. These groups that have been raising demands like independent state, federal government, liberation of Madhesi people, equal opportunity to the Madhesi people in civil and security services, have threatened to disrupt the CA elections if held without meeting

their demands. Killings, abduction and subsequent demand for ransoms, capture of land and other properties, destruction of private and public infrastructure, threat to the life of victims and their families are the common features of these groups. Moreover, failure of the state to control such criminal activities by either bringing these armed groups to the talks or by making its presence in the affected areas has further deteriorated the law and order situation in the Terai region.

The activities carried out by the armed groups in the region are leading towards the increasing communal violence. Their activities are trying to draw a line between the Madhesi and hilly people. Though the number of victims accounts more to the hilly people; the Madhesi people have also been affected by the activities carried out by such groups. There has been rise in the targeted killings of civilians. There are instances of political killings too. The increasing atrocities from such groups and the insecurity have led to a wide number of displaced people, most of them being the hilly originated people. Though some of the insurgent groups, in some statements and forums, have claimed to abide by the international human rights and humanitarian law but it is yet to be seen in practice. Furthermore, human rights defenders have also been targeted.

The government, following pressure from different human rights organizations and civil society groups, has requested these armed groups to come for talks, but it has not taken any serious step on creating conducive environment for talks to resolve the problem. Though some of the demands raised by these groups are justifiable, demand like separation of the state seem unjustifiable. But if the government is to find a solution to the peace process it must resolve the burning issues of the Terai region before the Constituent Assembly election.

2.2 Organized Groups Operating in Terai Region

Armed Groups

1. Jantantrik Tarai Mukti Morcha(Goit)
2. Jantantrik Tarai Mukti Morcha(Jwala Singh)
3. Jantantrik Tarai Mukti Morcha(Bisfot Singh)
4. United Janatantrik Terai Mukti Morcha (UTJMM)
5. Terai Kobra
6. Terai Tigers
7. Madheshi Tigers
8. Nepal Defense Army
9. Tarai Bagi
10. Tarai ko Santika Lagi Kranti
11. Madhesi Virus Killer

Unarmed Groups

1. Madheshi Janadhikar Forum (MJF)
2. Chure Bhawar Ekata Samaj

2.3 Present HR situation after Loktantra

Contrary to the expectation, the trend of killings, abduction, torture, intimidation and extortion tended to persist in low scale even after the establishment of Loktantra. It was expected that with the signing of the CPA between the government of Nepal and the CPN (Maoist) all forms of human rights violations would virtually come to an end. But the Maoist party failed to abide by its commitment to respect human rights as its cadres kept on breaking the law and order. There are numerous instances of Maoists' involvement in the incident of killings, abduction, torture, intimidation and extortion. Moreover, the government's failure to take action against the perpetrators and maintain peace and security promoted the state of impunity.

On the other hand, the emergence of the violence in the Terai region also resulted in the widespread human rights violation. The state's failure to make its presence in the region was also a prime cause for the rampant violations. The Terai violence began after the promulgation of the interim constitution demanding federal system and equal representation of the Madhesi people in the policy level among others. Though the government amended the interim constitution and met the genuine demands of the Madhesi people, the problem has not yet been completely solved. The delay from the government to address the problem of the Terai region has resulted in the emergence of more than 20 small groups.

2.4 According to INSEC's documentation, 371 persons have been killed after the establishment of Loktantra in Nepal. Likewise, 7 thousand 6 hundred 68 people have been abducted by different groups. Please, see Table 1 for details.

Table 1

**Human Rights Violations/ Abuses
From 24 April 2006 to 20 November 2007**

Perpetrator	Human Rights Violation				
	Killing	Abduction	Beating	Threats	No. of incidents of capturing the property
By State	51		346	29	
By Maoist	63	7290	597	478	207
By Young Communist League	1	90	127	24	18
By Madhesi Janadhikar Forum	33	7	35	5	
By Jantantrik Terai Mukti Morcha	2	1			7
By Jantantrik Terai Mukti Morcha (Goit)	18	71	10	9	71
By Jantantrik Terai Mukti Morcha (Jwala Singh)	27	107	7	34	65
By Unified Jantantrik Terai Mukti Morcha	3	3			5
By Other Groups of Terai	5	22	1	1	9
By Unknown sides	168	77			
Total	371	7668	1123	580	382

2.5 Evaluation of a year of Comprehensive Peace Agreement:

The Comprehensive Peace Accord (CPA), which was enforced from the day the government of Nepal and the Communist Party of Nepal (Maoist) signed it on 21

November 2006, has completed one year. But it is our view that the situation of human rights in the country has not been improving as expected. We have found that the government, CPN (Maoist), different organized groups are responsible for such situation against the wellbeing of Nepal and Nepali citizens.

In this period, both the government and the Maoist undermined the agreement by not disclosing the whereabouts of people disappeared by the state and the Maoist and also both the sides failed to maintain peace and order. Maoists did not show their slight respect towards the rule of law while the government, instead of encouraging them to follow the rule of law, even motivated them by exempting perpetrators of many incidents.

Though the CPA mentioned about the rehabilitation and creation of environment for the repatriation of displaced persons; Maoists could not present themselves in responsible manner to solve the problem.

The government has failed to maintain peace and security while the Maoists are continuing their illegal activities. YCL, the sister wing of CPN (Maoist), has been alleged of operating a parallel administration. It seems like YCL, which is involved in beatings, capturing of property, abduction and killings, is replicating the Maoist's character during war situation. Please see Table 2. For details

Table 2

**Human Rights Violations/ Abuses
From 21 November 2006 to 20 November 2007**

Perpetrator	Incident				No. of incidents of capturing the property
	Killing	Abduction	Beating	Intimidation	
By State	28		115	9	
By Maoist	22	405	253	162	104
By YCL	1	90	127	24	18
By Madhesi Janadhikar Forum	33	7	35	5	
By Jantantrik Terai Mukti Morcha	2	1			7
By Jantantrik Terai Mukti Morcha (Goit)	18	71	10	9	71
By Jantantrik Terai Mukti Morcha (Jwala Singh)	27	107	7	34	65
By Unified Jantantrik Terai Mukti Morcha	3	3			5
By Other Groups of Terai	5	22	1	1	9
By Unknown sides	95	66			
Total	234	772	548	244	279

Both the sides did not show willingness to establish the Disappeared Investigation Commission, National Peace and Rehabilitation Commission, Truth Finding and Reconciliation Commission, State Reconstruction Commission as stated in the interim constitution.

Presently the situation is such that one person is killed everyday in Terai. The peace and security is getting worse day by day. The government failed to control the criminal activities carried out in the name of politics. Though around two dozens of groups in Terai are involved in different incidents including killing, abduction, capturing of property; the government was reluctant on taking them under control. The government did not show any concern towards the displacement problem initiated by the fear of armed groups. Rumors about talks with both the agitating factions of JTMM in Terai region could not materialize. The one year of peace agreement was not comfortable in the view of human rights. The above mentioned statistics documented by INSEC clearly depicts that this one year could not be satisfactory for the Nepali people as a result of increasing impunity, rise in criminal activities, worsening peace and security.

3. Conclusion

After the restoration of Loktantra in Nepal on 24 April 2006, many issues (Women, Dalit, Madheshis and Indigenous) have come out simultaneously. People have many expectations with the democratic government. People want to fulfill their aspirations. In the transitional period, the government obviously has to face many challenges. In this period, many armed groups in the Terai region have emerged and their demands to the government are coming out. The prime duty of the state is to maintain law and order in this period. For this, the government should apply some measures to maintain security in the country. It should strengthen its security system not only within the capital city but to all over the country. However, state is unable to performing so. The state, the Maoists and seven political parties have signed many agreements in order to enhance the peace process. However, the agreements are yet to be implemented. Although Maoists are still abducting, beating, extorting, killing people, the government has not prosecuted the alleged perpetrators. The state's presence in the Terai region is very weak in order to maintain law and order.

4. Recommendations (Early Warning)

4.1 To Insurgent Groups

Right to life and freedom of movement of Terai people is at risk by the acts of insurgent groups. All the insurgent groups are responsible for the security of the unarmed civilians under Common Article 3 of the International Humanitarian Law. Therefore, we urge the agitating groups to be aware of the followings:

- i) Recognizable combat dress should be used for their military activities
- ii) No caste or community in particular should be targeted
- iii) Activities like abduction, killing, capture of property and extortion should be stopped immediately

4.2 To Government of Nepal

- i) Strengthen the security system throughout the country giving special emphasis to the Terai region
- ii) Create conducive environment for negotiation with the armed groups to resolve the Terai unrest
- iii) Follow the peace agreement completely
- iv) Immediately disclose the whereabouts of the disappeared people
- v) Bring any criminal acts within the jurisdiction of law
- vi) Create environment for the repatriation of the displaced people
- vii) Find the places of storage of explosives and diffuse them

4.3 To Political Parties

Resolving the minor disputes, the Seven Political Parties should come to an agreement and declare unalterable date for the Constituent Assembly election.

4.4. Civil Society Organizations

- i) Exert more pressure to the armed groups in the Terai region to end the violence and come for dialogue
- ii) Exert pressure to the government and the CPN (Maoist) to come to an understanding and declare the date for the Constituent Assembly election.