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AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

- 1. Please provide details regarding violence between Madhesis and Pahadis in Nepal since 2006.**
- 2. What was the response of the government and the authorities?**
- 3. Please advise if the police able and willing to protect Pahadis, in Kathmandu and elsewhere, who are under threat from Madhesis?**

RESPONSE

- 1. Please provide details regarding violence between Madhesis and Pahadis in Nepal since 2006.**

According to the available information, violence between Madhesis and Pahadis in the Terai increased in 2007. Armed groups espousing different agendas have proliferated in the Terai and the security situation is poor. Sources indicate that, as a generalisation, Madhesis (majority in the Terai) have long been discriminated against and under-represented in Nepal, while Pahadis (a minority in the Terai) have dominated Nepal politically and economically. Deepak Thapa states that “In the two years since the sidelining of Nepal’s monarchy in April 2006, and the restoration of a democracy that promised a more inclusive polity, the country has been characterised by a surge of ethno-nationalism. Communities that felt historically left out began to demand their own territorial space ‘in which they would be the masters, dominating politics, staffing the civil service, and controlling commerce’, as historian Jerry Z Muller put it recently. Although the implicit understanding in the aftermath of the People’s Movement of April 2006 was that the contours of both the Nepali state and the polity would be deliberated upon and decided by a Constituent Assembly (due to be elected on 10 April, after having been twice postponed), there were simply too many groups unwilling to accept

assurances from the current political leaders of a more just social and political order in the future.” Currently the country is in a state of political transition and the situation remains fluid. Elections were held on 10 April 2008 despite numerous security problems. A number of groups, including armed groups in Terai districts, remained opposed to the CA elections, targeting pro-government and election rallies (for background information on the Terai, see: International Crisis Group 2007, *Nepal’s Troubled Tarai Region*, 9 July – Attachment 1; for Pahadi/Madhesi violence, see: United Nations Office of the High Commissioner for Human Rights 2007, *Human Rights in Nepal: One year after the Comprehensive Peace Agreement*, 12 December <http://www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-79UJ7W?OpenDocument&rc=3&cc=npl> – Accessed 14 December 2007 – Attachment 2; Thapa, D. 2008, ‘Ethno-nationalism and federalism’, *Himal South Asian*, vol 21, no 4, April http://www.himalmag.com/2008/april/cover_ethno_nationalism.htm – Accessed 4 April 2008 – Attachment 3; for further information, see: US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Nepal*, March – Attachment 4).

This response provides a brief introduction to the relevant terms; background and current information on violence in the Terai; information on Pahadi displacement; and, information on various armed groups operating in the Terai.

Definitions

The **Terai** (or Tarai) refers to the southern plains stretching along Nepal’s border with India. A map of Nepal indicating the Terai districts, Hill districts, and Mountain districts is included in this response as Attachment 5. According to sources, such as International Crisis Group (ICG), the Terai plains are now home to half the total population of Nepal, with a large number of migrants from the hills (*pahadis* or *pahades*) having moved into the area as it opened up for development in the latter half of the twentieth century. The terms “Madhesi” and “Pahadi” delineate mainly linguistic and geographic ethnologies. Pahadis are “hills people” while Madhesis are “plains people”. Although the term “Madhes” generally denotes the plains of eastern and central Terai, ICG states that **Madhesis** “have been defined as non-*pahadis* with plains languages as their mother tongue, regardless of their place of birth or residence”. The term “Madhesi” is often used pejoratively for any plainspeople not considered “true Nepalis”. According to sources, Pahadis make up around 30 percent of the population of the Terai, although they are politically and economically dominant. For further background information on Madhesi and Pahadi ethnic groups, see the 2005 Asian Development Bank (ADB) paper titled *Ethnic and Caste Diversity: Implications for Development* (‘Nepal Regions – Map’ (undated), UNDP Nepal website <http://www.undp.org.np/regions/map.php> – Accessed 24 January 2008 – Attachment 5; International Crisis Group 2007, *Nepal’s Troubled Tarai Region*, 9 July – Attachment 1; Pradhan, R. & Shrestha, A. 2005, *Ethnic and Caste Diversity: Implications for Development*, Asian Development Bank website. June <http://www.adb.org/Documents/Papers/NRM/wp4.pdf> – Accessed 16 January 2008 – Attachment 6).

A 2007 *IRIN* article includes the following quick “Madhesi factbox”:

- Nepal’s largest ethnic group; make up about one third of Nepal’s 27 million people
- Concentrated in the lowland Terai region, southern Nepal, the country’s industrial and agricultural heartland

- Traditionally, their main ethnic rivals are the politically dominant hill people known as Pahades
- Comprised of various sub-groups with several different languages and dialects and have only recently developed a political consciousness and unity of purpose
- Campaign for regional autonomy for the Terai, a federal Nepal, and greater representation in parliament
- Militant factions such as the Madhesi People's Rights Forum (MPRF) and the Janatantrik Terai Mukti Morcha (JTMM) have carried out violent acts
- Not allied in any way to the Maoists who have separate political goals
- Include some of the most impoverished and disadvantaged castes in Nepal such as Badis (traditional sex workers) and Kamaiyas (bonded labourers) ('NEPAL: Business community bemoans worsening security situation' 2007, *IRIN*, 29 August <http://www.irinnews.org/Report.aspx?ReportId=74000> – Accessed 16 April 2008 – Attachment 8).

Lahan

Lahan is located in the district of Siraha, in the Eastern region of Nepal. Attachment 5 shows Siraha as one of the Terai districts in the south east of Nepal. A map indicating Lahan's location in Siraha district is included as Attachment 9. According to the available information, Siraha has been severely affected by the Terai unrest. The UN Office for the Coordination of Humanitarian Affairs (OCHA) February 2008 situation update on the crisis in the Terai includes a map which indicates that Siraha is one of the districts most affected by the latest *bandh*/strike in the Terai ('Nepal Regions – Map' (undated), UNDP Nepal website <http://www.undp.org.np/regions/map.php> – Accessed 24 January 2008 – Attachment 5; Office for the Coordination of Humanitarian Affairs 2006, 'Nepal: Siraha District Map', UNDP website, 15 June <http://www.un.org.np/maps/district-maps/eastern/Siraha.pdf> – Accessed 16 April 2008 – Attachment 9; Office for the Coordination of Humanitarian Affairs 2008, *OCHA Nepal Situation Update: Crisis in the Terai*, issue 1, 22 February [http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/LSGZ-7C6KA3-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/LSGZ-7C6KA3-full_report.pdf/$File/full_report.pdf) – Accessed 16 April 2008 – Attachment 10).

Background – ICG report

A number of violent incidents have occurred in the Terai since 2006. For a detailed look at the background to the unrest in the Terai, the relevant issues and politics, as well as the fringe and militant groups involved and the state response to the violence occurring up to July 2007 see the ICG report, *Nepal's Troubled Tarai Region* (International Crisis Group 2007, *Nepal's Troubled Tarai Region*, 9 July – Attachment 1).

In July 2007 a UN High Commissioner for Refugees (UNHCR) report states:

18. From the beginning, the CPN-M insurgency aimed to break what the Maoists termed a "feudal" system and to change Nepal into a more inclusive society. This goal was in part reflected in the early achievements of the peace process, including the CPA and the Interim Constitution. However, already in December 2006, when the first drafts of the Interim Constitution were being circulated, dissatisfaction over the degree of inclusion of the Madhesi people of the Tarai region manifested in violent protests.

19. The fertile plains of the Tarai comprise 20 of Nepal's 75 districts, with a population of approximately 11 million. The majority of Tarai-dwellers (63 percent) are from the Madhesi social group, which is made up of a variety of communities in the Tarai (or Madhes) region, while 36 percent are people originating from the hills, known as Pahadis. The Madhesis – often referred to as being of Indian origin – claim exclusion and discrimination by the Pahadi population with regard to representation in local and national government, access to citizenship documentation, and participation in economic and cultural aspects of life.

20. At the end of 2006, the Nepal Sadbhavana Party (a Madhesi party, and member of the SPA) started to assert Madhesi demands more aggressively. The Madhesi movement rapidly gained momentum, with the Madhesi Janadikar Forum (MJF) quickly emerging as the most important organization to represent Madhesi goals, which include autonomy, full proportional representation and a democratic republic. Since January 2007, the MJF has orchestrated strikes and massive demonstrations in the eastern Tarai districts, some of which have been marked by violence.

21. While the MJF is the largest of the Madhesi groups, two armed factions of the Janatantrik Tarai Mukti Morcha (JTMM) have put forward more rigorous demands. The JTMM split from the CPN-M in 2004, citing lack of concern for Madhesi issues, and subsequently divided into Goit and Jwala Singh factions. JTMM demands include an independent Tarai state, fair representation of Madhesis in the army and the Government, and departure of Pahadis from the Tarai region. Other small armed groups have also emerged, including the Madhesi Liberation Tigers, the Madhesi Cobras, and the Nepal Defence Army (a Hindu fundamentalist group).

22. The situation is particularly tense in Sunsari, Siraha and Saptari districts in eastern Tarai, where violent clashes have been frequent (and where both Maoists and Pahadis have been newly displaced). At present, the situation in the rest of the Tarai is marked by a tension that has, on occasion, resulted in violence.

23. Tarai Pahadis have (largely in reaction to the Madhesi movement) formed the Chure Bhawar Ekta Samaj (CBES) to demand an autonomous region for Tarai Pahadis and investigate the loss of Pahadi property during the protests in early 2007.

24. There are serious concerns that the tension in the Tarai could spread, or cause further delays or disruption of the Constituent Assembly elections. Government proposals to placate the MJF by, for example, allocating 49 percent of Constituent Assembly seats to Tarai districts (establishing full proportional representation for the region, and agreeing to a federal system) have, to date, been only partially successful (UN High Commissioner for Refugees 2007, *UNHCR's Position on the International Protection Needs of Asylum-Seekers from Nepal*, UNHCR Refworld website, 26 July <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46af032d2> – Accessed 18 April 2008 – Attachment 7).

Unrest has continued to build since, and the security situation has continued to deteriorate. The most recent large scale incident was a *bandh*/strike during February 2008 which, according to the UN Office of the High Commissioner for Human Rights (OHCHR), “paralyzed daily life in most of the Terai and led to violent confrontations between *bandh* supporters and both the Nepal Police and Armed Police Force (APF)”. A BBC correspondent provides an eyewitness account of the effects of the ethnic unrest and the general strike, stating that “there is a sense of Nepal grinding to a halt, of the state barely functioning” (Office of the High Commissioner for Human Rights 2008, ‘Summary of human rights concerns arising from the Terai protests of 13 – 29 February 2008’, OHCHR Nepal website, 27 March http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_03_27_Terai_Prot

[est E.pdf](#) – Accessed 16 April 2008 – Attachment 11; Haviland, C. 2008, ‘Dark clouds gather over Nepal’, *BBC News*, 25 February
http://news.bbc.co.uk/2/hi/south_asia/7263399.stm – Accessed 16 April 2008 – Attachment 12).

Pahadi/Madheshi violence

In February 2008 the UN High Commissioner for Human Rights (UNHCHR) released her annual report on the human rights situation in Nepal. The report states the following in relation to the Terai:

[Q]uestions of representation and discrimination in relation to Madheshi, indigenous (*Janajati*) and other excluded groups remained unresolved, resulting in ongoing, sometimes violent unrest, especially in the Terai. Several Madheshi parliamentarians, including a minister, resigned in December, amidst continuing accusations that the parties were not taking Madheshi grievances seriously. New Madheshi alliances were formed, including a new Madheshi political party (see paragraphs 47-55 below).

20. Following widespread and sometimes violent demonstrations to demand respect for Madheshi rights early in 2007 (see A/HRC/4/97), protests, and the practice of *bandhs* – transportation and commercial stoppages often forcibly imposed through threats or violence – continued especially in the Terai, and repeatedly curtailed freedom of movement, access to education and health services, development programmes and activities of non-governmental organizations, as well as political activities.

21. At the same time, the weakness of law enforcement agencies and delays in security sector reform not only consolidated impunity but also deepened a security vacuum. The majority of Nepal Police posts abandoned during the conflict were re-established in 2007, despite obstacles that included initial CPN(M) opposition and the actions of armed groups.

22. Nevertheless, many still suffered from a lack of infrastructure and equipment. Many police and local authorities complained about lack of support and directives from the national authorities, frequently citing insufficient resources and directives as the reason for not taking action to protect human rights, improve law and order and reduce impunity.

23. Lack of trust in the will or ability of law enforcement agencies to protect the population encourages lawlessness. In one of the worst incidents of social unrest, 14 people were killed, several thousand displaced and property extensively damaged as a result of communal violence which erupted after the killing of a local leader in Kapilvastu District, western Terai, in September 2007. Investigations by OHCHR concluded that local authorities had been ill-prepared and failed to intervene promptly to stop or prevent the spread of violence. These events highlighted the need for local government and civil society initiatives to address long-standing grievances and build trust among communities.

24. Although “people’s courts” and other CPN(M) parallel structures were mostly dismantled by 1 April 2007, parallel CPN(M) “law enforcement” activities intensified again and there were persistent reports of abuses, especially by the Young Communist League (YCL), which was re-established in December 2006 as a militant political organization under the direct leadership of CPN(M). Largely composed of former Maoist army and militia members, its leaders often described security and law enforcement as one of its main functions.

25. Armed groups also exploited the security vacuum and expanded their activities in the central, eastern, western and mid-western Terai. Their actions and the failure of State authorities to address them adequately had a severe impact on the protection of human rights in the Terai plains, especially the rights to life, security and physical integrity, and deepened

the climate of fear and intimidation as well as divisions between Madheshi and Pahadi (people of hill origin) communities. The activities of journalists and human rights defenders, mostly from hill areas, were particularly restricted due to insecurity, threats and intimidation from armed groups, and some were displaced as a result.

26. OHCHR received reports of over 200 abductions and 85 killings, including of local government officials, by named or unidentified armed groups, principally by the Janatantrik Terai Mukti Morcha (JTMM) factions, since December 2006. An increasing number of mostly small explosive devices were planted largely in the Terai (almost daily by January 2008 after the announcement of an election date), the worst incidents killing three people in Kathmandu in September 2007. The delivery of services to local populations by local authorities and non-governmental organizations was drastically reduced, particularly in the rural Terai areas. Many persons of hill origin have now left the southern Terai plains.

27. Unravelling the agendas and motivations of the armed groups is complex, even though most groups have articulated demands related to Madheshi issues. Such demands have sometimes been articulated in inflammatory language blatantly inciting communal violence between the Madheshi and Pahadi communities. Underlying the violence there was often a complicated web of interrelationships between personal, political, criminal and communal elements. In December, the Government sought to address the security situation in the Terai with special police task forces, with limited results to date. Curtailing the illegal activities of the armed groups and the need to address discrimination and inadequate representation of marginalized groups are widely recognized as being among the requirements for an environment conducive to free elections and sustainable peace (UN High Commissioner for Human Rights 2008, *Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal*, A/HRC/7/68, UNHCR Refworld, 18 February 2008 <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=47dfa2a12> – Accessed 16 April 2008 – Attachment 13).

In December 2007 OHCHR released a detailed report titled *Human Rights in Nepal: One year after the Comprehensive Peace Agreement*. The report contains the following relevant information:

Killings and abductions by armed groups

The most serious consequences of the security vacuum and limited state interventions have been felt in the Terai, where numerous armed groups have created a climate of fear and intimidation in certain districts which police have been unable or unwilling to control, placing lives and physical security at risk, as well as causing population displacement. While targets of killings by armed groups in mid-2006 were almost exclusively related to conflicts between *Janatantrik Terai Mukti Morcha* (JTMM) and the CPN-M in the Eastern Region, the armed groups and their activities proliferated especially after the *Madheshi Andolan* in early 2007, expanding also to the Central Terai. Other armed groups such as the Terai Cobra, *Madheshi Mukti Tigers*, and two other JTMM factions have also emerged in the two regions.

...OHCHR has received reports of more than 75 killings, and 200 individuals being abducted by named or unidentified armed groups since December 2006; 67 of the killings and 160 abductions were reported in the last six months, since 1 May 2007. The killings included five people killed in bomb explosions, including a schoolgirl and two others killed in Kathmandu in September, and one individual killed in an explosion in Siraha in November. Others died mostly as a result of shootings. The JTMM-Jwala Singh faction was implicated in some 30 killings and 80 abductions, with eight killings and some 34 abductions being attributed to JTMM-Goit faction. Of those killed, 11 were reportedly members of armed groups, the rest civilians, including 10 CPN-M cadres (five killings attributed to JTMM-JS and five to JTMM-G), local government officials such as Village Development Committee (VDC) secretaries and District Development Committee (DDC) officers, a *Rastriya Prajatantra*

Party (RPP) and a Nepali Congress (NC) Party member. Additionally, two Madheshi members of the NC party were also killed in Siraha in November. Four members of the NC Party were also arrested in connection with the July killing of a VDC secretary (see below) – also in Siraha – amidst unconfirmed but persistent allegations that some members of political parties were using the armed groups to settle personal and political scores.

Among those abducted were teachers (14), businessmen (ten), journalists (three), members of political parties (three) and local government employees (21 including 14 VDC secretaries), with ransom being a principal if not sole motivation. JTMM-JS was implicated in 64 and JTMM-G in 26 abductions. In several recent cases, JTMM-JS reportedly accused the victims of a particular crime or of spying. Some of the victims have been Madheshi. Apart from the two killings mentioned above, in the last week of October, for example, a Madheshi VDC secretary was abducted on accusations of corruption and embezzlement, and two other Madheshis were abducted on accusations of rape and of buying land from a *pahadi* (person of hill origin). For the most part, however, JTMM factions and other armed groups have targeted *pahadis*.

Incitement to communal violence and racial hatred

Even though, as indicated above, the underlying issues are complex, in articulating their demands, some of the armed groups have increasingly been using inflammatory language, blatantly inciting communal violence and racial hatred between the Madheshi and *pahadi* communities. Both the main factions of JTMM have ordered *pahadis* to leave the Terai, especially government employees, for example in a JTMM-JS press release on 17 July. A *pahadi* secretary of a VDC was subsequently abducted and killed. VDC and court staff stopped work in protest at the threats and the killing. Some VDC staff moved to the district headquarters because of security fears and in November, many threatened to resign, further weakening local governance and delivery of local services. VDC staff have continued to protest at the lack of security, as abductions of VDC and other personnel have continued. Many persons of hill origin have now left the southern Terai plains.

These threats and incitement to violence have been met in some places with counter-threats by the hill-dominated *Chure Bhawar Ekta Samaaj* (CBES) organization and have contributed to the cycle of unrest and rising communal tensions. The threats have also at times been fuelled by the apparently deliberate spread of false or unverified rumours of rape and other violence to incite hatred between communities. At times, OHCHR has noted that the media itself has been responsible for the spreading of inflammatory information. In August 2007, for example, OHCHR concluded that two radio stations transmitted news regarding incidents on the Mahendra highway involving Madheshi and *pahadi* communities in a manner that was divisive, partial and politicized. The radio stations broadcast unfounded rumours that female pilgrims had been raped by CBES supporters/*pahadi* demonstrators, thereby inflaming Madheshi responses.

Killings and other violence in Kapilvastu

The most serious recent outbreak of violence occurred in Kapilvastu and illustrated how easily underlying tensions and State neglect can result in an explosion of violence, revenge and hatred. Fourteen people were killed during retaliatory attacks and looting in September following the murder of a local Muslim landowner, former NC Party member and former member of the pro-monarchy vigilante group *pratikar samiti*¹. Several thousand people were

¹ *Pratikar Samiti* are commonly referred to as vigilantes or self-defence groups. Such groups were active in some Western Terai districts in countering the CPN-M influence with at minimum the tacit support of the security forces, especially the (R)NA. Activities by *Pratikar Samiti* in the area resulted in the killing and the displacement of a large number of *pahadis* who were seen to be close to or supporting the predominantly *pahadi* initiated Maoist insurgency during the conflict. Following the end of the conflict, civil society and the CPN-M have many times raised the issue of weapons still being in the hands of former *Pratikar Samiti* members (United

displaced as a result, and there was widespread looting and destruction of property. According to official figures, more than three hundred buildings were damaged or destroyed, including five mosques, and including more than 200 homes which were set on fire. Violence also spilled over to neighbouring Dang District where property, including a mosque, was also destroyed and many temporarily displaced. OHCHR has had an almost continuous presence in the Kapilvastu area since the violence, gathering information on the incidents and also liaising with humanitarian organisations, local authorities and civil society to identify responses both to the basic needs of the communities concerned as well as ways of preventing further violence.

The Office's investigations concluded that the minimal presence of security forces, and the slow and inadequate response of police, local and national authorities yet again contributed extensively to creating the conditions for lawless and fatal violence. State interventions to protect the civilian population not only comprise law enforcement but ensuring governance, as well as developing dialogue between communities to reduce tensions and address grievances. Civil society and local authorities are starting to undertake initiatives in this regard in Kapilvastu, and similar initiatives occurred in Nepalgunj after inter-communal violence led to at least one killing and destruction of property at the end of December 2006. However, without proactive and preventive measures by the Government and state authorities to address underlying causes of the tensions, there are further serious risks of violence in the Terai. In addition, the question of accountability for criminal violence must be addressed. As of the end of October, police investigations and also the Special Committee set up to look into the violence had focussed not on the killings and injuries but exclusively on the looting and destruction of property (United Nations Office of the High Commissioner for Human Rights 2007, *Human Rights in Nepal: One year after the Comprehensive Peace Agreement*, 12 December <http://www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-79UJ7W?OpenDocument&rc=3&cc=npl> – Accessed 14 December 2007 – Attachment 2).

The section on violence in the Terai from the July 2007 ICG report has been reproduced in full here:

Madhesi discontent had been rising since it became apparent the April 2006 people's movement would not lead to a rapid addressing of their grievances. Federalism emerged as a key demand of all Madhesi groups; armed outfits increased their activities; and Maoist-Madhesi tensions escalated, in some cases violently. The parties, happy to be back in power and concentrating on talks with the Maoists, paid little attention to Madhesi issues or political dynamics. When the draft interim constitution – prepared by the SPA and Maoists without broad consultation – became public in December 2006, it prompted protests. Madhesi groups, as well as Madhesi MPs across party lines, objected to silence on federalism and what they saw as an unfair electoral system.

The first flashpoint was in Nepalgunj, where the NSP had called a strike. The administration tried to block the march; at the same time, *pahadis* attacked Madhesi-owned shops in the heart of town. There were reports of retaliation by Madhesis but *pahadi* violence and police complicity were captured on camera. A DVD showing the anti-Madhesi rampage was widely circulated, fuelling anger and raising tensions.

The promulgation of the interim constitution spurred 21 days of protests in January-February 2007. On 16 January, MJF leaders were arrested while burning copies of the document in Kathmandu. Three days later, MJF activists protesting the arrests in Lahan, Siraha district,

clashed with Maoists, who shot dead Ramesh Kumar Mahato, a young MJF activist. On 20 January, as the MJF demanded action against the perpetrator and compensation, Maoist cadres seized his body and cremated it. The MJF stepped up protests against both the government, for inaction, and the Maoists, whose leaders grudgingly and belatedly apologised. The escalation of tensions surprised even those who led the movement. “Everyone, including Madhesi leaders, failed to read the intensity of [popular sentiment]”, commented an Indian diplomat who followed events closely. “Even when Upendra Yadav and his colleagues burned the interim constitution, they did not quite realise what they were doing – and when the NSP called a *bandh* [strike], its own leaders were shocked at its success”.

Mahato’s killing was the spark for prolonged agitation. Madhesi activists called for a general strike in the Tarai and organised widespread protests; the government responded with curfews and an increased police presence. On 25 January, the MJF announced it would continue the protests indefinitely until the interim constitution was amended. Activists looted government offices, police posts, banks, mainstream parties’ district offices and media organisations; in a move reminiscent of the Maoists’ antimonarchy actions during the April 2006 movement, they vandalised statues of *pahadi* political leaders. The blocking of Kathmandu’s key supply routes had a more direct impact, leading to travel disruption, price rises and a petrol shortage. Although there were sporadic attacks on Taraibased *pahadis*, communalism was not a defining feature of the unrest. The state response was harsh: police shot dead more than 30 people and wounded 800.

The protests initially centred around Lahan and Janakpur but soon spread to all other major Tarai towns. The MJF organised some demonstrations but others were spontaneous or organised by local groups. These mobilised people, provided support to the injured and helped coordinate protests. Malangwa, Birgunj, Lahan and Biratnagar saw major clashes. In some cases, agitators turned their ire on journalists, blaming them for not covering the movement sufficiently.

The MJF emerged as the movement’s leading group but the protests lacked clear planning. “It was Lahan that created Upendra, not the other way around”, commented one observer. Caught off-guard by its sudden prominence, the MJF was not prepared to make the most of the public support. A district level leader admitted:

We didn’t know how to handle the movement. We had four to six leaders and about 20 to 30 activists in each district, who had to suddenly deal with thousands of protestors. We had neither the organisation nor the leadership to channel this energy for the benefit of our party or to keep in touch with people who might have turned into longterm supporters.

Participation in the protests cut across political divides; activists of other groups, from NC and UML to both JTMM factions, played a major role. Madhesis’ longstanding grievances, aggravated by exclusion from the peace process, even spurred CPN(M) cadres to join in, despite the anti-Maoist theme of many protests (International Crisis Group 2007, *Nepal’s Troubled Tarai Region*, 9 July, pp. 12-13 – Attachment 1).

Displacement

A 5 March 2008 press release from the Norwegian Refugee Council (NRC) notes continuing concerns about displacement from the Terai as a result of political and ethnic tensions:

Over the past year, people have been fleeing their homes in parts of eastern Terai in order to escape ethnic tension and fighting. NRC is concerned about the situation.

'People are scared of being harassed and attacked. The lack of security in the area makes humanitarian access very difficult,' says Philippe Clerc, NRC's Country Director in Nepal.

No registration and monitoring

The new displacements are a challenge for NRC, which provides information, counselling and legal assistance to IDPs in Terai. Currently there are no exact figures on how many people have been forced to flee. The Nepalese government is not monitoring the situation and are not registering the new IDPs.

'We know that there is not a massive flow of displaced families. Instead you have scattered families fleeing from villages all over the region. This is in itself a difficult situation, but when the IDPs are not registered it makes it even harder for us to provide them with assistance and protection,' Clerc says.

...Security vacuum

East Terai has experienced increasing political and ethnic tension over the past year. Nepal is currently gearing up for its Constitutional Assembly election scheduled for April 10. The elected assembly will draft a new constitution for Nepal and thus represents an important milestone for the country. Marginalized indigenous groups in eastern Terai are now increasingly demanding political representation. In February, the Madhesi movement, comprised of indigenous Madhesi people campaigning for a political voice, organized a strike that paralyzed the country for 16 days. Moreover, a weak state presence has created a security vacuum in the area. This is being exploited by criminal groups.

'The displacement in eastern Terai is partly caused by the security vacuum. You have political indigenous groups and other political fractions that are fighting for increased political involvement. In addition, you have criminal gangs and armed groups that are taking advantage of the situation,' he says (Veiersted, H. 2008, 'New displacements in East Terai', ReliefWeb website, source: Norwegian Refugee Council, 5 March <http://www.reliefweb.int/rw/rwb.nsf/db900sid/ASAZ-7CFCXL?OpenDocument&rc=3&emid=EVIU-6AKEJJ> – Accessed 16 April 2008 – Attachment 14).

A December 2007 *BBC* article notes claims that militant groups are confiscating Pahadi land, and that over 70 percent of Pahadis had been displaced from Janakpur (located in Dhanusa district – adjacent to Siraha) (Haviland, C. 2007, 'End of Nepal monarchy – or trouble?', *BBC News*, 24 December http://news.bbc.co.uk/2/hi/south_asia/7159258.stm – Accessed 17 January 2008 – Attachment 15).

A November 2007 *IRIN* article also describes the displacement in the most affected areas, including Siraha, where militant groups such as the Madhesi Mukti Tigers are active. One Pahadi man states that "Most of the families like ours were constantly threatened with death if we didn't leave":

Nepal's human rights workers are concerned at the increasing number of displaced families in the country's Terai region where ethnic tension between the Madhesi and Pahade communities is rising, activists told *IRIN* on 29 November.

In the past few weeks alone, over 100 Pahade families – at least 500 people – fled their homes in Bara, Rautahat, Siraha, Saptari and Parsa districts, the most affected areas in the Terai, a fertile lowland area of southern Nepal which is the breadbasket and industrial hub of the country.

Whilst the Madhesi are the original inhabitants of the Terai, the Pahade are hill migrants who moved to the Terai, own much of the land and dominate Terai's political life and economy. The Pahade make up about one third of the population of the Terai, which itself accounts for nearly half Nepal's population.

The two communities have had a long history of tensions especially over the control of forests and regional politics, but not to the extent of communal violence as in the past few months, say activists.

"There will be renewed displacement and a crisis if the current violence is not controlled," said rights activist Gopal Siwakoti of the International Institute for Human Rights, Environment and Development (INHURED).

Since pro-Madhesi political groups launched their protests in a bid to achieve more regional autonomy in February, violence has led to ethnic clashes and the displacement of both groups, with most displaced being Pahades.

Last week alone, nearly 90 families fled in fear of the militant group Madhesi Mukti Tigers in Bara, Siraha and Saptari districts, 400km southeast of the capital, according to the Informal Sector Service Centre (INSEC), a local human rights group.

"Most of the families like ours were constantly threatened with death if we didn't leave," said a displaced villager Om Bahadur Shrestha in Barachhetra village of Sunsari District.

He said Pahade families were being targetted by Madhesi militant groups.

"All the displaced families, including children, are living in very poor conditions," said aid worker Hari Bhattarai from the Norwegian Refugee Council (NRC), one of the main agencies providing support to the displaced.

Madhesi also targetted

Rights activists say Madhesi families have also been displaced, among them those who do not support militant groups.

Madhesis working for the government, media and human rights organisations also live in fear as they are constantly under threat of losing their jobs or being killed.

The worst affected are middle class families and well-off farmers who own large tracts of land or have a lot of property. They are forced to pay large sums to militant Madhesi groups, activists said.

Displaced Madhesi families are now taking refuge in safer Terai areas like Biratnagar, Inarwa, Janakpur and near the main highway leading towards the northern belt of the Terai, according to INHURED. Many Madhesi families have moved to the capital for protection and better security.

Dangerous trend

"This is quite a different form of displacement and it is likely that the displaced families will never be able to return to their homes," said an international aid analyst requesting anonymity.

He explained the current links between some political groups and armed gangs – with the

latter funding militant activities and supplying arms, and the former giving them space for their criminal activities.

“Both of them are working towards displacing anyone who disagrees with them – even Madhesis – and waging an ethnic-cleansing war,” he warned (‘NEPAL: Rising communal tensions fuelling displacement – rights activists’ 2007, *IRIN*, 29 November <http://www.irinnews.org/Report.aspx?ReportId=75573> – Accessed 16 April 2008 – Attachment 16).

Armed groups

The latest US Department of State report on human rights, released in March 2008, states that “Numerous armed groups, largely in the Terai region in the lowland area near the Indian border, formed and engaged in attacks against civilians, government officials, members of particular ethnic groups, each other, or against the Maoists.” The report continues:

The Terai was the site of much unrest throughout the year. According to INSEC, the Madhesi People’s Rights Forum (MPRF) killed 33 people, the Janatantrik Terai Mukti Morcha (Goit) 18, the Janatantrik Mukti Morcha (Jwala Singh) 27, the Madhesi Mukti Tigers two, Terai Cobra two, Terai Bhagi one, and unknown groups killed 95 persons (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Nepal*, March – Attachment 4).

The report gives some specific examples of violent incidents by some of the armed groups in the Terai (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Nepal*, March – Attachment 4).

According to the South Asia Terrorism Portal (SATP), there are approximately 20 armed groups operating in the Terai:

Currently, there are approximately 20 armed groups operating in the Terai with diverse agendas. The most prominent among these are: the Madhesi Janadhikar Forum (MJF, also known as Madhesi Peoples’ Rights Forum) and the two factions of the Janatantrik Terai Mukti Morcha (JTMM, Democratic Terai Liberation Front) led by Jaya Krishna Goit (JTMM-G) and Nagendra Kumar Paswan a.k.a. Jwala Singh (JTMM-J), respectively. With well-trained armed militias, these groups are currently orchestrating unrest in the region, engaging in killings, abduction, looting and extortion. Other active entities include the JTMM – Bisfot Singh faction, Madhesi Rashtriya Mukti Morcha (Madhesi National Liberation Front), Madhesi Mukti (Liberation) Tigers, Terai Cobra, Terai Baagi (Rebels), Terai Army, Madhesi Virus Killers Party and the Royal Defence Army.

On December 4, 2007, the breakaway faction of the Nepal Sadbhawana Party (NSP) led by Rajendra Mahato unveiled its militant youth wing called Madhesh Raksha Bahini (Madhesh Security Brigade) at Birgunj in the Parsa District. The party’s district secretary, Shiva Patel, said the cadres were trained in self-defence tactics such as using lathis (batons), judo and karate and claimed that there were 23,000 such members across the country. On December 7, four parties of in the Terai region, MJF led by Bhagyanath Gupta, Dalit Janajati Party, Madhesi Loktantrik Morcha (Madhesi Democratic Party) and Loktantrik Madhesi Morcha (Democratic Madhesi Party), came together to float the Broader Madhesi National Front (BMNF). In a joint statement they said that they all believe in the liberation of the Madhesi people through a federal democratic republic, proportional representation and autonomous Madhesh region equipped with the right to self determination.

Though these groups are present across the Terai region, major incidents have been reported mainly from eight of the region’s 20 Districts – Siraha, Dhanusha, Morang, Sarlahi, Bara, Saptari, Mohattari, and Rautahat. These incidents include the killing and abduction of

civilians, Government employees and also Maoists, the last of which are regarded as the foremost enemies of the Madheshi movement and people. According to an INSEC report, 33 persons were killed by the MJF, JTMM-G killed 18 persons, JTMM-J killed 27 persons and eight others were killed by other agitating groups in the Terai since November 2006. The report also claimed that the armed groups seized properties of more than 279 people in the Terai region.

...Chure Bhawar Ekta Samaj–Nepal (CBES-N, Chure Bhawar Unity Society) is another group which has been demanding security and protection of the rights of the people of hill origin living in the Terai region, seeking autonomous status for the Chure-Bhawar region. This group is a direct response to the activities of the Terai armed groups and represents the interests of the Tamang, Magar and some other hill-ethnic groups. They demand that the Government ban the Terai armed groups that are killing pahades in the Terai, and declare as martyrs the CBES-N cadres who are killed ('Nepal Assessment 2008' (undated), South Asia Terrorism Portal website <http://satp.org/satporgtp/countries/nepal/index.html> – Accessed 24 January 2008 – Attachment 17).

SATP provides descriptions of Janatantrik Terai Mukti Morcha (Goit) (JTMM-G), Janatantrik Mukti Morcha (Jwala Singh) (JTMM-J), and the Madheshi Janadhikar Forum (MJF) (also known as the Madheshi People's Rights Forum (MPRF)). A list of violent incidents in 2007/2008 involving these groups is also documented ('Janatantrik Terai Mukti Morcha – Jaya Krishna Goit (JTMM-G)' 2008, South Asia Terrorism Portal website, last updated 7 March <http://satp.org/satporgtp/countries/nepal/terroristoutfits/jtmmg.html> – Accessed 16 April 2008 – Attachment 18; 'Janatantrik Terai Mukti Morcha – Jwala Singh (JTMM-J)' 2008, South Asia Terrorism Portal website, last updated 7 April <http://satp.org/satporgtp/countries/nepal/terroristoutfits/jtmmj.html> – Accessed 16 April 2008 – Attachment 19; 'Madheshi Janadhikar Forum (MJF)' 2008, South Asia Terrorism Portal website, last updated 28 March <http://satp.org/satporgtp/countries/nepal/terroristoutfits/mjf.html> – Accessed 16 April 2008 – Attachment 20).

According to OHCHR, the JTMM was active in the Eastern region in 2006. Armed groups and their activities proliferated in the Central and Eastern districts in 2007, with "groups such as the Terai Cobra, *Madheshi Mukti Tigers*, and two other JTMM factions" emerging. Examples of killings and abductions by these armed groups are set out in the OHCHR report, which has been reproduced at length in the above section (United Nations Office of the High Commissioner for Human Rights 2007, *Human Rights in Nepal: One year after the Comprehensive Peace Agreement*, 12 December <http://www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-79UJ7W?OpenDocument&rc=3&cc=npl> – Accessed 14 December 2007 – Attachment 2).

A December 2007 *BBC* article describes a meeting with a representative of one of the JTMM factions:

In a secret location I met Rajan Mukti, an unsmiling 25-year-old in a white shirt and red scarf, representing a major underground group called the JTMM Jwala Singh faction.

He wants complete independence for the Terai.

"Our liberation army punishes anyone who supports the absolute rule of the hill people. We want to destroy those Pahadi people who have absolute power and those supporting them" (Haviland, C. 2007, 'End of Nepal monarchy – or trouble?', *BBC News*, 24 December

http://news.bbc.co.uk/2/hi/south_asia/7159258.stm – Accessed 17 January 2008 – Attachment 15).

According to recent reports these armed groups are still active. Although some were invited to, and agreed to, talks with the government in February/March, they later withdrew after various demands were not met. The latest OCHA situation report states:

Armed groups in Terai districts continue to oppose the CA election and pose a threat to the election related activities. JTMM-J has claimed responsibility for the murder of a candidate for the National People's Front, a small Communist party and member of the ruling coalition, in Banke on 18 March, two arrests have been made.

...Explosions set by armed groups have been reported on a daily basis in a number of Terai districts, often targeting state offices, civil servants, candidates or their premises. They have also attacked or ambushed candidates, poll workers and security officials.

The government officially invited four Terai armed groups for talks on 21 March. The Terai parties TMDP [Terai Madhesh Democratic Party] and SP [Sadbhawana Party] jointly issued a statement on 22 March, urging them to accept the invitation. The four groups (Madhesh Mukti Tigers (MMT), Terai Cobra, Janatantrik Terai Mukti Morcha – Rajan Mukti (JTMM) and, Samyukta Janatantrik Terai Mukti Morcha – Pawan (SJTMM) formed a joint talks team and announced that they would sit for talks with the government, but only under the new conditions that their associates previously arrested would be released by 29 March. As the Government was not willing to comply, the deadline passed and the groups stepped back from the talks, disbanded their talks team and announced further attacks against state representatives, in particular election workers.

Also, a number of groups, left out from the talks offer, such as the newly formed group, the Terai Mukti Brigade Network, announced further actions to disrupt election.

In one of the most serious incidents to date, bombs were tossed into a mosque in Biratnagar during prayer time on 29 March, killing two and injuring several others, in an apparent attempt to increase tensions.

...Safety and Security

Bomb blasts and threats have caused considerable security risks in a number of Terai districts. While at times police were successful to detect and defuse explosive devices, significant harm was caused to many civilians across the region.

Various armed groups have claimed responsibility for placing the IEDs. On 19 March, Biratnagar Police defused three ATLF-claimed bombs including one found near a school, causing panic among the students. Also on 19 March, three MLT-claimed socket bombs were detonated in Birgunj (Bara). MMT said they placed another bomb there injuring four on 25 March. SJTMM claimed to have caused the detonation of two bombs at Rautahat district headquarter Gaur on 30 March, which caused no physical damage or human casualty.

Reach of the State

Central state officials have been unable or unwilling to take up their posts in a number of villages south of the Terai's East West highway. Civil servants apart from school teachers and health workers are working from outside their assigned locations in many of the Terai districts, often citing security concerns. VDC secretaries are either working from the district headquarters or visiting their VDCs only occasionally. A VDC Secretary in Dhanusha was reportedly abducted from his house by an unidentified group.

The secretaries of some 30 VDCs in Kapilvastu district have reportedly not been able to return to their VDCs because of threats by various armed Terai groups.

Police have faced challenges in providing law and order in a several areas, particularly where central state organs have been absent or weak for a number of years (UN Office for the Coordination of Humanitarian Affairs Nepal 2008, *Fortnightly Situation Overview*, issue 23, 18-31 March, ReliefWeb website, 31 March

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/ASAZ-7DAC47?OpenDocument&rc=3&cc=npl> – Accessed 17 April 2008 – Attachment 21).

2. What was the response of the government and the authorities?

According to the available information, the interim government was slow to address the Terai unrest. Generally, sources agree that there is a “security vacuum” in most Terai regions. The latest US Department of State report notes that authorities often used “unwarranted and at times lethal force” when dealing with recurrent unrest in the Terai region. As mentioned above, in December 2007 the government initiated a task force to deal with the crisis.

According to the UN High Commissioner for Human Rights February 2008 report, the task force has had limited success to date. A December 2007 *BBC* article notes allegations that the task force was largely counter-productive and actually served to inflame the situation (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Nepal*, March, Section 1.a – Attachment 4; UN High Commissioner for Human Rights 2008, *Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal*, A/HRC/7/68, UNHCR Refworld, 18 February 2008 <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=47dfa2a12> – Accessed 16 April 2008 – Attachment 13; Haviland, C. 2007, ‘End of Nepal monarchy – or trouble?’, *BBC News*, 24 December http://news.bbc.co.uk/2/hi/south_asia/7159258.stm – Accessed 17 January 2008 – Attachment 15).

The UN High Commissioner for Human Rights February 2008 report states:

Armed groups also exploited the security vacuum and expanded their activities in the central, eastern, western and mid-western Terai. Their actions and the failure of State authorities to address them adequately had a severe impact on the protection of human rights in the Terai plains, especially the rights to life, security and physical integrity, and deepened the climate of fear and intimidation as well as divisions between Madheshi and Pahadi (people of hill origin) communities. The activities of journalists and human rights defenders, mostly from hill areas, were particularly restricted due to insecurity, threats and intimidation from armed groups, and some were displaced as a result (UN High Commissioner for Human Rights 2008, *Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal*, A/HRC/7/68, UNHCR Refworld, 18 February 2008 <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=47dfa2a12> – Accessed 16 April 2008 – Attachment 13).

SATP’s Nepal Assessment 2008 states:

There has been little significant change in terms of patterns of governance, with the interim Government constantly under threat from the Maoists and pressurised by other groups. With the Government simply unable to put its house in order, civil administration has been seriously undermined as the Maoists frequently attacked and closed the offices of the District

Development Committees and also attacked the restored Police posts throughout the country (the posts had been closed down during the peoples' war phase). Similarly, there were reports of the Maoists running their own kangaroo courts to 'resolve' civil disputes, undermining the country's judicial system. The weakness of the state in this regard peaked when armed groups in the Terai region attacked the Village Development Committee (VDC) secretaries drawn from the hill region. VDC secretaries across the Terai resigned en masse in protest against the inability of the Government to provide security. In response, the Government has now deployed some Special Task Forces in Terai Districts.

According to Dharma Adhikari, a senior journalist, the Government's efforts in "addressing new grievances, curbing violence and listening to new voices of dissent can, at best, be described as haphazard and ill-equipped. Dialogue with the new rebels is hindered by the fact that these groups don't have a clear leadership or a common political agenda, just like in the national political scene ('Nepal Assessment 2008' (undated), South Asia Terrorism Portal website <http://satp.org/satporgtp/countries/nepal/index.html> – Accessed 24 January 2008 – Attachment 17).

A December 2007 *BBC* article on the Terai unrest states:

Ethnicity makes many a target. I visited Madhav Acharya, an old, deaf man. A militant group has confiscated the land where he grows his paddy.

"More than 70% of the Pahadis here in Janakpur have left. They've been displaced," he said.

"But it's difficult for me. My children are studying. I can't go anywhere else. I'm scared, but I don't know who to turn to."

Conversely, Madhesi campaigners say the authorities ignore their grievances. Madhesi human rights activist Dipendra Jha fears that a new task force sent in to tackle violence is counter-productive.

"Most of the armed forces are from the hilly area," he says. "They don't know about the cultural, social sensitivity of the Terai. Most politicians perceive the problems in the Terai as a security problem rather than looking at the political, social, economic, cultural demands. So the situation is getting worse and worse."

In several other regions, too, as ethnic sentiment grows, self-defence groups are emerging in the name of different communities.

In fact, Nepal consists of dozens of minorities, geographically intermingled but now demanding a voice.

They will be hoping to be better heard, as under the new agreement more than half the assembly members will be elected under proportional representation.

But in a deeply uneven, caste-dominated, male-dominated society, securing real change will not be easy (Haviland, C. 2007, 'End of Nepal monarchy – or trouble?', *BBC News*, 24 December http://news.bbc.co.uk/2/hi/south_asia/7159258.stm – Accessed 17 January 2008 – Attachment 15).

OHCHR released a summary of the recent police and protester violence and human rights violations during the fortnight of Terai protests in February 2008. According to this information, police were still under-resourced and inadequately trained, resulting in a number of civilian deaths (Office of the High Commissioner for Human Rights 2008, 'Summary of human rights concerns arising from the Terai protests of 13 – 29 February 2008', OHCHR

Nepal website, 27 March

http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_03_27_Terai_Protest_E.pdf – Accessed 16 April 2008 – Attachment 11).

Also, as noted above, the latest OCHA situation overview states that four Terai armed groups accepted Government invitation for talks, but later withdrew (UN Office for the Coordination of Humanitarian Affairs Nepal 2008, *Fortnightly Situation Overview*, issue 23, 18-31 March, ReliefWeb website, 31 March <http://www.reliefweb.int/rw/RWB.NSF/db900SID/ASAZ-7DAC47?OpenDocument&rc=3&cc=npl> – Accessed 17 April 2008 – Attachment 21).

Background

ICG report provides the following information on the response of the authorities to the violence (up to July 2007):

The intensity and duration of the protests took the government by surprise. It had ignored similar demands by Madhesi MPs across party lines and did not negotiate with Madhesi groups when trouble was brewing. Instead, it treated the protests as a law and order problem, arresting leaders, imposing curfews and authorising police to shoot violent protestors. Many mainstream politicians were happy to see a militant Tarai force emerge to challenge the Maoists. Only when they themselves became targets and the unrest showed no signs of abating did SPA leaders start looking for a political solution. The Maoists dismissed the MJF and JTMM as criminals, claiming royalists and Hindu fundamentalists from India were driving the movement. They urged the government not to grant it legitimacy through negotiations and consistently argued that the newly prominent activists were “irresponsible” and lacked the “moral authority” to represent Madhesis.

After a week of protests, Prime Minister Koirala, in a 31 January televised address, invited protesting groups to negotiations, promised to increase electoral seats in the Tarai and announced a commitment to federalism. On 2 February, the government set up a ministerial-level talks team. However, Koirala misjudged the popular mood. MJF-led protestors rejected the offer and complained he did not empathise with their movement. Many Madhesis felt that the speech was high-handed and unilateral and did not recognise Madhesi demands as rights that were due to them. A week later, as the situation deteriorated further, Koirala made a second address, recognising the contribution of Madhesis to strengthening democracy, expressing regret over loss of life and promising electoral representation and inclusion of marginalised groups in state bodies on a proportional basis.

The MJF cautiously welcomed this announcement, suspending its agitation for ten days to allow the government to implement its promises but setting preconditions for talks: the home minister’s resignation, action against those responsible for the killings and a judicial commission to examine the government’s behaviour. The JTMM(JS) conditionally agreed to talks but the JTMM(Goit) (then the much stronger faction) rejected the offer. The government prevaricated. It delayed amending the constitution, backed the home minister and did not even address uncontroversial demands such as compensating victims. The promised judicial commission – which, given the tradition of such enquiries in Nepal, would probably have been a painless way of deferring judgement on tricky issues – was only formed months later and dominated by establishment figures, including the police chief, whose own force’s actions are under investigation. There were no talks with the JTMM(JS).

The movement prompted mixed reactions outside the Tarai, including in *pahadi*-dominated civil society. Although the need for a more inclusive state is now a rhetorical commonplace, Madhesi militancy prompted fears and resentment, often reinforcing old prejudices. Despite concern for a backlash from other communities feeling threatened by Madhesi strength, most marginalised communities expressed support and emphasised they shared the demand for

federalism and proportional representation. Civil society groups visited the troubled districts, agreed the agitation was mostly spontaneous and urged the government to address legitimate demands. Media attention was finally drawn to Madhesi concerns, prompting some sympathetic reporting. However, much *pahadi* reaction mirrored the party response. While some human rights organisations accused the government of excessive force, some Madhesi commentators charged *pahadi*-dominated human rights groups and the media with bias. Many Kathmandu residents vociferously opposed the movement, believing it had been stirred up by “regressive elements” or was an Indian conspiracy to undermine Nepal’s sovereignty.

There was a cross-border dimension. Indian political and social groups, especially in Jogbani and Raxaul, organised camps to give shelter and medical care to the injured.¹³³ Many politicians were quietly supportive, with some border legislators making public statements in favour of Madhesi rights and others organising rallies on the Indian side. Some members of legislative assemblies (MLAs) are reported to have told district administrators not to lean too heavily on Madhesi activists, both armed and unarmed.

Maoist-MJF tensions continued to increase and turned violent in Gaur on 21 March, when the MRMM organised a mass meeting at the same time and venue as the MJF. MJF activists allegedly destroyed the MRMM stage, provoking a similar response. After initially fleeing, MJF partisans attacked the outnumbered Maoists, killing 27. Some human rights activists allege that five women were raped and mutilated and accuse the MJF of hiring professional killers. Other assessments, including the UN report, say there were no rapes and blame the police for not enforcing order, the Maoists for provocation and the MJF for preparing and resorting to violence. Several victims were summarily executed. There may have been a caste component to the clash, for Gaur has sizeable Rajput and Yadav populations. Angry with the Maoists for mobilising lower castes, they used this as an opportunity to assert local dominance. The massacre has left the MJF with a legitimacy crisis and encouraged the Maoists to build a more organised militant force in the Tarai (International Crisis Group 2007, *Nepal’s Troubled Tarai Region*, 9 July, pp. 13-14 – Attachment 1).

3. Please advise if the police are able and willing to protect Pahadis, in Kathmandu and elsewhere, who are under threat from Madhesis?

Limited current information was found on the situation of displaced Pahadis in Kathmandu, although a recent NRC press release mentions that many IDPs do not register as such for fear of being tracked down. The last UNHCR report on asylum seekers from Nepal was released in late July 2007. According to this information, Terai-based organisations are not known to pursue persons who have fled or relocated to areas outside of the Tarai region. IDPs who fled during the conflict and have yet to return to their homes continue to live in apparent safety in urban areas and district headquarters throughout the country. However, it should be noted that, as detailed previously in this response, the Terai situation has continued to deteriorate since the report was released. There have been a number of recent bombings in Kathmandu (and elsewhere) targeting pro-government and election rallies, allegedly carried out by Madhesi groups. Generally, all recent reports indicate that the law and order situation remains poor throughout the country, including the capital. The latest ICG report states that “public security has been dismal throughout the ceasefire, and armed groups in the lowlands have carried out killings, bombings and abductions and threatened further violence.” (p. i) The OHCHR report on the Terai unrest in February 2008 indicates that, in general, security forces were biased in favour of Pahadis over Madhesis. However, reports also indicate that security forces are under-resourced, often passive, and suffering from low morale and varying degrees of corruption. It should also be noted again that Nepal is in a state of flux, with results of the

recent general elections (the first since 1999) yet to be finalized. At this point, the available information indicates that the Maoist party has the majority (for NRC press release, see: Veiersted, H. 2008, 'New displacements in East Terai', ReliefWeb website, source: Norwegian Refugee Council, 5 March <http://www.reliefweb.int/rw/rwb.nsf/db900sid/ASAZ-7CFCXL?OpenDocument&rc=3&emid=EVIU-6AKEJJ> – Accessed 16 April 2008 – Attachment 14; for UNHCR report, see: UN High Commissioner for Refugees 2007, *UNHCR's Position on the International Protection Needs of Asylum-Seekers from Nepal*, UNHCR Refworld website, 26 July <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46af032d2> – Accessed 18 April 2008 – Attachment 7; for recent bombings, see: UN Office for the Coordination of Humanitarian Affairs Nepal 2008, *Fortnightly Situation Overview*, issue 23, 18-31 March, ReliefWeb website, 31 March <http://www.reliefweb.int/rw/RWB.NSF/db900SID/ASAZ-7DAC47?OpenDocument&rc=3&cc=npl> – Accessed 17 April 2008 – Attachment 21; Parajuli, K. 2008, 'Kathmandu: Madhesi attack pro-government demonstration, more than 20 people hurt', *AsiaNews*, 28 January <http://www.asianews.it/index.php?l=en&art=11366&size=A> – Accessed 17 April 2008 – Attachment 22; for latest ICG report, see: International Crisis Group 2008, *Nepal's election and beyond*, 2 April – Attachment 23; for information on security forces, see: US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Nepal*, March – Attachment 4; for OHCHR report, see: Office of the High Commissioner for Human Rights 2008, 'Summary of human rights concerns arising from the Terai protests of 13 – 29 February 2008', OHCHR Nepal website, 27 March http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_03_27_Terai_Protest_E.pdf – Accessed 16 April 2008 – Attachment 11; for recent election reports, see: Haviland, C. 2008, 'Electoral thunderbolt for Nepal', *BBC News*, 15 April http://news.bbc.co.uk/2/hi/south_asia/7348049.stm – Accessed 17 April 2008 – Attachment 24).

The latest US Department of State report states that “Police were given a limited mandate and were not actively encouraged to promote law and order throughout the country”:

There was significant internal conflict in the Terai. Numerous armed groups, many ethnically based, clashed with each other and with the local population. Police were given a limited mandate and were not actively encouraged to promote law and order throughout the country. Members of the Maoists, the Maoist-affiliated YCL, and various other splinter groups in the Terai frequently committed acts of violence, extortion, and intimidation throughout the year (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Nepal*, March, Section 1.g – Attachment 4).

The above quoted March 2008 NRC press release notes that there is no exact numbers on how many people have been forced to flee their homes in eastern Terai. According to this information the Nepalese government is not monitoring the situation and many IDPs have not been registered. NRC's Country Director in Nepal states that “**Many IDPs avoid registration because they are afraid of being targeted later on.** They are keeping a low profile to make sure that they are not tracked down” (Veiersted, H. 2008, 'New displacements in East Terai', ReliefWeb website, source: Norwegian Refugee Council, 5 March <http://www.reliefweb.int/rw/rwb.nsf/db900sid/ASAZ-7CFCXL?OpenDocument&rc=3&emid=EVIU-6AKEJJ> – Accessed 16 April 2008 – Attachment 14).

OHCHR investigated the deaths of six people during the two weeks of Terai strikes in February 2008. Five of these died from police fire. According to the OHCHR report, police were under-resourced and inadequately trained. The report also notes that there were some instances in which police were not impartial in the protection of rights during protests and demonstrations. These instances involved police inactivity during violent protests by people of mainly hill origin. The report states:

In the course of its monitoring of the Terai protests, OHCHR again observed a common problem; the population's perception that the local administration, the Nepal Police and the APF working in the Terai districts are not impartial in the execution of their functions. OHCHR's monitoring shows that this is only true in part. In many instances, the local administration and police act in a professional manner, striving to be both objective and fair in carrying out their duties. There are, however, instances where OHCHR has observed behaviour that gives many Terai residents the impression that the police are biased. This includes instances where police officers have been inactive during violent protests by people of mainly hill origin, but have intervened forcefully during similar protests by bandh supporters. On other occasions, police officers have been heard to use derogatory language while policing demonstrations that indicates discriminatory opinions. OHCHR welcomed recent steps taken by the Government to be more inclusive, including through the appointment of Madheshi CDOs to some Terai districts, as well as the adoption of quotas for recruitment to the police and civil service and encourages the Government to ensure that the local administration in all parts of the country becomes fully inclusive (Office of the High Commissioner for Human Rights 2008, 'Summary of human rights concerns arising from the Terai protests of 13 – 29 February 2008', OHCHR Nepal website, 27 March http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_03_27_Terai_Prot_est_E.pdf – Accessed 16 April 2008 – Attachment 11).

Kathmandu

In the July 2007 report UNHCR states the following in relation to Tarai IDPs and relocation:

37. In contrast to the improvements occurring in most areas of the country, the situation in the eastern Tarai region has deteriorated since late 2006. Strikes and demonstrations in this area have frequently turned violent, with loss of life and damage to property reported on several occasions. The activities of both armed and unarmed groups (including but not limited to the JTMM factions and the MJF) have resulted in serious violations of human rights and displacement. Those targeted or displaced include persons from the Pahadi and, to a lesser degree, Madheshi communities. Should the situation in the eastern Tarai deteriorate further or spread to additional areas, significant additional displacement could occur.

38. In relation to those who flee targeted violence or human rights abuses by non-state agents, the issue of an internal flight or relocation alternative needs to be addressed. The Kathmandu valley (and in many instances other urban areas) may be considered a relevant internal flight or relocation alternative for the majority of those fleeing non-state agents. At present, organizations affiliated with the CPN-M are not known to pursue or target persons who have fled or relocated to the Kathmandu valley or to the main urban centres such as Biratnagar, Nepalgunj or Pokhara. Similarly, **Tarai-based organizations are not known to pursue or target persons who have fled or relocated to areas outside of the Tarai region. IDPs who fled during the conflict and have yet to return to their homes continue to live in apparent safety in urban areas and district headquarters throughout the country.**

39. Whether internal flight or relocation is reasonable will depend on an individual analysis of personal circumstances, including experiences of past persecution, capacity for economic survival, and other factors. Internal and external migration traditions are well-established in Nepal, and persons from nearly all of the country's communities migrate or relocate within

the country with relative frequency and with few restrictions. During the armed conflict, IDPs in Nepal demonstrated a capacity to integrate with relative ease in their locations of displacement. Those who fear persecution by non-state agents on the basis of their prominent political profile, status as wealthy landowners or for being Pahadis residing in the Terai region, often have sufficient economic resources or family links to support their relocation [researcher emphasis added] (UN High Commissioner for Refugees 2007, *UNHCR's Position on the International Protection Needs of Asylum-Seekers from Nepal*, UNHCR Refworld website, 26 July <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=46af032d2> – Accessed 18 April 2008 – Attachment 7).

A number of bombings have occurred in Kathmandu over the past year, some allegedly by Madhesi groups, suggesting that they are active in the capital. On 14 January 2008 a bomb targeted a mass gathering at the launch of the election campaign of the seven main parties. On 26 January 2008, according to *AsiaNews*, “ethnic Madhesi attacked a demonstration organised by the ruling government coalition, seriously hurting at least 21 political leaders”. A series of explosions were also detonated around Kathmandu, although there were no casualties. According to OHCHR, a number of people died in explosions in September 2007. Police subsequently arrested a number of persons in relation to the bombings (Parajuli, K. 2008, ‘Kathmandu: Madhesi attack pro-government demonstration, more than 20 people hurt’, *AsiaNews*, 28 January <http://www.asianews.it/index.php?l=en&art=11366&size=A> – Accessed 17 April 2008 – Attachment 22; United Nations Office of the High Commissioner for Human Rights 2007, *Human Rights in Nepal: One year after the Comprehensive Peace Agreement*, 12 December <http://www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-79UJ7W?OpenDocument&rc=3&cc=npl> – Accessed 14 December 2007 – Attachment 2).

The latest *bandh*/strike in the Terai caused major fuel shortages in Kathmandu. OCHA’s February 2008 situation update on the crisis in the Terai lists the various issues affecting the city including food supplies, water distribution, education, and population movement. Public and private transport in Kathmandu has been severely affected, and the “strike resulted in almost no vehicle movement in most parts of the country except Kathmandu with private entrepreneurs generally choosing not to travel due to fear of retaliation or fuel shortage. On a number of occasions demonstrators have burnt or vandalized public buses, milk trucks and private vehicles that have ventured on to the major highways” (Office for the Coordination of Humanitarian Affairs 2008, *OCHA Nepal Situation Update: Crisis in the Terai*, issue 1, 22 February [http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/LSGZ-7C6KA3-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/LSGZ-7C6KA3-full_report.pdf/$File/full_report.pdf) – Accessed 16 April 2008 – Attachment 10).

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