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MADHES: THE CHALLENGES AND OPPORTUNITIES FOR A STABLE NEPAL

I. Introduction

One of the least reported, but most significant changes in Nepali politics since the 2006 People's Movement is the emergence of the 'Madhes' as a political force. With the opening of the democratic space, the Madhesis, who largely but not exclusively live in the southern plains and constitute 33 percent of the population¹, asserted themselves. The Madhes speak languages like Maithili, Bhojpuri, Awadhi, Hindi and Urdu² and have extensive cross-border ties with India³. They challenged the hill-centric notion of Nepali nationalism and staked claim for greater representation in the state structure.⁴

After a period of two and a half volatile years which has seen the repeated formation and fragmentation of Madhesi parties, the proliferation of militant armed groups in the Tarai, and reluctant measures by Kathmandu to share power, Madhesi politics is once again at the cross-roads.

The ouster of the Maoist government in May 2009 and the subsequent formation of the Madhav Nepal led coalition government was accompanied by striking changes in political alignments in Tarai. The biggest Madhesi party, Madhesi Janadhikar Forum (MJF) led by Upendra Yadav, split into two factions – with one supporting the government and the other out in the opposition.⁵ The split was driven by personality-centered as well as ideological issues. The Tarai Madhes Loktantrik Party (TMLP), which had stayed out of the Maoist government and even announced an agitation in the Tarai, has now become a participant in the ruling

dispensation. The Sadbhavana Party continues to occupy one ministerial portfolio.

These three Madhesi parties were critical in helping Madhav Nepal form a majority government. Even now, if two of these parties withdraw support, the coalition runs the risk of losing the confidence vote on the floor of the house.⁶

All these parties have come together on an anti-Maoist plank, sharing the belief that the Maoists must be stopped in their quest for 'total state capture'. They have termed the alliance as a broader democratic alliance. But it is riddled with internal contradictions.

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¹ Census of Nepal, 2001

² Frederick Gaige, *Regionalism and National Unity in Nepal*, 1975

³ Khriezodilhou Yhome. 2006. 'Madhesh Pratiko Bibhed ra Samanta Andolan' in *Madhesh: Samasya ra Sambhawana*, Basanta Thapa and Mohan Mainali (eds). Social Science Baha/Himal Association, Kathmandu, Nepal

⁴ Prashant Jha, 'Madhes Rises', *Himal Southasian*, August 2007

⁵ MJF expels Gacchedar, six other leaders, *Nepalnews.com*, <http://www.nepalnews.com/archive/2009/jun/jun05/news10.php>

⁶ Madhav Nepal was elected as PM with the support of 358 CA members. 25 members of Upendra Yadav's faction have already withdrawn support. If TMLP with 21 members and Bijay Gachhedar's faction with 28 members also withdraw support, the government may lose confidence of the house. A vote on the budget in July saw the government scrape through with 304 votes, signifying that its numerical strength remains fragile.

The Madhesi parties are sharing power with the UML, which they have accused repeatedly of being an ‘anti-Madhesi’ party and propping up communities in Tarai to ‘divide and weaken’ their movement.⁷ Among the other 22 members of the coalition are also old conservative parties which have steadfastly opposed federalism – the main plank of Madhesi forces – as well as forces like Chure Bhawar Ekta Samaj – which claims to represent the hill population of the Tarai and tends to view most Madhesis as Indians.

Even as Madhesi parties are engaged in Kathmandu-centric power games, the political-security situation in the Tarai continues to be worrying.

The split in the MJF, and the cynical power play, has led to deep disillusionment among Madhesis in the Tarai. Their faith in newer forces to change the political culture and win them rights – as reflected in their participation in the constituent assembly elections despite threats⁸ – has taken a beating. They have little trust in Kathmandu, which political actors view as the bastion of hill nationalism. The recent decision of the Supreme Court holding the Vice President’s oath in Hindi as unconstitutional has further added to the trust deficit.⁹

Among Madhesis, caste based political mobilization has increased. With multiple armed groups – where the line between politics and crime is blurred – operating with total impunity, the fear among residents in Tarai towns has increased dramatically. The state continues to be weak; its structures are dominated by people from hill-castes; and the government has not been able to carve a response to the armed groups – vacillating from engaging in talks to a solely security-centric approach that has seen increased extra judicial killings in the past a few weeks.

This ACHR briefing begins with a brief background of the Madhesi movement and grievances in the context of present developments. It then looks at the pre-constituent

assembly, political situation and agitations, and the subsequent post election context. The paper examines in some detail the present political dynamics, the existing ground-level situation in the Tarai, the multiple fault-lines that characterize it, and the assertion by Tharus and other communities claiming a distinct identity. It also examines the role of the Indian establishment and cross border elements – which wield enormous influence and leverage in shaping Nepali politics.

2. The issues in Madhes

The trigger for the first Madhesi movement in January 2007, when the interim constitution was promulgated, was the silence of the interim constitution on federalism and an inequitable electoral system.¹⁰ Madhesi leader Upendra Yadav burnt the interim constitution. This was

followed by widespread protests in the Tarai by MJF activists, the killing of a MJF activist by the Maoists in Lahan of Siraha district, and the flare-up of the agitation across Tarai – with a strong anti-Kathmandu and anti-Maoist flavour. The Maoists had contributed to militant mood in Tarai and were the first ones to characterize the exploitation of Madhes as a case of ‘internal colonialism’. But they could not politically reap the benefits of this mobilization, as they were seen to have betrayed the cause after becoming a part of the

Kathmandu establishment.¹¹

The state was forced to relent and introduced an amendment to announce Nepal as a federal democracy. The seats from the Tarai were increased from 205 to 240 on account of its greater population.¹²

The demand for federalism reflected an aspiration for self-rule at the ground level and the creation of a political unit where the Madhesis would be able to control affairs. The demand for changes in the electoral system

One of the least reported, but most significant changes in Nepali politics since the 2006 People’s Movement is the emergence of the ‘Madhes’ as a political force. The Madhesis have become indispensable for stable Nepal. This briefing paper provides background of the Madhesi movement, the present political dynamics, the existing ground-level situation in the Tarai and its multiple fault-lines, and the assertion by Tharus and others about their distinct identities. It also examines the role of the Indian establishment and cross border elements.

⁷ ACHR interview, Madhesi leaders, August 2009

⁸ The voter turn-out in Tarai exceeded 60 percent in the April 2009 elections. Also see Prashant Jha, ‘We are used to the bombs, this is our chance to be heard’, Nepali Times, April 11 2009, <http://www.nepalitimes.com.np/issue/2008/04/11/PlainSpeaking/14693>

⁹ SC tells veep to take fresh oath, The Himalayan Times, 25 July 2009, <http://www.thehimalayantimes.com/fullNews.php?headline=SC+tells+veep+to+take+fresh+oath&id=MjE1MDM>

¹⁰ International Crisis Group. *Nepal’s Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

¹¹ Ibid

¹² The number of constituencies was increased from 205 to 240; most of this increase was in the Tarai to reflect the demographic size.

denoted the aspiration for shared rule at the centre with meaningful representation. But while these were the visible issues, at the root lay the Madhesi aspiration for securing respect, dignity, and equal citizenship in an erstwhile discriminatory set up.

The primary issue underlying the Madhes movement is the re-definition of Nepali nationalism, which has rested on pillars like one language (Nepali) and one dress (daura-saluwar).¹³ While a hill person - irrespective of nationality in the case of Nepali speakers from Indian Himalayas - is considered Nepali, Madhesi citizens have long been treated as the fifth column because of their geographical, cultural, linguistic and kinship ties with people across the border in Bihar and Uttar Pradesh. This has manifested itself in various forms – from deprivation of opportunities to insinuations about their ‘patriotism’ and prejudiced comments about dress, language and colour.¹⁴

It is in this regard that a distinction can be made between the different socio-political movements that engulf the country. The quest for representation is common to all of them, but there are subtle differences as well. The Janajati movement is a fight to end the cultural oppression of the Nepali speaking, Hindu, upper castes; the Dalit movement is against the oppressive caste structure and challenges the hierarchy inherent in it; the women’s movement is a battle against patriarchy. The Madhes movement challenges the very basis of old Nepali nationalism and thus is considered politically the most dangerous and subversive.

Kathmandu has been forced to change its assumptions about Madhesis ‘as Indians’ and share power, but issues of who is a Nepali continues to lie at the heart of contemporary debates.

Last year, the Vice President of Nepal – a nominee of a Madhesi party – took his oath in Hindi even as the President

– who was swearing him in – spoke in Nepali. It led to protests by student outfits of national parties, particularly the Maoists, in Kathmandu and attacks on Madhesi party offices. Madhesi activists retaliated back in the Tarai, burning the ‘national dress’ and launching protests.¹⁵ In July 2009, a year after the incident, the Supreme Court decided that the Vice President’s oath was unconstitutional. The Vice President and Madhesi parties have termed the decision as ‘regressive’ and as going against the spirit of ‘inclusive federal democratic republic’¹⁶; other national parties and sections of the Kathmandu intelligentsia have urged the Vice President to retake his oath in Nepali.¹⁷

While some language activists from the Tarai would also have preferred the VP to take his oath in one of the local languages like Maithili, the undertone of the entire debate in Kathmandu is based on the premise that Hindi is an Indian language.

The demand for federalism is a reflection of an aspiration for self-rule by the Madhesis. The root cause is the aspiration for securing respect, dignity, and equal citizenship in New Nepal. It challenges the definition of old Nepali nationalism, which has rested on pillars like one language, Nepali, and one dress, daura-saluwar. It also begs a question. Can a dark Madhesi with linguistic and kinship ties in India be considered a Nepali? This challenges the very basis of old Nepali nationalism and makes Madhesi movement the most subversive one.

The incident is merely symptomatic of the contestations that mark the redefinition of Nepali identity. As journalist Prashant Jha notes, “Can a person who has darker skin, speaks Hindi or Maithili, has relatives in Patna or Lucknow enjoy equal rights as a Nepali citizen with his cultural rights preserved? At the core, that is the essence of the Madhes movement.”¹⁸ Progress has been made in three years, but

incidents like the Vice President’s oath show that there will be continued contests on these issues.

Another demand, cutting across Madhesi parties, is that of increased representation and meaningful inclusion.

After the constituent assembly elections, when Madhesis were able to attain unprecedented political representation, with more than 200 members in the constituent assembly across parties, many felt that the core demand of the Madhesi movement had been addressed. The census of 2001 has put the Madhesi population at 33.2 percent; now, they constituted one-third of the house.

¹³ ACHR interviews, Madhesi leaders, August 2009

¹⁴ International Crisis Group. *Nepal’s Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

¹⁵ Prashant Jha, ‘Manufacturing Mistrust’, Nepali Times, <http://www.nepalitimes.com.np/issue/2008/08/01/PlainSpeaking/15096>

¹⁶ Jha furious, The Himalayan Times, 25 July 2009, <http://www.thehimalayantimes.com/fullNews.php?headline=SC+tells+veep+to+take+fresh+oath+&id=MjE1MDM=>

¹⁷ Kumar Regmi, ‘God help the nation’, The Kathmandu Post, <http://www.kantipuronline.com/kolnews.php?&nid=207748>

¹⁸ Talk at seminar on constitution making, Nepal Centre for Contemporary Studies, Kathmandu, January 2009

Indeed, a fair and inclusive electoral system that made it contingent for parties to give proportional representation to marginalized communities had helped Madhesis.¹⁹ The identity-based voting pattern of the elections also helped, with Madhesi people deciding to give a chance to their regional parties instead of investing hopes yet again with hill origin candidates of ‘mainstream’ national outfits.

But the quest for representation has not translated into success in the bureaucracy and security forces.²⁰ Less than one percent of the total 75 Chief District Officers across the country are Madhesis. Madhesi leaders claim that the army has only 800 Madhesis out of 93,000 plus force²¹, though the army contests the figures and claimed in 2007 that they have more than 7000 Madhesis in the force. Army officials also point to a separate Madhesi battalion as an example of inclusion.²² Police officials in Tarai districts predominantly are people of hill-origin. But another perspective holds that this is merely rhetoric of Madhesi leaders; the problem is that Madhesis either do not apply or are not eligible enough for many government posts.²³

One of the points of the eight point agreement signed between the government and Madhesi parties, after the second Madhes movement in February 2008, was ‘group entry of Madhesis in the Nepal Army’²⁴ – but there has been little movement in this regard. An ordinance brought in by the Maoist led government proposed 45 percent reservation for marginalized communities in security forces, but this lapsed as the government fell. The new government has not taken any initiative in this regard.

As commentator Tula Narayan Shah says, “Whether we like it or not, in the Nepali context, real power is exercised if you control the purse strings or decide when force can be used. That is meaningful inclusion in the state structure. Madhesis

are still not present in these two areas of state authority – they do not control the treasury or security forces.”²⁵

All the other demands – federalism, affirmative action, the allocation of services in Madhes, increased budget, autonomy – stems from this basic yearning to be an equal citizen of Nepal, with a stake in its power structure. The Madhes movement – except for a few armed groups with minimal support - is not a secessionist movement; it is a movement to become Nepal.

3. Political Backdrop: 2007-2008

i. Pre-elections

In the immediate aftermath of the January 2007 Madhes movement, there was a political vacuum in the Tarai. Even as national parties with a traditional vote base in the region like Nepali Congress lost support and Maoists got discredited, no Madhesi force was able to capitalize on the space. The Madhesi Janaadhikar Forum was a cross-party non political platform doubling up as a research centre before the movement catapulted it and its chairman Upendra Yadav to the leadership position. The inexperience showed and it made certain tactical mistakes like resuming the agitation even after the state had conceded to demands and not focusing on organizational expansion. The oldest Madhesi party, Sadbhavana, had split into multiple factions and lacked the leadership and credibility to fill the space.²⁶

In the immediate aftermath of the January 2007 Madhesi movement, the political vacuum in the Tarai was filled up by the Madhesi Janaadhikar Forum (MJF), a cross-party non political platform doubling up as a research centre. Its chairman Upendra Yadav took the leadership position. But Yadav had no fall back position when he resumed the agitation even after the state had conceded to demands. The MJF did not invest on organizational expansion and could not sell 22-point agreement signed with the government. MJF soon split.

It was also a time when the state – which had got weaker during the Maoist war – had just started to re-establish its presence in the villages, including setting up police posts. The 21 day agitation interrupted these efforts. The fact that the police had killed more than two dozen protestors during

¹⁹ For details of the election system, refer to http://www.election.gov.np/EN/pdf/CAE_Election_Act_2064_english.pdf

²⁰ For a background on Madhesi under-representation, refer to Ram Prakash Yadav, “Madhesi; A Disadvantaged Social Group”, presented at a conference organised by Jaghrit Nepal, Kathmandu, December 2006; and Shree Govind Shah, “Social Inclusion of Madhesi Community in Nation Building”, presented at a conference on “Social Inclusion and Nation Building in Nepal”, Kathmandu, February 2006.

²¹ ACHR interview, Hridayesh Tripathi, TMLP leader, August 2009

²² Army sets up separate battalion for Madhesis, nepalnews.com, 23 January 2007

²³ Yuvraj Acharya, ‘How proportional share for tarai in government service lost its magic’, The Kathmandu Post, <http://www.kantipuronline.com/kolnews.php?nid=133712>

²⁴ Text of eight point agreement, <http://unmin.org.np/downloads/keydocs/2008-02-28-Agreement.SPA.Govt.UDMF.ENG.pdf>

²⁵ ACHR interview, August 2009

²⁶ International Crisis Group. *Nepal’s Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

this period did not help the state win friends in the plains. Secretaries of the village development committees (VDCs) continued to stay in towns and let a sense of statelessness fester on the ground.

This background is essential to understand the present, for it was in this context where Kathmandu was seen with deep suspicion, the state was weak, and Madhesi parties had not been able to establish themselves that the armed groups mushroomed.

Jai Krishna Goit, a former Maoist Madhesi leader, had already formed a separate outfit, blaming Maoists for retaining the same ‘pahadi mindset’, and appointing ‘pahadis’ as party bosses in the Tarai. He had formed the Janatantrik Tarai Mukti Morcha (JTMM) with the stated aim of creating an independent Tarai state. In 2006, a key lieutenant, Nagendra Paswan aka Jwala Singh, set up his own faction of the JTMM.²⁷

Similar groups emerged across the Tarai with names as diverse and imaginative as Madhesi Mukti Tigers, Mahdesi Virus Killers, Liberation of Tarai Tigers Eelam, Samyukta Janatantrik Tarai Mukti Morcha, and multiple factions of JTMM. They found easy recruits, from Maoist defectors to young unemployed men – it was almost exclusively men – who felt that the politics of violence had got legitimacy with the Maoists being accommodated in mainstream politics. A favourite quote of the militants was, “If the Maoists can pick up the gun and become MPs, why can’t we?”²⁸ Some groups published political literature and organized trainings about their agenda, which spanned from independence to autonomy, but most of them were engaged in ‘fund-collection’ – a euphemism for extortion and looting. The more extreme outfits also selectively targeted people of hill-origin and asked government servants to leave the Tarai.

In mainstream politics, the MJF finally registered itself as a

political party. It signed a 22 point deal with the government – the salient features of which included granting federal provinces autonomy, and making all state organs inclusive based on population ratio.²⁹ But this led to a division within the party, with several top leaders accusing Upendra Yadav of having ‘sold out’.³⁰ This dented Yadav’s ability to sell the deal in the Tarai, and the mix of resentment and alienation continued.

Since the movement, there had also been simmering discontent among the Madhesi leaders of the national parties. 54 such MPs, from the Nepali Congress, UML and other smaller parties, had come together to block the parliament demanding re-delineation of the constituencies in Tarai to ensure Madhesis would not be clubbed with pahadis. There was a growing pressure from below on these MPs to quit and form a regional outfit that could provide a political platform to the Madhesi angst. Indeed, even moderate politicians recognized that if they wanted to be popular in Tarai, they would have to oppose Kathmandu.

Before the Constituent Assembly elections, even moderate Madhesi politicians recognized that if they wanted to be popular in Tarai, they would have to oppose Kathmandu. During the Constituent Assembly elections of April 2008, none of the three major Madhesi parties – MJF led by Upendra Yadav, Sadbhavana Party led by Rajendra Mahato, and Tarai Madhes Loktantrik Party led by Mahant Thakur – had the organizational strength to win polls. What they had was the feeling of anger against Kathmandu.

The fact that MJF was seen as a largely Yadav dominated party encouraged MPs of other castes to think of an alternative formation. In December 2007, under the leadership of a widely respected Nepali Congress leader Mahant Thakur, several Madhesi leaders came together to form the Tarai Madhes Loktantrik Party (TMLP).

Constituent Assembly elections were scheduled for April 2008. None of the three major Madhesi

parties – Upendra Yadav’s MJF, Sadbhavana led by Rajendra Mahato, and Thakur’s TMLP – had the organizational strength to win polls. What they had was the feeling of anger against Kathmandu. The three parties gradually formed a common front, the United Democratic Madhesi Front, and launched an agitation in the Tarai. It was, as a Madhesi leader put it, ‘a movement for our survival’.³¹ Half a dozen people were killed in police firing. Highways were blocked and Kathmandu was crippled with no supplies

²⁷ Prashant Jha, ‘Madhes Rises’, Himal Southasian, August 2007

²⁸ Prashant Jha, ‘Tarai frontline, Madhesi militants are preparing for a showdown’, Nepali Times, January 4-11, 2008

²⁹ Text of the agreement, <http://unmin.org.np/downloads/keydocs/2007-08-30-Agreement.SPA.Govt.MJF.ENG.pdf>

³⁰ See interviews of Upendra Yadav and Kishore Biswas, www.nepalitimes.com, September 2007

³¹ ACHR interview, Madhesi leader, August 2009

³² For details, refer to nepalnews.com and ekantipur.com, February 2008

coming in. Armed groups were reported to have provided covert support to the agitation.³² The government signed an eight point agreement, which promised an autonomous Madhes province, amended the electoral laws, and inclusion in state organs.³³

The path was cleared for elections on April 10, 2008.

ii. Elections and after

The polls threw up a surprise result. While the Maoists had done phenomenally well nation-wide, the Madhesi parties did well in the plains. The three parties had not been able to keep a united pre-poll alliance, with MJF fighting independently. The party won 52 seats. The last minute entry of Congress veterans like Bijay Gachhedar into the party had helped its electoral fortunes. The party did particularly well in eastern Tarai districts like Morang, Sunsari, Saptari and Siraha and won a few seats in western and far western districts. The TMPD did not do too badly for a party formed three months before the polls. It won 21 seats, doing well in districts like Kapilbastu, Nawaparasi and picking up votes in the proportional representation category. The Sadbhavana won 9 seats, taking the total tally of the Madhesi forces to 81.³⁴

While the Maoists lost out in the heartland of the Madhesi movement, it did succeed in winning substantial vote share. People of hill-origin near the highway, Tharus in western Tarai, and some reports suggest, Dalits voted in large measure for the Maoists.³⁵ The biggest loser in the polls was the Nepali Congress. The entire Koirala family, barring one exception, got defeated.³⁶

While no empirical study of the polls has been done yet, it would be safe to say that the old order and politics of the 90s – represented by the NC and UML – was rejected. Caste played a role in influencing voters, but the ‘Madhes

sentiment’ – aided by memories of historical suppression as well as the recent movements – was the over-riding theme.

This detour is helpful in emphasizing the fact that the electoral mandate had a basic message of change, and reflected the citizens yearning for rights and dignity.

Once the politics of consensus between the top three parties – Maoists, Nepali Congress, and UML – broke over the issue of the presidency, it was clear that Madhesi forces would be the ‘king-makers’ and critical to shaping power alignments. The three parties were not united, but their numbers forced

the NC-UML to put up a Madhesi candidate, Dr Ram Baran Yadav, at the last minute – it was MJF’s support that helped him win. The vice-presidential candidate, nominated by the MJF, happened to be a Madhesi as well.

These details are important, if only to highlight the decisive role played by the Madhes – especially the MJF – in the post election set up. Upendra Yadav also struck an alliance with the Maoists and UML to form a new government, and took the post of foreign minister.

Commentators attributed it to

the success of Nepali democracy where a person opposing the Nepali state had suddenly become its face on the global platform. The political access of Madhesis to the power structure definitely increased with more ministers from the community;³⁷ more political appointments;³⁸ and proposals for affirmative action.

On the ground however, disillusionment was growing. The selection of ministers by MJF, where late entrants to the party were preferred over those who had led the movement³⁹; the tendency of Madhesi leaders, including Upendra Yadav, to stick to Kathmandu and only rarely visit the Tarai; the lack of perceptible change in their lives; and deteriorating security situation which the Madhesi parties did little to address –

In the aftermath of elections, once the politics of consensus between the top three parties of Nepal – Maoists, Nepali Congress, and UML – broke over the issue of the presidency, it was clear that Madhesi forces would be the ‘king-makers’ and critical to shaping power alignments. Consequently, the NC-UML had to put up a Madhesi candidate, Dr Ram Baran Yadav, as the Presidential candidate at the last minute. And it was MJF’s support that helped him win. The vice-presidential candidate, nominated by the MJF, happened to be a Madhesi as well.

³³ Text of eight point agreement, <http://unmin.org.np/downloads/keydocs/2008-02-28-Agreement.SPA.Govt.UDMF.ENG.pdf>

³⁴ For details of election results, see www.election.gov.np

³⁵ Prashant Jha, ‘Forum in Maostan’, Nepali Times, April 2008

³⁶ Shekhar Koirala lost from Moran (a seat he has won subsequently in a by-election); Sujata Koirala lost in Sunsari; Lila Koirala lost in Dhanusha; acting NC president Sushil Koirala lost in Banke. Only B P Koirala’s son Shashank Koirala won a seat in Nawalparasi.

³⁷ Four ministers from MJF occupied foreign, physical works and planning, agriculture and education ministries; Sadbhavana had ministry of commerce and supplies.

³⁸ Two ambassadorial nominees to US and UK, as well as heads of several government departments were Madhesis.

³⁹ Bijay Gachhedar and Renu Yadav, appointed as ministers, had joined the party only in early 2008.

all contributed to a mood of apathy and cynicism among the general populace.⁴⁰ The TMDP, which had stayed out of government, announced that it would start an agitation to pressure the government to implement the eight-point agreement, but this did not create the stir the party had anticipated in the Tarai.

The more important trend was of the fragmentation of the Madhesi identity. The Tharus, who had been consistently claiming a distinct identity, launched their own movement (discussed below). This generated discontent among Tharus in the Madhesi parties as well. There seemed to be differences on the question of federalism. Most incidents of political strife and violence had a distinct caste component. And it was looking increasingly uncertain where Tarai politics would move.

4. Present dynamics

i. Madhesi politics in Kathmandu

Along with the UML, the MJF's role has been critical in the ouster of the Maoist government, and the formation of the Madhav Nepal led ruling alliance. When Prime Minister Pushpa Kamal Dahal 'Prachanda' decided to seek a clarification from General Rukmangad Katawal for his repeated defiance of civilian orders, as a prelude to his dismissal, it was understood that he had secured the consent of Upendra Yadav – then on a foreign visit.⁴¹

But another faction of the party led by Bijay Gachhedhar was vocal in its opposition to the Maoist move. Gachhedhar – a discredited NC leader of the 1990s, who had opposed the abolition of monarchy right before elections, and was understood to be deeply anti-Maoist – claimed that this was a Maoist attempt to 'capture the state'.

The UML pulled out from the government the evening the PM dismissed Katawal, and the President of Nepal wrote directly to the Army Chief to stay on in office. With Prachanda resigning the next day, the game to form a new

government started in full swing. Yadav had just returned to Nepal and there was widespread speculation that the Maoists were promising to back him as the PM in order to prevent a non-Maoist coalition. But it was clear that most other parties, including Madhesi forces, would not back this arrangement. MJF's internal power balance in the parliamentary party had swung towards Gachhedhar, who was backing Nepal as the new Prime Minister.⁴² Yadav and Gupta decided they had little choice but to go with the anti-Maoist wave, and supported Madhav Nepal on the floor of the house. Yadav subsequently signed the common minimum program of the government.

But Gachhedhar had also privately struck a deal with the UML and NC that he would be appointed as the leader of the MJF in the cabinet, in return for his support to the coalition. On the basis of signatures of a majority of MJF MPs, PM Nepal swore him in as the deputy prime minister – against the wishes of the party chairman, Yadav. This was the breaking point, with Yadav calling a press conference the next day to sack Gachhedhar and six other leaders. He claimed the PM's move was unconstitutional, and MJF was withdrawing support to the government.⁴³ Gachhedhar for his part claimed to represent the real MJF.⁴⁴

Madhesi politics has been all about split of the parties and formation of alliances by the same split groups. The MJF that had come to symbolize Madhesi aspirations had effectively split, largely because of the thirst of the top two leaders for power - Upendra Yadav and Bijay Gachhedhar. How Gachhedhar was able to mobilize the support of a majority of MPs and several central committee members in favour of Prime Minister Madhav Nepal despite being a late convert to the MJF deserves deeper introspection.

The party that had come to symbolize Madhesi aspirations had effectively split, largely because of the thirst of the top two leaders for power.

What was striking and deserves deeper introspection though is how Gachhedhar was able to mobilize the support of a majority of MPs and several central committee members despite being a late convert to the

party. He had also earned the wrath of the Madhesi MPs only a few months ago when he opposed the party plank of 'one Madhes, one Pradesh'. But several factors worked in his favour, or more accurately, against Upendra Yadav.

While Upendra Yadav himself had a Maoist past, and believed that the Madhes cause of federalism would be served better by aligning with the Maoists, most other leaders had joined

⁴⁰ Refer to Chandrakishore's Tarai column in Naya Patrika, and Tula Narayan Sah's pieces in Kantipur and Nepal magazine between August 2008-april 2009 for reportage and analysis of ground mood in Tarai.

⁴¹ ACHR interviews, Maoist and Madhesi leaders, August 2009

⁴² Yubaraj Ghimire, 'Madhes on board, Madhav set to form government in Nepal', <http://www.indianexpress.com/news/madhes-on-board-madhav-set-to-form-govt-in-nepal/461390/0>

⁴³ 'MJF expels Gachhedhar', <http://www.nepalnews.com/archive/2009/jun/jun05/news10.php>

⁴⁴ 'Gachhedhar dubs expulsion unfortunate', <http://www.nepalnews.com/archive/2009/jun/jun05/news13.php>

MJF because of its strong anti-Maoist leanings before the CA elections. Indeed, MJF activists were alleged to have killed more than two dozen Maoists in a massacre in Gaur; they had weakened the Maoist hold in Tarai. Many leaders – who belonged to intermediate castes and had large to mid-sized land holdings – were against the Maoists and felt this was a good opportunity to dislodge them from power.

Yadav's own handling of intra-party affairs led a lot to be desired. The general perception was that he had become arrogant and inaccessible, even to his own MPs, and had lost touch with district level politics.⁴⁵ Caste also played a part in the break-up with Yadavs largely staying on with Upendra, while those who have shifted to Gachhedhar are largely non Yadavs. Some analysts believe that Gachhedhar may be trying to engineer a coalition of Tharus, pahadis living in the Tarai, and other non Yadav intermediate castes to challenge MJF.

The fact that the Indian establishment was backing the Gachhedhar faction also tilted the support of many MPs. (for a larger discussion of Indian role, see below).

The TMLP decided to join the UML government after a long debate. It is understood that financial constraints, and pressure from power-players in Kathmandu, forced a reluctant leadership to send ministers to the cabinet. But this, as some within the party had feared, led to discontent among those who were left out.⁴⁶ The TMDP had a moral high ground in the Tarai when it had decided to stay out of power. Mahant Thakur is seen as a man with a clean image, but the party suffers from the handicap of being seen as an upper-caste conglomeration. It has been unable to build its organizational strength.

After some bargaining, the Sadbhavana Party continued in government with one ministerial portfolio.

So this is what Madhesi politics looks like in Kathmandu. MJF has formally split with the Election Commission recognizing Upendra Yadav's faction as the original party, by virtue of

it having a majority of the central committee members.⁴⁷ Bijay Gachhedhar's faction, the MJF (Democratic), has been registered as a new party and is now the fourth largest party in the CA.⁴⁸

Yadav is presently close to the Maoists, and is working to re-energise his party organisation in the Tarai.⁴⁹ Gachhedhar

is closer to the conservative camps in the NC and UML, and has publicly opposed clauses of the peace agreement like integration and rehabilitation of former Maoist combatants. He is also more amenable to toeing Kathmandu's line on key Madhesi issues – for instance, he urged the vice president to take his oath in Nepali even as the other Madhesi parties termed the SC judgment as regressive. He is also opposed to the demand for a single Madhesi province unlike other Madhesi parties. So even though the TMLP, Sadbhavana and MJF (D) are presently together in an alliance,

realignments cannot be ruled out in the near future, on the basis of common issues.

But Madhesi politics is not restricted solely to the Madhesi parties. Two other forces need to be taken into account. The first is the Unified Communist Party of Maoist (Nepal) – the new name for the Maoist party after its merger with a small far left outfit. The Maoists continue to have a support base among the Dalits, and landless in the Tarai, and feel that the disillusionment with the Madhesi parties may benefit them. The other force, more active in the Tarai than in Kathmandu as of now, is a splinter faction of the Maoists, which has retained the original name, CPN (Maoist), and is led by Matrika Yadav. Yadav has adopted the strategy of weaning away disgruntled elements of the Maoists in other ethnic regions; he has also resorted to a land grab movement in the Tarai to win support of the landless; some reports suggest that Yadav may be collecting arms as well.⁵⁰

ii. Politics on the ground

As Prashant Jha has noted, politics in Madhes is characterized by two key conflicts - between the state and Madhesi groups;

Madhes is an open field and not restricted solely to the Madhesi parties. The Unified Communist Party of Maoist (Nepal) – the new name for the Maoist party after its merger with a small far left outfit, continues to have a support base among the Dalits, and landless in the Tarai. The splinter faction of the Maoists, which has retained the original name, CPN (Maoist), and is led by Matrika Yadav has resorted to a land grab movement to win support of the landless. All political parties hope to capitalise on the disillusionment with the others.

⁴⁵ Prashant Jha, 'At the Forum', Nepali Times, <http://www.nepalitimes.com.np/issue/2009/06/12/PlainSpeaking/16023>

⁴⁷ 'EC awards official status to Yadav's faction of MJF', <http://www.nepalnews.com/main/index.php/news-archive/2-political/614-ec-awards-official-status-to-yadavs-faction-of-mjf.html>

⁴⁸ 'Gachhedhar floats new party', <http://www.nepalnews.com/main/index.php/news-archive/2-political/665-gachchhadhar-floats-new-party.html>

⁴⁹ MJF has been conducting regular training program for its cadre in different Tarai towns.

⁵⁰ Prashant Jha, 'Eye on the Ball', <http://www.nepalitimes.com.np/issue/2009/08/9/PlainSpeaking/16189>

and within the Tarai, between political forces representing different communities and castes. Understanding these multiple relationships is helpful in understanding unfolding dynamics on the ground.

State and Madhesi groups:

A deep trust deficit continues to characterize the relationship between the state – either seen as the Kathmandu establishment or the CDO or SP in the district headquarters – and the general Madhesi population. District administrators continue to carry the baggage of the old hill nationalism, seeing many Madhesis as Indians; the Madhesis continue to view them in an unchanging prism with suspicion. A few incidents illustrate this deficit starkly.

In January 2009, the government decided to set up integrated administrative service centres, which would perform basic government functions, on the highway in the northern parts of Tarai districts. The highway vicinity is home largely to people of hill-origin. The announcement provoked widespread opposition by Madhesi parties and residents living in the district HQs located towards the south of the district, closer to the border, which is inhabited largely by Madhesis. Madhesis saw this as a ‘pahadi conspiracy’ to shift administrative and welfare services to cater solely to pahadis; they claimed this was a prelude to shifting the headquarters itself. The government, in its defence, repeatedly said that all they were doing is starting supplementary services in order to bring the government closer to residents on the highway and had no intention to shift the HQ. Protests spiraled, with Madhesis demanding that the service centres be annulled. The government was forced to give in and postponed the decision. As they did that, people of hill origin at the highway began protests demanding that the centres be set up there.⁵¹

A deep trust deficit continues to characterize the relationship between the state and the general Madhesi population. The decision of the government in January 2009 to set up integrated administrative service centres, which would perform basic government functions, on the highway in the northern parts of Tarai districts was opposed by the Madhesi as the highway vicinity is home largely to people of hill-origin. Once the government gave in to the Madhesi protest, the people of hill origin began protest to support establishment of the service centres at the highway.

The incident is reflective of how even what may have been innocuous, and even well-intentioned, government actions are viewed in the Tarai.

The relationship between the state and the armed groups also reflects the difficult choices administrators have to make in a low-intensity conflict, and how their choices may potentially lead to further resentment and a deterioration of the security situation.

In 2007, immediately after the Madhes movement, the government made some tentative steps to invite armed group leaders like Goit and Jwala Singh for talks.⁵² But this was not followed through. The armed groups had threatened to boycott and obstruct the elections in April 2008, but a combination of factors – the desire of the Madhesi people to participate in elections, Indian pressure on groups operating from their territory – meant they could not hamper the elections on any major scale.

The extortion, abductions, and killings in the Tarai however continued and even increased soon after the polls. Analysts blamed police complicity,⁵³ political protection to armed activists,⁵⁴ the proliferation of small arms,⁵⁵ the legitimacy of the politics of violence, and an unregulated open border as primary factors leading to spiraling crime.

There are no precise figures but a Hetauda based human rights organisation, Him Rights, reported in November 2007 that in the preceding six months, there were 82 killings by armed gangs and 75 abductions in Tarai.⁵⁶ Commentator Tula Narayan Sah, on the basis of the Human Rights Yearbooks published by

INSEC between 2005 and 2008, reports that more than 1000 people have been killed between Biratnagar and Birgunj in three years and there have been more than 3000 abductions.⁵⁷

⁵¹ Prashant Jha, ‘Back to square one’, Nepali Times, <http://www.nepalitimes.com.np/issue/2009/02/13/PlainSpeaking/15660>

⁵² International Crisis Group. *Nepal’s Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

⁵³ A confidential Home Ministry intelligence report, quoted in Kantipur daily in June, confirmed that local authorities had either turned a blind eye or supported these activities.

⁵⁴ Prashant Jha, ‘The centre can’t hold - all parties are competing to appease the militants’, Nepali Times, <http://www.nepalitimes.com.np/issue/2009/02/27/PlainSpeaking/15702>

⁵⁵ ‘Small Arms use on rise in Nepal’, http://www.myrepublica.com/portal/index.php?action=news_details&news_id=6308

⁵⁶ 82 killed in Tarai in 6 months: Report, The Kathmandu Post, 21 November 2007, available at <http://www.kantipuronline.com/kolnews.php?&nid=128873>

The Maoist-led government initiated talks with many of these armed groups. By the middle of 2008, unofficial estimates suggested that the number of groups had shot up to more than 40 in the Tarai. While the major groups – Goit's JTMM, Jwala Singh's JTMM, Manager Mahato's Madhes Rashtriya Janatantrik Morcha (Krantikari) – did not participate in the talks, several others did. The government talks team, headed by peace minister Janardhan Sharma, signed a 5 point agreement with groups that came for talks, allowing their activists to emerge over ground in return for cessation of armed activities. No reliable figures are available yet, but anecdotal evidence suggests that criminal activities had dipped partially in this period.

The political uncertainty at the centre, with the fall and formation of a new government, led to a renewed spurt in these activities. The new government has decided to continue talks with some of the armed groups which had been in negotiations. On 10 August 2009, the peace minister Rakam Chemjong held negotiations with four armed groups, the Janatantrik Tarai Mukti Morcha (Rajan faction), Madhesi Mukti Tigers, Madhesi Virus Killers, and Tarai Samyukta Janatantrik Party.⁵⁸ But these talks were held in the backdrop of the new security policy announced by the government, and several 'encounter' killings in the Tarai.

The new security policy – the full text of which has not been made public yet – aims to crackdown on highway *bandhs* and organized crimes. It envisages an additional 16,000 security personnel in the Tarai and eastern hills. It has identified 109 armed groups operating in the Tarai alone. According to a news-paper report, a confidential Home Ministry report says that 80 percent of the 109 groups in the Tarai are based on Indian soil and are trained in India; they are supported by Indian leaders; and that 20 of these groups challenge the territorial integrity of Nepal while 60 want an autonomous Madhes province. The security policy has adopted a policy to quell those who do not come to dialogue with force.⁵⁹

Madhes is a mine-field for Nepal. There is no one Madhes issue – the issues keep changing, and there are heterogeneous groups pushing different agendas. The discourse of inclusion has meant that the old establishment has had to make compromises; Madhesi forces have been co-opted in the power structure. But radical forces, which are politico-criminal in nature, exist and the state vacillates from engagement to coercion while dealing with them. The state authorities lack creativity and flexibility to deal with 'Madhes sentiment'.

Between 20-24 July 2009, three activists of armed groups were killed in separate incidents by the police in the Tarai. State authorities have claimed that they were shot when they confronted the police late at night or early morning with explosives and bullets. But there is widespread suspicion that the police killed them while in custody. The case of Manager Mahato has attracted attention in this regard. He is understood to have been arrested by the Jainagar police in Bihar, then handed over surreptitiously to Siraha police in Nepal, and shot in the middle of night. Madhesi MPs have raised the issue in the legislature-parliament; Siraha based human rights organisations have condemned the incident and a senior police official was transferred out of the district. But the incident has not yet been investigated by national or international human rights organisations.⁶⁰

Clearly, the state has found it difficult to deal with the Madhes issue. For one, there is no one Madhes issue – the issues keep changing, and there are heterogeneous groups pushing different agendas. The fact that the top echelons of the government are dominated by hill-origin folk also blinds them to the sensitivity of the identity politics. The discourse of inclusion has meant that the old establishment has had to make compromises; Madhesi forces have been co-opted in the power structure. But radical forces, which are politico-criminal in nature, exist and the state vacillates from engagement to coercion while dealing with them. The fact that the 'Madhes sentiment' can be whipped up by parties in the opposition, and on the look-out for an issue also means that the state authorities have to be creative and flexible in their responses – a trait they lack.

Intra-Tarai relations:

If the state-Madhes dynamic constitutes one conflict fault-line in Tarai, the relations between communities and political forces in the Tarai remain fragile and lends itself to strife and conflict.

⁵⁷ 'Killings in Tarai', Nepal Magazine, April-May 2009

⁵⁸ 'Government-Tarai outfit talks show sign of progress', <http://www.kantipuronline.com/kolnews.php?nid=209011>

⁵⁹ Saroj Raj Adhikari and Kedar Ojha, 'Indian leaders aiding Tarai armed outfits', Kantipur, August 1 2009

⁶⁰ Prashant Jha, 'Angry aftermath', Nepali Times, <http://www.nepalitimes.com.np/issue/2009/07/24/PlainSpeaking/16149>. Also see Mani Vishwakarma's report, 'Purva Saptahik', Lahan.

The first among these is the pahadi-Madhese dynamic. People of hill-origin constitute 33 percent of Tarai's overall population.⁶¹ Many of them claim to have been staying on in the plains for centuries, but Madhesis tend to see their presence in the context of a systematic plan by King Mahendra in the 1960s to change the demography of the Tarai by encouraging migration.⁶² When the Madhes movement broke out, several extremist groups threatened hill-settlers to move out. Even if there were no direct threats, a feeling of insecurity among pahadis in the Tarai grew for they were more vulnerable to extortion during the initial months. But in the past year or more, Madhesis have faced the brunt of these extremist and criminal activities.

This has resulted either in migration or belligerence. Many pahadis have sold their houses and moved either to the north of the highway or to Kathmandu. A student leader at the Janakpur RR campus says that while 25-30 percent of the total students used to be people of hill origin in the past, this ratio has dipped to less than 10 percent now.⁶³ Madhesi leaders however tend to have a different explanation for this flight and claim that it was the fear of losing power, and resistance to the change in the power hierarchy that saw them shift out. The other response of the pahadi community has been to set up extremist outfits like the Chure Bhawar Ekta Samaj, which is active in pockets of Mahottari and Sarlahi near the highway. This group opposes all demands of Madhesis, claims most of them are Indians who have bought fake citizenship certificates, and prescribes a security offensive against Madhesi forces.⁶⁴

Tharu-Madhese relations have also declined in the past two years.

At the root of this disjunction lies the different, and at times, conflicting ways in which Madhesis and Tharus view

themselves and the other. Madhesi parties claim that Tharus are Madhesis since they live in Madhes, have similar cultural practices as Madhesi castes, and both have been exploited by the Kathmandu state. For their part, the Tharus recognize that they have had to face the brunt of exploitation because of the feudal practices of the old hill elite, which displaced them from their land and deprived them of local resources. But this, they insist, does not make them Madhesis. In fact, Tharu activists see Madhesi upper castes as exploiters as well, who came over from across the border and took over land. Tharus, they say, are the original inhabitants of the plains; their immunity allowed them to live in malarial jungles; and are entitled to the rights of indigenous communities.⁶⁵

During the first Madhes movement, Tharus expressed their solidarity and participated in it in large numbers. But there was a growing sense among many Tharu leaders that Madhesis were trying to impose their own hegemonic identity, without respecting the distinct Tharu identity. The fact that Upendra Yadav and other Madhesi leaders did not make space for Tharus in the party contributed to the alienation. Madhesi leaders claim that national parties, in particular the UML, 'propped up' the Tharus in order to weaken and divide the Madhes.⁶⁶ The fact that one of the key leaders of the Tharu Kalyankari Sabha, Raj Kumar Lekhi, happens to be a UML member have fueled these suspicions further. But even if true, it does not take away from the Madhesi blindness in recognizing and respecting Tharu aspirations. Election results were a clear manifestation of a lack of faith among Tharus in the Madhesi parties – it was the Maoists who won the most seats in Tharu dominated regions.⁶⁷

There are two key Tharu groups at the present. A former Maoist commander, Laxman Chaudhary, has set up the Tharu Autonomous State Council; he is particularly strong in the far western districts of Dang, Banke, Bardia, Kailali

It is relative hegemony at work. During the first Madhes movement, Tharus expressed solidarity and participated in large numbers. But there has been a growing sense among many Tharu leaders that Madhesis were trying to impose their own hegemonic identity on the Tharu identity. The fact that Upendra Yadav and other Madhesi leaders did not make space for Tharus in the party contributed to the alienation. Even if the support of UML to Tharus is true, one cannot discount the Madhesi failure to recognize and respect the Tharu aspirations.

⁶¹ Census of Nepal, 2001

⁶² Madhesi activists often quote census figures to show that in 1951, there were only 6 percent pahadis in Tarai; this has now increased to 33 percent.

⁶³ ACHR interview, August 2009

⁶⁴ Interview with Keshav Mainali, www.telegraphnepal.com/news_det.php?news_id=3654

⁶⁵ 'Tharu demands are also Madhesi demands', Upendra Yadav, <http://www.kantipuronline.com/interview.php?&nid=194833>; "They are imposing their identity on us", Raj Kumar Lekhi, <http://www.kathmandupost.com/interview.php?&nid=183796>

⁶⁶ 'Traditional rulers are using Tharus as tools against other Madhesi groups', Upendra Yadav, <http://www.kantipuronline.com/interview.php?&nid=194833>

⁶⁷ Maoists won a majority of seats in Dang, and all the seats in Bardia, Kailali and Kanchanpur (after the by-polls, they wrested away a single NC seat). All these districts have a major Tharu population.

and Kanchanpur and has pockets of support in the east. The Tharu Kalyankari Sabha, the oldest Tharu outfit, remains a socio-cultural organisation. Both groups came together as a part of a broader alliance backed by the Nepal Ethnic Federation of Indigenous Nationalities (NEFIN) in March 2009 to oppose being bracketed with Madhesis in a proposed government legislation on affirmative action. The two-week long agitation forced the government to sign a six point agreement that recognized the distinct identity of the Tharus, remove them from a list that classified them under the Madhesi category, and promised inclusion to Tharus in state organs.

At the end of April 2009, even as the Maoist-army controversy was raging in the capital's power corridors, Laxman Tharu resumed the agitation claiming that the government had not implemented the agreement. This led to a fracture within the Tharu movement, with Lekhi's TKS claiming that this was an untimely movement backed by 'royalist and regressive forces'. As Prachanda resigned from government, Laxman called off the movement. But he is learnt to be building his organisation, expanding his network, and is expected to launch another agitation soon. As opposed to the single Madhes province, Tharus demand a single Tharuhat province across the Tarai. Other activists among them however say that their bottom-line is the creation of a Tharuhat province in the five districts of west and far west Tarai.

The Tharu movement has led to fractured ties between Madhesis and Tharus on the ground. In eastern Tarai's districts like Morang, Sunsari, Saptari, and Siraha, both communities live close by and share language and cultural practices. There have been no reports of any large-scale riots, but localized incidents can easily take a communal flavour. The assertiveness of the Tharus has had another impact – it has generated fissures within the Madhesi parties, with the Tharu leaders who had joined it, facing enormous pressure from their Tharu constituents to carve out a distinct identity. Bijay Gachhedar's repeated opposition to one Madhes as a single province can be attributed to this need to please his Tharu base, which feels they will be given a raw deal by the Madhesis in such a province. Another feature related to the Tharu movement, which is not yet visible fully but

lurks beneath, is the diversity within the Tharu community itself. There are major linguistic and cultural differences between the (dominant) mid-western communities (whose language, Dangaura, is normally recognized as "standard" Tharu) and those in the east, who speak the languages of the surrounding Madhesi communities.⁶⁸

Tarai is divided along caste lines too - Brahmins, Rajputs, Kayasthas, and Bhumihars constituting only a miniscule proportion of the population but having a dominant share of power, and economic advantages. Unlike India, Yadavs in Nepal do not see themselves as a backward community and land-holdings and access to political power have given them greater opportunities. The non Yadav have now started organizing themselves under the banner, the Other Backward Classes Federation while erstwhile Maoists Matrika Yadav organises the Dalits.

The third fault-line within the Tarai is between the different castes inhabiting the region.

The Hindu caste structure in Tarai, like in northern India, rests on a hierarchical principle with 'upper castes' like Brahmins, Rajputs, Kayasthas, and Bhumihars constituting only a miniscule proportion of the population but having a dominant share of power, and economic advantages. This constituted the earlier base of the royal regime and the Nepali Congress; in the past few years, they have moved to

the Madhesi parties, with a disproportionate share in the Tarai Madhes Loktantrik Party. Yadavs comprise a sizeable demographic block and have formed the core base of the Madhes movement, in particular the MJF led by Upendra Yadav. Unlike India, Yadavs in Nepal do not see themselves as a backward community and land-holdings and access to political power has given them greater opportunities. The non Yadav intermediate and backward communities voted for Madhesi outfits, but have now started organizing themselves as the Other Backward Classes (OBC) Federation to demand special status and rights from the government. The Dalits remain at the bottom of the ladder and are mostly landless labourers. The Maoists were successful in mobilizing many in the Dalit community, but sections – it is difficult to give precise figures in the absence of empirical data – have also shifted allegiance to Madhesi parties and the Maoist splinter led by Matrika Yadav.

There is a contradiction between the interests of the upper castes and Yadavs, who are competing for the same state patronage and opportunities, and between Yadavs and Dalits, who share a land-holder-landless labourer relationship. While these alignments have yet to take a concrete political form, a broad sentiment that is resentful of the Yadavs and their political power is apparent.

⁶⁸ See Giselle Krauskopff, "An 'Indigenous Minority' in a Border Area: Tharu ethnic associations, NGOs and the Nepalese state", in Gellner (ed.), *Resistance and the State*

One incident that reflects this inter-caste conflict is the beating up of a campus chief in Rajbiraj of Saptari district in May 2009. While the incident has many other components, caste was a dominant element. The campus chief was a non-Yadav, belonging to the Sah community. Other Yadav professors, and the Yadav led student union was uncomfortable with this fact, and in a carefully planned attack, Yadav student leaders beat up the chief in order to force him to resign. The general perception in the town was that the district officer did not take any action because he happened to be a Yadav himself. Those arrested were released soon after when political leaders across the party line – largely from the Yadav community – put pressure on the administration and judiciary to take a lenient view of the issue.⁶⁹

Inter-caste clashes are not new in the Tarai; this is the way society has been structured for centuries. But the growing assertiveness and awareness among the different communities, particularly the marginalized about their rights, and the reluctance of the powerful to share the pie has led to conflict, and even violence. What is happening nationally in terms of Madhesis seeking their space is reflected within the Tarai – with all communities staking a claim. The clashes between different parties, representing different interests and communities, are a reflection of that.

5. The India factor

India has enormous leverage, and has influenced key developments in Nepali politics ever since the 1950s. Delhi's interest, role and leverage in Madhesi politics however is often misunderstood, both in Kathmandu and in the Tarai. This section will briefly delve into the background of India's role during the Madhes movement, which it encouraged but did not engineer, and will then look at Delhi's present policy approach towards Tarai.

When the Madhes movement first happened, Delhi saw it positively for it had the potential to weaken the Maoists in the Tarai.⁷⁰ Through 2007, it tried to broker a deal between the government and the MJF. But even though Upendra Yadav

was understood to be close to the Indian establishment – he had been released by the Indian government even as two of his arrested Maoist colleagues were sent off to Nepal in 2003 – the embassy did not trust him fully, and felt that he may not be able to represent the political aspirations of the Tarai. In this backdrop, they encouraged the formation of the TMLP in December 2007.⁷¹ During the second movement, India stepped in and tried to mediate an agreement between the government and Madhesi parties – one meeting between the two sides was held at the residence of the Indian ambassador.

In the post election context, the relationship between the Indian establishment and Upendra Yadav had been declining. Yadav had publicly said that India was not his head-master. He had also blamed the previous ambassador, Shiv Shanker Mukherjee, of trying to ensure the defeat of MJF in the elections.⁷² The presence of a Chinese official delegation at the MJF party convention in early 2009 in Birgunj ruffled feathers in Delhi.

The differences surfaced again during the Maoist-Katawal crisis, when India took a firm stand against the army chief's dismissal. Yadav's stand had initially been supportive of the Maoist position, and then became ambiguous. He was a reluctant supporter of the Madhav Nepal government, but he went along because Bijay Gachhedhar had

won the support of a majority of MPs. When the split of the party occurred, there was widespread speculation that India had backed the Gachhedhar faction.

At present, the Gachhedhar led MJF, TMLP and Sadbhavana are closer to the Indian establishment while Upendra Yadav seems to have fallen out of favour. Yet, they are communicating. Yadav reportedly spent a few days in Delhi in early July 2009 and met politicians and bureaucrats to reassure them that he is not 'anti-India'.⁷³

If one evaluates the Indian stand over the past few years on Tarai, Delhi's policy approach through the period has been moderate. They did not actively foment the Madhes

India has enormous leverage on Nepal. To be fair, on Terai, India is in a difficult spot. Kathmandu feels that it backs the Madhesi movement to undermine the Nepali state. Madhesi actors feel that India does not adequately back their movement, and only uses them as a bargaining chip with Kathmandu. China is often used as the bargaining chip. The presence of a Chinese official delegation at the MJF party convention in early 2009 in Birgunj ruffled feathers in Delhi. Multiple messages from Delhi certainly further complicate its role.

⁶⁹ Prashant Jha, 'Caste Aways', Nepali Times, <http://www.nepalitimes.com.np/issue/2009/06/26/PlainSpeaking/16064>

⁷⁰ International Crisis Group. *Nepal's Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

⁷¹ ACHR interviews, Madhesi leaders, August 2009

⁷² <http://madhesi.wordpress.com/2008/05/23/interview-with-upendra-yadav-mjf-chief/>

⁷³ Prashant Jha, 'India confused by Nepal's confusion', <http://www.nepalitimes.com.np/issue/2009/07/17/PlainSpeaking/16130>

movement. India's investment – in the form of development expenditure – was geared towards the hill and there was a shift in focus towards the Tarai only after 2002.⁷⁴ Politically, it had sympathies for the Sadbhavana Party in the 90s but never backed it with the intention to create a mass stir.

Once the movement took place though, the Indian establishment seems to have recognized that support to the Madhesi parties will give it additional leverage in Kathmandu and create a 'friendly and reliable' constituency of support in the political framework. The stated aim of wanting a stable Nepal also required Madhesi aspirations to be addressed. The core Indian objective continued to be getting the Maoists into 'mainstream politics' and completing the peace process; in the calculations of the Delhi policymakers, support to the Madhesi cause could not be allowed to derail the larger national process. They repeatedly insist that they have no intention of backing extremist outfits, which would create instability both in Nepal, whose spill-over effect would inevitably be felt in India.

But this does not square up with the presence of multiple armed groups operating from Bihar and Uttar Pradesh. Some news magazine reports suggest that RAW and other Indian agencies had been in touch with these groups.⁷⁵ This is perhaps correct, but the support to these groups is understood to be coming largely from the local politicians in Bihar and UP, not necessarily the Indian state. Intimate cross-border links means that many militants could rely on support from the other side. The fact that law and order situation had improved under Nitish Kumar in Bihar has also resulted in criminal elements using statelessness on the Nepal side, and collaborating with local operators to loot, extort, and kill.⁷⁶

To be fair, India is in a difficult spot. Kathmandu feels that it backs the Madhesi movement to undermine the Nepali state. Madhesi actors feel that India does not adequately back their movement, and only uses them as a bargaining chip with Kathmandu. But Delhi complicates the situation further by attempting to micro-manage party politics and sending multiple and conflicting messages to different actors. The top policy-makers have the institutional memory to know that encouraging identity chauvinism so close to the border

will invite instability, but lower level state officials and non state actors may have a vested interest in fomenting a new conflict.

6. Future Challenges

The national political situation is fragile. The constitution making process – which is supposed to redraw the Nepali social contract and create an institutional framework of inclusive democracy – is in limbo, with missed time-lines and growing inter-party differences. The peace process is incomplete, with two standing armies. And two specific issues in the Tarai – unless addressed within the political framework peacefully – have the potential to sow the seeds for another conflict.

i. Federalism

The main demand of the first Madhes movement was the introduction of federalism in the interim constitution. The main achievement of the second Madhes movement was the commitment by the government to an autonomous Madhes province. The notion of self rule in the Tarai and shared rule at the centre lies at the heart of the movement. In specific structural terms, Madhesi parties have adopted the slogan of 'one Madhes, one Pradesh' – a single Madhes province across the Tarai from east to west. The logic of the parties is that this comprises a common cultural-geographical zone. Communities living in the plains share a history of oppression by Kathmandu. Leaders say that such a province will be strong and will be able to counter Kathmandu.

But this demand has run into rough opposition from different quarters.

The 'ultra-nationalist elite' oppose federalism in principle and feels that one Madhes is a prelude to the break-up of the country. NC and UML are reluctant converts to the cause of federalism and advocate vertical provinces that incorporates the hills and plains on the lines of old development zones⁷⁷ which Madhesis saw as discriminatory. Maoists have suggested breaking up the Tarai into Tharuhat in the far west, Madhes in central and eastern Tarai with Awadh, Bhojpur, and Mithila as sub-provinces or

Federalism, an autonomous Madhes, 'one Madhes one Pradesh' given the conesting claims of the Madhesis and Tharus, the Limbuwans and the Rabanshis are challenges that must be addressed for stable Nepal.

⁷⁴ International Crisis Group. *Nepal's Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

⁷⁵ Tilak Pathak, 'Patna baithak ko antarkatha', Nepal magazine, 1 July 2007

⁷⁶ Saroj Raj Adhikari and Kedar Ojha, 'Indian leaders aiding Tarai armed outfits', Kantipur, August 1 2009

⁷⁷ 'Koirala likens federalism to walking on sword's edge', <http://www.nepalnews.com/archive/2009/feb/feb25/news10.php>

alternately the three linguistic units as separate provinces each.⁷⁸ Some Tharu groups have demanded that the entire plains be constituted as Tharuhat; others demand that far west districts be a Tharu province – they feel that a single Madhes province would mean hegemony of Madhesi Hindu castes.⁷⁹ Limbuwan activists agitating in the eastern hills have demanded the inclusion of far-eastern districts like Jhapa in the Limbuwan province; Rajbanshi activists similarly claim that parts of Jhapa, Morang and Sunsari should be a part of a Kochila state. Kathmandu based planners have urged vertical provinces as economically more feasible, where both plains and hills will be able to derive mutual advantages. And many commentators, opposed to ethnic states in principle, have raised the point that any province is bound to have people from different ethnicities and castes – carving out ethnic or linguistic provinces may make the minorities within them second-class citizens, and thus defeat the purpose of federalism.⁸⁰

Politics in Tarai is fragmented to unmanageable levels. Most groups have a semi-militant character and there are allegedly 109 armed groups operating in the Tarai alone. Many armed groups operate in the belt, with close ties with criminal networks across the border in India. The anarchic set up provides space for international counterfeit currency and drug trafficking.

The other debate is about the range of powers to be given to provinces. Regional parties have demanded an extreme form of autonomy, where states keep all powers except foreign affairs, defence, communication, and currency; they would also have the right to self determination. National parties want to retain a stronger centre, with minimal devolution of powers.

The constituent assembly has ten months to take into account these contesting claims. Given that all the political actors have not shown any inclination to step down from their radical rhetoric, it is difficult to see how a consensus can be engineered in this time period. To add to it, street politics has got legitimacy and is seen as an effective political tool. When the federal debate picks, many fear that all these groups with conflicting demands may resort to agitation, which will be difficult for the state to tackle.

ii. Political-security situation

As recounted above, politics in Tarai has fragmented to unmanageable levels. Most groups have a semi-militant character. Many armed groups operate in the belt, with close ties with criminal networks. Security experts also contend that it is in such an anarchic set up, international counterfeit currency and drug networks find space.

A new security policy is essential, but it has to be accompanied with a reformed state structure which can implement it sensitively. A uni-dimensional approach, as seen during the Maoist conflict, is bound to create further resentment and generate a backlash. Any approach has to take into account the political alienation in Madhes; it must win the confidence and support of Madhesi politicians and civil society and engage in

talks with groups who are political; at the same time, state mechanisms must be strengthened, police be made less susceptible to political pressure, and the border better regulated to ensure better law and order.

Only then can a peaceful and just Tarai within a united Nepali framework thrive.

7. Recommendations:

To the Government of Nepal

1) Implement agreements signed with Madhesi parties and Tharu outfits:

- Abide by ‘mandatory’ commitment in eight point agreement to carry out ‘appointments, promotions and nominations in a manner such that there is inclusive proportional representation of Madhesis, indigenous nationalities, women, Dalits, people from backward regions and minority communities in all state organs, including security sector’. Implement similar commitment made in six point agreement with Tharu groups. Create fast-track civil service academies, implement affirmative action principles, modify eligibility rules (for example, language requirements), and make political appointments in the spirit of inclusion.
- Set up pre-entry **training** centres for the Nepal Army (without recruiting at the moment, as it goes against the peace accords) in the Tarai in order to create an environment for ‘proportional, inclusive, and group entry of Madhesis and other communities to give NA a national and inclusive character’.
- Continue efforts to ‘create conducive environment’ for armed groups to participate in the political process and engage in dialogue.

⁷⁸ See Maoist draft constitution at www.baburambhattarai.com

⁷⁹ Prashant Jha, ‘The Tharu Thrust’, Nepali Times, <http://www.nepalitimes.com.np/issue/2009/03/13/PlainSpeaking/15754>

⁸⁰ Kanak Mani Dixit, Samvidhan Yatra, Himal Khabarpatrika

- Continue to encourage and support the constitution-writing process, which will determine the nature of the federal structure that has already been promised.

2) Improve political-security situation:

- Begin back-channel communication with key armed group leaders like Akhil Tarai Mukti Morcha's Jai Krishna Goit, who retain political credibility despite little organizational strength. Continue with efforts to engage with armed groups which are already in talks with government. Encourage them to engage with the constitution-writing process from outside the assembly.
- Strengthen the security machinery. Encourage the local police to resist political pressure. Set up high-level monitoring mechanisms to check cases of police complicity with armed groups. Do not follow a policy of blank amnesty to armed activists emerging overground. Follow up on certain key cases and bring it to a conclusion to set examples of justice and regain confidence of people in the legal machinery. Encourage local peace committees to keep a check on state excesses and extra-judicial executions, and use its influence and informal networks with armed groups to follow basic humanitarian principles.
- Engage with local civil society and media, across ethnic lines, to keep them informed of security policies, specific cases, and government's approach.
- Work with local police authorities across the border in Bihar and Uttar Pradesh through legally constituted channels, and share intelligence to improve law and order.
- Encourage inclusion of Madhesis in the local bureaucracy and police in Tarai districts to bridge the trust deficit of the local populace in the state machinery.

To the Government of India:

- 1) Stick to the stated policy of respecting aspirations of Nepali people, and the commitment to the peace and constitution-drafting process:
 - Use leverage with national and Madhesi parties to encourage a closer understanding on contentious issues like the federal structure, without being prescriptive

and handing out solutions. Convey to the Nepal government the need to make concessions and respect genuine demands of the Madhesi community; convey to the Madhesi leadership the need to be moderate, not succumb to identity chauvinism; and keep the larger democratic and peace process on track.

- Avoid taking steps that will lead to further fragmentation of the Madhesi political landscape, making compromises more difficult. Resist the temptation to micro-manage internal politics of Madhesi parties, even if some leaders lobby with Delhi to push partisan interests.
 - Encourage collaboration and exchanges between Indian academics and journalists, Kathmandu-based actors, and Tarai civil society to share experiences about identity politics, affirmative action, federalism, and caste assertion.
- ## 2) Work closely with the Nepal government to improve security, and ensure that the open border is not misused:
- Activate the home secretary level mechanism set up to exchange information and intelligence during the India visit of the former Prime Minister Pushpa Kamal Dahal. Institute mechanisms where local district officers and police officials can meet on a regular or case to case basis. Follow legally instituted mechanisms to hand over suspected criminals.
 - Stop any form of covert encouragement to extremist groups, using violent means, to push secessionist agenda. Do not allow activities of these groups from Indian soil, and instead use leverage to push them to curtail activities on lines of what had been done before the constituent assembly elections.
 - Be vigilant about the potential of non state actors on the Indian side to provide such encouragement to extremist groups, and seek to discourage it.

To the United Nations:

- ACHR urges that the UN Office of the High Commissioner for Human Rights (which maintains a large physical presence in Nepal) to investigate the killings and step up its monitoring presence in the terai region.

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