

## 3.7 Mission Reviews

## Nepal



EPA/Narendra Shrestha

A security guard closes the gates at the entrance to the UNMIN headquarters in Kathmandu, Nepal, 14 January 2011.

From 2007 to early 2011, the United Nations Mission in Nepal (UNMIN) assisted Nepal in its transition to peace following a decade of armed conflict. UNMIN played an important role in supporting the successful April 2008 constituent assembly election that was a milestone in the country's transition from war to peace. In accordance with Security Council Resolution 1939 (2010) UNMIN withdrew from Nepal on 15 January 2011, amidst questions over its overall contribution to the peace process. The mission's input had been limited by a narrowly defined mandate. Nepal, primarily

due to Indian resistance, rejected modifications that would have strengthened UNMIN's role. Both persistent delays in the implementation of key elements of the peace process and the changed political environment after the 2008 election – which saw the Communist Party of Nepal (Maoist) (CPN-M) emerge as the country's most powerful political party, precipitating a breakdown in the political consensus that had held until that time – had contributed to highlight the restrictions on UNMIN's engagement. In particular, the absence of specific good offices and technical functions reduced the mission's ability to contribute fully to efforts to move forward from the political impasse into which the country entered after the resignation of the Maoist-led government in 2009.

## BACKGROUND

UNMIN was established in January 2007 as a “focused mission of limited duration.” By the time the mission was withdrawn in January 2011, it had been extended seven times at the request of the parties, for a total duration that was four times longer than the single year for which it was originally conceived. Meanwhile, the “focus” of the mandate had emerged as a key factor in some of the problems it had encountered.

UNMIN's mandate is derived from the Comprehensive Peace Agreement (CPA) signed between the Nepalese parties in late 2006, as well as a related Agreement on the Monitoring of the Management

### UN Mission in Nepal (UNMIN)

<b>Authorization and Start Date</b>	23 January 2007 (UNSC Res. 1740)
<b>SRSG</b>	Karin Landgren (Sweden)
<b>First SRSG</b>	Ian Martin (UK)
<b>Budget<sup>a</sup></b>	\$16.8 million (1 January 2011-30 November 2011)
<b>Strength as of 30 April 2011<sup>b</sup></b>	International Civilian: 12 National Civilian: 42 UN Volunteers: 10

*Notes:*

a. Requirements for 2011 cover the cost of carrying out mandated activities through July 2011 and for the liquidation phase from August to November 2011.

b. Figures reflect the drawdown of staff following the termination of UNMIN's mandate on 15 January 2011 and prior to full liquidation of the mission.

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of Arms and Armies (AMMAA) reached between the then Interim Government and the Maoist party through negotiations facilitated by the UN. The new mission's mandate encompassed monitoring the management of arms and armed personnel of both sides; assisting the parties in implementing the AMMAA through a Joint Monitoring Coordination Committee (JMCC) composed of both armies' representatives and chaired by the UN; assisting in monitoring the ceasefire code of conduct (the non-military aspects of the ceasefire agreement largely relating to local conditions for freedom of political activity); providing technical support for the election of a constituent assembly in a free and fair atmosphere; and providing a small team of electoral monitors to review technical aspects of the electoral process and report on the conduct of the election.

UNMIN's deployment followed several years of political engagement by the UN's Department of Political Affairs (DPA), as well as the establishment of an Office of the UN High Commissioner for Human Rights (OHCHR) in Nepal in 2005. Reservations that some Nepalis and, crucially, India – not only Nepal's neighbor but a regional power with significant interests in and influence upon Nepal – held about an overtly “political” role for UNMIN contributed to the narrow conception of its mandate. Indeed specific references to good offices and to a role in supporting security sector reform originally proposed by UN officials were deleted in the course of its negotiation. Despite this

setback, UNMIN would always consider that good offices responsibilities were implicit in a special political mission mandated by the United Nations and headed by a representative of the UN Secretary-General. Inside Nepal, the mission would struggle to communicate the limitations of its mandate, which was never properly understood.

In early 2007 the mission established itself throughout Nepal. At its greatest size, shortly before the April 2008 election, it numbered a little over 1,000 national and international staff, including 186 arms monitors. For a mission with military responsibilities, its arms monitoring component was light, consisting of unarmed personnel (both serving and retired officers) in civilian dress, who deployed with the cooperation of the parties in an innovative and largely successful arrangement. The work of the arms monitors was reinforced by the actions of the JMCC, which met at regular intervals to address differences that had arisen between the parties.

Both UNMIN's arms monitoring and electoral assistance were widely considered to have contributed positively to Nepal's successful holding of its constituent assembly election in April 2008. The results – which saw the Maoists emerge as the country's largest political party, and propelled their leader Pushpa Kamal Dahal (more commonly known as “Prachanda”) into the position of prime minister shortly afterwards – came as a surprise to many, however. The radically changed political environment in which UNMIN was working complicated its efforts to implement a mandate that had been designed to lead up to the successful conclusion of the election. In the post-election period a lack of cooperation and trust between the political parties impeded already lagging implementation in other areas of the peace process, as well as the drafting of the new constitution that was the responsibility of the new assembly. This mistrust was rooted in the allegation of the traditional political parties, the Nepal Army and India, that the Maoists were bent on capturing state power and installing a one-party state, and the Maoists' view that the traditional parties were not committed to the fundamental changes outlined in the CPA and were mainly interested in the “mainstreaming” and/or surrender of the Maoists.

UNMIN had downsized promptly after the elections, closing its electoral and civil affairs offices

as well as its five regional offices, and bringing the number of its arms monitors down to 73. But the mission's earlier problems in addressing the mismatch between public expectations of it and the responsibilities with which it had actually been charged increased. In addition, its presence was tied to the "temporary" arrangements that had cantoned and barracked the country's two armies. In the absence of progress in reaching agreement on the possible integration of Maoist army personnel (some 19,000 of whom were confined in cantonments) into the national security forces, their rehabilitation into civilian life and the democratization of the Nepal Army, the mandate became increasingly problematic.

The challenges facing Nepal grew more acute after May 2009, when an attempt by Prachanda to dismiss the army chief created a political crisis and prompted the Maoists' departure from government. A 22-party coalition government, headed by Prime Minister Madhav Kumar Nepal of the United Marxist-Leninist (UML) party took over, but with the Maoists outside the government its ability to make and execute policy was severely restricted. In the prolonged political impasse that followed, UNMIN found its efforts to remind political parties of their commitments under the CPA rebuffed. India and some Nepali actors accused the mission of pursuing an agenda that was overtly "pro-Maoist," while India ceased to approach Nepal within the framework of an uncompleted peace process and strongly supported the exclusion of the Maoists from government. Besides being subjected to frequently unfounded criticism, UNMIN was an easy scapegoat for issues that lay beyond its mandated responsibilities. Meanwhile, its mandate was repeatedly renewed without alterations – from early 2010 in increments of only four months – even as speculation as to its eventual departure began to rise.

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## KEY DEVELOPMENTS

By September 2010 the end of the road for UNMIN had been reached. Prime Minister Nepal had resigned at the end of June in order to make way for a consensus government, but no agreement on who was to head it had been achieved. An extension of the constituent assembly by a year to 28 May 2011 had averted an immediate political crisis, but

the Secretary-General could report "no substantive progress on the main outstanding tasks of the peace process" – namely resolving the future of the two armies and the drafting of the constitution – to the Security Council.<sup>1</sup> He instead informed the Council that intense political differences between the parties related to the extension of the assembly and the election of a new prime minister had both become linked to the issue of the integration and rehabilitation of Maoist army personnel.

Integration, an issue of immutable importance to the Maoists, was adamantly resisted by the Nepal Army, which had become increasingly vocal in its opposition to both the peace process and the continued presence of UNMIN, and to a large extent by India and key figures in the traditional mainstream parties. New recruitment by the Nepal Army in violation of the CPA and a statement by the Maoist army that it too would start recruiting again, further complicated the situation. At the root of the tension over integration and UNMIN's role in encouraging it was lingering opposition over the peace process' recognition of "two armies." For the many Nepalis who continued to see the Maoists as a threat to the state, the recognition of the Maoist army as a legitimate actor that this implied, and UNMIN's adherence to the letter of the CPA, was quite simply outrageous. Some critics called on UNMIN to drop its references to the "two sides" of the agreements.

UNMIN found itself in a difficult position. It had entered into consultations regarding possible arrangements for its withdrawal and the transfer of its monitoring responsibilities. Yet even as it was told that its departure would be "premature" by some Nepali interlocutors, its efforts to encourage discussion and forward-thinking on the technical details of integration and rehabilitation were met with criticism.

After initial disagreement, on 13 September the government of Nepal and the Maoists reached a four-point agreement to implement documents prepared by the Special Committee that had been formed to supervise the integration and rehabilitation of former Maoist combatants; to bring the Maoist combatants under the Special Committee; to complete the remaining tasks of the peace process by 14 January 2011; and to request an extension of UNMIN's mandate for a further four months – for the last time. The agreement did not specify

what mechanism would assume UNMIN's arms monitoring responsibilities in the event that these tasks were not completed before its departure. The Security Council responded with Resolution 1939 (2010) which called on all political parties in Nepal "to expedite the peace process, and to work together in a spirit of cooperation, consensus and compromise," even as it decided that UNMIN's mandate would terminate on 15 January 2011, "after which date UNMIN will leave Nepal."

In the following months, progress in advancing the peace process was limited. India, which was due to join the Security Council as an elected member on 1 January 2011, was pushing hard for UNMIN to leave. With its ability to encourage the parties to move beyond their distrust clearly limited, UNMIN's impending departure was never in doubt. The UN Under-Secretary-General for Political Affairs, B. Lynn Pascoe, traveled twice to Nepal, in October and December 2010, to assess progress and call on the parties to resolve outstanding issues, primarily the integration and rehabilitation of the former Maoist combatants, before the mission left Nepal. By the end of the year, when the parties had held sixteen rounds of voting in the legislature-parliament but still failed to reach an agreement on a new prime minister, the prospects for progress still seemed very uncertain.

In a blunt final briefing to the Security Council on 5 January 2011, the Secretary-General's Representative in Nepal, Karin Landgren, outlined the uncertainty that would follow UNMIN's departure in the absence of substantive progress in forming a new government or implementing the key provisions of the 13 September agreement. Echoing a report the Secretary-General submitted to the Security Council in late December, Ms. Landgren cautioned that unfulfilled promises held out by the CPA could be a source of future tension and instability.<sup>2</sup> These included improved representation of ethnic and traditionally-marginalized groups at all levels of society and government, land reform and the situation of human rights, which was still characterized by impunity and the lack of accountability.

UNMIN left Nepal promising the continuing engagement of the United Nations Country Team, which was strengthened by two former UNMIN officials and the ongoing assistance of DPA. In a pattern consistent with Nepal's extended period of implementation of its peace agreement, in which

the parties had lurched from impasse to political crisis, but always found the means to prevent the truly catastrophic developing, on the eve of UNMIN's departure the parties agreed to entrust the outstanding arms monitoring responsibilities to the Special Committee. Notwithstanding the importance of this decision, the International Crisis Group described the "shambolic" national monitoring mechanism that was put in place as having "more notional than actual value."<sup>3</sup>

In February, to the surprise of both India and the powerful Nepali Congress Party, a political deal was reached between the UML and the Maoists which allowed the Maoist chairman Prachanda to bow out of the contest for prime minister and support the UML's Jhala Nath Khanal for the position. The complex factional dynamics within the new Maoist-UML coalition (inside each party and between them), as well as outside it, complicated progress towards the 28 May 2011 deadline for a new constitution. But at the last minute disaster was, once again, averted. On 29 May, all political parties agreed to extend the constituent assembly by three months, promising progress on the peace process, the release of a draft constitution and the resignation of Prime Minister Khanal by the new deadline of 28 August 2011.

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## REFLECTING ON UNMIN

In retrospect, UNMIN was an unusual and in many respects innovative mission. Yet it was unable to provide the degree of assistance to Nepal's peace process that its size, capacity and commitment to the transition had all suggested.

UNMIN's establishment followed several years in which the UN provided good offices that had first been offered by Secretary-General Kofi Annan in 2002 and were pursued with commendable diligence by the DPA from 2003 onward. Its first head, Ian Martin, assumed his position with the benefit of eighteen months in the country leading the OHCHR presence in Nepal and as Personal Envoy of the Secretary-General, in which capacity he provided support to the nationally-led negotiation of the CPA and carried out planning for the deployment of UNMIN. The mission pioneered a low-key but generally effective form of arms monitoring, and provided exemplary assistance to an electoral

process in April 2008 that had benefited from the strong leadership provided by Nepal's own Election Commission. Throughout its presence in the country UNMIN functioned as an effective focal point of international efforts in support of Nepal's peace process; its even-handed reports to the UN Security Council provided, and still provide, a record of the process with lasting value for Nepalis and internationals alike. Moreover, its four-year presence in the country, and frequent interaction with all political parties, undoubtedly helped build confidence in the process upon which the country embarked and prevented its relapse into conflict.

Yet the problems UNMIN encountered, especially but not exclusively after the constituent assembly election, led some to raise questions of its overall contribution to the Nepali process. They suggest that there are important lessons to be learned from its experience. Beyond a sobering reminder for international actors about the limits of outside influence upon a nationally led and owned process, three lessons in particular stand out.

The first is the importance of the mandate. UNMIN accepted a limited mandate in a context in which the peace process as a whole lacked any oversight mechanism other than the JMCC. The mission had no mandate to conduct overall monitoring of implementation of the CPA beyond the periodic reports of the Secretary-General to the Security Council, no mandate to offer technical and planning support, and no explicit good offices role, all of which limited the framework within which it was able to provide assistance to Nepal's peace process. Most crucially, UNMIN's mandate underwent no revision after the constituent assembly election of April 2008, which clearly altered the political environment in which the mission was working. (The principle reason for this being the clear message being transmitted by India and those Nepali actors most perturbed by the Maoists winning the elections that they preferred to keep UNMIN boxed-in

by its existing mandate.) As the extent of the problem became clear in 2009, UNMIN attempted to broach the issue of the inadequacy of its mandate, but found no scope for adjustments.

A second is the significance of public information, and the fact that, despite the efforts of UNMIN's public information department, the limitations of its mandate (including as they related to its monitoring responsibilities) were never fully understood within Nepal. This contributed to a constant mismatch between public expectations of the mission and what it was actually able to deliver and fuelled the criticism of its actions that became a constant in Nepal's Kathmandu-focused media. The problem was exacerbated after the downsizing of UNMIN in 2008, when the mission lost important public information capacities as well as its presence in regional offices across the country. In retrospect, it would have been helpful if UNMIN had taken a more assertive stand in pushing back against some of the more ill-informed and far-fetched criticisms that were made of it.

Finally, UNMIN proved an object lesson in the difficulties of mounting a UN political mission in circumstances in which a regional power has strong views, interests and political influence upon the trajectory to be taken in a given peace process. While UNMIN enjoyed a largely positive relationship with India until the constituent assembly election, it was greatly complicated in its aftermath for reasons that related to the Maoists' victory, which came as an unwelcome surprise to India and its closest allies in Nepal. Changes in the composition of India's government, and the continuing difficulty in identifying a coherent policy towards Nepal within its complex decision-making structures that was consistent with the goals articulated in the peace process that UNMIN was established to support, further impeded cooperation with the mission.

## NOTES

- 1 United Nations, "Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process," S/2010/453, 2 September 2010.
- 2 United Nations, "Report of the Secretary-General on the request of Nepal for United Nations assistance in support of its peace process," S/2010/453, 2 September 2010 and UN Department of Information, "Secretary-General's outgoing representative in Nepal spells out stark choices," SC/10145, 5 January 2011.
- 3 International Crisis Group, "Nepal's Fitful Peace Process," Asia Briefing No. 120, Kathmandu/Brussels, 7 April 2010.