

Nepal

Supporting the Democratic Transition through the Participation of Internally Displaced Persons and Migrants in Constituent Assembly Elections

Political Rights and Enfranchisement System Strengthening (PRESS)

Action Plan VI

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Executive Summary

Ten years of fighting between the government of Nepal and Maoist rebels has killed over 13,000 Nepalis and produced a substantial human displacement. Estimates on the number of IDPs vary, with different agencies reporting figures between 100,000 to 500,000. An unknown but potentially even larger number of persons affected by the conflict have fled to India, joining a substantial migrant labor population already present in that country.

The conflict resulted in the collapse of Nepal's democratic system of governance, with the monarchy assuming increasingly centralized powers while the Communist Party of Nepal (CPN) - Maoist dominated much of the countryside. In early 2005, King Gyanendra dissolved the Parliament and assumed absolute power. Following weeks of increasingly widespread popular protests, in April of 2006 the King agreed to end his direct rule and restore parliament, which reconvened on April 28. However, the country's political forces face a difficult challenge in resolving issues associated with solidifying the cease-fire agreement, organizing a transitional government, reconstituting national and local administrative infrastructure, and conducting elections to a proposed Constituent Assembly (CA).

The CA elections represent an important step in Nepal's peace-process. However, the political situation remains fluid, and a flawed electoral process would damage the fragile ceasefire and could return the country to absolutism and/or war. Thus, the country's political forces must balance the need to keep the transition moving forward with the recognition that the CA elections will require careful planning and a realistic timeline. An electoral process that disenfranchises significant social groups would jeopardize the prospect for a sustainable peace.

This IOM PRESS Action Plan examines issues associated with displacement and migration (internal and external) in the context of the CA elections. It also proposes modalities to ensure that these elections will be transparent, inclusive and genuinely reflect the will of the Nepali people. The assessment visit revealed a profound need to begin considering the political and technical elements of the CA process.

Some stakeholders interviewed during the assessment visit argued that CA elections could be held by the end of 2006.¹ This is unrealistic, given the enormity of the task and the imperative that the elections sustain the democratic transition and solidify the peace. In order for the elections to occur in an inclusive, free and fair, manner, parties and stakeholders will need to address the following core issues:

1. Transition and Ceasefire
2. Citizenship
3. Registration & Documentation
4. Electoral Formula
5. Redistricting of Administrative Boundaries and Zones
6. Census
7. Voter Registration and Balloting for IDPs and Migrants
8. External Voting

Substantial population movements over the previous ten years will require careful planning in order to make the process succeed. Unfortunately, the government's response to the IDP crisis has been politicized and insufficient. As a result, many IDPs are unwilling to identify themselves as displaced and do not register with authorities. The reasons for this are complex and more fully

¹ On June 16, the leader of the Maoists stated that elections would likely be conducted "within a year," the first time that the Maoists had publicly articulated a concrete timeframe for the election other than "as soon as possible." See: Reuters Foundation, "Factbox: Nepal's Landmark Peace Deal," 19 June 2006. Available at: <http://www.reliefweb.int/rw/RWB.NSF/db900SID/EVOD-6QWD32?OpenDocument&rc=3&cc=npj>

explored in the main body of the report. In short, while it is possible to distinguish multiple causes and patterns of displacement in Nepal, election-related programming will need to account for migration in general, whether induced by the conflict or not.

Each of the above issues raises important considerations in terms of IDP and migrant participation. The Action Plan examines each in turn, identifying the key political and technical issues that need to be addressed and proposing programming options to keep the process in motion. Key recommendations include:

- **Transition and ceasefire:** The government and Maoists must reach an agreement on the modalities for the cantonment and/or demobilization of Maoist cadres and on the re-establishment of local administrative capacity throughout the countryside. All parties should pledge to create an environment in which local institutions of governance can be re-established and displaced Nepalis can return home. International agencies, together with domestic NGOs, will need to support and observe these programs.
- **Citizenship:** Nepal needs to resolve issues associated with statelessness and citizenship. Current constitutional and statutory requirements for the acquisition of citizenship are discriminatory and should be reformed. A new citizenship law is critical to the inclusiveness of the electoral process, and procedures for acquisition of nationality should be completed prior to beginning a voter registration program.
- **Documentation:** Nepal's documentation problems are substantial, affecting displaced persons and women in particular. Legislative action is required to eliminate the current obstacles to obtaining documents and establish a mechanism for the issuance of new or replacement documents. However, a national-effort to implement a document re-issuance program should be linked to a broader process of civil and/or electoral registration. These tasks require careful deliberation and planning. Two possible modalities include an IDP/Migrant-specific registration process (which could prove problematic) or a comprehensive civil registration that would result in the issuance of a new national identity card for all Nepalis.
- **Electoral Formula:** Stakeholders need to determine the formula for electing delegates to the CA. The model adopted will have important implications for the representation of different parties and social groups. There is considerable (although varying) expertise among political parties, academics, and civil society organizations regarding the pros and cons of various electoral formulas. Few of the proposals, however, seem to recognize the important impact that displacement and migration will have on the system. The Action Plan briefly discusses the common models, First-Past-the-Post, Proportional Representation, and Parallel Systems in terms of how each will affect and be affected by migrant populations.
- **Redistricting of Administrative Boundaries and Zones:** Related to the electoral formula is whether and how to re-draw the country's administrative and constituency boundaries. Some proposals for a CA electoral formula include a PR mechanism based on 7 to 33 regional districts. However, any electoral formula requiring sub-national districts or constituencies would require a census or registration process to ensure equality of the vote. These corollary processes also need to account for displacement and migration in the drawing of boundaries and apportionment of seats.

The final two sections of the report examine issues and options associated with absentee balloting, both inside Nepal and externally. The government's 2006 National IDP Policy provides that IDPs shall be provided the opportunity to cast absentee ballots in their current place of residence for their original constituency. Absentee balloting is not just a convenience issue, but directly affects the security of IDPs and their ability to vote their conscience free from physical intimidation and threats. The Parliament will need to enact a legislative framework for the election

that provides mechanisms for absentee registration and balloting and the Election Commission will require technical support to organize such a program. In addition, stakeholders will need to discuss options for a possible external voting project, particularly in regards to the substantial Nepali population in India. Civil society and voter education programs will also be required to ensure that Nepalis understand the process and are able to participate effectively. Important considerations in this regard include:

- Updating the voters register;
- Provision of an absentee ballot;
- Whether to establish IDP and migrant specific polling stations;
- How to count absentee ballots;
- Provision of civic and voter education;
- Observation of the process;
- Whether and how to organize an external voting program.

Acronyms and Organizations

| | |
|----------------|---|
| CA | Constituent Assembly |
| CDO | Chief District Officer |
| CERD | Convention on the Elimination of all Forms of Racial Discrimination |
| CFM | Conflict-Forced Migrants |
| CPN (M) | Communist Party of Nepal (CPN-Maoist) |
| CPN-UML | Communist Party of Nepal |
| CSO | Civil Society Organization |
| DDC | District Development Committee |
| EC | Electoral Commission |
| EMB | Election Management Body |
| FPP | First Past the Post |
| GDP | Gross Domestic Product |
| HMGN | His Majesty's Government of Nepal |
| ICCPR | International Covenant on Civil and Political Rights |
| IDMC | Internal Displacement Monitoring Centre |
| IDP | Internally Displaced Person |
| IEC | Indian Election Commission |
| IFES | International Foundation for Election Systems |
| IGO | Inter-Governmental Organization |
| INGO | International Non-Governmental Organization |
| INSEC | Informal Sector Service Center |
| IOM | International Organization for Migration |
| MoU | Memorandum of Understanding |
| NDI | National Democratic Institute |
| NC | Nepali Congress Party |
| NC(D) | Nepali Congress Party (Democratic) |
| NIEFO | Nepal International Electoral Forum |
| NGO | Non-Governmental Organization |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| PR | Proportional Representation |
| RNA | Royal Nepal Army |
| RRP | Rastriya Prajatantra Party |
| SPA | Seven Party Alliance |
| UDHR | Universal Declaration of Human Rights |
| UNHCR | United Nations High Commissioner for Refugees |
| UNOCHA | United Nations Office for the Coordination of Humanitarian Affairs |
| VDC | Village Development Committee |
| VR | Voters Register |
| VRO | Village Registration Officer |

Part I: Background

Conflict Forced Migrants and Elections

Internally Displaced Persons (IDPs) and refugees around the world face special challenges in realizing their right to political participation.² Their disenfranchisement violates fundamental human rights norms and weakens the reconciliation value of the elections. The right of political participation is enshrined in Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR), ratified by Nepal in 1991, which holds that:

*“Every citizen shall have the right and the opportunity... without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free will of the electors...”*³

Core standards of protection and treatment of IDPs have been enumerated in the *Guiding Principles on Internal Displacement*. “The Guiding Principles consolidate into one document all the international norms relevant to IDPs, otherwise dispersed in many different instruments. Although not a legally binding document, the principles reflect and are consistent with existing international human rights and humanitarian law. In re-stating existing norms, they also seek to address grey areas and gaps.”⁴ Nepal has recognized the human rights obligations embedded in the Guiding Principles in its *National Policy on Internal Displacement* of March 2006.

Guiding Principle 1 declares that:

*“Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.”*⁵

This language is strengthened in Principle 22, which declares that:

*“Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights: (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression; ... (c) The right to associate freely and participate equally in community affairs; (d) **The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right...**”* (emphasis added)

² The principle that individuals possess a right to participate in the political affairs of their state has been re-affirmed in international treaties, declarations, and the rulings of international human rights courts and tribunals. Many observers argue that the right to political participation, particularly the right to vote, has become enshrined in international human rights law. See Gregory H. Fox and Brad R. Roth, eds, *Democratic Governance and International Law* (Cambridge: Cambridge University Press, 2000), and Franck, Thomas. “The Emerging Right to Democratic Governance,” 86 *American Journal of International Law* 46 (1992): 46 – 49.

³ *International Covenant on Civil and Political Rights*, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976. Available at http://www.unhchr.ch/html/menu3/b/a_ccpr.htm.

⁴ Roberta Cohen, “The Guiding Principles on Internal Displacement: A New Instrument for International Organizations and NGO’s,” *Forced Migration Review*, no.2, (August 1998): 31.

⁵ United Nations Office of the High Commissioner for Human Rights, *Guiding Principles on Internal Displacement*, UN Doc E/CN.4/1998/53/Add.2, (11 February 1998), Available at <http://www.unhchr.ch/html/menu2/7/b/principles.htm>; Internet Accessed on 1 June, 2002.

The *Compilation and Analysis of Legal Norms*,⁶ a document that details the specific human rights instruments relevant to IDPs and forms the background to the Guiding Principles, argues that: “Amidst the many deprivations they face, internally displaced persons often are stripped of the opportunity to participate in government on a local or national basis. This denial may be enhanced by the fact that they have lost their identification papers and/or property. The ability to participate in governmental or public affairs can enable internally displaced persons to influence or possibly ameliorate their own situation of displacement.”⁷ The Compilation concludes that, “the means for their [IDPs] participation, including access to voter registration procedures, must be safeguarded.”⁸

In line with this principle, Section 5.4.2 of the Nepal’s *National Policy on Internal Displacement* provides that IDPs shall be guaranteed the right to participate in elections and explicitly provides for the opportunity to cast absentee ballots in their current place of residence for their original constituency if they so choose.

The Constitution of Nepal, Part 45(6) holds: “Every Nepali citizen who has attained the age of eighteen shall be entitled to vote in one of the election constituencies in accordance with the provisions of the law.” The only other limitations include mental competence, permanent residence in the electoral district where the ballot will be cast, and not having been in prison less than a year prior to Election Day. The residency limitation is important in the context of displaced and external voting rights and will be discussed further below. The important point is that constitution guarantees equal and universal suffrage, and combined with Nepal’s obligations under international human rights law, warrants a substantial effort to ensure that displaced and migrant voters are able to participate in elections in a manner that guarantees their physical security and freedom to vote in accordance with the conscience.

The question for Nepali stakeholders is not **whether** displaced populations should be provided the right to vote, but **how** to establish the means necessary to deliver that right.

Methodology

This Action Plan examines issues associated with displacement and migration in Nepal’s Constituent Assembly elections. It also proposes modalities to ensure that these elections will be transparent, inclusive and genuinely reflect the will of the Nepali people. Nepal was selected for an Action Plan because of the remarkable political transition that unfolded in April 2006, and the obvious problems that issues of displacement represent to the integrity of the election.

PRESS Action Plans combine the tested methodology for pre-election technical assessments employed by the IFES⁹ with a specific emphasis on refugee and IDP enfranchisement rights and opportunities. An IFES-style assessment evaluates the following electoral elements: legal frameworks; the capacity and independence of the responsible Election Management Body (EMB); political parties and campaigning; other nongovernmental participation; and civic and voter education.

In PRESS Action Plans, the focus is on refugees and IDPs, defined broadly as conflict-forced migrants (CFM). The basic factors considered include assessing the demographics and characteristics of the CFM population; harmonizing the electoral and peace processes with population movements, resettlement patterns; determining host country roles in refugee participation; and integrating an electoral perspective into the scope of concerns for the

⁶ Francis Deng, “*Internally Displaced Persons: Compilation and Analysis of Legal Norms*,” Report of the Representative of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1995/57.

⁷ Compilation at Paragraph 350.

⁸ Compilation at Paragraph 353.

⁹ IFES used to stand for the International Foundation for Election Systems. Now the organization is referred to simply as IFES.

humanitarian community -- including issuance of documentation, registration processes, and access to local systems of governance.

Given the political issues associated with the definition of "IDP" in the Nepali context, this Action Plan examines election-related programming in the context of migration in general, whether induced by the conflict or not. Thus, the report aims at ensuring that all Nepalis outside their regular location of residence are provided the opportunity to register and cast ballots under conditions that guarantee their physical security and the integrity of the electoral process.

The report is based on a field assessment to Nepal conducted May 21 – June 2, 2006 that included meetings with political parties, the Election Commission, Ministry Secretaries, civil society organizations, representatives from IDP communities, journalists, and national and international humanitarian organizations. Desk research was conducted prior by the PRESS Research Assistants, Greg Silverman and Caitlin Morrison. The author benefited enormously from the expertise, contacts, and logistical support provided the Nepal International Electoral Forum (NIEFO), a civil society organization with extraordinary experience in managing and observing electoral processes around the world on behalf of the United Nations. Special thanks are also due to Leila Abu-Gheida and the USAID team in Nepal for their assistance and support of the project.

Political Background

The Maoist rebellion, beginning in 1996, quickly spread across the countryside. In June 2001, King Birendra, who had sought to dialog with the Maoists, was gunned down along with the Queen and three of their children in the Royal palace, reportedly by his eldest son, who then committed suicide. Three days later, Prince Gyanendra, assumed the throne. With the backing of the Royal Nepal Army (RNA), he vowed to defeat the Maoists militarily. In October 2002, citing the inability of the Prime Minister to hold elections, King Gyanendra fired the Prime Minister. A series of Prime Ministers were appointed and dismissed by the King and the conflict continued to escalate. In February 2005, the King seized absolute power. Soon after, security and police forces arrested thousands of political party leaders, human rights advocates, and activists.

The Royal Coup failed to end the rebellion, and in fact drove the political parties to establish the Seven Party Alliance (SPA), which began negotiations with the Maoists outside of Nepal. In late 2005, they agreed to a 12 Point Charter calling for an end to the Monarchy, the return to multi-party democracy, and elections for a Constituent Assembly, to draft a new constitution.

The assumption of absolute power provoked a remarkable response from the Nepali people. Following several weeks of increasingly widespread protests and demonstrations that paralyzed Kathmandu and other major cities, King Gyanendra agreed on April 25 2006 to give up absolute rule and restore parliament, which reconvened on April 28. The SPA immediately formed a government under the premiership of Nepali Congress President Girija Prasad Koirala. However, the Maoists, who participated in the demonstrations under an agreement with the parties, remain cautious regarding modalities of the transition.

On May 18, 2006, the House issued a proclamation that stripped the King's title as "Supreme Commander" of the army and delinked the King from the cabinet and house. It is not clear on what legal authority the House is operating; whether it is bound by the 1990 constitution or whether the May 18th Proclamation serves as a de facto interim constitution. This question does not seem to trouble most Nepalis, who observe that the current house is functioning under the mandate of the "popular movement."

Nepal has never convened a constituent assembly before, and must adopt an electoral framework. Local NGOs and stakeholders expressed several immediate concerns, including:

1. Determining the electoral formula to be employed;

2. How to link the conduct of the election with cantonment and disarmament of the Maoists;
3. The timeframe in which the elections should be held;
4. How to ensure the inclusion of IDPs and migrants;
5. The role of International Organizations;
6. Raising awareness about the issues and procedures associated with the election.

On June 16, as this Action Plan was in the final editing stages, the SPA and the Maoists reached an “Eight Point Agreement” regarding modalities of the transition. The Agreement holds that the current House will be replaced with a transitional parliament including the Maoists, a fifteen person panel will be convened to draft a new “interim constitution,” within three weeks, and elections will be held as soon as possible for the Constituent Assembly, which will modify and approve the new constitution. No firm date for the election is contained in the agreement, although press reports indicate that parties were seeking the election in April or May 2007.

Displacement & Migration in Nepal

Internal Displacement

Nepal’s IDP crisis is largely hidden from public view. Estimates on the number of IDPs vary widely, with different agencies reporting figures between 100,000 to 500,000. The most comprehensive survey to date was conducted by the Nepali NGO the Informal Sector Service Center (INSEC), which made direct contact with over 40,000 IDPs in 2005. INSEC estimates that they were only able to identify one-fifth or less of the total population. Various other national and international agencies suggest working figures of between 100,000 and 200,000 IDPs out of a total population of 25 million.

The causes of displacement in Nepal are complex, and several different groups appear to be vulnerable. Party representatives, government administrators, and teachers and health-care workers have been directly targeted by the Maoists, as have persons with family members in the military or police. Those with extensive land-holdings and business owners have also been subject to attacks and extortion, which is the primary means that the Maoists use to support party cadres and military operations. Finally, forcible recruitment of children into the Maoist ranks has caused many families to flee or to send their sons away to Kathmandu or other urban centers.

Observers also report significant displacement by the RNA and police in the course of counter-insurgency operations. Civilians have often been forced to take an active role in the conflict, as both the RNA and the Maoists will demand information or support from villagers. When civilians cooperate with one party, under threat, they often face retaliation from the other party. These tactics are a violation of the Geneva Conventions and norms protecting civilians in times of war.

Finally, many individuals choose to move out of conflict-affected areas in order to establish a sense of security and meet their subsistence needs. The rural economy has been devastated and government services have collapsed in much of the country-side. Furthermore, Nepalis have historically been a mobile people, often moving out of the hills to the agricultural flatlands in the South and crossing into India in search of seasonal or semi-permanent employment. Many IDPs may have left their homes for economic reasons, but then decide not to return due to the deteriorating security situation.

Response

The structural conditions of displacement in Nepal differ from other crisis situations, where IDPs often flee to camps and welfare centers and receive protection and assistance, however limited, from national authorities and international agencies. In Nepal, the vast majority of IDPs flee from the country-side to the District Centers and major cities where they intermingle with the existing population. The cultural traditions of extended families and hospitality, combined with historical patterns of seasonal migration, prompt most to seek assistance from relatives or associates. Most

observers also point to the social stigma or political implications of displacement as prompting many of the better-off IDPs to avoid the limited number of camps and centers. In addition, the government initially sought to discourage IDPs from settling in camps or centralized locations, instead promising their security should they return home.

The government's response to the IDP crisis has been politicized and insufficient. The official definition of an IDP only includes those who declare themselves victims of Maoist violence or threats. According to the Final Report of a Joint Inter Agency Assessment Mission to the Mid-Western Region: "The process of being accepted as a 'Maoist Victim' requires that an individual's claim be reviewed by security forces, local VDC [Village Development Committee] Chairs as well as political party leaders. Many displaced, including those displaced by the CPN (Maoist) are not willing to make such overt and public statements ... for fear of possible retributions at a later time."¹⁰ During the assessment visit, several agencies noted that the politicization of the process leads to two common outcomes: First, party leaders tend to only advocate on behalf of their members; and second, the lists of those who have filed a claim as a displaced person often come into the hands of the Maoists, who have retaliated against claimants.

Beyond the obvious problems that this politicized definition creates, the government's assistance and protection capacity is virtually non-existent. According to representatives from the IDP communities, a 2004 promise to pay a small benefit to "Maoist Victims" required a dangerous and difficult trip to the home district in order to complete the process, and only 1,700 people were able to receive the benefit (a one-time payment of approximately 30USD for a family of 4 persons). Furthermore, at the district level, administrative capacity has been severely diminished, and at the village level, administrative functions have ceased almost entirely. Already one of the poorest countries in the world, Nepal is structurally and financially unable to meet the needs of IDPs.

According to the Internal Displacement Monitoring Center (IDMC), "... In the obvious absence of an appropriate response from the government, one could have expected the large international aid community already present in Nepal to react swiftly to fill the assistance gap left by the national authorities. However, ... most agencies have preferred to assist conflict-affected areas mainly through already existing development programs. In order to avoid creating pull factors, likely to further depopulate rural areas, the agencies have been careful to avoid providing assistance directly to the displaced in their area of displacement."¹¹

As a result, the substantial humanitarian relief operations that characterize many conflict countries are not present. According to the assessment report of an Inter Agency Mission to the Mid-Western Region: "Because the displaced community – for the moment – remains fairly well integrated, a large scale humanitarian response is not needed and would not be appropriate at this time. Nevertheless, the current response of HMG and the international community to the needs of Nepalis affected by the conflict is not sufficient or acceptable."¹²

Registration

The Ministry of Home Affairs and District Development Committees (DDCs) are mandated to register IDPs, but lacks the capacity to implement a comprehensive program. International agencies that often register IDP populations, the World Food Program and UNHCR, have also not conducted a comprehensive registration process. During interviews with NGOs, political parties, and agencies, the following reasons were advanced to explain why so few IDPs have been registered:

¹⁰ UNHCR, UNICEF, UNOCHA, OHCHR and NRC, "Final Report of Joint Inter Agency Mission to Mid-Western Region: Nepal." January 2006: P.8

¹¹ Internal Displacement Monitoring Center, "Country Profile: Nepal:" P.11. [http://www.internal-displacement.org/8025708F004CE90B/\(httpCountries\)/E545F30B5618B71D802570A7004BD25C?OpenDocument](http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/E545F30B5618B71D802570A7004BD25C?OpenDocument)

¹² "Final Report of Joint Inter Agency Mission to Mid-Western Region: Nepal,": 6.

- The politicization of the term IDP dissuades the majority of IDPs from self-identifying;
- IDP populations are unaware that registration is available;
- IDPs perceive no value in registering, as relief support is virtually non-existent;
- Many IDPs fear Maoist retribution should they register;
- The system for IDP registration is insufficient to deal with the volume of IDPs; and
- Slow and cumbersome verification procedures, including documentation requirements, which many IDPs have lost or never had to begin with.

Without registration, it is difficult to adequately monitor the scale of displacement and identify critical protection gaps. This is also true in the context of planning for post-conflict return programs. A national registration process is desperately needed, but will need to be designed to mitigate IDP fears, administrative weaknesses, and lack of information.

National IDP Policy and Administrative Framework

In March 2006, the government adopted the National IDP Policy, which defines IDPs, lists the government's objectives in meeting their needs, guarantees fundamental rights, and establishes national coordinating focal points. The current status of the policy as creating binding obligations on the restored Parliament is somewhat in doubt. Nevertheless, the Inter Agency Group (OHCHR, UNOCHA, and UNHCR) has prepared a series of comments on the Policy and hope that a revised version will be introduced into Parliament later this summer.

Key points contained in the policy include:

- Recognition that the human rights of IDPs should be respected in accordance with the ICCPR, the Guiding Principles on Internal Displacement, and the Constitution of Nepal;
- Protection of fundamental IDP rights such as freedom of movement, right to receive legal assistance, and non-discrimination;
- Establishment of a governmental framework through which NGOs and INGOs can provide assistance to the IDPs;
- Creation of a registration database and establishment of an identification committee ensuring that IDPs have access to documents;

The Policy also establishes three coordination mechanisms: The Central Directorate Committee, which is headed by the home minister and includes representatives from all other relevant government ministries, the police, the armed forces, and the national chamber of commerce is responsible for the overall policy framework; The Central Programme Coordination Committee, which is headed by the Chief Secretary of the Council of Ministers and representatives from the other relevant ministries, is charged with implementation of the Policy and subsequent directives emanating from the Central Directorate Committee; and 75 District Programme Coordination Committees, each headed by the Chief District Officer.

International agencies and local NGOs expressed concern that the Policy has not been distributed to the district level and resources for implementation have been insufficient. The majority of District Secretaries appear completely unfamiliar with the Policy or the coordination mechanisms contained therein. Furthermore, in fiscal year 2006, Nepal provided only 800,000 USD for IDP relief. Substantially more resources will be required if the commitments reflected in the Policy are to be realized.

Nepalis in India

Between one million and five million Nepali citizens live in India. Major concentrations can be found along the border region, as well as in New Delhi, Calcutta, and Mumbai. Nepal and India have shared an "open border" since 1950, and Nepalis have the right to live and work in India without a visa. According to the 1950 Treaty of Peace and Friendship, the citizens of both countries are entitled to the realization of all rights while in each other's territory, with the

exception of voting rights. As a result, India claims that no Nepali in India qualifies for refugee status as per the 1951 Convention Related to the Status of Refugees.

Seasonal migration patterns make it difficult to distinguish between conflict-forced migrants and economic migrants. Many displaced persons move within Nepal first, winding up in the District Centers in the Southern lowlands that border India (the Terai), and then crossing into India in search of employment and subsistence. According to Refugees International, "...the conflict is now so all-pervasive that it is impossible to separate purely economic migrants from those fleeing the conflict. India has become a safety valve for those seeking security and economic survival. NGO leaders who monitor the situation worry that as larger than usual numbers of Nepalis keep coming to India, the Government of India will become concerned about the effect on domestic and national security. There are concerns about potential linkages between left-wing insurgency groups operating in India and Nepali Maoists in India..."¹³

In addition, trafficking is becoming increasingly common, with criminal organizations moving IDPs to India under the pretense of restaurant or domestic employment, only to traffic them into the brothels of New Delhi and Mumbai.

During the assessment visit, civil society organizations and the political parties voiced strong support for including Nepalese citizens in India in the referendum process, but few had concrete ideas about how that might happen. Given the limited timeframe of the assessment visit, it was not possible to visit India. Follow-up programming to better understand the demographics and issues confronted by this population is warranted.

Citizenship and Documentation

The basic identity document that Nepali citizens carry is the Citizenship Certificate, which is the foundation requirement for entry on the voter register and other administrative services. The document is issued at the DDC level by the Chief District Officer. However, obtaining the document requires an affirmation from the VDC Secretaries, the majority of whom are displaced or have been killed and often cannot be contacted by IDPs. Other common documents include: drivers license, passports, land ownership certificates, utility bills, and migration and residence certificates (usually issued only those who have moved and do not own property, see below).

An unknown number of IDPs have lost their documents and are not able to obtain replacements. According to a report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons in January 2006: "[M]any IDPs face problems due to lacking documentation ... both from their places of origin, but also in their new places of residence. Authorities have to date not taken any measures to facilitate the issuance of new documents to replace documents lost in the course of displacement. This is a major obstacle for IDPs to integrate into the towns and district headquarters they fled to. It becomes a human rights problem because it bars citizens from all access to public services and participation."¹⁴

Given the interruption of VDC administrative infrastructure, many Nepalis, even those not directly displaced the conflict, face an almost impossible task in obtaining new or replacement documents. According to the Inter-Agency Report, "Most important documents can only be issued by the CDO Office and for those who have left their homes, this means an expensive sometimes perilous journey to district headquarters to have education, citizenship, birth, marriage and death certificates, and passports issued. Although there are merits to the system – few Nepalis have identity documents and identity is confirmed through community based systems – it is open to abuse and potentially discriminatory in the current situation ... Women face particular difficulties;

¹³ Kavita Shukla and Michelle Brown, "India: Nepali Migrants in Need of Protection." *Refugees International*. 30 July 2005. <http://www.refugeesinternational.org/content/article/detail/6429/?PHPSESSID=5ce00f92779c166324e1d>

¹⁴ Kálin, "Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons: Mission to Nepal:" P.16.

they need permission from their father or husband for most legal and administrative procedures, a situation heightened by the conflict. It is the duty of the State to provide documents such as citizenship cards or passports; capacity support can also be given to local and national authorities responsible for document issuance...¹⁵

Related to documentation is the issue of citizenship and statelessness. Until a Parliamentary Act in June 2006, Nepali citizenship was based on *jus sanguinis* or descent. According to Article 9(1) of the 1990 Constitution, "A person who is born after the commencement of this Constitution and whose father is a citizen of Nepal at the birth of the child shall be a citizen of Nepal." Persons born before the 1990 constitution are governed by identical requirements found in Section 3 of the Nepal Citizenship Act 1964 (as amended). Thus both the constitution and citizenship statutes discriminated against persons who were unable to verify that their father was a Nepali citizen, resulting in a substantial number of stateless Nepali residents, although the actual number is subject to considerable dispute.¹⁶

The Citizenship Act of 1964 (as amended) does provide for acquisition of Nepali Citizenship. Any foreign national of full age and capacity may submit an application to obtain Nepali citizenship if he: 1) can speak and write in the national language of Nepal; 2) is engaged in any occupation in Nepal; 3) has relinquished his citizenship of another state; 4) has resided in Nepal for at least 15 years; 5) is a citizen of a country where there is legal provision or a custom to provide naturalized citizenship to Nepali nationals; and 6) is of good conduct and character.

As documented citizenship is a basic pre-requisite to voting rights, this issue should be resolved prior to any registration process for the CA elections. On June 1, the Parliament initiated discussion of an Act to remedy this problem.

Government Administration in Nepal

History of Elections

Nepal first conducted parliamentary elections in 1958 under a constitution promulgated by then King Mahendra. The resulting Parliament proved highly fractious, and in 1960, the King sacked the Parliament, abolished political parties, and established the *panchayat* system. At first the system functioned via indirect elections starting at the local level, leading ultimately to the selection of the national *panchayat*. In 1980, the system was modified to direct elections. From then until 1990, elections were held every five years, although candidates could only run in their individual capacity. In addition, the King appointed the Cabinet of Ministers and could effectively veto any act of parliament. Despite the façade of elections, most Nepalis refer to this period as the "absolute monarchy," as the 1962 constitution held that, "The sovereignty of Nepal is vested in [the King] ... All powers, executive, legislative, and judicial, emanate from him."

The administration of the partyless elections between 1980 and 1990 was largely professional, based on principles of secret ballot and universal suffrage. Voters cast ballots for the 136 member Parliament from the 75 Districts. Each District was apportioned a number of seats based on its population, with the candidates receiving the greatest number of votes being awarded seats.

¹⁵ "Final Report of Joint Inter Agency Mission to Mid-Western Region: Nepal," P.7.

¹⁶ According to the NGO LawNepal. "Article 9 of the *International Convention on the Elimination of all forms of Discrimination against Women* (CEDAW) ... states that women should be guaranteed with the right to provide nationality to their family members. Similarly article 7 of the *International Convention on Rights of Children* (CRC) also states that a child should not be deprived of nationality in the course of right to identity. Nepal is a party of these treaties. Under these international conventions, Nepal is obligated to make necessary laws or amend the discriminatory laws relating to the nationality issues too. Eliminating all forms of discriminatory laws should be the prime concern of the Government ..." *Mameeta Nepali Giri*, "Women's Right to Nationality in Nepal." 1 April 2006, <http://santosgere.wordpress.com/2006/04/01/women%E2%80%99s-right-to-nationality-in-nepal/>

Popular discontent with the system began to emerge in the late 1980s, culminating in the “movement to restore democracy” of 1990. Hundreds of thousands of protestors took to the streets of Kathmandu, joined by significant strikes and protests throughout the country, demanding multi-party democracy and limitations on the King’s power. In 1990, King Birendra agreed to a new constitution, drafted by an independent commission, which established a parliamentary monarchy with the King as head of state and a Prime Minister as head of government. The new bicameral legislature included a 205 seat House of Representatives and a 60 seat National Council. The House of Representatives is directly elected under a single member constituency FPP system, and the upper house is comprised of 35 seats elected by popular vote - 15 seats elected by members of local government, and 10 nominated by the King.

Elections under the new Constitution were held in 1991, 1994, and 1999 but the resulting parliaments again proved highly factionalized, leading to regular changes of government. International and domestic observers considered the most recent elections in 1999 to be generally free and fair, but no national elections have been held since 1999 because of security concerns. The House that returned to power following the events of April 2006 is the same as that elected in 1999.

At the sub-national level, the country is divided into 14 Zones, which have no governance or administrative structures. The first sub-national administrative offices are found in the 75 districts, each of which is governed by a District Development Committee (DDC) and government appointed Chief District Officer (CDO). The DDC members are elected indirectly by an electoral college from the next lower level, the 3913 Village District Committees (VDC) and 58 municipalities, whose members are directly elected. The last local elections at this level were organized in February 2006, although only in the municipalities, as most of the VDCs were effectively under the control of the Maoists, who organize their own parallel administration and have killed or displaced many VDC officials. At the lowest level, each VDC and Municipality is divided into a number of Wards. The February local 2006 elections were widely boycotted by the political parties, who argued that they were simply a political move by the King to shore up his democratic credentials. In the end, the elections were condemned by most Nepalis and the international community.

As of May 2006, the Election Commission is comprised of the same Commissioners appointed under the 1990 Constitution. Many believe that these Commissioners will be replaced prior to the conduct of the Constituent Assembly poll. Administrative staff and secretaries staff will likely remain and IFES is currently conducting training for the EC staff.

Technical Elements of Election Administration in Nepal

Under the 1990 Constitution, all Nepali citizens 18 years and older may vote, with the exception of those deemed mentally incompetent by a physician or those who have been released from prison for a period of less than one year. The Constitution requires that citizens must be resident in the constituency in which they will be voting and makes no provision for an absentee ballot. This provision conflicts with the 2005 National IDP Policy, which authorizes an absentee registration and balloting mechanism. The Election Commission noted in interviews that Parliamentary action will be required to resolve this discrepancy.

The EC maintains a computerized voter register of some 15 million eligible voters, which is updated yearly. It is compulsory to register but not to vote. Registration is conducted at the village and municipality level by the VDC Secretaries. Each April and May, the Village Secretary (a government appointed administrator in each village and municipality) is deputized as “Village Registration Officer” (VRO). Notification of registration dates are published in local media, and voters who have attained the age of majority or wish to change their registration details must present themselves at the VDC office. The VRO completes a form for each registrant, issues the registrant a receipt, and submits the application to the District Registration Officer, where the data

is manually entered into a computerized database. Once the registration period ends, this data is compared against the existing records, and the modified register is transferred by CD ROM to the EC headquarters in Kathmandu. Out of 75 districts, 70 have electricity; the remaining five districts submit the original forms directly to the EC HQ for entry into the database.

In general, once entered on a voter list the registration remains valid until the voter dies or moves. Death notices are transmitted by the VDC to the Village Registration Officer for removal of the name from the rolls, although the EC observed that this policy is not widely implemented. Voters who move must complete the following process:

- Prior to moving, obtain a “migration certificate” from the current VDC;
- Upon arrival in the new VDC, submit this certificate (which is collected) for a “residence certificate;”
- Present themselves at a voter registration center during the annual registration update;
- Provide the VDC “residence certificate” along with one of the following documents: Citizenship Certificate, Land Ownership Certificate, Residency Certificate (for those who do not own and are renting a property in the VDC) in order to change their registration details.

According to the EC, in theory, each transfer of the vote should then be communicated between the relevant districts, and old district should delete the voter’s name from the old register. In practice, there does not appear to be a functional modality to accomplish this.

New voters (those who have attained the age of majority or those who have never previously registered), must provide either a citizenship certificate, or prove their father’s citizenship in order to be registered.

Even though Nepal conducts an annual update of the voter register, the accuracy and comprehensiveness of the rolls is suspect. First, in districts with a substantial portion of the territory under the control of the Maoists, voter registration procedures have been insufficient to account for population movements. Typically, in these situations, the Election Commission organized registration only in urban centers and district capitals. A mechanism was developed for displaced voters resident in the District Centers to be registered for their original constituency, but most agencies interviewed did not believe this process was adequately administered, and that most IDPs were unaware of the program and did not register.

Following registration, the EC compiles a national voter register, assigns each registrant a unique number and a polling station, and returns the final voter register to the VDCs (via the districts), where the information is displayed so that voters will know where their polling station is located. The EC does not attempt to cross check the various constituency VRs in order to remove double registrants.

The 205 electoral constituencies were delimited in 1990 by a special commission appointed by the Elections Commission. Only minor modifications to the constituency boundaries have occurred since. No constituency crosses a District boundary. As a result, there is a wide variance in the equality of representation, with constituencies ranging from as few as 7051 registered voters in Dolpha to 123,005 voters in Jhapa.

For polling, ballots are printed in Kathmandu and shipped to the Districts and on to the VDCs and then polling stations. For VDC-level contests, ballots are counted at the VDC headquarters and results reported back through the districts and then to Kathmandu. For elections for the House, ballots are shipped to the District Offices for counting. The entire process is open to observation by political parties and registered NGOs.

During discussion with EC staff regarding the CA elections and displaced and migrant voting issues, the following observations were made:

- The EC staff expect CA elections within 6 months to one year, and would be prepared to organize the balloting if the existing FPP formula were employed;
- If the formula was changed or districts re-drawn, the minimum time necessary to complete a new registration process would be six months;
- In order to ensure the integrity and accuracy of the voter's register, a comprehensive, door-to-door enumeration and re-registration process would be highly desirable;
- For a displaced voter who has lost their documents, the only option is to return to their home constituency, obtain new documents from the VDC, and then follow the normal procedure for registration changes;
- The current registration law does not provide the legal authority for the EC to provide absentee polling services to IDPs, as the National IDP Policy requires;
- The operation of an absentee balloting process would be possible, but would require a substantial upgrade to their existing Information Technology infrastructure and the provision of expert technical assistance;
- If absentee voting were conducted, all absentee ballots should be counted in Katmandu, rather than in districts.

Political Parties and Displaced Constituencies

In order to ascertain the policy priority that the refugee/IDP issue represented to political parties, meetings were held with representatives from the major political parties in Nepal. The views expressed were those of the individual party members, and do not necessarily represent the official party position.

Rastriya Prajatantra Party (RPP)

The RPP holds 11 seats in the current house but is not a part of the Seven Party Alliance. Therefore they do not advocate particular policy initiatives. Instead, RPP observes the current process and comments on outcomes.

The representatives interviewed believe that IDP returns could happen very soon. However, they believe that the fundamental right of return should be included in the ongoing dialogue between the SPA and the Maoists related to the implementation of the ceasefire agreement. This will need to specifically address property restitution issues. In terms of the elections, the RPP view is that the process should unfold sequentially. First, the cantonment of the Maoist forces to specified geographic areas, followed by a complete disarmament process, and finally the CA elections. Any attempt to conduct elections prior to demobilization will place the legitimacy of the resulting assembly in serious doubt.

In terms of the electoral formula for the CA elections, the representatives interviewed believe the FPP system should be replaced with a PR system of some sort. The initial steps should include a high level commission to examine the "more than thirty models" of constituent assembly elections that have been used around the world. Once several options are identified, the House should have final authority to adopt a model.

The representative would be in favor of extending voting to conflict-forced migrants resident in India, but not necessarily to economic migrants, although they have not considered this issue in detail.

Sadabhawana (Goodwill) Party

Sadabhawana currently holds 5 seats in the House and is a part of the SPA. They are a regional party, almost exclusively operating in the Terai, although they do field candidates in other parts of the country, thus far unsuccessfully. The party seeks to represent all segments of the Terai, including Dalits, women, and other minority groups. They are strong advocates of federalism,

women's rights, better IDP protections, and sustained dialogue with the Maoists. They are especially concerned with granting citizenship to an estimated 4 million Nepalis who are currently stateless. Other parties contested this figure, but have agreed to examine the issue.

In terms of the electoral formula for the CA elections, the representative interviewed strongly supports a Proportional Representation formula for the CA elections on the basis of newly-created sub-national districts. She proposed the formation of a commission to redraw the boundaries of the current 14 Zones in order to better reflect the ethnic and linguistic demography of the country. Since the Terai region stretches across the entire southern part of the country, and most zones currently run north south, the region is divided into ten different zones. The party would like to see these boundaries re-drawn so that the region is divided into only two zones: east and west. The party is also interested in and willing to consider various proposals related to a mixed formula, whereby some seats would be reserved for minority and historically disadvantaged groups.

Given the open border and historic patterns of migration between the Terai and India, Sadabhawana would be especially supportive of moves to enfranchise Nepali citizens in India, both refugees and conflict-forced migrants. If a mechanism could be established to provide external voting services, they would be especially supportive.

Sadabhawana recognizes the logistical and political complexities of the CA elections, and foresees the process taking several years.

Nepali Congress Party (Democratic)

NC(D) Controls currently holds 40 seats in the house and is a part of the SPA. It is an independent offshoot of the NC, but they tend to align ideologically. They agree that no elections will be possible before 2007.

In terms of IDPs, the representative interviewed believes that conditions should warrant a substantial return to their home prior to the election. If not, then the overall election process would be compromised. Thus, no specific procedures are required to account for IDPs, as the registration process should be able to account for their present location. They believe that the 1999 registration process was largely accurate and that the voter rolls are fairly comprehensive.

In terms of the electoral formula, NC(D) strongly supports a PR system based on either a national regional districts for the CA election, and would like to see the country move to a mixed or parallel system for subsequent legislative elections. For the purposes of the CA elections, they would support a PR system that included requirements the parties to submit lists subject to rules regarding the placement of women and minorities at various intervals through the list. They do not support the inclusion of "set-aside" seats for minorities or other groups, arguing that "everyone in Nepal is a minority. The largest group is only 14% of the population."

The representative interviewed, a professor of political science, has given considerable thought to issues of redrawing Nepal's administrative boundaries and principles of federalism. He noted that there has been a wide range of re-districting proposals over the previous few years, ranging from 7 to 33 new Zones. The current Zones were drawn based on economic rationale, i.e., each Zone includes a portion of the Terai. This was done in order to secure the country's hold on that region as it was settled in the 1950s. He believes any new Zones should have administrative and elected political infrastructure and should serve as the basis for the PR portion of the mixed electoral formula.

NC(D) is also interested in citizenship issues. They believe the figure of 4 million stateless persons in the Terai is too high. However they agree the problem is real and could affect up to one million people. They note the difficulties in designing a citizenship verification and documentation process that could distinguish between "genuine Nepalis" and those who are

actually Indian citizens. This is especially true if an absentee registration process is conducted in India. However, the constitution's citizenship requirements are indeed discriminatory against women and certain other groups, and should be reformed and citizenship documents provided.

The representative believes intensive international support and observation will be required if the elections are to prove genuine. This is true for both the cantonment process and the conduct of the voter registration and balloting, and they would welcome international assistance in this regard.

Nepali Congress Party

The Nepali Congress is the largest party in Parliament, holding 70 seats. The representatives interviewed are primarily interested in the ceasefire and transition issues, and has not begun to seriously consider the nature of the constituent assembly elections. In terms of IDPs, their working assumption is that if an acceptable ceasefire and transitional arrangement is reached, IDPs will return spontaneously and immediately and thus will not represent a problem for the CA elections.

NCP sees the problem of displacement in Nepal as being exclusively driven by ideology and class. Individuals who do not subscribe to a specific ideological conviction, i.e., Maoism, are the primary victims. Additional victims of Maoist intimidation and extortion threats are also part of the problem.

In terms of the elections, NCP does not believe they can be free and fair unless there is a substantial international and domestic supervision of the ceasefire at the local level. They do not believe the proposed OHCHR observation effort would prove sufficient. They propose a substantial operation, combining international support and domestic civil society participation at the ground level to ensure that conditions for free and fair elections are in place. They do not believe elections can be achieved this year.

NCP would also like to see an agreement on pre-requisites to the mandate of the CA prior to selecting modalities for electing representatives. Most importantly, the principles of democracy and republicanism must be the starting point for the Assembly's work. However, NCP believes that these terms have been "hijacked" by the leftist parties (CPN-UML and CPN (M)) and that a massive civic education project will be required in order for average Nepalis to be able to discern the differences in how the different parties and political forces use these terms. Without this, they fear that these parties will be able to ride the euphoria of the "people's movement" and win a majority of seats.

In terms of external voting for Nepalis abroad, NCP would strongly be in favour of such a program, could one be arranged. They believe there are ten million "Nepalis" in India, of whom 50% are Nepali citizens and should be able to vote.

NCP also recognizes the discriminatory nature of Nepal's citizenship laws, but sees the problem in the context of a broader South Asian migration challenge. They would be reluctant to unilaterally provide citizenship to the millions of "Indian" in the Terai, unless the move was part of a broader agreement among the Indians, Bhutanese, and Bangladeshis to resolve their common problems of statelessness.

Communist Party of Nepal (CPN-UML)

The CPN-UML currently holds 69 seats in the house and is a member of the SPA.

The representative interviewed believes that the key priority for the Parliament and SPA is to finish negotiations on: 1) the ceasefire, 2) the interim government and fate of the current House, 3) the restoration of local government offices; and 4) disarmament and demobilization. Critically,

UML is concerned with observation of these processes to ensure that field conditions are suitable for the conduct of elections.

In terms of IDPs, the representative noted that his constituency (Acham, in the far west) is comprised of 35 VDCs, only five of which currently have any VDC secretaries or officials resident in their home VDC. Most have fled to the urban centres and market towns as a result of being targeted by the Maoists. The return of these officials will be critical to restoring basic government services and administering the election. Once conditions are safe for their return (after an agreement is reached with the Maoists), other IDPs will likely follow. However, sporadic abductions and killing continue in the VDCs.

UML has established a committee to begin considering issues associated with the CA election. However, they are in the very preliminary stages and do not yet have any firm proposals related to the election, other than a generic commitment to some form of PR. No more specifics have been considered regarding the number of districts and whether they will be re-drawn.

Similarly, UML has not considered the issue of external voting, whether in India or global. As a general principle, however, so long as the process was confined to Nepali citizens with proper documentation, the representative believed they should be included. He believes UML would welcome and support international assistance in this regard.

The representative does not agree that citizenship is a major issue impacting voting rights in Nepal. He claimed that anyone in his constituency could be registered, whether or not they carry a citizenship certificate, and that many registered voters in fact do not. This is because the citizenship criteria were not added until 1990, and since the VR is perpetual, many people registered before this requirement came into force.

Part II: Displacement, Migration and the Constituent Assembly Elections

Successful elections to the Constituent Assembly would represent a historic step in Nepal's transition to democracy and contribute to sustainable peace in the country. However, the political situation remains fluid, and a flawed electoral process would damage the fragile ceasefire and could return the country to absolutism and/or war. Thus, the country's political forces must balance the need to keep the transition moving forward with the recognition that the CA elections will take time if the process is to result in a genuinely "constituent" assembly of individuals who can represent all Nepalis. An electoral process that disenfranchises significant social groups, such as IDPs, Nepalis abroad, and those lacking citizenship, would jeopardize the prospect for a sustainable peace.

As of May 2006, the parties are focused on immediate problems confronting the transition. The SPA and Maoists are currently discussing five core issues:

- What role will the Maoists play in any interim government leading up to the CA elections?
- What is the immediate and future role of the King?
- What issues remain outstanding regarding the ceasefire dialogue?
- Whether and how the Maoist cadres should be cantoned or disarmed?

With these issues looming, the technical components of the CA elections have not been at the top of the agenda. Nevertheless, the assessment visit revealed a profound need on the part of all stakeholders and agencies to begin considering the political and technical elements of the process. The balance of this report examines core issues that will need to be addressed. The main focus here is on the impact that displacement and population movements will have on election planning. Additional support and analysis will be required in order to ensure that the broader political and implementation issues are addressed in order to ensure a transparent and genuine election.

Election Tasks

Some political parties have argued that CA elections could be held by the end of the year. This is unrealistic, given the enormity of the task and the imperative that the elections be accepted as free and fair in order to sustain the democratic transition and solidify the peace. In order for the elections to occur in a manner that is inclusive, free and fair, the following core issues will need to be addressed:

1. Transition and Ceasefire
2. Citizenship
3. Registration & Documentation
4. Electoral Formula
5. Redistricting of Administrative Boundaries and Zones
6. Census
7. Voter Registration and Balloting for IDPs and Migrants
8. External Voting

Many of these tasks are inter-related and the above sequencing is flexible. Nevertheless, a realistic assessment of the election timeline, given the technical and political challenges, would be 2007.

The balance of this section examines issues related to each of the above tasks. While the overall theme is related to issues of displacement and migration, broad issues of the ceasefire, electoral formula, and implementation are also addressed.

Transition and Ceasefire

Maoist cadres continue to engage in extortion and sporadic acts of violence against members of competing political parties, even as negotiations continue in Katmandu. Elections in which voters are subject to threats, intimidation, or physical attacks cannot reflect the will of the people. Allowing non-government forces to retain their weapons and move freely through the country-side would send a disturbing signal to voters, particularly IDPs. The SPA and Maoists must therefore reach an agreement on the modalities for the cantonment and/or demobilization of the Maoist cadres. In addition, the Parliament will need to clarify the appropriate role and conduct of the Nepal Army and police in securing the election process.

The negotiations will also need to finalize the process of re-establishing VDC administrative capacity throughout the countryside. Government officials at the village levels constitute a substantial portion of the displaced and state infrastructure in much of the countryside has disintegrated. While the SPA and Maoists have agreed, in principle, that the “People’s Governments” (i.e., the Maoist organized local governments in areas they control) will be disbanded once the interim government is seated, the process of re-building local administrative capacity could prove time consuming and should be subject to international and domestic monitoring. This is especially important in the context of the Election Commission’s ability to conduct voter registration.

Almost all parties interviewed during the assessment voiced strong support for a substantial UN role in facilitating and observing any cantonment or demobilization process. On May 29, the government, in agreement with India and the Maoists indicated it will soon send a formal letter to the United Nations inviting involvement in three key areas:

- Ceasefire Monitoring;
- Assisting in the cantonment of Maoist cadres prior to the CA election; and
- Witnessing the ongoing government/Maoist talks.

The impetus is on the Government and UN agencies to arrange for the details and enter into a formal agreement on the scope and mandate of the operation. If the cantonment also includes elements of demobilization programming, a variety of agencies can be called upon to provide implementation support. Donors are prepared to provide funding for these programs.

In terms of re-establishing local infrastructure, the government, donors and the international community should be prepared to fund the restructuring of government offices and other property once negotiations are concluded and the situation is safe for VDC officials to return. In addition, the process should be subject to domestic and international monitoring. At the domestic level, NGOs such as INSEC already have a field presence and contact with local NGOs and provide these reporting services in many areas. At the international level, OHCHR will likely expand its human rights monitoring and reporting activities.

In terms of the elections, the EC will require substantial support to re-establish its operational capacity at the field level. Many VDC Secretaries, who also serve as Village Registration Officers, have been displaced or killed in the conflict. New field staffing and training programs will be required, warranting substantial capacity building assistance to the EC.

Citizenship

Questions of citizenship fall within the jurisdiction of each state.¹⁷ However, a number of human rights instruments address the minimum standards and requirements that states have to ensure that nationality and citizenship laws are clear and consistently applied. The principles that everyone has

¹⁷ Article 1 of the *Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws* of 12 April 1930 stipulates that it is "for each State to determine under its own law who are its nationals."

the right to a nationality and that no citizen should be discriminated against in the realization of this right can be found in the *Universal Declaration of Human Rights* (UDHR), Article 15, which holds: “Everyone has the right to a nationality ... [and] No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” Similarly, the *Convention on the Reduction of Statelessness*, Article 9, holds: “A Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.”¹⁸

The issue of citizenship is critical to the inclusiveness of the electoral process. A new citizenship law seems in order, and the parties are in broad agreement that issue will be raised in parliament soon. In terms of sequencing, a new citizenship law and procedures for acquisition of Nationality should be completed prior to beginning a voter registration program.

Once the citizenship law is revised, international programming and support could be provided to devise a mechanism for the issuance of new citizenship documents, particularly for those who remain displaced. This could be combined with a country-wide documentation or civil registration process. The government might consider establishing a “Citizenship Verification Commission,” that would operate within or in coordination with the National Human Rights Commission. A variety of models in this regard are available from other post-conflict countries. In addition, once administrative capacity is restored, a nation-wide effort to assess available records at the District, VDC, and Municipality Levels, including tax records, land-ownership etc, would help facilitate the process.

Registration and Documentation

The right to documentation is established in a variety of human rights instruments. Most importantly, the UDHR, and *International Covenant on Civil and Political Rights* (ICCPR) both guarantee the right to a legal personality and “recognition as a person before the law.”¹⁹ A basic prerequisite to the realization of this right is adequate documentation proving identity, citizenship, and residence. The Guiding Principles directly address the issue, with Principle 20 holding that: “Every human being has the right to recognition everywhere as a person before the law ... To give effect to this right for internally displaced persons, the authorities concerned shall issue them all documents necessary for the exercise and enjoyment of their legal rights ... without imposing unreasonable conditions, such as requiring the return to one’s area of habitual residence in order to obtain these or other required documents.”

Documentation is particularly important in an electoral context in order to guarantee enfranchisement rights while preventing electoral fraud. While the extent of Nepal’s documentation problems is unknown, most agencies and observers believe it is substantial, affecting IDPs and women in particular. Government agencies and the Election Commission will therefore face a stark dilemma: in order to minimize the potential for fraud, strict documentation criteria for participation should be implemented. Unfortunately, the stricter these criteria, the more likely it is that refugee and IDP applicants will be unable to prove their identity, citizenship, and eligibility and will thus be disenfranchised through no fault of their own.

Nepal will need to take legislative action to eliminate the current statutory obstacles to obtaining documents and establish a mechanism for the issuance of new or replacement documents, particularly for IDPs. However, a national-effort to implement a document re-issuance program should also entail a broader process of registration. These tasks require careful deliberation and planning. Two possible modalities are discussed below.

IDP Registration & Re-Issue of Documents

¹⁸ Available at: http://www.unhcr.ch/html/menu3/b/o_reduce.htm

¹⁹ UDHR Article 6; ICCPR Article 16, American Convention Article 17; African Convention Article 5.

Given the political issues associated with self-identifying as an IDP, a national IDP-specific registration and document re-issue program would likely not result in high participation rates. However, both government ministries and international agencies expressed a strong desire to generate a comprehensive database of displaced locations, conditions, and return plans. If a genuine and monitored peace appears to take hold in the villages, VDC infrastructure is re-established, and a nation-wide information campaign undertaken to encourage registration and document issue, a registration and documentation program would be warranted.

However, any such program should be broader than simple IDP registration. If advertised as a nation-wide process to enable those without proper documents to obtain them, without directly referencing internal displacement, IDP participation rates could be substantially higher. In the course of applying for new or replacement documents, the implementing agency (most likely the Home Ministry in conjunction with the DDC and VDC secretaries) would be able to capture important data on issues of migration and displacement that would prove useful to humanitarian agencies, government ministries, and the election commission. This would require: a) passage of legislation regarding citizenship and requirements for the issuance of documents; b) an assessment of village infrastructure to implement such a program; c) the design of a program; and d) implementation. At each phase, donor support and technical assistance would be critical to enhancing the capacity of state ministries to successfully implement the project.

The project would need to be designed in such a way that IDPs who have not returned to their homes would be able to participate. This will necessitate a serious consideration of social verification procedures and/or the establishment of programs whereby IDPs can request verification and replacement documents in their current location. Mechanisms will need to be developed that allow the DDCs and VDCs to transmit IDP verification requests to the relevant counterpart in the original location of the applicant. In an ideal scenario, this would be coordinated via a centralized office in Kathmandu, which would ensure that each application be transmitted and the results from the home district returned, a logistically complex process, but certainly feasible.

Civil Registration

A civil registration program would be more broadly based than the IDP registration and document re-issue described above. The program would entail either a house-to-house survey or the establishment of village-level registration centers. All Nepalis would take part in the process, and a new national ID card issued to all registrants over the age of sixteen.²⁰ In order to account for issues of migration, displacement, and lost documents, the registration could follow a three track process. The first track would include Nepalis who possess a citizenship card or could otherwise prove citizenship and are resident in their regular municipality. These persons would simply complete the registration form, be entered into a database, and be issued the national ID card.

The second track (occurring in tandem and at the same registration locations) would include IDPs and migrants who possess documents. These persons could be registered in their current location. However, the applicant for registration would be asked whether or not they are in their regular or intended permanent residence, and if they are not, additional questions would be completed. In this way, IDP-specific data could be extracted from the resulting national register, without having to undertake a separate process of IDP registration. The resulting civil register would provide a comprehensive national database on IDP locations and whether they intend to return home or settle permanently in their current location.

²⁰ The civil registration should capture the following data: Name, Age, Current Residence, Village or Municipality of Birth, Intended Residence of Permanent Domicile, and other information based on consultations with the humanitarian community (occupation, skills, etc.). If a decision is taken to issue a nation-wide civil registration card, than a bio-data capture process might also be required.

A third track could be designed to assist and track Nepali citizens who have lost their documents. These persons (whether IDP or not) would present themselves at a registration center, but undergo a screening and verification procedure. The DDCs could compile and digitize available records into a database that could be checked for those without documents. In the case that these records are missing or incomplete, a social verification process could be implemented, in which the applicant swears an affirmation in front of a judge of village official, or provides two witnesses who will swear under oath to the applicant's claim for citizenship and residence in a VDC.

The advantages to a civil registration include:

- The resulting data would form the basis for a redistricting process and make an apportionment process transparent and equitable;
- IDPs could be registered, and the social stigma and other reasons that many IDPs are reluctant to register would be mitigated, since the process is nation-wide and applies to all Nepalis, not only the displaced;
- The data capture would reveal a comprehensive national snapshot of displacement in Nepal that would assist the government and humanitarian community in prioritizing assistance and planning for return or re-integration;
- The registration could issue each Nepali with a biometric document, proving identity, citizenship, home municipality, date of birth and containing biometric data;
- The voter's register could potentially be extracted from the civil registration.

Planning for either of the above scenarios would require close coordination between the Ministry of Home Affairs, the Central Bureau of Statistics, District Offices, and the international community. Various agencies have extensive experience organizing and assisting in these processes, and could provide significant technical assistance. The process would also need to be subject to an extensive information campaign, which would involve the VDCs and domestic CSOs. The information campaign should stress only the nationwide registration process, not the IDP specific elements in order to maximize IDP participation rates.

Electoral Formula

Representative democracy requires that the will of the people correspond with the behaviors and actions of the holders of political office. Electoral systems translate the will of the people – as expressed through votes – into the mandates of office holders and political parties in a parliament. The choice of a system is thus crucially important to determining the nature of political competition.²¹ The choice of an electoral system also raises both logistical and political issues in elections with significant CFM participation.

The parties need to determine the electoral formula to be employed in selecting delegates to the Constituent Assembly. The model adopted will have important implications for the conduct of the election, and will affect the representation of different parties and groups. Given the importance of the exercise, all stakeholders should carefully consider the options, and the final decision should be reached transparently and in consultation with Nepal's vibrant civil society organizations.

Stakeholders were widely supportive of the principle of inclusiveness and minority representation, although how to achieve this goal is subject to debate. Issues of equal representation appeared less important (i.e., vote cost per seat) than basic ideas that all groups should be included. A related set of concerns centers on the size of the assembly. Some argued for a large body, able to reflect all segments of Nepali society, others saw a large assembly (more than 300) as

²¹ As Reilly and Reynolds note, the type of electoral system chosen by a government "can be purposively designed to achieve particular outcomes ... they structure the arena of political competition, including the party system; offer incentives to behave in certain ways; and reward those who respond to the electoral system with electoral success." Reilly, Ben and Andrew Reynolds: National Research Council, *Electoral Systems and Conflict in Divided Societies*, Washington DC: National Academy Press, 1999: 16.

unwieldy. A working number that was expressed by several groups is 250, roughly one seat per 100,000 of the population.

The choice of an electoral formula can have implications for displaced participation. The following section briefly examines the main formulas under consideration from the perspective of IDP and migrant inclusion. It is by no means definitive of the available options of electoral formula, only designed to address issues of how migration could impact various electoral systems when applied to Nepal.

First Past the Post (FPP)

The current formula for Parliamentary elections, FPP in the 205 districts, is one possibility, although most of the parties agree that a move away from FPP would be desirable and widely acceptable.²² Nevertheless, the advantages of retaining the current system include: 1) ease of implementation; 2) public familiarity with the system; and 3) election commission experience organizing FPP polls in the constituencies. The EC could mobilize such a program quickly, realizing the national desire to sustain the momentum of the democratic transition. In order to achieve representation of minority and disadvantaged communities, some have suggested additional “set-aside” seats. A modality for selecting delegates for the set-aside seats would need to be decided.

However, the current constituencies were last delimited in 1990. Substantial population movements have subsequently impacted the equality of the vote between districts.²³ Some constituencies are almost entirely depopulated, others, notably in the District Centers and major cities, have swollen dramatically. Thus, a comprehensive redistricting process would be required in order to reflect the country’s current demography. Boundary delimitation would require a census or some other form of population enumeration, the establishment of a delimitation commission and promulgation of criteria by which the districting is to occur, the development of a plan, and the approval of the plan. These steps are technically complex, and the resulting plan may be subject to political disagreements; political parties generally recognize whether the plan will serve their interests and maximize their opportunity to win seats. As a result, any CA formula that requires redistricting will require an extended timeline.

The existing FPP system would also require the establishment of an absentee voting mechanism for those who remain displaced on Election Day, requiring a reconciling between the election law and the National IDP policy. While most stakeholders interviewed believe that substantial population returns will occur should a genuine peace be achieved, experience in other post-conflict countries suggests that these projections are often over-optimistic. A significant number of Nepalis will remain displaced for some time.

Proportional Representation

The PR system with a single national district provides a straightforward formula that is easy to implement and is broadly inclusive and representative of the country’s political forces. A single nation-wide district also eliminates the need to provide displaced and absentee voters with a unique ballot based on their area of origin (as is required in an FPP or PR system with multiple districts) and removes the need to delineate and apportion districts.²⁴

²² As a result of the country’s intermixed ethnic demography, FPP in Nepal has traditionally disadvantaged several communities, notably, the Dalits (untouchables) and smaller ethnic groups. While some accommodation could be made through the addition of the set-aside seats, the overall system would still fail to achieve the goal of equal representation in the resulting CA. In addition, determining who should be eligible for the set-aside seats could present political problems that could delay the election timeline.

²³ One minor delimitation exercise occurred in 2002.

²⁴ While attractive on the surface, PR in a single national district raises several questions. First, depending on the modalities employed (open list or closed list) this system would considerably strengthen the political parties. While Nepalese have long demanded multi-party democracy, many remain mistrustful of the parties, seeing them as factionalized, inefficient, and often corrupt. Given that the recent events are primarily driven by the people -- with the

Given the disconnect that PR systems create between voters and parliamentarians, some stakeholders are proposing a PR system based on regional districts. The country is already divided into 14 zones, which could serve as the districts, although many Nepalis have expressed an interest in re-drawing these zones (see below). A seat apportionment process would be required to fix the number of seats elected by each district, which would necessitate a census or other enumeration process.

Utilizing more than one district would necessitate a mechanism for accounting for IDPs and migrants in the apportionment process. If Nepalis abroad are to be counted towards apportionment, it could be to their original place of residence or to a dedicated external district (see below). IDP populations, however, could potentially be assigned their original or their current district. This requires that the census/registration process provide a clear mechanism for identifying which district the voter considers their home.

Mixed or Parallel System

Finally, several prominent academics and civil society groups are currently proposing a mixed system that employs elements of both the PR and FPP. One proposal provides for 125 seats to be elected through an FPP formula, and 125 seats to be filled by PR in a single national district. The system can be employed utilizing either one or two ballots, although two ballots - one FPP, and one Party List - is preferable in order to ensure adequate representation of regionally based parties.

This proposal raises the same questions associated with both systems discussed above. In particular, it would require a comprehensive delimitation process in order to distill the 125 roughly equal constituencies from the current 205. The more districts need to be re-drawn, the more complex and time consuming the process.

There is considerable expertise among political parties, academics, and civil society organizations regarding the pros and cons of various electoral formulas. However, this expertise is not evenly distributed, and some proposals do not appear realistic. Few of the proposals seem to recognize the important impact that migration will have on the system.

The process of agreeing to a formula is perhaps as important as the formula itself. The House should establish a special commission that includes representation or input from civil society, to examine alternative models and make recommendations. Any formula that is simply agreed to by two or three dominant parties through a non-transparent process could harm the integrity of the election. International support might include arranging for conferences and colloquia that link international experts on the implications of different formulas with various stakeholder groups, including academics, journalists, and CSOs. In addition, civic education programming could be organized through a training of trainers approach, where CSOs are deployed to the VDCs to conduct workshops and seminars on the basic issues involved in different formulas.

Redistricting Administrative Boundaries and Zones;

Re-configuring the current 14 zones serves both an electoral and political function. The current zones reflect economic and political imperatives dating from the 1950s, most importantly, establishing control over the agriculturally rich Terai region and linking it to the rest of the country. This was accomplished by ensuring that the zonal boundaries run primarily north/south, which

parties often caught by surprise at the unfolding events -- many are reluctant to relinquish popular control of the unfolding transition. One option that could help here would be the implementation of an open list or preference system, through which voters mark ballots for both the party and individual candidates. This holds candidates more directly accountable to the voters, and reduces of the power of the parties to select which candidates will automatically fill the mandates generated by the vote outcome.

divides the Terai into 9 different zones and more closely links each sub region of the Terai with the adjacent mountainous region. Residents of the Terai believe this weakens their voice in the national political discourse, and would like to see a re-zoning of the country that would divide the Terai into no more than two zones.

Other analysts and parties are looking to establish boundaries that would reflect Nepal's rich cultural and ethnic diversity and give more voice to minority groups. While attractive on surface, it will be exceedingly difficult to draw lines that accurately capture the ethnic demography. According to the 2001 Census, Nepal is comprised of at least 60 different ethnic groups, none of whom form a majority at the national level, and few would form a majority in any districting plan composed of less than 20 or so districts. In addition, the substantial migration over the previous years has resulted in a profound intermingling of the population. Attempting to draw new boundaries that would provide majorities to different groups in different areas would be technically challenging and politically contentious.

Some of the proposals for a new electoral formula for the CA and subsequent elections include a PR mechanism based on regional districts, with proposals ranging from 7 to 33 such districts. In addition, these proposals generally call for the establishment of political and administrative infrastructure in these districts. As a result, the country will need to establish accurate and complete data on the current demography of the country through one of the census or civil registration programs described above. This is especially critical in the context of IDP and migrant population participation. According to Human Rights Committee, General Comment 25, Para 21: "The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely."²⁵

Any decision to permanently reconfigure the country's administrative lines should be part of the CA deliberations, and should not precede the CA elections. If, however, an electoral formula for the CA election requires sub-national districts or constituencies, a process of enumeration or registration will be required to ensure accurate representation and equality of the vote. Given the time constraints, it might make sense to adopt the current 14 zones as sub-districts for the purposes of the CA election, rather than adopt new boundaries.

Census

Unless the country adopts a single national district PR electoral formula, a mechanism will be required to apportion seats to the CA in accordance with the electoral formula adopted. The last census in Nepal was completed in 2001, revealing a total population of 23 million persons resident in 4 million households. However, enumeration was not completed in many areas of the country. The Central Bureau of Statistics used statistical sampling based on 1991 data combined with average growth rates in other areas to estimate populations in these regions. This technique is not able to account for population movements, only birth rates. As a result, data for many of the districts and electoral constituencies should be treated cautiously.

Nepal conducts a census every ten years, so the next census is not scheduled until 2011. Given the likely inaccuracies embedded in the 2001 census, combined with subsequent displacement and population movements, a new census might be warranted. This is especially true if the country seeks to redraw its administrative boundaries and change the electoral constituencies.²⁶

²⁵ Human Rights Committee. *General Comment 25 (57)*. "General Comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, Adopted by the Committee at its 1510th meeting," U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996).

²⁶ Enumeration in Nepal has historically been accomplished through a hierarchical structure starting at the Bureau of Central Statistics, which formulates the questionnaires and designs the modalities. The 75 District Census Offices organize the field enumeration. At the village level, civil servants and teachers are designated as enumerators and complete the household surveys. Given that government agents and professionals were among the first to be targeted by

Whether to conduct a census before or after an election is a strategic decision. If before, the census can provide baselines of population distribution that validates the voter registration process and provides the foundation for constituency delimitation. However, in post-conflict environments, characterized by continued instability and population movements, the census can become a difficult if not impossible exercise. If a census is to be used to re-district the country prior to the CA elections, it would need to occur in the summer of 2006, which is extremely unlikely. Therefore, if the CA elections will require redistricting or apportionment, other options would include a partial census combined with sampling techniques, a civil registration process that is designed to provide the data necessary for districting, or districting on the basis of the a voter re-registration.

If a partial census option is selected, the census process can be initiated with a household survey in representative pilot communities that would sample the basic demographics of a portion of the families residing within that pilot community. The survey should not be extensive and identify only numbers, genders, and ages. IDP communities should be included in the pilot project surveys. After methodologies have been tested and capacity established, a complete census could be conducted, unrelated to the election calendar.

The advantage of this scenario is that the process could be accomplished relatively quickly and provide the foundation data on which to build the electoral formula. It could also serve as the basis on which electoral constituencies could be delimited and apportioned. However, it is difficult to believe that the resulting data would be significantly more accurate or reliable than the data collected during the 2001 census. Furthermore, the process would not resolve issues of documentation and IDP registration. However, if initiated prior to a civil or voter registration process a partial census could help to speed some of the key components of the electoral timeline.

Voter Registration and Balloting for IDPs and Migrants

IDP registration and voting raises special logistical problems that must be addressed early if the program is to guarantee the widest possible opportunities for participation. This section briefly identifies issues confronting election organizers and stakeholders in terms of organizing a registration and balloting program that maximizes IDP and migrant enfranchisement prospects.

Statutory Basis for Absentee Balloting

Section 5.4.2 of the National IDP Policy provides that IDPs shall be provided the opportunity to cast absentee ballots in their current place of residence for their original constituency.²⁷ Absentee balloting is not just a convenience issue, but directly affects the security of IDPs and their ability to vote their conscience free from physical intimidation and threats. Requiring displaced populations to return to their home communities to vote will put them in direct contact with individuals and groups that may have been responsible for their displacement. As a general rule, the absence of a large scale, spontaneous return prior to the elections indicates that the security situation does not warrant the use of repatriation prior to elections as a means for IDP enfranchisement. In these situations, the only option for protecting IDPs' physical safety is through registration and balloting in their place of current residence.

The IDP Policy provision on absentee balloting directly conflicts with the 1990 Constitution's prohibition on voting from outside the place of permanent residence. In the current environment, however, the extent to which the 1990 Constitution continues to hold force is debatable. A simple

the Maoists, much of the field infrastructure is currently not in place to conduct the census. Unless returns begin immediately and security is restored throughout the country-side, the conduct of an accurate census is doubtful.

²⁷ Even before the policy came into force, Nepal had a previous experience with internal absentee balloting. In 1999, a group of persons who had been re-settled by the government in order to establish a national park were provided the opportunity to cast ballots for their original constituency while in the current residence.

act of parliament, preferably in the context of a broader electoral law, should be sufficient to guarantee the realization of this right. The law should also include language governing voter eligibility that gives the right to IDPs to register and vote for their home constituencies, either in person or by absentee ballot, in line with the Constitution's guarantee of universal suffrage, the National Policy on Internal Displacement, and the Guiding Principles on Internal Displacement.

Voter Registration

Voter registration, which is supposed to occur annually, has not been effectively conducted in much of the country since the rebellion began. While the government has maintained control over the 75 District Centers, it does not control much of the country-side. As a result, the existing voter registers are incomplete and out of date. Even in the urban areas, many NGOs complained that voter registration is not transparent and often difficult for the individual voter. During the Assessment visit, for example, registration was occurring in Kathmandu, yet almost nobody interviewed, even political parties, were aware of it. Most stakeholders, including the EC, agreed that a comprehensive, free and transparent re-registration process is required in order to guarantee access to the ballot.

The EC will need to make special provisions for IDP and Migrant registration. New registration procedures and forms will be needed to ensure that voters resident outside of their regular electoral constituency will be provided an absentee ballot in their present location. While the EC does maintain a sophisticated IT infrastructure, as currently designed it could not account for displacement and migration. Substantial technical assistance and new IT investments will be required to design the data capture elements of the absentee balloting. In addition, a mechanism will need to be devised to account for population movements between the close of the registration process and Election Day. This process should also be prepared to account for ongoing demobilization programs.

One additional option could be to combine the voter registration process with the civil registration program described above. In this scenario, the civil registration database could be designed to capture required voter details, and the voter register extracted from the civil register.

Balloting & Counting

If properly designed and implemented, the results of the voter registration should provide an adequate basis on which to design and implement ballot distribution programs. However, stakeholders and the EC should consider two additional questions related to the conduct of the polling: should IDPs be provided dedicated absentee polling stations and how should absentee ballots be sorted and counted?

In general, IDP communities should be served by dedicated registration and polling centers near their location and staffed by fellow IDPs (and other election workers) who understand their unique needs and procedures. Mixing displaced voters in with regular voters is certainly possible; however, co-mingling voters with varying identification and balloting needs can create long queues and overcrowded polling stations. The separation of these voters from regular voters can speed up the voting process and ensure that long lines and crowded facilities do not result in violence. This separation can occur either through separate lines and voting station within a "twin" station, or through providing special absentee balloting stations.

Given the reluctance of many Nepali IDPs to identify as displaced persons, the absentee stations should be labeled "Migrant Polling Stations," and be available to both IDPs and any other Nepali who applied to cast an absentee ballot on polling day.

A second important issue is where and how IDP votes should be counted. In general, it is preferable to mix IDP ballots with those of non-displaced voters based on the constituency where the ballot will have effect and count them in a central location. This provides additional security to

IDP communities, as those who threaten violence in order to swing their vote to preferred candidates will not be able to distinguish how local communities voted. The EC, however, expressed the view that counting IDP ballots in Kathmandu would be logistically easier than having to sort all the ballots and then send them on to the community where they will have effect. Given weaknesses in transportation infrastructure (some communities are more than five days walk from the nearest road), it would make sense to have absentee ballots transported to Kathmandu for counting, and only transmit the results of the counts to the Districts, where the tallies would be added to the regular results.

Voter/Civic Education

Nepali voters will require access to three types of election-related information: 1) Process information regarding the registration procedures, eligibility requirements, and voting dates and locations. This information should be made widely available by the EC and distributed through media outlets, the VDCs, and local CSO counterparts; 2) Sensitization information regarding the political rights, responsibilities, and practices related to a functioning and healthy democratic polity. This information should be the special focus of the EC, international agencies, and donor supported initiatives that build the capacity of the CSOs to carry out local training; and 3) Political information regarding the programs and platforms of the candidates. This information is produced and distributed by the parties and candidates, either directly through paid advertisements, posters, and rallies, debates or indirectly through press coverage and editorials.

In order for Nepali IDPs and migrants to vote with full information, donor-supported programs will be required in all three areas. This will require the development of information distribution platforms that address the difficulties of identifying and reaching IDPs, particularly in more remote parts of the country or where VDC infrastructure remains weak. Nepal is abundantly endowed with active (although still young) civil society organizations, and a mechanism for linking these groups to the information distribution platform should be developed. Training on IDP and Migrant specific procedures and issues could be provided by agencies with experience conducting these programs in other countries.

Technical assistance can also be provided to political parties to build awareness of IDP issues as a party platform issue. Organizing party workshops with such a focus and involving displaced communities in the workshop presentations should be explored with INGOs that work with political parties. This assistance should include encouraging the political parties to establish a Code of Conduct in displaced communities and development of a training program for political party agents to monitor registration and voting in displaced communities.

Observation

IDPs are an exposed and almost defenseless population – easily subject to electoral coercion. As a result, the electoral process needs a third-party validation of the integrity of their participation. International and domestic observers should be present in all districts camps through the campaign period and on polling day, and should be authorized to monitor the counting and transport of ballots. Both domestic and international observation groups should include an emphasis on the access of conflict affected migrants to the process. NDI is currently working with a coalition of democracy and human rights groups to create a national alliance for observing the elections. This work should be expanded and supported as the election date approaches.

External Voting ²⁸

An estimated 3 to 5 million Nepali citizens reside abroad many of whom were initially displaced by the conflict, and subsequently left the country. These migrant workers comprise 10% to 20% of the population (and since most are of working age, an even larger portion of the eligible voting population). Officially recorded remittances topped 900 million USD in 2004, representing 12% of the country's GDP. An estimated 53% of Nepali households receive a portion of their income from remittances, which has helped sustain many families through the turmoil of the conflict.²⁹

While an increasing number of countries provide external voting services, legal frameworks and procedures vary and it is more difficult to identify an inherent "right" to participate in a county's election process while resident abroad. In the case of Nepal, there is significant domestic support, particularly among the political parties, for extending the franchise to this population. In addition, given the high number of conflict-affected migrants in India, a program that enfranchised these persons is warranted since they are outside of the country through no fault of their own.

The key considerations surrounding external voting can be divided into three general questions:

- Who should be eligible to vote from outside of their home districts?
- What system of representation should be established for these voters?
- How can the secrecy of the ballot and election transparency be protected and costs contained if election activities occur on the territory of a foreign state?

The first two questions are political, requiring a consultative process between parliamentarians and stakeholders. The final question is technical, requiring the application of best practices by EC.

Eligibility Requirements

Parliament will need to determine who should be eligible to vote from abroad. The two key considerations relate to citizenship and residency requirements. In terms of citizenship, the constitution clearly articulates that only Nepali citizens are eligible to vote. Any move to enfranchise members of the broader Nepali ethnic community by eliminating the citizenship requirement would be politically unacceptable. However, an unknown number of stateless Nepalis who would qualify for citizenship reside in India. This population should be provided the opportunity to claim citizenship, and thus qualify as an elector, as part of the citizenship process described above.

The more complex question centers on residency requirements. Should eligible external voters be required to demonstrate a linkage with a particular constituency during a defined period of time in order to be eligible? If so, how should this requirement be designed? Most countries that allow absentee voting condition eligibility on the length of a citizen's absence. Canadian voters, for example, may vote by absentee ballot for up to five years following their departure from Canada, so long as they intend to resume permanent residence at some point in the future. In the United Kingdom, voters are automatically removed from the electoral rolls 15 years after moving abroad,

²⁸ Much of the discussion in this section is derived from Jeremy Grace, "Challenging the Norms and Standards of Election Administration: Standards for External and Absentee Voting." Available at: http://www.ifes.org/files/Grace_absentee_standards_final.pdf

²⁹ According to the Non-Resident Nepali Association (NRN), "[t]he Government has issued licenses to about 200 employment agencies which hire Nepali workers for foreign employment in 18 countries. The majority of them have gone to Asian and Gulf countries/territories, such as, Singapore, Brunei, Malaysia, South Korea, Hong Kong Taiwan, Macau, Saudi Arabia, Kuwait, Oman, Qatar, United Arab Emirates, Bahrain, Jordan, etc ... Nepali have also been living and working in the Far East (Australia, New Zealand, the Philippines and Japan), in Europe (United Kingdom, Germany, France, Switzerland, etc.), in Russia and CIS countries, in North America (Canada and USA) and in the Nordic countries (such as, Sweden, Finland)." See <http://www.nrn.org.np/nrna/status.php>

regardless of their intent to return. New Zealand maintains no fixed time-away threshold but does require that citizens return to their home constituency at least once every three years in order to remain on the voting rolls.

For Nepal, the determination of an appropriate time-period to remain eligible needs to be subject to parliamentary consideration and the adoption of necessary statutes. Given the documentation problems confronting many Nepalis, a requirement that external voters prove a connection to a particular constituency within a specified time-frame would be particularly difficult.

Representation

If a decision is taken to enfranchise external voters, Nepal must determine how to translate the will of the absentee electorate into the country's system of representation. Unless the country adopts a single national district, every constituency would be affected by an external voting program, and the calculation of seats could be impacted. Thus, the decision to enfranchise absentee voters will require parliamentary action in order to determine how these votes will effect the apportionment of districts. This would require the implementation of an early registration process for those abroad in order to sequence the electoral timeline and provide sufficient time for re-apportionment to occur. In addition, the external ballots will need to be organized in such a way that the proper constituency ballot is delivered to the correct voter, returned to a centralized counting center, and added to the regular constituency tallies. This is a logistically complex operation, but has been successfully organized in a variety of different circumstances by national EMBs, often with the support and assistance of IOM.

One option for the CA elections (if using multiple districts) would be to create a non-geographic constituency for Nepalis abroad. Several models could be employed in this regard. In Portugal, for example, the parliament is elected through a PR system based on 20 sub-national districts. Two districts – each comprised of two seats – are reserved for Portuguese abroad, one for those in Europe and one for elsewhere. Croatia follows a similar model, except that the number of external seats is not fixed. Instead, the overall turnout of external voters is compared to the overall turnout of in-country voters before the number of dedicated external seats is established. The non-geographic constituency makes sense in the Nepali context as it could considerably simplify the logistical elements of conducting an external program, as all those abroad would only require a single ballot. In addition, some of the issues surrounding the design of the residency requirement could be mitigated.

Transparency and Organization

Recent post-conflict elections have utilized three basic approaches to enfranchising those abroad: return/repatriation voting, in-person absentee voting and, postal absentee voting.

Return voting programs (as employed in Namibia and Cambodia) require that those abroad return to the home state to cast the ballot. However, special procedures can be established whereby those returning would be served by dedicated registration and polling stations located in Kathmandu and along the border with India. These programs are relatively easy to organize and do not place a significant financial burden on the Election Commission. However, they do not generally reach a wide percentage of the electorate, and only those with the means to return twice (once to register and once to vote) are able to participate.

An external voting program requires the EMB to establish facilities in the host-countries where migrants register and vote. Sometimes these facilities are located in embassies and consulates, in other cases the EMB and host-state agencies cooperate to organize satellite stations where major concentrations of external voters reside. This process requires formal agreement with the host-country in order to conduct operations in its territory. The advantage of in-person voting organized in the host-state is increased enfranchisement opportunity and transparency; election organizers directly interact with each voter, can examine documents first-hand, and can respond

to questions and issues immediately. The drawback is cost. Facilities must be identified and rented and local staff must be hired. In addition, in-person programs increase the exposure of elections staff to security threats, requiring close cooperation with host-country police and security forces.

By-mail programs utilize postal, internet and facsimile communications to interact with registrants and voters. Eligibility criteria and application forms are made available through a wide array of media and distributed through clubs and associations. The applicant must submit the proper form along with supporting documentation by mail to a centralized processing facility. The applications are checked by staff and either confirmed or denied. If confirmed, the voter is sent a registration receipt, and eventually a ballot.

By-mail voting allows the realization of economies of scale. Since external votes are processed in a centralized operational center there is no need for separate facilities and staffing in host countries. As a result, the operation is significantly cheaper per vote cast than in-person voting. In addition, by-mail programs can reach potential voters in countries that may not wish to allow election facilities in their territory.

One problem with postal voting is that the EC would not retain full control over the ballots. During in-person polling, elections staff lose control of the ballot only momentarily, when it is handed to the voter for marking. Even then the staff can ensure that only the qualified voter enters the voting booth, marks the ballot according to his/her free will, and deposits it in the ballot box. Sending a postal ballot to a voter results in a period of time in which the ballot is outside the supervision of elections staff. Thus, the voter could be subject to a wide range of pressures that compromise his/her freedom of choice.³⁰ In some instances, for example, husbands may seek to control how their wives mark the ballot. Normal balloting procedures prohibit third parties from entering the voting booth (unless invited by the voter due to specific disabilities) and generally demarcate a space around a polling station where electioneering (handing out political platforms, posters urging a particular candidate or option) is prohibited. It is impossible to implement these rules in a postal system.

A related problem is the difficulty of convincing voters that their ballot is truly secret. Most postal voting systems require voters to return the ballot inside a sealed "secrecy envelope" together with their registration receipt inside a larger second envelope; Many voters are apprehensive that the system could potentially allow election officials to match the voters name with the marked ballot, compromising voter secrecy. Despite these objections, postal voting is the only cost-efficient mechanism for enfranchising a large and geographically dispersed migrant electorate.

Some recent elections have employed a combination of postal and in-person balloting, and this option might make sense for Nepal if an agreement were reached with India to allow for in-person voting. Typically, the in-person operations occur in states with high concentrations of voters and where political actors may have a strong stake in electoral outcomes. In these environments, maximum supervision of the registration and voting is required in order to ensure that the vote is not manipulated. Voters elsewhere in the world are provided a postal ballot. In the case of Nepal, this would imply an in-person registration and voting operation in various locales throughout India, and a centralized by-mail operation for Nepalis in all other countries headquartered in Kathmandu.

Planning & Administration

³⁰ Even consolidated democracies are not free from attempts to manipulate postal balloting. A report on postal voting by the UK Electoral Commission found that: "We have received reports of party workers seeking to influence how votes are cast by exerting pressure (or even, in a handful of reported cases, completing the ballot on behalf of the voter). Practices such as these clearly raise concerns ..." The Electoral Commission (UK), "Absentee Voting in Great Britain: Report and Recommendations," 2003: 27. Available at: <http://www.electoralcommission.org.uk>.

Stakeholders often fail to account for the lengthened timelines required for external voting operations. External voting requires a significant lead time over in-country operations and should drive the election timeline. If possible, the entire electoral schedule should be first tested against the external requirements. Late decisions, particularly in regards to eligibility and documentation requirements, will significantly affect the participation rates of those abroad.

Information Gathering

The exact number and locations of Nepali citizens abroad is unknown. Early work on external voting should include a number of assessment missions to major host-countries, including those in India, the Gulf Region, South-East Asia, Western Europe, and North America. Key questions include:

- How many Nepali citizens are each country?
- Is the country's foreign ministry interested in cooperating?
- What is the geographic dispersion of Nepalis within the country?
- What status do they hold?
- What documents do they hold?
- Are there well established expatriate clubs and associations?
- What media and information sources are available to the population?
- What are security conditions like in the country?

Sub-contracting

In several recent post-conflict elections, election administrators have sub-contracted the actual implementation of the external vote. The logic of subcontracting is that EC staff are election specialists, not migration specialists. By bringing a refugee/migration agency such as IOM on board, the EC benefits from a pre-existing network of field missions that support the program. In the case of India, the extra-ordinary talents and capabilities of the Indian Election Commission (IEC) might also be tapped to assist in the project. In that case, a joint process could be organized with the IEC and IOM to administer an in-person registration and voting process.

Under this scenario, the EC would contract an implementing partner under a Memorandum of Understanding (MoU) detailing the respective obligations of each party. The Nepali Parliament retains authority over the elections framework, the EC organizes the internal voter registration and polling operations, and the contractor operates the voter registration centers and balloting operations out of country. IOM has been the lead organization in this regard. Its experience in providing election assistance to refugees extends back to the Namibian elections of 1989, and it played a central role in elections in Bosnia & Herzegovina, East Timor, Kosovo, Afghanistan and Iraq. It has also provided technical assistance to EMBs regarding external voting programs in Angola, Georgia, Azerbaijan, Liberia, Uganda, and Sri Lanka.

External Voting Timeline

External voting should drive the overall elections timeline. All segments of election planning (including the districting, registration process, database development, forms and materials design and ordering, and the registration and voting schedule) should be conducted with an eye to the fact that a by-mail program requires an earlier start than in-country operations and may require the capturing of unique data from external registrants. The EC should consider how an external voting program would relate to regular voting operations and ensure a workable plan to guarantee the right of access to the electoral process. Technical assistance along these lines could be supported by donors.

Conclusion

Prompt action is required if Nepal's displaced are to be provided access to the CA elections in a transparent and inclusive fashion. This report argues that given the unique features of displacement in Nepal, stakeholders should be encouraged to support an absentee polling mechanism both for internal migrants and those abroad. However, substantial technical assistance will be required in order to build public trust in and implement such a project. The broad recommendations made in the Action plan are listed below.

Transition and Ceasefire

- Finalizing agreements on cantonment and/or demobilization of Maoist cadres and on re-establishing VDC infrastructure and capacity that include observation and support from relevant international agencies and domestic CSOs;
- Support for the EC as it re-establishes a presence in the VDCs;
- Clarifying the appropriate role and conduct of the Nepal Army and police forces in securing the election process;

Citizenship, Registration and Documentation

- Finalize reform of citizenship laws and establish a mechanism to issue citizenship certificates to those who have lost them or were not eligible for citizenship under the previous rules;
- A nationwide registration process, including public information campaigns, to assist Nepalis acquire replacement documents and to map the current demographics of the country;

Electoral Formula

- Technical assistance to stakeholders regarding the options for an electoral formula and the development of an electoral framework that supports the voting rights of displaced and migrant populations; and,
- Reach agreement on reconfiguring the administrative and electoral boundaries of the country;

Displaced and Migrant Voting

- Reconciling the 1990 Constitution's prohibition on absentee voting with the National IDP Policy language that makes such a process possible;
- Establishing eligibility criteria for absentee voting, both internally and abroad;
- Updating the Voter's Register through a nationwide re-registration campaign, including technical and resource support to the EC in organizing such a process;
- Promulgation of rules and regulations regarding the conduct of absentee registration and balloting;
- Civic education regarding the registration and voting rights of displaced and migrant communities, both internal and those abroad;
- Capacity building and support, including possible IGO subcontracting, for the EC in order to design and operate the absentee elements of the program.

Annex I: List of Agencies and Organization Interviewed

| Agency | Name |
|--|---------------------|
| Communist Party of Nepal – United Marxist Leninist | Bhim Rawal |
| Election Commission of Nepal | Laxam Bhattarai |
| Freedom Forum | Tara Nath Dahal |
| Freelance Journalist | Dhubra Hari Adikari |
| Himal Khabarpatrika (weekly) | Rajendra Dahal |
| Human Rights Commission | Gokul Pokiel |
| IFES | Staffan Darnolf |
| Informal Sector Service Center | Subodh Pyakural |
| Maoist Victims Association | Dipendra Wagla |
| MercyCorps | Adrian Porter |
| MercyCorps | Prakash Silwal |
| Ministry of Finance, Government of Nepal | Nirmal Shiwakoti |
| Ministry of Women, Children and Social Welfare, Govt. of Nepal | Rakesh Hamal |
| National Democratic Institute | Dominic Cardy |
| Nepal Independent Electoral Forum | Naresh Bhatta |
| Nepal Independent Electoral Forum | Bijay Lal Shrestha |
| Nepal Independent Electoral Forum | Ram Saran Pathak |
| Nepal Independent Electoral Forum | Subhadayak Shah |
| Nepali Congress Party | Chakra Bastola |
| Nepali Congress Party – Democratic | Minendra Rijal |
| NGO Federation of Nepal | Arjun Karki |
| Padco | Tom Bayer |
| Rastriya Prajatantra Party | Pasupati Shumsher |
| Rastriya Prajatantra Party | Deepak Bohara |
| Sadabhawana Party | Sarita Giri |
| UN Office for the Coordination of Humanitarian Affairs | Eliane Duthoit |
| UN Office for the Coordination of Humanitarian Affairs | Hanne Melfald |
| United Nations Development Program | Mathew Kehane |
| United Nations High Commission for Refugees | Kimberly Roberson |
| United Nations High Commission for Refugees | Randi Munkeby |
| Tribhuvan University | Dr Krishna Khanal, |
| US Agency for International Development | Leila Abu-Gheida |
| US Agency for International Development | Sharada Jnawali, |
| US Agency for International Development | Mera Thompson |
| US Embassy, Political/Economic Section | Grace Shelton |

Special thanks are due to the Nepal Independent Electoral Forum (NIEFO) and especially Naresh Bhatta for arranging meetings, facilitating logistics and most importantly for insights and expertise in Nepal's political process, which has contributed greatly to this report.

Annex II: Information/News on Nepali Migrant and Diaspora Associations

Country Specific

| | |
|---------------|---|
| Qatar | http://www.nepalqatar.com/ |
| United States | http://www.visitnepal.com/abroad/ http://www.friendsofnepal-losangeles.org/ http://www.anaonline.org/index.php |
| Americas: | http://www.anaonline.org/index.php |
| Europe | http://www.nepalese.eu/ |
| Japan | http://www.nepaljapan.com/thasesa/index.htm |
| Ireland | http://www.nepalireland.org/ |
| Germany | http://www.germany.nepalesestudent.org/ |
| Belgium | http://www.pardesinepali.cjb.net/ |
| Australia | http://www.nadf.org.au/ |
| Russia | http://www.freeneal.com/ |

Global

| | |
|--|---|
| Nepalese United for Nepal | http://projects.takingitglobal.org/nepaleseunited |
| Help Nepal Network | http://helpnepal.net/index.htm |
| Worldwide Nepalese Students Organization | http://usa.wnso.org/ |
| NepalNews | http://www.nepalnews.com/archive/main.htm |
| eKantipur.com | http://www.kantipuronline.com/ |
| Nepal News.Net | http://nepalnews.net |
| BBC Nepali | http://www.bbc.co.uk/nepali |

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Annex IV: About IOM PRESS

IOM considers the establishment of democratic electoral processes to be an essential component of peace building and vital to the creation of sustainable and credible democratic structures. In those cases where populations are displaced and without opportunities to register and vote, a mechanism for their enfranchisement is warranted. To the extent that these groups are left outside of the electoral processes, the legitimacy of these processes is compromised.

IOM has extensive experience organizing programs to ensure refugees and other displaced/migrant populations are able to participate in post-conflict elections and referenda. IOM has administered these programs for elections in Bosnia and Herzegovina, Kosovo, East Timor, Afghanistan, and Iraq. The administration of these programs, through which millions of conflict-forced migrants have been able to vote, has contributed to IOM's unique institutional capacity and expertise with election technical issues as they relate to external and absentee voting programs.

Through the USAID-funded Participatory Elections Project (PEP), which was completed in July 2004, IOM assessed existing electoral practices; identified the obligations, standards, and best practices concerning the enfranchisement of conflict-forced migrants (CFMs); and established a Web-based information resource (www.geneseo.edu/~iompress) providing documentation and case studies on CFM enfranchisement

Under a follow-up grant from USAID, IOM has launched the Political Rights and Enfranchisement System Strengthening (PRESS) project in order to further work towards genuine and inclusive elections. This Nepal Action Plan is the third under PRESS. The project has uniquely positioned IOM with global expertise in both research and practice on migrant political rights.

JEFF FISCHER (Director): Jeff Fischer currently manages a consulting practice specializing in assistance to post-conflict political processes. Formerly, he served as the Founder and Director for the Center for Transitional and Post-Conflict Governance at IFES. Mr. Fischer also served as Senior Advisor for Elections and Governance at IFES; and from 1993 to 1999 Mr. Fischer served as the organization's first Executive Vice President where he directed the daily operations of all IFES departments and programs.

Mr. Fischer has held four internationally appointed posts in post-conflict transitions. In 1996, he was appointed by the Organization for Security and Cooperation in Europe (OSCE) to serve as Director General of Elections for the first post-conflict elections in Bosnia and Herzegovina. In 1999, Mr. Fischer was appointed by the United Nations (UN) as Chief Electoral Officer for the Popular Consultation for East Timor. And, in 2000, Mr. Fischer received a joint appointment from the UN and OSCE to head the Joint Registration Taskforce in Kosovo and served as the OSCE's Director of Election Operations in Kosovo. In 2001 and 2002, Mr. Fischer continued to support to Kosovo political process by serving as a Senior Advisor to the OSCE Mission to Kosovo. More recently, Mr. Fischer served as a Senior Advisor to the Independent Electoral Commission of Iraq during the 2005 election cycle.

Mr. Fischer has also worked on election assistance, observation, or conference projects in over 50 countries. In the United States, Mr. Fischer represented the MicroVote Corporation (1989-1992) and in this capacity consulted with local and state administrators on electronic voting.

JEREMY GRACE (Senior Advisor): Jeremy Grace is the Senior Advisor and Research Coordinator for PRESS. In this role, he is responsible for conducting the research module of PEP. Mr. Grace is currently a lecturer of international politics, law, and political economy at the State University of New York at Geneseo. He also serves as a consultant to the IFES Center for Transitional and Post-Conflict Governance on refugee and IDP electoral participation.

In 1998, Mr. Grace directed the IOM out of country voting program for Bosnian refugees residing in Croatia and was, in 1999, the IOM Deputy Director for the registration and polling of East Timorese displaced persons in Indonesia. In 2000, he organized the refugee and IDP voting program for the first post-conflict Kosovo elections. In 2004, Mr. Grace designed and initiated the Afghan refugee voting program for Pakistan and Iran on behalf of IFES, IOM and the United Nations Assistance Mission in Afghanistan. From 1996 to 2000, Mr. Grace had multiple assignments with the OSCE in Bosnia and Herzegovina. He has also provided technical assistance to election management bodies and civil society organizations in Liberia, Kosovo, Uganda, and elsewhere.