



House of Commons  
International Development  
Committee

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# **DFID's Programme in Nepal**

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**Sixth Report of Session 2009-10**

*Volume I*





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***Volume I***

*Report, together with formal minutes*

*Ordered by the House of Commons  
to be printed 16 March 2010*

## International Development Committee

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## Summary

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Nepal is the poorest country in South East Asia and the fifteenth poorest country in the world. It is regarded as a fragile state, having suffered 10 years of conflict prior to the signing of the Comprehensive Peace Agreement (CPA) in 2006. We examined the Department for International Development's (DFID) programme in Nepal in the context of the policy shift announced in its 2009 White Paper of focusing more of its resources on fragile and conflict-affected states.

Nepal managed to make progress on a number of poverty indicators despite the deaths, displacement, and disruption to services which occurred during the years of conflict. However, poverty and inequality remain acute in Nepal. One in three people lives in poverty and half of all children are malnourished. The mountainous terrain compounds the difficulty in gaining access to essential services such as health, education and livelihood support. Inequalities based on ethnicity, caste and religion exacerbate exclusion and poverty.

A high proportion of post-conflict states fall back into conflict within five years of a peace agreement being signed. The risks for Nepal are clear. The political situation remains fraught; agreement is yet to be reached on a new Constitution; and the future of the 20,000 ex-combatants who fought for the Maoists during the conflict has yet to be resolved. It is for the people and Government of Nepal to find long-term solutions to these issues and to decide on the new federal structure which will be put in place. The international community should support the mechanisms set up under the CPA to facilitate a long-term solution and to help to ensure that the voices of the many and varied communities are heard.

DFID has a range of innovative and effective programmes in place, including support for livelihoods and economic growth. However, governance, justice systems and the security sector remain weak and open to corruption. Additional support to strengthen these systems is required. DFID should move quickly to agree new programmes in these areas, particularly given the commitment in the White Paper to treat justice and security as a basic service.

Climate change compounds Nepal's vulnerability. Predicted impacts include more rain during the monsoon and less during the already dry winter, and more frequent and more severe extreme events such as floods. Despite uncertainties over exact timescales, in the shorter term melting of the Himalayan glaciers will increase flood risks in Nepal and the wider region. In the longer term loss of ice cover combined with changing rainfall patterns could lead to increased strain on water resources. Nepal is now very close to having an agreed National Adaptation Programme of Action. DFID has committed funding for its implementation. It must also support the Government of Nepal to give climate change the policy priority which it merits.

DFID must ensure that its programmes in Nepal reach the poorest people and those least capable of gaining access to essential services. Its new focus on fragility needs to include targeted assistance for the most vulnerable people and communities, as well as supporting

fragile countries more broadly. Besides being a moral imperative, if donors fail to assist the millions of people living in the most dire conditions, the global targets for poverty reduction enshrined in the Millennium Development Goals will not be achieved in Nepal or globally.

# 1 The inquiry

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1. Nepal is the poorest and most unequal country in South Asia.<sup>1</sup> It suffered 10 years of conflict, in which thousands of people were killed and displaced. It is one of the fragile and post-conflict countries on which the UK Department for International Development (DFID) has decided to focus greater emphasis. DFID says that “international support is vital if Nepal is to build peace and avoid a reversal into further conflict, and if it is to tackle serious poverty and inequality”.<sup>2</sup>

2. DFID is the largest bilateral donor to Nepal and in 2009 agreed a new Country Plan which will run to 2012.<sup>3</sup> Without progress on the peace process in Nepal and clear evidence of a “peace dividend” for the people, in terms of improved living conditions, there is a risk that the country might slide back into conflict. Support from the international community is therefore vital.

3. These factors led us to announce an inquiry into DFID’s programme in Nepal in July 2009. We visited the country in October. On our return, we held three oral evidence sessions, with non-governmental organisations (NGOs) working in the country; academics and commentators; and with the DFID Minister and officials. We also received a number of submissions of written evidence. We are grateful to all those who contributed to the inquiry.

## Our visit to Nepal

4. We were in Nepal for four days. In Kathmandu, we held meetings with the Prime Minister and other members of the Government, the leader of the Maoist (Unified Communist Party of Nepal) party (who is also the former Prime Minister), members of the Constituent Assembly and donor partners. To ensure that we were able to see as much of DFID’s work as possible in the time available, we divided into two groups to visit the more remote areas of Nepal. One group visited Pokhara and Baglung in the West Region and saw DFID’s projects on forestry and livelihoods, transport, climate change and sanitation and water. The second group visited the Nepalgunj area in the Mid-West Region. The itinerary there included two schools and a hospital, and meetings with a Muslim women’s empowerment group, participants in skills-training and road-building programmes; and discussions with a wide range of NGOs and officials. Our full visit programme is set out in the Annex to this Report. We are grateful to all those who contributed to the visit and particularly the DFID Nepal staff who arranged our programme and accompanied us throughout.

## Structure of the Report

5. Chapter 2 describes the context for delivering development in Nepal, and assesses both the challenges and the opportunities. Chapter 3 examines the political situation and

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1 DFID, *The UK Government’s Programme of Work to Fight Poverty in Nepal*, Country Business Plan 2009-2012, para 9

2 Ev 52

3 Ev 63. The UK is the largest donor of countries which are members of the OECD Development Assistance Committee (DAC) and which therefore adhere to the development assistance criteria laid down by the DAC.

progress on the peace process, which are both fundamental to Nepal's development. In Chapter 4 we analyse how donors can best support Nepal to address the weaknesses in governance, justice and the security sector and to tackle corruption. Chapter 5 looks at the progress Nepal is making towards achieving the Millennium Development Goals, including those on poverty reduction, health and education. In the concluding chapter, we set out our views on the priorities for DFID's future engagement in Nepal, particularly in the light of its new emphasis on working in fragile states.

## 2 Development context and challenges

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6. This chapter sets out the background against which DFID is delivering development assistance in Nepal and highlights some of the key challenges. DFID's support for addressing these issues is discussed in chapters 4 and 5.

### Access to basic services

7. Nepal is the 15<sup>th</sup> poorest country in the world. One in three of the 27 million population lives in poverty. Women, girls and excluded groups suffer most.<sup>4</sup> 1 in 16 children dies before its fifth birthday and half of all children are malnourished. Nepal is classified as “severely off track” on Millennium Development Goal (MDG) 5 on maternal health, despite recent progress. It is also off-track on MDG 6 on tackling HIV/AIDS.<sup>5</sup>

8. It is surprising that Nepal has made the degree of progress that it has on many of the MDGs, including education and poverty reduction, given the years of conflict it endured. Witnesses suggested that this demonstrated that there was a reasonably high level of capacity and capability within the country and an ability to “get things done” albeit in the absence of formal structures.<sup>6</sup>

9. However, the capacity of state systems to deliver basic services remains limited. There have been no local elections in six years and none are likely to take place until there is overall agreement on a new Constitution. This means that local government systems are not functioning effectively, including their role in provision of services for local populations. Surya Subedi, Professor of International Law at Leeds University, told us that the impact was being felt by local people who had no properly functioning local bodies to rely on. He said that “for the ordinary people living in rural areas the government has not come back to them” despite the peace process being in place for three years.<sup>7</sup>

### The peace process

10. Analysis has shown that there is a 40% chance of a country sliding back into conflict within five years of a peace agreement being signed.<sup>8</sup> The Comprehensive Peace Agreement (CPA) which brought the 10-year conflict in Nepal to an end was signed in November 2006. The conflict resulted from the Maoist insurgency which began in 1996 and which was fuelled by the high degree of social and political exclusion, poverty, deprivation and inequality. The CPA established an interim constitution and an interim Parliament.<sup>9</sup>

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4 Ev 52-53

5 Ev 54

6 Q 69

7 Q 19

8 Country Business Plan, para 45

9 Ev 53

11. DFID told us last autumn that the peace process “has been stalled for some time”.<sup>10</sup> Liz Philipson of the NGO Conciliation Resources said that the Comprehensive Peace Agreement had been “comprehensive” only in name and had left a number of key issues unresolved. This meant that “war has ceased but the violence has not [and] progress towards peace never really got off the ground other than rhetorically”. She stressed that the political blocs which formed during the conflict were still operating and that elite groups remained powerful, despite the removal of the monarchy.<sup>11</sup>

## Exclusion and inequality

12. DFID says that “exclusion was and is a key driver of conflict in Nepal.”<sup>12</sup> It highlights a “path-breaking report”, the Gender and Social Exclusion Assessment, produced jointly by DFID, the Nepal National Planning Commission and the World Bank in June 2005. This:

[...] documented what had been generally accepted as one of the root causes of the conflict: the fact that certain social groups—defined in terms of their gender, caste, ethnicity, region and religion—have persistently higher levels of poverty, lower education and health outcomes and less political voice.<sup>13</sup>

13. A number of people told us during our visit that the purpose of the CPA had been to create a “new Nepal” based on equal access and opportunity. Nepal has 103 ethnic and minority groups.<sup>14</sup> The majority of the Nepali people are Hindus. Muslims are an excluded minority. The caste system acts as a considerable barrier to equality, as does gender. The gap between rich and poor in Nepal has doubled since the 1980s. Poverty amongst high castes has reduced by 46% but amongst Muslims it has only decreased by 5%.<sup>15</sup> Other poverty indicators show similar inequalities: the rate of births assisted by a skilled birth attendant is 1 in 5 for higher castes but only 1 in 20 for Dalits, the lowest caste (previously known as “untouchables”). Almost 80% of Muslim women and 85% of Madhesi Dalit women receive no education, compared to a national average of 53% and less than 2% for higher caste (Brahmin/Chetri) men.<sup>16</sup>

## Crime and insecurity

14. DFID says that: “public security is critical to secure the peace and enable the economy to grow. It is also the top priority of poor people”.<sup>17</sup> Despite the conflict having ended, lack of security continues to undermine daily life in Nepal. Public security is very poor across many parts of the country. The Terai area is a particular concern with 100 armed groups operating. NGOs believed that people had lost confidence in the ability of the state to

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10 Ev 65

11 Qs 2, 4

12 Country Business Plan, para 15

13 Ev 62

14 Q 137

15 Country Business Plan, para 13

16 Ev 53 and Country Business Plan, para 15

17 Ev 57

protect them.<sup>18</sup> In a recent Saferworld survey, 60% of respondents said that there were no police in their locality and only 18% of people believed that the Government was able to maintain law and order. Nor were people optimistic that change was likely: only 28% believed that law and order would improve in future months, down from 41% in 2007.<sup>19</sup> The impact of insecurity on ordinary people is that they are prevented from going to work and school, running their businesses and going about their normal daily lives.

15. As well as disrupting people's lives and causing many to live in fear, insecurity and crime threaten economic growth and development. Kidnappings with a financial motive are common. DFID argues that: "without a sustainable peace, it is difficult to improve the climate for local and international investment, including for small and medium enterprises, and thus create growth and raise incomes."<sup>20</sup> There were 50 murders of business people and an estimated \$200 million (5% of GDP) was lost as a result of strikes between July and October 2008. Witnesses believed that insecurity and the Government's failure to keep order were the biggest deterrent to private sector investment.<sup>21</sup>

## Climate change risks

16. DFID identified climate change as one of the "key risks" for Nepal.<sup>22</sup> According to the Intergovernmental Panel on Climate Change (IPCC), temperatures in South Asia will rise faster than the global average during the 21st century, potentially exceeding 3°C compared to 1990 levels.<sup>23</sup> In Nepal, this warming will affect all aspects of the climate. Nepal is considered particularly vulnerable to the effects of climate change because of its geographical and climatic conditions, high levels of poverty and dependence on natural resources.

17. Predicted effects include more rain during the monsoon and less during the already dry winter, more frequent and more severe extreme events such as floods, and significant loss of ice cover from Nepal's 3,500 glaciers. This will lead to serious consequences for water resources, food security, biodiversity and human health. According to some projections a 3°C increase in temperature could result in a 70% loss of ice cover across Nepal. Beyond 2050, loss of ice combined with changing rainfall patterns could lead to increased strain on water resources, not only in Nepal but for the 500 million people in India and Bangladesh who depend on Nepal's rivers for freshwater. Some of us flew over the mountain glaciers during our visit to observe the melting glaciers and the formation of glacial lakes.

18. The IPCC issued a statement in January 2010 which said that the predictions in its 2007 report on the "rate of recession and date for disappearance of the Himalayan glaciers" were based on "poorly substantiated estimates" and that "clear and well-established standards of evidence [...] were not applied properly". This has caused enormous discussion and debate

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18 Ev 65

19 Ev 81

20 Ev 60

21 Q 94

22 Ev 55

23 IPCC Fourth Climate Change Assessment Report 2007, Working Group 1: The Physical Science Base, Chapter 11.4.3, Climate Projection, available at [www.ipcc.ch/publications](http://www.ipcc.ch/publications). South Asia is defined by the IPCC as consisting of Pakistan, India, Nepal, Sri Lanka, Bhutan, Bangladesh, Myanmar and the Tibetan Plateau.

about climate change. However, the IPCC asserted in the same statement that the overall conclusion—that “widespread mass losses from glaciers and reductions in snow cover” would accelerate during this century “reducing water availability, hydropower potential and changing seasonality of flows in regions supplied by meltwater from major mountain ranges”, including in the Himalayas—was “robust, appropriate and entirely consistent with the underlying science and broader IPCC assessment”.<sup>24</sup>

## DFID's Programme

19. DFID is the largest bilateral donor in Nepal.<sup>25</sup> It will provide £172 million in assistance over the three years to 2012 under its Country Programme announced in April 2009. This represents almost a doubling of the annual bilateral programme in 2003-04 (£32 million).<sup>26</sup> DFID says that it is seen by the Government as “one of the most important and supportive donors”.<sup>27</sup> Its programme has four key goals:

- to support a sustainable and inclusive political settlement;
- to help build a more capable, accountable and responsive state at local and national levels;
- to promote inclusive, low carbon, economic growth and better jobs for the poor;
- to reduce the vulnerability of the poor and improve resilience to climatic shocks;

together with an “internal goal” for DFID itself of “improved effectiveness of the DFID portfolio and management services.”<sup>28</sup>

20. DFID's support to Nepal is focused on health (34% of the programme in 2008-09), economic growth (26%) and governance (15%).<sup>29</sup> Along with the Foreign and Commonwealth Office and the Ministry of Defence, DFID also provides assistance to Nepal's peace process through the UK's Conflict Pool and to a number of multilateral peace support programmes.<sup>30</sup>

21. DFID has had to adapt its programme to reflect the political fragility and the high degree of uncertainty about the future. The Head of DFID Nepal told us that it had therefore been designed to ensure it could be delivered “even if you have a government that is not functioning properly and Parliament is not able to meet” so that “even if we have that dysfunctional political context, we can [...] still deliver development”. Some of its programmes were delivered directly, such as the Community Support Programme. Others,

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24 Statement on the melting of Himalayan Glaciers by the Chair and Vice-Chairs of the Intergovernmental Panel on Climate Change, 20 January 2010; see also “UN climate chief admits mistake on Himalayan glaciers warning”, *The Times*, 21 January 2010

25 DFID is the largest bilateral donor amongst countries which are members of the OECD Development Assistance Committee and conform to its rules on providing aid. This excludes India and China.

26 DFID, *Annual Report and Resource Accounts 2008-09*, HC 867, Volume II, p 82

27 Ev 64

28 Ev 54

29 DFID Key Facts on Nepal available at [www.dfid.gov.uk](http://www.dfid.gov.uk). Details of DFID's expenditure on each of its recent and current programmes is available at Ev 71-73

30 Ev 54, 58, 63

including in health and education, were taken forward in partnership with the Government.<sup>31</sup>

### 3 Political situation and the Comprehensive Peace Agreement

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22. DFID's 2009 White Paper said that: "Conflict and fragility are inherently political. They are about how power and resources are shared in society, between ethnic groups, social classes or men and women. Their solutions must be rooted in politics." It also says that "the UK will increasingly put politics at the heart of its action" to reduce the potential for conflict, giving Nepal as an example of where this approach will be adopted.<sup>32</sup> The DFID Country Business Plan identifies the possible collapse of the coalition government as a "potential trigger for future conflict or increased instability."<sup>33</sup>

23. The Comprehensive Peace Agreement mandated elections to a Constituent Assembly (CA) which took place in April 2008. DFID provided £1.4 million to support the process leading up to the elections, with a further £800,000 coming from the Conflict Pool. This contributed to the provision of 3,750 civic education sessions in all 75 districts and 100 international and 20,000 national election observers.<sup>34</sup> The elections were seen as free and fair and resulted in the "most representative legislature in Nepal's history." Representation of Dalits increased from 0 to 8% and that of women from 6% to 33%. Representation of high caste Brahmin/Chetris fell from 68% to 35%.<sup>35</sup> One of the first actions of the CA was to abolish the 240-year old monarchy and declare Nepal a federal, democratic republic.<sup>36</sup>

24. DFID says that one of the impacts of its support for the political process was that the Maoists (Unified Communist Party of Nepal) "successfully moved from 'rebel' status into mainstream politics".<sup>37</sup> The Maoists emerged as the largest party in the April 2008 elections but did not have an overall majority. They won 33% of the vote which gave them 38% of the 601 seats in the Constituent Assembly. They were in power for nine months but resigned from Government in May 2009 in a dispute with the President when he overruled the sacking of the Head of the Army (see below). The Maoists protested against the President's action by blocking the effective operation of Parliament and at the time of our visit had organised a series of disruptive strikes and protests (bandhs). However, DFID reported that, since December, the Maoists had been allowing the CA to function properly.<sup>38</sup>

25. The current Government is a 22-party coalition headed by the Prime Minister Madhav Kumar Nepal of the Communist Party of Nepal–Unified Marxist-Leninists (CPN-UML). He heads a cabinet of 44 ministers. The parties in government have agreed a Common

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32 DFID, *Eliminating World Poverty: Building Our Common Future*, July 2009, para 4.9 and 4.19

33 DFID, *Nepal Country Business Plan 2009-2012*, October 2009, Box 1

34 Ev 56. The Conflict Prevention Pool is a funding mechanism operated jointly by DFID, FCO and MoD which "brings together the UK government's development, diplomatic, and defence interests and expertise to ensure a coherent response to conflict prevention." The Conflict Pool has a budget of £171 million in 2009/10 (see DFID website at [www.dfid.gov.uk/Global-Issues](http://www.dfid.gov.uk/Global-Issues)).

35 Ev 56

36 Ev 53

37 Ev 59

38 Q 132

Minimum Programme and set six priorities: building political consensus; addressing impunity and promoting rule of law; implementing peace agreements; restructuring the state and writing a new constitution; providing immediate relief to the people; and promoting economic growth.<sup>39</sup>

26. The leaders of the three main parties (the Nepali Congress, CPN-UML, and the Maoists) recently agreed to a High Level Political Mechanism (HLPM). The purpose of the HLPM is to “take the peace process to a logical conclusion, draft the Constitution within the stipulated timeframe of May 2010 and resolve the political crisis.”<sup>40</sup> Under the HLPM, the political leaders have launched a 112-day plan for resolving the major issues of contention, including PLA reintegration (see below).<sup>41</sup>

### Drafting the new Constitution

27. The Constituent Assembly (CA) is tasked with drafting a new Constitution by May 2010. DFID is contributing £1.7 million over three years to the process, under a UNDP-managed programme, with a further £700,000 coming from the Conflict Pool.<sup>42</sup> Many deadlines for the process have slipped. Only six of the 11 thematic committees have finalised their theme papers. There is provision in the CPA for a 6-month extension to the process.

28. Witnesses had different views on the likelihood of the deadline being met. Professor Subedi, who has been directly involved in the process, was optimistic. He said that a number of the committees working on different aspects of the Constitution had completed their work and that “having a new constitution in place within the timeframe is still a possibility”. There was greater “maturity in the political decision-making process” than previously and “politicians are coming under tremendous pressure [...] to be responsive to the wishes of the people.”<sup>43</sup>

29. The 112-day plan launched under the HLPM reiterates that the constitution should be written by 28 May. DFID told us that at present, “they are still sticking to that timetable, although it is getting even more ambitious because the timing has now been squeezed”. In particular, the timing for community consultation “has been squeezed very much”.<sup>44</sup> A two-thirds majority is required in the Constituent Assembly to agree the Constitution. This will not be possible without support from the Maoists.<sup>45</sup>

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39 Ev 65. See also Country Business Plan p 9

40 “NC, CPN-UML leaders decide to induct PM as member in HLPM”, from Zeenews website, 13 January 2010; see also Q 112

41 Q 112

42 Ev 57 and 66

43 Qs 2, 14

44 Q 133

45 Q 137

## Federalism and identity politics

30. DFID says that “a key challenge is to peacefully renegotiate the relationship between citizens and state, in particular in relation to inclusion of previously excluded groups.”<sup>46</sup> Many of these groups are now asserting their rights to representation and in the past two years there has been a strong move towards identity-based politics, accompanied by violent protest. There is a push for the creation of autonomous regions in Nepal, including for the Madhesi people (who make up 33% of the population).<sup>47</sup> There was an uprising by the Madhesi in 2008 which led to the Government recognising their separate identity and introducing new constitutional and legal measures to reflect this. State institutions are now required to reserve some seats for Madhesi. But the pressure for recognition by different groups continues to grow. DFID says that “ideally these claims should be negotiated in the CA, but are being taken forward outside the CA process.”<sup>48</sup>

31. The CPA declared Nepal to be a federal republic. However, making federalism a reality is regarded as one of the most difficult challenges in drafting the new Constitution. Ministers we met during our visit said that the key issues to be decided were: how many states there would be under the federal system; what their boundaries and titles would be; how many districts and villages each would contain; and what their role would be within a new system. The leader of the Maoists stressed to us that federalism was not just part of the Maoist agenda but was supported by other parties. DFID witnesses told us that there was now a cross-party proposal for the creation of 14 states but a variety of ethnic and minority groups had already expressed opposition to it on the basis that it failed to recognise their specific claims.<sup>49</sup>

## Reintegration of Maoist ex-combatants

32. The People's Liberation Army (PLA) was the military wing of the Maoist party during the insurgency. Under the CPA, it was agreed that both the Nepalese Army and the PLA would stay in barracks. “Cantonments” were constructed to house the PLA while a permanent plan was worked out for their future. The PLA are split between 28 cantonments, in 7 divisions. They have now been there for three years. The cantonments are funded from the Nepal Peace Trust Fund (to which DFID is the largest donor).<sup>50</sup> Some of us visited a cantonment in Kailili and met the Deputy Divisional Commander of the camp.

33. There are 19,600 “verified” PLA members and 4,000 “disqualified”. Of the 4,000 PLA ex-combatants classified by the UN as “disqualified”, 3,000 have been confirmed as being minors when recruited, and 1,000 were recruited after the 2006 ceasefire (“late recruits”). Release of the minors is an international obligation but it took a long time for the parties to reach agreement on the process. The Head of DFID Nepal told us at the end of January that the discharge of minors had now begun, overseen by the UN. DFID had contributed

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46 Ev 65

47 Asian Centre for Human Rights, *Madhes: the challenges and opportunities for a stable Nepal*, September 2009

48 Ev 65

49 Q 137

50 Ev 69

£2 million to the discharge packages which includes 10,000 rupees (about £90) to cover the cost of travel back to their communities and some subsistence. The discharged minors are also offered a range of advice and support to help them “reintegrate into civilian life”, covering health, skills and vocational training or support to set up a small business.<sup>51</sup>

34. Integration of the main PLA force into the Nepal Army remains a major issue of contention. The original aim was for half to return to civilian life and the other half to be divided between the Nepalese Army and the police forces. Saferworld says that the CPN-UML and the Nepali Congress parties would like to limit integration of the PLA into the Army to 5,000, “whereas the Maoists’ position is to integrate as many as possible and also to secure them senior positions”.<sup>52</sup>

35. Through the joint Conflict Pool, the UK is supporting the work of the Technical and Special Committees dealing with reintegration.<sup>53</sup> These bodies were not functioning when we visited Nepal, as part of the Maoists’ refusal to co-operate with parliamentary procedures but there has since been progress.<sup>54</sup> One of the outcomes of agreement by the Prime Minister and the leaders of the three main parties to the High-level Political Mechanism (HLPM) has been renewed efforts to resolve the reintegration issue. DFID told us that the key issue was agreeing how many of the 19,600 ex-combatants would go into the security forces; “then there can be a discussion about what happens to the others. There is an expectation that they will be offered a similar package to [...] the minors.” But “until we have that number it is difficult for the process to move forward”.<sup>55</sup> The 112-day plan sets an ambitious target for the 19,600 ex-combatants to either be integrated into the security forces or provided with resettlement packages by 15 May this year.<sup>56</sup>

### **Security sector reform**

36. The question of integration of the PLA is not the only difficult issue in relation to the security forces. The Nepalese Army numbers 96,000 which is generally agreed to be too large for a population of only 27 million. Professor Moore highlighted that the Army was effectively autonomous and lacked proper civilian control.<sup>57</sup> The difficulty this causes was shown clearly when the Maoist Prime Minister tried to sack the Chief of Army Staff for reinstating eight generals retired by the Maoist government. The Prime Minister’s decision was overruled by the President and the Maoists then resigned from government.<sup>58</sup>

37. The Head of DFID Nepal said that they would like to discuss “a broader security reform agenda” with the Government and the Army and that “that is something where the political situation in Nepal is not right at the moment”. She said that there were indications

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51 Q 112

52 Ev 80

53 Q 107

54 Q 133, Ev 80

55 Q 138

56 Q 112

57 Q 69

58 See “Prime Minister Prachanda Quits”, *The Himalayan*, 4 May 2009 and “Nepal PM Prachanda resigns”, *indianexpress.com*, 4 May 2009

that “some elements within the army and the government [...] are beginning to think about that and that might be an area where the UK could provide some support”.<sup>59</sup>

**38. Pro-poor and inclusive development in Nepal will only be possible when political stability and security have been established. This will require full implementation of the Comprehensive Peace Agreement, agreement on a new Constitution and long-term resolution of the key contentious issues of federalism and the future of the Maoist ex-combatants. These are matters for the political parties and the people of Nepal to resolve. However, the processes and mechanisms which allow progress to be made on these issues must continue to be fully supported by the international community, including DFID. This needs to include support for the election process which will follow agreement on the Constitution. We recommend that, in response to this Report, DFID provide us with updated information on its plans for continued support for the political and peace processes in Nepal.**

## 4 Governance, justice and security

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### Impunity

39. We were frequently told that there was a “culture of impunity” in Nepal and no apparent sanctions for wrong-doing. A report published by the International Crisis Group on 14 January stated that “failure to address the systematic crimes committed during Nepal’s ten-year civil war is threatening the peace process”. It highlighted that there has not been a single prosecution for abuses in civilian courts and that “political parties have shown no interest in dealing with past crimes.” International Crisis Group asserts that “of the more than 13,000 people killed during the war, the vast majority died at the hands of the state. [...] Many victims were from disadvantaged communities long marginalised by the state and more influential social strata.”<sup>60</sup>

40. Senior Army officers accused of human rights abuses have not been brought to justice and “even high-profile alleged abusers have been deployed in lucrative posts in UN missions”.<sup>61</sup> DFID highlights that the promotion to Deputy Chief of Army Staff of a general implicated in “grave human rights abuses” during the conflict “has sent a particularly negative signal regarding the government’s intentions to address past abuse.” However, it believes that a recent order from the Prime Minister to the Army to hand over to the police a major, also accused of grave human rights abuses, “may represent the first steps towards addressing such impunity”.<sup>62</sup>

41. Witnesses stressed that impunity was the greatest challenge Nepal faces, including this lack of accountability for atrocities committed during the conflict. Saferworld’s view was that “impunity among security agencies risks entrenching divisions and sparking further conflict”.<sup>63</sup> Professor Subedi said that it was his “number one worry”. Liz Philipson agreed that “Impunity has to be the biggest issue for ordinary people in Nepal at this moment, above anything [...]. Impunity affects the lives of ordinary people, it affects the rule of law, it affects progress against corruption”. She pointed out that this is not just an historical issue: “Impunity is not only about crimes during the war, it is about the girl who was raped this morning and I bet there were several in Nepal as we speak and not only will there be no prosecution there will be no recourse to law.” She believed that “big people” needed to be held to account to ensure that “small people” could have greater confidence in the justice system.<sup>64</sup>

42. The DFID Minister told us “we would recognise that there is a culture of impunity in Nepal, not just resulting from the conflict but general rule of law as well.” He was disappointed that the mechanisms established in the CPA for dealing with this had not “kicked in”. However, he thought that there were “signs of some movement” in that Bills

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60 International Crisis Group, *Nepal: Peace and Justice*, 14 January 2010, Executive Summary

61 *ibid*

62 Ev 66

63 Ev 81

64 Qs 5, 7, 25

were now before parliament to establish a committee on truth and reconciliation and set in motion investigation of disappearances during the conflict, as provided for in the CPA.<sup>65</sup>

43. The Head of DFID Nepal stressed that the diplomatic community and development partners had raised the issue of impunity “time and time again with the government and pushed for action. We have publicly said that it is regrettable that some of the high profile cases have not been resolved and in our view have not been taken to a satisfactory conclusion.” She said that “one of the important roles we can play is to keep this very high on the agenda and to continue the international pressure for the human rights cases on all sides to be taken seriously and resolved.”<sup>66</sup>

44. The international community is also lobbying for the extension of the mandate of the UN Office of the High Commissioner for Human Rights (OHCHR), which currently runs out in June.<sup>67</sup> The UK is one of the major funders of OHCHR. DFID says that the organisation “has been key to ensuring both national and international actors place human rights at the centre of the peace process”. Its work during the conflict led to the end of conflict-related “disappearances” carried out by the Army by 2005, and it “acted as an important preventive influence on the patterns of abuses” committed by the Maoists. It says that more recently, “OHCHR has helped create greater space for human rights issues to be addressed; for human rights defenders to carry out their work, and for public dialogue on human rights issues to continue even in the face of suppression.”<sup>68</sup> The Asian Centre for Human Rights cautions that the Government of Nepal is considering whether to refuse to extend OHCHR’s mandate beyond June, or to restrict the extension to six months and with a more limited role.<sup>69</sup>

**45. It will be much more difficult to achieve long-term peace if people believe that there has been no redress for abuses committed during the conflict. We were pleased to hear that the UK and other members of the international community are robust in raising the issue of impunity and respect for human rights with the Government of Nepal. The UN Office of the High Commissioner for Human Rights (OHCHR) has made a significant contribution to upholding human rights both in the difficult circumstances of the conflict and since peace was agreed. We recommend that the UK lobby at the highest levels for the OHCHR mandate to be extended beyond June 2010 so that this important work can continue.**

## Corruption

46. DFID identifies fraud and corruption as one of the key risks in Nepal and says that corruption has been “endemic in Nepal for decades”.<sup>70</sup> Professor Moore told us: “I have rarely seen as corrupt a country as Nepal”.<sup>71</sup> DFID is working with the Government on

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65 Q 142

66 Q 143

67 Q 143

68 Ev 59

69 Asian Centre for Human Rights Briefing Paper, *The Withdrawal of OHCHR-Nepal: agreeing an alibi for violation?*, March 2010

70 Ev 55 and 57

71 Q 82

strengthening government systems against corruption and reform of public financial management, in joint work with the World Bank. Support has been provided at district level, including technical assistance to facilitate electronic transfer of data between the centre and districts. DFID says that performance has improved on “core public financial management issues as a result of performance-based funding, pioneered by DFID, and changes in district and village-level procedures to ensure greater participation of excluded groups in local development planning”.<sup>72</sup>

47. The DFID Minister observed that the problem with corruption was that it “poisons the whole atmosphere in which development takes place” and that the Department had a “zero tolerance approach”.<sup>73</sup> The high levels of corruption have significant implications for DFID’s work in Nepal. Professor Moore believed that it was important for DFID to ensure that its money was not stolen by people in power, particularly at local level, given the problems around donors’ tendering and contract processes. He was dubious about whether corruption could be effectively tackled at present but said that “a lot of effort” was being made by DFID to ensure that its funding was correctly used.<sup>74</sup>

48. DFID highlighted a number of threats to its operations from corrupt activities which include: fraud-related coercion, attempted “programme manipulation” through intimidation, particularly by youth groups of political parties; demands to comply with “pre-conditions from violent, federalist, non-state actors”; and increased fiduciary risk from groups seeking “to finance political activities or use opportunities created by weak law and order”.<sup>75</sup> Mary Hoble, an independent development consultant, said that district level development staff were under “huge pressure to deliver services to particular groups” and suffered threats to their families on a regular basis if they did not. People were afraid to challenge or speak out because of fear of reprisals from political parties, and particularly their youth groups.<sup>76</sup>

49. The proliferation of NGOs involved in delivering services and advocacy in Nepal exacerbates the risk of corruption. Professor Costello told us:

[...] forming an NGO has been a route to corruption. When the Maoist government came in they clamped down a lot on NGOs and certainly a number of my friends said a lot of people were on the make here; they would set up an NGO as a way of getting money and then cream it off. What the extent of that problem was is difficult to quantify, but certainly it is the case that people were using the format of NGOs, and so when they had to be reregistered I think a lot of them were put out of business<sup>77</sup>

50. That donors and international and local NGOs were targets for manipulation and fraud by both particular interest groups and criminals was reinforced during our visit. Coercion

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72 Ev 57

73 Qs 116, 118

74 Q 82

75 Ev 55 and Country Business Plan, pp 12-13

76 Q 73

77 Q 63

was reported to us as being a problem in tenders for contracts with intimidation being used to prevent competitors bidding, or to demand a share of contracts won. The Head of DFID Nepal acknowledged that this risk “is a constant issue in Nepal”. Development partners have adopted a unified approach and agreed Basic Operating Guidelines which make clear that development assistance “is not political and cannot be used for any kind of political and/or other forces other than specifically delivering on development”. Donors had made representations about particular incidents to both the Prime Minister and Maoist leaders and action had been taken. However “it is a continuous issue and [...] it is not something that is easy to resolve.”<sup>78</sup>

51. Procurement, for example of medicines and health supplies, is particularly vulnerable to corruption. DFID has had to put robust systems in place to ensure that the procurement which it funds is not open to abuse. This had been a “an area of very serious debate” for DFID in planning the next phase of its sector support for health and it had been decided to take procurement out of the sector support until government systems had been further strengthened.<sup>79</sup> DFID said that it was supporting a joint government-donor procurement action plan to address “the issue of collusion and intimidation of bidders” and was undertaking a comprehensive assessment of procurement in the health and rural roads sectors with the World Bank.<sup>80</sup>

52. The Head of DFID Nepal was, however, confident that “we have pretty thorough mechanisms [...] to safeguard our funds”.<sup>81</sup> The Minister said that, more generally in relation to the risk of corruption, he had personally “tested the system out”, including by asking for specific allegations to be investigated. He acknowledged that at a time “when public sector settlements are tight and people are looking at how the Government is generally using its money, we have to be seen in terms of development to make sure that the money does exactly get to people on the ground for whom it is intended.” He stressed that it was important that “we are seen to be whiter than white when it comes to tackling corruption”.<sup>82</sup>

53. We were pleased to hear the Minister’s assurance that DFID took these issues seriously. However, we investigated fraud and procurement procedures as part of our recent annual scrutiny of the Department’s overall performance. We expressed concern that “DFID may not yet be taking the threat of fraud as seriously as it should” and highlighted that steps to improve procurement procedures were described by the Department itself as “a work in progress”.<sup>83</sup>

**54. It is a matter of serious concern that the people of Nepal have to suffer the detrimental effects of living in a society plagued by corruption. DFID’s support to the Government of Nepal to strengthen its own public finance systems is an essential part of its programme there. DFID should ensure that the highest standards of audit and**

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78 Q 144

79 Q 117

80 Ev 58

81 Q 116

82 Q 118

83 Fourth Report of Session 2009-10, *DFID’s Performance in 2008-09 and the 2009 White Paper*, HC 48-I, paras 24 and 29

scrutiny are applied to all of its own operations and that leakage in the form of corruption is prevented. DFID also needs to continue to work with development partners and political leaders in Nepal to prevent development assistance being open to manipulation by special interest groups. We recommend that, in response to this Report, DFID provide us with more detailed information about the precise anti-corruption and anti-fraud measures it has in place in Nepal.

### Absence of local government systems

55. There have been no local elections in Nepal for six years. Elections will only be possible once overall agreement has been reached on the Constitution and the new federal structure.<sup>84</sup> The Prime Minister told us that local government was being run by appointed officials. We observed that this was the case in our visits to Nepalgunj and Baglung and were able to talk to some of the officials concerned about the burden this placed on them. The Head of DFID Nepal stressed that re-establishing local government was “absolutely” a governance priority for DFID but reiterated the need to await “a decision on how federalism will actually operate”.<sup>85</sup>

56. Professor Subedi emphasised that the impact was being felt by local people who had no properly functioning local bodies to rely on for delivery of basic services.<sup>86</sup> Professor Costello agreed that “the biggest gap in Nepal [...] is the weakness of local Government [...] In the mid and late 1990s local government really began to take off and my experience of working in districts then was finally you had some very committed people trying to make changes and it was quite successful.” However, for the last seven or eight years “local government has been virtually dead in Nepal [...] you have only got civil servants there.” He believed that accountable local politicians and better systems were “absolutely crucial” to delivery of local services.<sup>87</sup>

57. Liz Philipson stressed that the absence of local government did not mean there was a vacuum: “services have been delivered by somebody, somehow”. In many cases this was by political parties and other interest groups, which might be a potential trigger for conflict when new structures were put in place under the new Constitution.<sup>88</sup> Mary Hobley believed that the impact of the 10-year conflict was that donors, including DFID:

[...] focused on delivery of quick impact activities through non-governmental organisations [...] which in many cases act more like private management companies, bypassing any nascent local government structures and delivering services and money directly to local people.

This had resulted in community-based organisations (CBOs) “beginning to occupy the political space left empty by the lack of elected local government”. She acknowledged that NGOs and civil society had made a significant contribution to the provision of services and

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84 Q 148

85 Q 148

86 Q 19

87 Q 39

88 Q 19

to representing the interests of particular groups, but was concerned that they had become “the engines of local development and have to an extent supplanted the role of local government”. This had undermined the democratic accountability between citizens and the state.<sup>89</sup> She also argued that CBOs “have the ability to determine who should or should not gain access to a service or resource” which risked reinforcing existing inequalities because such groups were often “highly exclusionary both of the extreme poor and socially marginalised”.<sup>90</sup>

58. The Head of DFID Nepal was clear that the possible risk of directing support to “the better educated because they write better proposals” was mitigated by DFID staff focusing on the needs that would be addressed by funding support rather than how well-written the proposal was. She said “we do encourage minority groups to put forward proposals and we have funded quite a number of those proposals.”<sup>91</sup> DFID has provided £4.3 million to civil society through its Enabling State Programme and the multi-donor Rights, Democracy and Inclusion Fund. This has been aimed particularly at supporting excluded groups (including Dalits) to increase their voice and influence and to negotiate proportional representation in state institutions and greater representation in the Constituent Assembly.<sup>92</sup>

**59. In a post-conflict state such as Nepal it is highly likely that formal delivery mechanisms, including local government systems, will have broken down. We accept that donors, including DFID, have to work with the situation that exists on the ground to ensure basic needs, including health and education are met. This may mean using community-based and other non-governmental organisations to deliver services. However, DFID must exercise caution, particularly in a highly complex country such as Nepal, that use of informal structures does not exacerbate exclusion and inequality and that services are genuinely provided to those in need rather than those most capable of lobbying for them.** We discuss the challenge of reaching the poorest of the poor in more detail in the final chapter on DFID’s future engagement in Nepal.

**60. Democratic accountability and a well-defined relationship between citizens and the state are key elements in good governance. The lack of elected local government and local service delivery mechanisms is one of the key weaknesses in Nepal. DFID has already provided some valuable support to district level authorities. It needs to build on this and expand its work with local government, both now and when the new structures have been agreed under the Constitution. We recommend that, in response to this Report, DFID provide us with more details of how this work will be taken forward in the period covered by the Country Business Plan.**

## Security and access to justice

61. Access to formal justice is limited both by geographical distance and by social and economic factors. We were told that it had been estimated that 85% of disputes were resolved by informal processes. Liz Philipson said that “there is a grave need for the formal

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89 Ev 74-75

90 Ev 75

91 Q 147

92 Q 147 and Ev 56

justice system to function” but as this was going to take years, “there is also an immediate need for there to be other systems.” She emphasised that these should be “informal justice systems [...] not illegal justice systems” and pointed to the problem of some traditional systems discriminating against women. She was clear that where informal systems worked properly, they “can form a very important part of helping to provide a little more security for ordinary people in Nepal”.<sup>93</sup> Mary Hopley told us “I am not sure the justice system is redeemable until some of the bigger elements are in place, most particularly the constitution” and believed that in the meantime, paralegal committees did provide effective help at the local level.<sup>94</sup>

62. DFID is funding initiatives aimed at improving access to justice for disadvantaged groups, including women, at community level. This work is also intended to tackle violence against women and will include a community mediation project in 10 districts and £6.5 million for women's paralegal committees across the country.<sup>95</sup> DFID told us that these committees have been found to be “a useful tool for mediation and resolving [...] issues at the local level”. It will scale up its current support from 500 paralegal committees in 23 districts to 1,300 in all 75 districts.<sup>96</sup>

## Police

63. Saferworld reiterated points made during our visit regarding political interference in the police and said that the police were poorly equipped, under-resourced and poorly paid.<sup>97</sup> Crisis Group describes the police force as “demoralised, ineffective and increasingly desperate”.<sup>98</sup> We were told that, when the police arrested criminals, local politicians often contacted them and demanded the release of the suspects. People did not trust the police and believed them to be corrupt, including expecting payment for helping a member of the public. The police were also believed to discriminate against poor people. In a recent Saferworld survey, 82% of respondents said that the police did not treat poor people fairly.<sup>99</sup>

64. The Prime Minister acknowledged in his discussions with us that there was political interference with the police, that the service the police offered was not satisfactory and that morale within the police force was low. The Government plans to establish an independent commission to deal with police recruitment and promotion, to ensure that it is based on merit. The Prime Minister said that the capability of the police to investigate crimes needed to be increased and systems strengthened so that political interference would not be possible.

65. The 2009 DFID White Paper said that the Department “will treat access to security and justice as a basic service” on a par with health and education, and that it would triple its

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93 Q 26

94 Q 79

95 Ev 57 and 59

96 Q 145

97 Q 25

98 International Crisis Group, *Nepal: Peace and Justice*, 14 January 2010, Executive Summary

99 Ev 81

direct project funding in this area.<sup>100</sup> The DFID White Paper made clear that support to Nepal would include “strengthening the core functions of the state by supporting the police to maintain law and order”.<sup>101</sup> DFID told us in written evidence that:

Discussions are underway with the Home Ministry for a major DFID funded public security support project. This would focus primarily on helping the police improve the service they provide to the public at the community level, but would also provide strategic policy and planning support centrally to the Police and Home Ministry.<sup>102</sup>

However, it is not clear that there has been any progress on development of this programme since our visit. The Country Business Plan says almost nothing about justice and very little about security, beyond the indication that DFID is in discussion with the Government and that it is awaiting “the outcome of a security sector reform commission to define need”.<sup>103</sup>

**66. We accept that it may be difficult for the Government of Nepal to define its own security and justice priorities in advance of full implementation of the peace agreement. This in turn hinders determination of DFID’s priorities in this sector. However, if the White Paper commitment to treat justice and security as a basic service is to be honoured, DFID needs to approach it with the same degree of urgency as ensuring people’s demands for health and education are met. This is particularly important given that the people of Nepal have themselves identified security as their top priority. We recommend that, in response to this Report, DFID make clear how it plans to honour its pledge on increased support for justice and security in Nepal, particularly in relation to police reform and formal justice structures. We also request more details on the services which the women’s paralegal committees are providing and the timescale for expansion of this support.**

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100 DFID, *Eliminating World Poverty: Building Our Common Future*, p 74

101 *ibid*, p 72

102 Ev 59

103 Country Business Plan, paras 37 and 48

## 5 Progress towards the Millennium Development Goals

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### Economic growth

67. Poverty reduction is one of the targets of MDG 1 and is DFID's overall objective for all its programmes. The most effective way to reduce poverty in a country is through economic growth. Growth in Nepal averaged 4% between 1995 and 2004. The estimated rate for 2008–09 was 4.7%, revised down from 7% to reflect the impact of the recession. DFID says that remittances and migration account for 25% of GDP, and are four times as important as aid.<sup>104</sup> There are obvious growth opportunities. Nepal's proximity to India and China offers access to huge markets; one of the Government's priorities is to "harness international cooperation and regional economic prosperity for national development".<sup>105</sup> There is also significant potential in hydropower (see below), where Nepal currently exploits around 1% of its capability, and in agriculture, which makes up a third of GDP. DFID says that there are also opportunities to develop tourism, which has historically been a key economic sector.<sup>106</sup>

68. The key constraints to growth which DFID has identified in Nepal are political instability and insecurity, poor infrastructure and an over-regulated labour market. Nepal is not closely integrated into the global economy and its banking sector has not been much affected by the global economic downturn but tourism, one of its key sectors, has suffered.<sup>107</sup>

69. Foreign direct investment into Nepal is very low at only \$6 million.<sup>108</sup> As we have highlighted, criminality and insecurity are deterrents to investment. Saferworld emphasised in oral evidence that the targeting of the business community for kidnappings and extortion has deterred inward investment and the return of Nepalis living abroad who might otherwise be interested in developing business opportunities in the country.<sup>109</sup>

70. DFID's Country Business Plan emphasises that economic development and jobs significantly increase the prospects for long-term stability. It points to the Government of Nepal's commitment to private sector-led growth and its ambitious job creation plans. However, DFID also stresses the importance of growth in Nepal being inclusive, given that it is the most unequal, as well as the poorest, country in Asia.<sup>110</sup> The Plan sets out the support which DFID will provide for creating an enabling environment for private sector development, including capacity building in public financial management and the financial sector and funding a Nepal Investment Climate Facility (with the World Bank) to promote

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104 Ev 53

105 DFID, *Nepal Country Business Plan 2009-12*, Oct 2009, Box 6

106 Ev 61 and Country Business Plan, para 7

107 Country Business Plan, para 7

108 *ibid*

109 Q 25

110 Country Business Plan, paras 8-10

better dialogue between the Government and the private sector, with the aim of overcoming obstacles to investment.<sup>111</sup>

71. DFID plans to help establish a Centre for Inclusive Growth in Nepal which will “provide robust analytical support to the government to increase the quality of decision making and accelerate inclusive growth.” It says that the overall aim of the centre is to “increase the quality of decision making and strengthen the government's accountability to the Nepali public on key areas of reform.” The Nepal Centre will be linked to the DFID-funded International Growth Centre to ensure that it can draw on the best international experience.<sup>112</sup>

## Employment generation

72. DFID made a commitment in the 2009 White Paper to “help fragile and post-conflict countries generate economic opportunities which will benefit 7.5 million men, women and their dependants in five priority countries over five years.” Nepal is one of the five countries selected to receive this assistance.<sup>113</sup> We said in our 2009 report on Nigeria that “in an ethnically diverse country with a long history of political instability, the existence of large numbers of young unemployed men presents risks to stability and security” and this is equally true in Nepal.<sup>114</sup> Saferworld highlights that guns can be bought for £8 and that young unemployed men are “keen to arm themselves so that they can acquire the ‘3 Ms’—mobile phones, money and motorcycles”.<sup>115</sup>

73. DFID acknowledges that “jobs are needed for post-conflict stabilisation” and to demonstrate a peace dividend.<sup>116</sup> It plans to provide skills training and job placement schemes with a national target of creating 170,000 short-term and 130,000 long-term jobs.<sup>117</sup> An estimated 50,000 jobs are planned in agriculture and tourism.<sup>118</sup>

## Agriculture and land reform

74. DFID's Country Business Plan highlights agriculture as one of the sectors to which it will be reducing its support “given strong World Bank and ADB engagement”. However, support will continue in four areas:

- proven decentralised community-based agricultural commercialisation programmes;
- private sector-led development of agricultural markets to enable Nepal's 20 million farmers, particularly women, to increase their returns from agriculture;

111 Country Business Plan, paras 48-51

112 Ev 61

113 DFID, *Eliminating World Poverty: Building our Common Future*, para 4.32. The other countries are: Afghanistan, Ethiopia, Nigeria, and Yemen.

114 Eighth Report of Session 2008-09, *DFID's Programme in Nigeria*, HC 840-I, paras 38-39

115 Ev 80

116 Country Business Plan, paras 8-9

117 *ibid*, paras 48-51

118 *Eliminating World Poverty: Building our Common Future*, p 72





































































