Changing Security Dynamics in Nepal

Edited by
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A collection of essays

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Editors' note

This collection of essays was written exclusively by Nepali experts and reflects their personal opinions on security issues in Nepal. While the Nepal Institute for Policy Studies and Saferworld has been actively involved in supporting, editing and translating this publication, they have not sought to change or influence the arguments contained within the text. It should be noted that the views expressed by the authors do not necessarily reflect the position of the Nepal Institute for Policy Studies or Saferworld.

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Introduction

Rajan Bhattarai and Rosy Cave

This is a crucial period for Nepal. The future of the country depends on building a peaceful, more democratic state that can overcome the wounds of the recent conflict and provide a safe and stable environment for economic and social development. It is widely acknowledged that a basic level of security is a prerequisite for sustainable development and this is especially true in post-conflict situations. The conflict has not only weakened the capacity of the state to maintain security; it has also exposed deep divisions in society about the role and functions of key security sector institutions such as the army and the police. Furthermore, the transition from autocracy to democracy also envisages a fundamental change in the way in which security sector institutions operate, so that they protect democracy within the state and behave democratically themselves. All of this makes reform of the security sector essential.

However, even if many people both within Nepal and beyond its borders would agree that reform is necessary, there is little consensus about what needs to be done, or how. Terms such as 'security sector reform' (SSR), 'integration', 'reintegration' and 'democratic oversight' have become frequently heard in recent months. Yet there is considerable confusion about what these terms actually mean, or how they should be interpreted in the Nepali context. Meanwhile some reforms that everyone agrees are necessary are currently stalling due to disagreements over the details of what should happen and how. This is particularly the case with the demobilisation and integration of Maoist combatants into the Nepal Army, as foreseen by the Comprehensive Peace Agreement (CPA).

This publication from the Nepal Institute for Policy Studies, supported by international non-governmental organisation Saferworld, is a timely contribution to the debate about SSR in Nepal.[1] It brings together eight papers by respected Nepali security analysts and it has three main purposes. Firstly, it explains the philosophies, principles, and activities that lie behind the concept of 'security sector reform' as it is practised internationally. Secondly, the authors translate these international theories of SSR into a national context, explaining what SSR means – or could mean – for Nepal and what implications this has for national reform priorities. Thirdly, it looks more precisely at some of the key security challenges facing Nepal and explores the potential of SSR programmes to address them.

As several of the authors note, the concept of security sector reform has become increasingly important over the last 10-15 years at the international level. Although there is no universal definition of SSR, the term has come to be associated with a distinct set of reforms that seek to make security sector institutions more democratic and grounded in the rule of law, while at the same time strengthening their capacity and improving their effectiveness.

1 This publication is part of a joint NIPS Saferworld initiative to promote an inclusive national security sector reform dialogue series.

SSR also insists that the reform of different security institutions should be linked together, emphasising that it is a security *sector* (or system) which depends on the interactions of various different agencies.

The growth of SSR both as a concept and as a body of practice has its roots in two key processes. Firstly, there has been a rapid shift in how 'security' is understood in recent years. During the Cold War, security was still thought of overwhelmingly in traditional terms of 'national security', with states seen as the main actors in the global game of chess between two superpowers. With the end of the Cold War, the old certainties of this bipolar system collapsed. On the one hand, for much of the world inter-state rivalries were no longer as threatening as they had been. On the other hand, a variety of new security problems emerged. Conflicts within states became much more frequent than conflicts between states. Organised crime spread its tentacles ever wider. Environmental insecurity was increasingly recognised as a major threat to stability in many countries. At the same time, a wave of democratisation swept several parts of the globe, one effect of which was to emphasise the position of individual citizens in the security system: looking only at the security of the state was seen to be inadequate – in a democratic state, security must be *human-centred*. This change in how security is perceived, as discussed in detail in this publication by Rajan Bhattarai, Geja Wagle and Deepak Prakash Bhatt, was central to the emergence of SSR as a concept. Policy-makers and theorists both found themselves asking the same question: if the security threats are changing, and a more human-centred approach to security is required, how should security sector institutions be reformed in order to meet these new demands on them?

Secondly, the end of the Cold War also saw international and multilateral institutions take on an increasingly activist role in response to the new security challenges that were emerging. In many cases, this involved international institutions intervening to end a conflict and/or attempting to rebuild peace and security in post-con-

flict situations; Brig Gen (rtd) Keshar Bahadur Bandari gives some examples of such interventions in his chapter of this publication. As the international community's experience of such operations grew, it became clear that a comprehensive, co-ordinated approach to reforming the security sector was needed in order to provide a more peaceful and more stable system over the long term; these experiences gradually came together into a broad concept of SSR. In other contexts, particularly in Eastern Europe, the motives were quite different. Multilateral organisations supported SSR as part of a wider process of democratisation and preparing these countries for membership of their organisations (e.g. NATO, the EU). Despite these different contexts and motivations, however, the concept of SSR is suitable in both cases as they both emphasise democratic reforms, a more efficient security system, and a comprehensive approach.

The Nepali context combines elements of both post-conflict and transitional SSR. Nepal is just starting to recover from a decade of violent conflict that left thousands dead, many more injured and caused huge displacement and insecurity across the country. At the same time, a democratic federal republic has been established and elections have been held. Reforms to the security sector will thus be crucial both for the ongoing peace process and for the development of a truly democratic state.

The first two papers in this collection place SSR firmly in the context of Nepal. The first, Rajan Bhattarai's 'The concept of human security and changing security dynamics in Nepal', starts by explaining the above-mentioned shift in the meaning of security away from state security towards 'human security'. It then identifies a similar shift in the security challenges facing Nepal. Traditionally, Nepal has had a strongly state-centric approach to security, which emphasised national security and the security of the regime, with a particular focus on Nepal's geographical location sandwiched between two great powers, China and India. However, the devastating internal conflict of the 'People's War' has shown that threats are

now much more likely to come from the inside than from external actors, especially as there has been some rapprochement between India and China in recent years. Mr Bhattarai considers some of the human security threats that are most prevalent in Nepal, such as displacement (including forced migration), environmental dangers and health problems. As he points out, the idea of human security does not replace national security, but complements it. He concludes that although national security remains important, it is essential to take a human security perspective in order to understand the main threats to security and to address them more effectively.

Following on from this, Shobhakar Budhathoki's paper on 'Mainstreaming the security sector reform agenda in Nepal' outlines the key aspects of SSR as it is practised internationally and what SSR aims to achieve. He argues that SSR has great potential to improve peace and security in Nepal, but fears that the recent history of the country has been one where opportunities to implement SSR have been missed. Despite some security-related reforms, the CPA and the Interim Constitution have not embraced SSR in any serious manner. Mr Budhathoki notes that despite much talk about SSR in political and NGO circles, SSR is still not seen as a priority and there is still little understanding that it is an essential component of the wider democratisation and rebuilding of the country. Furthermore, he identifies several major obstacles to SSR, including the politicisation of security and development, a lack of understanding of the principles of SSR among decision-makers, resistance from the security sector, and a divided civil society. Nonetheless, he believes that the key issues facing the country, including the integration of the Maoist combatants into the Nepal Army, the democratisation of the sector, and transitional justice, should all be seen through an SSR lens and that mainstreaming SSR into national policy can only be beneficial. To achieve this will require a change in mindsets across society, and particularly among the elite, which civil society organisations can encourage.

As noted above, taking a human-centred approach to security does not mean that national security is no longer important, and human and national security are in fact complementary. Geja Wagle's paper, 'National security and the role of the National Security Council', explores the historical development of Nepal's approach to national security and then reviews some of the emerging challenges to the state's security. He too comes to the conclusion that the main threats to national security are internal, not external: while the 'People's War' may have come to an end, the threat of further internal conflict may be growing as ethno-regionalism starts to take hold, as a number of organisations representing certain ethnic/caste groups within the country are claiming the right to greater autonomy and self-determination.

Nepal needs a national security strategy that is capable of responding to these threats, Geja Wagle argues, but it currently lacks effective institutions to design and implement such a strategy. A National Security Council has been in existence since the early 1990s, but it was very ineffective and never functioned properly. There is thus a need to reinvigorate the NSC and to give it clear a clear mandate to make policy relating to national security. His paper then concludes by sketching out some of the key elements that Nepal's national security policy should contain.

Of course, the Nepal Army will remain a central actor in the provision of national security. Yet the form in which it will do so remains unclear at the moment, because of the impasse about how to integrate former Maoist combatants into the national army, as envisaged by the CPA. This issue is highly politically sensitive, but it is essential to Nepal's future peace and stability that it is resolved satisfactorily, both because it is a flashpoint in itself and because the controversy over army integration is also holding up wider reforms. The chapter on 'The rehabilitation and integration of Maoist combatants as part of Nepal's security sector reform' by the distinguished Kul Chandra Gautam is therefore an extremely important contribution to the debate.

Mr Gautam underlines that the need to down-size or ‘right-size’ the Nepal Army is agreed by all sides and set in the CPA and other agreements, so the fundamental challenge is to find suitable means of implementation. The first step is to clarify and agree the roles that the Nepal Army should undertake, and then use this to establish the shape and size of the army. Mr Gautam suggests that the Nepal Army has four key tasks: maintenance of ‘traditional’ peace and security; peacekeeping; disaster relief; and certain specialised security roles such as protecting VIPs and vital installations. From this perspective, he argues that the Nepal Army should be no more than 50,000 men. He then sets out detailed, practical suggestions on how reform could be designed and implemented, grouping his proposed actions into short-, medium- and long-term actions. Taken together, these proposals form a detailed blueprint for achieving a reformed Nepal Army that is fit to address 21st century challenges.

National security does not depend only on the military, however; reforms to law enforcement agencies will be equally necessary. Deepak Prakash Bhatt’s paper, ‘Public security challenges and the effective mobilisation of law-enforcement agencies’, considers the role played by those agencies whose main function is to maintain ‘public security’. First and foremost, this means the Nepal Police, though the Armed Police Force and the National Intelligence Department also have important roles to play. Mr Bhatt traces the history of the police under former regimes. He argues that the police were politicised and manipulated by their political leaders; despite attempts to reform, including various schemes to launch community policing, it remains largely unreformed. Meanwhile, the role of the Armed Police Force – set up as an extra paramilitary force during the conflict – is now somewhat unclear. More generally, the law enforcement agencies lack transparency and accountability and their impact is often uncertain. Reform is thus necessary to professionalise them, to make them more effective, and also to make them more democratic and more representative of the people

they serve. Mr Bhatt concludes by setting out some of the reforms that he believes to be necessary.

Democratic oversight and control of security sector institutions is essential to ensure that these institutions are accountable to the public and working in their interests. Strong oversight also improves their efficiency, because the more that they are held to account, the more they will need to prove that they are operating effectively.

Several papers in this collection note the weakness of democratic control in Nepal, pointing in particular to the weakness of the Defence Ministry, which had been sidelined under the King. Dhruba Kumar's paper, 'Democratic control of security forces', considers the legacy of the previous regime in great detail, explaining how and why the King had maintained nearly all levers of control over the security sector, and in particular the Nepal Army. The result was a weak defence ministry, virtually no parliamentary control or oversight of decision-making regarding security, and a security sector that saw its role as defence of the regime rather than protection of the people. However, Mr Kumar also notes that there have recently been some positive changes, with the Nepal Army making it clear that it is adapting to the new situation and has fully accepted civilian leadership. While the path ahead remains difficult, Mr Kumar is positive about the chances for greater democratic control of the armed forces.

CD Bhatta's chapter, 'Security sector reform and the role of oversight agencies: Parliament, civil society and the media', looks at oversight from the perspective of the key institutions that are supposed to provide this oversight. He begins by looking at international experience and theory of how these agencies should work. The term 'civil society' is theoretically ambiguous, and civil society may be very different in different countries and contexts. Nonetheless, it is clear that civil society organisations have important roles to play in security sector reform. They can ensure that a wider range of voices

are heard, and provide new and different analysis of the problems facing the country. Non-governmental organisations (NGOs) can both propose necessary reforms and hold security sector institutions to account to ensure that reforms are being implemented. Co-operation between the state and civil society is therefore good both for the security sector and for the further democratisation of the state. Meanwhile, the media has a vital role as a transmitter of information in both directions between the state and the people, and also as a watchdog that can hold decision-makers to account. Lastly, parliament should in theory have considerable power to oversee and input into decision-making on budgets, laws and policies relating to security, and there are many examples of how this happens in other countries.

In practice, however, the situation is far from this ideal scenario. As Mr Bhatta notes, parliament is weak and factional and still has little control over the actions of the executive. Furthermore, there is a relatively low knowledge of security issues – and of SSR – among parliamentarians, which presents a further challenge. Similar problems can be seen in both civil society and the media, which are also factionalised. Despite the theory, many NGOs are not representative of society, since their attention is focused on the priorities of donor agencies; many are also partisan or represent specific interests. This is equally true of the media, much of which is owned by powerful individuals or interest groups. However, this somewhat gloomy picture does not mean that better oversight is unnecessary. On the contrary, it reinforces the need to support these oversight agencies to develop their capacity so that they can perform their tasks effectively and contribute to establishing the firm rule of law in Nepal.

The scale of reform needed in Nepal is vast, and it will not be possible for Nepal to achieve this without outside resources and support. Brig Gen (rtd) Keshar Bahadur Bandari's paper, 'The role of the international community in SSR in Nepal', is clear that international support will be essential if reform is to be successful. He

underlines the lack of local resources, and describes the potential consequences for many different groups – from the Communist Party of Nepal (Maoist – CPN-M) to the Nepal Army – if reform was to fail or to lose international support.

Brig Gen Bandari considers what the international community can do to help Nepal – and what it should not do. He reviews experiences of international support for SSR in other countries around the world, and concludes that international support can be effective, but only if used successfully. The most important thing is that the reform process should be locally owned. Security sector reform must be a *Nepali-led* process, designed by Nepalis for the Nepali people, and implemented as far as possible by local people. If it is not, the reforms that are designed will not be appropriate and will not achieve their aims. The role of the international community is to provide guidance, and to provide resources – but not itself to lead everything. He reviews the actions of the key international and donor agencies operating in Nepal, listing out all activities they are supporting that relate to SSR, and argues that this is significant support, but that donor support still needs to be better harmonised.

The papers collected together in this presentation make it clear not only that SSR has considerable potential to address the key security challenges that Nepal currently faces, but that it will not be possible to bring the peace process to a conclusion and establish a democratic, stable and secure state *unless* SSR is implemented. However, for SSR to be successful, it will need to be locally owned and implemented, with strong support from the international community. The first challenge, therefore, is to overcome the confusion and political battles surrounding current interpretations of 'security sector reform'. This requires much greater understanding across the political and policy-making spectrum of what SSR actually means and what reforms will be necessary. There must also be greater public awareness of SSR and consultation with civil society, since such reforms cannot succeed without public backing.

This publication is thus the first step along this road. It explains in great detail what SSR is, how it relates to Nepal, and how it can help to address current security challenges and build a more democratic state. It also maps out some of the key actions that will definitely be necessary:

- Programmes to educate decision-makers about new security threats and new ways of understanding security
- Bringing other key security issues, such as transitional justice and the future of the Nepal Army, into a wider SSR policy which handles all security issues together
- Equally, ensuring that security sector reforms are harmonised with other reforms to democratise the state and to boost economic and social development
- A thorough review of the security challenges facing the country, leading to a new national security strategy
- Reform and re-establishment of the National Security Council so that it co-ordinates the development of security policy (including the national security policy) across the security sector
- A satisfactory solution to the impasse about how to integrate Maoist combatants into the Nepal Army
- Reform of the Defence Ministry to make it the central civilian agency managing the armed forces
- Reform and professionalisation of the police and other public security actors to make them more effective and more democratic
- Strengthening the capacity of Parliament to ensure proper democratic control and oversight of the security sector

- Training and capacity building for civil society organisations so that they have the necessary experience and skills to contribute to the reform process and hold the executive and the security sector to account.

These are just a few of the detailed proposals made by the authors in this publication. It is very much hoped that in its own small way, this publication will also help to build local knowledge and ownership of SSR and thus increase the chances for successful reform and a peaceful, democratic future for Nepal.

The Concept of Human Security and Changing Security Dynamics in Nepal

Rajan Bhattarai

There is no single definition of 'security', which has always proved too complex and caused dispute about its meaning. Many agree it is 'essentially a contested concept'.[1] Such concepts generate unsolvable debate about their meaning and applications because, as Richard Little points out, they 'contain an ideological element which renders empirical evidence irrelevant as a means of resolving the dispute'.[2] Writing as early as in 1962 about the concept of security, Arnold Wolfers argued that 'it may not have any precise meaning at all'.[3] This ambiguity about the

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1 Weldon, T. D. (1953), *The Vocabulary of Politics*, Harmondsworth, Penguin
Galle, W. B. (1962), 'Essentially Contested Concept', in Max Black (ed.), *The Importance of Language*, (New Jersey, Princeton Hall).
Buzan, Barry (1982), *People State and Fear The National Security Problem in International Relations*, Wheatsheaf Book Ltd., Sussex.

2 Little, Richard (1981), 'Ideology and Change', in Barry Buzan and R.J. Barry Jones (eds.), '*Change and Study of International Relations*', London, Frances Printer.

3 Wolfer, Arnold (1962), 'National Security as an Ambiguous Symbol', *Discord and collaboration,* Baltimore, Johns Hopkins University Press.

concept of security has been felt by both academics and practitioners for a long time.

When discussing the issue of security, a list of questions are usually asked which include: security for whom? of what values? from what threats? and by what means? The answers to these questions rely on different conceptions and definitions of security. Realists and Neo-realists argue that the referent of security is the state. According to them, in a Hobbesian world the state is the primary provider of security; if the state is secure, then those who live within it are secure.[4] National independence and territorial integrity are the most important things for a nation and these two values must be protected. If these two aspects of any state are attacked with violence, it must be responded to using violence.

Because of its vagueness and lack of clear definition, there are only a few conceptual discussions about security. In the post-World War II period, writers like Hedley Bull, Bernard Brodie, Frank Trager and Frank Simoney wrote about the concept but they had difficulties arriving at a common definition. Hugh Macdonald and Robert Jervis attempted to tackle the ambiguity of the concept but again ended up by saying that security is an 'inadequate' concept.[5] Due to its complexity and the lack of an agreed definition, there has been very little literature that deals specifically with concepts of security. Most existing literature focuses on the empirical side, dealing with contemporary security problems and issues. In terms of national and international security issues, most of the literature analyses the foreign, military and economic policies of states. The concept of security is seldom addressed in terms other than the policy interests of particular actors or groups, and the discussion has a heavy military emphasis.[6]

4 Bajpai, Kanti (2002), 'Beyond Comprehensive Security: Human Security', *Comprehensive Security: Perspectives from India's Regions*, New Delhi, Delhi Policy Group.

5 Macdonald, Hugh (1981), The Place of Strategy and the Idea of Security', *Millennium*, Vol 10, No. 3, London.

6 Ibid

The whole gamut of security thinking was focused on ensuring the security of an allegedly insecure state. According to the Realists, nation states are the basic building blocks of the international system. They have unlimited sovereignty, and the primary function of a nation state is to survive and enhance its power in an anarchical and conflictual international system. Competition between states to maximize one's interests, often at the expense of others and the development of the state's capability (military and otherwise) to ensure security are the basic features of Realist thought.[7] The source of the Realist's school of thought was the Westphalian idea of the nation-state.[8] In the realist conception of security, the clear referent point is the state. Buzan defines threats to states in three senses: to the idea of the state (nationalism); to the physical base of the state (population and resources); and to the institutional expression of the state (political system).[9]

The Neo-realists see the system as dominant and argue that security anywhere is derived from the system's anarchic nature. The Neo-realists also make the state the referent point and stress the fragility and comparative infancy of third-world states. For example, Ayoob argues that 'third world security' refers to 'vulnerabilities –both internal and external – that threaten or have the potential to bring down or weaken structures, both territorial and institutional, and governing regimes'.[10] As a consequence, 'the demands of the state-making process and the societal responses to such vulnerabilities generate a tremendous load on the institutional machinery of the state, a load which the state is usually unable to handle effectively', so that 'the Third World state's lack of control over its

7 Sabur, A.K.M. Abdus (2003), Evolving a Theoretical Perspective on Human Security: The South Asian Context, in P.R. Chari and Sonika Gupta (eds.), *Human Security in South Asia: Gender, Energy, Migration and Globalisation*, New Delhi, Social Science Press.

8 The Westphalian State system, based on a separation of political and religious authority, evolved in Europe at the end of the Thirty Years War in the sixteenth century.

9 Buzan

10 Ayoob, M. (1995), *The Third World Security Predicament: State Making, Regional Conflict and the International System*, Lynne Rienner, Boulder Co.

international environment and, even more importantly, its inability to insulate its state-making process from international systemic pressure' combine to produce an 'all-pervading security problem that is basically insoluble'.[11]

However, the views of Realists and Neo-realists have been heavily criticised by writers such as Arnold Wolfers, Richard Ashley, Ken Booth and Leonard Beaton, who argue that it is an excessively narrow, hollow and militarised interpretation of security.[12] Criticising the Realists' approach to the concept of security, Ashley says that it is a reductionist, actor-oriented, narrowly focused approach to security analysis, and urges instead a more holistic, linkage-oriented, systemic view. Ashley argues that technical rationality is itself a principal factor exacerbating the security dilemma. Likewise, Ken Booth argues that the state-bound, ethnocentric confines within which strategic studies pursues its analysis is not only seriously deficient in relation to the character of the problem, but also dangerous in that the resultant skewed diagnosis, as applied through state policy, makes the problem worse. Despite their wholly different starting points, both Ashley and Booth come to similar conclusions. In Booth's words: 'those strategists who do not attempt to be part of the solution will undoubtedly become an increasingly important part of the problem.'[13] Observing the concept of security, L. B. Krause and Joseph Nye pointed out that 'neither economists nor political scientists have paid enough attention to the complexity of the concept of security, including its instrumental role in enhancement of other values'.[14] There has been dissatisfaction with

11 Ibid

12 Booth, Ken (1991), 'Security and Emancipation', *Review of International Studies*, Vol. 17, No. 4, October.
Ashley, R.K. (1980), *The Political economy of War and Peace: the Sino-Soviet-American Triangle and the Modern Security Problematique*, London, Frances Pinter.

13 Ibid

14 Krause, L.B. and J.S. Nye , 'Reflections on the Economics and Politics of International Economic Organisations', in C.F. Bergsten and L.B. Krause (eds.), *World Politics and International Economics*, , Brookings Institution, Washington DC (1975).

the traditional ideas about security at least since the end of the World War in 1945, and the analysis of its causes that followed. Security is about protecting people as individuals and in groups, and this protection should be not only against war and other forms of unstructured violence but also against hunger, disease, terrorism and drugs. Even in the 1960s, security came to be associated with development, which could have a better effect on one's feeling of security than simply continuing to acquire arms.

Elaborating the underdevelopment of concepts of security in his book ‘People, States and Fear: The National Security Problem in International Relations’ in 1982, Barry Buzan argued that there are basically five reasons for the conceptual underdevelopment of security, and that because of these reasons it has remained a relatively unexplored idea despite being a core concept. The first reason is because the idea has proved too complex to attract analysts, and therefore has been neglected in favour of more tractable concepts. Second is because of the overlap between security and the concept of power. The realist model sees international politics as a struggle for power, and since it was the dominant ideology in the post-war period, it had the effect of confining the definition of security concepts to a similar struggle for power. The third reason for its underdevelopment, according to Buzan, is because of revolt against the Realists by the Idealists. The Idealists had to deal with power, because it represented the dominant orthodoxy. The fourth reason for its underdevelopment can be found in the nature of strategic studies, which as a sub-field produced a large volume of empirical literature on problems of military policy. Strategic studies still exists largely within the confines of the classical Realists’ model of the struggle for power. The fifth and most important reason is the undefined notion of ‘national security’, which offers scope for power-maximising strategies to political and military elites, because of the considerable leverage over domestic affairs which can be obtained by invoking the issue of national security.

Likewise, the Radical theorists, similar to critical theorists, contest realist epistemology from a left position. Teschke argues that the Realists' definition is deliberately restricting, since it focuses only on the state and excludes other actors.[15] Radicals argue that Realists see power as an aggregate of territorial size, population, valued natural resources, political cohesion, national morale, economic strength and productivity and above all military strength. The key aim of state power is the enhancement of the security of one's state. Similarly, they criticise the present form of globalisation as imperialist-led and serving only a few elites rather than wider sections of the population. Unlike the human security approach, which is individual-centric, Radicals use a class-based approach and argue that the gap between the 'haves' and the 'have nots' is the main obstacle to development. Human security accepts people-centred views but it focuses on enhancing people-centred development and criticises the present under-development. The Post-modernists also criticise the Realists' state-centric approach and argue that national sovereignty is unravelling and that states are proving less and less capable of performing their traditional tasks. Global factors impinge on government decisions and undermine their capacity to control either external or domestic policies.[16]

Feminists, critical theorists, and Post-modernists argue that in the existing order, the dominant groups in societies impose particular interpretations of 'security'. These have the effect of promoting the interests of some sections of society at the expense of others, underpinning a fundamentally unjust political and economic order. They further argue that non-traditional security is not in opposition to earlier trends of redefining security, but an outgrowth of these trends. Indeed, many early attempts to broaden the definition of 'security' used language very similar to that found in today's discussions on 'human security'.

15 Teschke, B. The Myth of 1648: Class, Geopolitics and the Making of Modern International Relations, Vorso, London (2003)
16 Booth op. cit

The evolving concept of human security

The concept of 'human security' evolved at a time when the world was experiencing a marked shift from a bipolar to a unipolar system at the end of the Cold War. The end of the Cold War not only resulted in many non-traditional security issues becoming a focus in international relations, it also set the stage for a comprehensive re-evaluation of the world's concept of security. This is reflected in changing threat perceptions and also changing attitudes to the nature of security. The end of the Cold War clearly played a large part in the growing prominence of 'non-traditional' or 'unconventional' security issues, as they are often also termed.[17] As old threats have receded and new ones have emerged, traditional thinking about the meaning of security has come under intense scrutiny and reappraisal.[18]

The concept of non-traditional security threats became more prominent after the publication of the Human Development Report in 1994, an annual publication of the United Nations Development Programme (UNDP). According to this report, the concept of security 'has for too long been interpreted narrowly: as security of the

17 Bedeski, R.E. (1992) "Unconventional Security Threats: An Overview", North Pacific Cooperative Security Dialogue Working Paper No 11, North York, Ontario: Research Programme, York University.
Allison, G. and Treverton (1992) Rethinking America's Security: Beyond Cold War to new World Order, New York, W.W. Nortion and Company.
Fischer, D. (1993) *Nonmilitary Aspect of Security: A Systems Approach*, Brookfield, Dartford Publishing.
Utagawa, R. (1995) 'Unconventional Security Threats: An Economist's View', In Seizaburo Sato and Trevor Taylor (eds.), *Future Sources of Global Conflict*, Vol. 4 of *Security Challenges for Japan and Europe*, London, Royal Institute of International Affairs.

18 Mathew, J. (1989) 'Redefining Security', *Foreign Affairs*, Vol. 68, No 2.
Sorensen, T (1990), 'Rethinking National Security', Foreign Affairs, Vol. 69, No3.
Buzan, Barry (1991) *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Boulder Colo: Lynne Rienner.
Booth, Ken and Vale, P. (1991) "Security in Southern Africa: After Apartheid, Beyond Realism', *International Affairs*, Vol. 71, No. 2.
Klare, M.T. (1996) 'Redefining Security: The New Global Schisms', *Current History*, Vol 95, No 604.

territory from external aggression, or as protection of national interest in foreign policy or as global security from the threat of nuclear holocaust…. Forgotten were the legitimate concerns of ordinary people who sought security in their lives'.[19] This broader idea of security has gradually drawn a large number of scholars and institutions across the world to examine the empirical and operational validity of 'security' concepts in a range of issues including human security, energy security, environment security and food security.

Many territorially 'secured' states achieved their national security at the expense of the security of the individual or people in terms of their political, social, environmental, economic, and cultural rights and choices. There are many countries around the world where people are still deprived of their basic rights and forced to compromise their freedom for the sake of 'national interests' and sovereignty. Today, almost all countries across the world are faced with one or another form of threats resulting from migratory movements, environmental degradation, attacks from the terror groups, the outbreak of contagious diseases, ethnic, racial or religious conflicts, abject poverty, inequality etc. These threats are different from the ones generated by inter-state rivalries and conflicts. This has resulted in the suffering of hundreds of thousands of people who have been deprived from enjoying their fundamental right to live. Protecting citizens' lives has become a new feature of the national and international security environment and has brought new challenges to nation states. According to one report, 'over the last century, thirty million people were killed in international wars, seven million in civil wars and 170 million people were killed by their own governments'.[20]

The end of the Cold War has on the one hand significantly decreased the external threats to the nation states, but on the other hand,

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19 United Nations Development Program, *Human Development Report*, (New York: Oxford University Printing Press), 1994, p. 22.

20 Thakur, Ramesh, "Security in the New Millennia", *RCSS Newsletter, Col. 6, No. 4*, (Colombo, Regional Centre for Strategic Studies), 2000.

the world has been confronted with a series of intra-state violent conflicts of various origins and large-scale atrocities. 'It suffices to mention that of the 103 wars since the end of Cold War, ninety-seven have been fought within rather than between states.'[21] The geneses of these conflicts were varied, but the effects in the society have been enormous. Such violence not only poses challenges to the particular society or state in which it occurs, but also the whole region. The hallmark of these issues is that they are in most cases trans-national or trans-regional and are detrimental to the stability and peace of the region. Non-traditional threats to security have the potential to destabilise states and whole regions.[22]

Though the idea of non-traditional threats to security has been criticised for being too vague, lacking precision and having unending definitions,[23] there are mainly two basic aspects, 'freedom from want' and 'freedom from fear', that constitute its core. UNDP has had more emphasis on 'freedom from want', reflecting developing countries' perspectives. Canada, by contrast, emphasises freedom from fear and the protection of civilians in times of war. Other countries, such as Japan, which has also recognised the significance of the security paradigm shift since the last decade, consider freedom from want to be no less critical than freedom from fear. Similarly, countries like China, South Korea and members of the Association of South East Asian Nations are also faced with growing threats from non-traditional security issues. They have recognised the importance of such threats and have initiated a number of programmes to address such threats at the national and regional levels.

The South Asian region has been a major theatre of non-traditional security threats. The region has some of the poorest people in the

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21 Preston, David and Don Hubert, "Towards Freedom from Fear: An Agenda for Human Security", *BIISS Journal, Vol. 21, No. 3*, (Dhaka), 2000.

22 Dupont, Alan, *East Asia Imperilled: Trans-national Challenges to Security*, (Cambridge, Cambridge University Press), 2001.

23 Paris, Ronald, "Human Security: Paradigm Shift or Hot Air?" *International Security*, Vol. 26, No. 2, (Fall 2001), pp 87-102

world, plagued by illiteracy, ethnic discord and oppressive social orders. Economic underdevelopment and feeble political structures have added to the level of instability. The region is facing growing religious fundamentalism, ethnic conflicts, environmental degradation, refugee crises, social crimes and terrorism. However, the minds of the ruling elites in the region are still dominated by state-centric approaches to security.

Writing on human security issue in the South Asian context, A.K.M. Abdus Sabur argued that non-traditional threats to security in South Asia are among the worst in the world and are characterised by a high degree of both want and fear.[24] The region experiences the persistent threat of violent intra-state conflicts, non-democratic rule, the violation of democratic and human rights, bad governance, health hazards, over-population, environmental degradation, constant risk of natural disasters, corruption, crime, terrorism, gender violence, and trafficking in women and children. The intractable conflicts between India and Pakistan have led to a continuous focus on military security, which is inapplicable when it comes to addressing non-traditional security threats perspectives. Commenting on the nuclearisation of South Asia, Proful Bidwai states that 'embracing the doctrine of nuclear deterrence means seeking security through insecurity, terror, and threat to cause havoc on a mass scale with pitiless disregard for life.[25] P.R. Chari states that South Asian politics is in a state of violent flux.[26] The weakening of secular ideology has strengthened religion-based parties, leading to a struggle between liberal and revivalist sentiments. M. P. Lama holds the view that the region's overuse of resources invariably leads to questions relating to the sustainability of both livelihoods and the ecological balance. Among the types

24 Sabur, Abdul A.K.M., (2003: 47)

25 Bidwai, Praful, "Pokhran in Retrospect: The High Costs of Nuclearism", *The Times of India* 13 May 2000.

26 Chari, P. R., "Evolving a theoretical perspective on Human Security", Report of the IPCS Seminar held on 30 June 2000, Compiled by Suba Chandran & Sonika Gupta, Article No.394, New Delhi, Institute for Peace and Conflict Studies, 30 July 2000, www.ipcs.org.

of migratory phenomena that characterise South Asia, the most notable has been the one triggered by poverty-related displacement, which is often gradual and sometimes visible if triggered by 'environmental dislocation'.[27] The bigger challenge for the region is the static mindset of policy-making elites, who continuously put military aspects of security which serve their better interests ahead of responding to non-traditional security issues.

Nepal's security

Located right between the two largest countries in Asia – India and China – and being a landlocked state, national security issues have always been a major concern for Nepal, ever since its unification by King Prithvi Narayan Shah in 1769. Nepal's foreign and security policy evolved against the backdrop of the concurrent but separate threats posed by the British East India Company to the South and by the steadily expanding Chinese presence in Tibet to the North. Even after the emergence of India as an independent country and China as a People's Republic, Nepal's security threats perception has not altered significantly over the past seven decades. Though there are various factors, including its location, size, and public psyche, which help to explain Nepal's maintenance of traditional analysis of the threats to the country, the single most important factor determining its threats perception was the conflictual relationship between India and China after the 1962 war. This was made more complex by the India and China policies which competed to expand their area of influence in the region.

Being right in the middle of the two largest Asian countries and having an open border with India has had enormous impact on Nepal's security and strategic perceptions ever since its birth. The great strategist of that time, King Prithivi Narayan Shah, described

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27 Lama, M. P., Poverty, "Migration and Conflict: Challenges to Human Security in South Asia", *Human Security in South Asia: Energy, Gender, Migration and Globalisation*, P.R. Chari and Sonika Gupta (ed.), (New, Delhi, Social Science Press), 2003.

Nepal's geo-strategic position as a 'yam between two boulders', showing that he was very much aware of Nepal's geographical location, its size and its two immediate neighbours. He further elaborated that Nepal should keep good neighbourly relations with both of its neighbours and should not ally with one against the other. Prithivi Narayan Shah's analysis has been reflected by many writers both in Nepal and in India, all of whom have said that if anything dictates Nepal's security policy, it is its geographical location.

Nepal’s policy of equidistance and its attempts to isolate itself from increasing democratic influences from India triggered a range of activities that brought an element of competition into the Chinese and Indian presence in Nepal. This could be witnessed in foreign aid, where these countries built a number of infrastructural projects of high strategic significance. For instance, India’s building of the Tribhuwan Highway to link the plains of India with Kathmandu and China’s building of the Kodari Highway linking the border region of Tibet with Kathmandu injected new security dynamics into Nepal. Similar actions could be seen on the trade and the investment front. India extended a liberal trade exchange that provided unilateral access for Nepalese products to Indian markets. Meanwhile, China provided adequate space for the widening of traditional economic exchanges in border areas with Nepal.

The British colonial rulers of India sought to keep Nepal within the Indian sphere of influence and regarded the Himalaya as a second frontier under the widely practiced ‘Himalayan frontier policy’. Due to its strategic importance for defence against China, the British did everything they could to transform Nepal into a friendly buffer state between China and the British possessions in India. After the end of British rule in India, the post-colonial government of India also took note of Nepal’s strategic importance and quickly signed a Treaty of Peace and Friendship in 1950 covering all aspects of Nepal-India relations, including defence and security related issues, followed by a letter of exchange. It is interesting that

the post-independence Indian government signed such a comprehensive Treaty with the oligarchic Rana regime at a time when this regime was facing mounting pressure from pro-democratic forces and was itself about to collapse. Likewise, Nepal and India concluded an Arms Assistance Agreement in 1965, under which India undertook to supply arms, ammunition, and equipment for the entire Nepalese Army. China was also concerned about the security and stability of Nepal and took several measures to extend its own sphere of influence. Diplomatic relations between the two countries was established in 1955, and five years later, in April 1960, a bilateral treaty known as a Treaty of Peace and Friendship was signed during the visit to China of the first democratically elected Prime Minister, B. P. Koirala. It was this treaty which resolved the two countries' long-standing border disputes, including the question of Mount Everest.

Following the overthrow of the first elected government and the imposition of authoritarian rule in 1960, King Mahendra smartly used Nepal's geopolitical vulnerability to consolidate his domestic power. In particular, the border war between India and China in 1962 and the subsequent deterioration of their bilateral relations provided further ground for him to assert the issue of national security and to quell the popular uprising against his undemocratic rule. The regime projected the King and the whole institution of the monarchy as a symbol of national unity, and any threat to the institution would ultimately mean a threat to the security of the nation. This does not mean that Nepal faced no threats to its security in modern times. In the early 1970s Nepal faced two serious concerns for its national security. The first was when a US-backed armed group of Tibetan refugees known as the 'Khampa rebels' launched an armed insurgency on the northern border of Nepal in 1971. Another event that raised serious security concerns was when India forcibly annexed the independent Himalayan country of Sikkim in 1974, which had also been a neighbouring country to Nepal. Both of these events raised concern for the national security

environment, though it was not a direct attack on the country's territorial integrity and national sovereignty.

Nepal has not faced any direct attacks from external powers, including from its immediate neighbours, India and China. However, the country has become more vulnerable and its sustainability has been questioned in recent years. This is because of its failure to manage its internal order and its inability to promote much-needed social, cultural and economic development. Its failure to provide good governance, protect citizens' basic rights and fulfil their basic needs has led the country towards chaos and instability. The people's increasing aspirations and successive governments' failure to meet the general masses' expectations has precipitated violent conflicts, internal displacement, and an environmental crisis. The experience of many other countries indicates that ethnicity, language and religion could represent other sources of insecurity. Nepal is fast falling victim to this problem, and unless appropriate interventions are made to assure adequate space to all disadvantaged communities, this insecurity could grow. Therefore, the security threat perception of Nepal has been changing due to growing vulnerability and internal disorder rather than insecurity from external factors.

Nepal's emerging security issues

In the past two decades, the security perception of Nepal has shown some significant deviation from typical traditional military-based threats to more diverse threats emanating from a range of non-traditional, non-military components. These emerging changes in the perception of the nature and trends of threats could be largely attributed to both internal dynamics and the external atmosphere. Internally, Nepal has seen major changes to its political structures in the last two decades. The democratic transition in the 1990s generated enormous political consciousness and social awareness among the Nepalese people. Freedom of speech, the right to organise and the flourishing of the media have all played a significant

role in empowering the general public. People have become more attentive to their rights and to issues that relate to their day-to-day lives. Problems like political instability, the failure to maintain law and order, social discrimination, disparities in development, the lacks of inclusiveness, the failure of institutional delivery and the inefficient governing system have generated enormous interest. The failure of successive governments to address these problems in past decades played an instrumental role in allowing hard left forces like the Maoists and terrorist and criminal groups to consolidate and expand their strength and activities. This caused armed conflict over the last ten years, which led the country to a state of chaos, instability and violence.

During the Maoist insurgency, more than 13,000 people lost their lives, tens of thousands were injured and an even larger number of people were displaced from their homes, precipitating an internal refugee crisis. People's desire for peace and democracy resulted in a massive uprising in April 2006 which forced the King to surrender power to the political parties and to reinstate the parliament that had been dissolved. This also led to the holding of an election to the Constituent Assembly in April 2008 and the declaration of the Federal Democratic Republic of Nepal. The government formed after the CA election is under tremendous pressure to free its people from the clutches of violence and to secure their basic needs, such as sufficient food, shelter, education, health care, human rights, political stability and security.

The ten years of conflict also triggered many other social and environmental crises in Nepal. For example, due to the escalation of violence in rural areas, forced migration has been taking place which has precipitated a large number of internal refugees, particularly in the Mid and Far West hill districts and also in the mid-Tarai regions. Similarly, out-country migration has become a common phenomenon as hundreds of thousands of young people have left the country to seek jobs. There are also about 110,000 forcibly migrated Bhutanese refugees who have been languishing in various

camps in two Eastern districts (Morang and Jhapa) for almost two decades, and there are about 25,000 Tibetan refugees taking shelter in different parts of Nepal. The plight of these groups of refugees and of Nepal's own internally displaced persons is linked with a variety of social problems, such as deteriorating law and order due to their increasing involvement in criminal activities and increasing conflict between the local community and refugees over access to resources and employment opportunities.

Another major concern related to migration and security is the increase in the incidence of HIV/AIDS, since large numbers of the temporary migrant population working in India and also internal migrant groups, particularly in roadside areas, have become infected. This is associated with their high mobility and migration, but also with the trafficking of women and children, commercial sex workers, intravenous drug users, and the high rate of STI. High mobility, (both internal and external) migration, and poverty are overwhelmingly considered to be the root causes of the high incidence of HIV/AIDS both in Nepal and elsewhere.

Forced migration has become another major security issue for Nepal in recent years. The violent conflict over the past ten years and the existence of many armed groups in the Tarai region has induced internal displacement. It is estimated by various organisations working in this field, such as the Norwegian Refugee Council, the United Nations High Commission for Refugee (UNHCR) and the Informal Service Sector (INSEC), that up to 200,000 people have been internally displaced during the ten years of the Maoists' 'People's War'. Displacement was caused by both sides, i.e. both by the Maoists and by the Army's excessive use of force and the abuses it committed. Due to the increasing insecurity and threat posed by these armed groups, people fled their own native villages and sought refuge either in their district headquarters or in major cities like Kathmandu, Nepalgunj, Pokhara and Biratnagar. Though no exact figure is available, it is estimated that a large number of people, particularly from the Mid West and Far West regions also

fled to India, which has for a long time been a popular migration destination for Nepalese people. They go to cities like Mumbai, Delhi, and Hyderabad and work in very unsafe and unhealthy environments, and then return with number of problems, including HIV/AIDS. The security and care of people infected with HIV/AIDS is another issue that the state now needs to focus on, particularly in Far Western Districts such as Achham, Bajhang, Kailali, Bajura, Baitadi, etc.

The use of terror tactics by extremist groups to assert political or social agendas has become common in Nepal. A number of small armed groups who split from the Maoists are involved in arbitrary killing, abduction, intimidation and harassment of common people in the mid- and East Tarai districts of Nepal. The increase in such activities poses a serious challenge to law and order in those districts and the surroundings areas. Bhutanese refugees based in Nepal have also recently formed a Communist Party of Bhutan (Maoists) and have decided to launch armed rebellion against the King's regime inside Bhutan. It has been reported that the Bhutanese Maoists are establishing links with the Maoists and other extremist groups in India. Their involvement in violent activities would have a serious impact in Nepal's border regions of Nepal and in India too.

Although the 'People's War' was ended following the signing of the Comprehensive Peace Agreement in November 2006 between the Government of Nepal and the CPN (Maoists), the issue of the return of internally displaced people (IDPs) has not been resolved. This is due to the present coalition government's lack of comprehensive policies and programmes, the continued threat of extortion and harassment, and the refusal to return property confiscated by the Maoists. Large numbers of displaced people are still living in terrible conditions in various parts of the country. The safe return of these IDPs and their resettling in their native places is another challenge for the country. The IDP issue has seriously disturbed the security environment in big cities and in various district head-

quarters. If the prevailing frustration and disappointment among these IDPs persists, there is a danger that they will take extreme steps such as joining extremist groups.

Another serious threat for Nepal today is environmental insecurity. The fast degradation of shared rivers, the frequent bursting of glacier lakes and increasing landslides and floods due to torrential rainfalls in the mid-mountains are just some of the issues facing Nepal today on the environmental front. Furthermore, increasing urbanisation and the growth of unplanned city centres have created serious threats to the health of urban people. A report published by the Asian Development Bank stated that the capital city Kathmandu has become the most polluted city in Asia in recent years.[28]

Meanwhile, the changing external atmosphere around Nepal, especially the increasing rapprochement between India and China, has also changed the nature and trends of threat perception in Nepal. Over the last two decades, bilateral relations between India and China have improved remarkably. China's decision to adopt an open door policy in the early 1980s and India's economic liberalisation policy in 1991 have been a marked shift in their traditional foreign policy behaviour. Both the Indian and Chinese leaderships realised that the old, ideology-led foreign policy no longer works due to the growing processes of globalisation and inter-dependence. In line with their changing relations at the bilateral level, India and China have also started to co-operate with each other in managing their relations with neighbouring countries, including Nepal.

Both countries are trying to find new ways of managing relations in the changing context. Over the last decade, both India and China have adopted several policies in line with the changing environment. The introduction of the 'Gujral Doctrine' in the mid-1990s

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28 See ADB's report presented in a Regional Conference on Environment in Jakarta, December 2006, reported by the *Kantipur Daily,* Kathmandu, December 8, 2006.

was one step towards changing old policies towards neighbouring countries. Likewise, India's willingness to participate in private-level relations with Nepal rather than the typical government-to-government level of the past also indicates that it now encourages relations with Nepal based on a multiplicity of agencies and actors. Similarly, China has revitalised its neighbourhood policy over the last decades by introducing a 'Comprehensive Periphery Policy' which means having an integrated regional policy with neighbouring countries. The Chinese Government has also been cautiously expanding its political influence in the subcontinent, without harming the growing amity with India.

India and China have expressed serious concern about the recent escalation of violence and the breakdown of law and order in Nepal. They fear that the growing conflict in Nepal would have spill-over impacts on bordering areas in both countries. The hijacking of an Indian Airlines New Delhi-bound flight from Kathmandu by Islamic terrorists in 1999 raised the serious possibility that Nepali land could be used against India's interests. The growing nexus between different armed groups in Nepal and India, human trafficking, and uncontrolled migratory movements are issues that India and Nepal have identified as new threats to the security and interests of both countries. New Delhi has repeatedly asked Nepal to control the activities of groups allegedly supported by Pakistani intelligence acting against India from Nepali land. Similarly, China's concern today is that insecurity and instability in Nepal might strengthen anti-China elements in the Tibet Autonomous Area, which is itself regarded as trouble spot for China.

With these changes to the situation at all levels – internal, regional and international – Nepal has found that many of its traditional security threats have been diluted but that many new, non-traditional security threats have become more pronounced. The changing nature and trends of threats perception in Nepal can be seen in some recently published studies in Nepal. Writing about the changing threat perception in Nepal, Indrajit Rai states that 'when

we talk about Nepal, perception of threat in mind, Nepal has least possibilities of direct external arms attack but there are maximum chances of threat for the people of Nepal. In other words, Nepal is not secure from internal threats – insurgency, poverty, education and health problems'.[29] He further states that the people of Nepal are not secure at all. Lokraj Baral emphasises a people-centric approach in both the theory and practice of security. He states that 'the recent pro-democracy movement in Nepal has established the fact that the military along cannot protect the rulers if the people fail to identify their interest with that of the state run by anti-people rulers. The comprehensive security idea has emerged strongly as even democracy without human empowerment and social justice cannot create a congenial atmosphere for security of the sate and people'.[30] The conventional tendency of states to secure their position under the banner of so-called 'nationalism' has also been increasingly challenged in the changing security environment.

Baral states that 'in Nepal, for instance, King Gyanendra's coup of 1 February 2005, which drove the King to take back all powers as well as to depart from the established constitutional process, is being justified in the name of safeguarding the country and the people against 'terrorism' perpetrated by the Communist Party of Nepal (Maoists). But less than one and half year, his regime had become much more vulnerable to domestic conditions and international pressures and was overthrown by the people's popular uprising'. However, electoral democracy alone cannot ensure all aspects of security or the comprehensive security of the people and the nation if it fails to deliver people's basic needs such as food, shelter, clothes, health care facilities, improved environmental conditions, and freedom from fear. Lama argues that 'the skewed distribution of both development benefits and the development of peoples' capabilities explain to a large extent the ongoing socio-

29 Rai, Indrajit, "Human Security: Poverty Alleviation, Education and Health Services (A Nepali Perspective)", Lokaraj Baral (ed.), Non-Traditional Security, State, Society, and Democracy in South Asia, (New Delhi, Adroit Publishers), 2006.

30 Baral, Lokraj (ed.), *Non-Traditional Security State, Society and Democracy in South Asia*, (New Delhi, Adroit Publishers), 2006.

economic dissidence of the 'Maobadi' and the caste-ethnic group resurgence in different regions of Nepal'.[31]

A Report on Poverty[32] stated that Nepal now stands at the crossroads amidst a morass of crisis: an economic crisis, a political crisis, a governance crisis, a security crisis, and above all a poverty crisis. R. Bhattarai points out 'in the changing concept of security and strategic considerations, Nepal has been facing a tremendous pressure in freeing its people from the clutches of violence and security for them basic needs such as sufficient food, shelters, education, health care and security. The state's failure to initiate socio-economic development has been one of the major causes of conflict, which has led the current state of chaos, instability and violence'.[33] Jagannath Adhikari points out that changes in national economic conditions such as the decline in agricultural production and food security, and the existence of various traditional barriers against women obtaining domestic non-farm work, have been the main causes for the increased out-migration of Nepali women.[34]

Restoring peace and maintaining political stability following the violence of the last decade is a major concern for the people of Nepal today. Leading political analysts have concluded that the conflict has evolved into the most serious internal crisis Nepal has faced since its founding in the mid-eighteenth century.[35] Nepal's internal socio-economic, political, ethnic and environmental issues need 'securitisation' as they increasingly appear to be existen-

31 Lama, M. P., "Poverty, Migration and Conflict: Challenges to Human Security in South Asia", *Human Security in South Asia: Energy, Gender, Migration and Globalisation*, P.R. Chari and Sonika Gupta (ed.), (New Delhi, Social Science Press), 2003, p. 136.

32 Poverty in South Asia: Civil Society Perspectives, (Kathmandu, South Asia Alliance for Poverty Eradication), 2003.

33 Bhattarai, R., *Geopolitics of Nepal and International Responses to Conflict Transformation*, (Kathmandu, Friends for Peace), 2005, p. 28.

34 Adhikari, Jagannath, "Poverty, Globalisation and Gendered Labour Migration in Nepal", *Poverty Gender and Migration*, Sadhna Arya and Anupamy Roy (ed.), (New Delhi, SAGE Publication), 2006, p. 103.

35 Thapa, Deepak, "The Maobadi of Nepal" *In State of Nepal*, Kanak Mani Dixit, (ed.), (Kathmandu, Shastry Himal Books), 2002.

tial threats to society and the country itself; a response by the state is therefore required.

Improving bilateral relations between Nepal's two giant neighbours India and China has contributed to changing the nature and trends of the threat perception in Nepal. Lama writes: 'What is striking in all this is the seemingly irreversible nature of the growing economic engagement between China and South Asia. These economic ties cannot be withdrawn with the flick of a switch when tensions flare'.[36] Olav F. Knudsen argues that the policies of great powers are seen to determine the fate of small states. In his article, 'Analysing Small-State Security: The Role of External Factors', Knudsen argues that 'in times of high tension between the great powers, even small problems loom large. The actions of other governments may more easily provoke reactions under high tensions'.[37] In the same article he further elaborates that 'in periods of low tension, there is no apparent security problem for the small state, a perception which grows stronger as a low-tension period endures'.[38] Both India and China's concern in Nepal is related with security and stability: both countries are emerging powers in the region and they need a peaceful environment on their borders and in neighbouring areas to grow and expand their strength and influence.

Bhattarai argues that 'India and China's paramount concern in Nepal today is related to security and stability. Any disturbances in Nepal would have spill over impacts on both countries.[39] The changing internal dynamics and the external nature and trends of threats perception in Nepal need to be analysed in a broader framework of non-traditional security discourse. This will help to

36 Lama, M.P., "The Forward Policy and South Asia", *Himal Southasia*, (Kathmandu, September, 2006).
37 Knudsen, Olav, F., "Analysing Small-State Security: The Role of External Factors", *Small States and the Security Challenge in the New Europe*, Werner Bauwens, Armand Clesse (ed.), (London, Brassey's Ltd.), 1996, pp 11.
38 Ibid
39 Bhattarai, *R., Geopolitics of Nepal and International Response to Conflict Transformation*, 2005, pp. 19

identify how humanitarian issues have constructed 'securitisation' processes while military and state interests, including external threats, have increasingly been 'desecuritised' or less prioritised in the current Nepali context.

Conclusion

Security is very important not only for a state to survive and develop but for all human beings to live and grow. However, there is no agreement among academics and analysts as to how to define the concept of security. Generally, security is defined as the freedom of threats, but there is no common understanding of what these threats are – threats could be different from person to person and region to region. It can therefore be said that the meaning of security is in fact in the eye of the beholder.

This article has looked at security in the context of various theoretical frameworks, while arguing that the concept of security has always been changing in response to changing contexts. Threat perceptions have never been static. Perceptions of security and insecurity arise for each state and individual according to the existing context and developments in surrounding environments.

As both the internal and external context of Nepal has gone through significant changes since the Nepali state was founded in the mid-18th century, perceptions of threats to the existence and sustainability of this state have also changed. From the time of its unification until late last century, the dominant security perceptions in Nepal have been military-centric. This traditional security perception has the central view that security is to protect the territory and that as long as the geographical territory is secure, everything is secure within the boundary. In the Nepali context, such a national security concept was defined as early as the unification period by its founding father, King Prithivi Narayan Shaha. This way of understanding security has been the central focus of rul-

ing elites and is still regarded as relevant, also because of Nepal's geographical location.

However, although the issue of national security is still important, its attainment is increasingly linked to human security. The idea that as long as the territorial border is secure, everything within it is secure, is now becoming an anachronism. In today's world, the security of the border is not sufficient to guarantee the security and welfare of the people. The Human Development Report for South Asia says that national security cannot be achieved in a situation where people starve and arms accumulate, where social expenditure falls and military expenditure rises. South Asia today is the most militarised region of the world, but that does not make the region any more secure.

Such a situation has precipitated various security dynamics that have emerged in today's Nepal. Due to growing conflict and a virtual non-existence of employment opportunity, a large number of people, particularly from hill regions, have been migrating from rural to urban and rural to rural areas, particularly in the Tarai. At the same time, significant numbers of young Nepali workers have been leaving the country and going to India, the Gulf countries, Malaysia and South Korea to secure employment. Most people who leave the country face numerous problems. The securitisation of migrant workers and their rights has become a formidable challenge for Nepal.

The current crisis in Nepal has eroded social capital and community relationships, undermining indigenous forms of social networks. The state has not been able to reduce poverty, control the exploitation of disadvantaged communities by those in power, prevent environmental degradation or generate employment opportunities for large numbers of people. Nepal's vulnerabilities and its weakening position today did not come from external factors, even if to a certain degree external roles cannot be denied. However, these research findings show that the threats that Nepal faces

today are more internally grown than caused by external factors. The failure of our internal political, social and economic order are essentially the root causes for many pressing security problems: the loss of 14,000 lives; tens of thousands of injuries; hundreds of thousands homeless; the destruction of billions of rupees' worth of infrastructure; hundreds of thousands of Nepali youths leaving the country each year to seek jobs in alien lands, and their growing insecurity and vulnerability of infection from dangerous diseases; the destruction of forests and the rapid disappearance of endangered species; the scarcity of basic resources such as drinkable water, electricity, sanitation; growing ethnic and social conflict; and the prevailing situation of abject poverty.

For the first time in its history, the Army was mobilised to quell domestic rebels. Joint security forces were formed and mobilised against these domestic threats. With the intensification of conflict, the number of people serving in the Nepal Army and the Armed Police Force increased significantly, and the defence budget also increased alarmingly during that period. Even after the signing of CPA with the CPN (Maoist), the completion of the CA election and the formation of a new government under the leadership of the former rebel leader Mr. Pushpa Kamal Dahal, maintaining law and order and providing a secure environment is still recognised as the biggest challenge to this newly formed coalition government. The deteriorating security environment and the increase in violent activities are some of the main threats to the state today. More than this, however, it is necessary to identify the root causes of these mounting problems, which are not confined within the parameters of 'security' – they are related to the prevailing poverty, bad governance, a discriminative social system, the mounting gap between the 'haves' and the 'have nots', the deteriorating environmental situation and migratory movements.

In conclusion, while maintaining an underlying function of state-centric security, a traditional security approach to safeguard territorial integrity and the nation state's independence, security threat

perceptions are changing. This is due to many factors: the broadening and deepening of security studies over the last two decades; Nepal's increasing vulnerabilities on the domestic front; changing bilateral relations between its two closest neighbours, India and China, from competition to co-operation; and the shift of the global political order from confrontation to co-operation since the end of Cold War. Human security issues have become more prominent, posing more serious challenges to the stability, progress and prosperity of Nepal than traditional, state-centric threats.

Mainstreaming the Security Sector Reform Agenda in Nepal

Shobhakar Budhathoki

Introduction

Security sector reform (SSR) can be an integral component of a peace process and a basis to accomplish the goals of post-conflict peace-building and nation-building. Although SSR programmes are also carried out in peaceful democratic nations, SSR is fundamental to establish peace, security and the rule of law in conflict-ridden societies by addressing the root causes of conflict and preparing long-term security and development strategies. An SSR process is imperative to enhance democratic values and as part of transitioning a society from conflict to sustainable peace.

In an effort both to address existing security concerns and to prevent future instability, SSR programmes fundamentally link security and development. In a post-conflict society, SSR programmes encourage parties to the peace process to frame security policies

and strategies in a comprehensive context and to initiate legitimate approaches toward establishing democratic and accountable state institutions. In a post-conflict situation, SSR can provide opportunities to initiate effective transitional justice mechanisms to address a country's violent history and to bring to a halt and prevent institutionalised impunity. SSR can also help to establish minimum standards for reintegrating ex-combatants into society and into a state's security mechanisms, while considering the long-term effects of such programmes. By contrast, failing to address those issues in the context of SSR could invite further instability, continued impunity, and the ongoing socio-economic marginalisation which has contributed to conflict, thereby encouraging splinter and criminal groups to engage in activities that affect the public and disrupt ongoing peace efforts.

As Nepal continues its journey through a post-conflict period, having signed a peace agreement that officially ending more than ten years of armed conflict, and democratic transition, SSR strategies and programming have not been fully explored and have instead been inappropriately cited as a means of gaining political advantage. With a long history of impunity, the politicisation of every sector, the lack of accountable civilian oversight and transparency, the absence of a national vision and strategy, and a conflict rooted in socio-economic injustices, Nepal can only benefit from well-thought-out, well-planned SSR programming. With SSR being widely feared, misunderstood, or simply not prioritised in Nepal, many points of the peace agreement have not been fulfilled and development, security, and rule of law goals remain unrealised. As a result, increasing crime, continued socio-economic marginalisation and armed splinter groups have destabilised the peace process and threatened human security. However, with international assistance, a sense of determination among Nepal's civil society and strong national leadership, SSR programming is not only feasible, but a requirement if Nepal is to prosper as a democratic and peaceful nation.

Understanding security sector reform

The security sector is generally comprised of 'all those responsible state agencies for protecting the state and communities'.[1] The security bodies addressed in SSR do not only include the national military, but also other security agencies such as the civilian police, armed police, law enforcement agencies, intelligence, justice and law enforcement institutions, legislative bodies and oversight mechanisms, and non-statutory security forces.[2] When considering SSR, non-state bodies are also included in the definition of the security sector, such as private security companies, civil society organisations, and guerrilla or insurgent groups.

Core Security Actors
Armed forces; police; paramilitary forces; gendarmeries; presidential guards; intelligence and security services (both military and civilian); border guards; customs authorities; reserve or local security units (civil defence forces, national guards, militias)

Security Management and Oversight Bodies
The Executive; national security advisory bodies; legislature and select legislative committees; ministries of defence, internal affairs, foreign affairs; customary and traditional authorities; financial management bodies (finance ministries, budget offices, financial audit and planning units); and civil society organizations (civilian review boards and public complaints commissions)

Justice and Law Enforcement Institutions
Judiciary; justice ministries; prisons; criminal investigation and prosecution services; human rights commissions and ombudsmen; customary and traditional justice systems

Non-Statutory Security Forces
Liberation armies; guerrilla armies; private body-guard units; private security companies; political party militias

Source: Understanding and Supporting Security Sector Reform, Department for International Development (DFID), p 8

1 DFID, *Understanding and Supporting Security Sector Reform*
2 Hendrickson, Dylan and Karkoszka, Andrezei 'security sector reform and donor policies' *Security Sector Reform and Postconflict Peacebuilding* eds. Albrescht Schnabel and Hans-Gorg Enrhart (United Nations University Press, 2005) p 23

SSR is a relatively new concept, which involves reviewing security as part and parcel of development, and vice versa. It initiates participatory and legitimate processes for nation-building, state transformation, sustainable development, post-conflict peace-building, democratising societies, promoting good governance with transparency and accountability, peaceful political transition, human security, and poverty reduction.[3] SSR requires the reform and often the restructuring of executive bodies of government, national security advisory bodies, legislature and legislative committees, the ministries of defence and internal (home) affairs, customary and traditional authorities, the judiciary, and financial management bodies. It emphasises broader human security, recognising the importance of the people's role in governance and of civilian input in policy-making processes.[4]

‘SSR addresses the wider security infrastructure that exists within states and these programs seek to ensure these security agencies function according to higher national planning priorities, democratic policies and principles, sound legislative frameworks, adequate capacity and resources and an acceptable degree of oversight’.[5] It further incorporates other important issues that need to be dealt with in post-conflict situations. Along with demobilisation, other issues that SSR can address include the disarmament and reintegration of former combatants, access to justice, civil-military relations, accountability and transparency, institutional reform, oversight, public safety and the rule of law.

SSR strategies are generally prepared in a holistic and participatory approach and need to be implemented with the widespread

3 Wulf, Herbert, *Security Sector Reform in Developing and Transitional Countries* (Berghof Research Center for Constructive Conflict Management, 2003) p 2-3 <http://www.berghof-handbook.net/articles/ssr_wulf.pdf> 7 November 2008

4 Hendrickson, Dylan and Karkoszka, Andrezei 'Security Sector Reform and Donor Policies' *Security Sector Reform and Postconflict Peacebuilding* eds. Albrescht Schnabel and Hans-Gorg Enrhart (United Nations University Press, 2005) p 19

5 Fitz-Gerald, Ann, *Security Sector Reform in Sierra Leone* Global Facilitation Network for Security Sector Reform, (GFN-SSR, Cranfield University, United Kingdom, 2004) p 3

inclusion of potential stakeholders, including civil society and the public-at-large. The roles, responsibilities and actions of different security agencies and oversight mechanisms, as well as development programmes, should be reviewed with a national security framework in mind. SSR aims to establish professional security organisations and competent civilian authorities while prioritising human-rights-friendly governance, responsible civil society, transparent decision-making processes and accountable state policies.[6]

The premise for SSR is that only responsible and accountable security institutions can contribute to reducing potential threats that could lead to the escalation of conflict, ensure security for ordinary civilians and create a conducive atmosphere for sustainable development. However, SSR approaches vary according to the diversity of society and can be adapted to local circumstances. SSR prepares a foundation to meet the challenges of post-conflict security and development by placing reform in a context of poverty reduction, conflict prevention, post-conflict reconstruction, promotion of human rights, and the democratisation of state institutions, including security agencies.

SSR is indication way of transforming security agencies to reflect society and developing professional, democratic, and transparent public agencies that are loyal to the people and to civilian governance. SSR is a process of restructuring the security-related institutions that are directly responsible for maintaining law and order and ensuring security, while considering the best practices for the development of the country. SSR strategies and programmes review not only the roles, responsibilities, and actions of each institution responsible for security and the rule of law, but also their synchronisation and operational effectiveness, while upholding the basic norms of democracy and good governance.[7] These approaches must be developed and introduced without underestimating the

6 ibid p 25
7 *DAC Guidelines and Reference Series* (OECD/DAC Security System Reform, 2005) p 20

national context and the level of acceptance of potential stakeholders.[8] In addition, SSR can facilitate the processes of 'writing constitutions, reforming laws and penal and criminal codes, and strengthening institutions particularly through training, assistance and mentoring programs, as well as strengthening governance and management of the security structures'.[9]

Even though initial levels of reform and restructuring of the security sector can create a conducive atmosphere in which to end ongoing fighting, it may be difficult to undertake fundamental reforms of feudal or undemocratic institutions, particularly a national army (military), until violent conflicts have officially ended. According to a United Nations Security Council report, SSR processes aim to improve the security of the state and its people, the justice system and the governance of security sector institutions. It further states that reforming national security institutions, and enhancing civilian control, oversight and governance of the security sectors is part of a broader strategy to restore peace and security in a post-conflict situation.[10]

SSR is dependent upon political will, a vision for the nation, and responsible and strong leadership. SSR also requires a significant investment of both human and financial resources. However, investment in SSR strategies and programs is ultimately an investment in the development of the country. Security increases the opportunity for investment in the country and therefore development, and development provides opportunities for sustainability and human security, preventing future conflict based on socio-

8 *Developing a Common Security Sector Reform Strategy for the EU* (European Commission, Saferworld and International Alert, 28 November 2005) p 2 <http://www.saferworld.org.uk/images/pubdocs/SSRReportSaferworld.pdf> 8 November 2008

9 *Transitional Justice and Security Sector Reform: Enabling Sustainable Peace* (Geneva Centre for the Democratic Control of Armed Forces, November 2006) p 4

10 *Security Sector Reform* (Security Council Report: Update Report, 14 February 2007) p 1- 2 <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Update%20Report%2014%20February%20 2007_SSR.pdf> 13 November 2008

economic inequalities. An accountable, professional, and principled security system also increases access to justice and decreases general discontent brought on by a misuse of power when the rule of law is not prevalent.

The German Aid Agency, GTZ, states that 'an unreformed security sector is barely able to prevent violent conflicts or may even contribute to their flaring up and escalating'.[11] It considers political, economic, development, and social dimensions as key elements of SSR.[12] SSR can be a major contributor helping to end violence and to reduce the possibility of an escalation of conflict. Nicole Ball writes that SSR is needed to begin the process for post-conflict rebuilding, a transition from military or unilateral rule to a democratic regime, the transformation of power from centralisation to participatory governance, the establishment of transparency and accountability in public affairs, the enforcement of the principles of rule of law, for ending impunity that continues to exist within security forces, for mediating conflict within and between states, for managing resources for poverty reduction, for implementing sustainable development and the equitable distribution of economic and political power and development opportunities, and for enhancing civilian capacity to oversee security bodies.[13]

SSR principles

SSR's basic principles include a holistic approach, contextual framing, broad consultation, political will, transparency and accountability, a commitment to implementation, and viewing SSR in a long-term framework. Because SSR addresses not only reform of state security agencies but also other bodies, the considerations of all relevant agencies and actors and how they interact will be imperative while developing strategies and programmes. The needs

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11 *Security Sector Reform in Developing Countries: An Analysis of the International Debate and Potentials for Implementing Reforms with Recommendations for Technical Cooperation* (GTZ, October 2000) p 14

12 ibid p 8

13 Ball, Nicole *Enhancing Security Sector Governance: A Conceptual Framework for UNDP* (UNDP, October 2002) p 7

and methods of implementation for SSR will be relevant only if considered in the context of the country and region.

In order to have public buy-in, comprehensive information, and an ability to implement, broad consultations are important throughout the entire process of SSR, as is information sharing and the transparency and accountability of the SSR process itself. Without top political and policy-maker buy-in, implementation of SSR programs will not be possible. Because SSR aims to address reforms primarily to state institutions, political will is essential. Lastly, SSR should be viewed through a long-term lens. It will not be a fast process, nor should short-term goals be the only consideration when developing the SSR strategy. By considering SSR from a historical perspective and with long-term objectives, the programming will provide sustainable outcomes.

Determining national interests and security needs

When beginning an SSR process it is imperative to determine the national interests and values of the country, as well as what the aim of the SSR process is itself. A needs assessment will also frame the SSR programmes. One such assessment is a study determining the security risks of the country, a 'Strategic Threat Assessment'. These might include natural disasters, border security, criminal activity, or foreign threats. These will affect the way in which the programmes are developed and carried out. Another assessment is to review the roles and responsibilities of each security actor, as well as the required and available financial and human resources for their activities. It will also be necessary to assess the opportunities and obstacles for carrying out SSR programming. Similarly, identifying a realistic timeframe and the order in which SSR programmes should be carried out will assist in developing a sound strategy.

National security framework

A national security framework will outline ways of developing, implementing, and sustaining economic and social security, as

well as those internal and external security concerns identified during the threat assessment. The framework should emphasise both development and security as it determines the strategic objectives and SSR programming. This framework will help determine the relevant areas, according to the individual country's context, to be included during implementation of SSR programmes. Some key considerations include: balancing security forces' ability to maintain law and order with possible reforms; access to information; the level of public confidence in the government and security agencies; the disengagement of security agencies from politics; and regional security frameworks. Similarly, the way in which the constitution defines national security and the roles or definitions of security sector actors can affect SSR programming and the national security framework.

SSR programmes

SSR programmes may be carried out by the government or by non-governmental organisations, often with financial or technical support from the international community, and can include both short-term and long-term objectives. Programmes might include building public awareness, strengthening strategic planning capacity, reforming financial management systems, strengthening civilian oversight, coordinating efforts between government agencies, or even building prisons. To give just a few examples of additional programmes in a post-conflict environment, possible options include: assessing the economic viability of the reintegration of former combatants and carrying out that reintegration programme; poverty reduction programmes in conflict-prone areas; the vetting and/or integration of security forces and other former combatants; the downsizing of security forces; reform of mandates; and improvement of operational effectiveness through training and resources.

A missed opportunity

While SSR is relevant in even the most stable nations, it holds particular relevance in a post-conflict period. In post-conflict countries, SSR plays a crucial role in institutionalising democratic systems, strengthening peace agreements and preventing future conflicts. SSR programming will be determined in part by reviewing the causes of the conflict and the political, social, and economic context of the post-conflict period, as well as assessing the changed context and addressing the circumstances of former combatants. An SSR process can help determine the modalities for the disarmament, demobilisation, reintegration and rehabilitation of ex-combatants as part of peace-building efforts after a peace accord or political agreement.

Conflict-ridden countries usually face severe security threats due to poor governance, weakened government structures, and the absence of the rule of law. Similarly, post-conflict governments often struggle to begin the process of reforming existing security institutions and establishing legitimate systems of accountability, democratisation and transparency in the state's security apparatus. SSR has been recognised as an effective approach for the transformation of state institutions through reform and democratisation processes. It is a valuable tool for transition, moving state institutions towards greater effectiveness and accountability.

While most parties to a peace agreement generally agree on the principles of good governance, the concept of reform or change often incites feelings of uncertainty or fear of losing one's own power or position. In these cases, it is imperative to have strong legitimate leadership, political will, and public support to initiate an SSR process. Likewise, in post-conflict countries in which security institutions have had significant power in the past, there is hesitancy to reform an institution that could still change the political scenario single-handedly. Further misgivings stem from a lack of understanding of the holistic principle of SSR; many peo-

ple wrongly believe that SSR only addresses the reintegration of former combatants in a post-conflict period, not realising that it is also about reform of longstanding state institutions such as the army, legislature and oversight mechanisms, and the judiciary.

In Nepal, the opportunity to prioritise SSR has been missed several times. One such missed opportunity was during the signing of the November 2006 Peace Agreement which officially ended more than ten years of conflict. Since then, a number of other opportunities for an SSR process have also been missed in subsequent agreements and when policymakers have been determining the process for integration or civilian oversight of the army. An SSR agenda has become controversial in the political arena and has encouraged political actors to be cynical about restructuring and reforming the security sector, or even preparing a fresh national security policy. The issues surrounding former combatants have not been placed in a broader socio-economic or security context, and the failure to address needed reforms has resulted in ongoing insecurity and the potential destabilisation of the peace process.

Even though an SSR agenda has been vigorously discussed among scholars and practitioners, the 2006 Comprehensive Peace Agreement (CPA) failed to incorporate a proper SSR process or even any commitment to initiating such a process, instead only offering a vague guideline for the integration of former combatants and a general consensus to end impunity. The CPA highlighted the issues of integration, democratisation of the army, and good governance in isolation from each other and from a comprehensive security and development framework. The CPA states that 'the interim cabinet shall form a special committee to carry out monitoring, integration and rehabilitation of the Maoists combatants'.[14] Similarly, the CPA incorporated issues related to the Nepal Army and included lim-

14 *Unofficial Translation of the Comprehensive Peace Agreement concluded between the Government of Nepal and the Communist Party of Nepal (Maoist)* November 21, 2006, Article 4(4) p 5 <http://www.unmin.org.np/downloads/keydocs/2006-11-29-peace_accord-MOFA.pdf> 8 November 2008

ited provisions for the democratisation and transformation process. According to the CPA, the cabinet shall control, mobilise and manage the Nepal Army as per the new Military Act. The Interim Cabinet would prepare and implement a detailed action plan for the democratisation of the Nepal Army by taking suggestions from the concerned committee of the interim Parliament. This includes work like determining the right number of the Nepal Army, preparing a democratic structure reflecting a national and inclusive character, and training them on democratic principles and human rights values.[15] Despite being outlined in the CPA, the process for integration and for forming a truly national army continues to be unresolved, and successive 'understandings' of the CPA have avoided such subjects.

After the restoration of the House of Representatives (HoR) in April 2006 through a peaceful democratic movement launched by a coalition of seven political parties and the CPN-Maoists, an Interim Government made a few historical moves to dismantle the feudal structures of the country, with the aim of reforming authoritarian institutions based on the principles of democracy, good governance, human rights and the rule of law. In this regard, the reinstated HoR renamed the Royal Nepalese Army the Nepal Army through a May 2006 proclamation. The proclamation also stated that new arrangements shall be made regarding the National Security Council and that the council shall be formed under the chairmanship of the Prime Minister in order to control, use and mobilise the nation's army. It designated the Prime Minister as the Supreme Commander of the Army (although this has recently changed to the President's mandate) and stated that the Chief of the Army Staff shall be appointed by the Council of Ministers.[16] In conjunction with the May 2006 proclamation, the HoR adopted a controversial Army Act in August 2006, amid protests from civil society and

15 Ibid Article 4(7)

16 *House of Representatives Proclamation* May 17, 2006, <http://www.satp.org/satporgtp/countries/nepal/document/papers/house_representive.htm> 5 November 2008

Nepal's active human rights community, which allows the Army to enjoy immunity for certain acts and provides ample space for institutionalising impunity.[17] Although the May 2006 proclamation renaming the army – a significant symbolic gesture to both nationalise the army and establish a feeling of civilian oversight and redistributing oversight responsibilities – is part of reform, a broader SSR framework was not considered in order to fully carry out the transformation of the army, and the Army Act of August 2006 contradicts some of the fundamental principles of SSR.

In another attempt to address the sensitive issue of Nepal's army, the 2007 Interim Constitution (IC) attempts to define the status of the Nepali Army, but again an SSR agenda or context is not considered, leaving the issue of the army standing apart from other security sector stakeholders and from the needed reforms. The IC vaguely accepts the principles of civilian oversight by stating that the Council of Ministers (CoM) is designated to appoint the Commander-in-Chief of the Nepal Army and should control, mobilise and manage the Nepal Army. According to the IC, the CoM shall initiate the formulation of a work plan for the democratisation of the Nepal Army, including its size, democratic structure and inclusiveness, in accordance with the norms and values of democracy and human rights.[18] Similarly, it states that 'the Council of Ministers shall form a special committee to supervise, integrate and rehabilitate the combatants of the Maoist Army, and the functions, duties and powers of the committee shall be as determined by the Council of Ministers'.[19]

Various organisations, political parties, and individuals in Nepal are highly interested in creating 'inclusive' security institutions based on the principle that groups are represented proportionally. Since the Army has traditionally been reserved for elites and spe-

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17 *Waiting for Justice: Unfinished Crimes from Nepal's Armed Conflict* (Advocacy Forum and Human Rights Watch, September 2008) p 35

18 *Interim Constitution of Nepal, 2007* Article (144) and (145) <http://www.worldstatesmen.org/Nepal_Interim_Constitution2007.pdf> 11 November 2008

19 ibid Article (146)

cific ethnic groups, reforming the Army to reflect the make-up of the nation is one step to begin changing the mindset of the Army to serve and protect all Nepalese people. The February 2008 agreement between the Government of Nepal and the United Madheshi Democratic Front accepts the basis for creating a proportional and inclusive national army which further states 'proportional, inclusive and group entry [*tr.* entry in the army as a group] of Madhesis and other communities shall be ensured in order to give the Nepal Army a national and inclusive character'.[20] As part of this 'inclusion campaign', traditionally marginalised groups have been continuously raising their voices for proportional representation at all levels of state organs as well. While inclusion is one important aspect to reform institutions, again a broader framework of development and security has not been considered.

While integration and reintegration, as well as the 'democratisation' of the army have been discussed at length in Nepal, but not agreed to, a legitimate and holistic SSR approach has not been taken into account. Although the country is currently going through the exercise of drafting a new constitution, there has been no consideration of a national vision, any assessment of security and economic goals, or a national security framework. The country is at another significant moment for its future, and thus far SSR does not seem to be a priority, which may result in the most detrimental missed opportunity yet – a constitution that does not reflect a national vision, security and development needs and prospects, or the sustainable democratisation of the security sector.

Challenges to SSR in Nepal

Despite missing several key moments to launch an SSR process, there is still a window of opportunity in Nepal for developing such a strategy. However, there are numerous obstacles to SSR due to the

20 *Agreement between Government of Nepal and United Madhesi Democratic Front* February 28, 2008 http://www.unmin.org.np/downloads/keydocs/2008-02-28-Agreement.SPA.Govt.UDMF.ENG.pdf 12 November 2008

continued politicisation of security and development issues, a lack of understanding of the principles and broad framework of SSR, resistance from the security sector, and a divided civil society.

SSR has been politicised by stakeholders, resulting in increasing obstacles to the transition to democratic institutions, and has become an element of political rhetoric that is used to position oneself for power. It has been reported that the Nepali Congress Party (currently in opposition in the legislature and constituent assembly, who led the peace process until the signing of the peace of agreement with Maoist rebels and the constituent assembly elections) has been reluctant to accept any sort of security reform, arguing that it would eventually dissolve the military, and therefore that former Maoist combatants should not be integrated into the security sector. Meanwhile, the Communist Party of Nepal (Maoist) expressed their willingness to begin a SSR process through the establishment of a national army that integrates their ex-combatants. In retrospect, these political actors have projected SSR as an attempt to intervene in the national army or as a political tool to gain influence.

Resistance from security agencies and other security sector actors is increasing the hurdles to even discuss SSR at the political level. A culture of impunity has pervaded most sectors, making reform a threat to those who have benefited from impunity within the judiciary, security agencies and government agencies. In particular, the military establishment, which has historically allied with undemocratic elements in the country, has been quietly able to convince conservative leaders against an SSR agenda by claiming that SSR indirectly represents Maoist tactics to include their indoctrinated Maoists combatants, which will ultimately harm the professionalism of the army and allow space for politicisation. Considering the continued strength of the military, this misguided argument has clearly affected the ability to begin an SSR process and has created barriers to even discussing SSR at a political level. These ongoing arguments and counter-arguments have created further confusion

regarding SSR; neither argument has considered the broader objectives of an SSR process.

An SSR agenda has been actively sidelined and has not been discussed in a context of sustainable peace. Commitment from the highest levels of government and politics has been scarce, with political positioning taking precedence over nation-building. Key issues that would best be carried out in a broader security framework, such as integration and reform within the Army, have been discussed in isolation of other issues that affect the implementation of such reform. Fear of SSR has been fostered by some in positions of leadership as part of their attempts to consolidate their own power or fear that change would mean losing control or a decrease of security. Most of this fear forms around a misunderstanding of what SSR is and the process to implement SSR programmes. In such cases, civil society has the opportunity to play a key role in increasing awareness.

However, there are two main obstacles to this approach. Firstly, civil society is not generally consulted or has been sidelined by policy-makers in most instances. Secondly, civil society, while vibrant and plentiful in Nepal, is a divided sector, primarily politicised, that has also not prioritised SSR. Despite the best practices of wide consultation and working with non-state actors, in many countries – including Nepal – civil society is generally considered a thorn in the side of government. Despite improved working relations between civil society and the largest political parties during the King's authoritarian regime from February 2005 to April 2006, civil society has continued to be primarily sidelined by the new government and political leaders. Consultations are not often initiated by the government, and many times civil society's recommendations come to the government with a critical and harsh approach that does not lend to policymakers' acceptance of ideas.

Civil society has not prioritised SSR, either not understanding the process of SSR and the sweeping effects of ignoring a comprehen-

sive security framework, or because of political affiliations which cause an organisation to view security solely through its political party interests. As is the case in most post-conflict states, donors and international organisations have flooded the country. While their intentions can be admirable, the increase in funds for national non-governmental organisations creates an atmosphere of competitiveness. Rather than co-operation and complimentarity, civil society organisations often begin viewing other organizations as adversaries, and projects are often implemented in isolation from other activities of NGOs and the state. In Nepal, some civil society leaders have made efforts to work in collaboration, but due to political views and funding divisions, many of these attempts prove futile.

The issues thus far debated, relating primarily to the Army and integration, have not been reviewed or considered in a broader context. The concern is that without assessing the needs and priorities of the country regarding security and development, decisions will be made on an *ad hoc* basis that at worst may create further instability, may not be financially sustainable, or may need to be reformed again in the near future.

Potential initiatives for SSR in Nepal

The moment for initiating an SSR process in Nepal is not lost, but there are numerous activities that need to be undertaken by both state and non-state actors. Some of the initiatives that can be undertaken include changing mindsets regarding SSR, framing transitional justice and DDR within an SSR context, identifying national priorities and values, carrying out a threat assessment and review of the security sector and resource availability, developing programming that is appropriate for Nepal's social, economic and political scenario, and implementing sustainable reforms. Just as SSR principles include a holistic approach with widespread consultation, both state and non-governmental stakeholders, and also

the international community, will be called on to assist with various aspects of each undertaking.

Changing mindsets

It is important to understand that SSR envisages fundamental changes to existing security stakeholders. This can potentially mean developing new policies for operational and institutional transformation, changing oversight and coordination mechanisms to emphasise democratic control and effectiveness, enhancing accountability and transparency, re-confirming or changing the role and responsibilities of the stakeholder, introducing new or amending legal frameworks, enhancing professionalism and skills, addressing post-conflict issues such as DDR, strengthening mechanisms of justice, and addressing development needs.[21] In addition, policymakers must be prepared to deal with issues such as financial management, strategy development, incorporating local values and national priorities, civic education, and ensuring a collective security approach involving regional and sub-regional organisations.[22]

In many cases, even developing strategies for reform may not be possible until there have been changes to mindsets and political values. Some concerns, such as the financial viability, political stability, and operational effectiveness of the security sector need to be addressed, but should not undercut the need for direct engagement of the civilian authority with the military and other security and intelligence actors in order to improve efficiency. It is still necessary to reinforce the civil and political management of the security sector in order to advance effectiveness and accountability.[23]

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21 Roux, Le le, Joao Ricardo Dornelles and Rocky Williams, 'Establishing a Common Understanding of Security Sector Transformation' *Networking the Networks: Supporting Regional Peace and Security Agendas in Africa*, eds. Ann Fitz-Gerald and Anicia Lal (GFN-SSR, UK) 2004

22 *Handout for the USIP Program: The Role of Civil Society in SSR and DDR* (USIP, August 30- 31, 2006) p 2

23 *Understanding and Supporting Security Sector Reform* (Department for International Development, 2003) p 15

With all of the misinformation and lack of understanding surrounding SSR in Nepal, increasing awareness regarding SSR will be imperative at both the public and political levels in order to get political buy-in and public support for future SSR programming. Civil society is generally key to being able to build awareness, but the international community is also necessary not only for their financial support, but also for their knowledge and experience regarding SSR strategies and programmes. The international community may also take the lead to identify the change agents within civil society who have prioritised SSR, in order to give them support in increasing understanding and support for SSR activities among civil society. In addition to building awareness and conveying information, civil society is also in a position to identify the change agents within political and government structures and security agencies, to begin fostering support for a broad SSR framework.

In order to dissipate the fear that has been built around SSR in Nepal, information regarding the process of SSR and its benefits will need to be disseminated. While SSR programmes are not always comfortable for those most affected and SSR is a threat to those who have most benefited from the impunity or undemocratic nature of the past, an SSR programme will not sacrifice operational effectiveness, and ultimately will enhance the security sector's ability to provide security while gaining public support for their work. A well-thought-out SSR strategy will also prevent future conflict and support activities to combat crime, strengthen a fair and impartial judiciary, and build the economy of the country. By communicating these benefits, giving examples of SSR strategies in other post-conflict nations, and highlighting the dangers of reform based on political agendas and done in an isolated and *ad hoc* manner, preconceived notions of SSR will slowly erode and support will increase.

Transitional justice and DDR through an SSR lens

Transitional justice, addressing past abuses, and DDR have taken centre stage in Nepal since the signing of the CPA. Civil society and political stakeholders have discussed both at length, with varying levels of commitment or rejection. While these issues will eventually be dealt with, the chances for more sustainable success increase if they are viewed through an SSR lens, i.e. developing and implementing transitional justice and DDR programs by looking at the broader security and economic impact.

Rampant human rights violations occurred during the period of armed conflict in Nepal and institutionalised impunity has set back the momentum for addressing these abuses. There are two levels of concern regarding transitional justice. The first is that by attempting to hold perpetrators to account, it may destabilise the country politically and armed conflict may be renewed. The second concern is that not holding perpetrators to account will increase public discontent and new vigilante or other violent groups will emerge, and that armed groups will not be dissuaded from violence and violating rights knowing that others have enjoyed immunity. Both sets of concerns are legitimate, but international principles have set a precedent for holding perpetrators to account through various transitional justice mechanisms that include truth commissions, prosecutions, communal justice mechanisms, reparations and vetting processes.

The determination of which transitional justice mechanisms to use will affect security, the integration or reintegration of former combatants, as well as security sector reform. Similarly, if an SSR strategy is being developed, the aims of SSR programmes may affect which transitional justice mechanisms will fulfil those aims and how certain reforms are carried out, as well as the methods for reintegration and integration of ex-combatants. Transitional justice mechanisms often identify the root causes of the conflict or abuses, and make recommendations that are often intricately linked to security and development needs. They attempt to end a culture of

impunity (a shared goal with SSR), and many recommendations can affect the SSR strategy and programmes. If transitional justice, reintegration and integration, and other SSR programming all stand alone, they may contradict each other or undermine the effectiveness of one or more programmes.

Balancing the operational effectiveness of security agencies, while accommodating integration as set out in agreements, can only be accomplished if the security agencies' roles, responsibilities, needs, professionalism, accountability, and financial viability have been reviewed (part of developing the national security framework in an SSR process). If for example the military is oversized for the internal and external threats that they are responsible for responding to, integration could bloat a military to the point of bankrupting an economy. Determining which security agencies and other security stakeholders require human resources and have the capacity to absorb personnel who may require extensive training can help in developing an integration programme that is sustainable. Similarly, while developing reintegration programmes, it is necessary to consider the communal justice mechanisms that former combatants may face and the potential economic sustainability of former combatants and the communities to which they return, as these are key factors in determining whether former combatants integrate successfully or return to a life of crime or an armed group. If reintegration programs provide skills to former combatants that are sustainable and contribute to the local and national economy, former combatants will have less incentive to return to violence. A development and economic impact assessment (part of SSR) will determine these sustainable reintegration programs.

Assessing the situation

In order for the government to make informed decisions, a number of assessments will need to be undertaken. These assessments will take time, but in the long term they will develop SSR programming that is sustainable, and future human and financial resources for undertaking further extensive reforms will be comparatively

minimal. Such assessments will only be feasible through the assistance, both technical and financial, of the international community, with the help of and through consultation with civil society organisations and individuals, and through extensive assistance and consultation with security and development stakeholders.

Civil society in particular can identify national priorities and values that will inform not only the SSR strategies and programmes, but can also be used during the drafting of a constitution that will represent the values of the nation-at-large. The government, with the aforementioned assistance, as well as with support from academics, should carry out a threat assessment to determine what security threats (from natural disasters, traditional security needs, to social, political, economic and development concerns and viability) exist. This will help develop not only the necessary SSR programmes, but also a national security framework that outlines the roles, responsibilities, and needs of each security stakeholder.

Discovering what the nation's values are, the skills that need strengthening, the oversight required, the mandates that are appropriate, and the changes in values and structures that will benefit the country can only contribute to developing reforms that are widely accepted, and carried out with a sustainable approach. Understanding the financial and human capacity to carry out such SSR programmes and determining economic growth opportunities and development areas will not only assist reform of the security sector but also strengthen the overall wellbeing of the country.

Possible SSR programmes

Because SSR views security through a broad lens, there are hundreds of potential programmes. Some of the entry points for the state may include building public awareness and engagement, building strategic planning capacity, strengthening legal and constitutional frameworks, strengthening civil oversight mechanisms,

strengthening financial management systems, facilitating war-to-peace transitions and improving human resource management.[24]

Many SSR programmes revolve around strengthening the capacity of various government offices to increase transparency, effectiveness, oversight, and accountability. Training elements can be designed around democratic principles, basic job skills, public relations, co-ordination and communication, and even use of equipment. These and other training packages aim to strengthen democratic governance, human rights, law enforcement capacity, and military and policing capabilities, including enforcement techniques, strengthening skills, peacekeeping training, familiarisation modalities with civil society, fundamentals of impartiality, the use of minimum force and managerial functions.[25]

It will also be necessary to reform mandates and structures in Nepal. With the conflict officially ended, there is a question of what responsibilities lay within the remit of the Armed Police Force. Similarly, the responsibilities of the Nepal Police were minimised during the time of conflict, and their mandate may need to be broadened to reflect the new context. In some cases, it is extremely challenging to disengage the military from internal security roles that are more appropriate to civil police in democratic countries and to exclude security forces and the military from involvement in politics.[26] While structures will undoubtedly see change if the new constitution presents a federal structure of governance, even basic structural issues such as size will need to be addressed in the long term. Nepal currently has an oversized military, but it is not feasible to right-size the military over night. However, through early retirement programmes and alternative opportunities, over time the military can be sized to fit the needs and availability of finances in Nepal.

24 Ibid p 20
25 'Handout for the USIP Program: The Role of Civil Society in SSR and DDR' August 30- 31, 2006, Kathmandu, Nepal p 2
26 Ibid p 27

The judiciary and penal system also need to be included in SSR programming. Again, a federal system in Nepal will affect the structure of each, but other programmes will need to be undertaken that increase capacity to handle cases, end impunity in prosecution and court proceedings, and strengthen the penal system to be responsible and functional. Currently, few people within the country are confident that their appeals for justice will be heard, that investigations are legitimate, or that prosecutors will be effective. Programmes to address this include increasing the number of prosecutors and courts, providing them with adequate materials, providing investigation skills and forensic capabilities, increasing the number of police available, as well as training police, prosecutors, and other justice sector agents in technical, democratic values, and public relations skills. More secure prisons that are appropriate for offenders of different types or for women and juvenile offenders may need to be built, with training given to penal officers in effectively running these prisons. New laws should be drafted that protect the rights of various sections of society and put into effect reforms within the security sector.

In order to prevent future conflict and decrease criminal activity, it will be necessary not only to reform judicial, legislative, security, and government oversight, but also to undertake development activities. These include providing equal access to quality education, poverty reduction and skills building, and addressing the increasing job crisis that sends thousands of Nepalese abroad for hard labour. Making a viable livelihood available provides dignity to the individual and reduces the appeal of criminal activities.

Civil society's role in designing and implementing SSR programs is vital. They provide a safe conduit between policy-makers and security stakeholders and can play a facilitating role between them as part of a broader peace process.[27] They are also adept at gathering information for reviews and assessments, but can also provide

27 Ibid p 7

a different perspective during reform programmes than that of government or a security agency. Many development programmes are carried out by civil society and international non-governmental organisations, and they should therefore be brought in on the strategic and implementation level of SSR. Since many civil society organisations have good relations with local communities, they may be able to assist in the implementation of reintegration programs. Those individuals and organisations at the central level will have a responsibility to gather concerns and information from the grassroots level to share with policy-makers, and can provide the public with information and assist in maintaining transparency during the SSR process.

Again, by providing funding and technical assistance and sharing experiences, the international community is a necessary component to SSR programming. Since SSR is a long-term process and can require everything from minor changes to a mass overhaul of the security sector, as well as large-scale development programmes, the financial assistance offered by the international community will be necessary to carry out SSR programmes.

Conclusion

Both security and development are enablers for a country's foreign and domestic policy agendas, as well as for fulfilling the principles of good governance. Security is central to effective and durable development, but requires well-managed and competent personnel operating within an institutional framework defined by law. A poorly managed security sector hampers development, discourages investment, perpetuates poverty and threatens post-conflict law and order.[28]

SSR is an effective means of addressing both security and development, particularly in a post-conflict society. In Nepal, with a

28 *Understanding and Supporting Security Sector Reform* (Department for International Development, 2003) p 8

new constitution being drafted and security, justice, and rule of law continuing to deteriorate, SSR can provide a strategy for short-term security goals, as well as long-term development and security. Considering that many causes of conflict in Nepal stem from socio-economic inequality and political instability, SSR programming can address these problems at the roots to prevent future conflict, deter criminal activities, and enhance the economic prosperity of the country.

While some programmes have been touched upon above, a complete assessment and mapping of SSR will provide a shared goal for the nation's security and development. Integration, democratisation and transitional justice, three of the primary stumbling blocks in the current political discourse, can be best served if viewed through the comprehensive framework which SSR provides. Not all SSR programmes will be easily implemented, and many will be met with considerable resistance, but through concerted efforts, political determination, international support, and a resolute civil society, Nepal can begin developing its SSR strategy and programming.

About the author

Shobhakar Budhathoki, human rights defender and conflict resolution practitioner, holds an MA in Peace and Justice Studies from the University of San Diego, USA. He has been actively involved in the protection and promotion of human rights since 1993. Mr. Budhathoki has worked as National Advisor to the Washington D.C.-based United States Institute of Peace since 2006, facilitating dialogue between political party representatives, civil society and the Nepal Police as a part of strengthening security and the rule of law in Nepal. He is also engaged in an ongoing dialogue between civil society and Nepal's parliament on the culture of impunity, security sector reform, transitional justice, post-conflict management and the ongoing peace process.

Vice-chair of the Nepal Institute for Policy Studies, Mr. Budhathoki has also been working in the area of security sector reform as Asia Programme Manager for the London-based Centre for Security Sector Management, Cranfield University. He is involved in the campaign against impunity as a member of the

Accountability Watch Committee and also sits on the executive committee of the National Election Observation Committee in Nepal, and served as an observer during the April 2008 Constituent Assembly Election. Mr. Budhathoki worked as one of the co-ordinators of the Defend Human Rights Movement – Nepal, a coalition of human rights defenders and organizations formed after the King's coup in February 2005 to increase national and international support for the establishment of democracy, the protection of human rights, and the end of the autocratic regime. Mr. Budhathoki has worked for the UN in Ethiopia and Eritrea, Kosovo, and East Timor.

National Security Policy and Role of National Security Council

Geja Sharma Wagle

The concept of national security is based around protecting the national unity, political independence, territorial integrity and sovereignty of nation-states. Given its nature and the gravity of the terminology, national security is considered to be a sensitive and complex issue. Even security scholars have divergent and varied definitions of national security. Many scholars agree that there is no uniform opinion as to what 'security' means and that it is 'essentially a contested concept'.[1] Walter Lippmann, who gave one of the first recorded definitions, said that 'a nation has security when it does not have to sacrifice its legitimate interest to avoid war and is able, if challenged, to maintain by war'.[2]

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1 Galle W. B., 'Essentially Contested Concept', in Max Black (ed.), *The Importance of Language*, (New Jersey, Princeton Hall1, 1962)

2 Berkwitz Morton and Bock P.G., National Security, *International Encyclopedia of Social Science,* Vol.11-12, Sills David L. (ed.), (Collier Macmillan Publishers, London, 1972)

The topic of national security is guided by a range of unique and traditional perceptions and realities which are rooted in the history, tradition and evolutionary process of nationhood. In its conceptual framework, national security cannot be observed independently since it is related to the concept of national interest, national power and national stability. It is an interdependent belief, shaped by the existence of social forces, international interactions, the 'presence of other security referents' and the problematic nature of the state.[3] There are conceptual complexities – if not a conceptual vacuum – due to the interdependent character of national security.

National independence, sovereignty and territorial integrity are the most important factors for any nation. From the traditional perspective of national security, some scholars who belong to the realist school of thought argue that the referent of security is the state and that the state is the primary provider of security; if the state is secure, then those who live within it are secure.[4] Justifying these traditional approaches to national security, Giacomo Luciani calls it the 'ability to withstand aggression from abroad'.[5]

The newly emerged concept of national security was much debated across the world following World War II. Realist and neo-realist schools of thought dominated in the fragile post-war environment. They advocated state- and military-centric security policies and emphasised national security and military force. They argued that the primary function of a nation state is to survive and to enhance its power, and that nation-states should be capable of protecting their sovereignty and independence. The source of the realist

3 Alagappa Muthiah 'Conceptualizing Security : Hierarchy and Conceptual Traveling' in Alagappa Muthiah (ed.) Asian Security Practice : Material and Identical Influences, (Sanford University Press, California, 1998)

4 Bajpai Kanti, 'Beyond Comprehensive Security: Human Security', *Comprehensive Security: Perspectives from India's Regions*, (Delhi Policy Group, New Delhi, 2002)

5 Luciani Giacomo, In Bary Buzan, *People, state and fear*, (Harvestor Wheatsheaf, New York, 1991)

school of thought was the Westphalian idea of the nation-state.[6] One of the most prominent thinkers in the field of national security, Hans J. Morgenthau, argues that all states pursue certain interests, principally those of maximising power.[7]

Security scholars like Arnold Wolfers, Richard Ashley, Ken Booth and Leonard Beaton criticised this traditional state- and military-centric national security policy as being 'narrow and hollow'.[8] Scholars belonging to the Copenhagen School of Thought broadened the scope of security studies, which they said should be moved ‘beyond a narrow agenda which focuses on military relations between states while avoiding ending up with an all-embracing, inflated concept’ and explored at various levels of analysis, and correspondingly that ‘the special nature of security threats justifies the use of extraordinary measures to handle them’.[9]

The end of Cold War brought significant changes to international politics and to the concept of national security. The agenda and definition of national security have widened and deepened in the face of globalisation. While state-centric security concerns have been downplayed, non-traditional threats to security are increasingly highlighted. In contrast to the orthodox concept of security, the basic referent object of the non-traditional security threat is human beings and insecurity as it relates to them.

After World War II, many colonised countries became independent and many others fought for their independence and sovereignty. The concept of national security thus emerged as a prominent is-

6 The Westphalian State system, based on a separation of political and religious authority, evolved in Europe at the end of the Thirty Years War in the sixteenth century.

7 Morgenthau Hans J., *Politics among Nations(Random House, New York, 1973)*

8 Booth Ken, 'Security and Emancipation', *Review of International Studies*, (Vol. 17, No. 4, October 1991)
Ashley R.K., *The Political economy of War and Peace: the Sino-Soviet-American Triangle and the Modern Security Problematique*, (London, Frances Pinter, 1980)

9 Huysman J. 'Revisit Copenhagen: or, On the Creative Development of a Security Studies Agenda in Europe', *European journal of International Relations*, Vol. 4, No. 4. 1998

sue across the world. Scholars of security studies, however, have divided opinions on how the end of this war affected national security. The noted scholar David A Baldwin suggests that ‘three themes emerged as the most important by the end of World War II. First was the decline of military power in international politics. Second was that the concept of international relations and national security needs to be re-examined. Third was that national security needed to be viewed in broader terms’.[10]

National security is not simply protection from external factors, but also from internal threats to security. Furthermore, there are not only physical threats to security, but also 'socio-economic dangers and the threat of such dangers created by both systemic and attritional conditions’.[11] Likewise, another prominent thinker Ayoob argues that in the Third World, security refers to ‘vulnerabilities – both internal and external – that threaten or have the potential to bring down or weaken structures, both territorial and institutional, and governing regimes'.[12]

Traditional state- and military-centric approaches to security were unable to resolve multi-dimensional security problems. The traditional concept succeeds neither in safeguarding national unity and territorial integrity nor in protecting people from internal conflict and external attacks. New concepts, therefore, have evolved to cope with these problems. Some security experts have said that in addition to military and external threats, other major issues include ethnic and religious conflicts, terrorism, migration, democracy, human rights, gender, crime, poverty, hunger and deprivation.

The noted security thinker Barry Buzan developed an innovative perspective on security studies that introduced some new dimen-

10 Baldwin David A., '*security studies and the end of the cold war : Review Article*', (October, 1995)

11 Abdul-Menon M. Al-Moshat, '*National Security in the Third World,*' (Westview Press, London, 1985)

12 Ayoob M., *The Third World Security Predicament: State Making, Regional Conflict and the International System*, (Lynne Rienner, Boulder Co., 1995)

sions. He argues that the national security issue needs to be seen in terms of a general security problem in which individuals, states, and the system all play a part and in which economic, societal, and environmental factors can be as important as political and military factors.[13] He came to the conclusion that threats to states exist in three senses: to the idea of the state (nationalism); to the physical base of the state (population and resources); and to the institutional expression of the state (political system).[14]

Buzan argued that there were three main reasons for wanting to broaden the concept of security. First, broadening was needed in order to capture the changing realities of the world. Second, he argued that the concept had useful political qualities. Various groups in society would want to 'securitise' particular issues in order to make governments prioritise them. Third, security had potential as an integrative concept for international relations as a field of inquiry that had notoriously fluid boundaries.[15] Elaborating on Buzan's arguments, Anne Hammerstad noted that ‘according to human security approaches, security is about the social, political, environmental and economic conditions conducive to live in a free and dignify manner’.[16]

Developments throughout the world in the 1990s following the end of the Cold War underlined very clearly that many conflicts and their causes are within nations rather than between nations. For most people of the world, a sense of insecurity comes not so much from traditional security concerns but from concerns about their survival, self-preservation and well-being in a day-to-day context.

Considering people's right to live and security, the United Nations promoted the concept of human security. The Human Development

13 Buzan Barry, *People State and Fear The National Security Problem in International Relations*, (Wheatsheaf Book Ltd., Sussex 1982)
14 Ibid
15 Ibid
16 Hammerstad H. 'Whose Security? UNHCR, Refugee Protection and State Security, After the Cold War', (*Security Dialogue* Vol. 31, No.4. 2000)

Report of 1994 focused for the first time on a detailed and systematic approach to human security, outlining its new dimensions. According to this approach, the role of states is not only limited to the defence of their territory; the state should also ensure the freedom of its people, human rights, peace, security and cultural identity. This concept shows the transformation from state-centric to human-centric approaches.

According to the Human Development Report, human security is a universal concern, it is people-centred and its components are inter-dependent. The report argued that human security is easier to ensure through early prevention and cautioned that in defining security, it is important that human security not be equated with human development, pointing out that human development is a broader and integrated concept while human security means that people can exercise their choices safely and freely. The report suggests seven dimensions of human security: economic security; food security; health security; environmental security; personal security; community security; and political security. According to the concept of human security, threats exist not only from external military attacks; internal political and social factors, economic insecurities, cultural threats, poverty, migration, and environmental degradation are equally challenging for security. [17]

The best guarantee of human security is a strong, efficient, effective, but also democratically legitimate state that is respectful of citizens' rights, mindful of its obligations and responsibilities and tolerant of diversity and dissenting voices. States that are too strong or, at the other end of the spectrum, too weak and failing, cannot provide human security to their citizens. At the same time, states by themselves cannot provide the full measure of human security, but instead must act in partnership with robust market forces and a resilient civil society.

17 United Nations Development Program, *Human Development Report*, (New York: Oxford University Printing Press, 1994)

The shift from ‘national security’ to ‘human security’ is of historic importance. However, rather than a wholesale replacement of one security concept by another, it may be more profitable to accept a pluralistic coexistence. Human security is neither in opposition to national security nor a substitute for it. In certain contexts, national security may still prove more durable and satisfying as the analytical prism through which to view security threats and responses. In other contexts, security problems may be better framed in the conceptual vocabulary of human security.[18] Many territorially ‘secure’ states have achieved their national security at the expense of the security of the individual or people in terms of their political, social and economic rights and cultural identity.

The traditional approach in national security policy is now subject to a paradigm shift. Some scholars have therefore questioned whether a uniform definition of security is appropriate or whether different countries and regions require different notions of security.

Historical background

National independence, territorial integrity and national security are the most important issues for any sovereign and independent country, and this is true for Nepal as well. The principle responsibilities of the state are to protect national unity, territorial integrity and people's sovereignty and to provide security to its citizens. Given its geo-political sensitivity and geo-strategic balance, the issue of national security has always been a very important and sensitive issue for Nepal. Nepal is located between two giant, rising global powers: China and India. Moreover, Nepal shares an open border with India, its southern neighbour.

The doctrine of Prithvi Narayan Shah

King Prithvi Narayan Shah, the founder of modern Nepal, laid strong foundations for a national security policy in the *Dibya*

18 Thakur Ramesh, 'Threats without Enemies, Security without Border: Environmental Security in East Asia, Journal of East Asian Studies 1:2 (August 2001)

Upadesh, a milestone concept of national security and unity in the given situation. Considering its geo-political sensitivity and the geo-strategic balance, he described Nepal as a 'gourd between two rocks' and advocated a defensive strategy as the best way for the state to preserve its territorial integrity.[19] A defensive policy has been the guiding principle of national security policy ever since.[20]

When Jung Bahadur Rana emerged as a powerful ruler in 1846 following the Kot massacre, he followed an aggressive policy towards neighbouring countries. He invaded Tibet in 1856, and also captured four districts (Banke, Bardiya, Kailali and Kanchanpur) from the British Empire.[21] Nepal has not fought a war with any country since the Sugaulai Agreement with the British Empire in 1815-1816.[22] The perception that Nepal is encircled by two giant neighbours is enough to lead its security elite to determine relations with them through diplomacy rather than military preparedness. Nepal follows a defensive security policy towards its immediate neighbouring countries. Analysing the security policy of Nepal, Prof. Dhruba Kumar argues:

> This flawed policy of balance of power didn't work to the Nepali advantage in the long run; particularly, it couldn't withstand the severe tests during the Panchayat regime. The foremost reason behind the failure of this strategy was the legitimacy crisis of the regime, which was at the most, exclusionary in its performance that had also attempted to infuse a sense of legitimacy crisis with the crisis of the state, and had deliberately identified monarchy with the state. This brought about a context in which leadership or a regime's insecurity was primarily treated as a national security concern.[23]

19 Kumar Dhruba, 'Trend in Security Studies in Nepal : Recent Trends and Future Directions' in Banerjee Dipankar (ed) *security studies in south Asia : change and Challenge*, (Manohar Publishers and Distributors, 2000),

20 Sharma Jagadish, *Nepal : Struggle for existence*, (Communication Inc. Kathmandu, 1986)

21 Sharma Shiba P., Baidhya Tulashi R. and Manandhar Triratna (eds.), *Military History of Nepal* (Royal Nepalese Army, Kathmandu, 1992),

22 Kumar Dhruba, op. cit.

23 Ibid

The post-Rana era : emergence as a sovereign nation-state

When democracy was established in 1950 following a popular people's movement, Nepal emerged as a nation-state and maintained good diplomatic relations with neighbouring countries. Nepal became a member state of the United Nations on 15 December 1955 and the Government of Nepal established cordial diplomatic relations with its northern neighbour, China, on 1 August 1955. Nepal also established diplomatic relations with many other countries: Pakistan, the United States, Israel, etc. Within the framework of China's South Asian policy, Beijing has negotiated and signed a boundary treaty and has provided economic assistance for infrastructure building and development works, with a continued commitment to aid Nepal with RMB 80 million per annum. China maintains state-to-state level interactions with Nepal on the basis of sovereign equality and the principle of non-interference in each other's internal affairs.[24]

Becoming a member state of the United Nations and building diplomatic relations with China established Nepal as a bona fide nation-state in the international arena. Nepal's identity, the sovereignty of its people, national unity and territorial integrity thus became more secure in the democratic period between 1950 and 1960. These security and foreign policies were the foundations of a modern, sovereign and independent nation state.

King Mahendra's doctrine

King Mahendra accused the elected democratic government under the leadership of B. P. Koirala of being anti-national and blamed it for political instability and economic crisis. The King abolished multi-party democracy and dissolved the people's elected government on 15 December 1960; he then took power and imposed the party-less, despotic Panchayat system in the name of nationalism and national unity. Nepal's monarchy tried to symbolise a nation

24 Kumar Dhruba, 'Nepal and China : Searching for Substance' in Santhanam K and Kondapalli Srikanth (eds.) *Asian Security and China 2000-2010,* (Institute for defense studies and analysis, New Delhi, 2003)

that has preserved its national identity even in a 'situation in which even God might fail'.[25]

What he had accused the Koirala government of was not true, but was a means of taking power on the pretext of nationalism and national interest. The noted research scholar Leo E Rose argued that it was a conspiracy against democracy based on the ambition of King Mahendra: 'B. P. Koirala's credentials as a bona fide nationalist, primarily concerned with protecting Nepal's national interest, had been firmly established during his eighteen months in office. There was no more substance to the allegations that he was an Indian agent or even 'biased' towards India than there was later to the charge that the then King Mahendra was pro Chinese'.[26]

The Nepali state has already maintained its independent status for a long period, but it is still yet to emerge as a true nation. The country has been unified geographically, but not socially and economically.[27] The autocratic system under King Mahendra did nothing to strengthen nationalism or protect the Nepali interest. He paid little attention to policy, instead focusing on military approaches in order to appease the army and stay in power. The monarchy used the slogan of nationalism only to retain power.[28] Whatever directives the Palace gave were taken as guiding principles for the Army on security issues, and whatever policy the Army declared was considered to be national security policy. During the Panchayat regime, the Government and parliament had little access to security issues. They followed the traditional principle of national security that if the state is secure, then those who live within it are secure.

25 Sharma Ganesh R., 'Monarchy and the Democratic Development in Contemporary Nepal' in Malla Kamal P. (ed.), *Nepal : Perspectives on Continuity and Change*, (Centre for Nepal and Asian Studies, Kirtipur, 1989)

26 Rose Leo E., *Nepal Strategy for survival* (Oxford University Press, Bombay, 1971)

27 Gurung Harka, 'Nepali Nationalism', in Gurung D B (ed.), *Nepal Tomorrow Voices and Visions,* (Koselee Prakashan, Kathmandu, 2003)

28 Baral Lok R., 'Governance and security in plural society', in Chari P R (ed.) *Security and Governance in South Asia* (Manohar publishers and distributors, New Delhi, 2001)

In 1965, King Mahendra signed an Arms Assistance Agreement with India, under which India undertook to supply arms, ammunition, and equipment to the Nepalese Army. That agreement remains one of the most controversial agreements in the history of Nepal.

The slogan '*Hamro Raja Hamro Desh Pran Bhanda Pyaro Chha*' (we love our King and country more than our life) was officially advocated as a way to national unity during the Panchayat era. This cultural root tried to instil a strategy culture where national security in Nepal revolved around the safety and security of the institution of monarchy.[29] On the occasion of his coronation in 1975, King Birendra proposed the unique concept of a 'zone of peace' in order to protect Nepal's national independence and sovereignty at a time during the Cold War when international politics were particularly polarised. This was a positive step to some extent from the perspective of nationality and sovereignty. However, the Government of the day failed diplomatically in a period of tense international politics and the concept never came to fruition: although 116 countries around the world recognised Nepal as a zone of peace, India did not.

Security policy during the democratic era

Following the establishment of democracy in 1990 as a result of popular movement, the political landscape changed significantly. Nepal became a multi-party democracy with a constitutional monarchical system, the people of Nepal became sovereign for the first time in the history of Nepal and political parties took power. The security and military landscape remain unchanged, however. National security was still the exclusive domain of the Palace and the elected government followed the same traditional security policy. Even under this democratic government, the Royal Nepalese Army (renamed the Nepal Army following the re-establishment of democracy in 2006) behaved in a high-handed manner regarding security issues. According to the Constitution, the Royal Nepal

29 Kumar Dhruba, op. cit.

Army was controlled, operated and mobilised by the Government, but in practice it stayed loyal to the Palace and it was the Palace that controlled and mobilised it: the Army was accountable to the Palace, not the Government.

Even after the establishment of democracy in 1990, the policy authorities -- the Parliament, the Government, the Ministry of Defence, the Ministry of Home Affairs and the National Security Council -- were not active in formulating security policy. There might have been rare discussions on security issues and the role of national army in the Parliament, but national security was always considered to be the exclusive domain of the Palace and the Army. The king and the unitary system were considered the principle symbols of national unity and security.

All policy authorities remained largely unaware of national security issues. There were no independent Defence Ministers and they had no role in national security policy-making during the twelve years of that democratic era. The Ministry of Defence functioned solely as a 'post office' between the Army Headquarters and the Prime Minister's Office. The Army was controlled by the Palace, to which the Chief of the Army Staff had good access. The Royal Nepalese Army therefore maintained a high degree of control over national security issues even under civilian governments. Successive democratic governments were not even able to amend the Military Act of 1960.[30]

When the Maoist insurgency escalated in 1999-2000, Prime Minister Girija Prasad Koirala's government decided to mobilise the Army. The Army refused to mobilise, however, as a result of which Koirala resigned from the post of Prime Minister. As the conflict continued to intensify, the Government constituted the National Security Council (NSC) in 2001. Yet it could not work independently due to the unwanted shadow of the Palace and the high-handedness of

30 Wagle Geja S., 'Redefining National Security Policy', *The Kathmandu Post daily*, September 18, 2008

the Royal Nepalese Army. According to Article 118 Clause 1 of the 1990 Constitution, the Prime Minister was the Chair of the NSC and the Defence Minister and the Chief of the Army Staff were also members.[31] Except for one very short period, there was no Defence Minister during the democratic period and thus no defence minister attended NSC meetings. In the absence of a defence minister, only two members – the Prime Minister and the Chief of the Army Staff - were present at NSC meetings. Therefore, whatever proposal was submitted by the Chief of the Army Staff would be approved by the Prime Minister in order to appease the Army.

Paradigm shift after republic

Since a successful popular movement in 2006 led to the re-establishment of democracy, the political and security landscape has changed significantly. In accordance with a historic proclamation by the reinstated House of Representatives on 18 May 2006, the Royal Nepalese Army was brought under civilian government and the title of Supreme Commander-in-Chief of the Army was scrapped. On 28 May 2008 the Kingdom of Nepal was transformed into a federal democratic republic. The Interim Constitution 2007 makes the Nepal Army accountable to the Government, the Parliament and the people. The Army declared that it would abide by multi-party democracy, the rule of law, human rights and the supremacy of the people.[32] Article 144 of the Interim Constitution envisions the restructuring of the national army to make it democratic and inclusive:

> *144. Formation of the Nepal Army*
>
> (1) There shall be an institution of the Nepal Army in Nepal.
>
> 1(A) The president shall be the Supreme Commander of the Nepal Army.

31 The Constitution of the Kingdom of Nepal 1990, (Baudhik Sansar Monthly, Kathmandu, 1991)

32 Proclamation of the House of representation, (The Parliament Secretariat, Kathmandu, 2006)

(2) The president on the recommendation of the Council of Ministers shall appoint the Commander-in-Chief of the Nepal Army.

(3) The president on the recommendation of the Council of Ministers shall control, mobilize and manage the Nepal Army in accordance with the law. The Council of Ministers shall, with the consent of the political parties and by seeking the advice of the concerned committee of the Legislature-Parliament, formulate an extensive work plan for the democratization of the Nepal Army and implement it.

(4) In the case of formulating and implementing the action plan pursuant to clause (3), determination of the appropriate number of the Nepal Army, its democratic structure and national and inclusive character shall be developed, and training shall be imparted to the army in accordance with the norms and values of democracy and human rights.

4(A) In order to give the Nepal Army a national character and make it inclusive, enlisting of Madhesi, indigenous ethnic groups, Dalits, women, and people from backward regions into the armed forces on the basis of the principles of equality and inclusiveness shall be ensured by law.

(5) Other matters pertaining to the Nepal Army shall be as provided for in the law.[33]

It seems that the Army has accepted the political change and is gradually transforming itself. That is a welcome step towards the supremacy of the people, democracy, the rule of law and human rights. The establishment of a republic and the historic proclama-

33 The Interim Constitution of Nepal 2007 including first, second, third, fourth and fifth amendments, (UNDP Nepal : 2008)

tion of the House of Representatives are not only important in political, social and economic terms; it is also a paradigm shift for Nepal's security policy that will have significant positive implications for Nepali politics in the days to come. The new government declared that it would draft a new national security policy that respects the aspirations of the people and takes into account Nepal's geo-strategic sensitivity. There is a great need for a new national security policy and it should be drafted on the basis of political consensus as soon as possible.

Challenges for national security

As described above, national security has traditionally focused mainly on defending the state, its territorial boundaries, institutions and values from external threats, which were more challenging than internal security threats. However, in the last couple of decades, there has been a paradigm shift in security studies, especially with regard to national security, which has been expanded and widened and has evolved alongside the broader concept of human security. At the same time, the domestic dynamics of national security have changed considerably. The principles and prospects of national security have therefore been redefined in line with these new challenges and dynamics.

Internal conflicts are becoming more challenging
Nepal is not free from external threats, but given the changing perception of international security studies and changing internal dynamics, it is internal threats and conflicts that are likely to be the most challenging problems. Analysing the genesis of the decade-long armed conflict and the culture of violence that has become an integral part of society, it can be said that internal ethnic and regional conflicts might be the most challenging problems in the days to come.

So far, the ongoing peace process is moving in a positive direction, but the situation is quite volatile as Nepal is passing through a fragile transitional phase. Some violent groups have raised arms

against the state in the Tarai, burning the national flag and demanding an autonomous state with the right to self-determination. Even some regional groups have demanded independent states, not only in the Tarai but also some ethnic groups in the Hills. This will pose serious challenges to national security and unity.

Emerging trends of ethno-regionalism

Both the decade-long Maoist insurgency and the disturbances in the Tarai in the last year have shown that public security is a serious problem and that the Government has not been successful in protecting its citizens' lives. These movements were political in nature and have now been resolved through the peaceful political process. If Nepal had had appropriate policies from the start, however, so much life and property would not have been lost. The politics of ethno-regionalism may be a challenging issue in the time ahead in terms of national unity and territorial integrity. If the Government and the political parties do not follow appropriate policies and strategies, another conflict could explode at any time.

Ethno-regionalism is a trend that can be found not only in Nepal but across the world. Ethno-regional nationalism is the assertion of rights to sovereignty by ethnic nationalities and, by implication, a reconstruction of the international order on the basis of a system of ethnic nations. This makes ethno-regional nationalism a threat to state security.[34] This is a particular threat for large multiethnic states, which are often seen as distant entities incapable of responding to the needs of distant communities. Most colonial states resulted not in a single nation-state, but rather in territorial entities with many ethnic groups within it.

The immediate post-Cold War period led to a spurt of ethno-national conflicts, complex humanitarian emergencies with massive civilian deaths and even genocide. The paradigm of national security, with its narrow focus on territorial integrity, state sovereignty and political independence, has weakened from the intensifica-

34 Ibid

tion of conflict and human vulnerability on the one hand and the broader concept of human security on the other.[35] The end of the Cold War has significantly decreased the external threats to nation states, but in its place the world has been confronted with a series of intra-state violent conflicts and large-scale atrocities.

Large pluralistic states have increasingly resorted to the use of force to prevent secession, which has not been much of a success since the end of the Cold War. As a consequence, ethnic assertions are giving rise to nation states. From some 40 countries at the end of the World War II, the United Nations today has 188 sovereign member-states, several of which have emerged in the last decade alone. In a sense, this reflects the urge for individual identity and the need for human security at the expense of national security. This is a major challenge to governments around the world to which the strategic community has yet no clear answer.[36]

This is just another way of saying that the sanctity of state sovereignty and its accompanying tenet of territorial integrity are the key threats to national security: witness the fate of former Yugoslav over the last decade, the conflict between the nation of Palestine and the state of Israel, the conflict between East Timor and Indonesia, or the place of the Kurds and the many states across which they are divided. [37] The concept of national security, therefore, is politically powerful, weakly conceptualised and intensely contested.

The broadening and depending of security studies is a development of particular relevance to those interested in the security of third world states. By the 1980s, a number of publications had appeared that examined the security problems of the third world from its own perspectives.[38] Caroline Thomas, one of the most pro-

35 Thakur Ramesh, 'the United Nations, Peace and Security', (Cambridge University Press, 2006)

36 Banerjee Dipankar (ed.) *Security Studies in South Asia : Change and challenge*, (Manohar Publishers and Distributors, 2000)

37 Ibid

38 Collins Alan, *Security and Southeast Asia :Domestic, regional and Global Issues,* (Viva Books Pvt. Ltd. India, 2005)

lific authors to explore the need to move away from focusing on external threats to the state (military threats in particular) in order to outline third world security problems, argues that:

> Security in the context of the Third World .....does not simply refer to the military dimension, as is often assumed in the Western discussions of the concept, but the whole range of dimensions of a states existence which are already taken care of in the more-developed states ......for example, the search for internal security of state through nation-building, the search for secure systems of food, health, money and trade. [39]

Autonomy and the right to self-determination

Ethnic and regional groups in Nepal are raising the issue of autonomous states with the right to self-determination, while at the same time Nepal has been declared a federal democratic republic. How will Nepal address the controversial and sensitive issues surrounding federalism, restructuring of the country, and the right to self determination, with the determining impact this will have on national security? Nepal has not fought against another country after the Sugauli Agreement, yet during the course of a violent internal conflict more than 14,000 people lost their lives, tens of thousands were injured and even more were displaced, precipitating an internal refugee crisis. Internal conflicts are continuing even now to some degree. The state must address the concerns and issues of the various ethnic and regional groups by restructuring the state for the sake of national unity and its people's security. Internal threats are therefore more challenging than international threats. Nepal needs to redefine its traditional national security policy in the changed political context in line with the principles of a federal democratic state.[40]

Defense Minister Mr. Ram Bahadur Thapa has promoted the idea of a new national security policy since taking charge of the Ministry of Defence. He argues that ‘to make our country more secure and to

39 Thomas Caroline, 'In Search of Security : The Third World in International Relations (Boulder, Lynne Rienner, 1987)

40 Wagle Geja S., op. cit.

protect our very identity, we must draft a new security policy considering the domestic changed political context and geo-political sensitivity'.[41] This is a welcome statement, as it is the first time that national security has seriously been on the agenda. However, Nepal's national security policy needs to be drafted, safeguarding its national values and identity, based on national consensus following comprehensive consultation with various stakeholders in society.

The role of the National Security Council

The National Security Council has an important role to play in terms of making security policy and analysing security dynamics and challenges, as the research-oriented policy-making body of the Government. Unfortunately, however, the NSC was not constituted even during most of the democratic period. It was finally constituted in 2001 when the armed conflict was at its height, but it did not work as effectively and independently as it should have done as per the spirit of the Constitution. The Interim Constitution 2007 envisions an effective and civilian-controlled National Security Council. As per the Interim Constitution, the structure of the NSC will be as follows:

> *145. National Security Council*
>
> (1) There shall be a National Security Council in order to recommendations to the Council of Ministers on mobilization, operation and use of the Nepal Army consisting of the following Chairperson and members:-
>
> (a) Prime Minister - Chairperson
>
> (b) Defence Minister - Member
>
> (c) Home Minister - Member
>
> (d) Three ministers designated by the Prime Minister representing three different political parties from among the parties in the Council of Ministers … Member

41 Thapa Ram B., New National Army following the integration of the Maoists Army, *Kantipur Daily*, 3 October, 2008

(2) In case the Prime Minister and the Defence Minister is the same person, the senior-most member of the Council of Ministers shall be a member of the Council. [42]

A co-ordinated approach

However, the Parliament, the Prime Minister's Office, the Ministry of Defence, the Ministry of Home Affairs and the National Security Council should draft laws as they are the policy-making bodies for all security affairs. The Nepal Army, Nepal Police, Armed Police Force and Nepal Intelligence Department should implement these policies and programmes, as they are the implementing agencies of the government. Co-ordination is therefore needed between these policy-making bodies and implementing agencies. The security agencies must act according to the rules and regulations and must follow the Government's policies and programmes.

Until and unless there is coordination between these bodies, they cannot achieve their objectives, and this will be a major challenge for Nepal. This coordination mechanism must be based on political consensus, with the major political parties – including opposition parties – considering the implications of political division on sensitive and important issues that are directly related to national unity and sovereignty. The NSC must play an effective and influential role in terms of drafting security policy and analysing security dynamics in line with the aspirations of the Nepali people and the principles of the democratic framework.

Unfortunately, this coordination has not existed in the past.[43] The Prime Minister's Office, the Ministry of Defence, the Ministry of Home Affairs and the National Security Council previously did not engage in security issues. Security issues were not in the public domain and were considered as the exclusive domain of the Palace. The Palace and the Royal Nepal Army dealt with national security

42 The Interim Constitution of Nepal 2007 op. cit.

43 Wagle Geja S., 'National Security Policy based on National Security', *Kantipur daily*, 13 September, 2008

issues even during the democratic period. Moreover, the Government followed traditional state- and military-centric approaches to security, and in the absence of a national security policy the Government's approach was largely *ad hoc*.

If we look at international principles and practices, there are coordinated approaches in the United States, India, China and Australia. The president's office in the United States, the Cabinet Office in the United Kingdom and the Prime Minister's Office in India are effective and powerful in terms of analysing national and international security dynamics and challenges and their potential implications and then on that basis drafting security policy. The Indian National Security Council is accountable to the Parliament and Prime Minister, and the US National Security Council is part of the President's Office.[44] Nepal as also needs an effective and competent national security council for the sake of its national security, territorial integrity and sovereignty.

The NSC should have a policy-making role

Nepal does not have a comprehensive written national security policy, excluding the centuries-old testimony of the late King Prithvi Narayan Shah, the *Dibya Upadesh*.[45] If the present government is sincere regarding national security policy, the Constituent Assembly, the Prime Minister's Office, the Ministry of Defence, the Ministry of Home affairs and the National Security Council should give high priority to formulating a new policy.

The Interim Constitution states that the role of the NSC is 'to recommend to the Council of Ministers on mobilisation, operation and use of the Nepal Army'.[46] Yet the Council must have the authority to draft policy, and analyse security dynamics, including recommenda-

44 The National Security policy of the United states of America 2006, (The White House, Washington D.C., 2006); The national security strategy of the United Kingdom 2008, (The Cabinet Office, London, 2008); Nalapat M. D. "Vajpayee's Integrated National Security Doctrine", The Times of India, January 13, 1999.

45 Wagle Geja S., op. cit.

46 Ibid

tions to the Council of Ministers on the mobilisation, operation and use of the Nepal Army. The Government should amend Article 145 of the Interim Constitution on the jurisdiction of the council and give the Council the right to draft policy (following comprehensive consultation with various stakeholders in society). Political parties in parliament and civilians should draft the national security policy and the security sector agencies should implement it following the rules and regulations passed by the Parliament.

Objectives of the national security policy

The objectives of any national security policy are directly related to the nation's sovereignty and integrity. For any country, the principal objectives should be: protecting national unity, territorial integrity, national independence and sovereignty; promoting democratic principles and values; following the rule of law and respecting human rights; and protecting people from internal conflicts and external attacks. Given its geo-political sensitivity and the geo-political equilibrium, this is important and sensitive in the changed political context of Nepal. For Nepal, the most important objectives of the national security policy should be:

- Protect national unity, territorial integrity, national independence and sovereignty of the nation
- Promote democratic principles and values, follow the rule of law and respect human rights
- Respect the diversity of society and follow the true principles of a plural society to mitigate the internal conflict of society
- Establish warm, intimate and cordial diplomatic relations with neighbouring countries (China and India), and follow a foreign policy of non-interference and peaceful co-existence
- Protect the long-cherished identity, values, cultures and languages of the nation
- Protect its people from internal conflicts and external attacks

- Ensure the security of people's lives, properties and professions
- Follow a people-centric, rather than a state- and military-centric security policy
- Make security agencies accountable to the people, inclusive and respecting of human rights
- Resolve border disputes through a peaceful diplomatic process and protect the sovereignty of the homeland
- Establish effective border management and monitoring mechanisms, in cooperation with the neighbouring countries, and control trans-national terrorism, crime, smuggling and other illegal activities
- Democratise and professionalise security agencies, especially the Nepal Army, which is responsible for the protection of national unity, territorial integrity, national independence and sovereignty, and make them competent to counter the range of prevailing security challenges
- End the impunity of security sector institutions and ensure people access to justice
- Support the Government in establishing sustainable peace and promote peace-building approaches as per the Interim Constitution, the Comprehensive Peace Agreement, and subsequent political agreements among political parties

Conclusion

Nepal is now in the process of transforming from a feudal and unitary state into a plural, democratic, multi-ethnic, federal, and secular one. As a result, there have been significant changes in its internal and external dynamics. The definition of national unity and security has widened, becoming more people-centric and based on democratic values and principles. There are fundamental differences between a kingdom and republic, between a unitary and a federal state, between an autocratic and a democratic state: national security policy needs to be redefined according to the principles of a federal democratic republic.

Promoting democracy, the rule of law and human rights, ensuring plural and inclusive state and establishing political stability should be the basic principles underlying a national security policy. The concept of national security has transformed from a state-centric to a human-centric approach, and Nepal's national security policy must therefore be redefined according to the principles of human security. The national security policy needs to be redefined in a changed political landscape, safeguarding Nepal’s national values and identity, based on national consensus following comprehensive consultation with various stakeholders in society.

National security and foreign policy are closely interrelated, even inseparable. Nepal is situated between two rising global powers, China and India, both of which are nuclear powers. Given its geopolitical sensitivity and geo-strategic equilibrium, Nepal should define its foreign policy in line with the objectives and principles of the national security policy, since foreign policy is an extended form of national security and the national interest.

If Nepal follows appropriate relations with China and India, based on national interest, it will be a beneficiary of their economic growth. If it follows policies of alliance to one and opposition to the other, they will interfere in Nepal, making it a playground for their interests. Nepal cannot follow a national security policy of military supremacy; instead it must follow a policy of equidistance and equi-proximity according to principles of national sovereignty, peaceful co-existence and non-interference in internal affairs. It is, therefore, very important to build warm, cordial and intimate diplomatic relations with both China and India, and also with other friendly countries, which will help national unity, territorial integrity and sustainable peace in Nepal.

The Nepal Army is the most important institution responsible for safeguarding national security, national unity, territorial integrity and national independence. Political parties must respect its sensitive and dignified role. Considering its responsibilities relate di-

rectly to sovereignty and national unity, the national army must be established as an apolitical, professional, inclusive and accountable institution that abides by democracy, the rule of law and human rights. It must be brought under civilian control, but it should not be politicised under any pretext.

National security policy is a key instrument for establishing political stability, and political stability is a precondition for national security. Therefore, the ongoing peace process must be brought to its logical conclusion by permanently resolving the existing conflict in society and establishing political stability and sustainable peace. Political stability and consensus between political parties are the key factors for national security and for safeguarding the national interest. A new national security policy is imperative to maintain national security in the changed political context. This national security policy therefore needs to be redefined, safeguarding Nepal's national unity, territorial integrity, sovereignty, national values and identity, based on national consensus following comprehensive consultation with various stakeholders in society.

About the author

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Mr Geja Sharma Wagle writes regularly for Nepali newspapers and magazines on security, internal relations and political issues. He is a regular columnist for Kantipur Daily and The Kathmandu Post. He is also an advisor for the Nepal Press Union, an umbrella organisation of democratic journalists and a member of the International Federation of Journalists.

Selected Bibliography

Alagappa Muthiah (ed.) *Asian Security Practice : Material and Identical Influences*, (Sanford University Press, California, 1998)

Ashley R.K., *The Political economy of War and Peace: the Sino-Soviet-American Triangle and the Modern Security Problematique*, (London, Frances Pinter, 1980)

Abdul-Menon M. Al-Moshat, '*National Security in the Third World*,' (Westview Press, London, 1985)

Ayoob M., *The Third World Security Predicament: State Making, Regional Conflict and the International System*, (Lynne Rienner, Boulder Co., 1995)

Bajpai Kanti, 'Beyond Comprehensive Security: Human Security', *Comprehensive Security: Perspectives from India's Regions*, (Delhi Policy Group, New Delhi, 2002)

Banerjee Dipankar (ed) security studies in south Asia : change and Challenge, (Manohar Publishers and Distributors, 2000),

Bhattarai Rajan, Geopolitics of Nepal and International Responses to Conflict Transformation, (Friends for Peace, Kathmandu, 2005)

Brown Lester R., “Redefining Nationals Security”, (World Watch Institute, Washington D.C., 1977)

Buzan Barry, *People State and Fear : An Agenda for International Security studies in the post-cold war era*, (Harvester Wheatsheaf New York, 1991)

Chari P R (ed.) *Security and Governance in South Asia* (Manohar publishers and distributors, New Delhi, 2001)

Collins Alan, *Security and Southeast Asia : Domestic, regional and Global Issues,*(Viva Books Pvt. Ltd. India, 2005)

Gurung D B (ed.), *Nepal Tomorrow Voices and Visions,* (Koselee Prakashan, Kathmandu, 2003)

Inbar Efraim and Sheffer Gabriel (eds.), *The National Security of Small States in a Changing World*, (Frank Cass, London, 1997)

Johnson, John, (ed), *The Role of the Military in Underdeveloped Countries,* (Princeton University Press, Princeton, 1968)

Malla Kamal P. (ed.), *Nepal : Perspectives on Continuity and Change*, (Centre for Nepal and Asian Studies, Kirtipur, 1989)

Max Black (ed.), *The Importance of Language*, (Princeton Hall, New Jersey, 1962)

Military Act 2007 (The Nepal Army, Kathmandu, 2007)

Morgenthau Hans J., *Politics among Nations (Random House, Newyork, 1973)*

Rose Leo E., *Nepal Strategy for survival* (Oxford University Press, Bombay, 1971)

Santhanam K and Kondapalli Srikanth (eds.) *Asian Security and China 2000-2010,* (Institute for defense studies and analysis, New Delh, 2003)

Sharma Jagadish, *Nepal : Struggle for existence*, (Communication Inc. Kathmandu, 1986)

Sharma Shiba P., Baidhya Tulashi R. and Manandhar Triratna (eds.), *Military History of Nepal* (Royal Nepalese Army, Kathmandu, 1992),

Sheehan Michael, *International security : An Analytical Survey*, (Viva Books Pvt. Ltd. New Delhi, 2006)

Thakur Ramesh, '*Threats without Enemies, Security without Border: Environmental Security in East Asia, Journal of East Asian Studies* 1:2 (August 2001)

Thakur Ramesh, '*the United Nations, Peace and Security*', (Cambridge University Press, 2006)

Terriff Terry, Croft Straut, James Lucy and Morgon Patrick M., *security studies today*, (Institute for Defense Studies and Analysis, New Delhi, 2001)

The Constitution of the Kingdom of Nepal 1990, (Baudhik Sansar Monthly, Kathmandu, 1991)

The Interim Constitution of Nepal 2007 including first, second, third, fourth and fifth amendments, (UNDP Nepal : 2008)

The Proclamation of the House of representation, (The Parliament Secretariate, Kathmandu, 2006)

The National Security policy of the United States of America 2006, (The White House, Washington D.C., 2006)

The national security strategy of the United Kingdom 2008, (The Cabinet Office, London, 2008)

Thomas Caroline, '*In Ssearch of Security : The Third World in International Relations*' (Boulder, Lynne Rienner, 1987)

United Nations Development Program, *Human Development Report*, (New York: Oxford University Printing Press, 1994)

Werner Bauwens and Armand Clesse (eds.), *Small States and the Security Challenge in the New Europe*, (Brassey's Ltd., London, 1996)

Journals

Baldwin David A., '*security studies and the end of the cold war : Review Article*', (October, 1995)

Berkwitz Morton and Bock P.G., National Security, *International Encyclopedia of Social Science,* Vol.11-12, Sills David L. (ed.), (Collier Macmillan Publishers, London, 1972)

Booth, Ken, 'Security and Emancipation', *Review of International Studies*, (Vol. 17, No. 4, October 1991)

Contributions to Nepalese Studies (Journal of centre for Nepal and Asian Studies, Tribhuwan University, Kathmandu, Nepal)

Huysman, J. 'Revisit Copenhagen: or, On the Creative Development of a Security Studies Agenda in Europe', *European journal of International Relations*, Vol. 4, No. 4. 1998

Hammerstad, H. 'Whose Security? UNHCR, Refugee Protection and State Security, After the Cold War', (*Security Dialogue* Vol. 31, No.4. 2000)

Sipahi (Soulder), (Annual publication of the Nepal Army)

Newspapers

Time
Newsweek
The Times of India
The Hindu
The Kathmandu Post
Kantipur
The Himalayan Times
Annapurna Post
Nepali Times
Himal
Nepal
Samaya

The Rehabilitation and Integration of Maoist Combatants as Part of Nepal's Security Sector Reform

Kul Chandra Gautam

Following the historic elections to the Constituent Assembly, the abolition of the monarchy, and the formation of a new government, Nepal is now poised to bring its peace process to a logical conclusion and to draft a progressive constitution for a new federal democratic republic. However, a fundamental disagreement among key stakeholders on the highly sensitive issue of the 'monitoring, integration and rehabilitation' of Maoist combatants, as called for in the Comprehensive Peace Agreement and the Interim Constitution of Nepal, is threatening to unravel this historic transformation.

A related issue is to make Nepal's security forces more inclusive and representative of the diverse mosaic of Nepal's population by ensuring better representation of women, Madheshis, Dalits and other under-represented groups. The CPA also speaks of the 'democratisation' of the Nepal Army and the 'determination of the

right number of the Nepali Army', generally understood to mean the need to down-size Nepal's security apparatus.

All of this needs to be done as part of a broader security sector reform (SSR), keeping in mind Nepal's legitimate security interests, but avoiding any unnecessary and unaffordable militarisation of the Nepalese society. An even more important objective is to avoid the politicisation or factionalisation of Nepal's security forces.

An early resolution of these complex issues is vital to bring closure to Nepal's peace process and to achieve lasting peace and tranquillity in the country. While some of these complex issues can only be tackled over a number of years, a phased process of reform must begin right away, with measurable steps taken in the short, medium and long-term.

This article suggests some specific, perhaps non-conventional, ideas on the issue of rehabilitation, on the selective 'professionalisation and integration' of the Maoist combatants, and on how to make Nepal's security forces more inclusive and democratic as part of a broad, longer-term and comprehensive package of security sector reform (SSR). The author of the present article is not specifically an expert on SSR; the proposals contained in the article are just an outline for further discussion and elaboration by concerned parties and experts.

The context of the integration challenge

Recently, there has been much heated debate and controversy regarding the 'integration' of Maoist combatants and recruitment of Madheshis and other under-represented groups in order to make the Nepal Army more inclusive. However, there has so far been insufficient debate on how to make the resulting Nepal Army a modern, democratic, professional institution that is responsive to Nepal's genuine security needs, and fully answerable to the elected representatives of the people as in all modern democracies.

The Nepal Army has a glorious history which includes many positive accomplishments in protecting the unity and security of the country and also participating in international peace-keeping. Yet it has never really been subservient to a duly designated civilian authority, nor open to rigorous audit and accounting that is subject to parliamentary scrutiny and oversight.

Since 1990, all of Nepal's Constitutions have had a provision for a National Defence Council that is supposed to formulate national security policy and provide oversight for the functioning of Nepal's security services. However, this Council has never functioned effectively. Moreover, modern Nepal never had a functioning Ministry of Defence. Many knowledgeable analysts have dubbed Nepal's Defence Ministry simply as a powerless 'post-box' for the army, with real powers and responsibilities of the ministry vested in and exercised by the Principal Military Secretariat at the Royal Palace until mid-2006. During the period of the Interim Government, many of these powers and responsibilities effectively shifted to Army Headquarters, headed by the Chief of Army Staff, who reported on a rather pro-forma basis to the Prime Minister, who also served as the Defence Minister. Currently, the President of the Republic serves as the Supreme Commander-in-Chief, but the relationship between Army Headquarters, the Ministry of Defence and the Prime Minister's Office is still evolving and lacks much clarity.

In recent decades, the (Royal) Nepal Army was accused of various things: rampant corruption, especially in its higher echelons; unable to provide motivation and boost the morale of the rank and file; allegedly misusing the Army Welfare Fund established with the hard-earned income of ordinary soldiers serving in peace-keeping operations; unable or unwilling to hold violators of human rights within its ranks accountable; and frequently openly expressing contempt for political parties and civilian leadership.

On the other hand, it has been a mark of the Nepal Army's professionalism and sensitivity to the winds of political change that, although accused of being 'royalist', it has not attempted to intervene in the dramatic political transition in the past three years that led to the abolition of the monarchy and the CPN (Maoist) coming to power through elections. It is worth noting that in similar circumstances elsewhere in the world, it is not uncommon to see a restless military staging mutiny, bloodshed and acrimony, even outright *coups d'etat*.

Nevertheless, the Nepal Army still suffers from a negative image. This may or may not be fully balanced and fair, but the fact that it has such image calls for a genuine effort to transform both the perception and reality of the Nepal Army.

The so-called 'People's Liberation Army' of the CPN-Maoist also suffers from a negative image. It is accused of forcible or deceptive recruitment, including that of minor children, committing many brutalities, and serving as the ideologically indoctrinated 'army' of one political party. This makes the 'integration' of Maoist combatants with the Nepal Army highly delicate and problematic.
Given the need to reduce, rather than increase, the size of the Nepal Army, which is the declared position of the CPN-Maoist leadership itself, priority must be given to the honourable rehabilitation and management of Maoist combatants in civilian life. However, as 'monitoring, rehabilitation *and integration'* are explicitly agreed to in the CPA and the Interim Constitution, creative ways must be found for some degree of 'integration' in a manner that would actually help to strengthen the Nepal Army and other security forces, e.g. to enhance their inclusiveness, professionalisation and modernisation.

During the decade of conflict, the ranks of the Nepal Army more than doubled, from some 46,000 to 96,000. Any large scale 'integration' of these Maoist combatants, combined with additional recruitment from other under-represented communities would make

the size of Nepal Army swell to well over 100,000 personnel, not even counting the sizeable Police and Armed Police Force that also exists. As a peace-loving, democratic country situated between the world's two most populous countries, Nepal does not need such a large army. The main role of the military in today's Nepal can only be to help keep internal law and order, provide VIP security, protect sensitive installations and to suppress internal rebellions and terrorism. Nepal cannot really rely on its army to protect itself from any foreign aggression, as resolution of any conflict with its mighty neighbours is only conceivable through peaceful diplomacy. At best, the Nepal Army can undertake routine border patrol and provide temporary deterrence against any foreign invasion, but for that alone there is no need to have a 100,000+ army, costing over $100 million a year, in a poor country like Nepal. Given this reality, Nepal should gradually downsize its army to perhaps half of its current size, or to a level of around 50,000 soldiers, within five to ten years, and reduce its military expenditure accordingly.

In the new peaceful Nepal, it would be desirable to restructure the Nepal army to undertake four major tasks:

1) the traditional military functions of maintaining peace and security
2) serving in international peace-keeping and peace-building operations
3) supporting disaster relief and rehabilitation
4) providing certain specialized security services, e.g. VIP security, industrial security, protection of vital installations, etc.

Moreover, the Nepal Army should be sufficiently versatile to support and undertake certain reconstruction and development activities, whenever there is a slack period when large numbers of soldiers are not busy with other assignments. For this purpose, the Nepal Army should have a few specialised units, e.g. an army corps of engineers or medical personnel, who can be deployed at short notice to development and humanitarian activities.

The Nepal Army is already involved in all such activities to some extent. What is being proposed here is to make this more formal and systematic, including the reallocation of the defence budget to reflect these priorities.

While building specialised contingents for each of the four key tasks of the Nepal Army as outlined above, in order to ensure a sense of equity, common experience and shared pride in the course of their career all Nepali soldiers and officers should have an opportunity, and indeed obligation, to rotate and serve in all the four key tasks, including in peace-keeping operations, which are among the most valued assignments. The proposals for the reform of Nepal's security sector in this article, including limited integration of the Maoists, and recruitment of Madheshis, Dalits, women and other under-represented groups on a priority basis in the Nepal Army, are made in this long-term perspective.

Article 4.4 of the Comprehensive Peace Agreement stipulates that the Interim Cabinet would form a special committee to carry out the monitoring, integration and rehabilitation of the Maoist combatants. It appears that the committee formed for this purpose has hardly met and has made little progress with regard to the question of 'integration and rehabilitation'. There has been an inexcusable lack of progress even on the question of under-age Maoist combatants in cantonments, as verified by UNMIN, who according to the Comprehensive Peace Agreement are required to be rescued immediately and adequate provisions made for their rehabilitation. It is especially troubling that the concerned parties in Nepal have taken this serious issue rather lightly even though UNICEF and several other international organisations stand ready to support the demobilisation and rehabilitation of such children, as well as other children affected by the armed conflict, in accordance with internationally agreed norms. Adequate funding for this purpose has already been available for some time from various donors but remains under-utilised.

There has also been little progress in coming up with specifics with regard to the modalities for the recruitment of Madheshis as a group into the Nepal Army as agreed between the Government and the Madheshi parties in February 2008.

There is an urgent need, therefore, to come up with a set of pragmatic proposals so that these issues do not further derail the writing of the new constitution, holding the whole peace process as hostage. This paper presents a three-stage proposal for Nepal's security sector reform, including the professionalisation and integration of a limited number of Maoist combatants, making the security forces more reflective of the diversity of Nepal's population, and democratisation of the Nepal army:

Steps for immediate action

The following steps are priorities for immediate action:

a) The CPN-Maoists have already agreed on a clear separation of the military and civilian political functions in their leadership when they formed the current government. This policy must be strictly implemented not just at the leadership level, but all the way down their chain of command. Accordingly, all CPN-Maoist military commanding officers in and outside the cantonments should not assume any dual military-political functions.

b) As there must not be two separate armies, or two separate chains of command, or the mixing of civilian and military functions in a democratically elected government of Nepal, the provisions in the Joint Agreement on the Management of Arms and Armies that allows for some armed Maoist combatants to remain outside designated cantonments to provide special security for senior Maoist leaders should be formally scrapped immediately.

c) There is a need to further strengthen management and monitoring functions in the existing cantonments to avoid illegal,

unauthorised and even criminal activities by Maoist combatants and their commanders as has been reported in recent months. Ideally, this should be done in the context of the extension of UNMIN's mandate, which will now be focused on the issues of monitoring, rehabilitation and integration of Maoist combatants. To ensure greater public confidence that a CPN (Maoist)-led government does not give mixed signals to its own cadres managing the cantonments, serious consideration should be given to entrusting the overall management and monitoring of cantonments to more neutral and competent administrators, with technical support from senior UNMIN military advisors/ specialists. For example, consideration should be given to enlist the support of retired Nepali army officers who have relevant experience in UN peacekeeping operations in similar situations in other countries, or even that of retired Gurkha officers.

d) All verified under-age combatants should immediately be discharged from all cantonments to temporary holding centres far away from existing cantonments. Such holding centres should be managed by respected senior, non-political civilian administrators assisted by UNICEF and other recognised national and international child-welfare organisations.

e) A high-level National Security Council should be established that enjoys the respect and trust of all Nepalis to develop long-term national security policy, to provide guidance for security sector reform and to oversee other critical short-term transitional arrangements.

f) The process of transforming and upgrading a proper Ministry of Defence should begin so that it is staffed with competent, non-controversial senior officials, with some knowledge and expertise of military and strategic affairs.

Short-term actions (3 to 6 months)

These are priorities for action over the short term (i.e. in the next three to six months):

a) Under the overall guidance of the special committee formed under article 146 of the Interim Constitution, and the supervision of the National Security Council, a working group of experts should be established to agree on the required minimum qualifications and criteria for recruitment into the various branches of Nepal's security sector institutions. This working group should determine the eligibility of interested Maoist combatants, as well as all future recruits from various previously under-represented communities, to join different branches of Nepal's security sector institutions. (Care should be taken in this context to exclude Maoist combatants known to have committed serious human rights violations – just as action needs to be taken against (R)NA officers with a record of similar abuses).

b) With a view to significant downsizing of the Nepal army over the coming decade, a programme of voluntary early retirement from the Nepal army, and a severance package of financial incentives (between 1 to 3 lakh rupees, depending on length of service) should be developed for army personnel, for those Maoist combatants found ineligible or unqualified to join the security services, and for those who volunteer to take this option.

c) This facility for early retirement and financial compensation should be made available for up to 10,000 soldiers and combatants every year for the next 5 years, with priority given initially to the Maoist combatants. Such a package would cost about NRs. 2 billion or some US$30 million per year, which could be financed partly through Nepal's defence budget and partly through international assistance from interested donors.

d) Among Maoist combatants who are eligible and opt for recruitment into the Nepal Army, special professional training should be organised for up to 2000 female combatants, with a view to deploying them on a preferential basis as part of Nepal's peacekeeping troops with the United Nations. As per Security Council Resolution 1325, the UN is actively encouraging the deployment of more women officers in its peacekeeping missions. Nepal could make a very valuable and mutually beneficial contribution to world peace by having a dedicated contingent of women soldiers and officers. This would also help make the Nepal Army a more inclusive, gender-balanced and gender-sensitive institution. This would be in Nepal's larger national interest, and in keeping with Nepal's new egalitarian, democratic dispensation.

e) For the remaining female Maoist combatants (perhaps up to another 2,000), provision should be made for them to be trained as community health workers, pre-school or primary school teachers, or women development officers – with guaranteed employment – based on their qualifications and interest.

f) Among the remaining Maoist combatants who meet the minimum required qualifications for various security services, and who opt to join the Nepal Army, recruitment and professional training should be arranged on a preferential basis of heretofore under-represented communities (e.g. Madheshis, Dalits, etc.). Such recruits should be given special training that combines some basic military/police skills as well as specialised modules dealing with all the proposed four key tasks of Nepal's security forces, including peace-keeping, community development and disaster relief and rehabilitation.

g) Following initial basic professional training for the Maoist combatants of e.g. six months' duration, they should be joined by existing Nepal Army soldiers for joint training on various specialised modules, in order that they all develop mutual understanding, respect, and a sense of camaraderie and belonging to one national army.

h) For a small number of high-ranking Maoist officers who have not joined the political process or been appointed to other civilian jobs and who have basic officer-level qualifications, high-level specialised officer training should be arranged, partly in Nepal and partly at an institution abroad such as the Sandhurst Academy in the UK. Part of this training should be done jointly with other Nepal Army officers in order to ensure a sense of camaraderie and bonding as officers of a non-political, professional army.

i) Nepal should negotiate with friendly countries and donor institutions to provide financial, technical and training support for the above programme.

A longer-term plan of action

In light of the need to gradually 'right-size' the Nepal Army, a policy decision should be taken not to automatically fill posts, including at senior officer levels, which become vacant through normal attrition, retirement or voluntary early retirement. Instead, for the next three to five years, a special policy should be adopted to fill only up to 25 percent of such 'vacant' posts in the Nepal Army through an affirmative action plan of special recruitment that specifically seeks out qualified recruits from heretofore under-represented segments of Nepal's population, including women, Madheshis and Dalits.

'Democratization' of the Nepal Army, as called for in the Comprehensive Peace Agreement, should include at least three components:

1) Gradually change the composition of the Nepal Army, including at senior officer level, to make it more inclusive of the diversity of Nepal's population
2) Provide intensive training for staff at all levels of the Nepali Army, including at officer level, on respect for human rights, humanitarian laws, gender and cultural sensitivity, and zero tolerance of impunity

3) Ensure a strong culture of compliance with these democratic norms, not only in theory but in practice, through a rigorous system of internal monitoring and external civilian oversight.

Such democratisation and restructuring of the Nepalese security forces will also help to end the vestiges of feudalism and undue influence of aristocratic families that have historically dominated the officer corps of Nepal's military leadership and perpetuated a *bhardari* system that has been resistant to true democratic transformation of Nepal.

Recognizing that military service, both in Nepal and in the Gurkha troops abroad, is an important source of employment and income for many impoverished families in Nepal, great care should be taken to ensure that alternative jobs are created, skill training is provided, and arrangements are made for loans and financing to former soldiers, including Maoist ex-combatants, as part of a long-term down-sizing of the Nepali Army and demilitarisation of Nepali society. Such employment creation programmes for ex-soldiers and combatants might include micro-credit and micro-finance schemes to start small enterprises, businesses and cooperatives. One could even envisage a special scheme for the foreign employment of demobilised soldiers and ex-combatants, as several countries are known to be very receptive to employing retired soldiers with good professional training, skills and military discipline in certain occupations.

As Nepal is going to need several thousand additional primary school teachers and health workers in the coming years, demobilised soldiers and ex-combatants, especially women, should be given preferential training and placement opportunities in such civilian occupations. Even the private sector might be approached to help underwrite some of this retooling and to offer job opportunities for qualified demobilised soldiers and ex-combatants.

In discussing the issue of the 'rehabilitation and integration' of Maoist combatants, two issues are often raised with much anxiety and concern: the risks of integrating an ideologically indoctrinated armed group loyal to one political party into a national professional army; and the relative merits of the disarmament, demobilisation and reintegration (DDR) versus the security sector reform (SSR) approaches. These are both legitimate concerns, but are also quite manageable if we are guided by a genuine commitment to the larger national interest.

As far as the risk of politicisation of the national army is concerned, this must be factored into the manner in which integration is handled and the type of professional training that is provided. Maoist combatants who join the national army should do so as individual Nepali citizens. As a political party, the CPN (Maoist) should have no special links with these new recruits. While individual soldiers and officers can enjoy the same political freedom and civil rights as all citizens of Nepal, there should be no units that are affiliated to any political party within Nepal's security sector forces.

While it is true that the Maoist combatants are ideologically indoctrinated, and politically partisan, most of them joined Maoist armed groups not out of ideological conviction but out of economic necessity or to escape social discrimination and exploitation. Besides the ideological baggage they might have acquired, they are also likely to have some positive attributes such as holding generally progressive views with regard to many issues concerning social justice and equality in Nepal. After a period of professional training and after having steady employment and income working in the structured and disciplined environment of a national army, there is a good chance that their ideological fervour will wane and that they will become responsible professional soldiers. Nothing is guaranteed, of course, but this is a calculated risk that is worth taking for the sake of national reconciliation and lasting peace.

On the issue of DDR versus SSR, for understandable reasons the Maoists do not like 'DDR' and the Nepal Army does not like 'SSR'. The Maoists suspect that the DDR approach would lead to the neutralisation and dismantling of their army, as if it were a defeated force. The Nepal Army fears that SSR is a ruse to weaken it as a professional army, and possibly allowing partisan political interference in its work and organisation in the name of reform. All these concerns are justified to some extent, but they are also exaggerated. Objectively speaking, elements of both DDR and SSR are needed, and the two are not mutually exclusive. The case for SSR has already been made above, and this includes elements of DDR.

While a conventional model of full-scale DDR may not be applicable in Nepal, some elements of the UN's Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS), which is based on the best practices of UN agencies and missions, should be applied. For example, it is necessary to ensure proper psychological counselling, job training, and educational opportunities and to promote reconciliation in communities to which demobilised soldiers and combatants are returning.

Furthermore, there should be no delay or reservation whatsoever in implementing full-scale DDR for children, as this is a matter of children's human rights and should not be subject to political manoeuvring or negotiation. It is inexcusable that two years after verification by UNMIN, some 3,000 child soldiers remain in Maoist cantonments under various pretexts, and that the CPN (Maoist) remains in the UN Security Council's list of shame as a non-state party guilty of employing child soldiers. Now that the CPN (Maoist) leads the Government of Nepal, the continuing presence of child soldiers and the neglect and plight of other children affected by armed conflict amounts to the Government of Nepal itself being a violator of its international treaty obligations. It is worth recalling that employing child soldiers is a war crime and a crime against humanity under a number of international conventions to which Nepal is a State Party. As recently promised by the Prime Minister

to the visiting Special Representative of the UN Secretary-General on Children and Armed Conflict, all verified minors in the Maoist cantonments must be released and rehabilitated immediately, without any further ifs and buts.

As we embark on building a new Nepal, the CPN (Maoist) in particular and Nepali society as a whole must embrace a culture of peace and non-violence, and instil this ethos in the children of Nepal. During the period of conflict, one of the saddest things introduced by the Maoists in their school curricula in areas under their control was a militaristic education starting in primary schools at a very young age. In a subject called 'military science', children were taught skills such as making and using guns, explosives, grenades and booby traps, serving as sentries and informers, and glorifying revolutionary violence. In the new Nepal, we must teach our children education for peace and non-violence. All militaristic training and indoctrination, including the Maoist proposal for compulsory military training for all adults, with regular refresher training, must be discarded as the vestiges of a bygone era. One exception to this, however, might be to offer an opportunity for all Nepali youth between the ages of 19 and 22 to join some kind of national service, mostly for community development activities, but which could include a stint in national military service as an option.

To protect children and the civilian population, as well as to prevent Nepal from further descending into lawlessness and criminality, as has happened in many post-conflict situations, de-mining, mine awareness education and a vigorous programme to stop the proliferation of small arms and light weapons must also be made an important part of security sector reform and the 'arms management' programme. The recent emergence of many armed groups in the Tarai, and the continuing resort to the threat of arms, intimidation and violence by paramilitary groups and militia, and youth organizations aligned with various political parties and fringe groups in different parts of Nepal, point to the urgent need for tighter con-

trol of small arms and light weapons. Without such measures, the future of democracy itself will be in peril, as democracy cannot thrive in an atmosphere of insecurity and impunity.

As Nepal moves towards a peaceful future, with a reformed and 'right-sized' army, resources freed up from military expenses should be reallocated for poverty alleviation and human development. This holy land of Gautam Buddha should aspire to offer a genuine 'peace dividend' for the people of Nepal and make human security and prosperity the true basis of our national security in the 21st century.

About the author

Mr. Kul Chandra Gautam is a former Assistant Secretary-General of the United Nations, and Deputy Executive Director of UNICEF. He has extensive experience in socio-economic development, humanitarian assistance, human rights and international diplomacy. As a senior UN official, Mr. Gautam provided leadership for strategic planning, policy guidance and programme management. In his long and distinguished career with the United Nations, spanning over three decades, Mr. Gautam had extensive dealings with senior levels of donor governments, development agencies, NGOs and the corporate sector in policy dialogue, advocacy and resource mobilisation. At the global level, Mr. Gautam dealt with the highest levels of policy making at the United Nations, including the General Assembly, Security Council, ECOSOC and the UNICEF Executive Board, and he oversaw UNICEF cooperation in over 150 developing countries. Mr. Gautam had hands-on experience at the field level, serving UNICEF in positions of increasing responsibility and leadership in Cambodia, Indonesia, Laos, Haiti and India. He also served as Chief for Latin America and the Caribbean, as Regional Director for Asia and the Pacific, and as Director for Planning and Programme at UNICEF Headquarters.

Mr. Gautam served as Chair or member of the Boards of several international development organisations and public-private partnerships, including the Partnership for Maternal, Newborn and Child Health (PMNCH), the Micronutrient Initiative (MI), the Global Alliance for Vaccines and Immunization (GAVI), the Global Alliance for Improved Nutrition (GAIN), the Global Network of Religions for Children (GNRC), and the Inter-faith Council for Ethics

Education. He is the winner of several awards, including the Audrey Hepburn Humanitarian Award – 2008.

Mr. Gautam was the highest-ranking Nepali in the UN system. During the decade-long civil war, he worked hard informally to secure the support of the UN and other key players to promote peace and reconciliation in Nepal. He spoke forcefully against violence, impunity and violation of human rights by all parties in the conflict.

Mr. Gautam has spoken and written extensively on post-conflict reconstruction and development in Nepal, and has offered his expertise to develop an ambitious plan and help mobilise international support for Nepal to achieve the Millennium Development Goals. Personally, he has supported several local development activities in his native village and district, especially in the areas of health and education, child development and women's empowerment.

Public Security Challenges and the Effective Mobilisation of Law-Enforcement Agencies

Deepak Prakash Bhatt

'Security' is a term with diverse meanings in various circumstances and contexts. Conventionally, security has been understood to mean something similar to safety or protection. For example, one scholar claims that security is a situation of being protected against danger, losses or any types of attacks.[1] Accordingly, this paper begins with a fundamental discussion of the meaning and definition of the term 'security', which includes several aspects and can be understood in various different ways, and the related concept of 'public security'.

Public security is the function of government which ensures the protection of citizens, organisations, and institutions against threats to their well-being and to the prosperity of their communities. This includes not only traditional security threats, but also

1 Bajpai, Kanti, *Beyond Comprehensive Security: Human Security*, Delhi Policy Group, New Delhi, 2002.

threats such as ethnic and religious conflicts, terrorism, migration, crime, poverty, hunger and deprivation. Politicians, public organisations and businesses closely collaborate to guarantee public security and maintain a stable environment for economic prosperity. The noted academic Barry Buzan drew attention to the fact that the state, while recognised as a security provider, can also be a source of fear and insecurity to its own people.[2] The government should ensure human security based on individuals and needs – the needs not just of the state but also of the people. The human security approach must be based on human development and justice. It must secure freedom from fear, not just the absence of conflict.

Security has always been and remains a key function, if not the key function, of any state, primarily because the survival of the state itself is at stake, but also because citizens rely on the state to provide for their security. Public security, however – what people mean by 'law and order' – is essentially safeguarded by the institutions and authorities of peacetime civil life, including the police.[3] To carry out this function, states exercise a monopoly over legitimate violence through different armed groups, mainly the military, police paramilitary groups and intelligence services.[4] In the past decade, security-related spending in Nepal increased because of the insurgency. This paper therefore advocates reductions in 'traditional' security budgets and the adoption of a broader 'human security' approach, as it is the people, and especially the most vulnerable populations, that need to be protected, rather that the state as such.

The rise of organised crime and terrorism has meant that public security has become an important political and economic issue both nationally and internationally. Organised crime and inter-

2 Buzan, Barry, *People, State and Fear: An Agenda for International Security Studies in the Posi- Cold War Era,* , Harvestor Wheatsheaf, New York, 1991.

3 Hobsbawm, Eric, *Globalization, Democracy and Terrorism*, Abacus, London, 2008.

4 Fluckiger, Samuel, *Armed Forces, Civil Society and Democratic Control: Concepts and Challenges*, International Peace Bureau, Geneva.

national terrorism are hardly deterred by geographical, linguistic, or financial barriers, and administrative hurdles play into their hands. Politicians, public organisations and businesses must collaborate closely to guarantee public security and maintain a stable environment for economic prosperity. Currently, however, brokers and traders are following historically established patterns of trade and trust that rely on minimal record keeping and a desire to avoid taxes, tariffs, customs duties, and government scrutiny. Smuggling, corruption, narcotics trafficking, foreign exchange transactions, wage remittances and hundi/hawala are intertwined with legitimate commerce.[5] Although public security significantly contributes to the attractiveness of a location, the productivity of its people, and hence the overall success of an economy, the public security sector frequently suffers from low budgets, limited resources, and inadequate information systems.

Large events, pandemics serve accidents environmental disasters and terrorist attacks pose additional threats to public security and order. The Police, the Armed Police and the Intelligence Department must nonetheless guarantee the security of the country as a fundamental prerequisite for the domestic political ability to act. The quality and scope of potential threats have changed significantly, and the tasks and general framework for the Police, Armed Police Force and related authorities have changed accordingly.

Traditional and modern concepts of security

The Commission on Human Security argued that 'people protected can exercise many choices. And people empowered can avoid some risks and demand improvements in the system of protection'.[6] Modernising the security sector can make the state more responsive, and is thus part of the process of opening the

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5 Chari, P. R., Combating Terrorism: Devising Cooperative Countermeasures, in *Terrorism in South Asia: Impact on Development and Democratic Process*, Khatri, Sridhar, Gert W. Kueck (eds.), Shipra, Delhi, 2003.

6 www.humansecurity-chs.org/final/report/finalreport.pdf

democratic space and state building. It has been noted that one of the institutional and functional roles of the state is to protect and provide security to the people.

Human security encompasses the provision of public security and safety, and therefore consists of policing, the judicial system, the penal system and constitutional guarantees. The transition from the traditional way of using any means to maintain peace towards a system where peace is maintained with justice and dignity for all is now the basic mantra for law-enforcement agencies, which have seen enormous changes in line with changing circumstances. The changes required for law-enforcement agencies in terms of discipline, ethics, values, terms and conditions of service, transparency and accountability together require a paradigm shift. They must be multi-purpose agencies which can make valuable contributions to internal peace, stability, and public security in the most economical, efficient and effective manner.

Mahbub ul Haq, who perhaps contributed more than anyone to the growth of the concept of human security, wrote that security is increasingly interpreted as the 'security of people, not just territory; security of individuals not just nations; security through development, not through arms; security of all the people elsewhere, in their homes, in their jobs, in their streets, in their communities and in their environment'.[7] Similarly, Amartya Sen stated that 'each and everyone wishes to be equally respected for the ability to conceive and freely endorse meaningful projects and to live a life that we have reason to value'.[8]

The evolution of law-enforcement agencies

During the eighteenth and nineteenth centuries, local governing systems run by princely states governed with their own authority.

7 Haq, Mahbub ul, *Worlds Apart: Human Security and Global governance*, London, I B Tauris, 1999.

8 Sen, Amartya (ed.), *Development as Freedom*, Oxford Uni. Press, Oxford, 1999.

No central government was in existence. The policing and judicial services were diverse in nature and quality. In most part of these princely states, authority to rule relied on village heads and councils supported by militia chiefs (Umraos, Kwathnayaks or Kotwals) to dispense order and justice.[9] During this period, umraos and kotwals were responsible for peace and security in the country, maintaining law and order and controlling criminal activities. Only after 1950 did the government at the central level begin to modernise the police. Ex-combatants from the Nepali Congress's Liberation Army, who fought for the establishment of democracy, were integrated as home guards and later formed into a single structure.

The social-cultural environment: emerging ethnic issues and regionalism

At the start of the Panchayat regime, the state abolished any legally sanctioned hierarchy or discrimination based on caste, ethnicity, gender and religion. In practice, however, legally sanctioned discrimination continued in terms of ethnicity and caste, and gender discrimination too continued to be sanctioned by the new Civil Code of 1963. Furthermore, caste and ethnicity as well as regional identity remained socially valid categories and were the basis of everyday interactions and access to political and economic resources.[10] During this period, the ruling elite, along with many development experts both foreign and Nepalese, viewed Nepal's cultural and linguistic diversity as an impediment not only to nation-building but also to the modernisation and development of the country.[11] The best approach to diversity, in this view, was assimilation around a national standard.

9 Vaidya, Tulshiram (Eds.), *Nepalko Sainik Itihaas*, Royal Nepalese Army Head Quarter, Kathmandu, 1995.

10 Panday, Devendra Raj. *2000.Nepal's Failed Development. Reflections on the Mission and the Maladies*. Kathmandu: Nepal South Asia Centre.

11 Escobar, Arturo. 1995. *Encountering Development. Making and Unmaking of the Third World*. Princeton: Princeton University Press.

In fact, nation-building, modernisation, and developmental interventions may have exacerbated existing disparities between various ethnic groups and castes, and between men and women.[12] Dalits in Western Nepal face more discrimination than in the East, where they occupy 17 percent of the population. While the Janjatis, in general, do not face such discriminations, they, like Dalits and Madhesis, experience political and cultural exclusion, which in many cases translates into economic exclusion. Thus, behind the official model of cultural pluralism and equality, attempts towards creating a national culture and the continued dominance of the high-caste Hindu culture over other groups are still discernible.

In order to respond to recent ethnic-based movements and the aspiration of minority communities, Nepal has been declared a multi-cultural, multi-ethnic, multi-linguistic, and a secular state and a federal republic has been established. According to this, individual and community groups will have greater control over their own resources for their development. In governing the state, powers and functions are to be shared between the centre and the provinces. However, dissatisfaction is now turning to organised crime. Criminal activities such as abduction, robbery, looting, drug smuggling, girl and child trafficking, etc, are increasing, and in many areas there is limited presence of police posts. Smuggling of rare wildlife products such as musk, fur, tiger and elephant bone, and rare herbs and woods are also increasing.[13] The crime of raping women at gunpoint is also on the rise. The Maoists have relinquished violence, but other splinter groups are now waging an armed struggle in an attempt to gain power. The demoralised police cannot take the hard measures that are necessary to curtail this kind of activity. Equally, the judiciary is not very effective in awarding severe punishment to those who are involved in these

12 See NESAC. 1998. *Nepal Human Development Report*. Kathmandu: Nepal South Asian Centre (NESAC)

13 Nepal, Weekly, Kathmandu, 23 October 2007.

kinds of activities, because of its long-highlighted link with political and power elites.

This combination of discrimination and rising crime is driving various communities to mobilise people for their rights. As the centralisation of power remains the ultimate objective of the ruling class, it has exclusively focused on the preservation of the territorial integrity of the state against internal and external pressures. A decade of violence has led to a militarisation of the state, causing escalating insecurity for the people. This phenomenon is further eroding the prospect of human development and public security.

Elements of public security

At present, public security in Nepal is maintained and enforced through both public and private authorities, though in fact the number and scope of private security companies in Nepal is comparatively very low. Nepal is divided into seventy five districts and has government security wings in all districts and regions. The main authorities that are involved in the maintenance of public security include: the Civil Security Authority (Home Ministry and its direct wings); the Nepal Police; the Nepal Armed Police Force; the National Investigation Department (NID); and the Department of Immigration. The main authorities that are accountable for social security include: the Ministry of Women, Children and Social Welfare; the Ministry of Health; the Ministry of Education; the Cultural Ministry of Local Development; and local administrations. Similarly, the courts are responsible for judicial security and justice. External security and defence is assigned solely to the Ministry of Defence and it is the job of the Nepal Army to protect the nation. Technological security is the responsibility of the Ministry of Science and Technology and its various institutions.

In non-governmental sectors institutions such as banks, corporate houses and business complexes, private security services are also involved in providing security. Many security companies have

been established in the last few years.[14] There is no direct governmental authority in Nepal that deals with financial and commercial security, though the Ministry of Finance, Nepal Rastra Bank, the Federation of Nepalese Chambers of Commerce and Industries (FNCCI), international banks and a few insurances companies do some work in this regard, with the help of the Police and the general administration.[15]

The understanding of security in Nepal today is changing rapidly since the Maoists joined the comprehensive peace process in 2006 after a decade-long insurgency. Whereas during the conflict, people thought of security only in terms of physical protection or seeking survival, they are now asking for all the possible types of security discussed above. The meaning of 'security' is thus based on people's perceptions, attitudes, context and needs. In developed countries such as the US, Australia, Japan, Canada and European countries, these more advanced connotations of security are accepted and practiced, while at the same time countries such as Iraq, Nepal, Afghanistan and other developing countries are not able to enforce security even in its basic meaning. Security is a matter of high importance and an inter-connected issue for everyone in a rapidly changing world.

Globally efforts to achieve security are essential today. Without global efforts, it will be impossible to achieve sustainable peace and to prevent and protect people from poverty, terrorism, threats, crime, attacks, discrimination, abuses of their rights and so on. As stated in the Universal Declaration of Human Rights in 1948, 'everyone is entitled to all the rights and freedoms, without distinction of any kind, such as race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth or other status'.[16] Hence, developed nations have a responsibility to

14 Shrestha, Hiranyalal, Proliferation of Small Arms and Light Weapons in Nepal, in *The Maoist Insurgency and Nepal-India Relations*, Shiva K. Dhungana (ed.), Friends for Peace, Kathmandu, 2006.
15 Puskar, Krishan Hari, Security, www.opednews.com
16 Universal Declaration of Human Rights, www.unic.org

help developing countries improve their security sector systems to make them more effective and efficient and better able to cope with these emerging challenges.

Immense gaps can be observed between different people's understanding of security. The meaning of security today depends on the context, the nature of needs and people's culture. However, there are some common characteristics across all forms of security. It is a legitimate legal system, or a kind of arrangement for protection, prevention, and preparedness against possible attacks, threats, damages and injury.

The role of the Nepal Police, the Armed Police Force and the Intelligence Department

The history of Nepal Police is closely tied to the democratic change after 1951. The Nepal Police was formed after the end of Rana autocracy and authoritarianism with the beginning of constitutionalism in the country. The police force was organised in accordance with democratic principles to support the rule of the law in the country. However, the coup launched by King Mahendra in the 1960s changed the image of the Police. The force was re-organised according to the needs of the party-less Panchayat system and the personal needs of King.

Throughout the Panchayat period, the Police were a dominating force that sought to control the people's popular will and hinder the struggle for the restoration of democracy, and were ready to blame anybody who had democratic aspirations as an *arastriya tatwa* (anti-national element). The Nepal Police was kept under the control of directly appointed Zonal Commissioners under the Ministry of Home Affairs. The Police service was reduced to being a mere onlooker to crimes ranging from rape (and killings following a rape), kidnapping, drug trafficking, and the theft of idols. This crime was burgeoning in society and often involved powerful

people, forming a widespread nexus between crime and the dominant Panchayat groups.[17]

This legacy continues. Despite numerous measures undertaken reform to the Police, from the Buch Commission in 1954 through to the Police Reform Recommendation Commission in 1993, the Police service, in the words of one minister of home affairs, has not reformed. On 28 July 2004, the Home Minister clearly warned that the Police must stop indulging in practices such as regular extortion and other unlawful activities.[18]

Furthermore, with the eruption of a violent insurgency in 1996, the power and influence of the home minister increased. The ministry gained greater access to the state exchequer in order to meet the expenses for intelligence and secret services. According to the annual report of the Auditor General in 2000, different departments of the Ministry of Home Affairs spent NRs. 49.5 million on 'secret services' in the three years between 1996 and 1999, and distributed NRs. 189.3 million in financial support to political loyalists between 1994 to 1999, far exceeding the stipulated amount, without any accountability.[19] This corruption influence has had a direct impact on police activities.

The Nepal Police has been developing community policing since 1982. It was first introduced with the *Chhimeki Prahari* system, a neighbourhood police that would work with the communities as being more approachable, sensitive and friendly. The idea behind this was that both the Police and people in the local community could develop practical cooperation which would lead to expanded consultation. This would change the image of the Police from a pure law-enforcement agency towards an agency that helps to identify and resolve the community's security problems. Their presence in

17 Kumar, Dhruba, State, Society and Human Security: An Infinite Discourse of Nepal, Kathmandu, 2005.
18 Ibid.
19 Himal Khabarpatrika, Grihamantri Nai Banna Kina Marihatte? Kathmandu, 1-16 September 2000.

the locality was meant to establish extensive co-operation between local people, the local leadership and the civil administration as a watchdog in the community. However, in some cases crimes have occurred in the community with the Police complicit, innocent people have been imprisoned, tortured to force a confession, or put behind bars without trial, while criminals have been freed as a result of certain influences and understandings.

The CPN (Maoist) was successful in mobilising people because they were able to speak to their grievances and engage directly with the community. The Maoist insurgency broke some of these community policing links, and now other splinter groups and forces are trying to do the same. There must be a national community policing policy which identifies the security needs of local communities, drawing on the lessons of past experience and addressing these new challenges. Everyone working in the area, including lawyers, the bar association, the attorney general's office, paralegal organisations providing legal services and non-governmental organisations must all be part of a campaign to launch community policing at the central and local administrative levels.

The Armed Security Force or Armed Police Force (APF) was created to respond to the widening Maoist insurgency, the consequences of which were already entrenched across the whole country. When the Nepali Congress government realised that the Royal Nepalese Army (RNA) and the King were reluctant to get involved in the violent conflict and that the civilian police had failed to curb the Maoists' activities, this new security organ was established. Initially, it was proposed that it would have a total of 15,156 personnel; it presently has 25,000 personnel, and answers to the Home Ministry.[20]

20 Regmi Report, *Shasastra Prahari Sewa Gathan Sujhab Karyalayadwara Tayar Pariyeko Pratibedan*, Kathmandu, The Report of the Task Force for Recommendation to set up Armed Police Service, April, 2000.

The Armed Police Force was conceived as a special task force with the responsibility to manage and control the violent armed conflict and to address disturbances bordering on terrorism, separatism, rebellion and communal riots in the country. However, even the Armed Police Force played a subordinate role to the Royal Nepalese Army, since both the Palace and the Army perceived it as a rival. Although it is an independent paramilitary force that was created by the Home Ministry, the Armed Police Force remains subordinate to the Nepalese Army when the armed forces are mobilised. This is ironic considering that it was created in response to the Army's persistent refusal to become involved in the internal conflict unless the Government conceded to its three preconditions of national consensus, a state of emergency and an anti-terrorist law.

There is a seemingly simple doctrine that the security interests of a state are served when addressed from a position of knowledge. Intelligence is thus the mother of power. Barbara Tuchman starts her famous book 'The March of Folly' with a lamentation that 'a phenomenon noticeable throughout history regardless of place or period is the pursuit by the governments of policies contrary to their own interests'. In modern times, many of these follies are rooted in intelligence failures.

The National Intelligence Department (NID) works under the Ministry of Home Affairs. The department has been in chaos because of excessive politicisation. Previous home ministers turned it into a recruitment centre for their own activities. During the Panchayat era its primary role was to spy on the activities of party cadres who were fighting for the restoration of democracy, which were labelled 'anti-national' people. The department was much less focused on supposedly core activities such as investigating crime and monitoring drug and human trafficking and cross-border criminal activities.

Security analyst Prof. Dhruba Kumar has rightly stated that in the post-1990 period, the intelligence services recruited unemployed

youths from their constituencies to garner support for personal causes rather than to gather intelligence for the state. Intelligence failures were therefore one of the crucial reasons for the rapid strides made by the Maoist insurgency throughout the country, which was then further accelerated by the withdrawal of police posts from villages.[21] Dealing with all security threats will require a high level of intelligence capacity. Currently, however, the National Intelligence Department still works in a somewhat superficial way, as it has lost its role of being a watchdog against internal security threats.

Despite this talk of failure, the state's dependence on intelligence has increased at an unprecedented rate, from problem conceptualisation to policy formulation and ground-level policy execution. There are many causes for this, of which the momentous changes in the nature and form of security threats, states resorting to the low cost option of covert actions to achieve their politico-strategic objectives, the easy accessibility to high and lethal technology, global mobility, and the low efficacy of conventional state instruments against invisible threats are just a few.[22] These shifting paradigms have catapulted intelligence to a central role in all modes of conflict. In an offensive mode, it provides vital inputs for strategy formulation and the assessment of adversaries' strengths and weaknesses on one hand, and is a potent force multiplier and capability degrader on the other. In internal security, the intelligence role, by and large, operates in defensive-offensive and defensive modes, which not only requires unique capabilities of its own but also area-specific, problem-specific and response-specific expertise and skills.

With the formation of the elected coalition government after the CA election the law and order situation, at least in the capital and in the hill and mountain districts, has to some extent improved.

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21 Kumar, Dhruba, op. cit.
22 Doval, Ajit, Intelligence in India's Internal Security, Dialogue, New Delhi, Vol. 8 No. 2, 2006.

Nepalese politics has turned in a positive direction since the Comprehensive Peace Accord and other agreements were signed between the SPA-led government and the CPN (Maoist), ending the decade long conflict in Nepal. To manage the conflicts in hard-hit districts of the Tarai, the Government also formed a three-member talks team under the convenorship of Minister for Peace and Reconstruction Janardan Sharma on 3 October 2008 and invited terrorist groups from the Tarai for dialogue, but as these groups had imposed certain conditions as prerequisites for such talks, no progress has so far been made in this direction.

Lack of transparency and public awareness

Police corruption starts from the very first day an individual enters the Police, since recruitment officials demand substantial bribes before they will allow candidates to pass their entrance examination.[23] Starting one's career with this irony means that they have no choice but to follow in the footsteps of their predecessors, in an institution which is supposed to be investigating corruption. The bureaucratic set-up is sycophantic to politicians, who in turn allow space for corrupt officials to breathe, re-organise, recruit people and mobilise them for corrupt activities. Needless to say, the situation is in fact too grave and complex for the Police and other law-enforcement agencies to handle.

A key element for members of the executive and parliament to make the right decisions is the availability of sufficient, adequate and detailed information. However, it is equally important for the public to have access to good information, particularly about issues on the political agenda and the behaviour of its representatives. Undoubtedly, some information is confidential and should remain accessible only to a restricted number of people, but most of the information necessary for political debate should remain accessible to the public. The media unmistakably plays a key role in

23 Dhungana, Shiva, Addressing Corruption in Police Reform, in Policing in Nepal: Collection of Essays, Saferworld, Kathmandu, 2007.

the diffusion of information to the public, and civil society also has a fundamental role to play in raising public awareness on particular issues. Transparency and an independent media are thus fundamental to a healthy democracy. Civil society can use this information to inform its specific claims and views. It is through mobilisation that its voice will be heard.

The role of civil society and the mass media

Civil society has a vital role to play in the cultural transformation of law-enforcement agencies in post-conflict societies. The concept of civil society is vague and difficult to capture, however. It can be defined as an emancipatory political alternative to authoritarianism 'where progressive values and political practices can be articulated and counter-hegemonic institutions can be created'.[24] The engagement of civil society seems to be an indispensable condition for non-politicised law-enforcement mechanisms and a non-militarised society.

The latest data report from Nepal Police Headquarters showed that in the past six months alone there have been 41 cases of murder, 23 robberies, 31 abductions and 38 rape cases in Kathmandu Metropolitan City (KMC). Security seems lax and the Police do not seem to be alert and committed to addressing these problems. It has been argued that increased political interference in the police organisation has been responsible for a dip in the morale among staff. As a result, instances of crime have been on an upward trajectory.[25]

Media coverage does not provide objective information about the activities of many ethnic groups activities in the Madhes and of regional communal forces in the eastern hills. Because of the open and porous border with India, the smuggling of commercial items, drug trafficking, the smuggling of weapons, and trans-border ac-

24 Cox, T., *Cultural Diversity in Organizations: Theory, Research and Practice*, San Francisco, 1999.
25 Kantipur Daily, 21 December 2008

tivities involving violent Madhesi groups are all on the rise. The nexus of organised crime and politicians is getting stronger in the Tarai region, and some cases of collusion between the Police and armed groups have also been reported in the local media.

The restructuring of law-enforcement agencies and professionalisation

Law-enforcement agencies are open-ended institutions because they are in constant interdependence and exchange with their environment. It follows that different types of institutions correspond to different types of changes in society, i.e. ethnic and regional movements, crimes in metropolitan cities, changing forms of crimes, terrorism and related laws, and federalism or restructuring of state in the case of Nepal. As a consequence of all these factors, over the last six decades and especially the past two decades, law-enforcement agencies have become politicised and corrupt and there has been no transparency. During the conflict, both wider society and the state security sector, including the Police, was increasingly militarised.

Even in the peaceful democratic period after 1990, the unpopularity of these institutions initiated a vicious circle. Corruption continued to haunt the national scene, and the Police were deeply entrenched in corrupt practices. The suspension of three SSP, one SP and one Inspector on corruption charges in 2003 and the arrests of former home ministers serving in the Nepali Congress government on corruption charges laid by the Commission for Investigation of Abuse of Authority and their subsequent release on bail in 2004 are instances of the Police-political nexus destroying the structural basis for the rule of law in the country.[26]

The professionalisation of law-enforcement agencies is not an easy process in developing countries. In a country like Nepal, which on the one hand is passing through a transitional phase and facing a

26 Kantipur Daily, Nepali, 7 June 2003.

very serious human resource management crisis on the other, it is extremely challenging. To professionalise institutions such as the Nepal Police and the Armed Police Force, they must be trained with ideas about what relationship should be formed with local communities. The Nepal Police are structurally embedded with the psychology that is a repressive organ of the state, and have presented a brutal face to society. To improve police morale, which has been low following the defeat by Maoist insurgents and the humiliation now that the Maoists are the ruling party, there is an urgent need for trainings and campaigns. At the same time, serious action should be taken against members of the rank and file where there is evidence of human rights violations.

Another major problem in law-enforcement agencies is to manage participation and inclusion on the basis of gender, caste, religion and ethnicity. It is a fact that the more senior ranks of security sector institutions are exceedingly unrepresentative. These security bodies have to deal with the community directly in both remote and urban areas. The major challenge for the Police in some areas is that they do not know the language or dialect of the local community. There is thus a need either to have community representatives in the security bodies or to make them able to converse in the local dialect or language.

Security sector reform in post-conflict societies

Security sector reform (SSR) is the transformation of security sector institutions so that they play an effective, legitimate and democratically accountable role in providing external and internal security for their citizens. Security sector reform is thus defined as a process of engaging the security apparatus of the state and making it more responsible to citizens and their welfare. The need for security sector reform in Nepal is raised at a time when society is in transition. There is a necessity both to implement the peace agreements and to maintain public order.

Security sector reform in transitional societies has tended to focus on the following areas:

(1) Reforming the uniformed security branches and training parliamentarians and civil servants.
(2) Supporting the establishment of structures of proper civilian control over the military.
(3) Training members of security sector institutions in international humanitarian law and human rights.
(4) Strengthening national parliamentary oversight of the security apparatus.[27]

A structure of civilian supremacy does not necessarily ensure a successful transformation of attitudes. Civilian oversight can be exercised for narrow personal or party interests and the suppression of political opposition.

Public security in Nepal has been instrumentalised by the state to advance its narrow interests in regime security. During the counter-insurgency mobilisation over the past decade, security sector institutions were allowed to act with impunity, which inculcated a view that they were above the rule of law. In turn this has led to gross violations of people's fundamental human rights. Security sector reform is indispensable to preserve human rights and thus promote human security. Security sector reform can be achieved only if there is democracy and if the leadership is committed to reforming with transparency and responsibility and if a consensual decision-making process exists.

Responsibilities and challenges

The following steps are recommended:

- The three organs of the state – the executive, the legislature, and the judiciary – have an important role to play in making

27 Caforio, Giuseppe (ed.), *Handbook of the Sociology of the Military*, Plenum Publishers, New York, 2003.

law-enforcement agencies more effective. The Constituent Assembly should formulate necessary policies and enact legal provisions to make effective use of law-enforcement agencies.

- Political parties should make assurances that they will not in any way help organised crime, smuggling or the politicisation of the civilian police and the Armed Police Force.
- Civil society, non-governmental organisations and international organisations should help the Government to formulate a concept and plan for security sector reform and bring the peace process to a widely acceptable conclusion.
- To prevent smuggling, crime and illegal activity along the Nepal-India and Nepal-China borders, proper steps are needed to improve border management over both the short and long terms.
- In most cases, smuggling and trafficking is occurring at checkpoints due to an unholy alliance between the Police and brokers. There is thus a need for new legislation to curb these kinds of activities; civil servants and civic activists can play a major role in interpreting legislation.
- There should be a legal provision to establish an independent anti-corruption bureau with adequate powers to investigate and ensure justice. New provision is also needed for civilian authorities to monitor all police activities.
- Establish a Police Service Commission to observe recruitment and promotions and ensure that appointments should be merit based and that in future the institution will be more inclusive and representative.
- Introduce courses on safeguarding public security which address issues of command and co-ordination with a changing society.
- Obsolete technology must be replaced by more modern equipment.
- The existing culture of impunity is very damaging to public security and needs to be addressed immediately. This re-

quires determined political will and the formation of effective oversight institutions.

Conclusion

Anarchical protests have gradually assumed a worrisome scale, and it is now possible to ignite tension and spread riots across the length and breadth of the country; even a small party, organisation or club with a few dozen protesters that come to the streets can break the law. This changing conflict profile has serious long-term security implications for Nepal. Weak morale among the Police has been a major reason behind the sharp rise in crime in the capital city and in the Tarai region. Political parties are marching ahead with their short-term interests. The greatest danger for the unity and integrity of the country is undeniably a spiralling of communal tensions and a culture of protests fuelled by concealed forces. This kind of internal security challenge has gained the predominant role in the country's internal security. The above scenario presents a formidable intelligence challenge.

One of the important achievements of politics since April 2008 is the peaceful and long-awaited transformation of the Nepalese state from a monarchy into a republic. Following a vote from the CA, Nepal was declared a democratic federal republic. Accordingly, both president and vice president were peacefully elected and have started their business. Security has a strong impact on a country's economy. Security problems, i.e. conflicts, emerge mainly from poverty and inequality, difficulties in convergence, poor governance, social exclusion and centralised control of state power by elites.

To make law-enforcement agencies more effective, the state will have to take firm steps. To prevent organised crime, killings, extortion, abduction and the trafficking of arms, drugs, women and children, the Government should formulate new policies and systematise border and transit points. This can only be obtained by

determined political will and the creation of effective oversight institutions for every sector, particularly for the Nepal Army, the Nepal Police and the Armed Police Force. An effective participatory approach is needed to frame national security policy and set guidelines for public security.

About the author

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Democratic Control of Security Forces

Prof. Dhruba Kumar

> *"[The] most ominous blunder committed by us was the neglect of the army… We never tried to democratize the army… nor had we thought about any alternative option. Due to this mistake all our efforts and successes have been rendered useless at the moment."*
>
> – Bishweshowar P. Koirala 1997:156.

It has become fashionable to talk about democratic control of the security sector, particularly the armed forces, whenever a state makes a transition from an authoritarian to a democratic polity. To talk about controlling the armed forces – an institution structured on hierarchies and the chain of command which often operates in secrecy – democratically is easier said than done. The essence of democratic control of security sector is the process of aligning it with the core value of democratic governance, and a major objective is to make security forces accountable. Therefore, there are certain preconditions that should be met. One precondition is that democratic institutions are in place and that political

parties should abide by the rule of law and show an unwavering commitment to having a pluralistic polity. Without the rule of law, a democratic constitution, a system of checks and balances and viable, functioning institutions, it would be difficult to conceive of democratic control of security sector. Furthermore, it would be hard to maintain civilian control over security forces in a country with a weak, risk-averse, infirm and intemperate leadership that desists from taking any initiative to adopt legislations and policies and refuses to implement laws that are relevant to the security sector. A civilian leadership that does not maintain and institutionalise the oversight agencies tracking military activities and neglects the task of professionalising the army would be a definite loser. The political dimension is thus a prerequisite for democratic control.

Experiences in Nepal show that there is no guarantee that even an elected government will deliver democratic governance once the main imperative becomes the survival of the regime. The Nepali case has its own peculiarity: authoritarianism with a façade of constitutional monarchy prevailed, overshadowing the democratic transition by disparaging democracy in the face of political violence. However, Nepal is a state that has survived both a violent conflict and a royal coup committed with active military support. It is currently undergoing a post-conflict transition that is burdened by the residue of these recurrent conflicts.

With the abolition of monarchy, the organising ideology is for a state restructured around a federal democratic republican system (though this remains contested). Democratic control of the security sector is critical to this new system. The Maoist Chairman and the incumbent Prime Minister Prachanda fuelled controversy by stressing the need to make the "new constitution people-oriented in order to attend to [the system of] the People's Republic," in his report to the Party's Central Committee meeting on 3 October

2008.[1] This position contravenes all previous commitments to a 'competitive multiparty democratic system' made by the Maoists in the preambles of the Comprehensive Peace Agreement signed on 21 November 2006 and the Interim Constitution of Nepal subsequently on 15 January 2007.[2] The rhetoric of the 'People's Republic' has led to heightened political controversy, which has made the process of institutionalising a new democratic order uncertain. The revolutionary ethos of the lead party in the coalition government has undermined any political consensus about how to govern the state. There is a lack of trust between the competing political elites, making political stability far from assured. Both the political will and the national consensus that will be needed to implement reform are collapsing in the absence of an acknowledged organising ideology for the state.

People expect the political leadership to wield the legitimate power of the state in a sensible and civilised way. The ultimate test of the power of the state is that it 'must itself be civilized – made safe by and for democracy'.[3] This however is not the case in Nepal. The cabinet minister of the ruling Maoist party had personally led his cadres on a grab of private land and property; its armed Maoist combatants had allegedly entered the Constituent Assembly (CA) building,[4] and one of its CA members openly challenged the restriction imposed by the Home Minister against 'private security personnel' entering the CA premises, asserting that the Home Minister

1 Kantipur, 4 October 2008. This assertion of the Maoist leadership is condemned by the majority of political parties. Yet the strongest challenge to Maoists has been laid by the leadership of the Tarai-Madhes Loktantrik Party (TMLP). Its influential leader Hridayesh Tripathi openly challenged the Maoists to launch the People's War again if they desire to make Nepal a People's Republic. He warned of civil war in the country if the Maoists pursue their agenda (Avenues TV evening news bulletin, 11 October 2008).

2 See the preambles of "Bistrit Shanti Samjhauta," (Comprehensive Peace Agreement), *Kantipur* Daily, 22 November 2006; and the *Interim Constitution of Nepal 2007*, Kathmandu: Nepal Gazette Supplementary issue, 15 January.

3 (Lander and Walker 2007: 7)

4 However, the CA member of the CPN (Maoist) Barsha Man Pun 'Ananta' has pointed out in an interview that party stalwarts from other political parties also carry weapons inside the CA building: Janadesh Weekly, 30 September 2008:3.

does not have the right to limit the movement of Maoists security guards accompanying their leaders.[5] Above all, with the Maoists at the helm of government, politics is yet to be demilitarised as they have not renounced violence and predation.

Meanwhile, transitional security threats are on the rise, with reports of kidnapping, daylight robberies and murder.[6] For example, the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) recently published data showing that 19 businessmen have been killed, 55 kidnapped for ransom and 48 industries have had to close, which led them to claim that 'industrialists and businessmen are still under a deadly threat and living in insecurity'.[7] Moreover, the state is yet to establish statutory control over arms. The Maoist forces remain a separate entity and there are a number of armed rebel groups operating in the Tarai. The rise of privatised violence indicates that the power of the state is declining.

Law-enforcement agencies such as the police lack adequate means to prevent crime, and are hampered by the absence of any political consensus to act. The national army is garrisoned with no clear role or mission, and is decaying in the absence of proper training. The Maoist forces are left in their cantonments, waiting for a decision from the Government on how to integrate them into the

5 (Himalayan Times, 28 September 2008; Kantipur, 28 September 2008)

6 Take for example, the sad story of some 100 families living in the Morang district in villages bordering India. They spend their nights across the border and come back to Nepal early in the morning with their household possessions and domestic animals to work in the fields. These villagers have for three years been in a cycle of in-and-out migration, thanks to an open border that also encourages Indian dacoits to raid Nepali villages for booty and to kill hapless people. The Indian police turn a blind eye if this loot and murder occurs inside Nepal, but takes action if the dacoits raid and loot people inside their territory. Villagers say they are safer spending their nights in India than sleeping at home. Their vulnerability reflects the tragic case of public insecurity in Nepal. For details see 'Raat parepachi gaule simapari' (Villagers cross the border after dusk), Kantipur Daily, 13 October 2008.

7 'FNCCI presses panic button on business sector's security,' Himalayan Times, 28 October 2008; "Surachya nabhaye byabasayi andolanma," Kantipur Daily, 28 October 2008.

Nepali Army. These cantonments are in a poor condition, turning them into a breeding ground for further alienation and political dissent and increasing the chances of further regrouping and rebellion. The Maoists have not prevented their party's militant organisation, the Young Communist League (YCL), from continuing its activities.[8] The Home Minister, Bam Dev Gautam, has called for all parties to disband their youth organisations in order to maintain peace and stability. This unstable situation could make the task of restructuring the state according to certain values, norms and rules recognised as legitimate by all stakeholders even harder. Since democratic control of the armed forces is integral to the state restructuring process, this too could end up being deferred.

This paper is not a clinical analysis of the democratic control of security forces, which is as yet quite notional. It focuses more on understanding the legacy of the past and what should be done in future. Though the current political system in Nepal is broadly described as democratic, it is still more of an aspiration than a statement of fact, since the state remains in considerable flux.

Legacies of history

For most of its history, Nepal has been ruled through the military, whether it was under the command of the dynastic monarchy or the hereditary Rana oligarchy. Until 1951, the country was under the thumb of four Commanding Generals who were directly responsible to the supreme commander – the Rana Prime Minister. Military valour and values were a strong part of the national tradition, as demonstrated by the annual victory parade held ever since the conquest of Kathmandu Valley by Prithvi Narayan Shah in 1769.[9] This practice was discontinued in 1952 following the first wave of the transition to democracy in 1951. However, along with the transfer of the *bijuli garat* (the elite armed guards), guns and

8 The CPN (UML) has created a rival 'Youth Force', which has clashed several times with the YCL.

9 Devkota 1960: 99

ammunition from *Singha Darbar* (the residence of the Rana prime minister) to the *Narayanhiti Darbar* (the residence of the king), the armed forces also shifted their loyalty back to the traditional monarchy and King Tribhuvan assumed the title of Supreme-Commander-in-Chief in April 1952.[10]

The army-monarchy relationship was further consolidated by King Mahendra with the adoption of the Military Act 1959, and deepened further when the 'Act on Right, Duty, Function and Terms of the Service of the Commander-in-Chief 2026 (1969)' made the Chief of the Army Staff (CoAS) responsible and accountable to His Majesty rather than the Government. The Principal Military Secretariat at the Royal Palace remained the primary channel of communication for the Army. The monarch retained the privilege of being the Supreme Commander of the Armed Forces in the four national constitutions from the Interim Government of Nepal Act 1951 to the Constitution of the Kingdom of Nepal 1990. When political crises under the constitutional monarchy led to royal coups, the armed forces were called to perform various internal duties ranging from the arrest of politicians and carrying out surveillance through to the stringent control of media in the post-February 2005 coup period.

Despite their grudge against the royal order, the political parties that drafted the 1990 Constitution introduced no substantial changes to the army-monarchy relationship during the second wave of democratic transition. Although constitutional arrangements were made which asserted civilian supremacy over the armed forces through the provisions of the National Defence Council (Article 118) and parliamentary committee systems (Article 64), these had little impact in practice. Making new institutional arrangements that would lead to adequate civil-military relations was never a priority. The civilian government made hardly any meaningful contribution to the formulation of defence policy and did not ex-

10 Devkota 1960: 88

ercise financial control over the armed forces. As the King was the Supreme-Commander-in-Chief of the armed forces, the CoAS had direct access to the Palace, superseding the constitutional prerogatives of the executive prime minister who also held the Defence and Royal Palace affairs portfolios. The lapses in the democratic constitution of 1990 (HMG/N 1992), discussed below, were fully exploited by the monarchy to retain its uncontested authority over the armed forces.

The most crucial aspect in the democratic control of the security sector is which institutions have the authority to use force. Although Article 118 of the 1990 Constitution asserted civilian supremacy over the armed forces through the organisation of a National Defence Council (NDC), it was unclear how this would function since the same Constitution made the King the Supreme Commander-in-Chief of the Royal Nepal Army with the final authority to 'operate and use' the army on the recommendation of the NDC (Article 118 (2) and Article 119).

In fact, between the dismissal by the King of Prime Minister Sher Bahadur Deuba in October 2002 and the *Jana Andolan II* in April 2006, the policy-making process became increasingly militarised. A militaristic 'Total Strategy' became the organising principle of state policy, determined by a Unified Military Command structured for operational efficacy comprising 'all elements of national power including political, economic, information and diplomatic activities'.[11] This was envisioned by the Royal Nepal Army as a force multiplier, a concept to 'gain optimum use of capabilities and resources of various security forces' from the centre down to the district levels under its direct operational control.[12] This policy was orchestrated through a counter-insurgency security agenda, the Civil-Military National Campaign Plan (CMNCP) to 'tackle the Maoist problem', the foremost object of which was to 'conduct a

11 Brief 2003:3
12 Brief 2003:5

relentless operation against the Maoists to disarm them in order to stop violence and terrorism'.[13]

Some key lessons can be learned from the shortcomings of these attempts to strengthen democracy, particularly during the second democratic transition (1990-2002). Firstly, the 1990 Constitution denied the parliament any role in military affairs and missed the chance to confer power to the people's representatives to control state security agencies. This lapse hindered the evolution of a democratic tradition in the sphere of civil-military relations.

Secondly, neither the parliamentary oversight agencies/committees nor the National Defence Council (NDC) functioned properly. The NDC was activated only a decade later when the Maoist insurgency made it necessary to mobilise the armed forces. The institutional ineffectiveness of the NDC was caused by the fact that it was not made accountable to parliament or the council of ministers. Equally, neither parliament nor the government had any control over the army. The NDC was chaired by three people: the Prime Minister, the Defence Minister and the Chief of the Army Staff. Ironically, it was not possible to establish a civilian majority in this forum because the defence portfolio was usually held by the Prime Minister. This situation led to the appointment of a Defence Minister intending to make a civilian majority in case the PM needs to send a recommendation to the King for the mobilising of the armed forces for counter-insurgency operations. The Defence Ministry never had much input into policy, despite its official role in shaping national security policy. Not only did the Defence Ministry become irrelevant, but when the crunch came the NDC was also found to be a useless policy instrument for the executive prime minister. The Army's implicit resistance to the NDC's recommendations, and the explicit use by the King of his discretionary power regarding military mobilisation, completely destroyed its relevance as a policy organ.

13 Brief 2003:4

Both the right to 'operate and use force' (Article 118[2]) and the right to appoint the Chief of the Army Staff (Article 119[2]), bestowed constitutionally on the King as the Supreme Commander-in-Chief of the Royal Nepal Army (Article 119[1]), made the executive authority of the Prime Minister entirely cosmetic. Though the 1990 Constitution (HMG/N 1992: 113) stipulated that the King would act on the recommendation of the Prime Minister, in practice this did not happen.[14] Sadly, most politicians and parliamentarians were not only illiterate about military matters, they were also thoroughly risk-averse. They were mostly concerned with what they could do during their limited tenure. Most parliamentarians therefore failed to muster adequate knowledge about the highly sensitive and complex issues that relate to the armed forces.

Under a parliamentary democracy, the committee system is the most effective means of maintaining oversight over the work of the executive branch and correcting any problems. However, the parliamentary committees in Nepal failed to play any effective role in guiding or controlling the executive. Their role was limited to reviewing and discussing the issues and bills that were sent to them by the full house. In essence, parliamentary committees failed to maintain oversight against executive misdeeds. The legislature functioned on an *ad hoc* basis, with parliamentarians more concerned about maintaining party unity than the integrity of governance. It hardly made sense therefore to scrutinise the government properly.

Thirdly, it has been observed that politicians both in the Government and more generally in the national legislature showed even less interest in probing sensitive issues such as the security sector agencies, particularly military affairs. There are many reasons for this, but the primary reason is that they knew very little about security issues and had never tried to learn nor sought outside

14 Kumar 2008a: 236-37

expertise when reviewing security- and defence-related bills and budgets. Especially after the declaration of a national emergency on 26 November 2001, security-related bills were accepted as a necessity and passed without question. The transfer of resources from social priorities to the security sector was endorsed without question, shifting from a civilian order towards militarisation.

Some of these shortcomings spring directly from the dynamics of a weak state. The overtly irresponsible characteristics of the political leadership also destroyed the sphere of constitutional control. For example, Subash Newang, the Chair of the CA and formerly a Chairperson of the Public Accounts Committee, observed in March 2002 that the executive did not treat parliamentary committees properly. The executive saw these committees as interfering in its decision-making authority. The interrogation by the Public Accounts Committee of top security officers regarding cases of financial irregularities was stopped with the direct intervention of the then Prime Minister Girija P. Koirala, who was also concurrently the Defence Minister. The Prime Minister advised the Committee "not to torture security personnel by calling them for interrogation and seeking explanation before the Committee" and not to unnecessarily harass the chiefs of the armed forces, the police and the intelligence services.[15] Prime Minister Koirala also accused the parliamentary committees of overstepping their limits and interfering in the sphere of government authority.

Fourthly, the roles and functions of parliament were always undermined by the Government, despite the fact that in a multi-party democratic system the authority of the government stems from parliament. The most important instrument of civilian control and supremacy is parliamentary control over defence expenditure, which was rarely exercised by the political class because nobody wanted to risk their neck by questioning defence and security outlays. The big question, therefore, is how can one expect trans-

15 Kantipur, 15 July 2001

parency and accountability from the security sector in a period of national crisis/emergency, when parliament is dissolved, oversight agencies are absent, and the Auditor-General's report is not publicly available?[16]

Learning the lessons of the past, it may be concluded that it is essential to:

- clearly determine the locus of authority;
- establish civil supremacy, with the Defence Ministry having a pivotal role, in conjunction with National Security Council, in engaging with the armed forces;
- provide unimpeded powers of oversight to the parliament, including the power to issue subpoenas; and legislate for the creation of an ombudsman to protect people's rights;
- re-orient and re-professionalise the armed forces within the framework of the constitution, shaping the rule of law by upholding human rights principles; and
- make democratic control principally oriented towards guaranteeing human security.

The third democratic transition

Samuel Huntington claimed that the 'slogan of civilian control' over the military was the invention of parliamentarians as a way of increasing their power vis-à-vis the British Crown during the 17th and 18th centuries.[17] In its objective sense, civilian control is the maximisation of military professionalism, whereas subjective civilian control could become its 'antithesis'. Accordingly, 'the essence of objective civilian control is the recognition of autonomous military professionalism; the essence of subjective civilian control is the denial of an independent military sphere'.[18] While contextualising the objective and subjective dimensions of civilian control,

16 Kumar 2008a: 238-39
17 Huntington 1957: 81
18 Huntington 1957: 83

the dilemma of defining the term ‘control’ in a meaningful way remains. Has control characterised the dominance and hegemony of the civilian authority, or has it only corroborated military personnel’s oath of allegiance to the constitution and promise to obey orders in defence of national interests?

As a matter of fact, the question of civilian control over the armed forces has arisen in Nepal only in the context of force being required against the Maoist insurgency. Rarely a consolidated democracy in the past, questions like civilian supremacy, civilian control and superior-subordinate relations between the government and the armed forces were never raised. Since the coup in the 1960s that unseated the elected government led by BP Koirala and derailed democracy for 30 years, both politicians and ordinary people have perceived the security sector agencies, particularly the armed forces, to have a repressive past. The question of accountability for the abuse of state power remains, impunity endures, but justice is yet to be delivered.

The Military Act 2007 did not resolve this recurrent impunity. Article 22 retained the provision of immunity to the armed forces. This copied Section 20 of the Terrorist and Disruptive Activities Ordinance (TADO), which provided total immunity to the security forces even in cases of the extreme violation of human rights (death or murder) for any act or work performed or attempted to be performed ‘in good intention’ while on duty ‘in accordance with the rules formulated under this ordinance’.[19] It is perhaps for this reason that the incumbent CoAS, Gen. Rookmangud Katwal, made the pre-emptive assertion last August that “no officer should be penalized for having worked under the previous political regime” when the Rayamajhi Commission Report investigating the excesses committed by both the civilian and uniformed government officials during the *Jana Andolan II* was published in August 2007.[20]

19 Informal 2002
20 Newsfront, 27 August-2 September 2007

Article 5 of the Military Act 2007 nevertheless endorsed the constitutional mandate of the Government of Nepal to control, use and mobilise the Nepali Army on the recommendation of the National Security Council (NSC). Accordingly, a decision from the government to mobilise the Nepali Army should be placed before the Special Security Committee of the Parliament for approval within three days (Article 5, clause 2). The Military Act 2007 represented definite progress by removing the power of the King to 'operate and use' the Army and making the Government place any decision to mobilise before parliament, thus making the executive more accountable than before.

At the time of writing, however, certain weaknesses still need to be addressed. Take for instance the articles in the Interim Constitution that broadly cover civil-military relations. According to Article 145 of the Interim Constitution (Article 6 of the Military Act 2007), the composition of the NSC, which advises and recommend the Cabinet/Government on the 'mobilisation, operation and use' of the armed forces, is fundamentally the same group of people that hold crucial portfolios in the Cabinet: it is headed by the Prime Minister and includes the Defence, Home, Finance, Foreign, and Peace and Reconstruction ministers, who are nominated by the prime minister (Article 145 [1]). The NSC thus functions as a second chamber of the Cabinet, the Prime Minister's inner sanctum.

Unlike the 1990 Constitution, with the monarchy abolished and the CoAS's membership removed by the Interim Constitution 2007, the NSC is now monopolised by politicians and is the highest security policy-making body, save for the Defence Secretary being the *ex officio* secretary of the NSC. This is a sign that power and authority is excessively centralised in the office of the Prime Minister and the

Cabinet.[21] Moreover, the NSC's exclusive concern and focus on the power to mobilise the armed forces ignores the wider meaning of security in its legal and political senses. Similarly, the fact that the NSC is made up of politicians and thus claims civilian supremacy could merely become a ploy that legitimises the misuse of the institutional power of the armed forces for political expediency. To recall Huntington, this is the manifest goal of subjective civilian control 'in the absence of a professional officer corps'.[22]

The Interim Constitution 2007 failed to predict the evolution of a presidential system after the CA polls. The Fifth Amendment to the Interim Constitution filled this void. The incumbent President, though the titular head of state, is Commander-in-Chief of the Nepali Army, whose approval legitimises the mobilisation and use of force by the Government. A need to define the role of the constitutional president within the NSC structure is thus an imperative.

Similarly, the Special Security Committee (SSC) formed by the Interim Parliament to formulate a comprehensive work plan for the democratisation of the Nepali Army on 13 March 2007 also has a membership that suggests it is confined to a narrow military approach to security. According to the Interim Legislature Regulations (ILR), the SSC would comprise of 21 persons at the most: six members of the NSC (i.e. the Prime Minister, Defence Minister, Home Minister, Finance Minister, Foreign Minister and the Defence Secretary); the Chairman of the State Affairs Committee; one representative of each of the 12 political parties then seated in parliament; and the Speaker and Deputy Speaker as the *ex officio* Chair and Vice Chair of the SSC. According to the ILR, the Council of Ministers requires the endorsement of the Special Security

21 The Nepali Congress demanded the defence portfolio as a precondition for joining the Government led by the CPN (Maoist) or to be represented in the NSC decision-making body as a member of the opposition. This was perhaps a consequence of this over-centralisation, which the government led by the Nepali Congress had enjoyed unhampered prior to the formation of the Maoist-led government in August 2008

22 Huntington 1957: 81

Committee (SSC) when taking a decision to mobilise the Army across the country. The decision to mobilise should be tabled by the Prime Minister to the SSC and its support solicited within 30 days of mobilising the army.[23]

Subsequently, another Special Security Committee for Democratisation of the Nepal Army was formed by the Council of Ministers in July 2007. This SSC, convened by the Peace and Reconstruction Minister, comprised of certain influential ministers from the three major political parties, along with representatives of the Nepali Army and the Maoist combatants. It constituted a three-member task force for preparing the terms of reference (TOR) to consider military affairs for the first and the last time.[24]

However, both SSCs are presently defunct. The NSC and the Parliament should ensure that the SSCs function properly and work to achieve their assigned tasks. There is no sense in passing resolutions which are not implemented.

Interestingly, the Interim Constitution 2007 paid less attention to the roles and functions of the armed forces than to how they are controlled, mobilised and managed and how the CoAS is appointed (Article 144[2, 3]). Nowhere did it deal with the fact that the primary objective of the armed forces is to defend and protect the country, its citizens and its territorial integrity in accordance with principles of international law regulating the use of force. Instead, the Constitution stated that the Council of Ministers will also prepare a comprehensive programme for the democratisation of the Nepali Army on the basis of political consensus and the recommendations of parliament. Sub-clause 3 stipulates that the Army will be trained to instil values pertaining to democracy and human rights and that the appropriate size will be determined with national and inclusive characteristics.[25]

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23 Kathmandu Post, 14 March 2007
24 Kumar 2008b:33
25 National Gazette, 15 January 2007

This constitutional stipulation is nothing more than a reflection on the negative side of the Royal Nepal Army of the past. However, there has been no rethinking of how to address military affairs, despite the urgency of dealing with the 'monitoring, integration and rehabilitation' of the Maoist forces. There is a conspicuous absence of any clear policy or thought about this sensitive issue. Although the Cabinet formed a five-member special committee to address the issue as per Article 146 of the Interim Constitution, it remains incomplete: there is no Nepali Congress representative due to differences over the numerical strength each party should have within the committee and the disquiet expressed by the former General Secretary of the CPN (UML) and another influential member of that party.[26] In the face of these ongoing political battles, there is a chance that the political consensus artificially created following the signing of the 12-Point Agreement in 22 November 2005 will break up and that the military will then have a chance to arrogate its traditional prerogatives and privileges. Though the Interim Constitution 2007 repeatedly stressed the mantra of political consensus for governing the transitional state, the continued political disagreement has left no room for complacency. The absence of any elite pact on the issue of the integration of Maoist forces and the national army,[27] which was an integral objective of the state restructuring process, and the continuing discord over the organising principles of the state, means that there is a collision rather than a collusion of interests between the political parties. This could weaken the drive for democratic control of security forces.

26 "Integration panel formed with NC in absentia," Himalayan Times, 29 October 2008. Former General-Secretary Madhav K. Nepal and K.P. Sharma Oli have publicised their reservations over the formation of the Special Committee without taking their party into confidence.

27 In a recent interview, Girija P. Koirala, the former prime minister and the president of the Nepali Congress Party, said that the "Nepali army should never be politicised. I am absolutely against it. I will not allow doing so"; Himal Khabarpatrika, 2-31 October 2008:29. The former General-Secretary of the CPN (UML) Madhav K. Nepal has also cautioned against hastily integrating the Maoist army, arguing that it should be done in a way that does not affect the political independence and integrity of the national army: see his interview "Nepal's sermon to Maoists: Mend ways or perish," Himalayan Times, 14 October 2008: 8.

Guarding the guardians

If democratic principles such as popular control, political equality, openness and transparency are at the heart of democratic oversight, the actions of the security agencies should be closely watched either by parliament or the executive. As security sector bodies are bestowed with special powers to intrude into citizens' private lives and to curtail their rights, their activities require stringent monitoring mechanisms that introduce legal and institutional safeguards. Such safeguards are also needed to remove any chance that they will be misused against domestic political rivals. Legislation is the legal embodiment of the democratic will, and thus parliament is vested with a crucial role. As an elected institution representing the popular will, the parliament legislates the rules of, legitimises the existence of and provides authority to the security sector to function within the premises of domestic law.

Thus there is a need to:

(i) develop the capacity of parliament to conduct its oversight activities, both proactively and reactively;
(ii) ensure the independence of oversight institutions;
(iii) develop the democratic accountability of multi-level oversight institutions;
(iv) develop the knowledge of among oversight personnel and parliamentarians about security issues and the governing process;
(v) build a rapport between parliamentarians and security personnel;
(vi) safeguard the parliamentary committees from executive interference.

Oversight bodies have roles that include: conducting parliamentary hearings; enacting laws; budgetary control; visiting and inspecting facilities; and subpoena powers. Likewise, the executive/NSC bodies have the following powers: ultimate command authority;

the setting of basic security policy; prioritisation of procedures; selection of senior personnel; budget management; procurement of weapons and accessories; powers to investigate claims of abuses or mission failures; etc. In other words, defence policy-making should be the exclusive preserve of the civil government, but it should be accountable. These are the common norms practiced in most democratic countries from Britain and the United States to India. The necessary condition for such democratic practice is a strong civilian political institution constituted through a responsible government, leading to a sustained authority with enhanced legitimacy.

The oversight role of parliament is also concerned with the following questions:

(i) are all political parties represented in parliamentary oversight bodies?
(ii) are all members of parliament allowed access to classified information?
(iii) is there any safeguard against leaks?
(iv) is parliament strong enough in terms of legal powers, staff and expertise on issues related to the armed forces?

However, parliament's inherent inexperience of policy formulation, particularly with regard to decisions affecting defence resource allocations, has led to difficulties in mapping and developing the defence policy of the state.

The national reality is that political power elites tend to shift responsibility on to others. They are interested in the centralisation of state power and the maintenance of firm control over the armed forces, even under the new democratic conditions. The media, taking its cue from politicians, accuses 'others' of serious human rights violations rather than holding the political authority responsible.

As noted above, political factors influence decision-making more strongly than other policy considerations. It should be admitted that there is a lack of conceptual clarity in politicians' thinking about why the armed forces should be subordinated to civilian authority. On this particular question, former Prime Minister and President of the Nepali Congress Girija P. Koirala was of the view that the parliament should control the army because of the irresponsible public posture projected by the then CoAS Prajawalla Shumsher Rana, who declined to assume any Army responsibility for the protection of the Royal Palace after the palace massacre on 1 June 2001.[28] This is a distortion of the holistic concept of democratic control. Democratic control is important for the stability of the political system and the development of a democratic culture through public consensus and public confidence in security sector institutions. Democratic control requires security sector institutions to adhere to the rules of the game even in exceptional circumstance. The rules of the game have to be set, and the nature of the armed forces should be defined by a code of conduct vested with legitimacy. It is first necessary to resolve any misunderstanding before initiating the process of making the armed forces more effective and efficient, with due consideration of its needs and objectives.

Military compliance with civil supremacy

Despite their repressive past, the armed forces of Nepal have complied with the political changes in the country. The following example suffices to demonstrate how much military attitudes have changed. Previously, the core value of the armed forces was '*raj bhakti nai hamro shakti*' (loyalty to the king is our invincible power).[29] Now, however, General Katawal has identified the people as the Army's source of strength: "we [the Army] should abstain from any activity that would hurt Nepali people and the [political] parties representing them by taking care that the behaviour and

28 Koirala 2007: 60

29 e.g. Convocation Speech, 2004

statements of the Nepali Army are sensitive in the post-conflict transitional period." Furthermore, General Katawal omitted any mention of the historic relationship with monarchy from his authoritative military statement, observing that "the Nepali Army will be mobilised under civilian control and use, as per the principle of civilian supremacy".[30] He reiterated this at the 14th Convocation of the Command and Staff College on 12 March 2008, stressing the need to establish the supremacy of a legitimate government.[31]

Gen. Katawal's statements are notable for three critical reasons from the perspective of civil-military relations:

(i) people as the Army's source of strength;
(ii) removing any mention of the monarchy and naming political parties as representatives of the people;
(iii) acquiescence to the principle of civilian supremacy.

These statements have elements of reconciliation, consensus and confidence building. They are made in the context of decisions taken by the House of Representatives on 18 May 2006 which rendered the monarchy powerless by scrapping the title of Supreme Commander-in-Chief of the Army (point 3.4).[32] A crucial obstacle to civilian control of the armed forces in the shape of monarchy has disappeared, with the country becoming a republic. Responsibility for establishing an effective system of civilian control hence rests with members of the CA, who should draft a constitution that clearly defines the roles of the elected authorities. It would be a tragedy if these opportunities are not seized and used properly by the people's representatives.

The above statements by General Katwal show that the Nepali Army is prepared to follow the rules of the game and its statutory

30 Convocation Speech 2007
31 Convocation Speech 2008
32 See 'The Declaration of the House of Representatives – 2063 (2006)' made by Prime Minister Girija P. Koirala on 18 May 2006.

obligations under democratic accountability. This means that the Nepali Army is subordinate to the legitimately established civilian authority in a democratically constituted state, should explain its actions to the civilian authority and the general public, and is subject to sanction/punishment for inappropriate actions. The armed forces are thus both directly and indirectly accountable for the acts they commit. Therefore, the civilian authority should sensitively engage the Army leadership in consultation as it develops its policies to transform the functions of national defence and security. This will build confidence in a coherent national security policy that firmly incorporates broader societal interests.

The functions and responsibilities of the Nepali Army should be determined by the new Constitution and by the Military Act (with necessary revisions). The constitution drafted by the CA should stipulate clearly that the Nepali Army would operate strictly within the parameters of the Constitution, domestic legislation and international humanitarian law, making it entirely accountable to parliament and the executive. This constitution should also determine the fundamental orientation and roles and missions of the Army. If it is meant as a defensive force, its force level, armament and military training should be determined accordingly. Given the situation in Nepal, a country emerging from a prolonged conflict, the new constitution should include clauses regarding the following issues:

- The role of the legislature in the formulation of national security policy after participation in the defence review process;
- Access to information on all relevant security issues;
- Power over budgetary control and the approval of senior personnel appointment in security sector institutions;
- Power over the approval or rejection of a declaration of emergency and the prevention of non-derogable rights of the citizenry;

- Preservation of the professional integrity and professionalism of the armed forces and the prevention of any military tendencies in politics;
- Approval of any declaration of war (parliament has this right in some countries).

The Interim Constitution of Nepal has made the 'legislative-parliament' powerful enough that the executive prime minister and the Council of Ministers individually and collectively are responsible to it (Article 38 [6]). The Interim Constitution also obliges the Cabinet to table any decision to declare a state of emergency to the 'legislative-parliament' for endorsement within a month of the date of declaration (Article 143 [2]). It also clearly stipulates that a decision by the Council of Ministers to mobilise the Army should be presented at the special committee designated by the legislative-parliament' for approval within a month (Article 145 [5]). However, it does not give the parliament a clear role in formulating a long-lasting national security policy for the country. The legislature is denied the opportunity to participate in formulating ideas about what threatens their country the most. Hence, the constitution drafted by the CA must correspond to the idea of popular representation in the evolution of critical national security policy.

Engaging approach to democratic control

In conclusion, the following steps are recommended:

- Start a process of mutual learning between the political parties and the armed forces immediately as a way to increase interaction and familiarisation. Democratic control is a two-way traffic, and this will build confidence and consensus between agencies that had previously functioned as institutional strangers
- Organise for parliamentary committee members to visit Army Head Quarters; take military briefings to be cognisant with the facts as they stand; build concord and trust to evolve the environment of mutual compliance

- Revamp the defence ministry with the appointment of a separate defence minister to engage the civilian leadership
- Develop the knowledge of civilian cadres of military matters in order to enhance the Ministry of Defence bureaucracy; equip the MOD with an adequate electronic database
- Enshrine political neutrality as the fundamental criterion for the armed forces; conscription/draft should be based on professional criteria irrespective of caste and creed
- Train security personnel not only to wage war but also make them conscious of their individual rights and duties so that they respect the human and civil rights of citizens, including on humanitarian aid missions
- Relinquish provisions from the law which grant military impunity in order to build citizens' trust. The Military Training Manual should be rewritten, redefining national security not in state-centric but human security terms
- Empower junior officials on an impartial basis. The equivalent of warrant officers and non-commissioned officers must be given the responsibility and authority that their rank deserves, and equally they must understand that they are accountable for exercising power
- Define clearly the role and mission of security sector agencies, identify their appropriate size, and train and equip them accordingly so that they are capable of facing any contingency, i.e. trim down the armed forces to make them trim, slim and smart
- Open up recruitment, making it transparent, competitive, cohesive and inclusive, revising or updating recruitment policies if necessary; however, a halt on recruitment should be discouraged
- Promote civilian expertise on security-related issues through NGO advocacy, think tank research, university courses, teaching and research facilities, documentation and library building, as well as through journalism and the media which will create more informed opinion and raise general awareness

- Restructure the existing military academy of the Nepal Army with appropriate teaching staff and facilities; introduce state-of-the-art courses on war studies, low intensity and high intensity conflicts, low-tech/high-tech warfare; make field studies compulsory for military cadets at sites of war/conflict (battle zones) termination whenever possible; include case studies on armed conflicts, with special reference to the Maoist insurgency, in order to acquire indigenous knowledge; include case studies on humanitarian assistance during natural calamities
- Assess the lessons learned from missions abroad, particularly peacekeeping missions under the UN; build a database of the personal experiences of commanding officers and armed personnel ranging from the DR Congo to Haiti;
- Introduce refresher and short-term courses for mid-career-level government officials and military/security personnel at universities and other centres of learning, where they will interact with academics and work on a research project for 4-6 months as part of a career enhancement policy
- Make the National Security Council fully functional, with inclusive policy and professional staffing; shift the focus from a state-centric to a human security paradigm, as Nepal is more prone to face non-traditional security challenges caused by internal conflicts than external threats to its territorial integrity
- Recognise that the threat is no longer external aggression, but internal disruptions created by social cleavages, organised crime, terrorism, drugs and human trafficking. Societal security is therefore essential. The objectives of security policy should encompass the primacy of democratic consolidation with a substantial reduction in the level of violence and political instability. Stability and development are inextricably linked and mutually reinforcing. The currency of democratic control is understanding between the civilian and military leadership. Tailor policies to meet the domestic reality.

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References

Brief to US Assistant Secretary of State, 2003. (A Policy Brief presented by the Director-General of the Royal Nepal Army (RNA) to the visiting Assistant Secretary of State, Christina Rocca, at the RNA Headquarters, Bhadrakali, Kathmandu, 17 December).

Convocation Speech 2004. "Si. Sa. 11th Kamand Tatha Estaf Talimko Dichayanta Samarohako Nimitta Sri Sam. Pra. Se. Pa. Jyuko Bakatabya," (The Statement of the Rt. Hon'ble Chief of Army Staff [Pyar Jung Thapa] to the 11th Command and Staff Convocation Ceremony of the Military Academy, 14 May).

Convocation Speech 2007. "Si. Sa. 13th Kamand Tatha Estaf Talimko Dichayanta Samarohako Nimitta Sri Sam. Pra. Se. Pa. Jyuko Bakatabya," (The Statement of the Rt. Hon'ble Chief of Army Staff [Rookmangud Katwal] to the 13th Command and Staff Convocation Ceremony of the Military Academy, 9 February).

Convocation Speech 2008. "Si. Sa. 14th Kamand Tatha Estaf Talimko Dichayanta Samarohako Nimitta Sri Sam. Pra. Se. Pa. Jyuko Bakatabya," (The Statement of the Rt. Hon'ble Chief of Army Staff [Rookmangud Katwal] to the 14th Command and Staff Convocation Ceremony of the Military Academy, 12 March).

Devkota, Grishma Bahadur, 1960. *Nepalko Rajnitik Darpan* (The Political Mirror of Nepal), Kathmandu: Keshav Chandra Gautam.

Hilton, Isabel, 2007. "The Greatest threat to peace in Nepal is military impunity," *The Guardian*, 20 July.

Himalayan Times, 28 September 2008.

HMG/N, 1992. *The Constitution of the Kingdom of Nepal 2047 (1990)*, Kathmandu: Ministry of Law, Justice and Parliamentary Affairs.

Huntington, Samuel P., 1957. *The Soldier and the State: The Theory and Politics of Civil-Military Relations*, Cambridge, MA: The Belknap Press of Harvard University Press.

Informal, 2002. "Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2001," (Document), Kathmandu: INSEC, January.

Janadesh Weekly, 16 September 2008.

Kantipur, 2008. "Janapachhiya Sambidhanbata Jana ganatantra: Dahal," (People's Republic through the people-oriented Constitution), 4 October.

Kantipur Daily, 28 September 2008.

Kathmandu Post, 2007. "Security Committee Formed," 14 March.

Koirala, Girija P., 2007. *Simple Conviction: My Struggle for Peace and Democracy*, Kathmandu: Mandala Book Point.

Koirala, Bishweshowar P., 1997. *Jail Journal*, Lalitpur: Jagadamba Prakashan.

Kumar, Dhruba, 2008a. "National Security and Democracy," in Yash Ghai and Jill Cottrell, eds., *Creating the New Constitution: A Guide for Nepali Citizens*, Stockholm: International Institute for Democracy and Electoral Assistance (IDEA).

Kumar, Dhruba, 2008b. "Nepal's Future: Order in Paradox," *Aakrosh: Asian Journal of Terrorism and Internal Conflicts*, Vol. 11(40) July.

Lander, Ian and Neil Walker, 2007. *Civilizing Security*, Cambridge: Cambridge University Press.

Nepal Gazette, 2007. *Nepalko Antarim Sambidhan 2063(2007)*, Kathmandu: HMG/Nepal Gazette, Part -56, Supplementary Issue -55, 15 January.

Newsfront Weekly, 27 August-2 September 2007: 2

Parliamentary Secretariat, 2006. *Pratinidhu Sabhako Baithakma Pesh Bhayeko Nepali Sena Sambandhi Kanoonma Sanshodhan ra Ekikaranko Byabyashtha garna Baneko Bidheyak*, (The Military Act Bill), Kathmandu: Parliamentary Secretarial, Singha Darbar.

Security Sector Reform and the Role of Oversight Agencies: Parliament, Civil Society and Media

Chandra D. Bhatta

Introduction

Security sector reform (SSR) is a relatively recent concept, but it has become the political vernacular of our times. Notions such as democratising societies, good governance[1] with transparency and accountability, the peaceful transformation of societies, human security and poverty reduction programmes have made considerable inroads into security thinking in recent years.[2] The importance of establishing 'law and order' in the country and managing security organs (army, police and intelligence) in order both to enhance national security and to democratise these institutions so that they

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1 The goals of good governance are national security, law and order, voice, civic participation, service delivery and non-violent resolution of multi-polar and multi-layered conflicts (cited in Dahal, Dev Raj, *National Security Reforms and Civil-Security Relations in Nepal*, 16 November, 2008, p. 1).

2 See for example: UNDP 1994; Commission on Human Development 2003; Ball and Brzoska 2002; Ball et al 2003

become responsible to citizens at large has become increasingly recognised. Security has become a pervasive and contested element in both national and world politics, impacting significantly on the 'interior' life of the states.[3] The situation in transitional states or post-conflict societies is even worse, as these states lack the capacity to act as a security-enhancing political authority because they are marked by insecurities, inequalities and the absence of democratic governance. It is widely recognised that post-conflict settings require security provision for the maintenance of law and order, justice, management of ex-combatants and non-state armed actors. The development of internal security capabilities in countries emerging from armed conflict has thus acquired increasing importance. This has resulted in policymakers showing increasingly greater attention to SSR, and in particular to how national security can be strengthened, how security organs can become more people-oriented, how to integrate ex-combatants into society and how to encourage the spread of democratic values in governance.

SSR is a wide concept which involves a host of activities relating to the creation of a more democratic state and corresponding institutions based on the rule of law. This includes the introduction of a range of policy instruments and the establishment of appropriate civilian oversight of security actors to prevent or address security threats that affect society's well-being. It is essential to have a multi-agency approach including: official oversight bodies from the executive and the legislature; civil society organisations (including the media)[4]; justice and law enforcement institutions such as the judiciary and prisons; and non-state security providers.[5] Citizens and civil society organisations need to be included

3 Kaldor 1999
4 Some civil society scholars technically consider the media as 'firms'. However, in this essay the media has been taken as a part of civil society because of the key role it plays in conveying the interests and demands of civil society groups to policy-makers, to other parts of civil society, and to international audiences.
5 A Beginner's Guide to Security Sector Reform (SSR) at www.gfn.ssr, March 2007

in the SSR process as security is a public good.[6] The challenge is thus both to create institutions capable of providing security and to develop effective civilian oversight.[7]

Conceptual framework

The protection of people from internal and external threats stands as the first and defining priority of modern states. Loader and Walker maintain that security is a valuable public good, a constitutive ingredient of the good society, and that the democratic state has a necessary and virtuous role to play in the production of this public good.[8] For them, security is in a sociological sense a 'think' public good, a trust-building mechanism between producer and product, an abstract solidarity between intimates and stranger, a good that helps to constitute the very idea of 'publicness' in a democratic political communities.[9]

Having said this, however, specialised knowledge of security sector governance has tended to remain concentrated within a narrow circle that includes some members of the executive, a few specialised government departments and 'experts', while parliamentarians and the public remain largely ignorant of such issues.[10] Moreover, the security sector in most states has been focused on how the military, the police and intelligence agencies protect the state and its citizens through what Joseph Nye (2002) calls 'hard power',[11] and such institutions have directly and consciously sought to maintain their power.[12] There is a widespread belief and practice in many countries that security matters are the 'natural domain' of

6 (Mendez 1999, Loader and Walker 2007:7)
7 (Ball et. al. 2003, p. 268)
8 Loader and Walker (2007:7)
9 (ibid: 8).
10 Philipp H. Fluri, *Strengthening Democratic Oversight and Reform of the Security Sector*, The Geneva Centre for the Democratic Control of Armed Forces (DCAF) available at http://www.parlcpr.undp.org/docs/conference/Fluri.pdf (16th Jan 2009)
11 Joseph Nye (2002)
12 Loader and Walker 2007: 10).

the executive, and there is often little public discussion on what role these agencies should play in society, how they should be managed, and what resources they should have. There is also a stubborn perception that parliamentarians, civil society and media should stay out of security-relevant decision-making. As a result, in a vast number of societies, these key security sector bodies have come to play the role of a 'state within the state'.[13]

Nevertheless, with the shift from a state-centric view of security to a more human-centric view, modern nation-states are increasingly recognising the importance of 'soft power' and a more inclusive approach to security. The roles of other actors who are not security professionals such as civil society, the media, parliament, and the judiciary are increasingly recognised, particularly with regard to their function as 'oversight agencies'. Knowledge of the principles of good security sector governance among such actors is essential, for without it there can be no well-informed and committed parliamentary oversight and guidance, nor scrutiny by an empowered civil society and informed media.[14]

It is within this conceptual framework that this paper looks at the role of oversight agencies – particularly civil society, the media and parliament – in maintaining democratic control over security functions, strengthening national security organs and making them people-oriented. This paper also recognises the roles of the executive judiciary, but in the context of Nepal the judiciary appears to be largely under the control of executive (Shah 2008) and in such circumstances only civil society, the media and parliament can exert the immediate policy influence that Nepal needs so urgently.

13 Philipp H. Fluri, *Strengthening Democratic Oversight and Reform of the Security Sector*, The Geneva Centre for the Democratic Control of Armed Forces (DCAF) available at http://www.parlcpr.undp.org/docs/conference/Fluri.pdf (16th Jan 2009)

14 Philipp H. Fluri, *Strengthening Democratic Oversight and Reform of the Security Sector*, The Geneva Centre for the Democratic Control of Armed Forces (DCAF) available at http://www.parlcpr.undp.org/docs/conference/Fluri.pdf (16th Jan 2009)

The paper asks what civil society brings to our understanding of SSR and, conversely, how SSR furthers our understanding of civil society.

Posing the problem

The current debate on SSR in Nepal has emerged in both popular and official discourse primarily in the context of the 'fragile' peace in the country following the decade-long insurgency fought by Maoist combatants now called the People's Liberation Army (PLA).[15] Security within the state has further deteriorated due to the rising number of self-styled non-state armed actors operating in different parts of the country. Security policy is hindered by the heated debate on whether and how to merge the two armed forces within the country – the Nepal Army and the Maoist combatants – into a single national army. Moreover, Nepal risks losing a degree of control to various non-state armed groups which have created alternative power centres and try to act like mini-states in their own right.[16]

The crux of the problem is how best to manage the security sector, how peace can be restored in society, how to create a 'national power' with which people feel a sense of allegiance, and overall how to civilise and strengthen security organs in accordance with the changed political context. The crisis of confidence and lack of trust between political forces, national security organs and the public at large needs to be overcome. It will also be necessary to boost the morale of the security organs and their staff, many of whom currently feel undermined, discouraged and demoralised. They have been demoralised by the tendency in some quarters to take action against the security forces merely because they served past regimes. The culture of militancy maintained by political parties through their 'youth wings' has also seriously undermined

15 There is no universal agreement on this terminology.
16 This risk was acknowledged by the incumbent Home Minister Bam Dev Gautam in a National Security Seminar on 16th November 2008.

national security organs. Equally important is the 'politicisation' of security organs, particularly the police, by political parties in order to fulfil vested partisan interests.[17] Moreover, there is an established practice to treat security as taboo. As a result, despite physical presence of security forces, people do not feel secure; psychological insecurity runs through society. All these factors weigh heavily on national security bodies, and this in turn creates a further problem for national security.

Longer-term security can only be assured if there is democratic control of the security sector, which in the broadest sense includes democratic control of the military, the police and the intelligence services. If any or all of these agencies are not under democratic control, the risk remains that the use of force or intelligence-gathering may be exercised arbitrarily by one or more groups within society, risking a return to insecurity and conflict – one only has to look at the recent history of Sudan or Haiti to appreciate the problems associated with the arbitrary use of force. A strong and effective security sector is one that understands not only its military, law enforcement, or intelligence duties, but also its proper relationship, responsibilities and accountability to the needs of society at large. Moreover, security sector reform is necessary not only to deal with conventional security threats but also to deal with non-traditional security threats such as internal political instability, failed states, piracy, the widening gap between the rich and poor, minority-majority conflicts and so on. It is clear that the state (including transitional states) cannot deal with all of these challenges alone. Effective civilian oversight is therefore essential to civilise and strengthen national security, to generate civic awareness of security issues, and to instil a sense of belonging which will help to harmonise the relationship between security agencies and society and create a wider consensus for reform.

17 Political parties have a strong hand in the recruitment, transfer and promotion of security officials (especially in the police force).

Civil society as a concept

A significant body of literature has developed around the concept of civil society, and its key role in consolidating and sustaining democracy is widely recognised. Civil society has been viewed as a crucial agent of change, limiting authoritarian government, strengthening the empowerment of the people, enforcing political accountability and improving the quality and inclusiveness of governance. Civil society has re-emerged as one of the most powerful concepts of our time, becoming a popular term in academic, policy and foreign assistance circles. More importantly, its potential has been recognised by all strata of society and by political parties of many different ideologies; Walden Bello terms civil society as a 'third global power'.[18] There are many examples to demonstrate how this terminology became popularised, but one such striking example is the phrase 'people power' associated with the brave people in Eastern Europe who used it in their struggle against communism. They discovered that while they lived under dictatorships, even the most efficient police states could not stamp out all vestiges of independent social life that survived in churches, cafes, workplaces and families. The Eastern European rebels used these enclaves of 'civil society' to incubate free societies which ultimately triumphed. Interest in civil society reflects both a reaction against government and a desire to reconstruct energetic government on stronger ground.[19]

Yet the term hardly describes its content and is used in many different contexts to mean different things. Sometimes it is used interchangeably with general 'society.' This is especially the case in defence and security affairs, where there has to date been little research that has focused explicitly on the relevance of civil society and the non-governmental domain in general to this particular sector of public policy.[20] Civil society is often invoked in discussions

18 Walden Bello, Global Civil Society meets amidst crisis of empire' at http://www.inq7.net/opi/jan/26/text/opi_wbello-1-p.htm visited on 03/04/2004.
19 Dionne 1997:4
20 Capirini 2002:1

about the democratic control and accountability of armed forces. It is usually considered an important, albeit informal, mechanism of public oversight and accountability of those institutions that provide security to society and state. However, the relation between civil society and the armed forces, and the security sector more broadly, is in practice rarely addressed in any depth, either at a conceptual or empirical level.[21]

There is a great deal of theoretical ambiguity in defining civil society. In the pre-modern era, political philosophers provided different definitions of civil society depending upon their own understanding of the concept. This dilemma continued into the 19th century. According to the Centre for Civil Society at the London School of Economics, 'civil society refers to the arena of uncoerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Civil societies are often populated by organisations such as registered charities, development non-governmental organisations, community groups, women's organisations, faith-based organisations, professional associations, trade unions, self-help groups, social movements, business associations, coalitions and advocacy groups'.[22]

This is a comprehensive definition of civil society, but as it keeps everything in one basket it is also rather complex. This complexity is part of the problem with the theory and application of civil society as a concept. Any attempt to precisely identify the specific features of 'amorphous association' looks like an abstract philosophical exercise for there are no fixed principles that determine its shape or extent of jurisdiction. Civil society as an agency has been

21 Ibid.
22 See www.lse.ac.uk/ccs for further discussion of the concept.

used as per the perception of interests. The most important part is that neither practitioners nor the political scientists can simply separate civil society from their day-to-day activities. It dominates every discipline of social science and aspect of state affairs.[23]

Despite this definitional ambiguity, government agencies both in many established democracy and in many transition states are increasingly consulting with civil society organisations (CSOs) about defence, internal security, foreign policy and conflict resolution. This 'new multilateralism' is characterised by growing interaction and symbiosis between governments and CSOs (especially non-governmental organisations (NGOs)) which contribute specialised expertise towards policy-making. Trans-national 'issue networks' also play an important role in establishing normative standards, setting agendas and influencing the way that policy issues are viewed and discussed: '[M]any negotiations today involve processes of mutual learning, with participants exchanging best practices and identifying comparative advantages in jointly tackling seemingly intractable multidimensional problems such as complex political emergencies.[24]

Civil society and the media as oversight agencies

This section explores how civil society can influence or shape the policy process and public debate on issues relating to SSR. It thus explores the interface between government decision-makers in the security field and civil society actors within the changed political context.

Before discussing what civil society can or cannot do, it is important to consider the ongoing debate about whether civil society organisations are adversaries or partners to the state. On the one

23 (Bhatta: 2007).

24 Roman Waschuk, "The New Multilateralism", *Human Security and the New Diplomacy*, ed. Rob McRae and Don Hubert (Montreal and Kingston: McGill-Queen's University Press and Foreign Affairs and International Trade Canada, 2001), p. 216.

hand, CSOs may oppose the state on certain issues and may mobilise public opposition or lobby policy-makers to change policy. Such civil society actors may act as a kind of watchdog over the state, functioning as a force for accountability by pressuring officials to explain to the public what they are doing and why and by holding them to account for what they have done. Civil society organisations that operate in the space between the government and the general public can help to find the right answers to public policy issues by responsibly criticising the government and can help to spread knowledge and create an environment that encourages wise policy. On the other hand, CSOs may also act as partners to the state in certain capacities, as they often do in developmental contexts. CSOs can also play a dual role, both opposing and assisting the government, in the defence and security sector just as in any other sphere.

This is only one part of the equation. It is also important to understand the role of the state, i.e. to what extent the state encourages civil society engagement in security affairs. What is the nature of the relationship between CSOs and the state? Is it a cooperative partnership, or do state actors and civil society actors perceive themselves as opponents or opposites? What degree of state support for CSOs is considered necessary and legitimate? The attitude of representatives of the state towards civil society will determine in practice the extent to which CSOs can influence policy and shape public debate.

As security is a ‘public good’, one of the most fundamental functions of the state is to provide for both the internal and external security of its citizens. The term ‘security sector reform’ expands the scope of security from its traditional focus on the armed forces and military security to include ‘public security’ – the safety of the individual from the threat of crime, disorder and violence. SSR is thus not only about making institutions more democratic but also about being responsible and accountable to the security needs of both individual citizens and communities, while ensuring that

security organs remain effective and efficient in providing security. Security institutions are essentially top-down institutions and of all the sectors of public policy, the security sector has historically proven one of the most resistant to public input. Security sector reform, however, advocates and seeks to institutionalise a bottom-up dynamic whereby the concerns, needs and views of citizens are systematically incorporated into policy and practice of security institutions.[25] SSR thus seeks to cultivate the trust and confidence of local communities.[26] As Robert Putnam puts it, trust can be 'cultivated' in society by 'bowling together' rather than 'bowling alone'. In this sense, the legitimacy of authority and the accountability of decision-makers to the public are important in security affairs. In a modern democracy, legitimacy comes from a state's citizens and their organisations. In this sense, not only civil society but also elected representatives and the media have equally vital roles to play.

If we accept that SSR is a normatively based agenda, its success will rest on the cooperation of governmental and non-governmental actors, and ultimately on the sway of public opinion. A key ingredient for success will therefore be the ability to gain supporters and convince the public that the norms and policies implied by SSR are worthy and valid. This should be accomplished through an inclusive and participatory approach that through horizontal coordination brings NGOs and citizens directly into the consultation and decision-making process. It also relies on making information about security sector institutions, policies and practices widely available to the public. Although some information must necessarily remain classified due to national security considerations, democratic governance of the security sector depends on fostering the greatest degree of transparency possible within those limits.[27]

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25 Capirini: 2002

26 Michael Small, "Peacebuilding in Post-conflict Societies", *Human Security and the New Diplomacy*, 86

27 Ibid

What is important here is to define these limits in a way that is in line with democratic norms and values.

It is thus essential to understand the role of civil society in terms of its impact on political change; in the case of SSR, this means how civil society can support a shift towards more democratic institutions and governance. Security sector reform is primarily about state institutions, specifically those authorised to use coercive force. However, reform may entail the renegotiation of the relationships of these central state institutions to other political and social actors. In this context, the role of the state is central, i.e. to what extent the state is willing to introduce these steps. Civil society can play a role in persuading state to fulfil its responsibilities transparently and accountably.[28] The civic virtues of civil society give legitimacy to its voice, but what is important is that it advocates 'citizenship rights' rather than undermining the role of the state.

The effectiveness of a civil society organisation in influencing government policy or practice in the security sector thus seems to be dependent on several variables. First is the character of the domestic political culture and opportunity structure, or factors that facilitate or inhibit mobilisation in the political system. Second is the nature of state: to what extent the state is ready to entertain initiatives from civil society. Third is the nature and composition of civil society itself. How does the political administration view CSOs generally, and specifically with respect to national and internal security policy matters? Also, to what extent are CSOs involved in grass-roots work and how much do they foster political dialogue in this field? CSOs may provide informal oversight (scrutiny) or they may participate in policy and public debates on some issue related to security or to state security institutions.

Debate also exists on the proper role of the state in guiding and shaping society. In many post-socialist countries, for example, the

28 Ibid

virtual absence of civilian expertise in defence affairs was perceived as a serious obstacle to effective democratic control of the army. The state has thus had a responsibility to create an enabling environment and to develop programmes aimed at fostering such expertise among civilians, with the ultimate aim of creating a capacity within society to provide alternative voices and independent perspectives and assessments of security policy which could challenge government decisions and check the power of the state in specific and specialised areas.[29] In the long term, this process can help to build a harmonious relationship between the state, its security agencies and society at large. It can also minimise the level of opposition that the state and its organs often receive from civil society groups.

For example, there is always a possibility that civil society and social movements may in some instances overwhelm the capacity of weak government structures to respond.[30] In some places, citizens seem to be in perpetual conflict with the state on issues of public interest. The level of conflict with the state tends to depend on the ability of the civil society organisations to mobilise their constituencies and the flexibility and adeptness of governments in responding to citizens' demands.[31] Ultimately, therefore, co-operation between the state and civil society organisations can help to strengthen the state, a vital ingredient for the democratisation process.

The oversight function for civil society includes playing a monitoring and advocacy role and providing policy input into political debate. However, CSOs can do this only if they have established some degree of expertise in security-related policy matters and if they have sufficient means and capacity, and a proper environment

29 Ibid.
30 Maria Elena Ducci, *Governance, Urban Environment, and the Growing Role of Civil Society*, translated by Lake Sagaris, Comparative Urban Studies Occasional Paper 34 (Washington: Woodrow Wilson International Center for Scholars, 2000), 5. Available at: http://wwics.si.edu/urban/papers/ducci.pdf
31 Ibid, 9

in which to operate. Donald Abelson has identified a list of civil society actors that have the potential to influence public debate and government policy on national security affairs,[32] primarily drawn from those that have technical expertise. These may include: think tanks; public policy research institutes; media; university-affiliated CSOs (academic departments, law and political science schools); advocacy NGOs; consortiums of NGOs; pressure groups; human rights NGOs; professional associations; interest groups (such as bar associations, federations of journalists, and trade unions); media watchdogs; NGOs related to security studies; and many more.

CSOs may have a particularly useful role to play in analysing security issues when the state's capacity to do so is weak. Specialist campaign groups and think-tanks can provide research and analytical support and conduct training courses on defence resource management, budgetary processes, and other aspects of security sector reform. Civil society groups and the media can help in the reintegration of former combatants into local communities (socialisation).[33] In so doing, they may work closely with government policy-makers on specific issues or projects, and their membership may include individuals who move between government, public administration, academia and the non-governmental sector. Government ministries may call on them when outsourcing research and to help with the management, coordination or implementation of projects. As these CSOs tend to enjoy a greater degree of access to decision-makers, administrators and opinion-leaders, they have the potential to exercise a greater degree of influence than groups more removed from centres of power. CSOs may serve as a resource for parliamentary committees, take part in informed debate on policy issues, and help educate the public through outreach, lectures and seminars. However, there is little empirical evidence internationally about exactly how civil society does engage

32 A very useful typology and discussion of policy support CSOs is found in Donald Abelson, *Do Think Tanks Matter?* (Montreal and Kingston: McGill-Queen's University Press, 2002).

33 DFID, Understanding Security Sector Reform, London at www.dfid.gov.uk , p. 20

with the security sector, how local NGOs and other CSOs function and survive, what flows of personnel exist, and what impact they actually have on policy and on public debate.

The role of civil society is different depending on whether it is interacting with policing, military or intelligence agencies. It is perhaps easier to understand how civil society can input into policing, especially in democratic countries where democratic and community policing has become the guiding principle. Policing in democratic societies is said to rest on public consent, implying that a value consensus exists in society; coercive policing implies a lack of or a forced value consensus.[34] Policing with the consent of the community gives the police – and by extension the state – greater legitimacy. Consequently, civil society actors play a very significant role, at least in theory, in community-oriented democratic policing.

Civil society groups in democratic states are frequently involved in efforts to hold the police to account, to influence policing policy and practices, and to lobby public authorities about the police. Even in countries where there is a coercive or military style of policing, citizens' movements campaigning for safety or against excessive police violence have been successful in pressuring, shaming and negotiating with police institutions and political authorities to change policing practice.[35] Civil society groups may also directly encounter the police when they take to the streets in protest or direct action (e.g. sit-ins, teach-ins, locking arms and creating human chains, demonstrations using banners and signs, protest marches and civil disobedience).

By contrast, it is arguably most difficult for civil society to influence policy and practice in the intelligence sector. Ironically,

34 Ahmet Aydin, Police Organisation and Legitimacy: Case studies of England, Wales and Turkey (Aldershot, England: Avebury, 1997)

35 For an account of citizens' movements which succeeded in drawing attention to police violence against street children see Paul Chevigny, *Edge of the Knife: Police Violence in the Americas* (New York: The New Press, 1995).

this is also the sector which holds the greatest potential during peacetime to impinge upon the civil liberties, rights and freedoms of citizens. There are usually no provisions, even in established democracies, to share intelligence-related matters with CSOs, not even the budget that has been allocated for intelligence services.

The media is often referred to as the 'fourth power' in a democracy. The media acts as a 'watchdog' of democracy by reporting objectively. As an integral force of civil society, the mass media is expected to play a prominent role in controlling the parliament, the government and the judiciary, in investigating whether private industrial and financial interests respect the law, sounding the alarm if the environment is polluted, and engaging in conflict prevention and resolution. In modern times, the mass media appear omnipresent. Perhaps, therefore, people also expect omnipotence from the media. However, media organisations can only do their job honestly when they are not controlled either by the state or by those who own and operate them. Moreover, there is dissatisfaction with the performance of mass media even in established democracies. People do not generally believe in the veracity of information transmitted through the media. Governments often clash with the mass media about sensitive issues (a classic example being the clash between the BBC and the UK Government over its reporting of aspects of the Iraq war). In some Western countries, civil society organisations monitor the media and often raise the alarm about alleged or genuine biases in reporting; a good example is FAIR (Fairness & Accuracy in Reporting) in the US.[36]

Nonetheless, a steady flow of information has important advantages both for civil society and for the government itself. Government benefits from having an informed public that understands key security issues and policies. It also benefits from the advice of specialist CSOs, but they can only provide quality advice if their

36 Dr. Dušan Reljiæ (2004), Civil Society, Mass Media and Democracy in Post-communist Countries, Geneva Centre for the Democratic Control of Armed Forces (DCAF) Working Paper – no. 131

analysis is based on accurate information. It is therefore crucial for the authorities to speak to the media and to disseminate their policies and concerns. For all stakeholders, effective security sector reform depends on the accumulation of specialised knowledge. Access to information legislation could be helpful in that regard, but is absent in many countries. Furthermore, investigative journalists and those who specialise in security (whether defence, public security or intelligence) can act as an oversight mechanism and influence public debate simply by knowing which questions to ask and whom to approach and publishing the information gleaned. Accordingly, they primarily have a 'technical expertise' function.[37]

Parliament as an oversight agency

Theoretically, parliament can have a variety of oversight functions with respect to the security sector. Parliament can serve as the key link between the government and the people and can determine the mandate of security sector bodies by scrutinising their activities. For example, parliament has the power and responsibility to debate, approve, enact and oversee the implementation of security sector laws and policies so that security establishments are in accordance with society's priorities. Parliament can oversee budgets in the security sector, hold the executive accountable for security sector priorities and ensure that funds are disbursed appropriately and effectively.[38] Parliament is often also entitled to debate and select the commander of the armed forces.[39] As the people's representative, parliament acts as a check and balance, ensuring that security sector laws and policies are implemented in an appropriate fashion.

37 Capirini 2002:6
38 Craig Kowalik (Ottawa, January, 2006), Parliaments and Security Sector Oversight: An Emerging Area for Capacity Development, Parliamentary Centre, Prepared for the Governance Knowledge Network Project
39 Ibid.

In practice, however, parliament is often undermined or marginalised in carrying out these roles. Plans, priorities and budgets for the security sector are often guarded carefully by the executive. In post-conflict situations, where the executive operates in a fragile environment and the legislature involves parties that until recently were warring factions – *as in Nepal* – there is less chance to carry out such oversight roles.[40] Nonetheless, by encouraging the media and social networks to engage in security matters, parliament can still achieve these tasks. Parliament could play a critical role in stimulating reform, but training is needed to enhance its capabilities so that it better understands emerging new concepts and trends in security. It is not only the role of parliament to oversee security sector budgets; as a civilian representative of the people, parliament can also help to reform the mindset, value system, and attitudes of security sector institutions to ensure that they operate according to principles of human security rather than state security. Parliament can monitor the training programme and curriculum of police and armed forces academies to ensure that they include such topics and that they become aware of international human rights philosophies and instruments which are now becoming universal.

Oversight agencies in the context of Nepal

This section relates the preceding theory to the context of Nepal. Nepal is attempting a transition towards a sustainable democratic system following ten years of violent conflict. The peace process is continuing, but at the same time splinter groups and non-state armed gangs are operating freely, which is causing increasing insecurity. This insecurity, the challenges of transition and the need for a development agenda all point to the importance of SSR in Nepal. There are many national security issues that have to be addressed. The Nepal Army has been blamed for not being people-friendly, while the police are accused of being corrupt, politicised and un-

40 Ibid.

democratic. Both these institutions need to be made accountable to state and society.

The issue of integrating Maoist combatants into the Nepal Army has caused heated debate in political circles and among some other stakeholders. Moreover, there are more than two dozen armed groups operating in the country: what will happen if during negotiations these groups also demand that their militias to be integrated into national security forces? This issue has not yet been discussed.

There is currently little clarity about which agencies are to be reformed under SSR or how they are to be reformed. Currently, many people understand reform primarily as a way of undermining the Nepal Army and the police and the 'mass entry' of a large, politically indoctrinated militia into the national army. These issues pose a serious threat to national security. It is well understood that the Nepali state cannot deal with the challenges of SSR alone. The state is fragile and is on the verge of losing control in some areas to various self-styled non-state armed actors. The state needs adequate support and participation from other sectors of society, such as civil society and the media.

A strong and effective SSR strategy, including development and democratisation alongside the current focus on disarmament, demobilisation and reintegration (DDR), will greatly reduce the risk that peace agreements will fail. Civil society organisations can intervene in many areas of SSR, but there are four areas which Nepalese CSOs have identified as particular priorities: defence reform; the rule of law; good governance and democratic oversight; and DDR.[41] Nepalese CSOs have thus adopted a needs-based approach. One important area where CSOs and other oversight agencies could intervene is the duty of 'monitoring, advocacy and in providing policy expertise' to the state.

41 USIP Briefing: Security Sector Reform in Nepal: The Role of Civil Society at www.usip.org/pubs/gov

If these oversight agencies could be collectively mobilised, the state could provide security to the public and a peace dividend could be realised. Good governance of the security sector involves a simple principle: that the executive and the security services not only safeguard a nation's security interests, but that they themselves comply with normative societal, democratic and legal standards. Democratic governance of the security sector helps to strike a balance between the demands of security and those of personal liberty.[42]

Civil society organisations can also help to establish the rule of law by putting pressure on the government to initiate police reform, justice reform, and intelligence reform as key areas. The need for reform in these areas has been highlighted by the increase in domestic and cross-border crime in the last couple of years. Organised non-state armed (political) groups, criminal gangs, splinter groups from various political parties and vigilantes are all operating freely in Nepal. The Nepal Police, and indeed the entire criminal justice system, is trying to address the threat of serious crime, but largely in vain. In the absence of state capacity to prevent such crime, many people are taking the law into their own hands.

Political parties are also in the habit of destabilising state security actors for their own vested interests. Coupled with this, a parallel system of justice has continued to operate which has sustained a culture of impunity. Nepal faces significant crime problems, compounded by the risk of illegitimate actors filling the 'rule of law vacuum'. The police as a whole needs to be strengthened through training and the provision of adequate resources. The police's morale also needs to be improved and they need to have greater public support. Beyond the police, the entire criminal justice system may need reform in order for Nepal to move toward a society based

42 Philipp H. Fluri, *Strengthening Democratic Oversight and Reform of the Security Sector,* The Geneva Centre for the Democratic Control of Armed Forces (DCAF) available at http://www.parlcpr.undp.org/docs/conference/Fluri.pdf (16th Jan 2009)

on the rule of law and justice.[43] There are many non-state armed groups operating with impunity, and it is alleged that despite signed understandings, some Maoist paramilitaries are continuing to extort, abduct, and recruit minors. Civil society can help to end the culture of impunity which is pervasive in society.

This priority addresses the interface between the security sector institutions and the democratic government and the politics of transformation. The concept of democratic oversight has never been implemented in Nepal due to a lack of political will, financial constraints, a lack of inter-institutional coordination and communication and the absence of the necessary expertise (Dahal 2008). Furthermore, insufficient financial oversight of the security sector has been a long-standing issue. In Nepal, where the government is committed to democratising and overseeing the operation of the army, a lack of coordination and information-sharing between civilian and military authorities has created many logistical and operational walls to the government effectively implementing its oversight function. A lack of political will, hesitancy about overseeing the security forces, and the failure to agree division of labour between government ministries has further hampered the police's ability to effectively fight crime within the country.[44]

DDR has been a major sticking point throughout the peace process, and is still not viewed through the wider lens of SSR. A great deal of disagreement exists between the Maoist's concept of SSR and the vision of DDR floated by other political actors. Civil society members could play a crucial role, bridging this gap by creating an interface between civic groups, the security sector bodies and political actors. CSOs can exert pressure on different stakeholders to reach an agreement. They can make policy recommendations which can ultimately remove the trade off between security's over-preoccupation with nationalism over democracy and political par-

43 USIP Briefing: Security Sector Reform in Nepal: The Role of Civil Society at www.usip.org/pubs/gov

44 Ibid

ties' excess preoccupation with democracy over nationalism and establish a balanced relationship between the two, as both democracy and nationalism make the institutions accountable to sovereign citizens.[45] However, civil society has been largely excluded from the process.

There are a few international non-governmental organisations (INGOs) working with local NGOs on security, but they too possess no clear agenda on what needs to be done. The issue of SSR first has to be decided at the political level, which has not yet been done. SSR also has to have public ownership. In the context of Nepal, there are neither specialised local NGOs nor a consortium of CSOs who could collectively advise the state on the issue. By and large, SSR has not been discussed with CSOs, except some discussion on the issue of integrating two armies into one. As a result, there has so far been little tangible input from Nepal's think-tanks. No attempt has been made to include or civil society actors into the discussion or engage their expertise. Equally, Nepalese civil society has not taken the initiative to this end. Parliament has not been able to play a significant oversight role partly due to its lack of expertise and training, and partly due to its 'over-politicisation' and preoccupation with other fringe issues. Even if the discussion does take place, it is unlikely that parliament would find a 'common voice' as a culture of compromise is yet to develop in Nepalese politics. Constitutional provisions to discuss security-related issues do exist (and are considered below), but it is still treated as taboo to address such matters.

This is the one side of civil society's role. The other side concerns the nature of civil society in Nepal: is there really a secular civil society and media that can contribute positively in this field? What is the relationship between the state and civil society?

45 Dahal 2008

Even if civil society were to take the initiative, there is a fair chance that they would not be able to address the issue effectively. Most urban-centred CSOs are sustained by outside assistance and are created either by local political actors and ex-bureaucrats or by foreign NGOs and other donors. This civil society thus merely treats the citizen as their consumer. It has developed its own 'column' in the civic sphere, with CSOs competing with each other for their own objectives. Obviously, this competition among civil society individuals for patrons and clients is marked by two motives: seeking status and wealth, even if they have to defend a culture of violence and perpetual agitation.[46] This tradition has developed a 'project- and issue-based' civil society in the country, whose main objective is to develop issue-based project proposals to get financial aid from the donors. This project-based civil society is more accountable to donors than to the state and its citizens. The majority of Nepalese CSOs do not speak for the public – they are often against both the state and the masses – and their policies are dictated either by those who fund them or those who founded them (which in most cases are political parties and their leaders). The majority of CSOs are controlled by a few families who are part of urban elites, who may not be aware of the reality on the ground but always act according to what the market demands, not what society and state demands and what is needed for durable peace.

This widening gap between political elites, urban-based, 'columnised' civil society, and duty-bound, rural, traditional civic organisations and ordinary citizens have deconstructed the true notion of civil society. Under these circumstances, despite a surfeit of CSOs and NGOs, civil society has failed to exert much impact on policy, advocacy, monitoring and protection, which are crucial functions in the post-conflict period.

In terms of the media, the Nepalese mass media played a pro-active role during the conflict by reporting objectively, but since the

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influential media houses are run by financial groups and families who are oriented around the status quo, they are often engaged in consent manufacturing using the media as umpire.

The SSR agenda seeks secular, people-oriented, and pro-state policies and institutions to establish the rule of law and embed the notion of good governance. Analysing the composition of oversight agencies (civil society and the media), however, it appears that there is little 'secular' that can be expected from them despite the fact that there is a great deal of participation from oversight agencies in identifying key areas of reform.

The parliamentary committee that considers security-related issues could play a meaningful oversight role. The Interim Constitution of Nepal, 2063 (2007) emphasises the democratisation of the Nepal Army in a way that upholds human rights. Accordingly, the Army Act, 2063 places the Nepal Army under the control of parliament; the Government has the right to mobilise the Nepal Army and to appoint its head.[47] Similarly, the Interim Constitution makes the Nepal Government responsible towards parliament and the nation's citizens. This demonstrates that there are clear legal provisions for 'civil supremacy' in the country. In this context, a sovereign elected parliament can play an effective role in making security-related rules and security organisations more accountable to citizens. This also allows parliament to oversee all sorts of defence/security (national security) activities (budgets, defence procurement, mobilisation, the drafting of national security policies, protection of those who are vulnerable, etc) and hold the Government to account. By the same token, 'civilian supremacy' also forces the Government to be accountable to 'the people' and to seek civilian expertise (from civil society, the media, etc) on the security sector where necessary. These legal provisions also allow parliament to 'purpose policies' before parliament in the interests of society and the state. While purposing policy, it can seek as-

47 The Nepal Army will be mobilised on the recommendation of the National Security Council as per the Nepal Army Act 2063 (Section 2, Articles 5 and 6)

sistance from civil society and other experts. Cooperation between parliament and civil society is thus a two-way process. However, Articles 144 and 145 of the Interim Constitution are still not clear in terms of mobilisation of Nepal army as they appear to give mobilisation political connotations. SSR is also about judicial reform, which is crucial to end the culture of impunity in the country, and parliament and civil society can work together in this sector. This is yet to happen in practice, however.

Conclusion

Where oversight agencies such as civil society and the media are concerned, security sector reform emphasises issues of accountability, inclusiveness in policy formulation, the responsiveness of government to citizen needs, and ultimately, the legitimacy of governance. It reminds us that the client of state security institutions is the individual citizen, and that the reform of security sector institutions must be undertaken with a dual focus on efficacy and public accountability. With the help of media and parliament, civil society can play specific roles by facilitating dialogue, monitoring the activities of security sector bodies, expressing views on security policy, providing policy advice, establishing the rule of law and promoting good governance in society. Pressure from civil society may provide the best impetus for change. CSOs can help to generate civic awareness of security issues, which could be a starting point to improve relations between the security sector and the public in order to create a national consensus on a reform programme, and building political coalitions to sustain the process.

SSR is needed for lasting peace, to establish a society based on the rule of law and good governance. Analysing civil society from an SSR perspective is particularly valuable because it forces us to view civil society in ways that are more complex than the simplistic oppositional relationship that is often presumed to exist between

state and civil society.[48] The role of the modern state is to provide both internal and external security to its citizens, and no other actors can replace this role. A security sector reform perspective also enables us to view CSOs' varying range of relationships with government and the state, on a continuum from opposition to collaboration, and to appreciate especially the partnership dimension that is inherent in good governance: that state and society should move together and there is mutuality between them.[49] Civil society cannot survive without the state, and the state cannot derive legitimacy without respecting civil society.

The role of oversight agencies in SSR is clear from the above discussion. In the context of Nepal, both SSR and DDR are widely regarded as necessary to establish the rule of law and good governance, to end the culture of impunity, to maintain legitimate authority of the state, to strengthen democratisation process, and overall to protect state and citizens from internal and external threats. However, neither the state security organs nor the oversight agencies are found to be seriously working towards this end. Moreover, civil society and the media are highly fragmented across political lines. Against this background, as a token of recommendation, a project of civic education would help to bridge the gap between individuals and between different layers of society, in order to provide the constructive engagement of all stakeholders on the principles and practice of democracy, human rights and nation-building for the common good. Civic education would help to instil a sense of belonging to state and society among different stakeholders and will ultimately promote civic nationalism.

48 Capirini 2002:18
49 Ibid

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References

Ball, Nicole, Michael Brzoska, with Kees Kingma and Herbert Wulf. 2002. Voice and Accountability in the Security Sector. Bonn International Center for Conversion (BICC). Paper 21. Bonn.

Ball, Nicole, J. Kayode Fayemi, Funmi Olonisakin, Rocklyn Williams, with Martin Rupia. 2003. Governance in the Security Sector. Nicolas van de Walle and Nicole Ball (eds), Beyond Structural Adjustment, Palgrave, pp. 263 – 304.

Bhatta, C. D. (2007), 'Civil Society and Its Discontents', *Readings on Governance,* Vol. No. Kathmandu

Brzoska, Michael. 2003. Security sector reform in development donor perspective: origins, theory and practice. Geneva Center for the Democratic Control of the Armed Forces (DCAF). Occasional Paper 4. Geneva. November.

Caparini, Marina *(2002), Civil Society and Democratic Oversight of the Security Sector: A Preliminary Investigation,* Fifth International Security Forum, Zurich, 14-16 October 2002, DCAF, Geneva

Dahal, Dev Raj (2008), "National Security: Security Sector Reforms and Civil Security Relations in Nepal", Paper presented at a seminar organized by Nepal Ex-Policemen Organisation and Friedrich-Ebert-Stiftung, November, 16, 2008, Kathmandu

Dionne, Jr, E.J.; 'Why civil society, why now?'*The Brookings Review*, Fall (Brookings Institute: 1997, Vol. 15, No. 4 pp. 4-8)

DFID, *Understanding and Supporting Security Sector Reform*, DFID, London (at www.dfid.gov.uk visited on 15th November, 2008)

Fluri, Philipp H (no date), *Strengthening Democratic Oversight and Reform of the Security Sector*, The Geneva Centre for the Democratic Control of Armed Forces, *(DCAF)*

Kaldor, M (1999) *New and Old Wars : Organised Violence in Global Era*, Cambridge, Polity

Khanal, Madhav P., 'Challenges Facing Civil Society', *The Kathmandu Post*, June 07, 2006.

Loader, Ian and Walker, Neil (2007), *Civilising Security*, Cambridge University Press

Mendez, Ruben P. (1999), 'Peace as a Global Public Good' in Kaul, Inge, Isabelle Grunberg and Marc Stern (eds), *Global Public Goods*. Oxford University Press. Oxford, pp. 382 – 416.

Nye, J. S. (2002), *The Paradox of American Power: Why the World's only Superpower Can't Go It Alone*, Oxford: Oxford University Press

Shah, Saubhagya (2008), 'Conflict Transformation and Democratic Consolidation: A Nepali "Post Conflict",' Paper presented at the seminar held in Kathmandu under the auspices of National Media Development centre (NMDC) and FES Nepal on Sept, 20, 2008.

Short, Clare (1999), "Security sector reform and the elimination of poverty", speech held at the Centre for Defence Studies, King's College London. March, 1999.

United Nations Development Program (UNDP), (1994), *Human Development Report 1994*, Oxford University Press, New York.

Waschuk, Roman (2001), "The New Multilateralism", *Human Security and the New Diplomacy*, ed. Rob McRae and Don Hubert (Montreal and Kingston: McGill-Queen's University Press and Foreign Affairs and International Trade Canada, 2001), P. 216.

Wulf, Herbert (2004), "Security sector reform in developing and transitional countries", *Berghof Centre for Constructive Conflict Management*, Berlin, at www.berghof-handbook.net

The Role of the International Community in Security Sector Reform in Nepal

Brig Gen (Ret.) Keshar Bahadur Bhandari

Introduction

Security sector reform (SSR) is a concept which developed following the end of the Cold War, driven by a few rich and developed European countries, and has not yet reached maturity. The definition and dimensions of national security challenges have changed due to changes in both the regional and the global security environment. Security challenges have become more complex. There are new dimensions of security threats, from civil war, armed groups, terrorism, the drug trade, non-state actors, and a lack of good governance, which have challenged basic human security. This called for the development and use of a range of new policy instruments, including SSR. As generally understood, the security sector is not confined only to the core security institutions, but also encompasses the executive and the legislature, the judiciary and the prison system, and also non-state security forces.

Its broader scope encompasses not only obvious security matters but also the socio-economic sphere, good governance and democracy. According to the UK Department of International Development (DFID), the objective of the SSR process is to create a secure environment that is conducive to development, poverty reduction, good governance, and in particular the growth of democratic states and institutions based on the rule of law.[1] Various modalities of SSR were designed and implemented, particularly in certain war-ravaged countries on the African continent but also in some other countries around the world, with varying degrees of success. One lesson that is clear: to achieve a positive result, SSR should be a national initiative, home-grown and locally owned, but supported by the international community.

The aim of this paper is to highlight the role of the international community in the SSR process in Nepal. It reviews how the international community can contribute to SSR in various institutions, but focuses particularly on its role in supporting the SSR process with core security sectors.

Defining SSR

This paper is informed by two key definitions of SSR. Firstly, the UK Global Conflict Prevention Pool (GCPP) states that 'SSR is a broad concept that covers a wide spectrum of disciplines, actors and activities. In its simplest form, SSR addresses security related policy, legislation, structural and oversight issues, all set within recognized democratic norms and principles'.[2]

Secondly, the Organisation for Economic Co-operation and Development (OECD) defines SSR in the following way:

1 GFN-SSR, DFID, A Beginner's Guide to Security Sector Reform (SSR), March 2007

2 Department for International Development, Ministry of Defence and Foreign Commonwealth Office, 2004

> ‘Security system reform (SSR) seeks to increase partner countries’ ability to meet the range of security needs within their societies in a manner consistent with democratic norms and sound principles of governance, transparency and the rule of law. SSR includes, but extends well beyond, the narrower focus of more traditional security assistance on defence, intelligence and policing‘.[3]

What form of SSR is appropriate to Nepal?

It is possible to categorise three key country contexts in which SSR may take place: post-conflict situations; transitional countries; and developed countries. Based on this definition, the political and the security environment in Nepal may be described both as a post-conflict and transition situation; however, this environment is most suited for SSR as it applies in post-conflict settings.

The peace process in Nepal is ongoing, and it will take a long time before there can be any guarantee of achieving a sustainable peace. There is currently strong disagreement between the political parties on the crucial but contentious issue of the rehabilitation and integration of Maoist combatants. This is required for a long-term peaceful settlement and to ensure sustainable peace, which is currently at risk. There is increasing socio-economic conflict; there is also a growing conflict in society due to the emergence of several illegal armed groups and the activities of the various sister organisations of some political parties, which is posing a direct threat to good governance and the rule of law. So far, the international community’s diplomatically driven engagement has not been very effective in finding an amicable settlement to the peace process for the greater benefit of the Nepali people. In short, Nepal is still at the stage of a transitional conflict and has not yet reached the status of a post-conflict environment. Nevertheless, there still re-

3 Security System Reform and Governance: Policy and Good Practice; POLICY-BRIEF – OECD; May 2004

mains good opportunity and potential to undertake reform as part of the peace process. For the sake of simplicity, the phrase ‘post-conflict’ will be used throughout this paper.

The present security situation in Nepal means that the conventional practice and exercise of SSR needs to be complemented with specific efforts by the state to address the ever-growing anarchy in various sectors which has threatened the SSR process as a whole.

Security sector actors and SSR instruments in Nepal

Nepal’s main security actors can be broadly categorised as follows:[4]

- *Core security institutions*: the Nepal Army, the Nepal Police, the Armed Police Force, and the National Investigation Department.
- *Security management and oversight bodies*: the executive, the legislature and legislative committees, the Ministry of Defence, the Ministry of Home Affairs, and financial management bodies.
- *The judiciary and law-enforcement institutions*: the judiciary, the Ministry of Justice, the prison system, and human rights commissions.
- *Non-statutory security forces*: the Maoist Army and private security companies.

SSR instruments which have been employed in Nepal as post-conflict peace-building measures include: the disarmament, demobilisation and re-integration (DDR) of the Maoist Army; demining; efforts to strengthen the rule of law; good practice measures in the security sector and various political/democratic processes.

4 Using a framework informed by: DAC Guidelines and Reference Series Security System Reform and Governance; OECD Publishing/ Understanding and Supporting Security Sector Reform; DFID Publication, p.6)

The role of the international community in post-conflict environments

The international community has played a notable role in efforts to bring about this post-conflict situation in Nepal. The role of India is paramount; the support of the US, Norway, the United Kingdom, Denmark and other Nordic and EU countries and international financial institutions are equally important. These international actors now have an even more important responsibility and role to play in moving from this post-conflict scenario towards a stable, peaceful, prosperous and secure Nepal. This transition requires numerous tasks: writing a new constitution; rebuilding destroyed infrastructure; completing the DDR process, including the re-integration and rehabilitation of Maoist combatants; and many other activities. The resources, technical support and experience required for this transition is beyond the capability of Nepal alone; this is where the role of the international community becomes important. The international community can support the national effort both in terms of resource and technical support and thus help to establish good governance and sustainable peace and security. It is necessary to reform many security institutions and oversight bodies, including: the Ministry of Defence (MoD) and the Nepal Army (NA); the Ministry of Home Affairs (MoHA) and the Nepal Police (NP), Armed Police Force (APF) and National Investigation Department (NID); and the judiciary and related government institutions.

The ten-year conflict in Nepal has severely hindered development across the country. Poverty is widespread, security is poor, and the capacity of the state has weakened. In the last couple of years following the Comprehensive Peace Agreement (CPA), there have been several major steps forward. Elections for the Constituent Assembly (CA), the declaration of Nepal as a republic, the formation of a new government and the commencement of the process to write a new constitution are all significant milestones in the transition to a more stable and inclusive society. However, great

challenges now remain, such as maintaining political stability and meeting the people's expectations for real change in their daily lives. Nevertheless, this period of transition has the potential to open up immense opportunities for the people of Nepal. This is where support from the international community could be of great help.

In recent years, the Asian Development Bank (ADB), the UK Department for International Development (DFID), and the World Bank (WB) have been among the largest donors to Nepal, while the United Nations has been the key player in the peace process. Important contributions from the international community include the following:

UNDP

The UNDP country programme for Nepal (2008-2010) is built on the United Nations Development Assistance Framework (UNDAF) and the Interim Development Plan for Nepal (July 2007-July 2010). It is focused on four results areas: peace-building, recovery and reintegration; transitional governance; inclusive growth and sustainable livelihoods; and energy, environment and disaster management.

UNDP has provided technical expert assistance to the Government's initiative to establish a Nepal Peace Trust Fund and to support the work of the Election Commission. It is also involved in the Reform of the Judiciary programme, with contributions from Finland and Japan, the Democratic Governance programme supported by DFID, Norway and UNCDF, and a joint UN - Donor Local Governance and Development Programme (2008- 2010), with UNCDF, DFID, SNV and GTZ as implementing partners. UNDP has also launched an initiative to improve capacities and the readiness

of key national actors and the public at large to participate in a constitution building process.[5]

The Peace Building and Recovery Unit, under the umbrella of UNDP, has provided dedicated support in four key areas: Recovery and Reintegration; Constitution Building; Peace building; and Elections. Its major donors are Britain, Norway and Switzerland.

The United Nations Mission in Nepal (UNMIN)
UNMIN is a political mission headed by the Special Representative of the Secretary-General and it is the overall coordinator of the UN system's support to the peace process. UNMIN works closely with OHCHR and the UN Resident and Humanitarian Coordinator to the UN UNMIN, UNCT, interested donors and the Government established the UN Peace Fund, a mechanism to complement the Government's Nepal Peace Trust Fund.[6]

The UK Government and DFID
The United Kingdom is the largest bilateral donor to Nepal and has worked to support Nepal's first democratic elections, strengthen the peace process and improve human rights. SSR is a key area of work for the UK Government, through the Global Conflict Prevention Pool (GCPP), a financial instrument which delivers long-term conflict resolution activity. Areas of engagement for SSR include conflict prevention, broader aspects of justice and security, and democratic governance. Nepal receives Conflict Prevention Pool (CPP) funding for 2008-11 which is focussed on achieving progress on the national SSR agenda, supporting an inclusive CA at the centre of the constitution drafting process, and strengthened dialogue and processes to address impunity and promote reconciliation.

5 *(Source: Draft country programme document for Nepal - 2008-2010);* (UNDP- "Democratic Governance - Programme", <http://www.undp.org.np/governance/index.php>, 13 October 2008); (UNDP- "Crisis Prevention & Recovery - Programme", <http://www.undp.org.np/governance/index.php> 13 October 2008);
6 UNMIN-United Nations Mission in Nepal, <http://www.unmin.org.np/>, 15 October 2008)

The UK government also supports capacity building of the National Human Rights Commission and civil society efforts to combat impunity. The Strategic Programme Fund (SPF) is funding Nepal through the Human Rights and Democracy Programme as a priority country.

The UK is the largest contributor to the UN Fund for Nepal, which has financed the registration and verification of Maoist combatants, safe storage and destruction of explosives held at the cantonments, training of the Nepali mine-clearing teams, de-mining of mined areas, and the 2008 elections. The UK is also a major donor to the UNOHCH in Nepal; and has made a key contribution to the work of the UNMIN both financially and diplomatically. DFID has also contributed to national human rights charities and to an ongoing analysis of the peace process in Nepal through the International Crisis Group.[7]

The European Union

Stability and peace-building in the post-conflict scenario is a key area of focus for European Commission (EC) assistance during the period 2007-2013.[8]

Denmark

Danish-Nepali development co-operation is focused on the further consolidation of the democratisation process in Nepal, with an emphasis on human rights, good governance and a peaceful resolution of the armed conflict. Poverty reduction remains the overriding objective of the Danish engagement in Nepal. With its image as

7 Promoting Conflict Prevention through Security Sector Reform; Review of Spending on Security Sector Reform through the Global Conflict Prevention Pool; Key messages and recommendations - May 2008),<http://ukinnepal.fco.gov.uk/en/working-with-nepal/programmes-projects/>, 20 October 2008. DFID, "Country Profile-Nepal", <http://www.dfid.gov.uk/countries/asia/nepal.asp>, 15 October 2008

8 European Union and Nepal, "Country Strategy Paper- 2007-2013" <http://ec.europa.eu/external_relations/nepal/index_en.htm>, 23 October 2008

an 'honest broker', Denmark provides both advice and support to many elements of the transition processes.[9]

Norway

Norway supports the Nepal Peace Trust Fund together with the UK, Finland, Denmark and Switzerland, and supports the peace process through the UN Peace Fund and the UNMIN operation in Nepal.

At the request of the Government of Nepal, Norway will support the SSR effort through the UN JMCC and special committee, and may be involved in a larger programme supporting the integration of Maoist combatants into the Nepal Army.[10]

India

After the Jana Andolan II in April 2006, India extended a comprehensive package of assistance to help Nepal with its immediate financial needs and to support peace, democracy and stability. Assistance under Aid to Nepal has significantly increased in both content and financial size, facilitating and ensuring the success of the peace process, supporting the CA elections and meeting other specific requirements. India has supported the CPA towards political stabilisation in Nepal through peaceful reconciliation and inclusive democratic processes.

India has shown its commitment to extend assistance for Nepal's economic rehabilitation and political stabilisation. India's assistance programme in Nepal is guided by the vision that economic

9 Ministry of Foreign Affairs of Denmark Embassy of Demark, Kathmandu, "Development Cooperation" <http://www.ambkathmandu.um.dk/en/menu/DevelopmentCooperation/>; 30 October 2008; "Human Rights and Good Governance" <http://www.ambkathmandu.um.dk/en/menu/DevelopmentCooperation/HumanRightsAndGoodGovernance/>, 30 October 2008

10 Norwegian Development Cooperation with Nepal "Good Governance" <http://www.norway.org.np/Devcoop/In+Nepal/Good+Governance/>, 30 October 2008

deliverables, particularly in the areas of education, health and infrastructure, reach people without any pre-conditions.[11]

China

China's has not played a very significant role either during the ten-year conflict or during the post–conflict period. China's neutrality during the conflict in Nepal and their non-involvement in the peace process signifies its policy of non-interference in its neighbours' internal affairs. Nor is China a donor country in the peace process, but its recent increased and active diplomatic engagement in November-December 2008, its unequivocal support for Nepal's sovereignty and geographical integrity, and its willingness to support peace process and integration issues has opened a new dimension in Nepal's peace process.[12]

International involvement in SSR

Many actors who were involved in ending the armed conflict – India, UN agencies, UNMIN, the United Kingdom/DFID, Japan, Demark/DANIDA, Norway, Switzerland, EU Nations, the US, and international financial institutions such as the World Bank, ADB, IMF – are now engaged in bringing the peace process to a pragmatic conclusion. Support and assistance from the international community and international donors is focused in the areas of peace building, democracy, stability and development, poverty reduction, human rights, and the rule of law. All of these areas of cooperation complement the SSR effort in Nepal. The issue of SSR as such is not high on the international community's agenda; rather, it is taken to be part of the overall peace process. In other words, their term 'SSR' is not mutually exclusive of the overall peace process.

11 Embassy of India, Kathmandu, "India-Nepal Relations: Political"; <http://www.south-asia.com/Embassy-India/indneprel.htm>, 14 October 2008

12 Ministry of Foreign Affairs of the People's Republic of China, "Bilateral Relations – Nepal" <http://www.fmprc.gov.cn/eng/wjb/zzjg/yzs/gjlb/2752/>, 15 October 2008

Key areas of support from UNDP and others are peace-building, recovery and integration, all of which form part of the SSR initiative.

The UK Government is at the forefront of support for the SSR process in Nepal. Although DFID does not provide direct assistance to the military, it provides assistance to the related institutional machinery, i.e. to the civil authorities responsible for managing the security sector.[13] The UK Government made a study of how to reform the MoD and Army HQ a couple of years ago. Following this, some structural change took place in the MoD when a few senior military officers were appointed in MoD as coordinators. However, this reform in isolation garnered little enthusiasm either from the MoD or Army HQ. The UK has also carried out a number of initiatives to improve civilian control of the security forces. DFID has plans for a public security programme focusing on community policing and alternative prison sentencing. DFID assistance to Nepal has made mixed progress in re-establishing law and order, improving respect for human rights, providing transitional justice and managing arms and armies.[14]

Circumstances providing, UNMIN may play some important role as a facilitator in the integration of Maoist combatants; this will have a direct bearing on reform in the security sector.

India's economic cooperation though does not explicitly mention anything about SSR. However, India's security interest in Nepal and its likely role in SSR are obvious. India is an important donor and partner of Nepal, providing weapons, equipment, military hardware and training to the Army and Police. India has always been an important player in Nepali affairs, and its willingness to

13 DAC Guidelines and Reference Series Security System Reform and Governance; OECD Publishing; P 7,15.

14 DFID Country Profile Asia Nepal key Facts

help Nepal in the peace process and regarding the integration of Maoist combatants is likely to have a major impact on SSR.

Chinese economic cooperation seems to be a more pronounced part of the special relationship with Nepal, but because of Nepal's strategic position, China is no less interested from a security perspective. China wants Nepal to be a peaceful, neutral buffer state between itself and India for the exclusive interest of Tibet and economic growth. In the context of increased Chinese international engagement, its aggressive recent diplomatic engagement may be seen to reflect its security interests. This may change the equation regarding international engagement in Nepal and its peace process. The role of China in the peace process and SSR in order to ensure a sustainable peace in Nepal is crucial and more important than ever before.

There are a number of other international actors. International non-governmental organisations (INGOs) such as Saferworld, International Alert, DCAF, The Asia Foundation, USIP, etc are not direct donors but are also actively involved in SSR-related issues in Nepal, mostly research work. These agencies' studies will be of great value to the peace process and SSR in Nepal.

An overall assessment of SSR in Nepal specific to core security sectors and their capacity building has not been a priority for the international community/donors and exists in a very low profile. Individual countries like the UK are in the forefront of the reform process for the core security sector, whereas other donors prioritise different areas but still complement the SSR initiative. The immediate neighbouring countries, India and China, will have a major influence and will play a major role in SSR and the peace process in Nepal. It now depends on Nepal to take the initiative and make the best use of the international assistance and support in order to move the peace process in a positive direction and undertake SSR

in the best interests of Nepal, preserving the long-term national interest.

Areas of SSR

In order to consolidate the peace process and bring it to a logical and pragmatic conclusion which achieves stability and sustainable peace, reform is needed in various sectors. Some of the most important areas are:

- *Democratisation of security institutions*: Democratisation of the Army, and as such, democratisation of all the core security sectors, is on the agenda of both the Government of Nepal and the international community. Developing effective civil-military relations and institutionalising regular civil-military dialogue could be necessary to democratise the Army. Since Nepal is a transitional democracy, to promote democratic control over the security sector the international community can help Nepal to reform and restructure the security sector and oversight bodies so that they abide by democratic principles, the rule of law, and respect and adherence to human rights. The international community can help to enhance the skills and knowledge of security sector agencies, including the Nepal Army, on these matters.

- *The National Security Council*: The composition of the National Security Council (NSC) of Nepal was made in haste and needs restructuring. The NSC should develop a pragmatic national security policy based on the Interim Constitution of Nepal as soon as possible, which should then be implemented. Nepal should seek expert advice from the international community when needed. Some US study centres for the Asia Pacific region and several donor countries hold workshops and seminars which make relevant recommends to the Government of Nepal. The US and several other donor

countries are also concerned to make the Special Committee functional. However, although several international agencies are working on various issues relating to the peace process and SSR in Nepal, they are working in isolation and the lack of coordination has created gaps in the current support.

- *Control Authority*: The MoD and the MoHA require reform by restructuring their present organisation. These ministries need to have trained professionals and bureaucrats to run everything professionally. Again, Nepal may seek support for its reform efforts from the international community in terms of training and expert advice.

- *Paramilitary force*: Nepal does not have a formal paramilitary force. There is thus a void in the overall framework of the national security structure. The Armed Police Force could be converted into a paramilitary force under the MoD, so as to work as a buffer force between the Police and the Army.

- *Maoist combatants*: As agreed in the CPA and provided for in the Interim Constitution, the rehabilitation and integration of Maoist combatants has become a key issue for the success of the overall peace process. Since the Maoist Army has been recognized by the state as a non-statutory security force, the issue of its management needs to be addressed pragmatically. An amicable way to address this issue could be a decision from the Special Committee, which in turn must be based on recommendations made by the technical committee of experts appointed by the Special Committee.

The impact of international engagement

Most of the focus has been on reform of the core security sectors. However, without reforming the judiciary, the economic sector and other sectors to ensure good governance and a system of account-

ability, the much-desired sustainable peace and stability will not be achieved. In this regard, the international community engagement and impact regarding SSR needs to be evaluated in terms of the likely positive and negative effects.

Many international activities in Nepal are based on the interest of the respective donor country and are guided by their foreign policy and security policy towards South Asia and Nepal. Developed western countries' activities in Nepal are based on a policy of helping one of the least developed countries, a poor country which has suffered from ten years of civil war. Since they have identified poverty as the root cause of conflict, their engagement is mostly focused on health, education and the economy, as well as a capacity building programme for local governance. Except for a few countries, the international community has not made reform of the core security sector a priority programme. However, their engagement in various development programmes which complement the SSR effort means that the international community still plays a very important role in consolidating the peace process in the post-conflict scenario.

In many respects, Nepal lacks expertise and experience of how to manage a peace process and undertake reform in a post-conflict scenario. Nepal cannot afford to address peace-building and reform initiatives such as the DDR process and the rebuilding of destroyed infrastructure on its own, as it lacks the necessary resources. International engagement in terms of advice, technical assistance and material support will thus have a positive impact on peace-building and reform in various sectors. On the other hand, if donor support for peace-building and reform initiatives comes with certain terms and conditions imposed by the donor based on their interests and standards, it may not be suitable to the Nepalese context and may not even work. For the sake of the broader national interest, Nepal should be cautious about accepting unconditional assistance or assistance with certain pre-conditions from the international com-

munity, be it for SSR or in other complementary sectors. In this regard, the Indian policy of unconditional deliverables assistance and other international donors' conditional assistance in sectors other than security should draw the attention of the Government of Nepal for its likely consequences for the national interest.

Donor funds in support of government activities need to go as much as possible through government systems and not through parallel structures. Parallel structures undermine the Government, and in the long term they weaken the social contract between governments and their populations.

International assistance will have a positive impact in some areas, such as capacity building of the MoD, MoHA and NA, NP, AFP and NID to train, equip and restructure these institutions; policy and programme development for reform in other complementary sectors will also have a positive impact. Similarly, the productive engagement of the international community in providing advice, facilitating dialogue between conflicting parties, and initiating informal confidence building initiatives will all bring positive results.

International engagement must be compatible with the socio-economic and socio-psychological dimension of Nepalese norms and values. Otherwise, such engagement may disturb the basic fabric of society by raising unachievable aspirations, which would be bound to have a negative impact. The international community can support local ownership through encouragement, capacity enhancement and the recognition of national strengths.

If politically attuned and provided with the support of the conflicting parties, donor's post-conflict development assistance can help to consolidate peace and provide benefits to communities that have long suffered and wish to rebuild their lives. Conversely, development provided without regard for its political impacts would risk

undermining confidence in the peace process. Development assistance is therefore more likely to have a positive impact if guided by the priorities established by local actors.

National capacity and donor support

Unlike in other parts of the world, where a peace deal is reached after direct mediation by a third party/country, the Nepalese were responsible for creating an environment for conflict resolution and they themselves have reached this post-conflict stage through support from neighbouring countries and a few Western ones; the CPA was made possible mostly due to their interest and efforts. Hence the peace process and the post-conflict situation in Nepal are unique. Though it is not easy to change this post-conflict environment into an atmosphere of stable and sustainable peace, it is possible. This requires initiatives developed and owned by Nepal and supported by the international community.

The need to lead the peace process to a logical conclusion to achieve a lasting and sustainable peace makes SSR important, and Nepal's past domestic experience in this regard is not sufficient to deal the present scenario. The support of the international community is thus needed. The international community can moderate the process through expert advice, knowledge and experience and relevant examples from other parts of the world.

Since no one can understand the Nepali security sector better than the Nepalese themselves, only they can develop a plan of action on how to reform the security sector as part of the peace process. Nepal has competent human resources to take local ownership for this reform, but may seek advice and assistance from the international community. Nepal can learn from SSR practices in various countries in Africa and Asia, and the international community can help by providing information about the technical intricacies and practical difficulties encountered in those countries and advising

and recommending some workable modalities. Based on those examples, Nepal is capable of developing a home-grown methods and mechanisms for implementing SSR. However, it may need financial and resource support from the international community to implement this reform in various sectors, including with core security institutions. Success will require synergy between national actors and international donors.

The most contested issue is the integration of Maoist combatants into various security agencies, particularly the Nepal Army. This issue has been unnecessarily exaggerated and complicated. Since the international community can find a receptive ear among many stakeholders, it has the capacity to facilitate a consensus between the conflicting groups on the rehabilitation and integration issue and to develop a suitable policy and programme for doing so. If this is agreed in principle and the number of Maoist combatants to be integrated is decided, a pragmatic five-year plan with the aim of 'right-sizing' the army could be drawn up and the issue of integration could be resolved amicably. One thing that Nepal lacks at present is cohesiveness in thought and action among political parties, even for a common cause, and this need to be addressed as soon as possible.

The risk to local beneficiaries if the international community is not involved

International support for the reform effort in Nepal has many local beneficiaries and stakeholders. To complete the peace process and bring it to a logical end through SSR, the present post-conflict scenario requires a great deal of multi-faceted support from the international community, including diplomatic initiatives, expert support, technical and material assistance and financial support. Local beneficiaries and stakeholders include the following:

- *The Government of Nepal*: If the Maoist-led government does not succeed in achieving a sustainable peace, the Govern-

ment will not be able to continue for long. If the Government fails to develop understanding between different political parties and the security sector and to provide direction for a better future for Nepal, this will damage the Maoist Party.

- *Other Political Parties*: The major political parties will lose credibility if they could not manage this post conflict scenario to the aspiration of the people. If they fail in this effort, the future of every political party will be at greater risk.

- *Other stakeholders*: Other beneficiaries of international support could be security sector institutions such as the NA, NP, APF and NID, the Maoist Army, the judiciary, and instruments of government such as the various ministries responsible for ensuring peace, good governance and development work. Reform and restructuring in the above sectors are required to achieve better performance and to ensure the delivery of better results; this will only be possible through the joint efforts of national actors and international donors. Among these stakeholders, the Maoist Army and their cadres will risk most of the backlash from an inconclusive peace process and a failed SSR process which may occur in the absence of international donors.

- *The people of Nepal*: The people, and in particular the poor and deprived section of society, will be at the greatest risk from a failed peace process or even a lengthy and uncertain process where sustainable peace is yet to be achieved.

The engagement of international donors and actors is thus of great value in order to consolidate the ongoing peace process and achieve sustainable peace and stability. For the better future of post-conflict Nepal, the international community's engagement in the reform of various sectors, including the security sector, is very important. In the absence of diplomatic initiatives, financial and

material assistance, technical and expert support from the international community, the whole peace process and the SSR initiative may be compromised. The likely risk of returning to conflict may pose a serious threat that Nepal could become a failed state. Such a situation would also affect Nepal's neighbours' interest, thus creating an environment where external intervention is possible. This likely risk to the nation would outweigh all the other risks

Local ownership and coordination and coherence in the policy of international donors

Over the past few years, the international donor community has actively engaged in SSR in countries that are facing conflict or are in transition. The experience has been that without local ownership of SSR, donor interventions are likely to have limited effect and might even be counterproductive.

The Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee (DAC) recommends providing assistance to enhance domestic ownership and commitment to reform processes. The OECD and its member states emphasise the need for a holistic and integrated approach and stress the governance dimension of SSR. On the other hand, the relationships among development, defence, security and foreign policy actors that provide assistance in many OECD countries are often complicated. Development agencies need to forge effective partnerships with their defence and security counterparts so that they can provide assistance in those areas where donors will work.[15] The Government of Nepal has also at times found it difficult to understand the different concepts and terminology of the reform process and its integration into donors' overall policies.

15 Source: OECD/DAC, 2001, p14-15

The World Bank, for example, has reservations about working too closely with the military, but it emphasises transparency in the security sector and advocates for the development of civilian expertise and civilian control over every aspect related to the security sector. It supports democratically elected parliaments to assess security issues, and favours reform of the judicial, legal and penal systems, and strengthening of the capacity of civil society to monitor these reforms. It suggests supporting the donor community on programmes such as:[16]

- *Enhancing state capacity and policy coherence*: security sector reviews; management of security expenditure; civilian expertise on security issues; regional confidence-building and peace-keeping capacity
- *Reform and training of security forces*: military and police reforms; training assistance
- *Demilitarisation and peace-building*: conversion of security resources to civilian use; demobilisation and reintegration of ex-combatants; regulation of small arms; child soldiers
- *Strengthening democratic governance and the rule of law*: justice systems; civil society; building research capacity in developing countries

The World Bank also supports the donor community on programmes related to reform of the core security sector, but its reluctance to do so in Nepal is an example of the non-coherence in policy between the World Bank/donor and Nepal/local stakeholders.

In Nepal, donors like India have developed stand-alone programme assistance and have undertaken internal institutional reforms, thus also presenting a non-coherent policy.

16 Source: DAC/OECD 2000, p. 21 – 26

Both in its direct donor engagement with Nepal and in collaboration with UNDP, DFID plays the lead role in SSR and a coordinated and coherent policy exists between DFID and Nepal. It is only through commitment and government responsiveness that a coordinated and coherent policy with international donors could be developed to support the national interest. Nepal is yet to show domestic ownership and strong political will regarding its SSR programme.

To pursue the goal of developing a transparent, accountable security system based on democratic norms and human rights, it is important that solutions to problems are developed locally that are appropriate to the country context. It is essential to give primary responsibility to the Government and other local stakeholders to achieve locally-owned SSR. Donors should develop methods of working through local actors and should build on ongoing initiatives, with the objective of helping local stakeholders to determine what will work best for them. Donors need to conduct assessments working closely with local stakeholders. Donor should avoid imposing specific security-related organisational structures and modes of operation on partner governments. The working principle is that reform processes need to be nationally owned and led to be sustained.[17]

Donor policies are often not harmonised. The World Bank, IMF and ADB impose structural reform programmes on recipient countries to achieve democracy and good governance and they impose certain terms of reference on financial cooperation. Nepal is no exception, and it is bound to abide by these conditions as a grant/loan recipient country. Donor policy coherence may at times be lacking with Nepal.

17 DAC Guidelines and Reference Series Security System Reform and Governance; OECD Publishing

A question could be raised regarding the coordination and coherence of donor policy and local ownership in SSR where defence cooperation is concerned, especially in relation to arms export interests. In general, foreign assistance for SSR and specifically to the defence sector is characterised by the lack of a coherent policy among different donors, between donors and recipients, and between different security agencies within the countries. Though Nepal imports military hardware on a very small scale compared to other countries, it will often be difficult to find policy coherence between donors and Nepal on this issue.

Priority areas for SSR in Nepal

Local actors and the international community do not always prioritise the same goals for SSR. It is important to coordinate international assistance in line with Nepal's SSR needs. The areas that may come within the ambit of SSR and the likely role of the international community need to be identified, scrutinised and prioritised in close cooperation between Nepalese actors and the international community.

Potential priority areas for SSR that need to be scrutinised include:

- Core security sector agencies in Nepal and their expected role.
- Appropriate definition of civilian control; strengthening and professionalising oversight bodies and civil society to improve civilian control over the security sector.
- Political conditionality, such as democracy, good governance and human rights, as a condition for economic assistance and SSR.
- Reservations of the development/donor community regarding security sector actors. Security issues cannot be exclud-

ed from development co-operation; rather they are mutually inclusive.

- Incoherence of donor policy towards Nepali issues, and competition between different international organisations, governments and NGOs to make their imprint on programmes rather than undertaking joint efforts.

Security sector reform is a very new concept for Nepal in terms of state transformation, development and post-conflict peace-building. The wider notion of SSR encompasses the democratisation of security sector institutions, good governance with transparency and accountability, the peaceful transformation of society, human security and a poverty reduction programme targeted at specific groups. This can only be achieved through the combined efforts of national and international actors. Better harmony could be achieved through a co-ordinated donor approach towards technical and political issues.

It is worth noting that the CPA, which is at the heart of the peace process, failed to deal with some crucial issues, such as the issue of restructuring the core security sector and the integration of Maoist combatants into security sector bodies with no mention of a specific security force.

A major focus for donors in Nepal has been to make the development programme that complements SSR more transparent, accountable and better targeted at excluded groups. This could be achieved only through a concerted effort of donor and local actors.

There are many activities in the SSR process that demand the combined effort of the international community and local actors. These include activities such as identifying and prioritising areas of SSR, joint planning involving the maximum number of local experts and actors, the activation of informal initiatives and confidence-

building measures, and identifying practices of SSR suitable in the Nepalese context. All these will mean that the peace effort can be concluded in a WIN-WIN situation.

Local civil society can also play an important role in the SSR process as a watchdog and whistleblower.

Ensuring local ownership

In contrast to countries at war, there is great potential for SSR in Nepal, a post-conflict society where peace accords have been signed and a possible adjustment of security forces has already been agreed. There is also a strong will to accept external support for reorientation and reform. What is needed is to maintain this commitment. In this regard, the formation of the Ministry of Peace and Reconstruction to consolidate peace and stability is indeed a positive step towards ensuring national ownership. The mandate of this ministry is very broad. It acts as the focal point of governmental, non-governmental and international institutions/organisations pertinent to peace establishment and conflict management.[18]

Local ownership can and must be ensured through commitment at the government level, at the core security sector level, and in civil society, elite groups and experts. The example of South Africa illustrates that a deep structural transformation of the security sector is possible through strong local ownership. Local ownership is equally important to make SSR successful in Nepalese context. The following steps could be taken to ensure local ownership:

- Build the capacity of the various actors involved in the SSR process
- Train and involve the maximum number of national experts in the SSR process

18 Government of Nepal Ministry of Peace and Reconstruction, <http://www.peace.gov.np/eng/default.asp>, 01 November 2008

- Mobilise local resources as much as possible
- Seek international community involvement only in required areas
- Do not copy any 'blueprint' for SSR from other countries; learn from various case studies and design something that is appropriate for Nepal
- Lead the peace and reform process with support and assistance from the international community
- Build confidence among the political parties through mediation and achieve consensus on the subject of the national/ common interest
- Establish a system of accountability

A nationally led peace process will enjoy greater legitimacy and ownership than an imposed settlement, and is more likely to lead to sustainable peace. Donors may need to restructure their development programmes to complement the SSR process and facilitate processes for local ownership. It is worth quoting a speech by UK Under Secretary of State Gareth Thomas: "First, we know that for any peace process to work, it must be nationally owned and led. And second, that the international community/donors, but more importantly neighbours and regional actors must support and not undermine this…Donors have got to learn that donors must be in a supporting role because only domestic actors can end wars and keep the peace".[19]

Case studies of internationally supported SSR activities

The international Community has implemented different types of reform in different countries, with various levels of domestic commitment and ownership. Hence, the SSR scenarios do not fully explain the various and often overlapping paths of reform. Inter-

19 Parliamentary Under Secretary of State for International Development, Gareth Thomas, Speech to Development Dilemmas Conference, London, 5th March 2007

nationally supported SSR activities can be seen in the following examples:

- In South Africa, several Central European states, and Brazil, the security institutions partnered with civilians in transforming these security institutions as part of a democratic transition. In South Africa, a thorough reform was carried out within a brief period of time and the armed forces, various liberation forces and apartheid regime forces, previously adversaries, were integrated into the new South African National Defence Forces. This process was facilitated by many NGOs, with civil society playing an active role in formulating and revising the Defence White Paper of 1996. This reform process clearly and unmistakably established the democratic control over security.[20] The example of South Africa illustrates a deep structural transformation of the security sector. With the reform largely being completed, South Africa is a successful case.
- Democratic change in many sectors of society with limited reforms in the security sector has taken places in countries like Benin, Ghana, Mali, Chile, and Indonesia.
- Security sector reform has been driven from above by the government with limited public participation or limited democratisation in countries like Ethiopia, Uganda and Indonesia.
- In Central Asian states, there has been only reform rhetoric, or lip service has been paid to reform mainly to please foreign governments and investors without much reform and even resistance in practice.
- Externally or donor-driven extensive restructuring of the security sector without strong local ownership has taken place in countries like Afghanistan, Iraq, Sierra Leone, Liberia, DR Congo, some Balkan states.

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- Fundamental restructuring of the security sector to meet standards of external partners has taken place in Central European countries.
- The restructuring of security forces, including warring groups in previous conflicts has taken place in Afghanistan and El Salvador.
- In the Baltic States and East Timor, new security forces have been built with extensive foreign assistance.

In most of the cases above, the executive branch of government has been the main domestic actor driving SSR, often assisted by donors.

Conclusion and Recommendations

In Nepal's post-conflict environment, it is important to try to reform the key state instruments as part of the peace process. From a humanist perspective, there is no alternative to working towards peace and development. In practice, this often means that there will be no peace without reform of the security sector. Reform is a necessary but not a sufficient condition for the long-term goal of peace and development, good governance, transparency and accountability.

SSR is a subset of wider political and economic reform, and SSR will achieve little without a broader process of transforming society. Since Nepal lacks competent civil institutions and the experience of carrying out such reforms, it may seek assistance from the international community.

In many ways, an externally brokered peace process and the likely reform process assisted by the international community may help to address the Maoist cause. Fundamental changes in society such as the end of civil war and the change of regime provide favourable ground for far-reaching reforms in Nepal.

The key weaknesses of current plans for reform are the lack of basic civil institutions capable of carrying out reforms, the *ad hoc* and piecemeal nature of reform (rather than holistic or comprehensive SSR programmes), and weak linkage to regional initiatives. A regional Track-I process is conducted through the South Asian Association for Regional Cooperation (SAARC), but this organisation does not address the specific issue of SSR and does not consider democracy and human rights as basic values for developing regional co-operation.

In general, the international community has not done much to promote SSR in Nepal, although a few donors have propagated some development and particularly governance-related programmes. In practice, SSR initiatives have often been partial and selective, based on the donor country's policy rather than Nepal's needs.
As Clem McCartney has pointed out, 'violent crisis and internal wars are often consequences of the failure of the state to provide stability and security for their citizens. Peace processes cannot be effective or take place in situation of threat, social disorder and violence.' This is equally true of Nepal. Although SSR is a borrowed concept for bringing about sustainable peace and stability, it can work, but only if it is adapted to the Nepali context and is based on reality rather than something that is impractical and unattainable. To make such effort a success, there is no alternative to home-grown and locally-owned initiatives. The role of international community is indeed important, but it is a support role.

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References

1. Wikipedia, the free encyclopedia, Security sector reform.

2. DAC *Guidelines and Reference Series Security System Reform and Governance*; (OECD Publishing), P 7, 15, 20-22.

3. GFN-SSR, DFID, A Beginner's Guide to Security Sector Reform (SSR) , March 2007;

4. DFID, Understanding and Supporting Security Sector Reform;(DFID Publication) p 6

5. Policy Brief – OECD; *Security System Reform and Governance: Policy and Good Practice (*May 2004)

6. THE OECD DAC, *Handbook On Security System Reform (SSR) - Supporting Security And Justice*; (OECD 2007 Edition); P10-12

7. Wulf H, *Security sector reform in developing and transitional countries (*Research Centre for Constructive Conflict Management), <http://www.berghof-handbook.net>

8. Muna R, 'Landscape of Regional Cooperation: Its meaning for Security Sector Reform Network in Asia', *Journal of Security management; Published by Global facilitation network for Security Sector Reform,* University of Cranfield; Shrivenham; UK, Vol 1Number 3-December 2003

9. Peace secretariat-2006, *Government of Nepal, Ministry of Peace & Reconstruction*, 2007; Ch I & III.

10. Prasai M, Nepal and its Security Sector Reforms (SSR) - Are we There? *Sipahi,* issue no 40 – 2064, p 66.

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The Nepal Institute for Policy Studies (NIPS) is a Kathmandu-based independent research organisation which focuses on policy-oriented studies and links academic research with public policy on national and international issues. NIPS' members are a group of young and fresh minded university graduates and PhD holders who have an expertise in security and strategic studies. Equally, NIPS has members coming from diverse political and social background where two of its members are the newly elected members of the Constituent Assembly. NIPS have already held several dialogue series on security studies, democracy and international relations for political parties, civil society, media, security experts and government officials.

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