

DEMOCRATIC CIVILIAN CONTROL OF THE NEPALESE ARMY

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by  
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The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

## ABSTRACT

DEMOCRATIC CIVILIAN CONTROL OF THE NEPALESE ARMY, by Major Bimal Kumar Basnet, 105 pages.

Civil-military relations in Nepal have evolved as the various forms of government have evolved in the last 30 years; as such, it is difficult to describe the current state of democratic civilian control of the Nepalese Army. This research describes institutional reforms that have been enacted, changes that have affected which individual exercises control over the Army, and how the Government of Nepal has integrated the former Maoist insurgents into both the government and Army. The researcher used a qualitative method to assess how Nepal has changed its Constitution, laws, bureaucracy, and systems to develop its current democratic civilian control system and compared Nepal's progress to that of El Salvador's efforts in the 1990's. This study determined that all too often the Army has had to divide its loyalties between two individuals or institutions and that this divided loyalty has caused problems for both the Army and Nepalese society. The following are recommendations or principles the Army must institutionalize to guide it through the still-evolving civil-military relationship discussions: the Army should focus on external threats, remain apolitical professionals, and remember that they represent all of Nepalese society.

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## ACRONYMS

CA	Constituent Assembly
CMR	Civil Military Relations
COAS	Chief of the Army Staff
CPA	Comprehensive Peace Agreement
DCC	Democratic Civilian Control
MOD	Ministry of Defense
NA	Nepalese Army
NDC	National Defense Council
NSC	National Security Council
PM	Prime Minister
SATP	South Asia Terrorism Portal
UCPN (M)	United Communist Party of Nepal (Maoist)
UN	United Nations
UNMIN	United Nations Mission in Nepal

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# CHAPTER 1

## INTRODUCTION



Figure 1. Map of Nepal

Source: ncthakur.itgo.com, “Nepal: Map with Administrative Division,” <http://ncthakur.itgo.com/map04.htm> (accessed 8 April 2013).

“Civil Military Relations (CMR) is dynamic, country specific and constantly evolving in response to political shifts, external imperative and technological innovation and is not a static equation.”<sup>1</sup> CMR in Nepal has not developed in isolation, but as a part of its human development with its political changes. A military organization is formed to

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<sup>1</sup>Saubhagya Shah, “Democratization of Nepal Army: Establishing Civilian Supremacy” (Conference, Nepal Army Command and Staff College, Shivapuri, Kathmandu, 22–23 September 2009).

protect its nation from both internal and external threats. However, the issue of who controls this organization is highly debated and is an important factor of CMR.

A country maintains its military based on its need to protect the nation and its people from both internal and external threats. However, safeguarding the military is also important to protect a nation's democracy from possible intervention by the Army itself. In a democracy, people are considered the central power, and they have the right to make decisions on all affairs, including matters of defense. This is done through elected representatives, who are directly accountable to the people.<sup>2</sup> Democratic civilian control (DCC) of the military ensures democratic norms and values while making decisions on defense matters

DCC is one of CMR's three pillars, in addition to effectiveness and efficiency.<sup>3</sup> Identifying who controls the military is an important element for a stable CMR in a democracy.<sup>4</sup> Democratically elected civilian representatives exercise oversight and regulate their armed forces. Decisions are made by elected officials in peace and war instead of professional military officers.<sup>5</sup> No decision or responsibility falls to the military unless expressly or implicitly delegated to it by civilian leaders.

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<sup>2</sup>Peter D. Feaver, *Armed Servants: Agency, Oversight, and Civil Military Relations* (Cambridge: Harvard University Press, 2003).

<sup>3</sup>Thomas C. Bruneau and Scott D. Tollefson, eds., *Who Guards the Guardians and How: Democratic Civil Military Relations* (Austin: University of Texas Press, 2006).

<sup>4</sup>Ibid.

<sup>5</sup>Richard H. Kohn, "An Essay on Civilian Control of the Military," *American Diplomacy*, March 1997, [http://www.unc.edu/depts/diplomat/ADIssues/amdip1\\_3/kohn.html](http://www.unc.edu/depts/diplomat/ADIssues/amdip1_3/kohn.html) (accessed 13 December 2012).

### Statement of the Problem

Although, the Nepalese Army (NA) has a long history of existence, CMR in particular in the Nepalese history is a new concept. The NA has served both absolute and parliamentary type of monarchies since 1740 when the Great King Prithvi Narayan Shah first began his unification of neighboring principalities into the single Kingdom of Nepal. The NA has continued to serve Nepal throughout its volatile government transitions into the twenty-first century, whether it was an autocracy, multiparty democracy, the single party Panchayat, communism, or a democratic republic. While the NA has remained loyal to government leadership regardless of its political system, the question of who controls the NA has come under scrutiny and question.

Leading up to the Interim Constitution of Nepal in 2007, which abolished the monarchy and transferred control of the Army from the King to a Federal Republic, there had been over a decade of intense fighting and Maoist insurgencies. In the subsequent elections, the Maoists took power of the government as the largest party known as the Unified Communist Party of Nepal (Maoist) (UCPN (M)). In 2009, Prime Minister (PM) Pushpa Kamal Dahal, known best as *Prachanda* in Nepal, fired Chief of the Army Staff (COAS) General Rookmangad Katawal and appointed his second-in-command, Lieutenant General Kul Bahadur Khadka in his stead, citing insubordination because he resisted integration of Maoist rebels into the NA in addition to other issues. President Ram Baran Yadav reversed these orders and reinstated the COAS. PM Prachanda resigned, followed by collapse of the Maoist-led government.

Lack of confidence in the DCC of the military comes possibly from civilian misperceptions of how DCC operates, and confusion as to whether the Army is actually

controlled by the civilian government, or whether there are flaws in the government's control mechanisms. This paper's research will endeavor to clarify the state of DCC of the NA.

### Research Question

This research attempts to answer the primary research question, what is the current state of DCC of the NA?" To sufficiently answer this primary question, research must answer three secondary questions: (1) How has the NA been controlled in the past political systems? (2) What constitutional, legal, and institutional reforms have been made within the present political system to promote DCC of the NA? and (3) How has the integration of Maoist combatants into the NA shaped the DCC as part of CMR in Nepal?

### Scope of the Study

This research focuses primarily on how the NA is controlled by the democratically elected Government of Nepal in the present political context especially after the political change of 2006. It analyzes the legal and institutional mechanisms that the Government of Nepal has devised to exercise its civilian oversight of the military and its effectiveness in the democratic political perspective. This study examines the historical background of DCC of the NA throughout various periods of Nepalese political history. Special emphasis is given to the issue of recruitment in NA and promotion of senior officers, and the Ministry of Defense (MOD)'s oversight of these issues. A growing interaction between the NA and the government after the integration of former Maoist combatants into the national Army is also analyzed to examine how CMR is being

developed, and how the changing CMR affects Nepal's future DCC. Analysis of constitutional and institutional provisions regarding the management of the military from a DCC perspective is also included in this research.

#### Limitation of the Study

Direct interviews with key persons associated with this research or field trips were not possible due to time and geographic constraints. Hence, research is heavily based upon library archives, critical analysis, and study.

#### Delimitation of the Study

When the researcher refers to the NA in this research work, it encompasses the period since the late King Prithvi Narayan Shah and Gorkhali Army, which evolved into the present day NA. The historical background of the NA's DCC excludes the period before the first Nepalese democratic move in 1951. Research does not cover the period after the end of Bhattarai-led Government 2013; and also includes only the NA's DCC and excludes other Nepalese security bodies.

#### Significance of the Study

This research examines the current state of DCC of the NA, to assist the reader to better understand its problems. This research also highlights the adequacy of the existing legal and institutional mechanisms for civilian oversight of the NA, and illustrates shortcomings so that policy makers, political, and military leaders can adopt appropriate measures for a better DCC.

## CHAPTER 2

### LITERATURE REVIEW

#### Literature on Major CMR Theories

Huntington's book, *the Soldier and the State*, is a theoretical study of CMR and an analysis of these relations throughout American history beginning with the Constitution. His interest as a political scientist was in developing a theory of military professionalism, which he used to analyze American CMR. He defined the characteristics of a professional officer corps and proposed a theoretical framework to examine CMR. He emphasized what an "ideal" CMR was to be and he called for "objective civilian control."<sup>6</sup> He saw this as desirable because it maximizes military professionalism, which he equated with military competence, while keeping the political and military affairs of a state completely separate. Huntington has argued that the higher the military's level of professionalization, the better the civilian–military relationship.<sup>7</sup> Huntington's argument of keeping political and military affairs of a state completely separate contradicts with Clausewitz's argument of keeping them together. Clausewitz explains the political primacy over the military, and a trinity among the government, people, and the military, which suggest keeping the political and military affairs of a state together.<sup>8</sup>

Huntington proposed two alternative conceptions about how the military might be controlled by its civilian overseers. This is regarding how civilians could solve the

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<sup>6</sup>Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil Military Relations* (Cambridge: Harvard University Press, 1957).

<sup>7</sup>Ibid.

<sup>8</sup>Carl von Clausewitz, *On War* (Princeton, NJ: Princeton University Press, 1989).

dilemma of maintaining a powerful armed force to protect the state from external adversaries, while keeping the republic itself safe from forcible meddling by those holding the guns. In his concept of objective control, the military operates within its own defined spheres, with significant autonomy in the tasks essential to preparing for and conducting military operations, where as its role in politics is sharply circumscribed. This concept is advantageous because it protects the republic from a military coup and ensures its military security.<sup>9</sup> The other concept of subjective control entails civilianizing the military. It presumes that the military is intimately involved in politics and that affiliation and identification with civilian authorities keep its officers politically disinclined to engage in military takeovers. He further argues that intensified security threats result in increased military imperatives against which it becomes more difficult to assert civilian power. The steps necessary to achieve military security are thus viewed as undermining civilian control. On the other hand, the effort to enhance civilian control in the subjective sense frequently undermined military security.<sup>10</sup>

Janowitz, in *Professional Soldier*, states that civilian control and the military's ability are both important factors to fulfill the security needs of the state. He argues that creation of an apolitical military and reliance over it to ensure civilian control is not a realistic approach. He advocates the military's meaningful integration with civilian values as a strong guarantee of the maintenance of civilian control. He also advocates some other measures like increasing legislative oversight, extending civilian control into

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<sup>9</sup>Huntington.

<sup>10</sup>Ibid.

lower levels of military organization, and increasing civilian involvement in officer professional education as enhancer of civilian control.<sup>11</sup>

As far as the military effectiveness is concerned, Janowitz argues for the constabulary concept. He argues that making the military more like a constabulary force and integrating them with society is more effective for a better professionalism of the military. He asserts that in order to continue to be a professional force and meet the dilemmas of the future, the military must transform to a constabulary force. The technological changes make the military more civilianized, but do not make the civilians more militarized. There are challenges for the military to remain outside of the political arena, but still reinforces the necessity for the military to avoid politics. Transforming military to the constabulary force is the way for military to adjust to the dilemmas of advanced technology and to avoid undue participation in politics. This constabulary force allows the military to maintain its professionalism and integrate more with the civilian population.<sup>12</sup>

Cohen, in *The Soldier and the Statesman*, makes the analogy of surgeon-patient relationship to describe the interaction between civilian government and the military. According to him, military officers are highly trained surgeons and the statesman is the patient. A patient does not tell the surgeon how to conduct the operation although, he decides whether to have the surgery or not. Cohen argues that the civilian to some degree

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<sup>11</sup>Morris Janowitz, *The Professional Soldier* (New York: The Free Press, 1960).

<sup>12</sup>*Ibid.*

controls the military like the patient controls the surgeon in a surgeon-patient relationship.<sup>13</sup>

Cohen argues that there is normal CMR environment during peacetime, but the CMR environment during wartime is abnormal. He believes that Huntington and Janowitz fail to address this abnormal state of CMR and hence, he creates a supplemental theory of “unequaled dialogue” that specifically addresses the abnormal state of CMR. This theory states that during wartime, civilian government is more involved in military affairs. Civilian government takes military input as advice and not as a course of action. The order from the civilian government becomes a base for the military whether to work or shirk. The military works, if the orders are similar to what it wants to do, and shirks or follow the order in a slow or altered manner if the orders are different from what the military wants to do.<sup>14</sup>

Feaver, in *Armed Servants: Agency, Oversight, and Civil-Military Relations*, states that CMR is a broad subject, encompassing the entire range of relationships between military and civilian society at every level. However, his essay focuses largely on the control or direction of the military by highest civilian authorities in nation-states. He explains CMR in his book as an agency relationship, and hence, the principal-agent framework developed in microeconomics and already used in various political applications can be profitably extended to the study of civilian control of the military. According to him, civilian principle establishes a military agent to provide the security

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<sup>13</sup>Eliot A. Cohen, *Supreme Command: Soldiers, Statesmen, and Leadership in Wartime* (New York: Anchor Books, 2003).

<sup>14</sup>*Ibid.*

function for the state, but they must take pains to ensure that the military agent continues to do the civilian's bidding. Civilian oversight of the military is crucial in CMR and civilians have a wide variety of oversight mechanism available. Each of these mechanisms involves a different degree of intrusiveness and therefore each possesses a different set of costs to the actors. The oversight regime is supported by sanction regime, which provides civilians with the options for punishing the military when it shirks, that is, deviates from the course of action prescribed by civilians.<sup>15</sup>

Feaver's agency theory is directed towards the question of ensuring civilian control over those affairs of the state that directly or indirectly affects the military such as the defense budget. In a democracy, the citizenry retains the right to decide, through their elected representatives, on all matters of state including military or "security." Feaver further states that in a democracy, civilians have the right to be wrong. Feaver's principal-agent theory aims to address the problem of how the employer ensures that the employee does what is required of him or her, or in other words how the employer ensures that the employee is working rather than shirking.<sup>16</sup>

Desch, in *Civilian Control of the Military: The Changing Security Environment*, describes the structural theory of CMR in which he argues that the level of civilian control of the military should vary with the personality, character, and experience of the individual civilian and military leaders. His structural theory for civilian control of the military highlights the structural threat environment, which should affect the character of the civilian leadership, nature of the military institution, cohesiveness of state institutions,

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<sup>15</sup>Feaver, *Armed Servants*.

<sup>16</sup>*Ibid.*

method of civilian control, and the convergence or divergence of civilian and military ideas and cultures.<sup>17</sup>

Desch argues that a state facing high external threats and low internal threats should have the most stable CMR. An externally oriented military will have less inclination to participate in domestic politics, especially if the state is supplying sufficient resources to execute the military's external missions. Civilians are more likely to rely on objective control mechanism, trusting in the greater competence of the military to fight wars. Military in a situation of war with external threat must count on the complete support of the country. In contrast, a state facing low external and high internal threats should experience the weakest civilian control of the military. In such a situation, civilian institutions are likely to be weak and deeply divided. Civilian factions may be tempted to impose subjective control mechanism in order to gain military support in internal conflicts.<sup>18</sup>

Desch further argues that a state facing low internal and external threats may have a civilian leadership without knowledge, experience, or interests in military affairs. Civilian policy makers may abandon objective control, and civilian institution may not be very cohesive. This lack of clear threats may reduce the military's cohesiveness, and civilian and military ideas may not remain in harmony. In such a situation, low-level civil military conflict can be expected to emerge. The problem is likely to be one of coordination rather than insubordination. The military, the state, and the society will be

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<sup>17</sup>Michael C. Desch, *Civilian Control of the Military: The Changing Security Environment* (Baltimore: The Johns Hopkins University Press, 2001).

<sup>18</sup>*Ibid.*

divided from one another and they will be divided internally. Many conflicts will pit one civilian-military coalition against another, rather than simply civilian against the military.<sup>19</sup>

According to Desch, a situation of high internal and external threats may bring experienced and knowledgeable civilian leaders to power. A high level of threats may unify the military making it capable of taking effective actions, but military orientation may not be clear as it faces high level of both external and internal threats. Control of the military is unclear in such situation.<sup>20</sup>

Schiff, in *The Military and Domestic Politics*, describes the *concordance theory* of CMR. According to this book, the current CMR theory emphasizes the separation between civil and military institutions and the authority of the civil sphere over the military to prevent domestic military interventions. In contrast, concordance theory describes a concordance or agreement among the military, the political elites, and the citizenry found in a wide range of cultures where there has long been substantial agreement among all sectors of society about the role of the armed forces. It prescribes this theory as a deterrent to domestic military intervention.<sup>21</sup>

Schiff explains how concordance theory can provide a model for predicting domestic intervention of the military in national politics and the everyday lives of citizens. Concordance theory considers national contexts where the balance of military

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<sup>19</sup>Desch.

<sup>20</sup>Ibid.

<sup>21</sup>Rebecca L. Schiff, "Civil-Military Relations Reconsidered: A Theory of Concordance," *Armed Forces and Society* 22, no. 1 (1995): 24.

involvement in civilian life depends greatly on historical circumstances, institutional nuances, and cultural realities. To this theoretical approach, partnership and dialogue among the major sector of the society are more important so that this approach does not presume that civilian institutions must control the military. This theory suggests having an agreement among the military, the political leadership, and the citizens regarding four indicators to avoid domestic military intervention regardless of whether the military and civilian are separated. Social composition of the officer corps, political decision-making process, recruitment method, and military style are those four important indicators.<sup>22</sup>

#### Literature on Civilian Control

Bruneau and Tollefson, in *Who Guards the Guardians and How: Democratic Civil- Military Relations*, focus on the existence of a MOD as a basic indicator of the quality of CMR in a country. In modern democracies, an effective MOD represented by mostly civilians is created to manage the difficult relationship between the executive branch and professional military experts.<sup>23</sup>

In *National Security Councils: Their Potential Functions in Democratic Civil - Military Relations*, Bruneau, Matei, and Sakoda state that a NSC can be a core element for democratic CMR to enhance civilian control and the effective implementation of the military role and mission. They suggest that scholars look at institutions and study them comparatively to understand how CMR actually functions. His study of CMR through the

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<sup>22</sup>Ibid.

<sup>23</sup>Thomas C. Bruneau and Scott D. Tollefson, eds. *Who Guards the Guardian and How: Democratic Civil Military Relations* (Austin: University of Texas Press, 2006).

prism of a NSC, suggests that politics must be at the center of any analysis of how institutions are adopted and allowed to function or not to enhance national security.<sup>24</sup>

Bruneau and Matei in their article on *Towards a New Conceptualization of Democratization and Civil Military Relations*, conceptualize the democratic control in terms of authority over the institutional control mechanisms, oversight, and professional norms. Institutional control mechanism refers to the institutions in place to control the instrument of security. These include ministries of defense, committees in parliament with authority oversight policy and budgets, NSCs, and officer promotion processes. Oversight is the civilian tracking of what the armed forces or other security forces do, questioning whether they following the direction and guidance receive from the government. This mechanism includes both formal oversight and informal mechanisms like media, Non-Governmental Organizations (NGOs), and think tanks. The professional norms mechanism means whether the security institutions have been recruited, educated/trained, and promoted; however, recruitment and education are the most important control mechanisms. A democratically elected government utilizes these three mechanisms to exercise control over security forces. Bruneau also states a need to consider effectiveness and efficiency.<sup>25</sup>

An essay on *Civilian Control of the Military* by Richard Kohn states that every decision of government in peace, war, and national security policy are made or approved

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<sup>24</sup>Thomas C. Bruneau, Cristiana C. Florina Matei, and Sak Sakoda, "National Security Councils: Their Potential Functions in Democratic Civil - Military Relations," *Defense and Security Analysis* 25, no. 3 (September 2009): 255-69.

<sup>25</sup>Thomas C. Bruneau and Cristiana C. Florina Matei, "Towards a New Conceptualization of Democratization and Civil Military Relations," *Democratization* 15, no. 5 (December 2008): 909-929.

by officials outside the professional armed forces. No decision or responsibility falls to the military unless expressly or implicitly delegated to it by civilian leaders. Kohn further states that all matters, great or small, from the resolve to go to war to the potential punishment prescribed for a hapless sentry who falls asleep on duty, emanate from civilian authority or are decided by civilians. The decision of command and internal management of the military in peace and in war are derived from civilian authority.

According to Kohn the best way to understand civilian control, to measure its existence and evaluate its effectiveness, is to weigh the relative influence the military and civilians have in the decisions of state concerning war, internal security, external defense, and military affairs. Kohn also suggest the following four foundations to achieve better civilian control of the military.<sup>26</sup>

Democratic governance: The first requirement for civilian control in democracy is democratic governance, i.e., the rule of law. Without a stable and legitimate government system and process, the military may be induced to intervene or interfere in order to protect society from chaos, internal challenge or external attacks, even though intervention may itself perpetuate instability and destroy the legitimacy of the government. The tradition of legitimacy in government acts on the one hand to deter military interference in politics and on the other to counteract intervention should it threaten or occur.

Accountability to public: Civilian control depends substantially on the mechanics of government and the methods by which civilian authority rules military forces. If they

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<sup>26</sup>Richard H. Kohn, "An Essay On Civilian Control of the Military," *American Diplomacy* (March 1997, [http://www.unc.edu/depts/diplomat/AD\\_Issues/amdipl\\_3/kohn.html](http://www.unc.edu/depts/diplomat/AD_Issues/amdipl_3/kohn.html) (accessed 15 February 2013)).

exist and function as an expression of the will of the whole society, their subordination must be broad, to the entire governmental structure, not simply to the president or PM who exercises command, dividing control contain inherent dangers. The military can become adept at playing off civilian authorities against each other to exaggerate military influence. Accountability to parliament or to the legislature implies accountability to the populace. It forces public discussion of defense, justification of military budgets, the airing of policy, the investigation of making mistakes and malfeasance. Actively exercised parliamentary power over the military contributes to transparency in military identification with the people and popular identification with the military. The judiciary plays a supporting, but nonetheless indispensable role, holding military individuals personally accountable in ways that prevent military interference in politics and assure that officers know that they will be punished for violations of law.

Effective counter-veiling power: The military can be blocked from even considering interference or exercising power openly in two ways. Firstly through force, by other armed forces in society such as police or an armed population, secondly through the knowledge that illegal acts will not be tolerated, and will lead to personal dishonor, disgrace, retirement, relief, fine, arrest, trial, conviction, prison or whatever punishment is legal and appropriate. The more likelihood of effective resistance against violations of civilian control and the assurance that it will not be forgiven, the less likely they are to occur.

A military tradition committed to neutrality: Finally, the most important institution supporting civilian control must be the military itself. The fundamental assumption behind civilian supremacy is the self-restraint by the military from

intervention in government and political life. While worldwide, the coup has diminished in the last decade, in many places the threat still lingers. In still others, the military has the power to make and unmake governments or to impose or block policies wholly outside the realm of national security and certainly on issues of defense. Civilian control is by its very nature nonexistent if the armed forces can use force or military influence to turn a government out of power, to dictate the character of a government or a particular policy, or to act in any way outside those areas of responsibility duly delegated by higher authority. Even the hint of such extortion, if allowed to persist or to go unpunished, intimidates civilian officials from exercising their authority, particularly in military affairs. Therefore, civilian control requires a military establishment trained, committed, and dedicated to political neutrality that shuns under all circumstances any preference with the constitutional functioning or legitimate process of government that identifies itself as the embodiment of the people and the nations.

Trinkunas in his occasional paper on *Ensuring DCC of the Armed Forces in Asia* argues that the essential component of strong DCC has two dimensions: institutionalized oversight of military activities by civilian government agencies in combination with the professionalization of military forces. Civilian control exists when politicians and bureaucrats are able to determine defense policies and approve military activities through an institutionalized defense bureaucracy. He further argues that when the military has autonomous jurisdiction over important aspects of state activity, it prevents DCC. He suggests possible range of civil military jurisdictional boundaries, which he has depicted by dividing state activities in four concentric rings. External defense, internal security, public policy, and leadership selection are those four state's activities where military

involvement is expected. Military activities in external defense is least threatening to the civilian control and leadership selection the most threatening.<sup>27</sup>

Peterson Ulrich in her book, *Democratizing Communist Militaries: The Case of the Czech and Russian Armed Forces*, states that the models of post-communist civil military relations focus on constructing two key elements of the military democratization process: democratic political control and democratic military professionalism. Civilian control of the military in democratic states depends on the interaction between democratic institutions and military institutions charged with defending both the state and its democratic values. A Constitution ensures democratic political control of the military and defines the powers of governing institutions and their oversight authority over the military.<sup>28</sup>

Constitutional provisions may ascribe to legislature's broad oversight capabilities over the military. These normally include the approval of major appointments, the organizational structure of the defense establishment, the powers of civilian and military officials within it, and special investigative powers to ensure democratic accountability. Ulrich further suggests that the militaries in democracies are characterized by civilian defense ministers whose departments have authority for the organizational and administrative control of the armed forces. Sufficient civilian expertise must exist in military matters so that civilian overseers in the MOD can execute their oversight

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<sup>27</sup>Harold A. Trinkunas, "Ensuring Democratic Civilian Control of the Armed Forces in Asia," in "Politics and Security Series," special issue, *East West Occasional Papers* no. 1 (October 1999): 1-27.

<sup>28</sup>Marybeth Peterson Ulrich, *Democratizing Communist Militaries: The Cases of the Czech and Russian Armed Forces* (Ann Arbor: University of Michigan Press, 2000).

functions effectively. Civilian defense officials must have the capability of accurately assessing the readiness of the nation's military forces and have access to military bases and the appropriate information. She accepts the recommendation of CMR theorist of the establishment of a NSC comprised of civilian expert advisers on military affairs.

Presence of competent civilian bureaucrats capable of overseeing the military organization because of their technical expertise, while also remaining accountable to elected officials, is essential to democratic political control. Their presence ensures that matters of state policy are initiated by civilian authorities who are accountable to elected members of the government. The writer stresses that the civilian supremacy in any political system depends on a sense of mutual confidence between military and civilian leaders. Military leaders must perceive that their expertise matters and their advices are weighed with great care by competent civilian authorities.<sup>29</sup>

The writer also stresses that incorporating various ethnic and demographic groups within the military is important because such action helps the military's institutional values remain in step with those of society. She also argues that the democratic military professionals do not offer their services to civilian leaders involved in political feuds. Democratic officer corps respect the importance of remaining nonpartisan in political battles even those that directly impact the future of the military.<sup>30</sup>

Ulrich in the same book states that the task of achieving civilian control and military professionalism in states undergoing democratic transitions is complicated by the shift in the political system from authoritarianism to democracy. She suggests that the

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<sup>29</sup>Ulrich.

<sup>30</sup>Ibid.

democratic political control must replace the previous understanding of civilian control and democratic military professionalism must replace the military professionalism practiced under authoritarian political system. Ulrich argues that the traditional civil military relations theory have not adequately address the phenomenon of shifting from authoritarian to democratic political systems and the subsequent impact on military professionalism. The imperatives of civilian control in a democratic society and professionalism should guide all efforts to adapt to the ideological sea changes that continue to challenge transitioning states.<sup>31</sup>

Barany, in *The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas*, examines three case studies on Bosnia and Herzegovina, El Salvador, and Lebanon after their civil wars, and concludes that building democratic armies after a civil war is a process that is quite different from building armies in other settings. While signing peace accords to end the civil war, participation, or mediation by foreign negotiators makes those negotiators assume an important role in post conflict environment. Barany highlights the importance of recognizing that by the time peace accords are negotiated, some issues may be too sensitive to deal with and others cannot be foreseen. However, the important aims of peace agreements are to stop the fighting and quickly demobilize, even while the rest of the process is messy and contentious. Barany, to understand Army building within three different political environments, compares all three countries in terms of the roles played by peace treaties, state/military, and society during the post-civil war period. He concludes that bringing

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<sup>31</sup>Ulrich.

former warring parties together and then moving forward as one is what post-civil war settings are all about.<sup>32</sup>

Barany defines “democratic Army” as a force supporting not one political party or another but the principle of democratic governance. A balanced civilian control over the armed forces between the executive and legislative branches of the government is an important indicator of democratic governance. He argues that within the legislature, defense related committees and their staffs are the key players because they exercise actual civilian oversight over the military. The democratic state must promote civilian competence in defense matters because this helps the legislature become an informed and adept overseer of the armed forces. Having such expertise in parliament as well as in NGOs and the media prevents the executive branch from dominating the military sphere. The media in democracy is free to investigate and report on the armed forces, there by acting as society’s overseer of the Army and as an important source of information about military affairs. NGOs should serve as an institutional locus of independent defense specialists. In most nondemocratic regimes the military enjoys a monopoly of defense related expertise and training and is keen to ensure that no public discussion of and education in security relevant subjects takes place. A key issue in all post-civil war contexts is the deep gap in trust between erstwhile enemies, which even in the best of circumstances can only be bridged gradually, one step at a time.<sup>33</sup>

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<sup>32</sup>Zoltan D. Barany, *The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas* (New Jersey: Princeton University Press, 2012).

<sup>33</sup>Barany.

### Literature on Nepalese CMR

A paper, *Democratization of NA: Establishing Civilian Supremacy*, presented during a seminar on *Developing CMR in the Federal Democratic Republic of Nepal*, organized by the Nepal Army Command and Staff College in September 2009, focuses on the chain of command and division of labor that maximizes national security on the one hand while ensuring democratic control of the military on the other. According to Shah, at the political level Nepal has made significant progress in establishing civilian supremacy and ensuring democratic control of the military in recent years. The specific institutional mechanisms and structures required to supervise and coordinate the military affairs at the parliamentary and ministerial level are still somewhat undetermined.<sup>34</sup>

An article on CMR, “Strengthening Democracy in Nepal,” by B. N. Sharma highlights civilian control and authority over the military as fundamental to democracy. He opines that a democratic military serves its nation rather than leads it. Military leaders can advise, but the decision made by the elected leaders must be carried out. Effective control of the military is desired in the democratic world and elected civilian bodies legally control and use the military to achieve the national goals, but the civilians who reach that position and control the military should have knowledge of the military’s working system.<sup>35</sup>

Dinanath Sharma, in his article, *The Legislature-Parliament* argues that Parliament bears the responsibility to formulate transparent laws regarding security

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<sup>34</sup>Shah. “Democratization of NA.”

<sup>35</sup>B. N. Sharma, “Civil-Military Relations, Strengthening Democracy in Nepal” (Seminar, Ex-Police Organization and FES, Kathmandu, Nepal, 24 April 2009).

sectors. Parliament should have a defined security strategy, procedures for security sector mobilization, and criteria and limits of comprehensive security. He further highlights it is essential that we formulate beforehand operational guidelines for national security forces, determine the size and structure of the security forces, define the functions, roles, processes, and laws for different security bodies, and establish the procedures and causes that require a review of security policies. Parliament can rely on its own security committee, special committee, and panels of experts for this, but in his view, such processes are not applied in Nepal.<sup>36</sup>

Sharma recommends that the Parliament should have a special committee to recommend parliamentary policies on security matters. While forming such committee, members who are knowledgeable in military or security affairs could be chosen to serve in the committee. Creation of such committee by parliament facilitates parliamentary control, monitoring, and evaluation of the entire security sector. The Parliament should exercise the rights as to whether to sanction the appropriation budget proposed by the government for the security sector. Sharma also highlights a need to increase interaction between the Parliament and security sector in order to maintain coordinated relations and facilitate sharing of information and knowledge between parliamentarians and security officers. In his view, the key body to enforce civilian control over the security forces is the Legislature Parliament. A constitutional mechanism must be created for democratic civilian control and supervision of the armed forces through people's representatives.<sup>37</sup>

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<sup>36</sup>Dinanath Sharma, "The Legislature-Parliament," *Nepali Security Sector: An Almanac*, ed. Bishnu Sapkota (Hungary: Brambauer Publisher, 2009).

<sup>37</sup>*Ibid.*

Gautam, on “Enhancing Democratic Control of Nepal Army as Part of Nepal’s Security Sector Reform” at a seminar organized by the Nepal Institute of Policy Studies in Kathmandu, states that the intended meaning of democratic NA is to establish *civilian control* of the Army, ensuring that elected representatives in the Executive and Legislative Branches provide effective oversight of the Army and other security forces. He recommends a proper MOD and NSC capable of exercising democratic control of the military. He further suggests institutionalization of intensive training at all levels of the NA, including the officer level, on respect for human rights, humanitarian laws, gender and cultural sensitivity, and zero tolerance of impunity.<sup>38</sup>

Gautam also recommends a need to institutionalize a robust and credible judicial review system whereby security personnel alleged to have violated human rights and humanitarian laws are given a fair trial, and that cases which should be referred to civilian courts are duly referred. He suggests redefining the Nepal Army’s major role and tasks in the new changing context of the country, region, and the world. He proposes to restructure the Nepal Army to undertake four major tasks: (1) traditional military functions of defending and safeguarding the nation’s sovereignty and integrity, and maintaining peace and security; (2) assisting international peacekeeping and peace-building operations; (3) supporting disaster relief and rehabilitation, and undertaking some short term post emergency reconstruction and development activities; and

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<sup>38</sup>Kul. C. Gautam, “Enhancing Democratic Control of Nepal Army as Part of Nepal’s Security Sector Reform” (Seminar, Nepal Institute of Policy Studies, Kathmandu, 12 January 2010), <http://www.kulgautam.org/2010/01/enhancing-democratic-control-of-nepal-Army-as-part-of-nepals-security-sector-reform/> (accessed 17 December 2012).

(4) providing certain specialized security services, such as VIP security, protection of vital installations, and so on.<sup>39</sup>

### Summary

Huntington's institutional theory views objective civilian control as the best means to control the military in democracies. Objective civilian control professionalizes the military and keeps the military away from politics. Janowitz's convergence theory of citizen-soldier constabulary force believes that technological innovations blur the lines between civilians and the military and more closely integrates them, but still maintains the professionalism of the force that works more as a constabulary force in democracies. Cohen in his supplementary theory of unequal dialogue argues that there is the abnormal state of CMR environment during the wartime when there is greater involvement and interaction of civilians in military matters. He believes that Huntington and Janowitz fail to address this abnormal CMR environment; his theory of unequal dialogue addresses this abnormal state of CMR. Concordance theory developed by Schiff does not require the separation between the civil and the military. This theory states that three actors: the military, the political elites, and the citizenry must come to agreement on four indicators to determine CMR. Those indicators are social composition of the officer corps, the political decision-making process, recruitment method, and military style. Feaver's agency theory based upon the principal-agent framework states that there is work-shirk relationship between the civilian government and the military. The military work or shirk based on the orders from the civilian government. Desch's structural theory of CMR

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<sup>39</sup>Gautam.

states that the level of threat a state is facing determines the level of CMR. A state facing high external threat and low internal threat will have most stable CMR.

While defining CMR from different theoretical perspectives, democracy appear as the baseline foundation for civilian control of the military. Major CMR theories identify military professionalism as an important instrument to better CMR. The interaction between a civilian government and its military is different during peace and war, and it is complex during wartime as civilian involvement in military matters is more. Military will work or shirk based upon how divergent their views are compared to those views of the civilian government.

Civilian control of the military is an important aspect of CMR. There are number of arguments on what constitute civilian control of the military. Feaver suggests that the civilians should have a variety of oversight mechanisms and this civilian oversight regime should be supported by a sanction regime, which provides civilians with the option for punishing the military when it shirks. He further argues that the citizenry retains the right to decide through their elected representative on all matters of state including military. Bruneau argues that the NSC is a core element for democratic CMR in that it enhances civilian control. Bruneau and Matei believe that democratically elected governments utilize institutional control mechanisms, oversight mechanisms and professional norms mechanisms to exercise control over security forces. Cohn believes that all matters great or small are decided by civilians and the decision of command and internal management of the military in peace and in war are derived from civilian authority. Trinkunas argue that civilian control exist when politicians and bureaucrats are able to determine defense policies and approve military activities through an

institutionalized defense bureaucracy. Peterson believes that a Constitution ensures democratic political control of the military and defines the powers of governing institutions and their oversight authority over the military.

Looking at the various arguments about civilian control of the military, a conclusion can be drawn that DCC of the military is a condition where democratically elected civilian government decides all issues related to military no matter whether the issue is of making national security policy, defense policy, defense budget or simply punishing a soldier. Civilian government exercises control over military through various oversight mechanisms such as the NSC and the Defense Ministry. Civilian government monitors the daily activities of the military and punishes if the later shirks. Constitution should ensure DCC of the military and it should define the powers of governing institutions and their oversight authority over the military.

## CHAPTER 3

### RESEARCH METHODOLOGY

This chapter outlines the methodology used to answer the primary and secondary research questions. The researcher uses the qualitative method in this study. The research is descriptive and analytical in nature.

Chapter 1 defines the problem statement and describes the purpose of the study, which is, first, to create a better understanding of the current state and meaning of DCC of the NA by Nepal's civilian populace, and clarify whether the NA itself is truly under the control of Nepal's democratic government. This study also examines whether shortcomings exist in the legal and institutional mechanisms for the Government of Nepal to exercise its civilian control over the military.

Chapter 1 also frames the primary research question, what is the current state of DCC of the NA? To adequately answer this primary question, the following three secondary questions are also identified: (1) How has the NA controlled by past political systems? (2) What constitutional, legal, and institutional reforms have been made in the present political system to promote DCC of the NA? (3) How has the integration of Maoist combatants into the NA shaped the DCC as part of CMR in Nepal?

Chapter 2 reviews important CMR theories to construct a baseline foundation for this study. Literature was reviewed on the subject of CMR by prominent scholars such as Huntington, Janowitz, Desch, Cohn, Schiff, and others to understand CMR theories. Chapter Two contains reviews of major CMR theories that examine DCC in Nepal, particularly focusing on DCC as part of CMR. This chapter also reviews contemporary

CMR literature in Nepal to help comprehend the present CMR situation in Nepal, and define DCC by the Nepalese people’s standards.

To address the first secondary-research question, how the NA was controlled by past political system, the research divides the Nepalese political history into four parts based on the significant political changes in the country since 1951. The year 1951 serves as the baseline for DCC when democracy was first introduced to Nepal. CMR is analyzed during each period to understand how it developed and how the NA was affected.

Table 1. First Secondary Research Question and Criteria	
Periods of significant changes in modern Nepalese political history	1951 – 1961
	1961 – 1990
	1990 – 2005
	2006 – Present

*Source:* Created by author.

The next secondary research question, what are the constitutional, legal and institutional reforms made in the present political system to promote DCC of the NA, analyzes the constitutional reforms made under the Constitution of Kingdom of Nepal 1990 and the Interim Constitution of Nepal 2007 in terms of DCC and the NA. A qualitative analysis is performed on these documents based on the Supreme Commander of the NA’s authority to appoint COAS, the authority to mobilize the military, and management of the military.

The research also analyzes organizational reforms made to the NSC. The working procedure of the NSC is analyzed to review the effectiveness of NSC as a government

institutional oversight mechanism of the military. The criteria for the analysis of the NSC from DCC perspective is the democratic structure and effectiveness of NSC, and military's power of influence in the NSC.

Third, the recently introduced Army Service Regulation 2013 is analyzed from DCC perspective based on the Government's role in the military recruitment process, selection of personnel for United Nations Peacekeeping operations, and promotion and posting of senior officers in the military.

What are the constitutional, legal, and institutional reforms made to promote DCC of the NA?	Constitutional Reforms	Supreme Commander of the NA and authority to appoint COAS
		Authority to mobilize the military
		Management of the military
	NSC reforms	Democratic structure and effectiveness of NSC
		Military's power of influence in the NSC
	Army Service Regulations	Military recruitment process
		Selection of personnel for United Nations Peacekeeping operations
		Promotion and posting of senior military officers

*Source:* Created by author.

In order to address the third secondary-research question, how the integration of Maoist combatants into the NA as part of the larger Nepalese peace process shapes the DCC as an important factor of CMR, data were collected from primary and secondary sources about the integration of former Maoist combatants into the NA with a qualitative analysis of how the integration shapes the future CMR. A strength, weakness,

opportunity, and threat analysis of integration looks at possible opportunities and threats that could have significant effects in future CMR. The data looks at the interaction between major actors, mainly the UCPN (M) as a largest political party heading the government and the NA. Interaction between military and the Bhattarai-led government are analyzed as indicators of the future CMR in Nepal.

Finally, a brief comparative case study of the DCC is made of Nepal and El Salvador. El Salvador's transition from a bloody civil war (1980-1992) to a peaceful, elected government and its military reform is considered one of the most successful examples of transition to DCC. Although Maoist insurgencies in Nepal and Salvador's civil war are different in many ways, both the countries reconciled former combatants into society and its security forces. The criteria for this comparison are based on the Barany's comparisons in *The Soldier and the Changing State*. The case study compares Nepal after its Comprehensive Peace Agreement in 2006 to El Salvador after negotiations ended its civil war. The following table makes these comparisons.

Table 3. Post-Civil War: El Salvador and Nepal			
Country Period		El Salvador 1992-2010	Nepal 2006-2013
Peace treaties	Peace Accord Positives		
	Negative		
State	Main tasks		
	Executive control		
	Legislative oversight		
	Old armies purged		
Military	New Army		
	Behavior during transition		
	Interference in politics		
	Domestic function		
	Advisory function		
	Commitment to democracy		

Source: Zoltan D. Barany, *The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas* (New Jersey: Princeton University Press, 2012), 109-110.

A second comparative study of El Salvador and Nepal after their civil wars is again made with special focus on military reforms aimed to promote DCC in both countries. Analysis based on this comparative study will determine the effectiveness of military reforms in Nepal from a Salvadoran perspective.

Table 4. After Civil War: El Salvador and Nepal Military Reforms Comparison		
Criteria/Country & Dates	El Salvador 1992 – 2010	Nepal 2006 - 2013
Military mission		
Military decision-making power		
Integration of former combatants		
Military education oversight mechanism		
Defense Minister control over the budget		
Officer promotions		
Reinsertion of combatants into society		

*Source:* Zoltan D. Barany, *The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas* (New Jersey: Princeton University Press, 2012), 109-110.

## CHAPTER 4

### ANALYSIS

#### The History of Major Political Changes and CMR in Nepal

It is important to understand the historical relationship between the NA and political rulers of the Nepal, and how the Army transitioned throughout its political changes. DCC being one of the important factors of CMR, it is important to see how CMR in Nepal developed through various political periods in the country. An examination of Nepal's history addresses these research questions of how the NA was controlled in the past, and how it came to its current CMR.

Nepal witnessed its first democratic movement in 1951, and its subsequent political history can be divided into four periods. Interaction between the NA as a military institution and the government as its political overseer is analyzed from CMR perspective with special emphasis on DCC.

#### The First Democratic Period from 1951(End of Rana Rule) to 1961 (Start of Panchayat System)

The oligarchic Rana dynasty ruled the country from 1846 until 1951. The King was the Head of State, but the Rana rulers exercised executive power over the country. Members of Rana family were given the position of General of the Royal NA, which was loyal to the Rana rulers. King Tribhuvan Bir Bikram Shah came out of exile to end the Rana regime in 1951, and established Nepal's first constitutional monarchy.<sup>40</sup> The fall of

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<sup>40</sup>Dhruba Kumar, "Democratic Control of Security Forces," *Changing Security Dynamics in Nepal*, eds., Rajan Bhattra and Rose Cave (Kathmandu: Nepal Institute of Policy Studies and Saferworld, 2008), 140.

a strong Rana oligarchy created a power vacuum in the country. As the state's power shifted to the King, so did the military loyalty from the Rana rulers to the King.<sup>41</sup>

In the new system of governance after 1951, political parties, especially the Nepali Congress and the Gorkha Parishad, in bitter competition, created their own police forces to protect their leaders and manage political rallies. Security problems grew within the newly formed government, so the King responded by strengthening the military to counter the security threats from the parties' private police forces. The PM traditionally held the post of Defense Minister; however, the King appointed his Defense Ministers carefully to retain the loyalty of the military, making the MOD less influential in military affairs.<sup>42</sup>

A new Constitution was promulgated in 1959, which made King Mahendra Bir Bikram Shah Dev the source of all power. Article 64 of the Constitution declared the King as the Supreme Commander of the Army. The authority to declare war or peace rested upon the King, and he did so through his Cabinet of Ministers.<sup>43</sup>

Nepal's first democratically elected government in February 1959 took office with Bishweshwor Prasad Koirala as the PM. A personality clash between King Mahendra and the PM Koirala became a major hurdle to a smooth functioning government. The clash resulted into a situation where the government could not provide essential public services on ground, although the government had maintained a popular

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<sup>41</sup>Kumar.

<sup>42</sup>Bhuwan L. Joshi and Leo E. Rose, *Democratic Innovations in Nepal: A Case Study of Political Acculturation* (Berkeley: University of California Press), 291.

<sup>43</sup>Rajesh Hamal and Tanka P. Dulal, *Nepal ko Sambaidhanik Bikash ra Nepal Adhirajyako Sambidhan 1990* (Kathmandu: Srijana Printers, 1991).

agenda of free education and health care. Only 18 months after its formation, the King Mahendra rescinded the new Constitution, disbanded the first democratically elected government, banned all political parties, and reclaimed control of the government.

The King again took control of the military. He understood that the military did not support the Rana regime because the Rana rulers could not address the problems of the military that returned from World War II.<sup>44</sup> King Mahendra carried out military reform, cultivating its loyalty by taking personal interest in the careers of the senior ranks.<sup>45</sup> The King gave the Army the right to use the word “Royal” before its name in order to show his appreciation and concern for the Army.<sup>46</sup> While restructuring military, the King established the post of Military Secretariat in the Palace to effectively control the military.

#### Analysis of the First Democratic Period from CMR Perspective

During the political transition after the fall of the Rana regime, the CMR remained quite unstable. The military shifted its loyalty to the King from Rana rulers, although democratically elected civilians formed the civilian government. The King as the center of the power took control of the military, and kept the Army removed from political parties. The King further focused on military reforms to make the military more loyal to the Palace, and he institutionalized a control and monitoring mechanism by

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<sup>44</sup>Leo E. Rose and John T. Scholz, *Nepal: Profile of a Himalaya Kingdom* (Boulder, CO: Westview Press, 1980).

<sup>45</sup>Prakash Nepali and Phanindra Subba, “Civil-Military Relationship and the Maoist Insurgency in Nepal,” *Small Wars and Insurgencies* 16, no. 1 (2005): 85.

<sup>46</sup>Nepali and Subba.

establishing the post of Military Secretariat inside the Palace. The King stressed professionalizing the military and keeping it far from politics to prevent possible alliances between political parties and the military, which could pose a threat to his position of power. On the other hand, the military was not a priority issue for the democratically elected government. PM Koirala, a charismatic civilian leader, however, could not bring the military under his control as he was more focused on running his newly formed democratic government and paid little attention to the burning security issues in the country or the military.

The Partyless Panchayat System from 1961  
(End of First Democratic Period) to 1990  
(Restoration of Democracy)

King Mahendra in 1961 took over the political power, and introduced a single-party Panchayat system in Nepal. Political parties were banned in the new system, and many of the political leaders were exiled. The King proclaimed a new Constitution in 1962, which made him the ultimate source of power. The Constitution gave him exclusive power to control the military. He was the supreme commander of the military with discretionary power to raise and maintain armed forces, grant commissions in such forces, appoint Commanders in Chief and determine their powers, duties, and remunerations.<sup>47</sup> There was also a constitutional provision that clearly spelled out that no bill or amendment relating to the Armed Forces should be introduced in either House of Parliament without the recommendations of His Majesty.<sup>48</sup> The King assumed the post of

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<sup>47</sup>Joshi and Rose, 291.

<sup>48</sup>Ibid.

the Supreme Commander in Chief, which brought the military under his direct command and kept the military out of politics. The King specifically excluded the military from politics so to monopolize the use of military power to fulfill his political ambitions. The Palace and the Army were considered important elements of Nepalese society; therefore, law prohibited any criticism or offense against them. Such provisions created minimal issues and objections to the Army on the surface and gave the impression of normalcy throughout.

From the beginning of his reign, King Mahendra took an active interest in the Army.<sup>49</sup> The King increased the Army's numbers, and gave it a modest budget. He kept the military far from other political influence, making it loyal to the King and the Panchayat political system. Military members were not allowed to cast votes in the elections, which kept the military out of the state's affairs and largely ensured effective subjugation to the King. The King made every effort to remain in close contact with the military to maintain its allegiance to him. He periodically visited the Army Headquarters and various military installations throughout country. He listened to problems of the military and provided support, guidance, and direction, giving due consideration to the logistical, welfare, budgetary, and other requirements of the military.

#### Analysis of the Panchayat Period from CMR Perspective

During the single-party Panchayat system, the King kept the military far from politics in an endeavor to protect his regime from possible alliances between the military and other political parties. At the same time, the King became involved in military issues

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<sup>49</sup>Rose and Scholz, 56.

and focused on professionalizing the military in order to remain in a position of power, indirectly backed by a strong military. He cultivated the belief by society that the Palace and the military were important elements of national security and any criticism of those elements were a threat to state security and subject to legal actions. This belief shielded the military from public criticism, but at the same time distanced the military from the people and society. The King practiced a subjective civilian control over the military. Civilians had no access to the military because the government was not based on democratic norms and values. Hence, there was no possibility of DCC in the country. Taking advantage of the situation, the King further strengthened the military loyalty towards the Palace.

The Second Democratic Period from 1990  
(People's Revolution I and Restoration of Democracy)  
to 2005 (Royal Takeover)

The People's Movement in Nepal in 1990 ended in a negotiated settlement with the King establishing a multiparty democracy with a constitutional monarchy. The King lifted the ban on political parties. A Constitution-writing commission was formed, which found it difficult to revise the roles and powers of the monarchy in the Constitution. The King wanted to keep his control over the military, and political parties agreed to give him ultimate authority over the military. "The issue of control over the Army was resolved by providing the King with the authority to mobilize the Army, but on the recommendation of a Security Council, comprising of the PM, the Defense Minister, and the Army Chief (which theoretically gave the civilian government the upper hand)."<sup>50</sup>

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<sup>50</sup>Deepak Thapa and Bandita Sijapati, *A Kingdom Under Siege: Nepal's Maoist Insurgency, 1996 to 2003* (New Jersey: The Printhouse, 2003), 35.

During the multiparty democracy after 1990, political parties did not have good relationship with the Army. The Army was not a high priority of the government, and appeared to remain as an institution outside of the government system.

Institutionalization of civilian control was ignored. A big gap existed between the Army and the political parties because the Army had been forced to remain detached from political activities and interaction with other institutions during the thirty-year long Panchayat system. Political parties after 1990 were reluctant to close this gap. The Army also remained careful to maintain its apolitical nature and institutional sanctity.

Provisions of the new Constitution promulgated in 1991 kept the military under ambiguous control. Although, leeway in exercising control over the Army was given to civilian leaders through the MOD and the NSC, the ultimate authority to mobilize and control the Army was vested in the King.<sup>51</sup> Political parties tried to limit the role of the military to increase its control over the military. The military was represented in security committees at the district, zonal and national level before 1990, but it was kept only as an invitee member in those committees. The government reprioritized the roles of the Army by mobilizing it in national development projects. In the changed political context, the military also accepted the reprioritized roles by the government to demonstrate its importance and relevance to protect its institutional interests. “During the drafting of the Constitution in 1990, some senior generals of the Royal NA, covertly put pressure upon the interim PM Krishna Prasad Bhattarai to retain sovereignty with the King in

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<sup>51</sup>Constitution of the Kingdom of Nepal, 2047 (1990), Article 118(2). “His Majesty shall mobilize and use the Royal NA on the recommendation of the National Security Council.”

accordance with the divine belief that the King was the sole personification of the State.”<sup>52</sup>

The Maoist insurgency began in 1995. Frequent changes in the government, unstable political situation, and extreme individualism in the political culture made the military more skeptical of politics. The national security issue and the military as an institution remained at the periphery of the core political problem. The growing mistrust between the military and political institutions resulted in a number of issues during the Maoist insurgencies. Some even suspected that the NA and the King did not want to resolve the insurgency problem in order to weaken the government.<sup>53</sup>

When the Army submitted a plan to mobilize the troops along with development packages with the estimated cost of 6.3 to 6.5 million rupees, the government did not approve it. Instead, the government said that the plan was too costly and continued seeking police action rather than employing the Army. Possible reasons for not approving the operational plan were government suspicions about the loyalty of the Army.<sup>54</sup>

As the military was loyal to the Palace, the government at that time would not believe in the military’s loyalty to the democratic government. As a result, the government deployed police forces against the Maoist insurgency, keeping the military inside the barracks. The Army’s developmental plan was viewed as its effort to gain access to the country’s resources. Politicians’ suspicion of its loyalty forced them to turn down the Army’s proposal. Moreover, the government in 2001 decided to raise a new security organization, the Armed Police Force to combat Maoist insurgency. This

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<sup>52</sup>Dhruba Kumar and Hari Sharma, *Security Sector Reform in Nepal: Challenges and Opportunities* (Kathmandu: Friends for Peace, 2005).

<sup>53</sup>Nepali and Subba, 92.

<sup>54</sup>*Ibid.*, 93.

organization was trained along military lines, and some military systems were provided to this force. It is argued that the government raised this force as a countervailing force to the NA. According to Kohn, this action can be viewed as an effort by the government to bring the military under democratic civilian control. However, it was not the government's intent to create a countervailing force to the NA as the government did not adequately organize, train, or equip this force to replace the Army.

In July 2001, the Maoists besieged police in Holeri, a remote place in Western Nepal. PM Girija Prasad Koirala ordered the NA to mobilize against the Maoists, without initiating Constitutional due process. The Army showed resistance to mobilization without insubordination. It demanded the appropriate prerequisites for mobilizing the Army against a counterinsurgency, such as declaration of an emergency, consensus from all political parties, and labeling the Maoists as terrorists. When his efforts were failed, Koirala resigned from the government, citing his grievances and dissatisfaction.<sup>55</sup> PM Girija Prasad Koirala's effort to bring the Army under his full control was not successful due to his hegemonistic approach and Army's loyalty towards the Palace. Had he attempted the same by legitimate means, the situation may have been different.<sup>56</sup> This incident from a CMR perspective was an important event in Nepal's history. The NA did not directly reject the government's order, but incompetence of the government and a hegemonistic approach of the PM caused the government to fail in mobilizing the military. Military insubordination to the government in this case was because the military

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<sup>55</sup>Ratindra Khatri, "Current Stage of Civil Military Relations: Prospects of Reforms" (National Seminar on Civil Military Relations in Nepal, co-hosted by Nepal Ex-Police Organization and SLRC with the Support of Friedrich Ebert Stiftung Nepal, Kathmandu, Nepal, April 2012), 4.

<sup>56</sup>Ibid.

came under dual control: one under the government and another under the Palace. As the executive head of the country and Chairman of the NSC, PM Koirala gave orders to the military to mobilize, but Constitutional right to mobilize the military against the Maoist insurgency was with the King.

During the Panchayat system, the King kept the military distanced from political and societal influences. No criticism of the military was allowed during that period. After the political change of 1990, political parties, the media, and public started taking an interest in military. Many questioned even the necessity of a military, arguing that the country faced no tangible external threats. In February 2005, King Gyanendra dismissed the House of Representatives and took the state's power in his own hands. King Gyanendra "banned for six months any interview, article, news, notice, view or personal opinion that goes against the spirit of the Royal Proclamation of 01 February, 2005 and that directly or indirectly supports destruction and terrorism."<sup>57</sup> He used the Army to brutally suppress the media; Army personnel stationed in the newsrooms edited all news items before being published in print or electronic media. This undemocratic step of using the Army to control the media dealt a powerful blow to the institutional image of the Army.<sup>58</sup>

During the Royal Takeover, in the name of providing better services to the people, local and regional military units were tasked to monitor the government's service

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<sup>57</sup>Angilee Shah, "Nepal: Nepal News is Back Online, But Not the Same as Before the King's Coup," UCLA International Institute, <http://www.international.ucla.edu/article.asp?parentid=20527> (accessed 15 March 2013).

<sup>58</sup>Sharma Sudhir, "Media and Security Sector: Shifting Relations," in *Nepali Security Sector: An Almanac*, ed. Bishnu Sapkota (Hungary: Brambauer Publisher, 2009).

providers in their area of operations to ensure that the people were getting right service at the right time and place. However beneficial it was to the public, using the military as a monitoring mechanism was akin to military oversight of civilians.

### Analysis of the Second Democratic Period

The People's Movement in 1990 restored multiparty democracy in the country. However, the Constitution could not fully bring the military under the democratically elected civilian government. The government made efforts to exercise its civilian control of the military, however, the growing mistrust between the military and political institutions posed difficult hurdles to the DCC.

During this period, the NA remained engaged in national development and international peacekeeping. These roles kept the military away from politics and helped achieve autonomy. The Army's involvement in international peacekeeping provided it with an externally oriented role, which kept the Army focused on military professionalization and out of the politics.

“A state facing low external and high internal threats should experience the weakest civilian control of the military. The civilian leadership is less likely to be attentive to national security affairs.”<sup>59</sup> During the Maoist insurgency, the relationship between the military and government weakened. CMR became further unstable when the military was involved in counter insurgency operations. Civilian institutions were deeply divided over the insurgency although it was perceived as an internal threat by the government.

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<sup>59</sup>Desch, 14.

Political parties in the changed political context after 1990 tried to influence the military by changing its roles, cutting the defense budget, and manipulating key leadership positions. The military also tried to maintain its nonpolitical nature. The politicians' efforts to manipulate the military forced the latter to seek protection from the King, thus maintaining its traditional loyalty. The military in one respect wanted to remain in the democratic fold, and yet, it still wanted protection from the King. This gap created by political changes was not filled by a democratic control mechanism.

Retired Brigadier General Keshar Bahadur Bhandari asserts, "The Army did try to be loyal to the constitutionally elected government and at the same time preserving its patronage towards the King."<sup>60</sup> This dual loyalty seems to have developed due to the power sharing provision in the Constitution. The NA did not embrace any specific political ideology, but it was reluctant to trust politicians because of its long subjugation under the King and the Panchayat system.

The image of the NA from when the King took over the executive power of the country by dismantling the parliament worsened when the King used the NA in number of unpopular activities to censor the media and monitor the government's service providers. International world, civil society, media persons, and human right activists viewed this role of military as an undemocratic practice. This misuse of the military pulled the NA into controversy. These negative images of the NA endured for a long time, and the Army had to struggle to rebuild them.

### The Third Democratic Period from 2006

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<sup>60</sup>Keshar B. Bhandari, "Question of Loyalty and the Army," Keshar's Blog, <http://kesharbh.blogspot.com> (accessed 15 February 2013).

## (People's Revolution II) Onward

In September 2005, the UCPN (M) unilaterally called for a ceasefire and concluded a twelve-point agreement with the Seven Party Alliance. The agreement brought together major political parties, presenting a united political front against the monarchy. This united political front launched a popular movement in 2006, called the *Jana Andolan II*, which reinstated the parliament dissolved by the King in the 2005 Royal Takeover. The reinstated parliament declared Nepal a secular state. The Comprehensive Peace Agreement (CPA) was signed in November 2006 between the government and the Maoists. The CPA was instrumental in addressing key issues such as the fate of the Constitutional Monarchy and the end of the Maoist armed struggle. Constituent Assembly (CA) election, formation of interim Constitution, management of arms and armies were some of the key elements of the CPA. Article 4.7 of the CPA states,

The cabinet would control, mobilize, and manage the Nepali Army as per the new Military Act. The interim cabinet would prepare and implement the detailed action plan of democratization of the Nepali Army by taking suggestions from the concerned committee of the interim parliament. This includes works like determination of the right number of the Nepali Army, prepare the democratic structure reflecting the national and inclusive character, and train them on democratic principles and human rights values.<sup>61</sup>

Article 4.8 of the CPA allows the NA to continue the duties such as border security, security of the conservation areas, protected areas, banks, airport, powerhouse, telephone tower, central secretariat, and security of very important persons (VIPs).<sup>62</sup>

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<sup>61</sup>SATP, "The Comprehensive Peace Accord 2006," <http://www.satp.org/-satporgtp/countries/nepal/document/papers/peaceagreement.html> (accessed 20 March, 2013).

<sup>62</sup>Ibid.

After the signing of the CPA in November 2006, debate on Security Sector Reform started in Nepal. The CPA was the first document of its kind, which discussed the democratization and democratic structure of the NA to reflect the national and inclusive character of the NA, determination of its appropriate size, and training on democratic principles and human rights values. Following the signing of the CPA, media persons, civil society members, and academicians openly started talking about the various issues related to the NA including DCC.

The Interim Government formed after the Jana Andolan II, promulgated the Interim Constitution of Nepal 2007. This Constitution brought the NA under the full control of the government. The Interim Constitution of Nepal 2007 gave power to the Council of Ministers to manage the Army. Article 144(2) of the Constitution says that the Commander in Chief is appointed by the Council of Ministers.<sup>63</sup> Similarly, Article 144(3) says, “The Council of Ministers shall control, mobilize, and manage the NA 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.”<sup>64</sup> The constitutional provisions legally empowered the Council of Ministers to exercise civilian control over the military. However, the government formed after the successful People’s Revolution II was an interim government based on political consensus among various political parties. Hence, any major decisions made by the

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<sup>63</sup>Nepal, Supreme Court of Nepal, Interim Constitution of Nepal 2063, 2007, Article 144(2).

<sup>64</sup>Interim Constitution of Nepal 2063 (2007), Article 144(3).

government had to have consensus among all political parties. For that reason, the Constitution required consent of all political parties and recommendations by the concerned Parliament committee while formulating work plan for the democratization of the NA.

During the Jana Andolan II, the NA was mobilized by the government to suppress the protest. The military demonstrated a high standard of professionalism by using only minimum force during this mobilization. Had it used maximum force, there would have been disastrous results with a huge loss of lives. This restraint was later appreciated by the political leaders. It can be easily argued that the NA did not lose sight of its professionalism and remained responsible towards the safety of people during the Jana Andolan II.

After the successful People's Revolution in 2006, the CPA and the Interim Constitution 2007 legally sidelined the power of the King and empowered the Council of Ministers with the executive power of the country. The NA also came under the full control of the civilian government. Ratindra Khatri in his paper presented at the National Seminar on Civil Military Relation in Nepal stated,

After neutralizing the monarchy from the House of Representatives, all efforts were concentrated on diminishing the image of the then Royal Nepal Army. Primarily, Comprehensive Peace Treaty, Interim Constitution, and Military Law of 2006 are three major steps that virtually restricted the Army to perform any role other than disaster response operations (Interim Constitution of Nepal 2007). The main purpose of these efforts was to delink the Army from the Palace and to keep under the control of the parliament.<sup>65</sup>

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<sup>65</sup>Khatri, 4.

## The First Maoist-led Government and the Military

A successful CA election was held in 2008. The Maoists became the largest political party after this election. The first meeting of the CA officially abolished the monarchy. As a leader of the largest political party, Pushpa Kamal Dahal was sworn in as the first PM of the Federal Democratic Republic of Nepal. CMR became the most controversial issue during this political period of Nepal.

On 3 May 2009, PM Dahal citing insubordination to the elected government, fired then COAS General Rukmangaud Katwal and appointed his second in command, General Kul Bahadur Khadka as an acting chief. The decision of the PM was widely criticized by other political parties and media society. Seventeen out of 25 parties in the Parliament submitted a memorandum to the President, requesting him to prevent the dismissal of the COAS by the government. The President himself repeatedly had counseled the PM not to remove the COAS without a broad political consensus. An Indian envoy also prevailed upon certain party leaders to lobby with the president to check the Maoist decision against COAS.<sup>66</sup>

Amidst such political and diplomatic effort, PM took his decision but it was quashed by the president's order to Gen Katwal to carry on as COAS. Seeing the internal and external power balance not in his favor, the PM decided to step back and offered his resignation, bringing about a premature end to the nine-month long Maoist-led government. The PM in his resignation accused external and internal forces of undermining civilian supremacy. After the end of Maoist-led government, a coalition

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<sup>66</sup>Santosh Acharya and Madhab Basnyat, "Babandar Senapati Prakaranko," *Nepal Weekly*, 3 May 2009, 26-33.

government under the leadership of the Communist Party of Nepal (United Marxist and Leninist) was formed, and the Maoist party began a protest campaign to reverse the presidential intervention, calling it an unconstitutional step and making “civilian supremacy” a political refrain.

From a CMR perspective, it is important to analyze this incident to understand why “civilian supremacy” became such a focal point in Nepal. There were three major issues leading to PM Prachanda’s dismissal of the COAS on grounds of insubordination. First, after having informed the MOD, the NA had opened recruitment for 2,900 personnel to fill vacancies created due to retirement and discharges in 2008. After six weeks into the recruitment process, the MOD directed the Army to stop the recruitment process. The Army refused because the process could not be terminated at such a late stage. Second, the MOD headed by Ram Bahadur Thapa, a Maoist leader, refused to endorse the routine extension of tenure for eight brigadier generals recommended by Army Headquarters. However, General Katwal ordered those brigadiers to stay, later receiving their extensions through the court decision. Third, NA athletes walked out of the National Games to protest the late entry given to the Maoist People’s Army Liberation sporting team. These incidents led Maoist government to seek clarification from the COAS and his subsequent dismissal, afterwards accusing him of insubordination and refusal to accept civilian supremacy.

After the government fired the COAS, all 18 political parties wrote to the President asking him to review his decision and reinstate the COAS. The political parties believed that PM Prachanda’s decision was not based on good intentions; rather it was a strategy to capture state power by weakening the state Army. The President issued a letter

to the COAS stating his intention to let him continue in his position until a further decision was taken.<sup>67</sup> The move by other political parties in this incident was not to support the military, but to counter the Maoist move to avoid a possible alliance between the Maoist party and the military. Political leaders began employing strategies to attract the Army into their folds. General VK Sing writes,

Even after the transformation of the Royal NA to Nepal Army, on several occasions, efforts were made to politicize the Army in the name of democratization of the Army. Institutional stand with strong support from the opposition political parties have helped the Army to preserve its norms and value so far. The decision to appoint Lt. Gen. Kul Bahadur Khadka to COAS by sacking General Rukmangad Kattwal and eight Brigadier General's premature retirements are examples of such attempts. Eventually, those attempts were foiled legally and politically. As a result, the first elected PM following the election of Constituent Assembly had to step down from the Premiership.<sup>68</sup>

The court decision to extend the routine tenure of eight brigadier generals against the decision of the MOD shows that the decision taken by the MOD not to extend the tenure was simply revenge against the NA and there were no proper grounds for the decision. Bishnu Pathak writes, “The weakness can also been seen on the side of Defense Minister as he could not lose his wartime mind-set against the NA even after the government was formed under his own party’s leadership. This can be chalked up to his close association with the PLA.”<sup>69</sup> The crisis of confidence and mistrust between the MOD and the Army widened after the UCPN (M) appointed a former commander of

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<sup>67</sup>Bishnu Upreti, “Security Sector Reform in Nepal: Challenges and Opportunities,” Academia.edu, [http://www.academia.edu/1367839/Security\\_Sector\\_Reform\\_in\\_Nepal\\_Challenges\\_and\\_Opportunities](http://www.academia.edu/1367839/Security_Sector_Reform_in_Nepal_Challenges_and_Opportunities) (accessed 13 February 2013).

<sup>68</sup>Ibid.

<sup>69</sup>Bishnu Pathak, “Army in Nepali Politics, Politics in Nepal Army,” United We Blog! for a Democratic Nepal, <http://blog.com.np/2009/05/06/Army-in-nepali-politics-politics-in-nepal-Army-everything-you-wanted-to-know/> (accessed 23 March 2013).

Maoist combatants as Defense Minister. This was the start of a rapidly deepening conflict between the UCPN (M) and the NA, which ultimately resulted in the resignation of the government on 4 May 2009.<sup>70</sup> As to the Army sports team walking out of the National Games, it is the right of any participating team to protest against the late entry of a sporting team after the deadline for the registration.

Douglas Bland says that civilian control is not only following a government's order. It also entails protecting the military from politicians who would use their authority to enhance partisan interests and their power.<sup>71</sup> The President's step in quashing the PM's decision of firing COAS and asking General Katwal to stay was an effort to protect the military from politicians who want to fulfill their partisan interests. General V. K. Singh states, "Civilian supremacy must always be rooted in the fundamental principles of justice, merit, and fairness; any violation of this must be resisted, if we are to protect the institutional integrity of our armed forces."<sup>72</sup> Considering the arguments of Bland and Singh, the step taken by the President was an example of current civilian control of the military by protecting the institutional integrity of the Army by resisting the Maoist-led government's decision to dismiss COAS.

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<sup>70</sup>Bishnu Upreti, "Civil Military Relations," Academia.edu, [http://www.academia.edu/1634284/Civil\\_military\\_relation](http://www.academia.edu/1634284/Civil_military_relation) (accessed 19 March 2013).

<sup>71</sup>Douglas Bland, "A Unified Theory of Civil Military Relation," *Armed Forces and Society: An International Journal*, 22 September 1999.

<sup>72</sup>Vijaya K. Singh, "Resist Civilian Supremacy if not Just," *Zeenews*, 5 June 2012, [http://zeenews.india.com/news/nation/resist-civilian-supremacy-if-not-just-gen-singh\\_779907.html](http://zeenews.india.com/news/nation/resist-civilian-supremacy-if-not-just-gen-singh_779907.html) (accessed 4 January 2013).

## Analysis of the First Maoist-led Government Period from CMR Perspective

During the first Maoist-led government period, CMR in Nepal was very unstable with in the face of the rallying political cry of civilian supremacy. The military did not enjoy a good relation with the Maoist-led government as it became more antagonistic to the NA, which had launched a counterinsurgency against the Maoists in the past. Maoists on the other hand, had former combatants who were still morally and politically Maoist's Army regardless of the fact that they were cantoned under the government's arrangements. Maoists who were leading the government were technically maintaining two armies: one was their own People's Liberation Army and the other was the national Army with which they had fought against in the past. The Maoists, to gain an upper hand during the integration of its former combatants into the National Army, wanted to weaken the NA as it took a stand against the Maoist's intention to place its former combatants into higher-level positions. In the name of democratic control of the military, the Maoist's intentions were to weaken the National Army by integrating large numbers of former insurgents into the Army, thus making the Army loyal to them. To achieve this end, Maoist had to first break the military's apolitical stand by making generals loyal to them so that they could act without interference and objection from the military. Senior military and key political leaders argued that the fundamental restructuring of the NA according to the interests of the UCPN (M) would seriously weaken the Army and destabilize the political situation.

As observed in events such as the declaration of the Republic, the NA respected the decision of the Constituent Assembly by not aligning with the King and remaining neutral. This indicated that the NA understood the aspirations of the Nepalese people for

change. The NA had institutional interest to maintain its current strengths, an apolitical character and privileges, and viewed the Maoists as intending to dismantle the organization. The UCPN (M) wanted to form a new Army combining its ex-combatants into key ranks with the NA. UCPN (M) viewed the NA as an obstacle in achieving their political aims. Other political parties remained in favor of the NA as a means to counter the UCPN (M) because they saw the Maoist as trying to control the state by weakening the NA. These conflicting interests of major actors motivated them to drive a debate on Security Sector Reform in their favor. In this endeavor, the UCPN (M) and affiliated organizations and individuals strongly focused on the issue of civilian control to drive the situation in their favor.

The issue of civilian supremacy forced the Maoists to walk out on the government. Yuba Nath Lamsal says, “According to the Maoist, civilian supremacy means to respect the decision taken by the Prachanda-led government to sack the then Army Chief Rookmangut Katwal”<sup>73</sup> It was a great matter of prestige for the Maoists. To save their pride, they made it a political issue even after they walked out of the government. It was in fact a struggle for power. If the decision taken by Prachanda-led government was legitimate, why 18 political parties asked the President to reinstate the Army chief remains a big question as they dragged the President into controversy. Therefore, even if the President’s action was unconstitutional, 18 political parties should have been responsible for this step. This issue was further complicated by the words of the Interim Constitution, which makes the President a ceremonial position on the one

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<sup>73</sup>Yuba Nath Lamsal, “What is Civilian Supremacy?,” *The Rising Nepal*, [http://www.gorkhapatra.org.np/detail.php?article\\_id=25985&cat\\_id=7](http://www.gorkhapatra.org.np/detail.php?article_id=25985&cat_id=7) (accessed 6 March 2013).

hand, and the Commander in Chief of the NA with the power of directly looking into major military affairs, and legitimizing all the government decisions on the other hand.

The first Maoist-led government period in Nepal is characterized by a struggle between subjective and objective civilian control. The NA wanted to maintain its professionalism, autonomy, and nonpolitical character by advocating objective civilian control, whereas the political parties, especially the Maoists, wanted to bring the NA under subjective civilian control. The Maoists, who exercised subjective civilian control over their Peoples Liberation Army by provisioning a political commissar in the military organization, expected to see a similar kind of control in the national Army.

#### Bhattarai-led Government, Integration of Former Maoist Combatants and CMR Contributing to DCC

During the Bhattarai-led government from August 2011 to March 2013, integration of Maoist Combatants into the NA took place as a major event in Nepal's long stalled peace process. It is relevant here to discuss the integration process and interaction between the government and the NA after integration from a CMR perspective with special focus on DCC.

In 2007, about 32,000 personnel were part of the integration into the national Army when Maoist combatants were first registered in the cantonment. The United Nations Mission in Nepal (UNMIN) verified only 19,602 of them as combatants and disqualified over 4,000 for being under age or for having joined the Maoist Army after the ceasefire began. They were discharged from the cantonment in early 2010. A seven-point agreement signed among political parties in November 2011 stipulated that 6,500 former combatants could be integrated in a specially created General Directorate under

the NA. Combatants were given various options. Over 7,000 combatants opted for voluntary retirement with cash packages while over 9,000 opted for integration initially in the first phase of regrouping. However, in subsequent rounds of regrouping, this number of those desiring to be integrated, dipped down to 1,600 combatants choosing to go through selection tests for soldiers and officers respectively. Only 1,388 combatants passed the entrance exam conducted by the NA and joined as enlisted soldiers. Seventy-five combatants were integrated at the officer level. Soldiers underwent seven months of training, and officers underwent nine months after both have completed a three-month bridge course.

COAS Gaurav S. Rana in his speech on Army Day 2013 stated, “The Government has decided to establish Directorate General of National Security and Development with 4,171 personnel. Former Maoist combatants who opted for integration and along with the rest of the NA will remain in this General Directorate. Under this General Directorate, there will be three directorates: Nation Development, Environment Security, and Disaster Management Directorate.”<sup>74</sup> Hardline factions of the UCPN (M) party led by Mohan Baidhya who decided to revolt against the party leadership have termed this integration as surrender.

Since coming into power again, UCPN (M) leaders have made every effort to improve their relations with the NA despite the past bitterness.<sup>75</sup> During the Bhattarai-led

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<sup>74</sup>Gaurav S. Rana, “Chief of the Army Staff Speech on Army Day 2013,” [http://nepalarmy.mil.np/coas\\_speech.php](http://nepalarmy.mil.np/coas_speech.php)? (accessed 24 March 2013).

<sup>75</sup>Spotlight, “Unity in Hostility,” *Spotlight News Magazine* 6, no. 15 (25 January 2013), <http://www.spotlightnepal.com/News/Article/nepal-politics-unity-in-hostility>, (accessed 12 February 2013).

government in February 2012, the NA recommended a flexible roadmap for the integration of Maoist combatants. The plan proposed to reduce the training period for integrated combatants to seven months. The Army said that it would not object to conferring any senior rank to the combatants decided by the political level during the integration.<sup>76</sup> Contrary to the requirement of 20 months of trainings for those enrolled as officers and nine month for those enrolled in junior ranks, the proposal stipulated seven months of training for officers and four months for lower ranks.<sup>77</sup> Leaders of the Nepali Congress and the Communist Party of Nepal (United Marxist and Leninist) took strong exception to the Army's proposal. However, Maoist Chairman Prachanda opposed efforts by other party to drag the NA into further controversy, and said, "The Army had suggested its proposal based on the demand of the Army Integration Special Committee and the current controversies are intended to sour the relationship between Maoists and the NA."<sup>78</sup>

In January 2013, NA officer, Colonel Kumar Lama, when on a vacation in the United Kingdom, was arrested over allegations of torture committed during the decade-long Maoist insurgency. Maoist Chairman Prachanda speaking against this arrest said, "The incident that happened in the UK and the way our Army official was arrested is a serious case against a sovereign nation. This is a big blow to the Nepalese. This has also

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<sup>76</sup>Ujyaalo Multimedia Pvt. Ltd, "Nepal Army's 'flexible' Recommendation Irks Non-Maoist Parties," Ujyaalo Online, [http://m.ujyaaloonline.com/index.php?pageName=news\\_in\\_english\\_detail&id=3870](http://m.ujyaaloonline.com/index.php?pageName=news_in_english_detail&id=3870) (accessed 21 February 2013).

<sup>77</sup>Ibid.

<sup>78</sup>Ibid.

put question over our age-old relations with the UK.”<sup>79</sup> The Government of Nepal decided to take all necessary legal and diplomatic steps for the release of Colonel Lama. In this regard, an anonymous correspondent of Spotlight Magazine wrote, “With the government’s decision to take all the necessary legal and diplomatic steps to seek the release of Nepal Army Colonel Kumar Lama from his detention in England, UCPN-Maoist is trying to woo the country’s security agencies.”<sup>80</sup>

In February 2013, the Ministry of Finance agreed to release the budget for the purchase of two Russian-made Mi-17 helicopters as per a proposal forwarded to the Cabinet by the Army.<sup>81</sup> This is considered a big procurement for the military, and the release of the budget was made while Barsaman Pun, a Maoist political leader was the Finance Minister. The Bhattarai-led government also brought into execution the Army Service Regulation 2013 as prepared by the NA.<sup>82</sup>

The Bhattarai-led Cabinet in December 2012 decided to retain Major General Naresh Basnyat, an Army technical officer for two more years. The decision was in line with the Army leadership’s proposal. According to Army Act 2063, officers from the technical line are not promoted above Major General. However, the Army leadership had

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<sup>79</sup>Republica, “Parties Flay Arrest of Colonel Lama,” *Republica*, 6 January 2013, [http://www.myrepublica.com/portal/index.php?action=newsdetails &news\\_id=47746](http://www.myrepublica.com/portal/index.php?action=newsdetails &news_id=47746), (accessed 18 February 2013).

<sup>80</sup>Spotlight.

<sup>81</sup>Kantipur, “Nepal Army’s Helicopter Plans Get Government Go-Ahead,” *Kantipur.com*, 14 February 2013, <http://www.ekantipur.com/2013/02/14/headlines/> (accessed 26 February 2013).

<sup>82</sup>Bhojraj Bhat, “Prabhabma Surakshya Nikaya,” *Nepal Weekly*, no 534 (24 February 2013).

lobbied the government to create a post of Lieutenant General in the technical line and promote Major General Basnet to that post. As it was not feasible, the Army later recommended retaining Major General Basnet at the same post. Phanindra Dahal and Anil Giri stated that the decision by the Bhattarai-led cabinet marked a continuation of Bhattarai's policy to satisfy requests of the Army brass.<sup>83</sup> Similarly, in March 2013, the restriction put in place by CPA on Army arms purchases was removed as major political forces have agreed to equip the NA with arms and ammunition.<sup>84</sup> This had a greater effect in modernizing the NA. Removal of such restrictions can be viewed as a growing relationship between the military and the political parties especially the Maoists.

The development during the Bhattarai-led government shows that the Maoist party in Nepal is trying to develop its relationship with the NA as a part of the party's policy of building cordial relationships with security bodies in the country. The Maoist's endeavor to build relationships with the NA has now become a subject of interest. During the Prachanda-led Maoist government in Nepal, Maoists took a policy of vertical splitting in the NA to gain a lion's share of the integration of their combatants. Firing of the then COAS and appointment of Army's second man as COAS, and refusal to extend routine tenure of eight brigadier generals were parts of their efforts to weaken the military. Their policy of a vertical split did not work well. During the period of Bhattarai-led

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<sup>83</sup>Phanindra Dahal and Anil Giri, "Controversial Basnyat Gets Contract," *The Kathmandu Post*, 27 December 2012, <http://www.ekantipur.com/the-kathmandu-post/2012/12/27/top-story/controversial-basnyat-gets-contract/243395.html> (accessed 23 January 2013).

<sup>84</sup>Phanindra Dahal, "Special Panel Lifts Ban on Army Arms Purchase," *Kantipur Daily*, 16 March 2013, <http://www.ekantipur.com/2013/03/16/fullnews/spl-panel-lifts-ban-on-Army-arms-purchase/368510.html> (accessed 17 March 2013).

government, Maoists developed a cordial relationship with the country's security bodies, understanding that state security organizations are fundamental to national security. They established a strong presence within bureaucracy during the time they remained in the government, and they intended to extend that presence to security organizations.

The Baidhya-led, hardline Maoist faction within the party has become another reason for the Maoist leaderships to develop cordial relationship with the security bodies including the Army. The Baidhya-led faction has been unhappy with the Maoist leadership, and has revolted against them. This faction is also against the integration of Maoist combatants into the Army, and hence, termed integration surrender. The Maoists' aim to develop cordial relationship with the NA may be to control this so-called revolt against them. After the link between the King and the military was broken, the NA as an institution did not feel secure due to its close ties with the Palace in the previous political system. Unstable political situation of the country and repeated political intervention in military affairs in the new political system further reinforced the Army's feelings of institutional insecurity. The NA looked for a strong power that best protects its institutional interests. Spotlight News Magazine wrote, "Nepal Army has also found the UCPN-Maoist, its former arch enemy, as a new force to defend its case."<sup>85</sup>

Among the 32,000-trained Maoist former combatants, only around 1,700 have been integrated into the NA. The remainder of the combatants still resides in society. The government provides them with an economic package for their voluntary retirement; however, the government is reluctant to determine whether those voluntarily retired youths are accepted in society. Any criminal, terrorist, or insurgent group could easily

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<sup>85</sup>Spotlight.

exploit these trained youths. They are the attractive source of trained forces for hardline Maoist factions led by Baidhya to launch their so-called revolt against the Maoist leadership in power.

### Strength, Weakness, Opportunity and Threat Analysis of Maoist Integration

#### Strengths

Integration of Maoist combatants into the NA is a major breakthrough in the Nepalese peace process. It is an indication of growing trust between the NA as an institution and the UCPN (M) as a largest and legitimate political party of the country. The integration indicates a growing trust over the UCPN (M) by other political parties, Nepalese people, and the world. The NA is now viewed as a more inclusive organization since the accommodation of former Maoist combatants. This has contributed to the growing perception of the NA as an institution under democratic government today. Voluntary integration has promoted service to the nation, and the bridge course for the integrated combatants has served to depoliticize the politically indoctrinated former combatants and develop military professionalism.

#### Weaknesses

There is a lack of political unanimity in the UCPN (M) as Baidhya-led hardline Maoist groups stand against the integration, referring to it as *surrender*. The integration could not militarily include all trained youths, thereby leaving them in vulnerable communities. Out of total 32,000-trained youths, approximately 1,500 are integrated into the Army. Those opting for voluntary retirement received some form of economic package from the government; however, the government lacks long-term economic and

social development plans for the voluntarily retired and disqualified combatants and the communities destined to receive them. The government started integrating Maoist combatants into the Army without concrete decisions on the ranks to be provided to the integrated combatants. This is still a contentious issue among the political parties. Depoliticizing politically indoctrinated Maoist combatants is a long process, which may not be possible during a short duration of training.

The newly formed General Directorate of Security and Development remains under the military, and has noncombat tasks such as nation development, environment security, and disaster management. This General Directorate does appear as a separate force, but limiting the integrated former combatants into this General Directorate only gives an impression that the government and the Army do not want to integrate the former combatants into the Army as a whole. Integration of the combatants into the General Directorate without lethal weapons indicates a lack of full trust and confidence among the stakeholders of the peace process.

### Opportunities

Integration of Maoist combatant can be a golden step to conclude the long stalled peace process of the country. Trust among the political parties, the government and the NA develops a sense of security and trust over the government, tightening the links of a trinity among the people, government, and the military. A good CMR results from growing trust, and contributes to the institutionalization of DCC. Professionalization of the NA, combining the expertise and experience of both sides especially in counterinsurgency warfare, is an added opportunity.

## Threats

Hardline factions of the UCPN (M) may again derail the peace process as they have already voiced intentions to launch a revolt against the UCPN (M) leadership. Large numbers of active militias and trained former combatants are still among the population as a ready force of the UCPN (M). Any criminal groups, terrorists, or insurgent bands can easily exploit these trained youths. The country could certainly enter into another grave disaster, if the integration of former combatants into the NA and Baidhya-led hardline factions are part of a Maoist grand design to paralyze the state mechanisms while mobilizing its forces to gain victory in the upcoming elections through violence and coercion,

Bhattarai-led government's attempt to build relation with the NA might be perceived by other political parties as a counterweight to them by attempting to pull the NA again into controversy to counter this relation. The contentious issue of rank determination for the integrated Maoist combatants can still be a bargaining issue for other political parties. Politically indoctrinated former Maoist combatants, even after integration into the Army, could align with the UCPN (M) party. These issues raise a serious question over apolitical nature of the NA, especially among non-Maoist political parties and their affiliated population. If this happens, the next rallying point will not be "civilian control," but "the Army in politics." With the Maoists being in the power, the Maoists could utilize the General Directorate for popular projects to the benefit of the party since the General Directorate could be interpreted by the public as the Maoist Army Directorate. The use of the General Directorate for party politics could become yet another political friction point in the country.

### Constitutional Reforms from Civilian Control Perspective

The first legal code was adopted during the reign of King Surendra Bikram Shah in 1853. This was popularly known as *Muluki Ain*, and codified almost all aspects of a constitution. *Muluki Ain* was modified and amended over time, but none of these changes pertained to the military. There were no acts prescribing the provisions, control, or mobilization of the military. Nepal had to wait until 1959 for the military to be included in the Constitution.

Article 64 of the Constitution of Nepal 1959 declared the King as the Supreme Commander of the Army.<sup>86</sup> The authority to declare war or peace rested upon the King and he would do so through the Cabinet of Ministers.<sup>87</sup> The Constitution of Nepal 1959 made the King sole authority in military matters. There was a big gap between the government and the Army, and the King was only the bridge between them. The Constitution of Nepal 1962 included the appointment of the Commander in Chief of the Royal NA. Article 83(a) of the Constitution stated that the King would appoint the Commander in Chief of the Royal NA. This article constitutionally made the King more powerful in military matters by giving him the constitutional power to appoint the Commander in Chief of the Army.

The Constitution of Nepal 1990, promulgated after the restoration of multiparty democracy in the country, broadly covered the control and mobilization aspect of the NA. Article 118(2) of the Constitution stated that the NA could be mobilized by the King on

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<sup>86</sup>Hamal and Dulal, 2,048.

<sup>87</sup>*Ibid.*

the recommendation by the NSC.<sup>88</sup> Article 119(1) declared the King as the Supreme Commander of the NA, and Article 119(2) stated that the King could appoint the Commander in Chief of the NA on recommendation of the PM.<sup>89</sup> The Constitution of Nepal 1990 made important changes such as formation of the NSC, mobilization, operation, and use of the NA on the recommendation of the NSC, and appointment of the Commander in Chief of the NA by the King on the recommendation of the PM. The military was not solely under control of the King as before; however, the King was the final authority on important decisions regarding the military. This created a power division between the King as the Supreme Commander of Army and the civilian government, which had the executive power.

Articles 188(1) and (2) of the Constitution 1990 created a National Defense Council (NDC) in order to make recommendations to the King for mobilization, operation, and use of the NA. It would consist of the PM as the Chairman, Defense Minister, and Commander in Chief of the Army as the members.<sup>90</sup> The PM would generally hold the position as the Defense Minister as well, so the structure of NDC actually consisted of only two persons: the PM and the COAS. This was not a democratic structure as the COAS had almost 50 percent share of power and influence in the NDC. Whatever was written in the Constitution, the NDC as a recommending body was militarily influenced with the King's appointee as its member.

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<sup>88</sup>Constitution of the Kingdom of Nepal, 2047 (1990), Article 118(2).

<sup>89</sup>Ibid., Articles 119(1) and (2).

<sup>90</sup>Ibid., Articles 188(1) and (2).

The Interim Constitution of Nepal 2007 was promulgated after the successful People's Revolution in Nepal, and is the foundation of current civil-military relations. This Constitution made historic provisions regarding military affairs by breaking the link between the King and the military, symbolically illustrated by changing the name of the Royal NA to the NA. Article 144(2) states, "The Council of Ministers shall appoint the Commander in Chief of the NA."<sup>91</sup> Article 144(3) states, "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."<sup>92</sup> The Constitution provided a legal basis for the Council of Ministers to formulate and implement a working plan for the democratization of the NA. This provision is a constitutional step to democratize the military in order to promote DCC. Consent of all political parties is required while formulating and implementing a working plan for the democratization of the NA. The whole peace process including united political effort against the King, and its success was based on political consensus among major political parties, which resulted in widespread acceptance of the Constitution.

Article 145(1) of the Constitution of 1990 changed the structure of NDC with the PM as the chairman, and Defense minister, Home Minister, and other three ministers nominated by the PM as the members of the council.<sup>93</sup> This constitutional reform made

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<sup>91</sup>Constitution of the Kingdom of Nepal, 2047 (1990), Article 144(2).

<sup>92</sup>Ibid., Article 144(3).

<sup>93</sup>Ibid., Article 145 (1).

the NDC purely a democratic civilian body with all members being democratically elected people's representatives. The military has no role in decision-making process of the NDC. However, to make the NDC more effective, article 145(3) has a provision for the NDC to invite other persons at the meeting of the Council, if it deems necessary. Using this article, NDC if deems necessary, may invite military representative in its meeting. Similarly, the Constitution of 1990 had a provision on military courts, which had exempted reviewing their decisions from the Supreme Court.<sup>94</sup> This provision was repealed in the interim Constitution.<sup>95</sup> With this change, the military justice system fell under the jurisdiction of the Supreme Court.

The Fourth Amendment to the Interim Constitution of Nepal 2007 made the president the supreme commander of the NA.<sup>96</sup> The amendment gave a power to the president to appoint the Commander in Chief of the NA on the recommendation of the Council of Ministers.<sup>97</sup> These amendments again divided the power between the President and the Council of Ministers. This nature of dual control over the military has created some practical problems. However, it does not raise question over the DCC, as the President is also a democratically elected people's representative. Article 144 (4A) which is an addition to the Interim Constitution states, "In order to give the Nepal Army a national character and make it inclusive, enlisting of Madhesi, indigenous ethnic groups,

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<sup>94</sup>Constitution of the Kingdom of Nepal, 2047 (1990), Article 88(2)(a).

<sup>95</sup>Interim Constitution of Nepal, 2063 (2007), Fourth Amendment.

<sup>96</sup>Interim Constitution of Nepal, 2063 (2007), Article 144(1A), Fourth Amendment.

<sup>97</sup>Interim Constitution of Nepal, 2063 (2007), Article 144(2) Fourth Amendment.

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.”<sup>98</sup> This constitutional provision has helped promoting DCC by making the NA more inclusive enlisting Madhesi, indigenous ethnic groups, Dalits, women, and people from backward regions.

### Analyzing the NSC as an Institutional Mechanism for DCC

The concept of the NSC in Nepal was developed only after the restoration of democracy in 1990. The main objectives of establishing NSC in Nepal was to generate civilian control over the Army, to operate it under the law made by the Parliament, and to leave it under the control and directions of the elected government.<sup>99</sup> As stated in the Constitution of the Kingdom of Nepal 1990, the NSC consisted of the PM as the chairperson, and the Defense Minister and COAS as members. The then Royal NA was operated by the King on the recommendation of the NSC, and the appointment of the COAS was made by the King on the recommendation of the PM.<sup>100</sup>

The NSC from CMR perspective was not fully a civilian body as COAS was one of the members of the Council. NSC could not function as a committee before 2006 as there were only two members in the council because of the PM and the Defense Minister being the single person. According to Kohn, every decision of government in peace, war,

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<sup>98</sup>Interim Constitution of Nepal, 2063 (2007), Article 144(4c) Fourth Amendment.

<sup>99</sup>Surendra Pandey, “National Security Council: An Analysis,” in *Nepali Security Sector: An Almanac*, ed. Bishnu Sapkota (Hungary: Brambauer Publisher, 2009).

<sup>100</sup>Constitution of the Kingdom of Nepal, 2047 (1990), Article 118.

and national security policy are made or approved by officials outside the professional armed forces.<sup>101</sup> Placing COAS as a member of the NSC from CMR perspective seems against the spirit of democratic control of the military in modern democracies. Although, the PM was a democratically elected civilian representative, chances of the PM being influenced by the military was more, and chances of disapproval of the recommendations of the NSC by the Palace was also high, if the recommendation was not supported by the COAS. The King, the Supreme Commander of the Army through COAS would influence the NSC. Hence, it can be argued that any recommendations forwarded by the NSC would be influenced by the Palace, and the Palace would in this way legitimize own interests on military affairs through the NSC.

Article 118(3) of the Constitution of the Kingdom of Nepal 1990 stated that the establishment and management of the Army would be as determined by law.<sup>102</sup> However, the Parliament could not make a law regarding Army until that Constitution was enforceable. As a result, the management and mobilization of the Army was conducted as per the Army Act of 1959, which sharply contrasts with the Constitution of 1990. Consequently, the legal system, which maintained the COAS to be loyal upon the King, could not be amended.<sup>103</sup> The government seemed reluctant in making law regarding the establishment and management of the military. This reluctance of the political leaders could not legally bring the military under the democratic control, though the Constitution promulgated after restoration of democracy had some vision to promote DCC. The

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<sup>101</sup>Kohn.

<sup>102</sup>Constitution of the Kingdom of Nepal, 2047 (1990).

<sup>103</sup>Royal Nepal Army Act Rule and Order Collection 2002.

Constitution envisioned something about the military in a democratic political set up. However, the Army operated under the Army Act of the previous political system characterized by single party Panchayat system.

After the successful people's movement in 2006, government signed a CPA with the Maoist, and in 2007, proclaimed the Interim Constitution. Article 145 of the Interim Constitution 2007 after Fifth Amendment made following provisions regarding NSC.

There shall be a National Defense Council in order to make recommendations to the Council of Ministers on mobilization, operation, and use of the Nepal Army consisting of the following Chairperson and members: a) PM-Chairperson. b) Defense Minister-Member. c) Home Minister-Member d) three ministers designated by the PM representing three different political parties from among the parties in the Council of Ministers –Member. Provided that if there are fewer than three political parties represented in the Council of Ministers, designation of representatives from fewer than three parties shall not be barred.<sup>104</sup>

The NSC is constitutionally a civilian body. All the members of the council are democratically elected civilian representatives. The recommendations of the NSC to the Council of ministers hence, represent people's aspiration. The Constitution has a provision for the NSC to invite other persons in its meeting, if the NSC deems necessary.<sup>105</sup> This provision allows NSC to invite military representative in its meeting but it is entirely the NSC's prerogative. The NA now has not any role in the NSC, and all the recommendations on the military affairs by the NSC are made by democratically elected civilian representative. This makes the NSC constitutionally an effective civilian body to promote DCC.

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<sup>104</sup>Interim Constitution of Nepal, 2063 (2007), Article 145(1), Fourth Amendment.

<sup>105</sup>Interim Constitution of Nepal, 2063 (2007), Article 145(3).

A Major General of the NA works as a coordinator of Secretariat of the NSC, and he is responsible for total tasks of the Secretariat. The Council of Ministers decides on the designation of coordinator.<sup>106</sup> NSC besides the task of mobilization, operation and use of the NA, has following duties and powers.

(a) Prepare policy, plan and program regarding the mobilization, operation and use of the Nepal Army, and submit it to the Government of Nepal, (b) submit recommendations to the Government of Nepal regarding the number and organizational structure of the Nepal Army, (c) give recommendations as per the necessity to the Government of Nepal regarding the management of the Nepal Army, (d) submit recommendations as per the necessity to the Government of Nepal regarding arms and ammunition, and other artillery materials of the Nepal Army, and do other prescribed tasks.<sup>107</sup>

The NSC is empowered with a lot of tasks and responsibilities regarding the NA. However, unstable political situation of the country and frequent change in the government keep the NSC under the shadow. In the political battle of forming and breaking the government, the NSC has been a least prioritized area for its members. Theoretically, structure of the NSC seems quite democratic and efficient, however, unstable political situation and lack of political commitment has made the NSC passive. This incompetence in the part of political leaders has created a situation, where the Government of Nepal is yet to do a lot as far as the policy, plan, and program regarding the mobilization, operation, and use of the NA is concerned.

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<sup>106</sup>National Security Council Procedure 2006.

<sup>107</sup>National Security Council Procedure 2006.

Army Service Regulation 2013 and  
MOD from DCC Perspective

Bhattarai-led Government of Nepal brought Army Service Regulation 2013. The past governments were unable to bring Army Service Regulation as mentioned in the Military Act 2063 since then. “During Prachanda-led government, the then Defense Minister, Ram Bahadur Thapa who was also a Maoist leader had come up with a draft Military Service Regulation but, it was rejected by the NA. Bhattarai-led government brought into execution the Army Service Regulation as prepared by the NA.”<sup>108</sup>

“Democratic CMR focuses on the existence of a MOD as a basic indicator of the quality of CMR in a country.”<sup>109</sup> In the context of Nepal, MOD exists with the appointment of a defense minister from democratically elected civilian representative. It is a civilian body, which directs, monitors, and manages the military. Army Service Regulation 2012 empowered the MOD to monitor the selection of United Nations (UN) peacekeepers by the NA, which is considered as a lucrative assignment. This is a first document of this kind that provides legal basis for the MOD to oversee the Army’s recruitment process for UN peacekeeping duties.<sup>110</sup> The NA according to the new regulation has to furnish names of candidates eligible to serve in the UN missions by mid- August every year.<sup>111</sup> Previously MOD had no prior information on the potential

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<sup>108</sup>Bhat.

<sup>109</sup>Bruneau and Tollefson.

<sup>110</sup>Phanindra Dahal, “Ministry to Select UN Peacekeepers,” *The Kathmandu Post*, 15 February 2013, <http://www.kantipuronline.com/2013/02/16/top-story/ministry-to-select-un-peacekeepers/367159/> (accessed 20 February 2013).

<sup>111</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*.

candidates and it was simply stamping the final list forwarded by the Army Headquarters.<sup>112</sup> The regulation states that the MOD will have the power to formulate policies regarding standards and basis for the selection of peacekeepers.<sup>113</sup> The regulation further stipulates that there would be a committee at the MOD to make recommendations on the deployment of contingents, staff officers, military observers, and military advisors in UN peacekeeping. The committee will monitor and evaluate the selection process and will have the power to issue directions to the Army.<sup>114</sup> Army Service Regulation 2013 bars any Army personnel charged of human right violation from participating UN Peace operation in any capacity. The NA has taken the issue of Human Rights with high priority.

Army Service Regulation 2013 has brought reforms in military recruitment process and promotion system. Representatives from the Civil service Commission and the MOD are included in the recruitment board at each level to make the recruitment process more transparent. A representative from Public Service Commission, who is a civilian bureaucrat, shall remain as the Chairman of Selection Board.<sup>115</sup> This board is responsible for all activities related to the recruitment process right from advertising vacancies to making recommendations to the government for the appointment of successful candidates. In case of the recruitment in officers' ranks, the authority to

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<sup>112</sup>Phanindra Dahal, "Ministry to Select UN Peacekeepers".

<sup>113</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*.

<sup>114</sup>Ibid.

<sup>115</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*, Article 8(1A).

appoint successful candidates is vested in the Government only.<sup>116</sup> As far as the posting of senior military commander is concerned, the Government exercises the right of posting senior officers from Colonel to Lieutenant General on the recommendation of COAS.<sup>117</sup> The Army Service Regulation has similar provisions regarding the promotion system according to which the Government promotes officers from Colonel to Lieutenant General on the recommendation of COAS.<sup>118</sup> Appointment of the COAS is however, done by the President on the recommendation of the Government.

Army Service Regulation 2013 has given a power to the Army in promotion and posting of military personnel. It does not have a provision to include representative from the MOD in the board formed for promotion and posting of the senior Army officers.<sup>119</sup> In this case, MOD seems to be acting as a letter forwarding organization between the government and the NA. Representative from the MOD at least in posting and promotion board for senior officers, if not at all levels can promote civilian control, as the MOD remains in a clear picture of promotion and posting status of the senior Army officers. Another important thing to note is that the hearing body regarding promotional issues comprised of the military members only.<sup>120</sup> This keeps the MOD unaware of the promotional issues and complaints compelling it to rubber stamp the Army's papers for the approval; however, keeping itself unaware of the whole process.

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<sup>116</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*, Article 23(A).

<sup>117</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*, Article 29(A).

<sup>118</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*, Article 34(1A).

<sup>119</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*, Article 33(1).

<sup>120</sup>Nepal, Ministry of Defense, *Army Service Regulation 2013*.

The Army Service Regulation 2013 made many changes regarding recruitment, promotion, and posting of the officers' corps in the NA. Introduction of the regulation by the Bhattarai-led government as prepared by the military indicates in a way a growing intimacy between the government and the military. However, the government's inability to enact this regulation in a timely manner showed its reluctance and incompetency, and highlighted the overall government's inability to govern. An argument can also be built on the same ground that Government's introduction of Army Service Regulation 2013 can be viewed as a part of Bhattarai's policy of cordial relationship with security bodies of the country. In such case, it serves party politics and interest in a very short run rather than a long term stable CMR.

#### Looking into DCC in Nepal through the Prism of Salvadoran Military Reform

Civil War from 1980 to 1992 in El Salvador claimed the lives of approximately 75000 people. Marxist-Leninist guerilla group called the Farabundo Marti National Liberation Front (FMLN) and the Government of El Salvador were the primary actors of civil war. FMLN were supported by Nicaraguan, Cuban, and Soviet governments, and United States of America supported Salvadoran government. In 1980, the Popular Forces of Liberation Farabundo Marti (FPL), the People's Revolutionary Army (ERP), the Armed Forces of National Resistance (FARN), the Armed Forces of Liberation (FAL), and the Central American Workers' Revolutionary Party (PRTC) officially joined together to create the FMLN. After 12 years of bloody conflict between the military-led Salvadoran Government and FMLN, a Peace agreement was signed between the warring

parties in Chapultepec in January 1992, and the Chapultepec peace agreement formally ended a more than decade long bloody conflict in El Salvador.

El Salvador's transition from bloody civil war to peaceful elected government is widely considered one of the most successful examples of how to build democracy in post conflict environment. The Salvadoran case by many international actors is also regarded as a major success story with respect to negotiated conflict settlements and military reforms. The Chapultepec Peace Accords created a historic opportunity to radically transform civil military relations in El Salvador.<sup>121</sup> Along with a transition of military-led government into a democratic government, the military reforms widely promoted DCC in the country.

Peace agreement signed in Chapultepec in January 1992 set forth the following as milestones to the security reform and promotion of DCC in the country.<sup>122</sup>

(1) Dismantling the military intelligence apparatus and creating a new intelligence agency under civilian authority. (2) Majority of tasks to be carried out within two-year period and a calendar was established for the implementation of those measures. (3) The military to maintain domestic order as an exception and with prior consent from the president. (4) National police discredited for public security to be dissolved and substituted by a new National Civilian Police, which was made up of former guerilla fighters and former members of the National police.

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<sup>121</sup>Barany, 83.

<sup>122</sup>Michael Wilkerson, "Security and Democracy in El Salvador: An Undeniable Connection," *Stanford Journal of International Relations* 10, no. 1. (Fall/Winter 2008).

Force reduction, mission redefinition, and purging those military most directly responsible for human rights abuses during the conflict were three essences of military reform written in the peace agreement. Demobilization of FMLN and military reform sought civilian control over the military. Constitutional reforms limited the Salvadoran military to the defense of sovereignty and the territorial integrity of the state, reduced military's decision making power in state affairs, and autonomy placed it under executive control. The Salvadoran military before this reform was responsible for maintaining internal order and public security, defense of the Constitution and political regime, and the protection of political and human rights. Size of the military was downsized almost by nearly 50 percent.<sup>123</sup>

Peace accord of El Salvador restricted the dominant role of the military bringing the later under civilian control. Modernized and improved education within the military eased democratic civilian leadership in the country. An academic council composed of civilian and military members was formed which would oversight the military education in terms of curriculum, admissions and faculty appointments at the military school. Military units charged with public security and intelligence were demobilized. Truth commission was formed which recommended the removal of those officials identified as responsible for past human rights abuses. The Salvadoran armed forces carried out health,

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<sup>123</sup>Susan Burgerman, "Making Peace Perform in War Transition Countries: El Salvador, Guatemala, and Nicaragua," [http://www.cgdev.org/doc/shortof thegoal/chap8.-pdf](http://www.cgdev.org/doc/shortof%20thegoal/chap8.pdf) (accessed 17 January 2013).

education, and infrastructural repair programs in rural areas of the country and explored possible new initiatives in environmental protection.<sup>124</sup>

El Salvador reformed a military traditionally involved in politics into a redefined professional service securely under civilian control. With the Civil War ended, a six months long program was designed to bring together civilian and military leaders in order to build greater understanding on civil military issues. Salvador made efforts to remove military promotions from political meddling and favoritism, instead basing them on education and skill performance. Congressional authority was strengthened over the military budget that made the Salvadoran military more financially responsible.

FMLN was registered as a political party in 1992, after the United Nations in 1992 certified that the FMLN had turned in all its armaments. However, in Nepal's case, Maoist party even after joining the mainstream politics had connection with its combatants placed in the cantonments under the government. This led to the outcry of civilian supremacy by Maoist intentionally to weaken the NA and integrate the two armies under the circumstances favorable to them. As far as demobilization of former combatants in El Salvador was concerned, National Reconstruction Plan as mentioned in the peace accord focused on creating conditions for economic growth and development in war-afflicted areas of El Salvador. Reinsertion programs reintroduced former combatants to civilian life. El Salvador avoided a system that only offered financial demobilization

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<sup>124</sup>Douglas Kincaid, "Demilitarization and Security in El Salvador and Guatemala: Convergence of Success and Crisis," *Journal of Interamerican Studies and World Affairs* 42, no. 4, <http://www12.georgetown.edu/sfs/clas/pdba/security/citizenssecurity/guatemala/documentos/kincaid.pdf> (accessed 7 March 2013).

programs, instead developing a comprehensive package and monitoring system that focused on education, social services, and employment assistance.

Kincaid stated that the peace accords did little to concretize the principle of civilian control over the military, as they contained no measures specifying that the defense minister be a civilian, giving the legislature effective control over military budgets, or giving the executive control over the internal promotions of senior military officers.<sup>125</sup> Social and economic concerns of former combatants and the communities that received them were continued sources of political instability in El Salvador. A lesson can be learnt that the scope and objective of reintegration programs and measure for assessing their effectiveness are very important.

El Salvador's programs that reintroduced former combatants to civilian life described uneven progress and were far from encouraging. Those who were reinserted into civilian and productive life were just as poor and frustrated as the rest of the inhabitants of those communities.<sup>126</sup> Reinsertion programs lacked "specific development goals for their beneficiaries or for the communities destined to receive ex-combatants."<sup>127</sup> Reinsertion programs should have had careful scrutiny, not only of their performances, but also of their design, objectives, and long-term effectiveness.

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<sup>125</sup>Kincaid.

<sup>126</sup>Ricardo Cordova Macias, "Demilitarizing and Democratizing Salvadoran Politics," in *El Salvador: Implementation of the Peace Accords*, ed., Margarita S. Studemeister (United States Institute of Peace, Peaceworks no. 38, January 2001).

<sup>127</sup>Macias.

Table 5. Post-Civil War: El Salvador and Nepal Analysis			
Country Period		El Salvador 1992-2010	Nepal 2006-2013
Peace treaties	Peace Accord Positives	Chapultepec Ended war, created basis for democratization, stamped out military's societal influence	CPA Ended decade long Maoist conflict, laid out a road map for election to CA.
	Negative	No stipulation of economic reforms, failed to specify numerous civil military issues.	No stipulation of economic reform.
State	Main tasks	Demobilization, disarmament, reintegration, demilitarization of politics	Management of the Maoist arms and armies, implementation of previous pacts and agreements, CA election
	Executive control	Somewhat limited by military prerogative	Council of Ministers
	Legislative oversight	Weak	Firm
	Old armies purged	Yes	Yes, based on reported human rights and other cases during the conflict.

Military	New Army	Integration of FMLN guerrillas into FAES	Integration of Maoist combatants into NA and societies.
	Behavior during transition	Trying to safeguard benefits and institutional autonomy.	Trying to safeguard institutional interests
	Interference in politics	Low, but growing	No
	Domestic function	Police work	Developmental work, nature conservation, key infrastructure and installation security
	Advisory function	High	Low
	Commitment to democracy	Unclear	Yes

*Source: Zoltan D. Barany, The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas (New Jersey: Princeton University Press, 2012), 109-110.*

The comparison between El Salvador and Nepal after civil war in both the countries shows that the NA does not have any interference in nation's politics. The military in Nepal in the past was not involved in politics in the country and hence, during political transition in the country it was more worried about safeguarding the institutional interests in the new political system than interfering with the political system of the country. Although some of the roles and missions of NA such as developmental works, nature conservation, and key installation security are internally oriented missions, NA is not involved in police work as in El Salvador after civil war. Barany gives out an unclear picture of military's commitment to democracy in El Salvador even after civil war. However, NA has repeatedly expressed its commitment to democracy. This comparative study gives an idea that the situation in Nepal after the end of the decade long Maoist insurgency is positive, where NA as an institution has played its part as a responsible stakeholder of the peace process in the country.

Nepal’s case and El Salvador’s case are not similar in nature. El Salvador’s civil war was a conflict between a military-led government that had been in power for 50 years and the Farabundo Martí National Liberation Front (FMLN). Nepal’s case was purely a communist insurgency aimed to establish People’s Republic against a Constitutional Monarchy and multiparty democracy in the country. However, both countries reconciled their former combatants into the society and security forces. The El Salvadoran case being considered as a success story and Nepal’s case being a new one, lessons can be learned from the El Salvadoran case and applied in the Nepal’s case. El Salvadoran efforts at security reforms, which promoted civilian control in El Salvador, can be listed as indicators to demonstrate where a democratic government should focus to promote civilian control.

Table 6. After Civil War: El Salvador and Nepal - Military Reforms Analysis		
Reforms	El Salvador	Nepal
Military missions	Redefined mainly from establishing internal order and public security to defense of national sovereignty and territorial integrity.	Military not involved in maintaining internal order and public security. Defense of the national sovereignty and territorial integrity as a key mission. The roles and mission of new General Directorate defined which consist of national development, disaster management, and environmental protection.
Control of the military	Under executive control	Under executive control
Military decision making power in state affair	Reduced	Military does not have any power.
Integration of former combatants	New National Civil police created. Equal no of personnel from the Salvadoran national police and FMLN combatants.	A separate General Directorate formed under the Army. Personnel from the NA and former Maoist combatant in a ratio of 2:1

Military education oversight mechanism	An Academic Council composed of civilian and military which would oversight the military education in terms of curriculum, admissions and faculty appointments at the military school	Greater role on the part of the military.
Control over defense budget	Congressional control	Cabinet controls
Defense minister	Civilian	Civilian
Officer Promotion	From political meddling and favoritism to a system based on education and skill performance.	Meritocracy based promotion system.
Rehabilitation/reinsertion of Combatants in the societies	a comprehensive package and monitoring system that focused on education, social services, and employment assistance	More focus on financial demobilization program.

*Source:* Created by author.

Military reform in El Salvador after the end of more than decade long bloody civil war can be taken as a good example, and lessons learned from there can be applied in Nepalese case. The comparative chart above shows that DCC in Nepal is legally and institutionally stands in a very good position while comparing it to El Salvador. The model Salvador adopted to promote DCC still suggests that a civilian oversight mechanism over the military education and training system can be introduced in Nepal as part of the effort to further promote DCC. The newly formed General Directorate should not only focus on internal missions, but should also consider external missions such as contributions to UN missions. Also these integrated former combatants should not be restricted to serve within the General Directorate only; they should have opportunity to serve in other arms and services based on their interests and expertise. To insert voluntarily retired combatants into society successfully, the government should develop a comprehensive retirement package and a monitoring system that focuses on education/training, social services, and employment assistance.

## CHAPTER 5

### FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### Findings

Throughout Nepalese history, the NA has remained loyal to whichever government is running the country. However, the Army as an institution has been a major issue during periods of great political changes. Political leaders in new governments, especially during transition, have perceived the military as an opposition force loyal to the old regime. This perception by Nepalese political leaders has contributed to questioning of military subordination to the democratic government when the Monarchy was abolished and Nepal declared a Republic. Moreover, internally oriented roles and missions of NA during its fight with the Maoist insurgency and during the time King Gyanendra dismantled the House of Representative in 2005 made Nepalese CMR more problematic. That came out as a political reaction after the Monarchy was abolished.

DCC in Nepal became a big political issue during the time UCPN (M) headed the first government of the Republic of Nepal in 2008. The Rana rulers and Kings in the past practiced subjective control over the NA and made the latter loyal to them. The UCPN (M) also maintained subjective control over its armed combatants through political commissars, and when they took over the Nepalese government as the largest political party in 2008, they envisioned this subjective control of the NA in order to gain its loyalty. Although NA during the Monarchy was loyal to the Palace, it was an apolitical institution largely because the Monarchy itself was not a political entity as the Monarchy was considered as an institution above politics. Hence, when the Monarchy as an institution was abolished, NA perceived UCPN (M) efforts to exercise subjective control

over it as an effort to politicize the Army in order to make it their party Army as envisioned in the communist doctrine. The Maoist's effort to politicize the Army and NA's long-standing apolitical nature became one of the major points of friction that made the issue of DCC very louder in 2008.

The present political system has brought the NA fully under control of the current democratic government. The interim Constitution of Nepal 2007 gives the President power as the Head of State and the Supreme Commander of the Army. In accordance with the Fourth Amendment, the Council of Minister makes recommendations to the President regarding all major military issues. A power division between the President and the Council of Ministers as a transitional arrangement may not directly raise an issue over the DCC, both being democratically elected civilian representatives; however, such an arrangement may pull the military into controversy if there is ever a power struggle between the President and the Council of Ministers as an executive body.

NSC as a government military oversight mechanism is constitutionally comprised of only civilians. This restructuring of the NSC eliminates the NA's influence in the government decision-making process as it relates to military matters. The NSC has been marginalized because of frequent changes in membership resulting from changes in government and political turmoil in the country.

The MOD as a democratic military oversight mechanism is headed by a civilian representative and staffed with civilian bureaucrats. However, lack of experience and knowledge about national defense issues has made the civilian counterpart incompetent in CMR issues.

There are not clearly defined lines between the executive and legislative in terms of the division of authority over the military. Each institution retains its own interpretations concerning constitutional provisions when it comes to the issue of military control. Firing of COAS in 2008 by the Maoist-led government and its aftermath was a result of this situation. The Nepalese legislature repeatedly failed to fulfill its major mandate of writing a new Constitution. In such a situation, the legislature as an effective oversight mechanism of the military did not even give a thought to DCC. Lack of defense expertise in legislature and non-integration of media and NGOs as sources of knowledge for the legislature on military affairs could not well institutionalize DCC in Nepal. Lack of clarity over who controls what part of the military has put the NA into a situation requiring multiple loyalties.

The country's unstable political situation and lack of employment opportunities might force the former Maoist combatants, not integrated into the NA, to engage in criminal activities for their livelihood. Political parties and other armed groups might use these militarily trained individuals to fulfill their petty interests. The hardline faction of the UCPN (M) might again misuse those vulnerable youths in case they go into so-called armed revolution against their own party leadership.

Although, the actual number of the former Maoist combatants integrated into the NA is considered insufficient, the integration process has built an environment of trust among major political parties, and most importantly trust between the UCPN (M) as a legitimate political party and the NA as the strongest security organization of the country. This integration has made the NA more inclusive in nature. The growing trust between

the military and the government is a positive indication that will contribute to shaping a more robust CMR for Nepal, and it will significantly promote DCC in the country.

### Recommendations

The government of Nepal and the National Army should focus on following three main guiding principles to promote DCC of the NA: (1) The NA should have primarily externally oriented roles and mission, except of course disaster relief and rescue operations. It must become the defender of Nepal's national sovereignty and territorial integrity with a greater focus on external threats to national security. NA's increased participation in UN Peacekeeping Operations as an externally oriented mission further helps to promote democratic norms and values within the organization, (2) NA should remain an apolitical and professional institution, and (3) NA must be an institution that truly represents all Nepalese people.

There should be a division of control authority over the NA to maintain a check and balance in context of Nepalese present political situation. Nepal must promote civilian competence in defense matters for the legislature to become an informed and adept overseer of the NA. Non-Governmental Organizations and media should have defense expertise to keep the legislature informed on military issues, and they should act as society's overseer of the NA thereby preventing the executive branch from dominating the military instrument of power. There should exist a clear demarcation between executive and legislative branches and sub-branches within them to define clearly who controls what part of the military. This clear-cut relationship would prevent a situation where the army might have to divide its loyalty.

Political stability and a matured democracy are strong foundations for healthy CMR and DCC. Nepal is a relatively new democracy, and is still in a state of political instability. Nepal's political parties should refrain from using the military to fulfill their respective political goals, while the NA should be more sensitive to political shifts within the country, but the NA must remain loyal to the Constitution irrespective of who comes into power or which party runs the government. The government should create an environment where the military can maintain its apolitical and professional character without any fear from interference by politicians. An environment of mutual trust is necessary so that any decision made by the government on military affairs has the military's confidence and likewise the government can count on the Army to carry out that decision.

The MOD in Nepal, as an institutional control mechanism of the NA, should be strengthened by developing competent civilian counterparts through education on military matters. The MOD should have increased monitoring of all military matters without jeopardizing the nation's security, and it should have its representatives on these boards formed for promotion and transfer of senior NA officers. It is also recommended that the Nepalese Government devise a mechanism for the civilian oversight of military training and education systems.

It is also important that former Maoist fighters, who have since joined the Army, now look at themselves as members of the NA, not loyalists to the UCPN (M) party; they must assimilate into the NA. These ex-combatants must be loyal to the Constitution and the government of Nepal, not to party politics. The NA, in turn, must not discriminate against those who have been integrated into the Army; the NA must be seen as an

opportunity for all members of society. Additionally, former Maoist combatants should be integrated into all other arms and services, rather than confining them into a General Directorate formed only for the purpose of integration - this will be the yardstick for successful integration. The roles and missions of the General Directorate should complement both the nation's interests and the Army's overall mission, and not be used by political parties to exploit their own political motives. Long-term economic and social packages for the disqualified and voluntarily retired former combatants and other persons are still recommended to alleviate possible future criminal activities in the civilian communities. These measures will ultimately assist to further develop a healthy CMR in the country and enhance DCC.

### Conclusion

The NA at present is constitutionally under control of the democratic government; democratically elected civilian representatives decide all military matters. The NA does not have any influence in government's decision-making. The NSC is now a purely civilian body and the MOD, headed by elected civilians, acts as the government's oversight mechanism of the military. There have been many military reforms made in the new political system to promote DCC. However, there is still room for improvement for both the government and NA to develop better DCC in the future.

Understanding DCC in Nepal, in a wider and deeper sense of the Nepalese political context-rather than a narrow political sense of party politics, contributes to its wider promotion. Political stability in the country, trust, and confidence among all political parties including the NA, and timely promulgation of the Nepal's Constitution

by democratically elected civilian representatives are present needs for stable CMR in Nepal.

The NA can complement improved civil-military relations and enhance democratic civilian control by subscribing to three guiding principles. The Army should strive to remain an apolitical, professional institution; focus on protecting national sovereignty from external threats; and ensure that the Army fairly represents all Nepalese.

## BIBLIOGRAPHY

- Acharya, Santosh, and Madhab Basnet. "Babandar Senapati Prakaranko." *Nepal Weekly*, (May 3, 2009): 26-33.
- Barany, Zoltan D. *The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas*. Princeton, NJ: Princeton University Press, 2012.
- Bhandari, Keshar B. "Question of Loyalty and the Army." Keshar's Blog. <http://kesharbh.blogspot.com> (accessed 15 February 2013).
- Bhat, Bhojraj. "Prabhabma Surakshya Nikaya." *Nepal Weekly*, no. 534 (February 2013).
- Bland, Douglas. "A Unified Theory of Civil Military Relation." *Armed Forces and Society: An International Journal* (September 1999).
- Bruneau Thomas C., and Scott D. Tollefson, eds. *Who Guards the Guardian and How: Democratic Civil Military Relations*. Austin: University of Texas Press, 2006.
- Bruneau, Thomas C., and Florina C. Matei. "Towards a New Conceptualization of Democratization and Civil Military Relations." *Democratization* 15, no. 5 (December 2008): 909-929.
- Bruneau, Thomas C., Cristiana C. Florina Matei, and Sak Sakoda. "National Security Councils: Their Potential Functions in Democratic Civil-Military Relations." *Defense and Security Analysis* 25, no. 3 (September 2009): 255-69.
- Burgerman, Susan. "Making Peace Perform in War Transition Countries: El Salvador, Guatemala, and Nicaragua." <http://www.cgdev.org/doc/shortofthegoal/chap8.-pdf> (accessed 17 January 2013).
- Clausewitz, Carl von. *On War*. Princeton, NJ: Princeton University Press, 1989.
- Cohen, Eliot A. *Supreme Command: Soldiers, Statesmen, and Leadership in Wartime*. New York: Anchor Books, 2003.
- Dahal, Phanindra, and Anil Giri. "Controversial Basnyat Gets Contract." *The Kathmandu Post*, 27 December 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/12/27/top-story/controversial-basnyat-gets-contract/243395.html> (accessed 23 January 2013).
- Dahal, Phanindra. "Ministry to Select UN Peacekeepers." *The Kathmandu Post*, 15 February 2013. <http://www.kantipuronline.com/2013/02/16/top-story/ministry-to-select-un-peacekeepers/367159/> (accessed 20 February 2013).

- Dahal, Phanindra. "Special Panel Lifts Ban on Army Arms Purchase." *Kantipur Daily*, 16 March 2013. <http://www.ekantipur.com/2013/03/16/fullnews/spl-panel-lifts-ban-on-Army-arms-purchase/368510.html> (accessed 17 March 2013).
- Desch, Michael C. *Civilian Control of the Military: The Changing Security Environment*. Baltimore: The Johns Hopkins University Press, 2001.
- Feaver, Peter D. *Armed Servants: Agency, Oversight, and Civil Military Relations*. Cambridge: Harvard University Press, 2003.
- Gautam, K. C. "Enhancing Democratic Control of Nepal Army as Part of Nepal's Security Sector Reform." Statement at seminar organized by the Nepal Institute of Policy Studies, Kathmandu, 12 January 2010. <http://www.kulgautam.org/2010/01/enhancing-democratic-control-of-nepal-Army-as-part-of-nepals-security-sector-reform/> (accessed 17 December 2012).
- Hamal, Rajesh, and Tanka P. Dulal. *Nepal ko Sambaidhanik Bikash ra Nepal Adhirajyako Sambidhan 1990*. Kathmandu: Srijana Printers, 1991.
- Huntington, Samuel P. *The Soldier and the State: The Theory and Politics of Civil Military Relations*. Cambridge: Harvard University Press, 1957.
- Janowitz, Morris. *The Professional Soldier*. New York: The Free Press, 1960.
- Joshi, Bhuwan L., and Leo E. Rose. *Democratic Innovations in Nepal: A Case Study of Political Acculturation*. Berkeley: University of California Press, 1966.
- Khatri, Ratindra. "Current Stage of Civil Military Relations: Prospects of Reforms." Paper presented in National Seminar on Civil Military Relations in Nepal, Co-hosted by Nepal Ex. Police Organization and SLRC with the Support of Friedrich Ebert Stiftung Nepal, Kathmandu, Nepal, April 2012.
- Kincaid, Douglas. "Demilitarization and Security in El Salvador and Guatemala: Convergences of Success and Crisis." *Journal of Interamerican Studies and World Affairs* 42, no. 4. <http://www12.georgetown.edu/sfs/clas/pdba/security/citizenssecurity/guatemala/documentos/kincaid.pdf> (accessed 7 March 2013).
- Kohn, Richard H. "An Essay on Civilian Control of the Military." *American Diplomacy* (March 1997). [http://www.unc.edu/depts/diplomat/AD\\_Issues/amdipl\\_3/kohn.html](http://www.unc.edu/depts/diplomat/AD_Issues/amdipl_3/kohn.html) (accessed 15 February 2013).
- Kumar, Dhruva, and Hari Sharma. *Security Sector Reform in Nepal: Challenges and Opportunities*. Kathmandu: Friends for Peace, 2005.
- Kumar, Dhruva. "Democratic Control of Security Forces." In *Changing Security Dynamics in Nepal*, edited by Rajan Bhattraai and Rose Cave, 140. Kathmandu: Nepal Institute of Policy Studies and Safer World, 2008.

- Lamsal, Yuba N. "What is Civilian Supremacy?" *The Rising Nepal*. [http://www.gorkhapatra.org.np/detail.php?article\\_id=25985&cat\\_id=7](http://www.gorkhapatra.org.np/detail.php?article_id=25985&cat_id=7) (accessed 6 March 2013).
- Macias, Ricardo Cordova. "Demilitarizing and Democratizing Salvadoran Politics." In *El Salvador: Implementation of the Peace Accord*, edited by Margarita S. Studemeister, 20-26. United States Institute of Peace, Peaceworks no. 38, January 2001.
- Nepal, Government of Nepal. *National Security Council Procedure*, 2006.
- Nepal, Ministry of Defense. *Army Service Regulation 2013, Sainik Sewa Niyamawaki 2069*. February 2013.
- . *Royal Nepal Army Act Rule and Order Collection*, 2002.
- Nepal, Supreme Court of Nepal. *Constitution of the Kingdom of Nepal, 2047*. 1990.
- . *Interim Constitution of Nepal, 2063*. 2007.
- Nepali, Prakash, and Phanindra Subba. "Civil-Military Relationship and the Maoist Insurgency in Nepal." *Small Wars and Insurgencies* 16, no. 1 (2005): 83–110.
- Pandey, Surendra. "The Role of National Security Council: An Analysis." In *Nepali Security Sector: An Almanac*, edited by Bishnu Sapkota, 73-84. Hungary: Brambauer Publisher, 2009.
- Pathak, Bishnu. "Army in Nepali Politics, Politics in Nepal Army." United We Blog! for a Democratic Nepal. <http://blog.com.np/2009/05/06/Army-in-nepali-politics-politics-in-nepal-Army-everything-you-wanted-to-know/> (accessed 23 March 2013).
- Rana, Gaurav. S. COAS Speech on Army Day 2013. [http://nepalarmy.mil.np/coas\\_speech\\_php?](http://nepalarmy.mil.np/coas_speech_php?) (accessed 24 March 2013).
- Rose, Leo E., and John T. Scholz. *Nepal: Profile of a Himalaya Kingdom*. Boulder, CO: Westview Press, 1980.
- Rose, Leo E. *Nepal's Strategy for Survival*. Berkley: University of California Press, 1971.
- Sarkesian, Sam C. "Two Conceptions of Military Professionalism." In *The military, Militarism, and the Polity*, edited by Michael L. Martin and Ellen S. McCrate, 156. New York: The Free Press, 1984.

- SATP. *The Comprehensive Peace Accord 2006*. <http://www.satp.org/-satporgtp/countries/nepal/document/papers/peaceagreement.html> (accessed 20 March 2013).
- Schiff, Rebecca L. "Civil-Military Relations Reconsidered: A Theory of Concordance." *Armed Forces and Society* 22, no. 1 (1995): 24.
- Shah, Angilee. "Nepal: Nepal News Is Back Online, but Not the Same as Before the King's Coup." [www.international.ucla.edu/article.asp?parentid=20527](http://www.international.ucla.edu/article.asp?parentid=20527) (accessed 15 March 2013).
- Shah, Saubhagya. "Democratization of Nepal Army: Establishing Civilian Supremacy." Conference paper presented at Nepal Army Command and Staff College, Shivapuri, Kathmandu, 22-23 September 2009.
- Sharma, B. N. "Civil-Military Relations, Strengthening Democracy in Nepal." Paper presented at a high-level seminar organized by the Ex-Police Organization and Friedrich-Ebert-Stiftung (FES) Kathmandu, Nepal, 24 April 2009.
- Sharma, Dinanath. "The Legislature-Parliament." In *Nepali Security Sector: An Almanac*, edited by Bishnu Sapkota, 19-38. Hungary: Brambauer Publisher, 2009.
- Sharma, Sudhir. "Media and Security Sector: Shifting Relations." In *Nepali Security Sector: An Almanac*, edited by Bishnu Sapkota, 335-358. Hungary: Brambauer Publisher, 2009.
- Spotlight. "Unity in Hostility." *Spotlight News Magazine* 6, no. 15 (January 2013). <http://www.spotlightnepal.com/News/Article/nepal-politics-unity-in-hostility> (accessed 12 February 2013).
- Thapa, Deepak, and Bandita Sijapati. *A Kingdom under Siege: Nepal's Maoist Insurgency, 1996 to 2003*. New Jersey: The Printhouse, 2003.
- Trinkunas, Harold A. "Ensuring Democratic Civilian Control of the Armed Forces in Asia." Politics and Security Series, Special issue, *East West Occasional Papers* no. 1 (October 1999): 1-27.
- Trinkunas, Harold A. *Crafting Civilian Control of the Military in Venezuela: A Comparative Perspective*. Chapel Hill: University of North Carolina Press, 2005.
- Ujyaalo Multimedia Pvt. Ltd. "Nepal Army's 'flexible' Recommendation Irks Non-Maoist Parties." Ujyaalo Online. [http://m.ujyaaloonline.com/index.php?pageName=news\\_in\\_english\\_detail&id=3870](http://m.ujyaaloonline.com/index.php?pageName=news_in_english_detail&id=3870) (accessed 21 February 2013).
- Ulrich, Marybeth Peterson. *Democratizing Communist Militaries: The Cases of the Czech and Russian Armed Forces*. Ann Arbor: University of Michigan Press, 2000.

Upreti, Bishnu. "Civil Military Relations." Academia.edu. [http://www.academia.edu/1634284/Civil\\_military\\_relation](http://www.academia.edu/1634284/Civil_military_relation) (accessed 19 March 2013).

Upreti, Bishnu. "Security Sector Reform in Nepal: Challenges and Opportunities." [http://www.academia.edu/1367839/Security\\_Sector\\_Reform\\_in\\_Nepal\\_Challenges\\_and\\_Opportunitie](http://www.academia.edu/1367839/Security_Sector_Reform_in_Nepal_Challenges_and_Opportunitie) (accessed 13 February 2013).

Wilkerson, Michael. "Security and Democracy in El Salvador: An Undeniable Connection." *Stanford Journal of International Relations* 10, no. 1 (Fall/Winter 2008).