Civil-Military Relations in Nepal

Khadga K.C.

Central Department of Political Science, Tribhuvan University

ABSTRACT

As like in other developing democracies, it is obvious that there are many Civil- Military Relations (CMR) problems in Nepal. A lack of national security policies and common national interests, ignorance of security sensitiveness, political instability, parochialism, mistrust, are prominent factors contributing to Nepal’s adverse civil-military relations. However, the military thought has already begun to tuning with democratic norms and values should further be engaged in serious organizational reform that includes among others; enhancing professionalism, further accountability, transparency and loyalty of army to the civilian authority followed by earliest promulgation of democratic constitution with the clear provision of democratic control over armed forces.

Keywords: Nepal, Civil-military relations, democratic institution, civilian supremacy.


This paper looks at civil-military relations (CMR) in Nepal with its unique political set up. The main argument about civil-military relations is that there is ‘the civilian supremacy in civil-military interactions, which is one of the most important attributes of liberal democracy and contributes to decrease military adventurism, compared with their civilian counterparts, the military are not likely to advocate the use of force, since the lives of their personnel are at stake” (Janowitz 1981). There also is such a tacit compact that binds the three parties to the civil-military relationship to one another: the people, the civilian officials who represent the people and oversee the military, and the military itself.

**CMR in Nepal: Origin and Development**

The concept of the nation-state in Nepal began in 1768–69, after the conquest of the Kathmandu valley by Prithivi Narayan Shah, the King of Gorkha. “It was the final conquest that integrated the country after a series of unification battles” (Bhandari 2008). Even prior to unification a stable CMR had existed in Nepal. “Although the military played a crucial role in King Prithwi’s most ambitious unification process, he always tried to strike a balance between military autonomy and control. He even sought consent from the general populace to make decisions regarding military matters” (Bhandari 2008).

King Prithivi Narayan Shah's maxims demonstrate how cautious he was about civilian military relations at that time. He said, "If the king is wise, he will keep the soldiers and the peasants on his side (Shah 1953).” He also emphasized the professionalism of the soldiers, and said, "Soldiers should be always honed (Shah 1953).” After Sugauli Treaty 1816, a series of political crises sprang up in Nepal and ultimately empowered Jang BahadurRana to usurp absolute power over the country. From 1846 to 1950 was a period of oligarchy and agnate regime in Nepalese history. While ruling the country, the Ranas kept the king as the ceremonial head of the state.

Thus, after the emergence of Nepal as a nation-state in the last quarter of the eighteenth century, the primary goal of the Nepali regimes became the maintenance of the status quo, which meant the succession of the delicate balance of power among the various elite families composing the court. The transfer of the capital from Gorkha to Kathmandu in 1769 gave added emphasis to the nationwide scope of the new political system, but did not result in any significant changes in the political process itself. Such political legacy would have significant repercussions impacts on political development and CMR in Nepal.
King Mahendra’s Take Over In 1960

Until 1951, Nepal was under the oligarchic Rana rule, and the Nepal Army was loyal to the Rana rulers. Since 1950, with the shift of the state’s executive power to the king, the Nepal Army eventually had shifted its loyalty to the king (Kumar 2008, 140). During the transition, the king remained influential over the military due to his crucial position on state power. The king became more powerful when the governmental effectiveness appeared dwarf as the opposition political parties constantly discredited ministers. Rose and Schulz point out “the king strengthened the military in order to check political disorder and counter the armed threats from private police groups” (Rose and Scholz 1980, 43).

Following the first general election in February 1959, Nepal’s first democratically elected government took office in May, B. P. Koirala as the prime minister, the leader of the Nepali Congress. The Nepali Congress Cabinet had an opportunity to hold the position of the Ministry of Defense, but it seemed like that it was somehow unable to pay much attention to defense affairs or to take necessary steps to maintain civilian control of the military. This also allowed the king to take control of the military even when the Nepali Congress was in power.

Nearly two years after his takeover, King Mahendra proclaimed a new constitution for Nepal, establishing so-called party less directive-democratic Panchayat system on 16 December 1962. The constitution had a provision dispensing the king privileged authorities to control the military. He was the supreme commander of the military with discretionary power "to raise and maintain armed forces; to grant commissions in such forces; to appoint Commanders in Chief and to determine their powers, duties and remunerations (Art. 64.1 & 64.2)." There was also a constitutional provision that clearly spelled out that "no bill or amendment relating to the armed forces shall be introduced in either House of Parliament without the recommendations of His Majesty (Art. 64.3)" (Joshi and Rose 1966, 291).

With the support of the military, the king wielded enormous power. This became particularly crucial following the royal coup. The king established the Military Secretariat in the palace to secure total control of the military and at the same time to discourage any possible military alliances or independent power base. This mechanism also enabled him to cut off the military from any political affinity; thus, it focused on professionalism. BhuwanLal Joshi and Leo E. Rose mention, "Fully cognizant of the role played by the army in the mid-nineteenth century developments which deprived the ruling dynasty of all but nominal sovereign powers, King Mahendra has taken care to emasculate the
military as a potent political force and with considerable success.” (Joshi and Rose 1966, 390)

Since after royal coup, the number of troops was increased and it was given a modest budget, but it was barred from other political influence and was made loyal to the king and the Panchayat system. Keeping the totally under the direct control of monarch, there was no room for civilian control over armed forces throughout the Panchyatera. Realizing that the military can be a formidable political strength, the king always relied on the military for reining the country and warding off political mobilization against him. Rose and Scholz say that Mahendra "kept active military officers strictly out of politics. Thus the army remained an important but isolated institution" (Rose and Scholz 1980, 57).

**The Post 1990 CMR**

Since after the restoration of democracy in 1990, the Constitution followed by the movement for the first time took some initiatives towards the civilian control over army through “Provisions regarding the Royal Nepal Army” with stipulation of a National Defense Council (NDC) in Article 118” (Ministry of Law, Justice and Parliamentary Affair 1992, 103). However, the military and civilian leaderships functioned as two distinct groups under constitutional monarchy. “The weak and intemperate government could not hold on to the constitutional power to practice. Several governments formed after the 1991 parliamentary elections did not institutionalize the NDC” (Kumar 2010, 145). The 1991 Constitution ensured a democratic system with a constitutional monarchy but kept the army under ambiguous control. Although leverage in exercising control over the army was given to civilian leaders’ through the Ministry of Defense and the National Security Council, it assumed like that the ultimate authority to mobilize and control the army was vested in the king.

The rationale of the NDC was eventually accepted only in course of army operation and mobilization against the Maoist Insurgency. The immediate Home Minister Govinda Raj Joshi had tendered his resignation after the Dunai incident happened on 29 September 2000, in which he had a strong disagreement with the army for not providing support to the police against the Maoists’ attack. When Prime Minister Girija Prasad Koirala ordered the NA to mobilize against the Maoists who had abducted a group of police personnel in Holeri in July 2001, the army showed reluctance to mobilize. The army did not show insubordination; however, it set many prerequisites for mobilizing the army in counterinsurgency, such as declaration of an emergency,
consensus from all political parties, and labeling the Maoists as terrorists.

The most important factor was the mutual mistrust between the military and the Nepali Congress, which remained in the government most of the time. Henceforth, constitutional provision of the NDC became the matter of dispute between the unwilling monarch and the not seemed-like assertive executive prime minister ultimately ending up into the resignation of the Prime Minister, who was then head of the majority party government on 19 July, 2001. Relations between army and political parties` led governments have become inherently conflict-ridden because the military with its corporate interests also viewed the politicians as intruders into the established political order. There is thus a persistent problem of reconciliation between democratic political forces and the military.

Dhruba Kumar observed, “The alleged defiance of the Royal Nepal Army to the executive order of the prime minister in Dunai (2000) and Holeri (2001) episodes suggests a gross misunderstanding persisting between the elected representative institutions and the non-elected traditional institutions of the government. Although the Article 118 of the 1990 Constitution has asserted the civilian supremacy over the armed forces through the organization of a National Defense Council (NDC), the criterion of its smooth functioning was blurred as the king was made the Supreme Commander-in-Chief of the Royal Nepal Army with the final authority to "operate and use" the army on the recommendation of the NDC (Article 118(2) and Article 119)” (Kumar 2009). Unlike following the spirit of the 1990 constitution, the king used his discretionary authorities, infringing constitutionalism by revoking the power of the democratically elected executive head of the government. Therefore, the constitutional apparatus enshrined to maintain the democratically elected civilian government control over army was made worthless by the traditional monarch. It was partly caused due to the prevailing Military Act 1959 and the COAS Act 1969, which never realized to update by the post democratic governments.

King Gyanendra’s Direct Rule

The King Gyanendra’s desire to take advantage of the political chaos during the peak hour of Maoist insurgency greatly worsened the civil-military relations in nascent political history of Nepal. Since after the king had assumed the state power on February 19, 2005, dismissing the elected government and placing the political parties in the background, the situation followed the military to the central stage of politics and defended royal regime. During the direct rule of king Gyanendra, the
number of armed forces drastically increased and the military expenditure was also incremented enormously. The following tables show the changing trend of military expenditure and number of army personnel during the royal regime.

Table 1. Breakdown of Defense Expenditure

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Defense Ministry</th>
<th>Home Ministry</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990/91</td>
<td>1,696,671,000</td>
<td>1,324,909,000</td>
</tr>
<tr>
<td>1991/92</td>
<td>1,967,248,000</td>
<td>1,482,917,000</td>
</tr>
<tr>
<td>1992/93</td>
<td>2,272,325,000</td>
<td>1,796,961,000</td>
</tr>
<tr>
<td>1993/94</td>
<td>2,125,943,000</td>
<td>1,861,732,000</td>
</tr>
<tr>
<td>1994/95</td>
<td>2,744,399,000</td>
<td>2,339,702,000</td>
</tr>
<tr>
<td>1995/96</td>
<td>3,046,004,000</td>
<td>2,617,408,000</td>
</tr>
<tr>
<td>1996/97</td>
<td>3,321,344,000</td>
<td>2,957,621,000</td>
</tr>
<tr>
<td>1997/98</td>
<td>2,888,561,000</td>
<td>3,483,407,000</td>
</tr>
<tr>
<td>1998/99</td>
<td>4,447,892,000</td>
<td>4,656,673,000</td>
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<td>1999/00</td>
<td>5,025,041,000</td>
<td>5,142,715,000</td>
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<tr>
<td>2000/01</td>
<td>6,655,968,000</td>
<td>7,613,750,000</td>
</tr>
<tr>
<td>2001/02</td>
<td>9,677,568,000</td>
<td>8,047,515,000</td>
</tr>
<tr>
<td>2002/03</td>
<td>10,731,056,000</td>
<td>8,021,319,000</td>
</tr>
<tr>
<td>2003/04</td>
<td>11,131,420,000</td>
<td>8,105,559,000</td>
</tr>
<tr>
<td>2004/05</td>
<td>13,676,072,000</td>
<td>9,108,794,000</td>
</tr>
<tr>
<td>2005/06</td>
<td>14,837,914,000</td>
<td>9,914,199,000</td>
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<td>2006/07</td>
<td>15,207,842,000</td>
<td>11,636,151,000</td>
</tr>
<tr>
<td>2007/08</td>
<td>16,139,983,000</td>
<td>15,541,050,000</td>
</tr>
<tr>
<td>2008/09</td>
<td>18,134,684,000</td>
<td>18,113,839,000</td>
</tr>
<tr>
<td>2009/10</td>
<td>23,515,018,000</td>
<td>21,834,451,000</td>
</tr>
</tbody>
</table>
The security expenditure of the government went high as soon the imposition of the state of emergency in 2001. The budgetary amount allocated to the army since 2001 proved that prevailed over civilian authority. The plight of civil-military relations during that time was real deteriorated. Similarly, during the 2001-2006 periods the number of troops got reached more than double. There were just 46000 troops in 2001, however reached 95753 until at the end of 2005. The total numbers of troops at the moment are 92752 and rest 3000 posts are yet to recruit. The king Gynendra's political ambition resulted in the subjugation of the military as his tool to control state power by mobilizing army against other political forces in the country. With the strong favor of monarch, military predominantly exercised real power against the political parties, civil service, media and civil society.

### Democratic Transition and Role of the Army

The 12 points agreements signed between the then agitating seven parliamentary political parties and the CPN Maoist on November, 2005 culminated to joint popular movement II, which lasted until at the end of April, 2006. The joint popular movement reinstated the dissolved parliament, and ended the executive rule of king Gyanendra. The positive role of the Royal Nepal Army toward the smooth democratic transition from April, 2006 onward is real plausible and appreciable. It was suspected that army could launch coup d’état while monarchy was abolished; however, army soon tuned as per the changing political context and showed its commitments toward democratic governments. The symbiotic relationship between the monarchy and royal military was scrapped after the declaration by the reinstated parliament on 18 May, 2006, stripping the king from the title of the Supreme Commander in-chief and resolutions adopted in relation to the armed forces; the royal army has been remodeled as Nepal Army, the prevailing provision regarding the National Defense Council has been annulled. A National Security Council headed by the prime minister shall control, use and mobilize the army, the cabinet shall appoint the Chief of Army Staff, the title of the Supreme Commander in Chief of the Army has been scrapped, and the issue of mobilization of the army shall be inclusive making it a national institution.
Following May 18, 2006 parliamentary declaration, the political parties through CPA showed their commitment to democratize the armed forces, arranging and implementing a detailed action plan to make army more inclusive in composition, sensitive to norms and values of democracy and human rights or to reform it into a professional armed force loyal to the civilian government.

As per the spirit of CPA, the Interim Constitution 2007 in its Article 144.1 stated on the provisions of the NA and appointment of the COAS under the Article 144.2, besides, the Council of Ministers shall control, mobilize, democratize and manage the NA with the consent of the political parties (Article 144.3). The democratic structure and inclusive character shall be developed and maintained following the norms and values of human rights (Article 144.4). The Article 145 of the IC has also enshrined “the scope of the National Security Council membership comprising the Prime Minister, Defense Minister, and Home Minister, along with three other members nominated by the Prime Minister as its members” (Interim Constitution of Nepal 2007, 64). The constitution has revoked the membership of COAS, and arranged a provision for invitees for consultation as per the requirement. Despite, the six cabinet members, the Defense Secretary would be the ex-co-officio secretary of the NSC.

However, the authority to ‘control use and mobilize’ the armed force has transferred to the president with the due recommendation of the Cabinet (Article 114(3), which made NSC’s role secondary. Under the provision of the Interim Constitution, the COAS pledges allegiance to the principle of civilian control over armed force, while taking the oath of office. The transitional provision to the Maoist combatants of the IC 2006 stated, “The Council of Ministers shall form a special committee to supervise,, integrate and rehabilitate the combatants of the Maoist Army, and the functions, duties and powers of the committee shall be determined by the Council of Ministers (Article 146). The management and monitoring of the arms and army have carried out in accordance with the ‘Comprehensive Peace Accord’ (CPA) concluded on November 21, 2006 and the agreement regarding the ‘Monitoring of Arms and Army Management’ reached on December 8, 2006 (Article 147). The duration of the Special Committee has terminated in February 10, 2013 after completion of the overall reintegration and rehabilitation of the ex-Maoist Combatants.

The Interim Constitution also incorporated the provision of 45% reservation to the so-called Dalits/ethnic, indigenous and women population in the army to ensure the inclusive participation of those
downtrodden and marginalized communities in the national army, which was indeed significant achievement. The Interim Constitution also empowered some parliamentary committees i.e. State Affairs Committee and Public Account Committee which can oversight whether army is working as per the prevailing constitution, rules and regulation. Also, the PAC has been empowered to oversight army if army lacks financial transparency. Such constitutional provisions also tried to make army more accountable to civilian authorities. Similarly, another initiative to establish a control mechanism on armed forces was taken through The Military Act 2006, which altered the erstwhile Military Act 1959, was enacted by the Legislative Parliament even before the promulgation of the Interim Constitution. The Act is comprised of rules and regulations on appointment and dismissal, award and punishment, establishment of a military court and everything concerned with Nepal Army. Moreover, Even though the Act failed to define the jurisdiction of National Security Council, it established the NSC and somehow opened up new avenues for the establishment military accountability toward civilian authority.

**The CMR During The Maoist’s Led-Government**

The post conflict (especially during the Maoists’-led government period) civil-military relations in Nepal developed towards confrontation when the Maoists talked openly about launching of an October Revolution, establishing People's Republic in Nepal, and integrating all the Maoist combatants into the NA. The NA acrimonious a relation with the Maoists’ government was further embittered when the NA failed to stop its recruitment drive despite protests from the Maoist camp, stating that it was too late to stop. In the meantime, the Ministry of Defense (MOD) until then was existed in name however its jurisdiction and performance was not clearly mentioned and defined therefore too, the army have been prevailed on the MOD. Long truancy of a cabinet minister, organization inefficiency, lack of policy clarity and directives impeded the decision-making strengthen of the MOD due to which army remained prevailed over the MOD.

In this context, as soon as the Maoist’s guerilla commander Ram Bahadur *alias* Badal took in charge of the MOD, the ferment relations between the army and Maoist’s led government began. The defense minister Ram Bahadur Thapa, refused to endorse the routine extension of the tenure of eight Brigadier Generals as recommended by the Army Headquarters. Shortly thereafter, the NA's sports team walked out of a national sports event protesting the late entry given to the Maoists’ Peoples Liberation Army. Then, made desperate by their unsuccessful attempts to interfere with the army, the Maoists’ led government decided to fire the Chief of the Army Staff, General Katawal, and sent a
letter to him ordering that he should have explained why he should not be fired for insubordination and violation of civilian supremacy. This new row in the ongoing civil military tension has polarized political parties. Before the Maoists' decision to fire the army chief, most political parties were in favor of asserting more control over the military.

However, the Maoists' unilateral decision to impose major changes in the army to serve their party's vested interest worried the rest of the political parties. This situation left the Maoists alone, without the support of any other political parties. The moment the Maoists unilaterally fired the army chief, the rest of the political parties requested the president to scrap the cabinet decision. “The issue was dramatized by the dispute over the dismissal of the army chief by the cabinet decision but was ultimately resolved by the president of Nepal. In his resignation letter submitted to the president, the Prime Minister questioned the constitutional right of the president to overrule the executive decision terming it as unconstitutional and illegal interference in the civilian supremacy. “The controversy over the controversial prerogative of the executive prime minister and the president has prompted a critical evaluation of the nature and content of “civilian supremacy” (Kumar 2010, 111). Subsequently, the ruling United Communist Party of Nepal (Maoist) protested the presidential step and rallied every day for what they call the need to establish civilian supremacy in the country. The post-conflict civil-military problem after the COAS restoration controversy has been taken as the most severe in the history of Nepal.

The NA seemed enjoy close relationship with neither to the Interim Government nor the Maoist-led government. It was crystal clear because army seemed quite unhappy with the so-called fusion between the democratic forces and the Maoists. The civil-military relationship became even worst when the Maoists led the government. Since the NA had fought a hostile counterinsurgency war against the Maoists, the Maoist-led government appeared hatred to the NA on the other hand, the NA leadership seemed reluctant to accept the Maoist’s prevail over army. This period can be characterized as a struggle between subjective and objective civilian control over army. Despite the latest problematic civil-military relations, it can be firmly believed that the NA had displayed a great deal of loyalty to the civilian authority in the changing political pretext when new political forces established themselves as legitimate authorities and underwent a successful transition. Eventually, after the abolition of the monarchy and establishment of a republic system, the army has accepted new political framework and values and began to work under the leadership of civilian authority i.e. president as per the constitutional arrangements.
Civil-military relations are complex and CMR until recently has a fairly non-common discourse in the Nepalese context. Nonetheless, one of the important frameworks for stable civilian control of the military is the constitutional legal framework follow by compatible leadership with democratic values. Therefore, since the erstwhile constitution and rules did allow NA to work under the direct and vibrant leadership of monarch there was not existed democratic control over armed forces. However, since after 2006 parliamentary declaration, and the promulgation of Interim Constitution in 2007 and the Military Act reform, the NA has completely obeyed the civilian authority.

**Conclusion: Towards An Ideal CMR in Nepal**

A quality of democracy is to be one that provides its citizens a high degree of freedom, political equality, popular control on public policies, civilian control over the military and intelligence services, and elaborate network of other agencies of horizontal accountability, complementing the judiciary. Thus, without a democratic constitution, the rule of law, a system of checks and balances and viable, functioning institutions it would be difficult to conceive of democratic control over security sectors. Furthermore, it would be hard to maintain civilian control over security forces in a country with a weak, risk-averse, infirm and intemperate leadership that desists from taking any initiative to adopt legislations and policies and refuses to implement laws that are relevant to the security sector. Various dynamics come into play for the outcomes of particular civil-military relations. To achieve stable CMR and effective civilian control, various combinations of civilian and military stability can be enforced depending upon the power-sharing agreement and other factors. The CMR does not comprise democratic civilian control; further focuses on; effectiveness in achieving roles and missions; and efficiency of the armed forces. Such neo-institutional framework asserts that the essence of CMR is not just the "civilian control of the military," it is rather an effective use of the military as an instrument of national power by civilians to realize national interests. Without effectiveness, mere democratic control may not serve the purpose of stable CMR and national interests. Yet, civilian control is the primary requirement for stable CMR.

Nepal has facades of democratic institutions and control mechanisms enshrined through 1959, 1962, 1990 and 2007 constitutions; however, erstwhile three institutional set ups were remained either ineffective or nonfunctional whereas the latest constitutional development heightened the positive expectation toward democratic civil-military relationship. Also, these all past records have proven that merely having constitutional provisions does not ensure good CMR and civilian control.
over armed forces. There have been bewildered CMR in Nepalese history. The tide of the civil-military problem has reached the record high water mark under the post-conflict Maoist-led government. The swift evolution in Nepalese politics after the end of the Maoist insurgency highlights the dynamic nature of CMR. Political upheaval and the removal of the monarch from the helm of Nepalese politics brought the alliance to the center of state power, where it sought to exert subjective civilian control over the military as it had been under the king. It is obvious that there are many CMR problems in Nepal. Some dimensions are normative, while others are inherently structural. The lack of a strategic culture among the political leadership, ignorance about security, political instability, parochialism and individualism, mistrust, and a lack of national security policies and common national interests are prominent factors contributing to Nepal’s adverse civil-military relations. The Ministry of Defense’s rudimentary functioning and the monarch’s direct control of the army for several years are other important factors. However, the recent constitutional/legal development, changing political set up, exposure of NA through peace keeping operations and other international exposure of training and academic courses inter alia have been largely fostering democratic civil military relations in Nepal.

Reference List

Books


Seminar Paper
