

NEPAL'S NATIONAL INTERESTS

FOREIGN POLICY, INTERNAL SECURITY,
FEDERALISM, ENERGY-ECONOMY

Dummy Text About Book: Conflict is an intrinsic aspect of politics and motivating element in policy innovation. It is an imperative to discover ways of making conflict compatible with the rules of democratic practice by building bridges of peace. This requires the government to strike a proper balance between conflict and consensus and to coordinate decision-making through the collective action of the system's principal actors. It will be difficult indeed to prevent and reduce conflict at the regional and local levels, unless the state achieves constitutional and political stability at the center through an inclusive social contract. Both recovery and conflict prevention require the sustained implementation of the Peace Accord in a coordinated, transparent and, inclusive way.

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EDITORS
Tomislav Delinic
Nishchal N. Pandey



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Editors

**Tomislav Delinic
Nishchal N. Pandey**

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Preface

The critical question of what constitutes a country's national interest-continues to marvel policy makers and political leaders. Considerable disagreement exists in almost every country on what is best in its 'nationalinterest'. Writers concede that it is subjectively interpreted by the governmentof the day. It is natural in this context, that many countries, especially those in South Asia have not elaborated their 'national interests'. Nepal cannot be an exception in this regard.

Leaders and scholars in the historical context have attempted to define it in political, economic, military or cultural realms ranging from 'safeguarding Nepal's territorial integrity' to 'ensuring the economic well being of Nepalese'. There were also undertakings to elaborate sources of threats - external, internal, economic and ecological in order to outline the country's national purpose and goals. Centre for South Asian Studies (CSAS) in cooperation with the Konrad Adenauer Stiftung (KAS) decided to launch a national interests project in series to discuss and debate this critical area not with a sense to ever defining the concept but to sensitize the Nepali political leaders, policy makers, academics and strategic analysts on inherent, multi-faceted and multi-dimensional contours of Nepal's interests especially after the historic change of 2006. This was at best the most radical political transformation in Nepal's history. The most significant was the ending of the Maoist conflict that had taken its huge toll in both human and material terms. A forward-looking federal, secular, democratic Constitution is being drafted by the first-ever Constituent Assembly which everyone hopes will restructure the state by resolving prevailing problems related to class, religion, region, language and gender. This is truly a momentous time in Nepal but also a critical period to institutionalize its infant democracy, establish a healthy political culture, integrate and rehabilitate the former Maoist combatants and ensure fundamental rights of the people. Equally imperative is to strategize the country's short, medium and long-term goals in both national security and economic arenas.

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Prof. Huntington once said, "Efforts to define national interest presuppose agreement on the nature of the country whose interests are to be defined. National interest derives from national identity. We have to know who we are before we can know what our interests are." Impulses towards building a strong nation is being challenged by assertion of identity, socio-cultural distinctiveness and growing surge of linguistic, religious, ethnic and cultural traits that will need special focus in the months and years ahead. With tension simmering in the terai and multifarious groups coming up with newer demands that the state can hardly fulfill, it will not be easy to maintain internal security, tougher still will be to forge a thorough consensus on the nation's foreign policy among all major political parties. Adopting a federal model to provide opportunities to people across the nooks, corners and remotest parts of the country could be a better alternate than to have Kathmandu decide over all the development works without an iota of the requirements of the local areas. But it will not be a panacea to all the problems that plague the mal-governed country. Further, the energy woes of the nation from load shedding to petroleum crisis and from food insecurity to scarcity of drinking water cannot be divorced from the national interest debate.

It is with these critical issues in view that the CSAS-KAS project was initiated. The authors include a former Deputy Prime Minister to 7 former ministers, known academics and senior army and police officials to a prominent banker of Nepal. We are thankful to each one of them for their valuable contribution. In total, the book comprises papers of five conferences:- the introductory conference held in Oct. 2009, NNIP-I on federalism held in Feb. 2010, on energy and economy held in July 2010, NNIP-III on foreign policy held in Nov. 2010 and internal security held in Jan. 2011.

We are most grateful to the then Rt. Hon'ble Prime Minister Madhav Kumar Nepal for having inaugurated the conference on Oct. 21, 2009 which essentially set the tone of the subsequent NNIP series. While inaugurating the conference, Mr. Nepal had said "domain of National Interests has intimate connections with both domestic and foreign policies and that it comprises of a country's goals that may range from the protection and promotion of its

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national sovereignty to the achievement of its political, social, economic, trade, security and cultural objectives.'

Fundamental to this project was to get the active participation of members of the first-ever Constituent Assembly and both the CSAS-KAS are grateful not only to the M.Ps but also to the Secretary General of Constituent Assembly and Legislature Parliament Mr. Manohar Prasad Bhattarai. We are also obliged to Prof. Dr. N.R Madhava Menon, Member, Commission on Centre-State Relations of India, Mr. Kush Kumar Joshi, President of the Federation of Nepalese Chambers of Commerce and Industry (FNCCI), Her Excellency Verena Gräfin von Roedern, Ambassador of Federal Republic of Germany to Nepal and to Mr. Henning Hansen, Deputy Head of Mission of the Embassy of the Federal Republic of Germany for their keynote addresses delivered during different NNIP conferences. We are indebted to Dr. Beatrice Gorawantchy for all her help and guidance that made the conferences productive. Mr. Pankaj Madan, Mr. Martin Maurice Boehme, Ms. Mareen Haring, Ms. Megha Jain, Ms. Ritika Rana of the KAS-Delhi office need special mention without whom organizing these conferences would not have been possible. We are also thankful to Punjita Pradhan and Renisha Khadka of the CSAS for their assistance. We hope our modest effort will be appreciated by the readers. June, 2011

July 2011

Tomislav Delinic
Nishchal N. Pandey

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परिवर्तित सन्दर्भ र राष्ट्रिय हितको सवाल

वामदेव गौतम¹

यतिवेला नेपाल युगान्तकारी परिवर्तनको प्रक्रियावाट अगाडि बढीरहेको छ र अग्रगामी परिवर्तनका प्रचुर संभावना र अनेकौं कठिन चुनौतिहरू प्रकट भएका छन् । २००० वर्ष पुरानो राजतन्त्रात्मक व्यवस्था सहित २४० वर्षको शाह वंशीय राजतन्त्रको अन्त्य र संघीय लोकतान्त्रिक गणतन्त्रको घोषणा (१५ जेठ २०६५ मा) भएको छ । ऐतिहासिक संविधान सभाको निर्वाचन (२०६४) पछि वसेको संविधान सभाको पहिलो वैठकको अत्याधिक बहुमतवाट राजतन्त्रको अन्त्य गरी राजा र राजपरिवारलाई सामान्य नेपाली नागरिकको दर्जा प्रदान गरियो । उनीहरूलाई पुराना क्रियाकलापका आधारमा कुनै कारबाही गरिएन, व्यक्तिगत सम्पत्ति उपभोग गर्न कुनै बन्देज पनि गरिएन । राजाबाट संविधान सभाको निर्णय शिरोधार्य गर्ने प्रतिवद्धता र संविधान र कानूनको पालनाको वचनवद्धताका कारण यी सबै सकारात्मक रूख अखित्यार भएका थिए । राजतन्त्रको अन्त्य सँगै नेपाल एउटा युगको अन्त्य र अर्को युगको शुरुवातको प्रक्रियामा सामेल भयो । वेलायतमा यस्तो घटना ३६० वर्ष पहिले घटेको थियो, तथा फ्रान्समा २१७ वर्ष पहिले, चीनमा ९८ वर्ष पहिले र रुसमा ९२ वर्ष पहिले घटेका थिए । नेपालमा राजतन्त्र विभिन्न कारणबाट अर्ध सामन्ति र अर्ध औपनिवेशिक उत्पादन सम्बन्धको प्रतिक रहेको थियो । उत्पादन पद्धतीका हिसाबले प्रतिगामी भैसकेको सामन्ति प्रणालीको संरचनाका रूपमा राजतन्त्र रहेको थियो । तर राजतन्त्रको अन्त्य भए पनि उसको आधारका रूपमा रहेको सामन्तवादको अन्त भएन, त्यसले खडा गरेको राज्ययन्त्रको पनि अझै रूपान्तरण हुन सकेको छैन । राजतन्त्रलाई वेलामौकामा उपयोग गर्ने गरेका केहि बाह्य शक्तिहरूको अनुचित चलखेल अहिले पनि जारी छन् । यी कारणहरूले गर्दा नेपालको युगान्तकारी परिवर्तनका अगाडी गम्भीर खाले अवरोध देखा परेका छन् । अन्तरिम शासन प्रणाली र संक्रमणकालको अवधि अनपेक्षित रूपमा लम्बिएको छ । अन्तरिम संविधानले आफ्नो आयुको समाप्ती र नयाँ संविधानको घोषणाको मिति समेत उल्लेख गरिसकेको तर संविधान निर्माणको प्रक्रिया अवरुद्ध भईरहेको र

1 लेखक नेकपा एमालेका वरिष्ठ उपाध्यक्ष तथा पूर्व उपप्रधानमन्त्री तथा गृहमन्त्री हुनुहुन्छ ।

निर्धारित समय मैं संविधान घोषणा हुन नसकेको अवस्थामा पर्ने गम्भीर संवैधानिक संकटले सिंझो मुलुकलाई भयावह दुर्घटनामा पुऱ्याउने आशंका उत्पन्न गराएको छ ।

जनआन्दोलनले ल्याएको युगान्तकारी परिवर्तनबाट नेपाली जनता पहिलो पटक देशका मालिक भएका छन् । प्रतिस्पर्धात्मक बहुदलीय व्यवस्था र समावेशी र समानुपातिक प्रतिनिधित्वका आधारमा नयाँ किसिमको लोकतान्त्रिक प्रणाली स्थापना गरेर अगाडी बढ्दा प्राप्त हुने प्रचुर सकारात्मक संभावनाहरु छन् भने अहिले देखापरेका वादा र अड्चनहरुले गर्दा यी सबै संभावना समाप्त हुने पो हुन की भन्ने आशंका पनि व्याप्त भएको छ । नयाँ संविधान बन्न नसक्ने र राज्यसत्ताको नेतृत्व कुनै पनि पार्टीले गर्न नपाउँदा देखा पर्ने शून्यतामा निरंकुश तानाशाही व्यवस्थाको आगमन अथवा वाह्य शक्तिबाट हस्तक्षेप भएर नेपालको आस्तित्व नै संकटमा पार्ने अवस्था सृजना भएमा नेपालीहरुको अवस्था के होला भन्ने प्रश्नले सबै देशभक्त नेपालीलाई चिन्तित तुल्याएको छ । यस्तो अवस्थामा हामी आफ्ना राष्ट्रिय हितलाई लिएर गम्भीर छलफलमा सामेल छौं । मलाई लागेको छ यो छलफलले राष्ट्रिय राजनीतिको सकारात्मक निकाशमा सहयोग नै पुग्ने छ ।

परिवर्तनका मुख्य सन्दर्भहरु

संविधान सभाबाट बनाइने नयाँ संविधान मार्फत हामीले नविन र अग्रगामी राजनीतिक व्यवस्था सहितको स्थायीत्व चाहेका छौं । तर नयाँ संविधान आउनु भन्दा पहिले नै राजनीतिक उद्देश्य लक्ष्यहरुलाई लिएर राजनीतिक पार्टीहरुका चाहनाहरु आपसमा गम्भीर रूपमा बाफ्निन थालेका छन् । पुरानोको अन्त्य र नयाँको आगमनमा एउटा संक्रमणकाल अवश्यंभावी अनिवार्य हो । तर त्यसको अव्यवस्थापनले गम्भीर खाले खतरालाई जन्म दिन्छन् । हामी अहिले तिनै खतरालाई सामना गर्न वाध्य छौं । हरेक पुरानो व्यवस्थाको गर्भ मै नयाँ व्यवस्थाका भ्रुणहरुको विकास र त्यसैबाट जन्म हुने गर्दछ । नयाँको जन्म सालनाल सहित हुन्छ र अनेकौ नकारात्मक पक्षहरु पनि साथमा आएका हुन्छन् । त्यसो भएर सफल राजनीतिक क्रान्तिले आफ्ना तात्कालिक अभिभाराहरुलाई चिनेका हुन्छन् र सबै नकारात्मक फोहरहरुलाई प्याक्वै प्राथमिकतामा तिनलाई पुरा गर्दै जान्छन् । हरेक क्रान्तिले पुरानालाई भत्काउने मात्र होइन नयाँ निर्माण पनि अभ उन्नतस्तरमा गर्दछन् । हामी एउटा क्रान्ति (शान्तिपूर्ण जनक्रान्ति भन्दा उपयुक्त हुन्छ) सम्पन्न गर्न अग्रसर छौं । यो ऐतिहासिक कार्यभार हो हामी समकालिनहरुको काँधमा आएको ।

गएको संविधानसभा निर्वाचनमा उल्लेख्य संख्यामा संविधानसभाका वाहक वरिष्ठ आन्दोलनकारीहरु पराजित भए । प्रतिस्पर्धा आन्दोलनकारी कै बीच भएको थियो र धेरै ठाउँमा नयाँ शक्तिका रूपमा देखा परेको माओवादीले विजय हात पारेको थियो । निर्वाचन परिणाम अनपेक्षित यथार्थ थियो । त्यहींदेखि राजतन्त्र विरोधी राजनीतिक पार्टीहरुका बीच

पूर्व सहमति र समझादारीहरु प्रति अनिच्छा र उदासिनता प्रकट हुन थाले । निर्वाचनमा माओवादी ठूलो पार्टी बनेको भएपनि सदनको बहुमत पार्टी थिएन । माओवादीका क्रियाकलापप्रति असहमतहरु अलग अलग रूपमा अल्पमतमा भएपनि समग्रमा बहुमतमा रहेका थिए । यस्तो अवस्थामा सुझवुभक्ष्य पूर्ण संयुक्त राष्ट्रिय राजनीतिक समिकरणको अगाडि सुझवुभक्ष्य पूर्ण कार्यशैली राष्ट्रिय आवश्यकता बनेको थियो । माओवादीको नेतृत्वको संयुक्त सरकारबाट खास गरिकन उनिहरुका तर्फबाट सोही आवश्यकता बमोजिम सुझवुभक्ष्य पूर्ण कार्यशैलीको अनुसरण हुन सकेन । फलस्वरूप माओवादीको नेतृत्वमा बनेको सरकार ९ महिनामा गिर्यो । त्यसपछि नयाँ समिकरणमा गैर माओवादी नेतृत्वमा नयाँ सरकारको जन्म भएपनि त्यसले धेरै अन्योलहरुलाई बोकेको हुनाले राष्ट्रिय राजनीतिक अपेक्षा पुरा गर्न सक्ने कुनै संभावना देखिएको छैन । एक तिहाइ भन्दा धेरै को प्रतिनिधित्व एकलै माओवादीले गरिरहेको र दुई तिहाइले मात्र नयाँ संविधानको निर्णय गर्न सक्ने सन्दर्भमा माओवादीलाई सहमत नगराई नयाँ संविधानको घोषणा हुनसक्ने अवस्था छैन ।

नेपाललाई बुझ्ने र चिन्ने अन्तर्राष्ट्रिय समुदायलाई पनि राम्रै संग थाहा छ विगत कालमा १० वर्षसम्म नेपालले माओवादी जनयुद्ध बेहोरेको थियो । राजाको प्रतिगमन र स्वेच्छाचारी शासनले २०६२ सालमा युद्धरत माओवादी र राजतन्त्र विरोधी संसदवादी राजनीतिक पार्टीहरुलाई एउटै मोर्चामा आवद्ध हुन वाध्य गरायो । त्यसबाट शान्तिपूर्ण जनआन्दोलन अभूतपूर्व रूपमा उत्कर्षमा पुर्यो र राजतन्त्र ऐतिहासिक रूपमा पराजित भयो । त्यसले माओवादी युद्धलाई शान्तिमा रूपान्तरण गर्न पनि संभव बनायो । संसदको पूर्नस्थापना भयो र त्यसले अघोषित रूपमा राजालाई निलम्बन गयो । पूनर्स्थापित संसदले निर्माण गरेको सरकारले माओवादी सँग २०६३ मंसीर ५ मा वृहत शान्ति संझौता गयो । त्यसको आधारमा नेकपा माओवादी संसद र सरकारमा समेत सामेल भयो । माओवादी सेना संयुक्त राष्ट्रसंघको मध्यस्थितामा क्यान्टेमेन्टमा हतियार कर्नेतरमा राखियो । त्यसको निश्चित समयपछि समायोजन र पूर्नस्थापन गरी टुङ्गो लगाउने कुरा पनि भयो । आन्दोलनकारीको संयुक्त सरकार एक वर्ष भन्दा धेरै समयसम्म चले पनि त्यसले माओवादी सेनाको टुङ्गो लगाउन सकेन । संविधान सभापछिको सरकारले माओवादी सेनाको टुङ्गो लगाउने योजनाका साथ मुलुकलाई अगाडि बढाउने प्रयत्न गरिएको थियो । त्यसपछि लगतै सरकार गिरेको हुनाले योजना कार्यान्वयन हुन सकेन । अहिले पनि माओवादी सेनाको समायोजनको सवाल जस्ताको तस्तै छ ।

एउटा देशमा दुईवटा सेना रहने अवस्था रहिरहँदा त्यहा शान्ति सु-व्यवस्था कायम हुन सक्दैन । फेरी त्यसको एउटा सम्पानजनक योजनामा टुङ्गो लगाउन सकिएन भने त्यो आफै पनि विद्रोही बनेर क्याम्प वाहिर आउन सक्ने खतरा पनि रहीरहने भयो । त्यसो भएर

4 | Nepal's National Interests

माओवादी सेना समायोजन सम्बन्धि विषयलाई तर्कयुक्त निश्कर्षमा पुऱ्याउनु नै अहिले नेपालमा शान्तिलाई दीगो रूप दिन र राजनीतिक स्थायीत्व कायम गर्न महत्वपूर्ण प्रमुख काम हो भनेर जो कसैले पनि बुझ्ने कुरा हो । यद्यपि गैर माओवादी राजनीतिक समीकरण र माओवादीलाई किनारा लगाएर बनेको सरकारबाट यसको टुंगो लाग्ने कुनै संभावना देखिएको छैन । तर माओवादी सेनाको टुंगो नलागि मुलुकका अन्य समस्या समेत समाधान हुने पनि संभावना छैन ।

नेपालले लोकतन्त्रको नयाँ नमुना अबलम्बन गर्ने अठोट गरेको छ । यसमा एमाले, काग्रेस, माओवादी लगायत सबै राजनीतिक पार्टीहरूको सहमति र प्रतिवद्धता समेत रहेको छ । नेपाल परापूर्वदेखि बहुजातीय, बहुभाषीय र बहुसांस्कृतिक अवस्थाको विशेष खाले मुलुक हो । लोकतन्त्रलाई नेपालको यीनै ठोस विशेषतामा आधारित बनाएर स्थापित गर्ने पहिलो प्रतिवद्धता नेपालको राष्ट्रिय प्रतिवद्धता हो । यसका निम्नि नेपाल उपरोक्त विशेषतामा आधारित संघीय प्रणालीमा प्रवेश गर्नेछ । तर देशबाट छुट्टिने अधिकार कसैलाई रहने छैन । नेपालले अब यीनै विशेषतामा आधारित शासन प्रणाली पनि अबलम्बन गर्नेछ । त्यसका निम्नि समावेशी र समानुपातिक प्रतिनिधित्वको बहुदलीय प्रतिस्पर्धात्मक प्रणाली अबलम्बन गर्नेछ । जनसंख्यामा जसको जे हैसियत छ, प्रतिनिधित्व तदनुरूप हुनेछ । महिलाको ५०% भन्दा बढी हैसियत भएको हुनाले अब ५०% प्रतिनिधित्वको व्यवस्था गरिने छ । त्यसैगरी अन्य समुदायको पनि तदनुरूपको व्यवस्था गरिनेछ । केन्द्र र स्थानीय सरकारका परिभाषित अधिकार, कर्तव्य हुने छन् । अतिसीमान्तकृत, पिछडीएका र दलितलाई खास समयसम्म आरक्षण व्यवस्था समेत हुनेछ । तर कुनै पनि समुदायलाई विशेष अधिकार र अग्राधिकार हुने छैन । लोकतन्त्र जनताद्वारा संचालित शासन व्यवस्थाको नाम हो लोकतन्त्रमा स्वतन्त्रताको जितकै अनुशासनको पनि महत्व हुन्छ । स्वतन्त्रता भएन भने निरक्षता हुन्छ र अनुशासन भएन भने अराजकता आँछ । लोकतन्त्र निरक्षता पनि होइन र अराजकता पनि होइन । तर यतिवेला एकातिर यस किसिमबाट जनताको लोकतन्त्र स्थापना गर्ने प्रतिवद्धता छ, भने अर्कोतिर यसै वीच नेपालको तराईलाई नेपालबाट छुट्टियाउने र पूर्वी नेपाललाई पनि अलग गर्ने किसिमले अनेकौ गतिविधि संचालित छन् । यस किसिमका गतिविधिका आधार छिमेकी देशका भूभाग बन्ने गरेका छन् । यसबाट नेपाली देशभक्तहरूका वीचमा अत्यन्त सम्वेदनशील अवस्था जन्माई दिएको छ ।

२१ औं शताब्दीको आगमन संगै नेपालमा सबैक्षेत्रमा ठूला ठूला परिवर्तनहरु भइरहेका छन् । राजनीतिक क्षेत्रमा मात्र होइन सामाजिक, आर्थिक क्षेत्रमा पनि परिवर्तन भएका छन् । यीनले निरन्तर गति लिनु अनिवार्य छ । तर राज्ययन्त्र पुरानो र पिछडीएको अवस्थामा छ । यसलाई आजको परिवर्तन अनुरूप बनाउन राज्यको पूर्नसरचनाको प्रतिवद्धता अगाडी आएको

छ । तर यसलाई केवल संघीयतामा मात्र सिमित गर्ने प्रयत्न जबरजस्त रूपमा देखिन थालेको छ । यसको पछाडी नेपालका एकथरि राजनीतिक पार्टीहरु यथास्थितिवादी छन् । उनीहरु यथास्थितिमा आफ्नो पार्टी र वर्गीय स्वार्थ पुरा हुने अवस्था देख्छन् । उनीहरुले राज्ययन्त्रको रूपान्तरणमा जनतालाई प्रेरित गर्नको सङ्ग पुरानो राज्ययन्त्रको सेना, प्रहरी, प्रशासन र न्यायपालिकालाई भड्काउने कोशिसमा प्रयत्नरत देखिन्छन् । तर युग सुहाउँदे गरी नगैकन नेपालले २१ औं शताब्दीको विशेषता अनुरुप आफुलाई ढाल्न सक्ने छैन ।

अहिले नेपालको राज्यसत्ता इतिहासकै कमजोर अवस्थामा छ । यस्तो हुनुको मुख्य कारण परिवर्तित परिस्थिति अनुरुप राज्यसत्ताको नेतृत्व र राज्ययन्त्रको रूपान्तरण नहुनु हो । तर संक्रमणकाललाई हवाला दिएर वास्तविकतालाई ढाक्छेप गरिएको छ । नेपाललाई कमजोर बनाएर आफ्नो स्वार्थ पुरा गर्न चाहने केही विदेशी शक्ति पनि यहाँ यथास्थिति कायम राख्न उद्धत देखिन्छन् । नेपालको हित चाहने जो कोही पनि आजको आवश्यकता अनुरुप राज्ययन्त्रलाई परिवर्तन, रूपान्तरण र विकास गर्नुको विकल्प छैन भन्ने राम्रै सँग बुझ्दछन् ।

नेपाल प्राकृतिक साधन श्रोतले सम्पन्न मुलुक हो । यसको मुख्य विशेषता हिमाल, पहाड र तराईको विविध वातावरणमा विकसित जैविक विविधता र अपार जलश्रोत हुन् । सतह भन्दा गहिराइमा जाँदा भूर्भूमिक हिसाबले सबै खनिज पदार्थले सम्पन्न रहेको अनुमान गरिन्छ । यसको साथै ऐतिहासिक र धार्मिक हिसाबले पनि नेपाल सम्पन्न रहेको छ । गौतम बुद्ध, र सीताको जन्मस्थल नेपालमै रहेको छ । प्राकृतिक पर्यटनको हिसाबले अनुपम यो भूमिमा संसारको सर्वोच्च शिखर सागरमाथा तथा उच्च हिम शृंखला नै रहेको छ । नेपालका यी विशेषताहरूलाई दोहन गर्न सक्दा नेपाल संसारकै धनी देशहरूमा पुग्न सक्ने प्रवल संभावना रहेको छ । त्यसमा पनि दक्षिण सीमानामा विशाल बजार सहितको भारत र उत्तरी सीमानामा विकसित र विशालतम बजार सहितको चीनको वीचमा रहेको नेपालका लागि आर्थिक विकासका चरम अवस्थाहरु विद्यमान छन् । तर विगतमा निरक्ष राजतन्त्र र यथास्थितिवादी पूँजीवादीहरूको शासनका कारण नेपालले कहिल्यै आर्थिक उन्नतिको बाटो अवलम्बन गर्न सकेन । अहिलेको अवस्था भनभन गएगुज्जिएको छ । संक्रमणको नाममा नेपाली समाज लामो समयसम्म अभाव, वेरोजगारी र अपमान सहेर बसिरहन सक्ने छैन । यस पक्षलाई वेवास्ता गरियो भने प्राकृतिक पर्यावरण समाप्त हुने गरी जंगल विनासको खतरा देखा पर्नेछ र सामाजिक विद्रोहलाई नयाँ किसिमले जन्म दिनेछ । दुवै अवस्थामा नेपाल मात्र होइन छिमेकी भारत पनि नराम्रो सँग प्रभावित हुनेछ । प्राकृतिक पर्यावरणको असन्तुलनले मरुभूमिकरण अनिवार्य हुनेछ र सामाजिक विद्रोहले ठूला ठूला सामाजिक उथलपुथललाई जन्म दिनेछ ।

नेपाल भूराजनीतिक अवस्थाका कारणले अत्यन्त महत्वपूर्ण रणनीतिक विन्दुमा रहेको छ । समाजवादी चीनलाई धेरावन्दी गर्ने र असफल गराउन स्वतन्त्र तिब्बत आन्दोलन संचालन गर्न नेपाली भूमि सबैभन्दा उपयुक्त देखेका छन् कतिपय विदेशी शांक्तिहरु । चीन पनि त्यसै गरी नेपाल त्यसअनुरुप प्रयोग नभैदिएको खण्डमा सापेक्षरूपमा निश्चित हुन सक्ने देख्छ । अहिले पनि नेपालले घोषित अघोषित शरणार्थीका रूपमा करिब आधा लाख तिब्बतीहरुलाई आश्रय दिएको छ । त्यसको बदलामा अनेकौ आरोप व्यहोर्ने वाहेक नेपालले केही पाएको छैन । कतिपय अवस्थामा नेपालको अस्तित्व समाप्त हुने सम्मका धम्किहरु पनि सुन्नु परेको छ । यसका साथै असंलग्न र तटस्थ नीति अनुरुप नेपाललाई उभिन नदिने ठूलो दुश्प्रयत्न पनि भैरहेकै छ । वास्तवमा नेपाल-भारत र नेपाल-चीनको भौगोलिक अवस्था अपरिवर्तनीय यथार्थ हुन् । तर राजनीतिक व्यवस्थाका कारण कहिले अनुकूल त कहिले प्रतिकूलताको सामना नेपालले गर्न परेको यथार्थ हो । नेपालको भूराजनीतिक अवस्थाको यथार्थता, भौगोलिक अवस्थाको सम्बेदनशीलता र वर्तमान अवस्थाको संकमणकालीन परिस्थितिका कमजोरीलाई उपयोग गर्दै नेपाललाई युद्धभूमि बनाइने त होइन भन्ने आशंका अहिले गर्न थालिएको छ ।

राष्ट्रिय हितको सवाल

कुनै पनि स्वतन्त्र र सार्वभौम मुलुकले आफ्नो राष्ट्रिय हितलाई नै प्राथमिकतामा राख्दछ । नेपाल इतिहासमा कहिल्यै पराधिन नभएको, सधै स्वतन्त्र र सार्वभौमसत्ता सम्पन्न रहेको गौरवशाली मुलुक हो । नेपालको राष्ट्रिय हित र त्यसका प्राथमिकता के हुन भन्ने कुरा अति महत्वपूर्ण छन् । यिनीलाई वेवास्ता गरेर नत राष्ट्रिय क्रान्ति सम्भव छ न अन्तर्राष्ट्रिय सम्बन्ध सँचालन । नेपाल छिमेकीहरुको तुलनामा क्षेत्रफलमा सानो भएपनि हजार वर्षको इतिहास भएको बहुजातीय, बहुभाषिय र बहुसांस्कृतिक मुलुक हो, यहाको सबभन्दा ठूलो जाती आर्यमूल हो । त्यसपछि मंगोलमूल हो र थारु तथा अन्य जातिहरु पनि उल्लेख्य संख्यामा रहेका छन् । भाषाँ भाषी र सांस्कृतिक हिसाबले ६० भन्दा धेरै जातीको वसोवास यहाँ छ । देशका ठूल ठूल नदीहरु उत्तर दक्षिण वर्गेर नदी प्रणाली निर्माण गरेका तथा पहाडहरु अधिकांश पूर्व पश्चिम फैलिएका कारण जातीभाषा र संस्कृतिको बनोटमा ताना बाना देखा परेको छ । नेपाली जनता मिहनेती श्रमिक र इमान्दार तथा बहादुर छन् । नेपाल आर्थिक रूपमा पिछडिएको भएपनि जनता देशभक्त राष्ट्रवादी र स्वाभिमानी छन् । नेपालले इतिहासमा अनेक पटक चीन र भारतीय शासकहरु सँग युद्ध लड्नु परेको छ । वृटिस भारत सँग पनि नेपालले अनेक लडाइ लड्न पन्यो । विदेशी आक्रमणका कारण यसले आफ्नो सीमाना खुम्चाउनु परेपनि तर कहिल्यै सम्पूर्ण रूपले पराजित भएन । सम्पूर्ण दक्षिण एसिया साम्राज्यवाद समक्ष पराजित भएर उपनिवेश बनेको अँध्यारोमा पनि सानो नेपालले आफ्नो

स्वतन्त्रतालाई आफ्नै पौरखले जोगाएर राखेको थियो । त्यसो भएर नै हिमाली देशका रूपमा स्वतन्त्र सार्वभौम सत्ता सम्पन्न नेपाल आज पनि अस्तित्वमा छ र दृढता साथ भन्न सकिन्छ अनन्तसम्म रहने छ ।

नेपालको राष्ट्रिय हितको पहिलो प्राथमिकता यसको स्वतन्त्रता, सार्वभौमिकता र अखण्डताको रक्षा हो । यसमा कुनै संभौता हुन सक्दैन । यसमा कसै संग, कहिल्यै भुक्त पनि सकिन्न । छिमेकीहरु संग कहिले काही समस्या उत्पन्न हुनु स्वभाविक हो । भारत संग सीमाना सम्बन्धी केही समस्या छन् । यसमा सम्मानजनक सहमतिमा पुग्ने नेपालीको चाहना छ । नेपालले आर्थिक विकासको अभावमा विदेशी संस्थाहरुको अनेकौ शर्तहरुलाई मान्न परेपनि सदा त्यसो भझरहने छैन । राष्ट्रिय हितको यो पहिलो प्राथमिकताका लागि प्रत्येक नेपालीले आफुलाई वलिदान गर्न तयार हुनेछ तर कसैका सामु भुक्ते र आत्मसम्पर्ण गर्ने छैन । यो हितको रक्षाका लागि सम्पूर्ण राज्ययन्त्रहरु तयार अवस्थामा रहनु राष्ट्रिय आवश्यकता हो ।

नेपालको राष्ट्रिय हितको दोश्रो प्राथमिकता यहाँका जनताको एकता हो । बहुजातीय, बहुभाषिय र बहुसाँस्कृतिक अवस्था नेपालको मौलिक विशेषता हो । धार्मिक रूपले पनि नेपाल विविधता युक्त रहेको छ । केन्द्रीकृत र एकात्मक राज्य व्यवस्थामा पनि नेपाली जनताको एकता अपरिहार्य राष्ट्रिय हितको पक्ष थियो । भखेर सम्पन्न शान्तिपूर्ण जनकान्तिले नेपाललाई संघीय लोकतान्त्रिक गणतन्त्रमा रूपान्तरण गर्ने घोषणा गरको छ । यो नेपाली जनताको माग र आवश्यकता अनुरूपको अवस्थाको परिकल्पना हो । नयाँ संविधान लागू भएपछि नेपाल तदअनुरूपको व्यवस्थामा रूपान्तरण हुनेछ । यसबाट नेपाली जनताको एकता अरु बढी सुदृढ र अरु बढी जागरूक हुनेछ । आफ्नो भूमिको आफै मालिक भएपछि समानता र सम्मान पूर्ण एकताको अवस्था स्वतः सृजना हुनेछ । तर अहिले कतिपय वैदेशिक तत्वहरु यस अवस्थालाई कमजोरी ठानेर नेपाललाई टुक्राउने पद्यन्त्रपूर्ण सोच पनि राख थालेका छन् । तर नेपाली जनताको एकतावद्ध सुदृढ शक्तिले त्यस्ता पद्यन्त्रहरुलाई चकनाचुर पारिदिने छन् ।

नेपालको राष्ट्रिय हितको तेश्रो प्राथमिकता सामाजिक न्याय र सम्बृद्धि कायम गर्नु हो । हाम्रो देशमा हिन्दु वर्णाश्रम र एकात्मक तथा केन्द्रीकृत राज्य व्यवस्थाका कारण समाजको ठूलो अंगमा अमानवीय रूपले भेदभाव र उचनिचको अवस्था विकसित भयो । यसलाई भत्काउन विगतमा ठूला ठूला समाज सुधार अभियानहरु संचालन भए । तर समस्या पूर्ण रूपले समाधान हुन सकेनन् । अहिले यस किसिमको भेदभाव र उचनिच जन्य व्यवहार पूर्ण रूपले गैरकानूनी र प्रतिवर्ण्यित भएको छ । तर अहिले सम्म पनि समाजमा भेदभावको अवस्था विद्यमान छ । यसकै कारण महिला माथि पितृसत्तात्मक शोषण पनि कायम छ ।

यसखाले कुरितिका कारण अन्य जाती र संस्कृतिमाथि पनि भेदभावपूर्ण व्यवहार हुने गच्छो । साथै वालवालिका तथा अपाङ्गहरुको अधिकार पनि वहाल भएन । विगतमा यस किसिमको दुर्व्यवहार कतिपय धार्मिक सम्प्रदायहरुका वीचमा पनि भएको थियो । यस्ता व्यवहारलाई लिएर कतिपय भडकाउपूर्ण कियाकलाप पनि विगतमा देखिए । यी सबै विभेदपूर्ण व्यवहारमा वन्देज लगाउनुका साथै सामाजिक अपराध करार गर्दै सबै जातीभाषा संस्कृति र धर्मका वीच सामाजिक सद्भाव कायम गर्ने र समाजमा कसैमाथि विभेदपूर्ण अवस्था आउन नदिने कुराको सुनिश्चितता कायम गर्ने आवस्थाबाट सामाजिक न्याय कायम हुनेछ ।

आर्थिक सम्बूद्धि हरेक समाजको उच्चतम अंकाक्षा हो । नेपाली समाजमा आधारतभूत तहका मजदूर किसान र शहरिया गरीब जनता अहिले पनि हातमुख जोर्ने समस्याले पिडीत छन् । समाजमा यीनको संख्या करिब ७४% रहेको छ । राज्यले आफ्नो मुख्य ध्यान यही तहका जनसमुदायको जीवनस्तर उकास्ने काममा केन्द्रीत गरेर छिटो भन्दा छिटो लक्ष्य पुरा गर्न लाग्नु पर्दछ । सामाजिक विभेद र आर्थिक विपन्नतामा सबै किसिमका पापकर्म र विकृति जन्मेर हुक्न्छन् । जसले सिंगो समाजलाई तहसनहस पार्दछन् । नेपाली जनताको यो राष्ट्रिय हितलाई उच्च महत्व दिएर पुरा गर्ने काममा लागि पर्नु पर्दछ ।

जनताको शान्ति सुरक्षा र अमनचैन राष्ट्रिय हितको महत्वपूर्ण पक्ष हो । कानूनको शासनले मात्र शान्ति र अमनचैनको सुनिश्चितता कायम हुन सक्दछ । संक्रमणकालमा कानूनको उल्लंघन सर्वव्यापी भयो । यसबाट अराजकता व्यापक बन्यो । त्यसपछि हत्या, आंतक, लुटखसोट जहाँतही देखियो । जनतामा विश्वास कायम गर्न कानूनको शासन जरुरी हुन्छ । क्रान्तिकारी परिवर्तनले गति लिन नसक्दा कानून हातमा लिने प्रवृत्तिमा वृद्धि हुन्छ । त्यसो भएर क्रान्तिकारी परिवर्तन पछि क्रान्तिकारी सत्ता आवश्यक हुन्छ । क्रान्तिकारी सत्ताको स्थापना नभै संक्रमणकालमा कानूनको शासन कायम गर्न सकिन्न । वास्तवमा संक्रमणकाल क्रान्तिकारी सत्ताको काल हुन पर्ने हो । यसकालमा देखा पर्ने अवान्धित क्रियाकलापलाई क्रान्तिकारी सत्ताले मात्र नियन्त्रण र निर्मूल गर्न सक्दछ ।

‘गरीब छिमेकीले माँगेर दुख दिन्छ धनी छिमेकीले हेपेर दुख दिन्छ’ भन्ने उखान छ । यसको अर्थ हो छिमेकीको तुलनामा आफ्नो सबै हैसियत वरावर राख्ने गरी आफ्नो परिवर्तन र विकास गर्ने पर्दछ । तर ठूलो र शक्तिशाली अनि हेपाहा प्रवृति भएको छिमेकी छ भने परिवर्तन र विकास दुवै असम्भव बनाइदिन्छ । यस्ता छिमेकीका वीचमा कुनै देश रहनु जितिको दूर्भाग्यपूर्ण अरु हुनै सक्दैन । तापनि छिमेकी संग सतर्कता पूर्वक मित्रता पूर्ण सम्बन्ध कायम राख्नुको विकल्प हुदैन । किनभने छिमेकी सँग मिलेर वस्दा नै आफ्नो हित हुन्छ । समानता र परस्पर लाभका आधारमा सम्बन्ध कायम गरेर मात्र वरावरीको हैसियत कायम गर्न सकिन्छ । तरपनि छिमेकी भनेको छिमेकी नै हो । उस्का कतिपय इच्छा

आकांक्षालाई सम्मान गर्न जान्नु पर्दछ । छिमेकी संगको सम्बन्धमा सुनिश्चिता कायम गर्दै अन्तर्राष्ट्रिय सम्बन्धलाई विकास गर्न जान्नु पर्दछ । अन्तर्राष्ट्रिय सम्बन्ध पनि परस्पर सम्मान र परस्परलाभमा आधारित नै बनाउन सक्नु पर्दछ । छिमेकीको ऋण खान हुन्न उसले जमिन हड्डन खोज्छ, छिमेकीलाई ऋण दिन हुन्न भगडा हुन सक्छ । त्यसो भएर छिमेकीलाई वरावरिको व्यवहार गरेर राख्न सक्नुपर्दछ ।

नेपालका दुई ठूला महान संस्कृतिका धनी मुलुक चीन र भारत छिमेकी छन् । उनीहरु सँग सन्तुलित सम्बन्ध विकासले मात्र नेपालको हित सुनिश्चित गर्न सकिन्छ । नेपालमा उनीहरुका हित केमा केन्द्रीत छन् र केमा बाफिएका छन् चिन्नु र जान्न पर्दछ, र मात्र सन्तुलित सम्बन्ध विकास गर्न सकिन्छ । त्यसमा पनि दुई किसिमका उत्पादन सम्बन्धमा भएका शक्तिशाली मुलुक भएकाले नेपालको भूराजनीतिक अवस्था संवेदनशील रहेको छ । एकातिर आफ्नो राष्ट्रिय हितको संरक्षण र अर्कोतिर छिमेकीका हितको सम्मान हाम्रो छिमेकी सितका सम्बन्धहरुका आधारभूत तत्व हुन् । तर संघे भरि ख्याल गर्नु पर्ने कुरा के हो भने आफ्नो हितलाई थोरै मात्र पनि नजरअन्दाज गरेर छिमेकी सित सम्बन्ध कायम गर्न हुन्न । छिमेकीले नै औला दियो भने डढेलो निल्ने लोभ गर्न सक्नेछ ।

नेपालले छिमेकीमाथि मात्र भर गरेर चल्न हुन्न । आज अन्तर्राष्ट्रिय सम्बन्ध ज्यादै व्यापक भएको छ । हाम्रो छिमेकीहरुको पनि अवस्था र मनोविज्ञान उसै हुन्छ । तसर्थे अन्तर्राष्ट्रिय सम्बन्ध व्यापक बनाउने र नेपालको राष्ट्रिय हितलाई मध्यनजर गरेर जो कसै सँग पनि दुई पक्षीय सम्बन्ध विकास गर्न पछि पर्नहुन्न । व्यापक अन्तर्राष्ट्रिय सम्बन्धले नै छिमेकी सँग पनि सन्तुलित सम्बन्ध कायम गर्न सजिलो हुनेछ । कसै सँग पनि हुने सम्बन्धले आफ्नो राष्ट्रिय हितको संरक्षण र सम्बर्द्धन गर्दै की गर्दैन भन्ने कुराको हेक्का राख्नै पर्दछ । अन्तर्राष्ट्रिय सम्बन्धमा हाम्रो राष्ट्रिय हितका प्राथमिकता हुन्- हाम्रो स्वतन्त्रता, अखंडता र सार्वभौमिकताको रक्षा तथा हाम्रो जनताको आर्थिक सम्बृद्धि ।

विभिन्न कमिकमजोरीका वावजुद संयुक्त राष्ट्रसंघ हाम्रो आशा र भरोशाको केन्द्र हो । संयुक्त राष्ट्रसंघप्रति इमान्दार रहेर उसको संरक्षकत्व प्राप्त गर्न सकिने छ । त्यसका निमित्त संयुक्त राष्ट्रसंघका घोषणाहरूलाई दृढता पूर्वक कार्यान्वयन गर्न सक्नु पर्दछ । ठूला राष्ट्रहरु आफ्नो प्रभावमा पारेर संयुक्त राष्ट्रसंघलाई उपयोग गर्न चाहन्छन् । तर हामीले संयुक्त राष्ट्रसंघप्रति इमान्दार भएर यसलाई उपयोग गर्न सक्नु पर्दछ । संयुक्त राष्ट्रसंघ भित्र हाम्रा असल मित्रहरुको पनि प्रभावकारी उपस्थिति छ भन्ने कुरालाई ख्याल गरिरहनु पर्दछ । त्यसो भएर संयुक्त राष्ट्रसंघको भविष्यप्रति एकदमै सकारात्मक चिन्तनका साथ हाम्रो संलग्नता देखिनु पर्दछ । संयुक्त राष्ट्रसंघको प्रभावकारी उपस्थिति नेपालको राष्ट्रिय हितको पक्षमा स्वतः पक्षपोषण हो भन्ने कुरालाई राम्रो गरी बुझ्नु पर्दछ ।

उपसंहार

नेपालमा शान्तिपूर्ण जनक्रान्ति जारि छ । संघीय लोकतान्त्रिक गणतन्त्रको घोषणा भएपनि स्थापना भई सकेको छैन । त्यही भएर संकमणकाल लम्बिएको छ । यतिवेला नेपालका राष्ट्रिय हितहरु जवरजस्त प्रकट भएका छन् । तीनको रक्षा र सम्वर्धनका लागि गम्भीर रुपमा लाग्नु पर्ने आवश्यकता महशुस हुन थालेको छ । नेपालको राष्ट्रिय हितलाई वेवास्ता गरेर नत देशभित्र सुसम्बन्ध कायम हुन सक्छ, न अन्तराष्ट्रिय सम्बन्धले गति लिन सक्नेछ । नेपालले सामन्त राजतन्त्रलाई विदा गरेर पूँजीवादको बाटो खुल्ला गरेको छ । यो पूँजीवाद समाजवाद उन्मुख हुने की सामाज्यवाद परस्त हुने अवको विवाद यसैमा केन्द्रीत हुनेछ । चालु शान्तिपूर्ण जनक्रान्ति सफल हुँदा समाजवाद उन्मुख हुने र असफल हुँदा उदार पूँजीवादको प्रभुत्व कायम हुने पक्का छ । सबै दक्षिणपथीहरुले उदार पूँजीवादको वकालत गरिरहेका छन् । सबै वामपर्थीहरु, लोकतान्त्रिक पूँजीवादीहरु तथा देशभक्त राष्ट्रवादीहरु एउटा मोर्चामा आवद्ध भएर युगिन परिवर्तनलाई पूर्णता दिन र राष्ट्रिय हितलाई प्राथमिकता साथ रक्षा र सम्वर्धन गर्ने काममा लाग्नु आजको आवश्यकता हो ।

अहले लम्बिदै गएको संकमणकाललाई जसरी भएपनि छोट्याउनै पर्दै । शान्ति प्रकृयालाई तार्किक निश्कर्षमा पुराएर स्थायी शान्ति स्थापना गर्नुपर्दै । नेपाललाई संघीय लोकतान्त्रिक गणतन्त्रको माध्यमबाट नै स्थायित्व दिनुपर्दै । आर्थिक दृष्टिमा सुदृढ, सामाजिक दृष्टिमा चेतनशिल, राष्ट्रिय एकताको आधारमा एक ढिक्का रहेको, विश्व समुदायमा सम्मानित नेपाल नै नयाँ नेपालको हास्त्रो परिकल्पना हो । शान्ति र स्थायित्व हासिल गरेको सबल र सुदृढ नेपाल नै दक्षिण एसिया र विशेषतः दुबै छिर्मोकिहरुको हितमा हुनेछ । यो तथ्य सम्फाउन सक्नु नै नेपाली कुट्नीतिको बृहत्तर दायित्व हो । मलाई विश्वास छ, अग्रगमन र देशभक्तिको आधारमा सबै राजनीतिक दलहरु आज आफ्नो काँधमा आएको यो ऐतिहासिक दायित्व निर्बाह गर्न समर्थ हुनेछन् । राष्ट्रिय हितमा समर्पित रहनु नै कृयाशिल राष्ट्रियता र साँचो देशप्रेम हो ।

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Nepal's National Interest and Foreign Policy

Dr. Shambhu Ram Simkhada

“In foreign policy there are no permanent friends or enemies, there are only permanent interests” - this idea first expressed by scholar/politician former British Prime Minister Benjamin Disraeli, but best articulated later by Lord Palmerstone as British Foreign Secretary sounds fairly straight forward. What is not so easy however is to answer the questions: how does one define national interest? How to build consensus among political actors bitterly divided on almost every aspect of national politics and international relations on what is in the national interest? And how does a nation-state struggling to define and redefine its history, politics, economic, social and cultural relationships go about securing its national interests within a region and the world struggling with an impending paradigm shift?

Political wisdom suggests, in any state policy formulation there is an irreducible core, vital national interest, for any state at any time. Such vital interests include, for all states at all times, as a minimum, protection and preservation of national sovereignty and territorial integrity, for which a nation-state is prepared to go to war.¹ This constitutes the constant, the continuity dimension of foreign policy. Such vital national interests do and should remain outside the arena of domestic political changes.

National interests also cover categories of needs and demands that vary from time to time based on the social, cultural, religious backgrounds, political predispositions, economic outlook, worldviews and interests (*weltanschauung*) of changing political leaderships. To quote Dr. Henry

1 Hartman, Frederick H., *The Relations of Nations*: The Macmillan Company New York, 1957 p. 6

Kissinger, “personality and policy could never be fully divorced”.² Such interests and views of the changing elite reflected in national policies and priorities constitute the dynamic aspects of national interest. At this time of historic transition, when not only Nepal's national politics is changing but the entire international order is in a state of flux, how should the complexities of Nepal's foreign policy making be understood and managed in order to best safeguard her national interests?

To redress the current disarray that is apparent from the street to the state policy, this paper will try to come up with an agenda around which a new national consensus on foreign policy could be built among the major political parties as one of the vital dimensions of protecting and promoting Nepal's national interest.³ I will call the agenda for such a consensus on foreign policy the Three 'I's (Issues/Interests, Institutions and Individuals).⁴ A vigorous national debate on foreign policy issues and consensus among the main political actors that despite ideological differences or competition for power at home, they will not compromise on national interests or use foreign policy for domestic political ends or partisan or personal gains is the most important priority of this discourse; strengthening institutions related with foreign policy and highlight the importance of identifying right individuals to

2 Issacson, Walter., *Kissinger: A Biography* (New York: Simon and Schuster, 2005), p. 344

3 Note: I have been speaking and writing on the need for a national consensus on the basic tenets of our foreign policy among the major political actors and presenting the agenda for it since the restoration of multi party democracy in 1990. See for examples “Need for a New Foreign Policy Agenda” unpublished, “Continuity and Change in Foreign Policy” *The Independent*, 18 December 1991; “In Search of A New National Agenda”, *Spotlight* 1994; “New Foreign Policy Agenda”, *The Kathmandu Post* July 1, 2006; “Foreign Policy Exploring new dimensions”, *The Himalayan Times*, 12 July, 2006; “Vanity of victory: Debacle of defeat”, *The Kathmandu Post* November 18, 2006; “Complexities of Nepal's Foreign Policy”, paper presented at a seminar organized by the Institute of Foreign Affairs, Kathmandu: 23 December, 2008; “Nepal's Foreign Policy in the 21st Century”, paper presented at an workshop organized by Pragya Foundation, Kathmandu September 2009. This paper is the latest attempt in this continuing endeavor.

4 Note: The idea of the 3 "I"s has also been articulated in *Complexities of Nepal's Foreign Policy* and *Nepal's Foreign Policy in the 21st Century*.

implement policies and promote national interests are other objectives of this agenda.

I. Issues/Interests:

Annette Baker Fox in her classic work *The Power of Small States, Diplomacy in World War II*, wrote “The distinctive power of great states flows from their military strength...For the Small state, diplomacy is the tool of statecraft”.⁵ Historically foreign policy has been a vital tool of Nepali statecraft and test of statesmanship. The nature of politics which is witnessing fundamental changes in the entire spectrum of issues/interests, institutions and actors in a crucial time (21st Century) and location (in Asia between India and China) makes Nepal's foreign policy formulation and conduct of diplomacy particularly challenging. Simultaneously dealing with cooperating and competing regional and global super-powers embroiled in their own internal upheavals in a rapidly changing global political and economic order and strategic equation demands access to right information and ability to interpret it with knowledge, understanding and experience. Historical intricacies and new complexities seen through the eyes of simple convictions, outdated dogmas or vested interests distort comprehension; policies based on them can lead to unintended serious consequences. In “Hypotheses on Misperception,” Robert Jervis rightly points out perceptions, when they deteriorate into misperceptions, can create havoc.⁶ To avoid such misperceptions creating further havoc, the following constitute the major issues of foreign policy as an instrument of securing Nepal's national interests.

- **Relations of Trust and Confidence with India and China:** Historically Nepal is the meeting point of two great civilizations and today it is one of the epicenters of competing interests in an impending global paradigm shift. Located between two global economic and strategic powerhouses, Nepal can greatly benefit from developments taking place in India and China today. However, it is essential to realize that proximity adds vitality but

5 Fox, Annette Baker *Power of Small States: Diplomacy in World War II*, Chicago University Press reprinted in Small States in International Relations (Seattle: University of Washington Press 2006) p.40

6 Klaus Knoor, ed., Power, Strategy and Security (New Delhi: Asian, Books, 2nd Reprint, 1987), pp. 152-177

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also sensitivity and complexity in interstate relations demanding high priority and careful handling. As late Prof. Yadu Nath Khanal, the most respected Nepali scholar-diplomat wrote long ago, “our foreign policy will breakdown at the point where either India or China looses faith in us and concludes that her vital national interests and sensitivities do not receive proper recognition in our conduct of relations”. Changing global and regional political, economic and security needs and the seriousness of the challenges faced by the South Asian states, particularly extreme poverty and threats from terror networks have made things much more complicated.

- Time and space have created unlimited potential for aid, trade, tourism, investment, technology and employment. But everything depends on the ability to put our own house in order, restore peace and rule of law, produce exportable goods and services and build relationships of trust and confidence with both our neighbors. Post-1990 Nepali politics could neither forge consensus on national interest nor strengthen institutions and empower individuals of caliber in foreign policy with whom our international partners, particularly two neighbors felt they could talk *in confidence*. Internal bickering and external interests undermine institutions, undercut rather than support and promote people with potential. After takeover, royalists completely misjudged domestic politics and foreign policy. So, not only did post-1990 order crumble, whole *old Nepal* collapsed.
- Republican Nepal faces the same challenges, only worsened by political turmoil, past rhetoric and current *summersaults* of parties and people in power. In this age of unprecedeted *remote viewing and listening*, saying something here but something else there or saying one thing but doing another only exposes politics and diplomacy to a *crisis of credibility and confidence*. Credibility and confidence deficits affect Nepal's national politics and international relations, particularly with the two neighbors. So, one of them feels the need to (volunteer?) “We will help to protect Nepal's national sovereignty and territorial integrity” while the other feels so exposed that it feels compelled to apply its own “Monroe doctrine”. In this sensitive relationship, vain debates, *name-calling and finger pointing* only raise risks of more external involvement within internal power

contests. Therefore, unstable domestic politics is the biggest problem of Nepal's foreign policy today; restoration of trust and confidence with all our foreign friends and partners, but most importantly with India and China is the top priority of Nepal's foreign policy making and conduct of diplomacy.⁷

- Even before recent concerns that Myanmar may be seeking to develop nuclear weapons⁸ South Asia in general and Nepal in particular has been the most nuclear-locked region and nation in the world. South Asia has been described as the most dangerous place on earth. Some thinkers have since long written about the possibility of Nepal becoming one of the central fronts in the global war of ideas.⁹ Now some well informed Nepali analysts have started raising the possibility of Nepal becoming a “Kuruchhetra”¹⁰ battlefield. A well known Indian defense specialist has gone so far as to predict a war between India and China before 2012.¹¹ Both Indian and Chinese media and websites portraying each other as the main sources of threat only flare up the underlying tension. Officials on both sides are trying to manage the effects of such media hype. Both sides realize the importance of their growing trade and economic relations. Conflict between them will make their respective dreams of the *Asian Century* difficult to realize. But for those indifferent to the sufferings of others, who use violence as instruments of politics, economics, religion or tradition and thrive on conflict and chaos what would be a bigger prize than a war between two Asian giants with largest populations and armies, fastest growing economies with huge reserves to spend on arms?
- On normal circumstances these views could have been overlooked as provocative propaganda. But considering the post-Cold War global paradigm-flux, the on-going turmoil, extra-regional interest/involvement

7 Ibid; the writer's separate paper on Transforming relations with India and China is expected to come out soon.

8 Such concerns were implicitly expressed by US Secretary of State during her visit to Thailand in July 2009

9 See “The Crying Soul”, *The Kathmandu Post* 2004-08-04

10 See Pandey, Ramesh Nath *Kantipur*, Monday, February 16, 2009

11 *Times of India* 12 July, 2009

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in South Asia and Nepal's own painful and traumatic experiences, these views need to be examined much more carefully. The central Himalayas may be emerging as one of the epicenters of the impending global paradigm shift. Nepal needs a vigorous diplomacy of confidence building and cooperation to prevent escalation of tensions in our vicinity to make sure no one tries to play one neighbor against the other, try to do whatever we can to promote friendly relations between them but certainly not allow our territory to be used against the vital interests of our friends and neighbors.

- India's pre-eminent position in South Asia and its economic growth potential will further enhance its standing as an emerging global power. China with its economic and military capability and as a global power is also an Observer of SAARC. The informal avenues provided by the SAARC summits could be useful venues for a confidence building measure for peace and stability in the Trans- Himalayan Asia.
- Tibet looms large in China-South Asia relations. The Presence of the Dalai Lama and large number of Tibetan refugees in India and Nepal cannot be wished away. The advocates of traditional Tibetan cause may see the present Dalai Lama as their last best hope whose departure from the scene would greatly weaken their cause. Thus Dalai Lama's age and health could exert pressure on the supporters of "the Tibetan cause" to intensify their campaign, perhaps around some of the anniversaries as they did before the Beijing Olympics. China may succeed to get Nepal to clamp down harder on the Tibetan refugees but preventing unrest within or the outflow from Tibet will depend on China itself. As a large power India can exercise its options. But, given the centrality of Tibet in Nepal's relations with China, how they respond to the diverse demands of the various national/international actors, remaining steadfast to the 'One China Policy' but without compromising its traditional stand as an open and tolerant society are going to test the political strength and diplomatic skill of Nepal's republican rulers.
- The best interest of Nepal is in nurturing a relationship of trust and confidence with both India and China. Rising China, Shining India and changing Nepal create new opportunities for all sides to strengthen the age old friendship for the benefit of the people of all three countries in the

new century. But close geographic proximities and historic cultural ties must be nurtured by sincerity in mutuality of interests and benefits based on respect, trust and confidence.

- **Pro-active international role:** Vitality of relations with neighbors does not preclude pro-active role internationally. Strengthening relations with the new US administration, further deepening traditional friendship with the UK, Germany, European Union, Russia, Japan, and France are some of the other priorities. Greater visibility in the UN, exploring possibilities for membership of the Security Council lost four years ago, enhanced Nepali role in UN peacekeeping work and greater UN economic assistance are other priorities of Nepal's 21st Century diplomacy. Leadership of the LDC Group in New York is important but it must not be a consolation prize, at the cost of membership and leadership in other more important UN organs.
- **Active role in SAARC:** A South Asian scholar characterizes the people of South Asia as “insecure, malnourished, ill and saturated with the fear of brute strength; violence is their only recourse and hatred their only wealth.”¹² Nepal recently gained invaluable experience in resolving violent conflict peacefully. Leadership of wisdom could have launched a new Nepali initiative to address the chronic problem of poverty and political violence in South Asia with the elder statesman who presided over the political transition in Nepal playing the lead role in the regional and international arena rather than getting bogged down in the “politics of national and personal self-annihilation”. Such a forward looking and ambitious project, however requires leadership of wisdom, foresight, trust and confidence and counsel of comprehension and competence.
- Establishment of the SAARC Secretariat and location of South Asian and Asian regional headquarters of several UN, other international inter-governmental and Non-governmental Organizations (INGOs) in Kathmandu has been one of the successes of Nepal's foreign policy. However, since their establishment Nepal has not been able to play the

12 Hasan, Mubashir, “On a New Vision for South Asia” in *Perspective on South Asia*. V. A. Pai Panandiker and Navnita Chadha Behera (eds.), Konark Publishers Pvt. Ltd. New Delhi: 2000 p. 7

kind of active role in them or utilize their valuable presence in promoting peace and cooperation in the region and the world and in the process promoting its own national interest.

- **Economic (Development) Diplomacy:** Trade, tourism, employment, investment and technology transfer are important dimensions of economic (development) diplomacy. Through a more active role in the WTO, International Financial Institutions, important capitals and leadership from Kathmandu, if Nepal could convince major donors to write-off international debt (in which we spend close to 10 percent of our annual budget but some other least developed countries have already succeeded in having it written-off) what would be a bigger achievement of Nepal's diplomacy?
- **Forward looking and Dynamic Diplomacy:** The suggestions this writer first made for opening new embassies in the remaining G-8 capitals (read Canada), Australia, Korea, Brazil and South Africa as part of a new dynamic and forward looking foreign policy after the successful People's Movement of 2006 have already been implemented.¹³ Opening new embassies in the remaining G-20 capitals: Italy which is also a major international centre with offices of important multilateral agencies like the World Food Organization (FAO), World Food Program (WFP) and International Fund for Agriculture Development (IFAD); Afghanistan the new SAARC member undergoing difficult experience from which Nepal could learn a lot and thousands of Nepalis are believed to be working there; Nigeria, the largest country in Africa, Vienna to look after UN offices and the IAEA besides bilateral work with Austria; Nairobi for the UN offices including UNEP and HABITAT and a separate ambassador to the WTO in Geneva could be some new aspects of promoting Nepal's national interests through a dynamic and forward looking foreign policy. Of course, the cost-benefit of opening new diplomatic missions abroad needs serious thought.

13 See Simkhada, Shambhu Ram "Foreign Policy: Exploring new Dimensions" *The Himalayan Times* July 12, 2006.

II. Institutions:

The dedicated agency of the government, now known as ministry of foreign affairs (MOFA) is believed to have been first created in 1626 in Paris, primarily to manage the system of envoys based abroad. In historical evolution the resident ambassador preceded the institution of foreign ministries.¹⁴ Today the MOFA and missions abroad are the principal institutions responsible for implementing policies made by the government. Of course, today's ambassadors have multiple functions from the Plenipotentiary to Chief Executive. In the meantime a whole range of other institutions from the media to the civil society play equally significant roles in 21st Century diplomacy.¹⁵ Consensus among the major actors on foreign policy is crucial to make use of the *power of the people and the press* in the promotion of the national interest. In Nepal's own context:

- **The Ministry of Foreign Affairs** must understand that its main role is coordinating the work of various state and non-state actors and missions abroad as well as missions of other countries in Nepal. Many countries are bringing foreign trade and aid within their foreign ministries. Aid and trade negotiations have become important functions of ambassadors and diplomats. But in Nepal, MOFA's role is evident in its lack of leadership in coordinating important political and economic issues as well as in the way missions/ambassadors of other countries bypass it in dealings with state and non-state actors. The MOFA basically suffers from either a lack of political attention and leadership or over enthusiasm of trying to take on too much without either the intellectual strength or the institutional capability to take on the foreign policy challenges facing Nepal today.
- **Missions abroad** are the main institutional outreach through which the MOFA implements foreign policy. Categorizing missions into strategic, functional and representational and appointment of ambassadors, allocation of resources accordingly, defining lines of communication among the various ministries, foreign ministry and missions abroad as

14 Rana, Kishan S., *The 21st Century Ambassador Plenipotentiary to Chief Executive*, Diplo Handbooks, Geneva 2004 p. 3

15 For an interesting discussions on new frontiers of foreign policy and dimensions of diplomacy, see Rana, Kishan op.cit

well as code of conduct for Nepali diplomats abroad and foreign diplomats in the country are important aspects of foreign policy making.

- **Strengthening the Institute of Foreign Affairs (IFA)** as a think tank, to undertake policy research, besides its regular work of briefing and orientation of outgoing diplomats and ambassadors, taking de-briefing from ambassadors who have just returned after completing their assignments, training of new officials joining the MOFA and diplomats leaving on their assignments abroad etc.
- **Independent Think-Tanks:** Foreign policy of a country like Nepal at such a vital location at times of critical changes in the region and in the world have some sensitive dimensions which are too controversial for the MOFA itself or any institutions of the government to get involved directly but too important to ignore for correct policy making, if not immediately at some critical times in the future.¹⁶ There must be some institutions which are well equipped both intellectually and technically to undertake policy on foreign and security affairs as independent think tanks.
- **Media and Other Institutions of Civil Society:** The impact of time and technology embedded in the notion of globalization on foreign policy formulation and conduct of diplomacy is far reaching. Now there are unified embassies representing several independent and sovereign nations. There are even discussions of virtual embassies with the gradual phasing out of what we today know as resident embassies or ambassadors. At the same time the instant and live media reporting has completely transformed the roles of diplomats and ambassadors. These new developments have significant impacts on all three dimensions of the 3 “T” agenda.¹⁷

16 Note: An example of how something considered highly controversial some years ago can become the mainstream diplomatic agenda, some people who vehemently opposed to the proposal of including Trade as one of the areas of cooperation in SAARC in my paper *Nepal in SAARC: A Long Term Projection* at a seminar Nepal organized by CNAS in 1987 later became key advocates of SAPTA and SAFTA.

17 Note: The Diplo Foundation, Geneva has a whole new literature on these topics.

III. Individuals

In his seminal work *The Twenty Years' Crisis*, Edward Hallett Carr suggests, before the First World War, in most democracies, war was regarded mainly the business of soldiers and as a corollary, international relations and foreign policy the business of professional diplomats, outside the scope of domestic party politics or a matter of public scrutiny. There was no general desire to take the conduct of diplomacy out of the hands of professionals or even pay serious and systematic attention to what they were doing. The war of 1914 once and for all changed the view that war only affects and can be conducted by professional soldiers. It also ended the corresponding notion that foreign policy could safely be left in the hands of professional diplomats.¹⁸ In the context of Nepal where politics is in transition and institutions are weak, effective diplomacy is closely associated with knowledge, wisdom, commitment, capability and credibility of people involved. This is what makes the role of individuals so critical. For this reason, one of the key issues of foreign policy as an instrument of promoting the national interest is the choice of the individual in positions of power and authority in foreign policy.

- **Political appointee or Career diplomat:** Some see diplomacy as a specialized skill known only to career/professional diplomats. Others see diplomacy as *application of intelligence and tact in inter-state relations* that any reasonably educated and trained person is capable of handling. Some countries rely on career diplomats, in others key diplomatic posts are filled by political appointees. Nepal takes a mixed approach with a combination of political and career appointments. Who performs better, a career diplomat or a political appointee? This is a difficult question to answer. Nepal's experience is mixed. But on the whole if one makes an objective evaluation of past experience, outstanding performance of people like Prof. Yadu Nath Khanal, Rishikesh Shah and Shailesh Kumar Upadhyaya, just to name a few, repudiates the notion that political appointees cannot perform as excellent diplomats. Whether it is a career person or political appointee, clear instruction/mandate from the political leadership, proper orientation on protocol, diplomatic etiquette and

18 Carr, Edward Hallett *The Twenty Years' Crisis 1919-1939 An Introduction to the Study of International Relations* Harper Torch Books, 1964 p. 1

language training as well as a good system of reward/punishment are vital for effective diplomatic work.

- **Criteria and Qualifications of Ambassadors:** At a time of far reaching political changes political parties in government should be able to select people who they think can best articulate their policies and programs and send such people as ambassadors. But, here too some basic criteria for selecting ambassadors are essential. Wrong choice could damage the image of the country as ambassador extraordinary and plenipotentiary represents the whole nation and the people not any one party or leader. Serious debate on selection of ambassadors on a clearly defined qualification is of great national interest.
- **Appointment and Recall of Ambassadors:** If major political actors cannot even agree on 10 or 12 best people to represent the nation at this critical moment in our history, how can they be expected to come to a consensus to protect and promote the vital interests of the nation? Wrong choices of ambassadors indicate immaturity of political leadership; frequent changes of diplomats are the best reflection of political instability. Such acts lead to great waste of scarce resources of the state and cause unnecessary disruption and humiliation to people who are generally involved in one or another profession serving the society and country. National consensus among the major political actors on norms and standards in the appointment and recall of ambassadors is an urgent issue in the search of a new foreign policy agenda. Proper mandate, orientation, performance evaluation and a system of reward and punishment is equally important.

IV. In conclusion:

In his *Considerations on Representative Government* John Stuart Mill wrote long ago, “A portion of mankind may be said to constitute a nationality if they are united among themselves by common sympathies...which make them willing to cooperate with each other more willingly....desire to be under the same government”. Compare this thought with the situation in Nepal today, particularly reflected in the confusion and chaos in society and the role of the state and individuals around it and one begins to comprehend the enormity of the challenges of the discourse on defining Nepal's national interest.

- **Vital Balance:** It will almost sound like a cliché that Nepal today stands at the most critical thresholds of history and geography. In such a turning point, international support to take Nepal's peace process to a meaningful conclusion with supervision, integration and rehabilitation of the Maoist army combatants, drafting and promulgation of the new constitution, holding new elections and handing over power to a new elected government as soon as possible are top priorities in securing Nepal's national interests. In pursuing these goals, Nepal's political leadership, diplomatic team, civil service and security apparatus must be skillful in utilizing the goodwill, cooperation and support of the international community, particularly our two neighbors and other major global players without being confused about our own internal realities and caught up in external complexities. What happens to Nepal will depend on how we are able to sustain the vital balance between making the best use of the goodwill and cooperation of our foreign friends and well wishers without being caught in the cross-fire of their agendas.
- **Change Management:** Post-1990 leaders talked of making Nepal another Singapore and the Maoist leadership is never tired of talking about Switzerland. But how did these societies manage their transformations? Why are Singapore and Switzerland gardens of peace and prosperity today whereas Nepal a quagmire of conflict and chaos? Wisdom, knowledge and experience are vital for redressing problems of change-mismanagement from which Nepal suffers so much today.¹⁹ Traditionally a diplomat's role is regarded as limited to implement the policies and directives of the state. But transfer of knowledge, experience and expertise through advisory functions to the authorities back home is even more important role of senior diplomats today. The political will and leadership to inspire and utilize such expertise, knowledge and experience is of course a wholly different ball game. Success in foreign policy today depends, more than anything else, on leadership that comprehends as well as respects the power of ideas, utilizes those who are capable of generating such ideas and rewards those able to implement them.

19 See Simkhada, Shambhu Ram "New Nepal Singapore, Switzerland or....?" *The Kathmandu Post* July 8, 2008

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- **Securing national interest-Standing the ground:** Talking about securing the national interest of his own country, the man most responsible for making Singapore what it is today, Lee Kuan Yew says, “we are small, we are weak and vulnerable. Unless we can stand our ground we will be overwhelmed”. Another visionary leader Chancellor Konrad Adenauer in his first meeting with Prime Minister Bulganin of the then Soviet Union said on 09-09-1955 “The division of Germany is abnormal. It is against human and divine law and against nature”. With such vision, today Germany has been unified. Sadly, Nepal's current political class looks at foreign policy only in relation to his or her own rise to or fall from power. So, when favorable to his/her own or party's interests the same policies and persons representing a certain foreign power or powers are friendly and when unfavorable they become *so and so*. Unable to stand our own ground but unnecessary name calling and finger pointing foreign powers only increases the risk of their involvement in our internal political power struggle thus becoming tremendously counterproductive to Nepal's national interests. “A weak leadership or excessive politics of conflict and confrontation provides a fertile ground for undue external influence. Nepal's national interest is best served by a foreign policy of friendship with all and hostility towards none.
- **Sequencing of Interests:** All prosperous democracies are built on the foundation of individual freedom (happiness of the people as the end of government) leveraged with social safety and economic prosperity bound by the notion of rule of law but everything subordinated to the ultimate needs and demands of national interests and national security. The fundamental dilemma in Nepal today lies in what I would call the Reverse Sequencing of Interests. The supreme exercise of building a sovereign, independent, democratic, peaceful and prosperous nation will not succeed without a sense of sacrifice, with – individual interest, the interests of the group, institution, community or region with which the individual feels directly associated with the interest of the nation coming first.

This reverse sequencing of interests can be corrected by the political leadership first identifying key issues of national interests and coming to a consensus on them. Team of committed, capable and credible professionals should then be deployed to strengthen foreign policy related institutions and

implement those policies to protect and promote the national interests identified in the 3 “I” Agenda.

The irony of Nepali politics today is such that everyone calls for consensus, cooperation and unity but the basic question: consensus on what or on what terms remains either unanswered or defined in a way that everyone else must come to the terms set by the party and leader calling for such a consensus. So, in the name of consensus, the politics of confusion, chaos and conflict continues. Like many times before, in this paper too I have tried to answer that basic question with regard to Nepal's foreign policy: consensus on what? It is up to the political leadership and foreign policy establishment to take it up.

Economic Stability and Trade

Purushottam Ojha¹

Background

Achieving economic stability² and growth remains one of the important agendas of macroeconomic management in all economies, as unstable economies are prone to uncertainty that discourage investment, impede economic growth, and hurt the living standards of the people (IMF, 2008). However, it is also equally true that a dynamic economy necessarily involves some degree of instability, as well as gradual structural change. The challenge for policymakers, thus, is to minimize the uncertainties and negative consequences of economic instability without reducing dynamism in the economic system that is necessary for raising the living standards through increasing productivity, efficiency and employment.

Recent experience in the global financial market has also shown that countries are becoming ever more interconnected and problems in one apparently isolated sector, within any one country, can result in problems in others sector and spill over across borders. Therefore, in the present globalized world, economic and financial stability is both a national, regional and a global concern. Moreover, global economic and financial conditions have a significant impact on development in most national economies. Thus, no country is an “island” when it comes to economic and financial stability.

Trade is the main instrument through which countries around the world are integrated or interconnected with each other. The global community has

1 Secretary, Ministry of Commerce and Supplies, Government of Nepal. The views are strictly personal.

2 Note: Economic stability can be broadly defined as the situation where the large swings are avoided in economic activities including high inflation and excessive volatility in exchange rates and financial markets.

unequivocally reiterated the development dimension of international trade through the adoption of Doha Development Agenda in 2001. Trade has been regarded not only as the driving force of economic growth, but the source of economic instability as well. It is argued that trade contributes to growth and provide better income and employment opportunities. In a cross-sectional study (involving 100 countries) Frankel and Romer (1999), found that openness does have a statistically and economically significant effect on growth. Similarly, Jeffrey Sachs and Andrew Warner (1997) find that developing countries with open economies grow much faster than closed economies. In reality, however, the evidences and experiences of many countries do not always support this argument, especially in the case of least developed countries (Bhatt 2006). In many cases, trade integration, instead of accelerating economic growth, may only increases the chances of economic instability. Therefore, a country like Nepal with weak supply and productive capacities should be cautious on the risk of economic instability associated with unplanned trade integration. In this context, enhancing supply/productive capacities should be in the top priority, while moving towards global integration of the economy for a country like Nepal (Bhatt 2007; UNCTAD 2006).

In this backdrop, this paper analyses Nepal's microeconomic and trade situation and its implication for growth, development and economic stability in the country.

Macro-economic Situation

Nepal Rastra Bank, has recently made public of the current macroeconomic situation of Nepal based on the annual data of 2008/09. According to the report the real GDP growth rate in 2008/09 stood at 3.8 percent at basic price, and 4.7 percent at producer's price. This figure was 5.3 percent at both prices during 2007/08. In 2008/09 the agriculture sector was estimated to grow at 2.2 percent and non-agriculture sector at 4.7 percent. The corresponding growth rate in the previous year was 4.7 percent and 5.6 percent respectively.

In 2008/09, the ratio of total consumption to GDP increased by 3.2 percentage point to 92 percent. As a consequence, the gross domestic saving remained only 8 percent of the GDP. During current year, the ratio of investment to GDP stood at 31.8 percent compared to 29.7 percent in the

preceding year. The gross fixed capital formation reached 21.2 percent in 2008/09 with a marginal rise from 21.1 percent in 2007/08.

The flow of foreign direct investment has not been very encouraging as the number of joint venture projects increased only by 8.5 percent to 230, while the foreign investment tied with these projects decreased by 36.4 percent to Rs. 6245 million in 2008/09. In the preceding year, 212 joint venture projects with the total FDI amounting to Rs. 9811 million were registered in the Department of Industry. Out of the registered 230 projects, service related projects were 78, tourism related 69, production related 48, mines related 17, energy related 9, agriculture related 8 and construction related 1. On the basis of FDI amount, India is the largest foreign investor in Nepal followed by USA, China, Norway, South Korea and UK. These projects are expected to provide employment to about 11.1 thousand people. The number is higher by 3.7 percent compared to previous year.

Foreign employment has remained one of the major sources of employment and earnings to Nepalese youth, besides the sources of foreign exchange to Nepalese economy. In 2008/09, the Department of Foreign Employment, Government of Nepal granted approval to 220 thousand persons for foreign employment. The number is lower by 11.7 percent compared to the preceding year. The global economic slow down resulting from the financial crisis adversely affected the sector of foreign employment in the country. As of July 2009, the number of migrant workers that went abroad with the approval of the Department of Foreign Employment stood 1432.2 thousand.

The annual average consumer inflation increased to 13.2 percent in 2008/09 compared to an increase of 7.7 percent in 2007/08. The inflation soared up mainly on account of annual average price rise of food and beverages by 16.7 percent and that of non-food and service groups by 9.5 percent. The annual wholesale price increased by 12.8 percent in 2008/09 as compared to the rise of 9.1 percent in the previous year. The annual rise in the salary and wage rate by 15.3 percent has offset by the price rise of the essential commodities.

In 2008/09, exports went up by 13.5 percent in contrast to a nominal decline of 0.2 percent in the previous year. Exports to India rose by 6.2

percent in 2008/09 (Rs 41 billion) as against a decline of 7.6 percent in the previous year; likewise, exports to other countries expanded by 26.9 percent (Rs. 25.25 billion) compared to an increase of 17.3 percent in the previous year. The increase in the exports of readymade garments, textiles, G.I. pipe, catechu and shoes and sandals mainly contributed to the increase in exports to India. Similarly, the increment in the exports to other countries can be attributed to the rise in the exports of pulses, followed by Pashmina, woolen carpets, handicraft and herbs.

In 2008/09, total imports soared by 28.2 percent (Rs. 309.92 billion) in comparison to an increase of 14.0 percent in the previous year. Out of total imports, imports from India increased by 15.1 percent (Rs. 166.34 billion) compared to a growth of 22.9 percent in 2007/08; similarly, imports from other countries surged by 51.7 percent (Rs. 143.58 billion) compared to a growth of just 0.9 percent in the preceding year. An upsurge in imports of vehicles and spare parts, other machinery and parts, cold rolled sheet in coil, cement and medicine, among others, from India and gold, electrical goods, crude soybean oil, MS billet, and other machinery and parts, among others, from other countries were, to a great degree, responsible for the expansion in total imports in 2008/09.

Nepal is currently passing through political transition. The main tasks in front of the nation at this critical juncture are: to bring peace in the country by settlement of all odds and scars of the decade long conflict, compliance and implementation of agreements signed between the government and various political groups at various times, rehabilitation and reintegration of the Maoist fighters and writing a new constitution through the Constituent Assembly (CA). Meanwhile, the government has to carry on the task of revamping the national economy that is limping due to political transition on one side and the effect of global economic and financial crisis at the other. We have seen that the productivity of the economy both in agriculture and non-agriculture sector is largely affected in the process. Management of various sectors of economy including reduction of poverty, enlargement of employment, trade and investment opportunities and achievement of sustainable growth of economy are the major challenges faced by the country at this point of time.

Overview of Foreign Trade

Nepal remained in isolation virtually with no transport and economic linkage with the rest of the world until 1950. Prior to the 50s, economic and trade policies of Nepal were thus informal. The membership of United Nations in 1955 and the introduction of first five year plan in 1956 are the milestone in Nepal's economic policy making, which also prompted the history of international trade and export orientation in Nepal.

The first five-year plan (1956-61) targeted the growth of revenue by NPR. 170 million during the plan period and also emphasized on pursuing the independent foreign trade policy by creating the self-governing tariff regime of Nepal. The treaty of trade and commerce signed between Nepal and India on July 31, 1950 has made it mandatory to levy the tax rates and customs duties on imports from and export to countries outside India, not lower than those levied in India and also requiring imposition of export duties on Nepalese goods to make sure that landed price of Nepalese export is at par with the price of manufacturers of the same goods in India (Article 5). However, this was reversed by the treaty of trade and transit signed in September 11, 1960, which explicitly says that the trade of Contracting Parties with third countries shall be regulated in accordance with their respective laws, rules and regulations relating to imports and exports (Article-5).

The establishment of Nepal Rastra Bank (NRB) in 1956 as the central bank of Nepal followed by the enactment of the Foreign Exchange Act-1962 and Regulations 1963 abolished dual currency systems. Similarly, transaction of foreign currency in trade was started from NRB doing away with the transaction through Reserve Bank of India. The growing realization on the need of expanding and diversifying foreign trade of Nepal was reflected through the introduction of Bonus Voucher Scheme or the Export Exchange Entitlements (EEE) that allowed importers to use specific portion of the export earnings in importing third country goods. The goods to be imported from such earnings were categorized as development goods, luxurious goods, industrial goods and the consumer goods. National Trading Limited (NTL) was established in 1961, as a government owned state trading organization to handle import of third countries goods and the commodity aid program. NTL also provided transit services including supervision of the transit movement

of third country exports and imports by establishing its offices under the banner of Nepal Customs Liaison Office in Kolkata and Barauni. This organization played an important role in the diversification of Nepalese trade and also facilitation of transit till the establishment of Nepal Transit and Warehousing Company Ltd (NTWCL) in 1971 (Kaphley 2000).

Nepal initiated economic liberalization and reform programs in mid 1980s, first with the openness of financial sector. The reform measures in the form of deregulating interest rates, removal of ceilings on bank loans, introduction of laws for the establishment of new financial institutions, and deregulation of portfolio restrictions to banks were introduced by the Government of Nepal. This was followed by the adoption of indirect monetary instruments to regulate the flow of credit and export credit coming under productive sector lending requirements. Similarly, reform measures were initiated in the front of foreign exchange by introducing flexibility in exchange rate determination, full convertibility of the rupee in the current account and partial liberalization in the capital account as well. Along with the liberalized foreign exchange regime and market determined exchange rate for convertible currencies, a number of financial reform measures were also expedited in 1990s. The reform measures adopted therein was sweeping and covered almost all sectors of economy from trade and investment, fiscal and monetary policies, financial and capital markets and tourism, labor and hydropower sectors.

Elimination of licensing system and quantitative restriction in export and import, rationalization of import tariff were the most important policy measures in trade sector reform while the investment liberalization process was taken up with the enactment of the Industrial Enterprises Act-1992 and the Foreign Investment and Technology Transfer Act (FITTA)-1992 with the objectives of deregulating and simplifying the process of investment procedures. A new Industrial Policy was announced in the same year, which allowed the private investment in all sectors except for a small negative list of cottage and specific types of industries. A “One Window” system was introduced to provide all government services to investors through a single institution. Privatization program of public enterprises was initiated and implemented with a view to promote private sector led growth. The private sector has also been encouraged in the development of infrastructures like

roads, transport facilities and hydropower. The domestic airline market has been deregulated and the private airlines were permitted to provide international air services.

The reform in trade sector after 1990s also envisages some milestones as the signing of trade treaty with India in 1996, development of three Inland Clearance Depots at Birgunj, Biratnagar and Bhairahawa, accession to the multilateral trading system (WTO) and membership of South Asian Free Trade Area (SAFTA) and BIMSTEC Free Trade Area. Diversifications of transit facilities were made with the opening of Kakarbhitta-Phulbari-Banglabandha corridor in 1997. Government of Nepal brought out new trade policy in the first half of 2009 which focuses on making trade sustainable mainly through; simplification of processes and trade facilitation, enhancing the capabilities of the government and private sector institutions, development of entrepreneurship and creation of employment opportunities, revival of the traditional products and development of export potential products based on comparative and competitive advantage to the country. The policy is more comprehensive and is intended to support the goal of economic development and poverty alleviation through enhanced contribution of trade sector to the national economy.

Table 1 : Composition of Nepalese External Trade in Current Decade

	(In Percentage)								
	2000/01	%	02/03	%	04/05	05/06	06/07	07/08	08/09*
Export									
India	46.8	59.6	52.9	57.1	66.9	68.1	70.8	66.0	62.0
RoW	53.2	40.4	47.1	42.9	33.1	31.9	29.2	34.0	38.0
Import									
India	47.3	52.7	57.0	57.8	59.0	66.7	59.2	60.4	54.0
RoW	52.7	47.3	43.0	42.2	41.0	33.3	40.8	39.6	46.0
Total Trade									
India	47.1	54.8	55.9	57.6	61.2	67.07	61.87	61.52	55.0
RoW	52.9	45.2	44.1	42.4	38.8	32.93	38.13	38.48	45.0

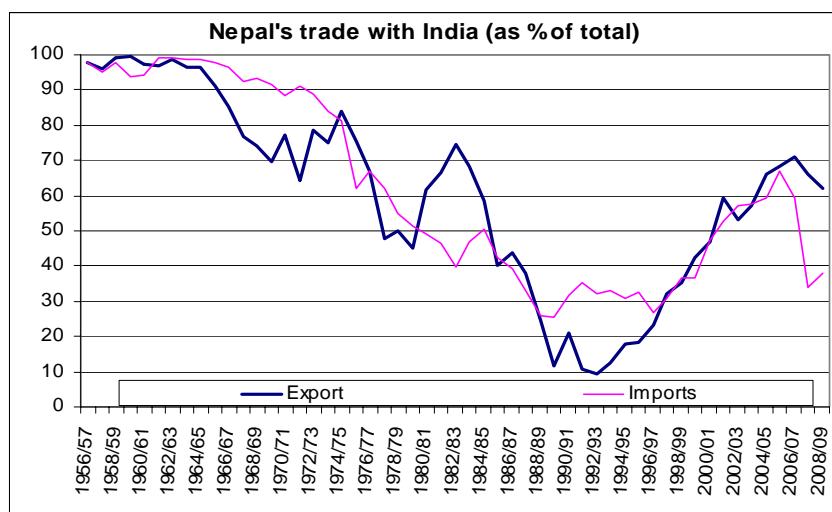
Source: Trade and Export Promotion Center (TEPC)

RoW = Rest of the world;

* Tentative

The single country concentration of Nepalese trade started to meltdown gradually after 1960s. During the second three-year plan (1962-65), export to India occupied 97.9 percent of the total export (1001.6/1022.6 million NPR),

import from India occupied 98.5 percent of the total import (1997.6/2028.1 million NPR). The trade statistics of the third five-year plan shows that the share of export to India has remained 95.5 percent (2155.2/2256.1 million NPR) and the share of import 94.2 percent (3176.3/3371.6 million NPR) during the plan period. It has shown gradual decrease in the share of trade with India and the corresponding increment of trade with the third countries. The above table shows the changes in the pattern of trade in the subsequent periodic plans.



Source: TEPC: Nepal Overseas Trade Statistics (various issues) and *Bhatt Shiv Raj* (2008).

The figures presented above shows that the composition of trade before 1970 indicates heavy concentration to India, which gradually reversed during 70s to 90s. Nepal's trade with the rest of the world got focused between early 70s and mid 90s. However, this trend was again reverted to increased concentration to India after mid-90s, which continued till date, basically due to market access facility available under Nepal-India trade treaty. There has been also a gradual shift in the composition of products. Garment used to be the major export commodity during 80s and 90s in the third country markets, followed by woolen carpets, handicrafts and pashmina. However, some of these products are loosing competitiveness as the export volume is declining in the wake of openness of markets in recent years. Rather, products like

hides and skin, tea, large cardamom, coffee, silver jewelry, Nepalese paper and paper made products and jute sacks are emerging as the potential exports to third countries. Export to India mainly consists of threads, zinc sheets, jute goods, polyester yarn, juice, cardamom, vegetable ghee, ginger and so on. But the export of major products like vegetable fat, and acrylic yarn is declining heavily in recent years due to reduced MFN tariff in India. The choice of products to replace these traditional exports is limited. However, potentialities exist in developing new exportable products based in agriculture and forestry, minerals and small-scale industry products.

Trade, Stability and Economic Growth

Since the end of the Second World War, trade flows have increased much faster than world population, even faster than overall economic growth. Export growth accounts for about 40 percent of the increase in Gross Domestic Product (GDP) of both developing and developed countries. The faster growth on average in output and trade in developing and transition economies, compared with the developed world, is matched by their increasing share of world trade, from 35 percent in 2000 to over 40 per cent in 2007.

Trade has been regarded as the driving force of world economic growth in the last 50 years. Many empirical studies show that trade openness does have a statistically and economically significant effect on growth and poverty reduction (Frankel and Romer 1999; Jha Veena et.al. undated; Sachs and Warner 1997).

It is believed that international trade based on production specialization according to each nation's advantage leads to a more efficient allocation of resources in the world economy and consequently to higher levels of output and growth in all countries (Bhatt 2007). Accelerated growth, in turn, promotes national development and reduces poverty. Therefore, trade has greater potential than aid to increase the share of the world's poorest countries and global prosperity (UNDP 2005).

International trade can no doubt be a powerful catalyst for human development; however, the link between trade and human development is complex and right conditions are needed for trade to work in favor of the

poor. Moreover, for producers of LDCs to enter and compete in the international market (or to trade in the global market place); competitive supply capacities (produce best at least price) are needed.

In this context, it may not be wrong to say that trade is an engine of growth, but LDCs have largely been unable to use this engine for reducing poverty, basically because of their weak productive capacities. The main factors behind their inability to use trade for accelerating growth and reducing poverty can be clubbed into four groups:

- i. Lacking infrastructure-like road, ports, and telecommunications- that unlock producer's link to global markets;
- ii. Inefficient institutions- customs, tax and product standard- that drive up the cost of doing business and trading;
- iii. Complex documentation and procedures and lack of trade support services: and
- iv. Knowledge gap (producers are unaware of market opportunities).

Among the countries most at a disadvantage in the trading arena are the least developed countries (LDCs), with small and vulnerable economies, and nations that are landlocked. The World Bank has estimated that lack of domestic seaports raises the transport costs of a country's foreign trade by around 50 percent, and reduces a country's trade volume by 30 - 60 percent (World Bank 2008). Thirty-one out of 45 sub-Saharan African nations are LDCs (about two thirds), and 11 are landlocked (about one quarter), with 10 classified as both least developed and landlocked. Similarly 8 Asian nations are landlocked, right from Nepal, Bhutan and Afghanistan to countries like Kazakhstan and Kyrgyzstan in Central Asia. Hence there is need for these developing landlocked countries to enhance the productive capabilities to take advantage of the opportunities for market access that have been opening up since the 1990s, while also compensating for the loss of preferential access to markets, and other challenges associated with trade reform and liberalization; gain access to technology, infrastructure investment and human resource development; and establish an enabling domestic environment for investment and innovation and create supportive social safety nets.

Therefore, market access opportunities that have been created/or expanded through WTO membership and regional and bilateral trade agreements or arrangements itself cannot be sufficient to produce desired outcomes, especially poverty alleviation in LDCs like Nepal. Moreover, adjustment cost of liberalization, revenue and public spending implications associated with trade liberalization may ultimately push back the governments in LDCs to initiate the poverty reduction efforts (Bhatt 2007; Khanal 2005; Khatiwada 2005). To overcome these challenges and to make trade a viable instrument of economic growth and poverty reduction, Nepal need to harness its supply capacities and develop proper national strategy and effectively participate in future negotiations at multilateral and regional forums. Moreover, proper mechanisms are to be established to check the risk associated with trade prone economic instability.

Conclusion and the Way Forward

India has remained the natural trading partner of Nepal most of the times in history and occupies two third trade of Nepal even today. This is mainly due to the geographical proximity, open border, closer economic ties and more preferences available under Nepal-India treaty of trade, which other agreements do not provide. But, the situation is fast changing as India has opened its trade and economy and reduced gradually the tariff barriers on account of the commitments under free trade area agreements and duty free tariff preferences scheme for all least developed countries around the world. Nepal simply cannot forgo the large market of India as the next door neighbor. The challenges faced due to opening of Indian market to the outside world should be met with appropriate measures to sustain and increase the export trade of Nepal. This would require further enhancing the facilitation of trade through mutual effort and cooperation between the two countries.

Nepal's trade liberalization process takes a new height with the joining of multilateral trading system and two regional trading arrangements. However, managing the economy in the wake of trade openness is a challenging task. Opening of services sub sectors like transportation, tourism, professional services real estate etc. may displace and drive out national players from the business. The decreasing MFN tariff will throng the

Nepalese exports are in a precarious situation, as there will be a loss in margin of preferences available under instruments of GSP and bilateral trade. The various agreements of WTO require capacity building of the national institutions in the relevant areas in order to play a meaningful role in international trade. Similarly, the regional trading arrangements do not seem to provide any tangible contribution to Nepalese trade promotion in a short-run; but the benefits from the medium to longer run can be anticipated as the RTAs are becoming more comprehensive and various sectors of economy are finding a place in the agenda of cooperation and collaboration at the regional level. However, there is need of developing and persuading appropriate strategies for enhancing supply side and productive capacity to overcome the challenges posed by the multilateral and regional trading systems that will help in creating a sustainable base of trade and economy.

Nepalese traditional export products, mainly carpet, garment and pashmina is losing share in the international market, particularly due to increased competition in the wake of tariff reduction, phase out of MFA and deteriorating trading conditions for Nepalese conventional products. The loss in quality of some products and increased production cost and low level of labor productivity has attributed to the loss of competitiveness.

Member countries are up-scaling the sanitary and phyto-sanitary and technical standards in view of ensuring food safety, prevention of animal and plant disease and controlling the import of sub standard goods. This has raised additional barrier to the export trade of least developed countries. These barriers are becoming more onerous as least developed countries do not possess the capabilities of meeting the standards and quality requirements of the importing countries.

Realizing benefits from the membership to the regional and multilateral trade body requires reform in the existing legal regimes by creating additional legal instruments and amending various piece of legislation to make them compatible to the international trade. These, among others, include rule and regulations related to customs matter, transportation, anti-dumping, safeguard, company administration, banking, insurance, SPS, TBT, services IPR and foreign investment. Thus there is need of keeping these instruments in place in order to develop the trade capacity of the country.

Export oriented industries in Nepal are mostly based on imported raw materials, thereby having a weak backward integration with the national economy. This, on one side, generally entails low value addition of the export products and develops very weak linkages with the domestic producers and growers at the other. Thus there is need of establishing effective linkages between export development and various sectors of the economy like agriculture, forestry, tourism, energy etc. which are termed as the areas of comparative advantages to the country.

Improvement in the quality of leading exportable products like carpet, pashmina has been a baffling task in order to reverse the deteriorating trend of export. The testing and certification facilities need to be upgraded for assuring the quality of the products to the importers. This requires a substantial investment from the public sector and a substantial amount of such spending should be supplemented from the external assistance in view of the paucity of resources in the third world countries. Quality infrastructures are vital in connecting the domestic goods to international markets and require upgradation of the facilities on food quality assurances, quarantine, standards testing in line with the requirement of importing countries.

Development of transport and trade related infrastructure is very much important in view of linking production centers to the domestic markets and further to the international markets. Construction of farm to market access road, feeder roads and district roads along with opening of north-south highway and creation of basic infrastructures at interface points are integral part of the strategy for facilitating the free flow of goods within the national boundary while improvement in transit operation is equally important for lowering the cost of transaction and increasing the competitiveness of exports. Meanwhile, efforts should be made to develop additional dry ports, container freight stations; integrated customs check posts, handling equipments, cold warehouse for facilitating the movement of trade traffic. The only rail connected ICD at Birgunj should be brought to full-fledged operation.

It has been increasingly realized that addressing the supply side constraints would help in enhancing the export trade and poverty reduction initiatives in the country. Given the dynamism in trade it is high time to focus on identification and development of the export potential products to the higher value chains. Any such effort should be linked with the strategies of

bringing the poorer section of society, vulnerable groups and women in the production process of goods and services; what we call the inclusive development of trade in the new political paradigm.

The effort of trade development till recent years is confined to the trade in goods. However, there are opportunities in development of trade in services under the ambit of multilateral and regional trading system. This would require changing the mindset towards giving due focus on potential service areas like tourism, health, education financial services and IT services. Meanwhile, there is need of creating a favorable investment climate and protection of intellectual property rights that will give a boost to promotion of trade in goods and services.

It goes without saying that trade development leads to economic stability which in turn promotes prosperity and peace. One should not forget that peace is also a precondition for healthy growth of industry and trade. Thus peace, prosperity, trade and economic stability are entwined to each other and the loss of one will have adverse impact to others. This is particularly true for a country like Nepal which is just emerging out from the clutches of a decade long internal conflict and the hangover of the conflict is still bedeviling the people at large. The precondition for development of trade and economy is a peaceful political transition and good governance where the authorities are accountable and ingenuity finds a place to flourish and prosper.

Trade liberalization *per se* can not be taken as panacea for all evils of trade and economy in the context of experienced marginalization of the least developed and vulnerable countries and the imperatives of liberalization have narrowed down the policy space for them. Thus, the provisions of special and differential treatment under various trading arrangements need to be implemented honestly in order for insulating these countries from further marginalization. It is particularly true in the context of recent dramatic shocks of food, fuel and the global financial crisis that hit hard the developing world with the consequential impacts of higher unemployment, decreased purchasing power, and economic marginalization and destitute. The deterioration of the situation could further lead to social unrest and political instability. Trade is also a victim of the crisis and the threat of protectionism will have greater impact on the vulnerable economies.

Trade liberalization can play a critical role in advancing peace and economic prosperity among nations through development of complementarities and sharing of benefits by the partnering countries. However, the developing world, particularly the least developed countries are forced to linger for a fair share as evinced from the stalled and often failed negotiations at multilateral and regional forums. Hence, the challenges created by the openness of trade has to be pursued by maintaining the pace of openness, promoting the north-south and south-south partnership and pushing forward a successful conclusion of Doha Development Agenda of World Trade Organization.

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Defining National Interest in an Emerging Nation-State

Mohan Lohani¹

Defining national interest of a country like Nepal which is multi-ethnic, multi-lingual and multi-religious is a challenging task. In a perceptive paper published in 2003, Harka Gurung writes, ‘a country or a nation does not merely refer to its geographical space, but should also reflect the citizen’s aspirations. Today’s political dilemma, economic depression, and social tension do not bode well for the country’s future. Since consolidation means conserving something that exists, it seems pertinent to enquire into the extent to which the Nepali state has evolved into a nation.’²

Prithvi Narayan Shah, the founder of modern Nepal, in his well known and much quoted *Dibya Upadesh* (noble injunctions), described this country as ‘a garden of four castes and 36 ethnicities.’³ The country, thus, continues to be inhabited by various ethnic communities. Unless the aspirations, interests and concerns of these communities are reflected in the new constitution that is in the process of being drafted, its ownership would become questionable.

Following the people’s movement of 1990 or *Janaandolan-I*, the existence of multiple ethnic groups was recognized by the 1990 constitution which stands abrogated today. There was considerable euphoria over the restoration of parliamentary democracy in 1990 but soon it gave place to disillusionment as a group of insurgents known as the Maoists launched the ‘people’s war’ with a 40-point demand in February 1996. The decade-long

1 Author is former Ambassador.

2 Harka Gurung, ‘Nepali Nationalism’, *Nepal Tomorrow: Voices and Visions*, ed. D.B. Gurung, Koseli Prakashan 2003, Kathmandu, Nepal, P.1

3 Ibid

insurgency, which resulted in the loss of more than 13 thousand lives and the destruction of national property, including infrastructures for development on a massive scale, came to an end after the second historic people's movement of April 2006 or *Janaandolan-II*. The international community has already welcomed the change, in particular the restoration of peace following the signing of the Comprehensive Peace Agreement (CPA) between the Government of Nepal and the CPN (Maoist) on 21 November, 2006 and the ongoing peace process, including elections to the Constituent Assembly (CA), which saw the emergence of CPN (Maoists) as the largest party in a position to form the government in coalition with other political parties.

Since restructuring of the state after CA polls, in response to people's interests, aspirations and expectations, has become the prime agenda and since the people are at the centre of politics and other activities involving them, their interests, as stated earlier, have to be unfailingly reflected in the new constitution that is expected to be inclusive, more democratic, equitable and progressive. Needless to point out, there is an excellent opportunity for Nepal to redefine its national interest and benefit from the goodwill earned, both at home and abroad, by its commitment to democracy as well as respect for human rights and peaceful change.

Challenges Ahead

While the Interim Constitution has declared Nepal a Federal Democratic Republic following the abolition of monarchy by the first meeting of the Constituent Assembly in May 2008, political parties of the country have yet to reach an agreement on an acceptable model for the federal system or structure under the new constitution. Hari Bansh Jha observes: "The main agenda of the 601-member CA has been to draft and finalize federal constitution. By and large, the people voted to power only those political parties which adopted federalism as one of its basic agendas. However, the political parties in CA are still divided about the criteria for constituting the federal units, number of federal units to be formed and division of power between the centre and states."⁴

4 Hari Bansh Jha: "Federalism and Economic Development of Terai", paper presented at a Seminar on "Building Bridges for Peace in Nepal" organized by Centre for

The deadline set by the Committee for the Restructuring of State and Devolution of State Power of the Constituent Assembly for submission of concept papers on federalism ended on September 16, 2009. The key coalition partners – Nepali Congress (NC) and CPN-UML failed to meet the deadline in submitting their concept papers to the Committee.

Sushil Koirala, President of the NC, clarifying his party's stand has stated that his party would not finalise in haste its draft proposal on federalism and that the future federal structure of the country would have to take into consideration several variables, such as geographical boundary, language, culture, ethnicity and, above all, financial viability of the proposed federal unit. While the NC, thus, continues to discuss its draft report on federalism, the CPN-UML, only a day before the deadline, finalized, at its standing committee meeting, the modality of federalism by proposing 15 provinces to be enshrined in the new constitution. The proposed six provinces on geographical basis are: *Birat, Sunkoshi, Gandaki, Lumbini, Khaptad* and *Karnali*. There will be 7 ethnicity-based provinces, namely, *Newa, Magarat, Tamuwan, Tamshaling, Tharuhat, Limbuwan and Kirat*. *Mithila* and *Bhojpura* states will be created on linguistic basis. The UML proposal also envisages, apart from provinces, three special structures, namely, the autonomous regions, protected areas and special areas.

The Maoist proposal, already before the CA, consists of nine Autonomous regions, six of which are based on ethnicity and three on territoriality. Following are the proposed ethnicity-based autonomous regions: *Kirat, Tamang Saling, Tamuwan (Gurung), Newar, Magrat, and Tharuwan*. The three territorial regions are: *Madhesh, Bheri-Karnali* and *Seti-Mahakali* Autonomous Regions. Under the Maoist plan, the autonomous regions would exercise control over areas and activities such as local land, forest, mountain, tourism, public land, religious places, rivers, lakes, minerals, agro-based small and mid-sized industries, inter-regional trade, local internal security, education, literature, language, culture and communication. Nevertheless, the people's army, foreign relations, finance, currency, international trade, large scale industries and big hydro electric projects are excluded from the

jurisdiction of the autonomous regions. The Maoist proposal suggests representation of all communities in the local state power on a proportional basis in case there are areas with mixed communities. Special treatment would be meted out to *Karnali* and *Seti-Mahakali* regions by granting them regional autonomy in view of prolonged oppression and backwardness to which these regions have been subjected. There is also provision in the proposal for separate autonomous regions for the *Terai (Madhesh)*, although the number of regions earmarked for the *Terai* has not been specified.

Nepal, as we are all aware, is passing through a transitional phase, and the transition from unitary to federal structure, from centralized to decentralized administration is not going to be so smooth as one would expect. A major English daily of the country has regarded, in its recent editorial, the issue of restructuring the state as ‘the most difficult to resolve.’⁵ This is, indeed, one of the most sensitive aspects of the new constitution. It is not yet clear how the coalition partners and other ‘fringe’ parties represented in the CA would react to the Maoist proposal. The proposal further envisages some regions as centrally administered. This has provoked debate among the stakeholders on the ground that the idea of creating centrally administered units does not conform to the concept of federalism. A decision has, however, been made to ‘provide the right of self-determination’ in the next constitution, outright rejecting the ‘right of secession’. Based on the report submitted by a five-member panel led by Unified CPN (Maoist) CA member Hitman Shakya, the CA Committee for Restructuring of the State and Devolution of State Power has defined the right to self-determination as ‘the right to use the natural and other resources in a certain area and utilize it for the economic development of the area, and has decided to give autonomy to the federal units for the same’.

The Report further adds: ‘States and regions under special structures of the federal units can exercise autonomy and right to self-determination on political and cultural matters, religion, education, information, communication, health, housing, employment, social welfare, economic activities, commerce, land and resource management, environment and financing these autonomous functions within the limits of the constitution and the federal

5 The *Kathmandu Post*, September 17, 2009

laws'. The federal units, while exercising their right to self-determination, are constitutionally forbidden to undermine or tamper with the country's sovereignty, autonomy, independence, unity and territorial integrity.

The same English daily mentioned above, while welcoming the decision on the right of self-determination as a 'heartening' development, hastens to add that 'the provision of self-determination is vague and open to multiple interpretations.' Besides, conflict becomes inevitable if the Centre-State relations in terms of the exercise of powers are not properly defined. Finally, nobody would dispute the honest advice to Nilambar Acharya, the Chairman of the Constitutional Committee, that he should 'take the initiative and urge all of its members-leading members of the political parties – to get engaged seriously.'⁶

The issue of federalism has already elicited conflicting views, comments and reactions.

Some politicians are opposed to the idea on the ground that it would ultimately lead to disintegration of the country. Former Prime Minister Late Girija Prasad Koirala had vowed at a public meeting not to allow 'disintegration of the country in the name of federalism' and he had categorically stated that such disintegration could take place 'over his dead body'. Narahari Acharya, a NC stalwart, disagrees with Koirala and dismisses his remarks 'as purely personal'. Acharya told the media that Koirala was unaware of the NC Central Working Committee (CWC)'s decision to adopt the federal system. He categorically stated, 'The Party President cannot interfere in the Central Committee's decision.'⁷

As the time for finalizing the draft of the new constitution is drawing near, several organizations representing various ethnic and indigenous communities have resorted to pressure tactics, such as *bandhs* and strikes affecting normal life in various districts outside Kathmandu valley. This is a disturbing phenomenon as it not only poses a threat to the already fragile law and order situation but would also disrupt developmental activities.

6 Ibid

7 'Acharya deals blow to Koirala' *The Kathmandu Post*, September 25, 2009

The ethnic fronts have formed a Joint Struggle Committee composed of Tamsaling Swayatta Rajya Parishad, Sanghiya Limbuwan Rajya Parishad, Khumbuwan Swayatta Rajya Parishad, Tharuhat Samyukta Sangharsha Samiti, Magar Hang Parishad, Dalit Community and Muslim Rastriya Sangharsha Samiti. They have called the strike demanding implementation of past agreements with the government as well as an assurance of federal autonomous states based on ‘ethnicity with rights of self-decision’. The agitators have also demanded a provision for caste-based proportional representation in all government agencies at all levels and the implementation of ILO Declaration 169.

Apart from federalism which is decidedly one of the most sensitive and ticklish issues to be tackled by the new constitution, security remains a major issue of national interest and concern to the Federal Democratic Republic of Nepal sandwiched between India and China, the two most populous Asian giants. The insurgency over, there has been considerable improvement in the overall security or law and order situation. But people continue to feel insecure in several parts of the country, particularly in the Terai, close to the bordering cities of India, where armed groups are actively engaged in intimidating and terrorizing the local population. Dharmendra Jha, President, Federation of Nepali Journalists observes: “Last year, abductions, threats, mental and physical tortures leading eventual death of those on the receiving end became a routine incident. The government, instead of taking action against the guilty, allowed them to find shelter under the aegis of political parties.”⁸

There are media reports that police have arrested at least four leaders of Nepal Defence Army (NDA), including its chairman RP Mainali in possession of arms. NDA is reportedly a Hindu extremist organization which has been accused of bombing churches, mosques and various other places across the country. Likewise, the Indian police are reported to have confiscated arms of the CPN (Maoist) led by the Matrika Yadav faction being

⁸ Dharmendra Jha, “Challenges of Nepali Journalists in Conflict Resolution”, paper presented at a Seminar on “Building Bridges for Peace in Nepal” organized by Centre for Economic and Technical Studies (CETS) in cooperation with FES, Kathmandu, October 6-7, 2009

transported across the border into Nepalese territory. The Yadav faction, as reported in the press, has 'decided to forge working unity with some Terai armed groups, including the Madheshi Rastriya Mukti Morcha led by Jayakrishna Goit'.⁹ Yadav is vehemently opposed to the government's recently implemented special security plan which is described by him as a conspiracy to suppress the voices of the people in the Terai and that 'the plan was brought to loot the Madhesh.'

Cross-border movement of armed terrorist groups has caused concern to the security personnel of both India and Nepal. Since open border is a unique feature of Nepal-India relations, government officials of both Nepal and India are aware of the misuse of the open border by some criminal and anti-social elements and have realized the urgency of curbing such undesirable activities to ensure peace and security in the border areas. Experts have pointed out that border patrolling is not enough and that some effective measures for regulating the movement of people across the border on both sides are urgently called for.

During a recent visit to Nepal, India's foreign secretary Nirupamo Rao informed at a press conference before her departure from Kathmandu that the Home Secretary level talk between the two countries has been scheduled for November 6-7 this year in Kathmandu during which 'the entire gamut of bilateral security issues' would be discussed. India has complained to Nepal that the latter's land has been used for anti-India activities. Rao said, 'I reiterated India's security concerns and the use of Nepalese territory for anti-India activities.' Nepal has also reiterated its commitment to India that such activities will not be allowed from Nepalese territory.

No less concerned about anti-China activities in Nepal is the country's northern neighbor China. To prevent Tibetan exiles' growing involvement in anti-China activities from Nepalese soil and free movement of these refugees, China is reported to have 'pledged to provide training, logistic and technical support for border security forces to control illegal activities along the border'. The then Foreign Minister Sujata Koirala, during her visit to China, not only reaffirmed the country's consistently upheld stand on 'one China' policy, including recognition of Tibet as an integral part of China but also

9 Matrika eyes ties with armed Tarai outfits' *Republica*, October 1, 2009

reassured the Chinese side that Nepal would not allow its territory to be used against China. There are reports that the government of Nepal has already sent two Armed Police Force (APF) teams for long range patrol as part of its plan to deploy border security forces at key border entry points along the Nepal-China border¹⁰

While Nepal expects its two immediate and powerful neighbors India and China to understand the vulnerability of a small country and respect its independence, sovereignty and territorial integrity, it is in the national interest of Nepal to become sensitive to the security concerns of its big neighbors and take appropriate measures to prevent and curb all kinds of hostile operations against them. In this context, it is pertinent to quote Late Prof. Y.N. Khanal:

‘What needs to be better realized is that both India and China, treaty or no treaty, have differently their vital national interest in Nepal. Our foreign policy, thought out hard and conducted in total concrete awareness of this reality, can be creative. In other words, nobody, however friendly, can think for us about our relations with India and China and the sensitive balance implied in it. Our relations with India and China always difficult and taking even a more difficult turn in the nuclear age, have been more complicated today by politicians of loose thinking and loose tongue. Their pronouncements bear no relation to their performance.’¹¹

Judged from a regional perspective, the inability of the state in most developing countries, including Nepal to govern, and its failure to deliver the basic services needed to ensure human security or to guarantee the security of the people by maintaining law and order has been recognized.¹² It is indeed ironic that in managing domestic chaos or internal conflicts, the state has come to rely increasingly on security forces. P.R. Chari has rightly observed that a militaristic approach to security is not enough, as the locus of conflict has shifted from the external to the internal dimension, with a corresponding change in focus from security through armaments to security through human

10 *The Kathmandu Post*, October 4, 2009

11 Y.N. Khanal ‘Introduction’ *Nepal’s Non-Isolationist Foreign Policy*, Satyal Publication, Kathmandu, Nepal, 2000, vii

12 Mohan P. Lohani, ‘International Security Environment’ *South Asian Security: Futures* ed. Dipankar Banerjee, Regional Centre for Strategic Studies, Colombo, 2002, P.33

development. The non-military paradigm, as Chari points out, encompasses within its fold wide-ranging threats, such as 'cross-border movements of population, ethno-political, socio-economic and communal, religious politics, terrorism with its seminal linkages to money-laundering operations, and drugs/arms smuggling, environmental degradation spawning its related problem of deforestation and desertification, internal migration and chaotic urbanization.'¹³

Conclusion

In the light of the foregoing with its focus on federalism and security in the changed political context, Nepal's national interest can be preserved, protected and promoted by taking into special consideration the country's sovereignty, national independence and territorial integrity. Nepal is today a republic and keen to institutionalize and consolidate democracy under a new inclusive constitution which is in the formative stage and efforts are being made to give it a final shape through consensus among the political parties and other stakeholders of the country. Both civil society organizations and the international community have expressed concern over snags in the peace process and delay in drafting the constitution. The political scenario is likely to become murkier because of lack of consensus and continuing squabbles among the main political parties. In the opinion of a political scientist the current political stalemate looks gloomy because personalized authoritarianism has overshadowed ideological spirit, and even parties are in the process of decline due to the dilemma of transformational change.¹⁴

NC President Late GP Koirala, in his last *Dashain* (the country's greatest festival) message, expressed his concern in a somewhat somber mood: "It is disheartening that clouds of uncertainty are looming large on the political horizon. There have been attempts to hijack the achievements of the people's movement. But it will only push the nation into anarchy and help all these disruptive forces to fish in troubled water."¹⁵

13 P.R. Chari, 'Security in South Asia: An Indian Perspective', in *Security in South Asia*, Policy Studies Series 2, ed. Mohan P. Lohani, Institute of Foreign Affairs, Kathmandu, 2001, PP 30-54

14 Lok Raj Baral, "Democracy's Blurred Future", *República*, October 3, 2009

15 *The Himalayan Times*, September 26, 2009

Consensus among all political parties is admittedly the clue to resolving the ongoing political imbroglio. No less concerned is President Ram Baran Yadav who, in his *Dashain* message this year, has emphasized the need for consensus among political parties ‘to take the peace process to a logical conclusion and draft the statute on time.’ Prime Minister Madhav Kumar Nepal, equally concerned about the ongoing political deadlock, has stated that the peace process and constitution writing will be in peril if the political deadlock persists.¹⁶ Safeguarding and strengthening national unity and security is crucial to and an integral part of national interest. It is all the more important and necessary for a new Nepal, with several federal units expected to become operational soon, to maintain and ensure peace and security within its territory and in the adjoining border areas by obtaining cooperation from our immediate neighbors.

16 *Republica*, October 11, 2009

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Challenges to National Security and Safeguarding National Interests

Brig. Gen. (retd.) Ranadhoj Limbu-Angbuhang

1. Security

Put simply, security is a physical, mental, and psychological feeling, relative to time, space, environment, and consciousness levels of the people concerned. As, nothing in life, especially at the micro level, is more or less unrelated to security, misunderstanding arises regarding the meaning of security, at times. When talking about security, therefore, answers to three basic questions/ variables - security for/ of what (e.g. human right? religious minority? marginalized groups?), security from what (challenges/ threats such as violence? poverty? drug-trafficking? human right abuse?), and security with what (means and instruments) – need to be made clear.

This paper is about theoretical aspects of Nepal's national security. Answers to the aforementioned questions are – Nepal's vital interests (security for what?), internal and external threats/ challenges to vital interests (security from what?), and sources and instruments of national power (security with what?). Throughout this paper, the focus will be on the above mentioned variables from which recommendations for safeguarding the vital national interests will be derived.

2. National Security and National Security Strategy

In layman's terms, National security implies security and protection of national interests from the internal and external threats/ challenges. And how a nation-state secures, maintains, and promotes its national interests in the context of existing threats and challenges is what is termed as national security strategy (NSS). NSS is also defined as the art and science of

developing and using the instruments of national power in peace or war to secure national objectives capitalizing on the nation's sources of power¹.

To formulate a sound NSS, therefore, a nation needs to invariably identify certain constants/ variables which include (a) national vital interests/ objectives, (b) threats/ challenges to these national interests, (c) available sources and instruments of national power, and (d) ways to effectively employ the instruments of national power to secure national interests. NSS is the foundation stone for all other national strategies including economic, social, and political. NSS needs to be regularly updated for timely course correction as required by new technology and changes in national and international security environments.

Over the past two centuries, Nepal could not have a balanced security strategy/ policy mainly because the Nepalese rulers equated and maintained their family, clan, and regime interests as national interests. It was because of such self-serving security thinking that Nepal suffered a strategic defeat in Nepal-East India Company war (1814-1816), and was condemned to survive as a semi-colonial nation-state throughout the Rana regime. Even after the Rana regime, Nepal's territorial integrity and sovereignty repeatedly suffered owing to wrong definition of national interests².

Nepal's growth as a free, independent, and a sovereign nation-state in future is, therefore, contingent on its capability to establish and pursue a practical and balanced security strategy/ policy that realistically takes into account Nepal's true national interests and unique geo-political location³. For this, first and foremost, Nepal needs to correctly identify its national purpose and vital interests.

3. National Purpose and National Interests

A nation, like a human-being, can survive, grow, and prosper only when it has a sense of purpose addressing the intellectual, psychological, and spiritual

1 Deibel, T. L., (2007). *Foreign Affairs Strategy: Logic for American Statecraft*. New York: Cambridge University Press.

2 Limbu, R. D. (8 January 2008). What is Our National Purpose? *The Kathmandu Post*, p. 4.

3 Ibid.

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needs of the people. National purpose endows the people with a faith and a cause to live for and die for⁴. It is the driving ‘spirit’ of the nation.

National interests are the means to the ends - national purpose. Through national interests, nation-states endeavor to realize their purpose. All policies—internal and external—of a dynamic nation are directed towards the achievement of national interests that contribute to national purpose⁵.

King Prithvi Narayan Shah (1722 – 1775) had a clear sense of purpose – to create a united nation-state out of the existing principalities. To realize this purpose, his national interests lay in uniting the existing small nations under one nation-state. It was a historic mission, the people believed in. The king and the people applied all their efforts to achieve this historical vision. They succeeded in creating modern Nepal.⁶

After King PN Shah, a clear sense of national purpose and interests aimed at meeting the hopes and aspirations of the people was missing. As a result, Nepal lagged far behind other nations in the historic march of time. Even now, Nepalese leaderships do not seem to have learnt from history, at all. Petty partisan politics keep them bitterly divided over what constitute national purpose and vital interests. As a result, our national purpose and vital interests remain undefined, politicized, and ignored.⁷

National interests are derived from national purpose, which is highlighted in the Preamble to the Constitution or some important documents. National interests are also outlined in different sections of the Constitution. One of the most crucial tasks of Constituent Assembly (CA) is, therefore, highlighting national purpose and vital interests that truly reflects the necessities and concerns, hopes and fears, and emotions and aspirations of the multiethnic, multilingual, multi-religious, and multicultural Nepalese people.

4 *Dictionary of Military and Associated Terms* (1987). Washington, DC: US Department of Defense.

5 Limbu, R. D. (8 January 2008). What is Our National Purpose? *The Kathmandu Post*, p. 4.

6 *Ibid.*

7 *Ibid.*

Not all interests are equally important. Statesmen traditionally label those of the greatest consequence “vital interests”. But deciding which interests are vital can be difficult. According to Plischke (1988), vital interests are those which a nation deems to be essential, which it will not willingly forsake, and for which if necessary it will fight – diplomatically, politically, and militarily. In some literatures, national interests have been classified as survival, vital, major, and peripheral. Others have simply differentiated vital interests from others⁸.

It makes little sense drawing parallel between vital interests of Nepal and that of other countries subjected to different geopolitical realities. Particularly from the perspective of national security, the followings may be suggested as some of the vital interests of Nepal.

4. Nepal’s Vital National Interests

4.1 *Survival and Safety*

Unless the two most fundamental human-needs— physiological and safety— are met to a reasonable degree, human-beings are most unlikely to seek for higher needs,⁹ which are required for the growth of a nation. People for whom even one meal a day is not secured, care less about abstract values. The disaster caused by the simple curable disease like diarrhea in Karnali region a couple of months back is just one of the examples of the extreme living conditions and low consciousness level of the people.

The ground reality for most of the other Nepalese living in remote villages is not very different. In fact, more than 50 percent Nepalese live below poverty line. As long as these fundamental human needs are not met, people will not aspire and try for creative development activities that are required for a nation to grow and be competitive in a world of the ‘survival of the fittest’. It sounds hypocritical to talk and preach about subjective concepts like sovereignty, freedom, independence, national unity, and democracy in front of starving peoples who comprise a great majority of the Nepalese

8 Deibel, T. L., (2007). *Foreign Affairs Strategy: Logic for American Statecraft*. New York: Cambridge University Press.

9 Maslow, A. H., (1962). *Towards a Psychology of Being*. Princeton, N. J.: Van Nostrand.

population. Therefore, addressing and meeting those basic human needs of the Nepalese form the most vital national interest of Nepal.

4.2 Territorial Integrity and Secured International Border

Nations derive their existence and identity from their state. Nations get ready to engage them in war to defend their territories. India-China war (1962 A. D.) broke out for the defense of territorial integrity. India and Pakistan fought number of times to secure their borders, and they are still deploying large militaries and para-militaries to the international border areas for securing their borders.

Nepalese territory along the border areas remains neglected, unsecured, and vulnerable to encroachment. *Kalapani* and *Susta*, provide live examples that Nepalese territorial integrity is insecure. Especially, strategically important places along the border area face encroachment¹⁰. This tendency of the violation of our territorial integrity has intensified following the Janandolan-1 (1990). A nation without a secured international border cannot be a nation in true sense.

4.3 National Sovereignty and Political Independence

The geopolitics affects sovereignty and political independence of a nation. Truly speaking, not even the superpower and great-powers can enjoy absolute sovereignty because of interdependent international system. However, some countries are more sovereign and independent than others.

Modern Nepal enjoyed sovereignty and independence till the fateful Sugauli Treaty (1816). During the Rana oligarchic regime and even after that regime, Nepal witnessed its sovereignty greatly constrained and restricted. Even after the Janandolan-1 and Janandolan-2, Nepal's sovereignty continued to be compromised. Most of the Nepalese political leaderships' continuous subservience to the British-India, Indo-Nepal Treaty of Peace and Friendship of 1950, and present day political leaders' frequent pilgrimage to Delhi are just some of the examples demonstrating the precarious condition of Nepalese sovereignty. Retaining and maintaining this core interest of the country is, therefore, vital for Nepal.

10 National Security Council Report, (22 July 2009). *Sima Naksama Hatar Nagar. Kantipur.*

4.4 Sustained Economic Growth, Welfare, and Prosperity

To keep the nation united and moving towards national purpose, only the satisfaction of the basic physiological/ safety requirements of the public is not adequate. For self-motivation, commitment, and unity required for achieving national purpose, favorable environment and opportunities need to be created. This is possible only when the governments succeed in achieving good governance, sustained economic growth, public welfare, and prosperity of the people. In fact, sustained economic growth, welfare, and prosperity keep the people united to effectively confront the threats including foreign interference.

4.5 Enduring Political Stability

Many armed groups and hostile foreign activities are thriving in Nepal due to the political instability. An infinite political instability ultimately leads the nation to a ‘failed state’, which invites direct foreign power intervention. Many observers have voiced their concern that Nepal confronting continued political instability at present is heading towards the status of a ‘failed state’.

Enduring political stability in the country is, therefore, vital for Nepal. Lasting political stability in new Nepal is definitely related with: the writing of new Constitution on schedule; logical conclusion of Comprehensive Peace Agreement; timely rehabilitation and integration of Maoist combatants; national consensus on vital issues such as national polity and nature of federal structure; and sustained economic growth.

4.6 National Unity and Identity

National unity is another pre-condition for the survival and growth of a nation. It enables Nepal to retain and sustain national sovereignty, territorial integrity and political independence. Nepal’s national unity and identity is a function of: inter-ethnic, inter- regional, and inter-cultural harmony which serves as the ‘Center of Gravity’ of Nepal; religious secularity; constitutional recognition of identities of different communities; adoption of inclusive systems; and, enduring political stability and sustained economic growth.

4.7 Practical Diplomatic Relations with the Immediate Neighbors

The strategically unfavorable geopolitical location of Nepal dictates that it is too dangerous for Nepal to play China or India card. Nor can Nepal remain indifferent to its own vital interests.

Owing to the Great Himalaya and long distance, Chinese political and economic core areas cannot be directly threatened by military build up in Nepal. Nevertheless, China considers Nepal as a part of its concentric inner Asian defensive system. Even now, Nepal remains strategically important for the security of Tibet, where a large number of anti-Chinese forces have been converging interests¹¹. On the other hand, India's heartlands— the Gangetic belt— is contiguous to Nepal's Terai belt. Therefore, India considers that Nepalese Terai falls within its inner security perimeter. In fact, both India and China consider the Himalaya Range as their natural outer security perimeter between themselves implying that Nepal falls within Indian security perimeter.

India enjoys unmatched leverage, as regards the survival and security of Nepal. Landlocked Nepal remains more vulnerable to the manipulation of India. The unfortunate incidence of 1989/1990, when India flexed its geopolitical muscle is an unforgettable experience – an outcome of Nepal's impractical and India's most opportunistic diplomacy. Ability to maintain a practical and balanced diplomatic relations with India and China, therefore, serves another essential condition for Nepal's survival and growth.

4.8 Development of Water Resources and Preservation of Ecology

Fresh water is the most important natural resources of Nepal. Nepal possesses about 2.27% of the world water resource¹². For irrigation, drinking water, electricity, navigation, and for minimizing the devastation caused every year by the floods, preservation and development of Nepal's fresh water rivers are of vital importance both for India and Nepal. Besides, the proper management of these waters resources is also vital for the sustenance of ecology in Nepal and the Gangetic belt.

Moreover, for Nepal possessing 82,000 MW hydropower potential, water is the only reliable source which it can harness and export to compensate for the shortage of other strategic resources, and improve its economy. Unfortunately, however, the only export market for Nepal's water and

11 Dahal, D. R. (2001). Geopolitics of Nepal. In Aditya A. (Ed.), *The Political Economy of Nepal*. Kathmandu: NEFAS, FES.

12 *Statistical Year Book of Nepal*, (2007). Kathmandu: Central Bureau of Statistics.

hydropower is India. In fact, Indo-Nepal diplomatic relations is largely dictated by how Nepal manages its vast water resources. Moreover, security strategists predict that there is a great possibility of India-China conflict/cooperation over management and utilization of water resources in South Asia. Any shortsighted water development strategy of Nepal, therefore, could invite disaster including direct foreign military intervention.

4.9 Regional and International Peace and Stability

Security of every nation across the globe is interlinked, more or less. It is of interdependent nature. Security cannot be achieved at the price of insecurity for others¹³. Nepal can enjoy security, peace, and prosperity only when enduring peace and stability prevails in the South Asian region in particular, and across the world in general. It is one of the preconditions for Nepal's security and prosperity.

4.10 Other Important National Interests

Other important national interests and values incorporated by the Interim Constitution of Nepal- 2007, include sovereignty of people and federal democratic republic secular state based on democratic values such as: pluralism and inclusiveness; respect for diverse cultures, ethnicities, religions, and traditions; social harmony and fraternity; equality of opportunity and status; freedom of thought and expression; liberal multi-party democracy; human rights and security.

5. Threats to Nepal's Vital Interests

5.1 Background

In South Asia, some of the latest examples of major external threats to national interests that the small nations experienced are: Indo-Pakistan war (1972) resulting in the birth of Bangladesh; merger in 1975 of Sikkim into India; and deployment of Indian troops to Sri Lanka in 1987 and to Maldives in 1988. The latest major natural disaster which some of the South Asian states (India, Sri Lanka) also faced was the devastating Tsunami of 2003.

The major external challenges to national interests modern Nepal confronted in the past include: the Chinese invasion (1792), in which the

13 Anan, K. (11 December, 2006). *Farewell Speech*. Delivered in Truman Library.

Chinese troops marched right up to Betrawati river and threatened Kathmandu itself; the war of 1814–1816, in which Nepal lost major portion of its territory; and the Indian 'blockade' in 1989-1990. Moreover, Nepal faced a decade long Maoist insurgency as a major threat, inviting political instability and foreign power interferences. Besides, Nepal suffered number of major natural and manmade disasters, the most devastating of which were the earthquake of 1934, and Koshi river dam outburst (2008).

Sources of threats to national interests, thus, could be Natural (ecological) and manmade, external (state and non-state actors / powers), or internal agencies. However, to-date several other challenges also pose grave threats to national interests. For Nepal, those challenges could be natural/ manmade, military, psychological, political, economic, social, demographic, cultural, religious, subversion, infiltration, and espionage.

5.2 Nepal's Crucial Strategic Vulnerabilities

Nepal is sandwiched between India and China, which are respectively 22 and 75 times bigger in size than Nepal. While Nepal's population is approximately 27 million, each of its neighbors, has well over one billion mark. The nearest access to the sea is the Bay of Bengal, which is 1127 km spanning the territory of India. Nepal maintains negligent direct land routes to countries other than India. Nepal remains not only land-locked, but also practically 'India-locked'¹⁴. The supply routes for Nepal's survival are, thus, insecure, and its economy remains most vulnerable. Moreover, one school of thought maintains the possibility of grand strategic bargaining involving the disputed territories (Aksai Chin and Arunanchal Pradesh), Tibet, and the existence of Nepal as a sovereign nation.

India is Nepal's sole external market for hydropower and water export, implying that Nepal cannot enjoy much leeway in developing its water resources. Moreover, Nepal is bound by the unfavorable strategic treaties including Indo-Nepal Treaty of Peace and Friendship, 1950, and major river treaties including Koshi, (1954), Gandak, (1959), and Mahakali, (1996). The Indo-Nepal international border is open (devoid of natural barriers) and unsecured, rendering the Terai belt (Nepal's economic and political core area

¹⁴ Bhattarai, B. R. (2003). *The Nature of Underdevelopment and Regional Structure of Nepal: A Marxist Analysis*. Delhi: Adroit Publishers.

without any natural defense) vulnerable to several types of threats – military, economic, demographic, political, psychological, smuggling, and humans and drugs trafficking.

Nepal lacks strategic depth. Its economy is very weak and primitive agriculture-based¹⁵. And the impact of global warming on Himalayas, which are subject to avalanches and glacial lake outbursts because of global warming, could be catastrophic for Nepal (and South Asia and world).

Nepal, at the moment, lacks centripetal force to strongly hold the nation-state together. National unity is deteriorating. Large number of political parties are vulnerable to manipulation of internal and external forces. Nepal suffers identity crisis and continuous cultural invasion. While Nepal suffers from the crisis of national leadership and lack of national consensus on vital national issues, various ethnic and regional groups are demanding for separate states. And, there are still two armies in Nepal – Nepal Army and the Maoist Army.

5.3 Threats to Nepal's Vital Interests - External

For Nepal, the most obvious external threats as well as opportunities could be its immediate neighbors – India or China, either of which is very much capable of militarily invading and occupying Nepal within a short span of time. However, it is most unlikely to face such a direct foreign military invasion because of its geopolitical location, the short-term and long-term implications of such invasion, and the elements of uncertainties involved in such an adventure. Moreover, if the foreign powers, especially immediate neighbors, seriously want, they may achieve their ends more easily and economically by means and ways other than direct military intervention.

India and China already are water stressed economies. Water is becoming a key security issue in Sino-Indian relations and a potential source of enduring discord¹⁶, which will not spare Nepal. Other external threats could include: economic blockade and energy crisis; construction of series of unilateral embankments close to 'No man's land'; grand design promoting 'Akhand Bharat'; sustained cultural invasion; infiltration into bureaucracy

15 Ibid.

16 Chellaney, B. (2009, August, 5). Sino-Indian Water Divide. *Republica*, p. 5.

and security organs; manipulation of mainstream and regional political parties for the control of the government; armament race or major wars/conflicts (including nuclear) in South Asia; unilateral damming, diversion, and inter-linking of international rivers; regional and international instability; mass migration of people caused by the impact of ecological disaster in South Asia; and international terrorism.

5.4 Threats to Nepal's Vital Interests - External/ Internal

External forces are more likely to exploit internal sources to further their interests, which are camouflaged in different terms and conditions. Some of such most likely threats are: sustained political instability caused by fractious political parties and self serving political leadership working under foreign influence; external manipulation of Nepal's new Constitution writing process; Nepal government's disregard and indifference to the border encroachment; 'hyper-dependence' on India; illegal trafficking in humans, synthetic drugs, narcotics, counterfeits, and small arms and explosives; money laundering, organized crime, and cross-border ethnic violence; short-sighted treaties and agreements that could be made in future; activities promoting to 'Greater Nepal'; control of Nepalese media from abroad; uncontrolled and hostile activities of INGOs within; religious and ideological fundamentalism/extremism; and, endemic transnational diseases like HIV/AIDS.

5.5 Threats to Nepal's Vital Interests - Internal

Some of the major internal challenges to national vital interests/objectives include: crisis of national leaderships enjoying trust and confidence of all Nepalese; lack of consensus among the major political parties on what constitutes national purpose and vital interests; doubt over the credibility of the C.A. for writing of new Constitution on time; partisan politics prevailing over vital issues such as national political system, federation of Nepal, integration and rehabilitation of Maoist combatants, the questions of identity politics raised by ethnic and regional groups; declining national unity and centripetal force; politicization of national institutions including judiciary, educations, bureaucracy, and security forces; ill/ myopic management of Nepal's vital resources – water – and geopolitical/ geo-strategic location; very low economic growth rate; widening socio-economic disparity between the haves and have nots; and, the possibility of economic meltdown.

Other internal challenges to national interests are: increasing number of armed groups; massive corruption, increasing culture of violence, crime, and disregard for law and order, and criminalization of politics; controversial citizenship issue; underdeveloped civil-military relation; regional, ethnic and class differences, social discrimination, insecurity of marginalized groups; brain drain of population; centrifugal force gaining ground; rising violence leading to internal displacement of people; and, over population.

5.6 Challenges to National Interests– Manmade and Natural Disasters

Since Nepal lies in a region of high seismic activity, the most dangerous manmade disaster may come from the ill-conceived, ill-managed, and ill-maintained mega-infrastructures and mega-hydropower projects containing big dams. And, major factors contributing to natural disasters are rapid population growth, unplanned development activities, a high degree of environmental deterioration, fragility of land mass and high elevation of the mountain slopes¹⁷. The major disasters Nepal is exposed to are:

- **Earthquake**

Some 80 % of housing in Kathmandu valley is at risk if an earthquake of a magnitude of 6.5 to 7.0 on the Richter scale were to occur¹⁸. Experts assess that more than 50, 000 may die instantly if a major earthquake hits Kathmandu.

- **Ecological Deterioration and Hazards**

In Nepal, high population growth, over-dependence on agriculture, unbalanced development activities and urbanization, and indiscriminate deforestation have contributed to ecological deterioration, which have induced climate change, floods, droughts, and landslides. Their compound effects have triggered a process of degradation which is now perceived as a serious ecological threat, presenting a ‘creeping disaster’¹⁹

- **Floods.**

17 Russell, N., Acharya, M. R., and Pant, S.R. (1991). Nepal Country Study. In *Disaster Mitigation in Asia and the Pacific*. Manila: ADB.

18 Ibid.

19 Ibid.

5.7 *Most Dangerous Threat to Nepal's Vital Interests*

The most dangerous security threat to Nepal may come from internal cultural conflicts including inter-religious (Hindus versus others like Muslim, Christians), inter-ethnic/racial (Khas/ Mongols, Madhises versus Tharus), and inter-regional (Pahades vs. Madhises), because such cultural sort of conflicts are most likely to trigger chain reaction across the nation-state and invite regional and international interference²⁰. If the ongoing situation of political instability and lawlessness carries on infinitely, Nepal is bound to face the destiny of a 'failed state', which certainly invites foreign intervention.

6. Existing Institutions/ Means for Safeguarding Nepal's Interests

6.1 *Government and Bureaucracy*

Main responsibility for safeguarding national interests lies in the government and bureaucracy. The degree of security of national interests is directly proportional to the quality and stability of government and bureaucracy. This quality of government is based on the quality of national leadership and support of the people expressed through the genuine electoral process in democracy. The successive governments after Janandolan-1 and 2, however, remained unstable, indecisive, self-serving and corrupt, and subject to manipulation from foreign powers. And, the Nepalese civil-bureaucracy remains highly politicized, corrupt, and unprofessional.

Nepal's intelligence agency (eye, ear, and brain of the nation) was totally dismantled after Janandolan-1, and never redeveloped. At the moment, Nepal Police, Nepal Armed Police Force, and the National Investigation Department (NID) remain politicized, disoriented, and unprofessional. Some influential politicians and others tried to drag Nepal Army also into politics. All these Security Forces institutions remain neglected and undeveloped to fulfill their roles.

6.2 *National Security Council (NSC)*

NSC is the principal governmental organ which regularly scans and assesses national, regional, and international strategic security environment,

20 Huntington, S. P. (1996). *The Clash of Civilizations and the Remaking of World Order*. New York: Simon & Schuster.

and identifies national vital interests, threats to national interests, and appropriate national instruments to address those threats. Further, NSC coordinates national instruments, and recommends to the government appropriate options (ways and means) required for safeguarding vital national interests. The NSC serves as a focal point/coordinator between the government and the instruments of national power regarding national security. Nepal's NSC remains ill-organized, ill-equipped, and underused.

6.3 National Security Doctrine/ Strategy

Doctrines are modified principles relevant to a specific region/ country. Doctrines tend to change with time. Doctrines, fundamental and general in nature, represent the best available thought on the subject and indicate and guide, but do not bind, in practice. It is an authoritative rule, giving the approved way to do a job²¹. The NSC is responsible for formulating official National Security Doctrine and National Security Strategy. Nepal lacks both of these national security directives, till now.

6.4 Military Doctrine/ Strategy

The Defense Ministry and the Military establishment in coordination with the NSC are responsible for formulating military doctrine and military strategy, which are based on national security doctrine/ strategy. Nepal Army has been maintaining a military doctrine/strategy unendorsed by the successive governments after Jana Andolan-1.

6.5 Nepal's Sources / Instruments of National Power

Nepal's main sources of national power include: natural resources mainly water; population; geography; tourism potential; national character; national unity; national morale; national leadership and quality of the government. All of these sources of power remain underdeveloped.²²

Nepal's instruments of national power include: political; diplomatic; informational; economic; and the military. Nepal's instruments of national

21 British Military Doctrine. United Kingdom Armed Forces.

22 Limbu, R. D. (2009, June 30). *Rastriya Suraksha Ran'anitika Chunautiharu*. Kantipur.

power also remain very much underdeveloped and unprepared for addressing the threats to vital national interests.²³

6.6 National Political Parties and Leaderships

All the political party institutions do exist to serve the nation. However, intra-party rivalries have exhausted their energy needed to serve the nation. Moreover, several senior political leaderships misused their parties' name and have forfeited their credibility to lead the nation.

6.7 Neighboring Countries and International Institutions

Except the neighboring countries – India and China, there are several international institutions including the UN and SAARC ready to assist Nepal. However, such assistances and cooperation require political stability, good governance, and effective diplomacy, all of which are lacking in Nepal presently.

7. Nepal's Crucial Strategic Capabilities and Requirements.

Nepal's crucial strategic capabilities include: its vast hydropower potential including fresh drinking water, and tremendous tourism potential; strategic location between India and China; strategic location of Nepal's eastern region forming western flank of strategically important 'Silguri corridor', which links mainland India with its strategically sensitive north-east regions; cordial diplomatic relations with international community including UN; and the possibility of developing Nepal as a regional economic and financial centers. Moreover, strategically located Nepal can serve as an economic, political, social, and security bridge (interface) between two great world civilizations – India and China. Nepal is thus in a strategic position to contribute to regional and international peace and stability.

Nepal's crucial strategic requirements essential to secure and promote vital national interests, include: sustained economic growth; appropriate technology and adequate capital to harness Nepal's hydropower resources; easy access to sea and free/ easy overseas supply routes as provisioned for landlocked countries by international conventions; uninterrupted supply of

23 Ibid.

energy (FOL); adequate number of access routes to China; balanced and practical relation with the immediate neighbors – India and China; adequate number of east-west and north-south road communications linking Nepal's districts, and different cultural and regional groups; and, political stability, national unity and identity, and strong centripetal force to hold the nations together.

8 Safeguarding National Interests

To safeguard national interests/ objectives, Nepal is required to formulate National Security Strategy options that involve permutations and combinations of various instruments of national power (informational, political, diplomatic, economic, and military). Some of the long, medium, and short term measures/ goals could be as follows:-

8.1 Long/ Medium Term Measures

- Give sustained and high priority to liberate the population from physical and mental poverty.
- Undertake sustained and consistent development plan for sources of national power.
- Establish realistically correct perspective on the relative importance of sources of national power, and develop them accordingly to build up credible national strategic deterrence.
- Open up adequate number of roads to China.
- Prepare the nation for natural and manmade disasters especially the earthquakes and floods.
- Develop Nepal as an important bridge (transit) between China and India, both of which should maintain high strategic stakes in the political sovereignty, stability and security of Nepal.
- Minimize one-sided dependence on India through mutually benefiting strategic development projects, where both sides maintain high stakes.
- Avoid strategic alliance with any country.
- Inter-ethnic, inter-racial, and inter-regional harmony (center of gravity) is key to national unity, stability, and integrity of the

country. Develop inclusive system of governance and address the politics of ethnic and regional identity across the nation.

- Develop and maintain indispensable inter-ethnic, inter-racial, and inter-regional interdependence and symbiotic relationship through realistic and viable federation, and strategic development plans.
- Review and update the relevance of the old strategic security concepts such as 'Non-alignment', 'Panchasheel', 'Special relation', 'Equiproximity' and the 'Zone of Peace' to the present day security environment.

8.2 Medium/ Short Term Measures

Appreciate the relative importance of available instruments of national power and develop/ modernize/ enhance them accordingly:-

Intelligence/ Informational

Knowledge (that comes from information/ intelligence) is the most versatile and basic, since it can help one (nation) avert threats that might require the use of violence (military) or wealth (economic), and can often be used to persuade (diplomatic) others (threats) to perform in desired ways out of perceived self-interest (national interest). Knowledge, thus, yields the highest-quality power.²⁴ Nepal's National Investigation Department (NID) is the most important national instrument of power. A nation without effective and reliable intelligence/ information agency is blind and dumb. The nation/ government must understand this truth and treat the NID as such.

Reorganize, develop, and modernize this most neglected national intelligence agency- NID. Employ highly talented and dedicated Nepalese in this profession. Ensure that the NID is foolproof against infiltration and partisan politics. Equip it with affordable modern gadgets, which is the most effective and reliable means for intelligence gathering. The most important task of the NID must be to routinely appreciate national and international security situations, identify major threats to national vital interests, and establish the capabilities, limitations, and intentions of all

24 Toffler, A. (1991). *Power Shift: Knowledge, Wealth, and Violence at the edge of the 21st Century*. New York: Bantam Books.

major threats (internal as well as external). Its responsibility must also include: countering hostile intelligence and espionage, and subversion and sabotage; and suggesting feasible options to the government for effectively countering the threats.

Appreciate the vital importance of media to promote nationalism and national unity, inter-ethnic and inter-regional harmony, and to expose corruption and anti-national treaties, agreements, and sleaze dealings, especially of national leadership. Utilize national and international media including internet to educate the public about the threats and challenges to national security. Incorporate national security concepts in the schools and colleges curriculums.

Manage/ control the INGOs and media that are hostile to national interests and security. Mobilize the Diasporas for national security and development. Create integrated intelligence agency to monitor national and transnational crime and open border. Cooperate with the international community for sharing of information required in combating transnational threats – terrorisms, humans and drug trafficking, and hijackings and abductions²⁵.

Diplomatic

Review and update the composition and regulations of Foreign Ministry to make it more mission oriented. Adhere to the principles of 'Panchasheel', 'Non-alignment' and United Nations Charter in words and deeds. Religiously prevent use of Nepalese territory as a base, threatening other states. Update/ rectify the unfavorable strategic treaties and agreements made in the past. Control and regulate the border, and deploy Border Security Forces to secure it. Seek highest diplomatic solution to 'Kalapani', 'Susta', and other international border encroachment issues, and proliferation of arms and armed groups. Appreciate Nepal's geo-political reality and ensure balanced and practical diplomatic relation with India and China.

25 SSR- NSS Core Group Meeting, (09-10 Feb, 2009).

Expand cultural and socio-economic ties and cooperation with other nations, but there should be no premature finalization (under pressure) of vital strategic issues including the international border, water management, and deportation/extradition treaties. Use diplomacy to address external threats and to enhance national security. Enhance Nepal's capability for participation in UN peace keeping missions. Hold regular coordination meetings with counterparts of neighboring states to sort out border issues and transnational crimes. Cooperate with the international community in security training and in combating organized and transnational crimes - terrorism, money laundering, fake money dealings, smuggling, hijacking and abduction, and human, drugs, and arms trafficking.

Political.

Develop new Constitutional provision to ensure stable democratic government under clean leadership. Develop democratic culture in words and deeds within the political parties. Seek political stability and national consensus on: national purpose and national vital interests; type of national polity; nature of federation; rehabilitation and integration of Maoist combatants. Review and update laws governing citizenship. Address the prevailing politics of identity to contribute to national 'unity in diversity'. Complete writing of new Constitution on schedule. Depoliticize national institutions including judiciary, bureaucracy, and security organs. Religiously apply meritocracy and inclusiveness to bureaucracy and other national institutions. While federating the country, accord highest priority to forming symbiotic relationship among the ethnic, racial, religious, and regional groups.

Economic

Develop infrastructure and favorable environment for financial investments and socio-economic development. Ensure industrial security. Create a favorable environment for entrepreneurship. Formulate policies to attract domestic, foreign and Non Residential Nepalese investments. Safeguard the interest of overseas Nepali workers. Diversify economic relations. Use diplomacy at regional and international fields to contribute to economic interests. Build up infrastructure to develop Nepal as a

regional and international financial and diplomatic center²⁶. Through proper development of Nepal's river system, tourism, and other sectors, induces indispensable interdependence between the Terai, Hill, and Mountain.

Military.

Assist the civil authority to formulate national security doctrine and national security strategy. Formulate practical military doctrine and defense strategy. Seriously study the last decade long civil war to derive fundamental lessons, which could be invaluable for formulating practical national security doctrine/strategy. Develop the military institution as one of the national unifying factors (inclusive and apolitical character), and an instrument of stability. Right size the military to maintain a viable military force as required by the national security doctrine/ strategy. Clear statement of military's primary/secondary roles for the public to understand what the military exists for. Establish clear division of responsibilities (in terms of who should do what, when, and how) between the political leaders and the military authorities to avoid politicization of the military.

The military's role and missions must include 'war of national liberation', as well. Enhance the intelligence capabilities of the military. Review and update professional military training syllabus to discard irrelevant subjects and incorporate the relevant ones. Realistically and properly train, equip, and modernize the military to maintain its morale, motivation, and combat power (especially fire and maneuverability), and enable it to fulfill its assigned missions. Develop meaningful and practical civil-military relation. Promote awareness of human rights among the military personnel. Ensure transparency in financial dealings, and meritocracy and impartiality in the administration of rewards and punishments. Upgrade the welfare of the military personnel and their families, which remains overlooked.

Update records of trained and disciplined ex-military personnel (about hundred fifty thousand from Indian Gurkhas, fifty thousand each from

26 SSR- NSS Core Group Meeting, (09-10 Feb, 2009).

British Gurkhas and Nepal Army), bringing home approximately two trillion rupees a year²⁷. Formulate strategic plans for their utilization in national security/ services when required.

Others

Inclusive development of human resources: right to access of education, health, shelter, employment and human rights. Establish school and college curricula to promote national identity and national unity. Ensure allegiance to Nepali nationality above communal, group, ethnic, or caste allegiance. Encourage media to promote national pride and character²⁸. Update the composition of National Security Council. Establish national security institutions for the training of all Nepalese citizens from all walks of life.

9. Conclusion

More than 2500 years ago, highlighting the importance of knowing own national interests, and understanding the capabilities, limitations, and intentions of enemies (threats and challenges), Sun Tzu said, “Know your enemy and know yourself, and you can fight a hundred battles without disaster”²⁹. This statement is very much relevant to Nepal’s present day security situation. Nepal’s national purpose and vital interests must be clearly defined, debated, concluded, and incorporated in the new Constitution.

No form of political system can enable the poverty (physical and mental) stricken Nepalese to safeguard their national interests. Eliminate the degrading poverty (enemy), and the most important battles (of safeguarding vital national interests) will be won, and quite possibly the war³⁰. Nepal, first and foremost, must be liberated from the physical and mental poverty. Moreover, it is only the motivated, committed, and conscious Nepalese who ultimately can guarantee the security of Nepal. Public awareness of the

27 Maski, D. (13 October, 2009). *Naya Sambidhanma Purba-Sainik*. Kantipur.

28 SSR- NSS Core Group Meeting, (09-10 Feb, 2009).

29 Cited in Hart, B. H. L. *Sun Tzu on the Art of War*.

30 Cited in Alagappa, M. (1987). *The National Security of Developing States*. Dover, Mass: Auburn House Pub Co.

implications of national security, and a sustained buildup of sources and instruments of national power is the best deterrent against threats/ challenges, as testified by Singapore and Switzerland.

Further, national unity will be the critical determinant of Nepal's survival and growth as a sovereign and independent nation-state. National unity must be sought in the general consensus on national vital issues, the most important of which are the national purpose and vital interests. Well defined and understood national purpose and vital interests may serve as a unifying factor and a strong centripetal force for all political parties and ethnic and regional groups across the nation. Correct identification, definition, establishment, and adoption of Nepal's 'spirit' i.e. national purpose and vital national interests is, therefore, the starting point for the ultimate safeguard and promotion of Nepal's national security.

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Federalism and the Restructuring of the State

Manohar Prasad Bhattarai¹

Definition

There are more than one federal units in Federalism and the collection of these units make a union. Federations can be formed when officially affiliating separate kingdoms into a single union or when restructuring a traditionally unitarily governed state.

1. Tiers of government

There must at least be two tiers of government in a federal system of governance. Each federal unit has a legislative, executive and judiciary. These organs govern the states. Provisions are also provided for ascertaining the procedures for running a government, it's mandate and mechanisms for coordination.

2. Sharing of Power

The sharing of power between the federal states and the union is also ascertained. Their mandate and authority are written in the constitution. Federal units are free and autonomous to practice their rights.

3. Written Constitution.

The sharing of power between the federal units and the union, their responsibilities and structures are mentioned in the constitution. Federalism compulsorily needs to have a written constitution.

4. Autonomy

The federal units can practice the rights specified by the constitution without any disturbances. The Union has no provisions to cause any type of obstacles, blockages or obstructions.

¹ Author is Secretary General of the Constituent Assembly and Legislature Parliament.

5. Dispute resolving mechanisms

In case of disputes between the union and the federal states in issues related to usage and following of the constitution, mechanisms for solving such disputes are managed for through legal and political mechanisms.

6. Answerable to the people

Due to the situation that the people get their government in their own villages, the government becomes answerable to the people.

Decentralization and federalism are not taken in the same regard. In decentralization, the centre government allocates rights and such organs work within these rights whereas in federalism it is not the centre that decentralizes its rights but the provinces make laws within the rights mentioned in the constitution and governs itself. As the rights of both the union and the provinces are listed in the constitution they freely exercise the rights provided in the lists.

The basic principle of federalism is that the power and the rights of the country is not kept in a single centre. It is a situation where power is not allowed to be in one centre or where there is separation and management of state power. As the rights of the centre are distributed to provinces or any other level under it in federalism, it is also called a system for separation and distribution of state powers.

Federalism distributes state governance and power. The major characteristic of federalism is the joint venture between the various tiers of government or the inclusion of the feeling of stake holding in state power. Federalism is not only autonomous governance. It is also shared governance. The structure of Unions usually has a proportionate representation of all provinces. Federalism is sometimes called unity with autonomy and freedom.

In federalism the sovereignty of the people are exercised by one or more organs and it is not delegated rights but should be provided by the constitution. Federalism is taken as a picture of distributed sovereignty.

In federalism, even though sovereignty rests with the people, it is exercised by organizations or groups that have been mentioned in the constitution. In this system citizens can use their sovereign rights in many ways.

A federal nation is divided into various federal units. Each unit receives its own special autonomy and self governance. Every federal unit's proportionate stake holding is established.

Federal forms of governance are found to have been successful in democratic countries. Federalism requires every federal unit to be committed to the values and ethos of democracy and share common accountabilities and responsibilities. It also puts stress in common specialties and priorities.

Countries in the new world do not have common structures or model. Federal models are also of different types. The countries geographical situation, people's aspirations and needs, nationalities, language, culture, and social and economic conditions all have a direct impact.

In geographical terms both small and large countries have adopted for federal models. 28 countries in the world are being governed in a federal manner.

Forming of federal states and style of governance

1. Countries that have been formed when sovereign units voluntarily joined: America, Switzerland.
2. Countries that transformed themselves from a unitary system to federal system : Germany, Ethiopia, Nigeria, Belgium
3. Countries that adopted for a mixed style and were formed by using both the above mentioned styles: Canada

The federal model of new Nepal was initially propagated by Nepal Terai Congress when they asked for an autonomous Terai province.

Nepal Sadhvavana Party had demanded for a federal model with 5 provinces after the the 1992 elections in the House of Representatives. After that, since Janajatis, organizations and unions demanded for provinces based on nationalities, the Interim Constitution of 2006 was amended for the third time and made a constitutional provision for Federal Republic.

Unity in diversity can be the speciality of federalism in Nepal. Internally communities with different identities can balance variety and unity whereas externally all are commonly recognized as Nepali. The aim of federalism is to

emotionally unite the already geographically united Nepal and lead the country towards successful development.

The model for structuring various vertical tiers of the state and deciding upon the creation and roles of structures inside a third parallel state mechanism is the restructuring of a state. The border of the country is unchangeable. This does not create a new country. Restructuring of the state means to internally transform or change an already existing structure of country.

Restructuring means to re-create areas inside the national borders. Restructuring means taking the existing structures and making them more organized and scientific in such a way that the country's resources and power are justly and legally distributed and also the state creating structures and governance system that follows the states policy of using the citizens capabilities to the utmost.

The reasons behind Nepal's need to adopt federalism are, the people's political aspirations, wishes and demands.

Everywhere there is a belief that Nepal should adopt federalism to manage Nepal's diversity. It is important to address the national, linguistic, cultural and geographical suppression, to establish in people from all areas of the state a feeling of ownership and onus towards the state.

For fair distribution of facilities and services provided by the state and to establish an equal stake in the access to the benefits of the developmental activities of the state, to increase the representation and participation of all people and to address the movement to end all forms of discrimination in terms of class, nationality based or gender based movements with aims to receive equal rights, there is a belief that Nepal must become federal.

Those who oppose federalism say that as sovereignty will be distributed between the centre and provinces, it will be difficult to maintain the country's autonomy. There are numerous examples of countries which could not maintain federalism for a long time after adopting it. Countries that could not handle federalism by opting for it immediately are Melize, Lithuanian Malewa Federation, Soviet Union and Yugoslavian Federation whereas countries that divided after opting for federalism are Yugoslavia and Ethiopia. Those countries that changed their governance system from unitary

to federal and then reverted back to a unitary form of governance are Cameroon and Uganda. Successful examples of countries that have been following federalism are United States of America, Germany and Switzerland. Examples of success and failure of federal form of governance are both found. As there are two diverse perspectives towards adopting a federal form of governance, both the positive aspects and the negative aspects have been presented.

Negative aspects

There are possibilities that the country may fragment, it may become expensive, a country with an economy like ours will not be able to handle it, and communal fabric may tear and lead to communal violence if the country adopts federalism. As federalism is a new topic in Nepal, it is important to follow democratic values and ethos loyally. As the federal units will be small there might be disputes regarding the use of natural resources and regarding exercising of rights, and it might take a long time to solve them.

Positive aspects

Federalism is required to manage the diversity of Nepal, to end discrimination, to have fair distribution of the states services and facilities and to ensure equal access to the benefits of state development.

Federalism will end the absolute rights of a unitary system and federalism means to develop democracy, transparency, and accountability and put it into practice. It also means that those who have given up on the governance system of the country will again start believing in democracy. The situation will be such that programs will be prioritized and executed as per people's wishes and they will be directly involved from policy planning stage to implementation stage and as programs will be selected according to geographical regions the people will have a sense of onus and ownership.

Basis for division of Federal units

Federal units cannot be divided on only one basis and it is impossible to do so. Nepal is multi-lingual, multi-ethnic, multi-cultural and geographically diverse country. Speaking about origins there are four racial groups which are Aryans, Mongols, and Dravidians, in terms of language there are four

separate languages, which are Bharopeli, Tibeto-burmese, Austric and Dravid under which there are 92 languages and ten religious communities. Geographically there is diversity in terms of Mountainous regions, hilly regions and flat Terai regions.

Differences are found in living styles, clothes and cultural heritages of the people and communities because of diversity in nationalities, languages, religions and geographical conditions. Because of constant relationships and inter-mingling between various nationalities, deep influence is to be found in each others' speech, language and cultures.

Identity and capability might be taken as the basis for creation of federal units in Nepal. Under identity, nationality, language-culture, historical sustainability and geographical sustainability can be taken whereas under capability, economic relationships and capabilities, conditions of natural resources, development infrastructures, administrative access etc. It would be wise to study and analyze all aspects before deciding upon the number, borders and names of federal units.

Managing Centre-State Relations in Fiscal and Security Matters: India's Experience

Prof.(Dr.) N.R. Madhava Menon¹

Federalism, no doubt is a beautiful concept to accommodate diversities and project a unity of purpose for mutual benefit; its practice, however, is full of uncertainties as it depends on a variety of institutional mechanisms essential for co-ordinating the activities and policies of the various independent units of government. There is no single formula to manage the set of complex relationships excepting the abiding principle of consultation and shared responsibilities.

Federal system can assume the Parliamentary model followed in India, Canada and Australia or the Presidential model followed in the United States, Brazil and Argentina. In looking at the issues which may arise in Centre-State relations, one can identify some which are common to all federal systems and others which are peculiar to the history, economy and politics of the country concerned. Many of the problems are related to the Constitutional provisions on division of powers, on the structure of the federal legislature, on the role and jurisdiction of the judiciary with respect to constitutional interpretation and dispute resolution, and on the mechanism for revenue sharing and fiscal federalism. Of late, internal security issues and the distribution of responsibility therefor have also become the subject of controversy in inter-governmental relations.

In the debate on Centre-State relations in India, a new dimension which has arisen after the 73rd and 74th Constitutional Amendments which created a third tier of government, is the Central-Panchayat/Municipality relations and the State-Panchayat/Municipality relations.

1 Member, Commission on Centre State Relations, Government of India

Before presenting few insights from an Indian experience it may be necessary first to look at some models proposed by experts on federal governance and then have an overview of the scheme of Centre-State relations under the Indian Constitution.

Alternative Models of Federal Governance:

Experts who have studied federal arrangements have identified four different types, each of which has certain distinguishing features though they do overlap in several respects.

If the power and functions of the two levels of governments are delineated clearly and if there is neither subordination nor inter-dependence between the two governments, the relationship is described as disentangled federalism. There is no inter-dependence and no hierarchy in such systems and autonomy of each government is quite pronounced.

Then there is Unilateral federalism in which there is inter-dependence and hierarchical relationship between the Centre and the provinces. The federal government directs policies in the provinces usually through conditional funding. It is an efficient arrangement because of uniformity in policies and the relative absence of jurisdictional conflicts.

In other situations where there is inter-dependence but no hierarchical relationship, and the federal and provincial governments collaborate to attain policy goals, the arrangement is known as Collaborative federalism. In this model there is no coercion from the federal government. There is jurisdictional autonomy; yet national programmes have relatively smooth implementation in the States.

Yet another model suggested is Co-operative federalism where the units and the Union tend to co-operate even though their roles and responsibilities are separately formulated. The efficiency of the model depends on a variety of factors and accountability is blurred as the governments blame each other for the failures of the system.

The Indian federation appears to share the characteristics of the collaborative and co-operative models of federalism.

Centre-State Relations in the Design of the Indian Constitution:

The Indian Constitution is not a federal one in the classical sense. Nor is it a unitary constitution despite its strong centripetal features. It does incorporate some federal features like division of legislative powers, dual control of political authority, some degree of state autonomy in governance, an independent judiciary and a rigid procedure for Constitutional amendment. The Constitution uses the expression “Union of States” to define the Republic. The members of the Constituent Assembly refused to adhere to any theory or dogma about the Constitutional structure. They resorted to a policy of pick and choose producing a political/administrative structure substantially modifying established ideas of federal governments. There was no conflict in the Assembly between the “Centralists” and the “Provincialists”. Of course, the impact of emergency provisions, distribution of powers and devolution of revenue did create disagreements; but they were more on techniques rather than on principles.

Though there were strong demands for increased revenue for provincial governments, yet they agreed that the Union Government should collect the money and then distribute it among the units. Federal disbursements within the framework of national planning also have had the same centralizing effect. The regional governments are dependent upon payments from the Centre and the Centre, by the use of conditional grants, frequently control and direct developments in matters which are constitutionally assigned to the provinces.

In the division of taxing power, generally speaking, taxes that have an inter-state base are under the legislative jurisdiction of the Union, while those that have a local base fall under the legislative jurisdiction of the States. Within the jurisdiction of the State, governments are most taxes concerned with land, such as land revenue, agricultural income and estate duties in respect of agricultural land; States also are assigned taxing powers on alcoholic liquors, taxes on professions, taxes on vehicles, on luxuries and amusements.

The Union and State Governments may borrow on the security of the national/State revenues within such limits as are set by parliament/State Legislatures. But State Governments may borrow only within the territory of

India and that too only with the Union's consent if there is outstanding any part of a previous loan from the Union. While making such loans, the Union may impose such conditions as it thinks fit. Thus, the Union Government is the banker and collecting agent for the States.

Fiscal Federalism in the Indian Constitution:

Fiscal federalism pre-supposes allocation of fiscal jurisdiction among the constituents. This is achieved by the Seventh Schedule of the Constitution where the Entries in three Lists (Union List, State List and Concurrent List) demarcates the power of tax. Thus, some degree of fiscal autonomy is achieved through the division of fiscal jurisdiction.

Another important aspect of fiscal federalism is the existence of a system of transfer of payments or grants by which the federal government shares its revenues with lower levels of government. Typically, the Central government uses this power to enforce national standards as well as to remove vertical imbalance (i.e. between the Union and the States) and horizontal imbalances (i.e. amongst the States). A significant portion of the total revenue collections of the Central government is to be distributed amongst the States according to Articles 268, 269 and 270. The revenue is to be shared with the States on the recommendation of the Finance Commission. Fiscal transfers are required to be guided by definitive principles based on equity, efficiency and predictability.

In selecting the norms and variables for fiscal transfers, there are allegations of discrimination. Discriminatory treatment of States arising from changing configuration of political power structures and vagaries of coalition politics have, of late, led to weakening of the federal structure. In this context, the role of the Finance Commission assumes critical importance for removing vertical and horizontal fiscal imbalances. The need is for transparent economic indicators of general applicability to be evolved and practiced by independent Finance Commissions.

The Centrally Sponsored Schemes through which the Central Government gives conditional grant to States for implementing schemes of the Centre have also created frictions in Centre-State relations as it tended to dilute fiscal autonomy of States.

Another important aspect of fiscal unity is the establishment of a Unified Common Market which is yet to be fully achieved. Article 301 declares that trade, commerce and intercourse throughout the territory of India shall be free. At the same time, Art. 304 proceeds to permit the States to levy taxes on sale of goods. The varying tax barriers do create impediments in achieving a unified market. The value added tax (VAT) recently adopted is a right step towards the evolution of common market in the whole country. This is now being followed up by a unified tax structure called GST or good and services tax. Interestingly this transformation has been evolved by a Committee of State Finance Ministers which is acclaimed as a land mark in Centre-State relations.

Arresting wide regional inequalities and promoting regional equity through appropriate fiscal policies is another object of fiscal federalism. This is often addressed through evolving a unified common market by removing barriers to trade and by creating a level playing field for poorer jurisdictions with fiscal equalization and national minimum standards grants enabling them to integrate their economies with the rest of the economy. Such grants enable backward states to provide reasonably comparable level of public services at reasonably comparable levels of taxation. Special packages from Central Government are being employed to address the peculiar problems of backward States including geographically handicapped regions. These are justified in terms of equity and balanced development of all regions.

Public Order, Police Administration and Centre-State Relations:

Maintenance of public order and control of police administration are matters exclusively in the domain of States. In other words, the federal government has nothing to do with internal security in normal times. However, as part of “Emergency Provisions” Article 355 imposes a duty on the Union to protect every State against external aggression and internal disturbance... The scope of this duty and the nature of central intervention to fulfil the obligation are matters not very clear or free from dispute. With the threat of terrorism and communal violence hitting some parts of the country, the role and responsibilities of the Centre vis-à-vis the States are now being re-visited. The recent enactment of the Prevention of Unlawful Activities (Amendment) Act, 2008 and the National Investigation Agency Act, 2008 have empowered

the Centre to intervene in the investigation and prosecution of selected crimes related to terrorism by the NIA overlooking State objections, if any. These are areas where internal security overlaps with national security in which the Centre has exclusive jurisdiction. When the unity and integrity of the country is in question, the Constitution permits overriding powers to the Centre under “Emergency Provisions”.

The Central Bureau of Investigation is an Entry in the Union List and is controlled by the Union Government. There are increasing demands from States for certain sensational crimes being investigated by the CBI in preference to the State police and Centre-State co-operation in police matters is developing slowly but steadily. There exists an all India Police Service where officers are recruited by the Union and sent to States which, in turn, gives some unity of standards in policing throughout the country.

Criminal law and criminal procedure are subjects in the Concurrent List in which both the Centre and the States can legislate. The Indian Penal Code, the Criminal Procedure Code and the Evidence Act are legislations applicable throughout the country giving criminal justice administration some degree of unity and uniformity all over India.

The Central Government does raise and maintain the para-military forces and deploy them on railway security, industrial security, border security etc. These Central forces are sent at times of crisis on the request of States to assist the civil police to restore normalcy. The emergence of extremist violence in some States have necessitated increasing co-operation among Central and State police forces to work in unison to control violence and restore law and order. India's unified and independent judiciary has contributed a great deal in constructing a criminal justice administration including police that maintain human rights standards and rule of law irrespective of political ideologies and local expediencies in the management of security.

Federal Democratic Republic of Nepal and Her Security Concerns

Lt Gen (Retd.) Balananda Sharma

Introduction

The interim constitution of Nepal has declared this country a ‘*Federal Democratic Republic*’ following the abolition of monarchy in the first meeting of the Constituent Assembly in May 2008. Despite some serious disagreements and reservations in many political parties, ‘*The Committee for Restructuring of State and Devolution of State Power*’ of the Constituent Assembly has already submitted its recommendations of 14 states, majority of which are based on ethnicity. According to the recommendations (subject to approval by the CA) Nepal will have 14 states and some autonomous regions. Yes, the country moved from an unitary monarchic state to federal republic, all of a sudden from a Hindu kingdom to a secular state, the position of Nepali language has been relegated both at the political and symbolic level and we are in a transitional phase. Moving from centralized administration to decentralized one will not be as easy and smooth a task as one would have expected. Also, the proposal of some of the centrally administered regions will be in contradiction to the ethos federalism. It is yet unclear as to how many such states and centrally controlled units will emerge. Perhaps, as seen on many other federal states, except for sovereignty, autonomy, independence, unity and territorial integrity other powers would be delegated to states. Nepal undoubtedly is moving onto federal direction, but the lack of experience and clear vision will lead us to strenuous relationship between the centre and the states in terms of exercise of powers. Every state will have its own state apparatus including bureaucracy, police, legislative, executive and judiciary. Not only the states must be able to sustain them economically, the relationship between the states has to be properly defined in the constitution. Also, the states cannot be created overnight; there will be a transitional time

before the states become functional. This transitional phase will be vulnerable to both internal and external threats particularly when a lot of armed elements have surfaced of which few have political aims and many are of criminal in nature.

National Interests and National Security Strategy

Logically speaking, security forces are created according to the threats to the National Vital Interests of the nation. We heard the news that the Home Minister has submitted a draft proposal of *National Security Strategy* to the cabinet. Obviously, the white paper must have defined the *Core Values*, *National Interests and Grand Strategy* to further the National Goals. Generally, such documents are prepared by competent experts and authorities and is discussed in parliament and passed with 2/3rd majority. The *National Security Strategy* is then developed to protect and further the aims as envisioned in the *Grand Strategy*. This then comes to the cabinet for the execution. The *Grand Strategy* has to be above partisan politics and the parties must come to consensus for achieving the national aims. Let us hope that it is so. At this juncture, the country must develop a strategy that addresses both the immediate and long term security concerns of the country.

The immediate concerns are maintaining law and order and help the authorities bring the peace process to a workable end. The restructuring of the state and the writing of the constitution with a long term vision would be difficult, if not impossible task, in the absence of 'law and order'.

Security Concerns of Nepal

As of now, if we take the interim constitution as a guide to define our current security requirement, we may, in a progressive manner, like to develop it as under:

- a. **Core Values:** The core values, as enshrined in the constitution, are *democracy, justice, freedom and fraternity in a secular setting*. Emanated from the core values, the desire of Nepalese people are *territorial integrity, political sovereignty, economic prosperity, welfare and independence*.

b. **National Interests:** Developed from the core values, the national interests are many but in order of priority, I would like to list only the following for our understanding:

- 1) **Preservation of an Independent, sovereign, undivided and territorially secured nation.** The implications are that the government and opposition must agree to a strategy of protecting these interests against external threats. Second implication is that both agree to maintain viable security forces (what, how, who and with what resources). Second implication would be to enhance and sustain nation's diplomatic capability (vision, knowledge, capability and credible and willing diplomats). Third implications would be to promote security awareness among the population (ownership, commitment and voluntary help). And, the last would be to prevent the use of national territory as a threat to other nations (capability to detect and expel the undesired foreign elements operating both overtly and covertly against the neighboring countries).
- 2) **Maintain domestic law and order and peace; protect the people and their property:** The implication is that the government maintains professional security forces with high morale (create, train and provide resources, keep apolitical and ready force). Second would be to prevent national and transnational criminal activities (create a right sized and type of Army, Para-military and Police force to provide the services as committed in the constitution. Also, train and keep them professionally fit. Third would be to monitor and manage the open border (decide who should do it and accordingly, create and train the force enabling them to do the job). Fourth obviously would be to promote political awareness on National Security Perspective (Politicians and security persons must make the population aware of the security requirement).
- 3) **Preservation of Sovereign Rights of the people, democratic system, democratic values and rights, HR, Equality and Freedom:** The implications are; firstly, enhancing the allegiance to Nation/ Nationality above the party / Community / Group / Ethnic /

Caste allegiance. Secondly, emphasizing on inclusive development of human resources, access to education, health, shelter and employment. And, lastly to promote human rights awareness.⁴⁾ **Preservation, exploitation and development of economic potential (natural/man made) for the well being and prosperity of the people:** The implications are; firstly, enhancing prosperity and equitable development. Secondly, creating conducive environment for entrepreneurship and, lastly, securing the interests of Nepalese working overseas.⁵⁾ **Contribute to International Peace and Global Harmony:** The implications are, firstly, to enhance diplomatic negotiation capabilities. Second would be to enhance participation on peace and relief operations (HR). Third, to enhance participation on intergovernmental organizations. And the last would be, to co-operate with international community in combating narco-terrorism, human trafficking, and other similar trans-national threats.

- c. **India-China factor:** Nepal has a friendship treaty with India. Besides this, both China and India may have their own hidden agendas regarding the security of their country vis à vis Nepal. However, currently, the overtly stated concerns of both the neighbors are that the territory of Nepal should not be used for anti-India/anti-China activities. To our neighbors, Nepal both in the past and present, has reiterated its commitment that such activities will not be allowed from Nepalese territory. Actually, what measures has Nepal taken against such activities in the past, is mostly reactive ones. Nepal has not developed any security strategy to address these issues on either side. Recently, some of our political parties have been vocal on the issues of past treaties and border encroachments made by our neighbors. However, such pronouncements have not been converted into real action and the implications of these have been well understood by them (neighbors). In future, some of the borders of newly emerged states will touch our neighbors (international border) on both sides and the border between the states remains vulnerable internally. What the country has not been able to make good use of the geostrategic location is ‘benefit from developments taking place in China and India’ today. But, every-

thing depends on the ability to put our own house in order, restore peace and rule of law, produce exportable goods and services and build relationships of trust and confidence with both our neighbors.

Theoretically speaking, every country has soft and hard powers to deal with the threats (both internal and external) to her national interests. In our case, soft powers like diplomacy, political leadership and the government system and the economy are not developed to a satisfactory level. As stated by Annette Baker, the distinctive power of great states flows from their military strength... for small state; diplomacy is the tool of statecraft. Therefore, national consensus on foreign policy could be built among the major political parties as one of the vital tools of protecting and promoting Nepal's National Interests. Amongst other powers, Nepal police force is demoralized and politicized. The APP is yet to reach its maturity level both in terms of its professionalism and the size. National army is confined to the barracks and underutilized. The economy is in bad shape. Therefore, before it becomes too late, the country has to focus on '*Grand Strategy*' and the '*National Security Strategy*' as soon as possible and start implementing it. In the absence of a coherent and credible national defense perspective, even the NA is unable to pursue a proactive posture for Nepal's defense.

Nepal Army in FDRN

I do not think there is a debate on the requirement of an Army. The debate is on keeping a right sized Army. Once the '*National Security Strategy*' is drafted the questions of aims, threats, size, arms and equipments will be decided. During the transitional phase, the current size of the army would be maintained and as in any other federal states, it remains under the federal union. As stated in the constitution, to ensure that Nepal Army is democratized, a cabinet committee has already been formed. Partial democratization has already been achieved as the Nepal Army has already come under the political leadership. Hopefully, in future, rational legislative frameworks, administrative procedures, and civilian institutional capacity to plan, coordinate, and ultimately control the armed forces will be developed which can enhance both overall security as well as democratic accountability.

It is now the obligation of the ruling government to articulate the sovereign state purpose and its defense requirements; it is the duty of the

professional military to meet that requirement in terms of doctrine, tactics, and technology. As suggested and proposed by Huntington- ‘Subjective’ and ‘Objective’ control of the Armed Forces, as practiced by other democratic states, the ‘Objective’ civilian control is what is being sought in FDRN i.e. *ensuring political neutrality and subordination as part of its professionalism and ethos.*

Reforms in the NA

In the government and political level, the reforms one would like to see would be: setting up human right standards (in line with our commitments to the world bodies and our country specific), designing the frame works for the parliamentary oversight of the military, initiating programs to strengthen the technical and professional competence of the civilian organs like the Defense Ministry and the Parliament to supervise and coordinate the Armed Forces. It has been repeatedly expressed by political parties that Nepal does not have political ambition of using its army for offensive purposes. What it desires to do is to use its army for self defense. The basic logic behind self –defense is that the self has to be adequately identified before it can be defended and the army reorganized. Therefore, ‘*National Security Strategy*’ has to be developed as soon as possible; one of the methodologies of developing such strategies is attached in appendix-1. Internally, as envisioned in the constitution, what the Army is expected to become more inclusive without compromising professionalism, slowly go secular way in treating soldiers of other religious faith and gender, enhance professional dignity, ensure fair application of rules and procedures and be transparent where it is required. Since NA will have secondary role of assisting NP and the APF in law enforcement work, efforts must be made to ensure that a brigade sized force is stationed and becomes available in every state(s.)

Law enforcement in the FDRN

Like any federal states, law enforcement in FDRN will be conducted by numerous law enforcement agencies. At the union (federal) level, the agencies will be the part of the Union Ministry of Home Affairs, and support the states in their duties. The Constitution of Nepal is expected to mandate *law and order* as a subject of the state; the bulk of the policing would be in the respective states and territories. Larger cities may have metropolitan

police, also under the state government. Many threats to Nepal's interest both from external and internal has to be dealt with by the Police and Para-military forces of the nation both at union and state level. Such threats are neither ready-made nor rigid. They keep evolving and change in the course of time. Nepal currently has one 'Nepal Police Force', whose jobs are described in appendix-5, one Para-military force whose job description is given on appendix-4 and undernourished National Investigation Department's job are described in appendix-7. In FDRN, the authorities must decide as to how the state likes to address the task of public safety and security. State police may take care of law and order up to the district and lower level; crime prevention and detection; and traffic control and accident prevention and management. In order to fulfill these functions with greater efficiency, like in other countries, this service will have to be divided into various functional departments, including: "*Crime Branch*", "*Criminal Investigation Department*", "*Home Guards*," "*Traffic Bureau*" etc. Also, decision must be made about the numbers, types, resources and the modalities of civil-police relationships, mil-police relationships and police - APF relationships. Also, a decision will have to be made on how the officer corps of both the police organization (including other paramilitary organizations, if it is created) will be created and managed. The constitution is being developed and the security situation is at the lowest point in the memory of many in the country. A lot of debate in the name of seminars, workshops and lectures are taking places and the civilian authorities have a good understanding of the requirement of such forces. Therefore, it is expected that a right balance could be struck in the division of work and the management of the Law Enforcement Agencies.

Policing

Police agencies are given broader powers and citizens have fewer individual liberties. This is the compromise the civil society makes when the law and order situation deteriorates in the country. This country is going federal means, in theory, it is agreed that the law enforcement, police will be controlled at the local, state and federal level. The people are not very happy at the services provided by the police today. This is the right time for a total restructuring of police departments and a redefinition of the police role due to the perceived failure of police to enforce the law. Reforms must be aimed to eliminate political influences, hire qualified leaders, and raise personnel

standards. In addition, the reform agenda called for a mission of nonpartisan public service and restructuring of police organizations through the use of the principles of scientific management and the development of specialized units. Emphasis must be given to community policing. The philosophy of community policing *is built upon the premise that reducing citizens' fear of crime while forming a partnership between the police and the community* is a worthwhile goal of police organizations. Particular tactics utilized in this philosophy include foot patrol, problem solving, police substations, and community groups, among others. These tactics stress citizen satisfaction and improvements in citizens' quality of life. In addition to changes in tactics, changes in organizational design must also accompany community policing. Police organizations are to become decentralized, flatter hierarchies with less bureaucratic control. Patrol officers at the lowest levels are encouraged to be creative in their responses to problems and are given more discretion to advance their problem-solving efforts.

- a. **Nepal Police:** Nepal Police has been mandated to uphold the rule of law, ensure safety and security of citizens, detect and prevent crime, bring offenders to justice and maintain peace. Internal security, primarily, is the responsibility of Home Ministry with overlapping tasks between Nepal Police and Armed Police Force.
 - 1) *Strategy:* When the National Security Strategy will be developed, hopefully, it would include the individual security and strengthen the overall societal and community security. Generally speaking, one could visualize structural roots of insecurity in at least five forms: social crime and violence (demography), identity conflict (culture), representation (election politics), clandestine alliances (diplomacy) and resource crisis (ecology). Home Ministry must be able to understand these and formulate a proactive strategy to deal with the bad elements of the society in an effective way.
 - 2) *Structure and deployment:* The Police force in a State may be headed by the IGP/DIGP. State could be divided into convenient territorial areas. Such divided territories (areas) could be under the administrative control of a DIGP/SSP. A number of districts may constitute such areas. District police,

further could be sub-divided into '*police sectors*', '*circles*' and '*police-stations*'. Besides the civil police, states may like to maintain their own armed police (subject to Center's approval) and have separate intelligence branches, crime branches, etc. Police set up in big cities like Kathmandu, Biratnagar, Pokhara, Nepalganj, Birgunj, etc. could directly be under a Commissioner of Police who enjoys magisterial powers.

- 3) *Nepal Police Service*: All police officers above the rank of Inspector in various States could be manned by the Nepal Police Service (NPS) cadres, recruitment to which could be made on all-Nepal basis. This can help to keep the same police ethos throughout the country.
- 4) *Central Police Organization*: Like in any other federal states, the Central Government may like to have its own 'Central Police Forces', (appendix-5, CPO) 'Intelligence Bureau', Central Bureau of Investigation, Institutions for training of police officers and forensic science institutions to assist the states in gathering intelligence, in maintaining law and order, in investigating special crime cases and in providing training to the senior police officers of the State governments.

b. **Armed Police Force**: APFs are created for special tasks that are neither mandated to Police nor the Army. There are security gaps between the security jobs given to Army and Police, mostly requiring the arms but handled by Police. This force, a quasi-military is called 'Para Military force'. There are 17 types of paramilitary forces in India (Appendix-2). Some of the Para Military Forces might be headed by Army Generals and others headed by the Police Officers, depending upon the nature of job. Accordingly, they would come to aid of either the Police or Army organizations when there is an emergency. Currently, Nepal has one type of Paramilitary force called Armed Police Force. Most of the jobs it has been asked to do is similar to that of Nepal Police except for border security. Strategy, structure, APF Service and Central Organization should be decided after careful deliberation and a right balance could be struck.

- c. **Other Para Military forces:** Once the National Security Strategy is developed, this document will hopefully describe the existing gaps in Nepal's current security system. Border security (terai and the Himalayas), Industrial Security, Environmental Security, Federal Law Enforcing Agency, National Security Guards, Highway Security and Immigration and customs are the obvious requirements. Some of these jobs are currently mandated to the NP and the APF. This has overstretched these organizations. As a result of that neither have they been able to perform their primary role nor the secondary roles. If some of these tasks are to be handled in a more efficient way some new forces will have to be created. Obviously, jobs like industrial and environmental security is not mandated to any of the security forces. Similarly, if the federal law has to be implemented into the states, a separate force capable of doing this job will have to be created.
- d. **NID and Intelligence:** National Investigation Department is an organization handled by a small number of professionals. This organization has been ignored far too long both in terms of developing professionals and resourcing them. However, an institution of this nature which should provide the strategic intelligence cannot be ignored. An organization to co-ordinate other intelligence agencies is also required. Counter Intelligence capabilities needs to be developed. All of these must be reflected in the National Security strategy. It is needed and it could be tasked as suggested in appendix-7.

The size of police in the union and the state is dictated by geography, population size, mobility and flexibility provided to the police, the threats, quality of police and the methodology of policing. Generally, in developing countries, in the rural areas 1: 1000 and in the urban areas 1: 6 to 700 police population ratio is taken as a guide.

Conclusion

Political parties have not been able to come to terms on the form of federalism (ethnic, linguistic, geographic), system of governance (liberal democracy, people's democracy), economic (liberal, socialist) and symbolic (flag, culture, language). Even on dealing with the border, the political parties

do not have one viewpoint. Bringing reforms in Army becomes meaningful only when the state rationale, national interests, and appropriate defense strategy has been formulated. As Dr. Saubhagya Shah had said, one does not keep an Army just to democratize it, or even to ensure civilian supremacy over it. The size and capability of the Armed Forces and indeed its very existence is determined by how security threat is perceived by the ruling government. Mixture of internal/external threats will shape the military doctrine as well as the texture of civil-military relations. This is one reason why military culture and practices tend to be country specific. While talking about the professionalism in the security forces, it is not the size but the quality that matters. 'Democratization of the Army' has been loosely debated in many circles. This term, in western literature, is understood as a way of ensuring military subordination to the legitimately constituted government, establishing professional capacity and ethos in the Armed Services, and making it accountable and inclusive. It is the chain of command and division of labor which maximizes national security on the one hand and ensures control of the military by elected representatives on the other. Some of the partial security reform measures are underway, even their full realization cannot fulfill the current defense void.

Liberty and security, the highest virtues of democracy, cannot be achieved only through a comprehensive approach to national security or law enforcement apparatus. State police are the key to law enforcement in the states and the center must have capacity to support, train and provide leadership to that force. Otherwise, the strategic void at the sovereign level may lead us to a situation of democracy without liberty or peace without security.

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Fiscal Federalism: Reviewing the Prospects and Challenges of New Nepal

Bishwambher Pyakuryal, Ph.D.¹

Context

Nepal's Constituent Assembly (CA) is facing a real challenge to replace age old institutional arrangements of unitary system of the government by the federal government structure, which differs significantly in terms of political, legislative and socio-economic build-up. The working model of federalism is available. However, replication of diverse country practices is not that easy as the historical, socio-economic and political conditions of Nepal are uniquely different from other countries.

The priority of Nepal's CA is to devise government structure and develop potential model for revenue generation, revenue sharing and overall fiscal management to sustain socio-economic and political stability under the proposed federal structures. Since natural endowments, physical conditions and economic opportunities differ significantly across three distinct geographical divisions of the country; revenue sharing and expenditure management is not as easy as being considered. State restructuring in this sense is both the political and economic restructuring. These needs demand variety of interventions that are able to diffuse the shocks created by massive changes in the structure and functioning of federal states.

The objective of this brief paper is to review the current policies on expenditure assignment and revenue sharing and assess the existing revenue and expenditure pattern and working relationships between the center and

1 Professor of Economics, Tribhuvan University

local governments. The assessment is made largely to assist in making local governance unit economically viable under the proposed federal structure.

Defining fiscal federalism

Fiscal federalism can be defined as an efficient governmental location of taxation and expenditure decisions. Local governments can offer certain efficiencies in the provisions of goods and services and in tax collection. However, it is believed that there also exist offsetting equity considerations.

Oates observes, fiscal federalism is concerned with “understanding which functions and instruments are best centralized and which is best placed in the sphere of decentralized levels of government,” (Oates, 1999). In other words, it is the study of how expenditure and revenue are allocated across different layers of the administration. The fundamental concern is how welfare gains can be assured from fiscal decentralization, by using appropriate fiscal instruments.

Challenges

By now, we are in a position to assess the impact of existing working practices in Nepal as well as the success and difficulties in the performance across federations in the world. In particular, the challenge is two-fold – to develop compatible fiscal policy with regards to the proposed federal structure and to reconcile between the existing policy, standard international practices and structure & modality proposed by the Committee on Restructuring of the State and Devolution of State Power.

A careful analysis of the constraints, opportunities and alternatives may be necessary to understand the fact that federal systems are different and hence fiscal policies are country-specific. One reality that we need to acknowledge is federalism doesn't set itself up against liberalism, democracy, and socialism. Similarly, federalism adopted from other country may not be the solution to Nepal's priority.

Federalism has made different impact in different countries. For example, some countries like Switzerland and USA are rich, Argentina and Brazil poorer and Mexico experiences little growth under different federal structure. The concern before the finalization of working rules is therefore, to respond to;

1. How others have succeeded to generate sufficient resources at the local level and formulate agreeable policy for revenue sharing between the center and the states and ultimately pursue fiscal management on a sustainable basis?
2. What are the success stories for maintaining equity under the fiscal federal context?

To find out these answers, we need to understand how the present system is working and what lesson we can learn to overcome the problems that we have been encountering for last several years. This is the challenge and answering this question is not easy.

Constraint to policy interventions

In Nepal it will take quite some time to reduce the dependency of local governments for central funding. Available literature shows such dependency has weakened the efficiency of the local governments to increase resources and spend center-funded resources satisfactorily. Since devolution is not separation, the challenge is not to execute internationally articulated “principles” as they are seen; it is that difficult task, which demands diversified and balanced policy interventions. Newly emerged federal states have put much effort in enhancing skills among national, state and local governments on fundamental policy problems. Nepal's need to design policies in creating gainful employment, health, education, social security and guaranteeing basic needs to the people through the reforms in public distribution system and revisiting the newly proposed public-private participation modality by the private sector organizations is not very easy.

The emerging political environment does not give much scope to increase tax. Low mobilization of domestic resources, ever increasing dependence on aid, and failure to increase aid productivity has complicated the problem of debt management and debt planning. Therefore, the transfer of fiscal resources to sub-national governments is not easy.

In the second quarter of FY 2009/10 there is a decline in paddy and maize production by around 11 percent and 4 percent respectively as compared to the FY 2008/09. These two products together assume 10 (paddy 7.5) percent share in GDP and about 27.5 (paddy 20.75) percent shares in

agricultural output. Therefore, as major crops exhibited relatively lower yield, there is not much hope to meet growth target of 5.5 per cent for the year 2009/2010. As economy has contracted, the logical estimate for growth would be around 4.2 percent.

The annual average consumer inflation increased to 13.2 per cent in 2008/09 in comparison to an increase of 7.7 per cent in 2007/08. The annual average price rise on food and beverages group was 16.7 per cent. The y-o-y consumer price inflation rose to 11.4 per cent in mid-July 2009 from 12.1 per cent in the previous year. Although less, compared to the level of mid-July 2009, the year on year inflation as measured by the consumer price index remains at 9.9 per cent in mid November 2009. The news remains bad with regards to the price related to sugar and related product during 2008/09, which was 45.9 per cent.

The ultimate goal of the government should be to make economic growth compatible to workers' advantages. In this regard, investment is the key element, which helps in increasing demand by creating job. This is what not happening at all since no employment opportunity is being created. Labor market is still unable to address the vulnerable groups of people including youths, displaced households and freed but unemployed bonded laborers. It is projected that the demographic transition currently underway in the region will result in population increasing by 31 percent between 2000 and 2020, compared to about 60 percent in the preceding twenty years. Given the failure in formulating policies for absorbing additional workforce, the problem of social inclusion will be accelerated.

It is difficult to predict the success, but the need is to eliminate the era of conventional practices to assuring the people for better life but using the scarce resources and access to all possible power centers for their own benefit. The federal character of new states requires peoples' involvement in decision-making and benefit sharing. To accomplish this, the underprivileged citizens need to be focused more on the issues of positive discrimination. From fiscal federalism perspective, the system of taxing less to the rich and not spending for the poor but on the unproductive sectors should therefore be totally eliminated.

There is econometric evidence from 32 large industrial and developing countries that increased local government's spending and deficits leads to greater deficits at the national level. In Argentina and Brazil, which are one of the decentralized democracies in the developing world, it was realized that democracy strengthened the federal practices but it miserably weakened macroeconomic performances. Our earlier experiences during early 1990s also reveals similar story. After reinstating democracy, macroeconomic stability was maintained with 8-9 per cent growth. Unfortunately, this growth was urban centered. Gains from economic growth was captured by a very few. There was incredibly wide income inequality between different ecological divisions and income and ethnic groups. The weakness of macroeconomic policy to promote equitable distribution of available resources is an example of insensitivity of the policy to link it to other intervening factors. This suggests balancing between macroeconomic policies and existing expertise and practices largely at the local level.

Institutional basis of expenditure assignment in Nepal

A slow move of the process and rising demand for more participation in the governance led to promulgation of Local Self Governance Act 1999 and Regulation 2000. The provision for the local bodies in the Act include, expenditure assignment, revenue assignment, revenue sharing and the authority of local level borrowing- four fundamental pillars of fiscal decentralization. Political party bases also expanded significantly during 1990's leading to a fast move towards political decentralization. LSGA and regulations also represented a move towards administrative decentralization as the local governments were provided more authorities to expenditure assignment, revenue assignment and the authority to borrow.

Expenditure assignment to District Development Committees (DDCs), Village Development Committees (VDCs) and Municipalities by LSGA has wide coverage embracing diversified sectors for each of them. The coverage include, agriculture; drinking water; sanitation habitat development; hydro-power; work and transport; land reform and land management (except VDC); development of women and helpless people; forest and environment; education and sport; wages for labor (except municipality); irrigation and soil erosion and river control; information and communication; language and

culture; cottage industry; health service; tourism; physical development (except district); finance; legal and public safety. However, only a few get implemented either because of the lack of importance or because of the lack of resources.

From 2001/2, the government initiated the piloting of full devolution of four key components – (i) basic health (up to sub health posts), (ii) primary education, (iii) agriculture extension including livestock services and (iv) postal service. District development fund (DDF) was also created as a pool of resources coming to DDC. However, the implementation of the devolution of postal service could not take place due to international insurance complications. From 2003/4, small rural infrastructure (drinking water, agriculture road and rural road) were also devolved through local Infrastructure Development Policy 2004 by shifting also the district technical office (DTO) under DDC. With that move, the following seven small infrastructure activities were added under the jurisdiction of DDC.

- i) Transportation excluding national highway, strategic highway and road connecting district headquarters
- ii) Small irrigation and river control ≤ 25 ha in Hills and ≤ 200 ha in Terai
- iii) Micro hydro ≤ 500 KW and all alternate energy
- iv) Community water supply, sewerage and sanitation (≤ 1000 population benefiting)
- v) Housing, building and town development (Basti bikas)
- vi) Solid waste management
- vii) Social infrastructure (e.g. community building, etc)

The technical backstopping to execute these programs is provided by DTO

1. Allocated amounts to different tiers

Currently there are two tiers of government – the central and the district level – under the unitary government structure of Nepal. The Ministry of Finance (MOF) presents the summary of central and district level allocation

(revised and actual expenditure) annually in the Red Book. The following table presents the current scenario in this regard.

Table 1: Share of central and district level allocation and expenditure

Description	2007/08		2008/09		2009/10	
	Actual expenditure	Percent	Revised expenditure	Percent	Allocated expenditure	Percent
Total Expenditure	161,349,894	100.00	213,578,374	100.00	285,930,000	100.00
Recurrent	91,446,861	56.68	122,079,524	57.16	160,632,361	56.18
Central	82,771,432	51.30	109,292,422	51.17	138,526,229	48.45
District	8,675,429	5.38	12,787,102	5.99	22,106,132	7.73
Capital	53,516,101	33.17	73,309,549	34.32	106,284,793	37.17
Central	40,993,418	25.41	52,118,666	24.40	77,409,591	27.07
District	12,522,683	7.76	21,190,883	9.92	28,875,202	10.10
Debt repayment	16,386,932	10.16	18,189,301	8.52	19,012,846	6.65
Total Central	123,764,850	76.71	161,411,088	75.57	215,935,820	75.52
Total District	21,198,112	13.14	33,977,985	15.91	50,981,334	17.83

Source: Red Book, fiscal year 2009/10, Ministry of Finance, Government of Nepal

In the fiscal year (2009/10), the percentage of allocation for central level, according to table 1 above is 75.52 of the total budget, which divides between recurrent (48.45 percent) and capital (27.07 percent). The allocation for district level, on the other hand, is only 17.83 percent and this is also divided into recurrent (7.73 percent) and capital (10.10 percent). One can observe almost the same pattern in the preceding years. For instance, the overall actual central level expenditure for the year 2007/08 was 76.71 percent of the total actual expenditure, whereas the district level actual expenditure was 13.14 percent. The revised estimate of the total expenditure incurred in 2008/09 showed that the share of central level expenditure was 75.57 percent of the total expenditure whereas the district level expenditure was 15.91. This data indicates that the central level spending is around five times higher than the district level spending.

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Table 2: Spending authority on priority public sector by tiers of government

Priority public sector	2007/08			2008/09			2009/10			Rs. in '000
	Central	District	Total	Central	District	Total	Central	District	Total	
Education	20832667	6286846	27119513	28039588	8008210	36047798	32535175	14169197	46704372	
Health	8105354	2159199	10264553	10478377	3420633	13899560	12479761	6197732	18677493	
Drinking water	2899267	1793205	4692472	4268241	2245473	6513714	6509609	2535707	9045316	
Electricity	5948902	0	5948902	6369024	0	6369024	14687981	0	14687981	
Irrigation	4089059	0	4089059	5857227	0	5857227	7952002	0	7952002	
Road	7371536	289278	7660814	1047693	495074	10972067	17850184	48550	18489931	
Communication	1643663	0	1643663	2249563	0	2249563	2355620	0	2355620	
Grand total	50890448	10528528	61418976	67739513	14169440	81908953	94370332	22951186	117912715	

Source: Red Book, fiscal year 2009/10, Ministry of Finance

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Table 3: Spending authority on priority public sector by tiers of government

Priority public sector	2007/08			2008/09			2009/10		
	Central	District	Total	Central	District	Total	Central	District	Total
Education	76.82	23.18	100.00	77.78	22.22	100.00	69.66	30.34	100.00
Health	78.96	21.04	100.00	75.39	24.61	100.00	66.82	33.18	100.00
Drinking water	61.79	38.21	100.00	65.53	34.47	100.00	71.97	28.03	100.00
Electricity	100.00	0.00	100.00	100.00	0.00	100.00	100.00	0.00	100.00
Irrigation	100.00	0.00	100.00	100.00	0.00	100.00	100.00	0.00	100.00
Road	96.22	3.78	100.00	95.49	4.51	100.00	99.73	0.27	100.00
Communication	100.00	0.00	100.00	100.00	0.00	100.00	100.00	0.00	100.00
Grand total	82.86	17.14	100.00	82.70	17.30	100.00	80.44	19.56	100.00

In percent

Government of Nepal (GON) has given priority to create social and economic infrastructure in the country. The education, health, road transport, communication drinking water constitutes major sectors of public service delivery. The analysis of budgetary allocation in these sectors in the fiscal year 2009/10 and the preceding two years indicates that the central level spending dominates the district level spending with regards to the priority public delivery sector. Above table shows that in the review period (2007/08, 2008/09, 2009/10), the district level spending ranges between 17 to 20 percent and the central level between 80 to 83 percent in the total allocation and spending on seven priority sectors. The sectoral analysis further indicates that *electricity, irrigation and communication* have only central level spending and the remaining sectors have both central and district level spending. Among the sectors, the drinking water sector has relatively more district level spending. The percentage shares of district level spending out of the total spending in drinking water sector were 38.21 and 34.47 in 2007/08 and 2008/09 respectively.

Revenue generation and gap at each level

Among the local bodies, in terms of the total internal revenue mobilization, municipalities are ranked highest followed by DDCs and VDCs. Comparative analysis of internal revenue of FY 2001/2, 2002/03, 2003/04, 2004/05 reveals that share of internal revenue from local bodies in GDP is a meager 0.4%. In total national income, internal revenue from all local bodies contributes only 3.22 percent.

Local taxes and charges, income from sales, land registration, and royalty are major sources of internal revenue. In the districts of the Mountain Region, contribution of internal sources is 8.56% of the grant and 7.89% of the total income. In districts of the Hilly Region and Terai Region, these figures are 23.96% and 19.33% and 53.92% and 35.11% respectively.

Now the question is how far the local bodies are able to generate the revenue required for their own expenditure. This is reflected on the following table:

Table 4: The share of Internal Source in total grant, and total income

Rs. in, 000				
Internal Sources	Mountain region (16 districts)	Hilly region (39 districts)	Terai districts (20 Districts)	Total
Internal Sources	39763	346332	457941	844036
Administrative Grant	91152	241793	128130	461075
Development Grant	372848	1203952	721133	2297933
Total Grant	464000	1445745	849263	2759008
Total Income	503763	1792077	1307204	3603044
Internal Sources as % of Total Grant	8.56	23.95	53.92	30.59
Internal Sources as % of Total Income	7.89	19.33	35.11	23.43
Total Grant as % of Total Income	92.11	80.67	64.97	76.57

Source: Income and Expenditure Report, 2007 ADDCN

Table 5: Contribution of Revenue in Net Expenditure

Development Region	Revenue is less than 5% of the net expenditure		Revenue is between 5 – 10% of the net expenditure		Revenue is less than 10% of the net expenditure		Total Districts	
	Districts	% of total districts	Districts	% of total districts	Districts	% of total Districts	Districts	% of total
Eastern	1	6.25	8	50	9	56.25	16	100
Central	3	15.79	3	15.79	6	31.58	19	100
Western	2	12.50	8	50	10	62.50	16	100
Mid Western	12	80	1	6.67	13	86.67	15	100
Far Western	6	66.67	1	11.11	7	77.78	9	100
Nepal	24	32.00	21	28.00	45	60.00	75	100

Source: Pyakuryal et. Al (2009)

From the table above, it is clear that 24 districts are able to generate revenue that is less than five percent of their total expenditure and all seventy five districts generate revenue less than ten percent of their total expenditure. This shows the highly centralized financial system of Nepal. Centralized

financial system has created increasing dependency of the local bodies to the Central government.

Common problem in South Asian countries with regards to the design of intergovernmental fiscal relations include:

- Expenditure responsibilities devolved seem to exceed revenue potential of sub-national governments, particularly at the local level.
- There are overlapping expenditure responsibilities.
- The transfer system has many weaknesses in design and not been guided by clear objectives.
- Local governments lack revenue raising power.
- Local governments show high dependence on transfers from higher levels of government

Overlapping of expenditure functions and responsibilities are common in South Asian countries. This can happen due to:

- Contradictions between decentralization law and sectoral laws.
- Lack of clarity in the legal framework for the devolution of authority.
- Higher level of government's resistance to devolve authority.
- Lack of administrative capacity at the lower levels of government.

Existing Policy on Revenue Sharing

Several acts and constitutional and legal provisions regulate the sharing of revenue between the Center and the local bodies and internally between the local bodies. They are Interim Constitution of Nepal 2006, Local Self Governance Act 1998, Local Self Governance Regulation 1999, and Local Bodies Financial Administration Regulation 2007. Section 220 of the Local Self Governance Act 1998 has entitled local bodies, through DDCs, to a share of revenue collected by the Government of Nepal from mines, petroleum, forest, water resources, and other natural resources besides the grant allotted by the Center. Annex 26 of Local Self Governance Regulation 1999 stipulates revenue sharing mechanism under the mentioned Act. The following table summarizes the existing policies on revenue sharing in Nepal.

Table 6: Revenue Sharing Mechanism in Nepal

Area	Policy	Remarks
Hydropower	Local bodies: 50% of Royalty (12% to the district having power plant and 38% to the concerned district in the region)	<p>Royalty is obtained on the following basis</p> <ul style="list-style-type: none"> On Generation side: N.Rs. 100 per kW for 15 years and N.Rs. 1000 per kW after 15 years On Sales side: 2% of the sales revenue for 15 years and 10% of the sales revenue henceforth
Tourism	30% of the revenue generated by the Government of Nepal to the concerned DDC	Tourism Royalty= permission from mountaineering and trekking + charge for entering to the development region
Land and Property Registration	DDCs retain 5 to 90 percent of the total revenue	<ul style="list-style-type: none"> 90% for the amount up to NRs. 5 mil. 60% for the amount up to NRs. 10 mil 30% for the amount up to NRs. 20mil 20% for the amount up to NRs. 30mil 15% for the amount up to NRs. 50mil 10% for the amount up to NRs. 100 mil 5 percent for any additional amount whatever the amount
Mines	DDCs are entitled to 50 percent of the royalty received from the mines.	
Forest	DDCs receive 10 percent of the royalty received from forest and forestry products.	
Export tax	35 to 50 percent of export tax levied by DDC is transferred to the VDC	DDC can levy export tax on wool, resin , medicine and herbs, junk, stone, slate, sand and animal produces like bone, horn, feather, hoof skin, etc (excepting restricted animal produces), and other specified products
Sales	35 to 50 percent of sales tax levied by DDC is transferred to the VD	DDC can sell sand, gravel, stone, slate, soil, etc as provisioned (Rule 210 of Local Self Governance Regulation 2056).
Land and Property tax	It is the responsibility of local bodies i.e. VDC, Municipality	25% of such tax should be shared with DDC.

Any other revenue not mentioned in the table e.g. VAT, export tax at custom etc. are the responsibility of central government. The following table summarizes the central and local level taxes.

Table 7: Central and Local Taxes

Center	DDC	Municipality	VDC
On Business Income Tax		On Land and Property	On Land
Income	On Resource Utilization	Land Tax	Land Tax
Interest	On Infrastructure	Vehicle Tax	Haat Bazar Tax
Profit on Capital	Service Charges	Entertainment Tax	Vehicle Tax
Property	Fines	Rent Tax	Entertainment Tax
Products and Services	Income from Sales	Advertisement Tax	Rent Tax
International Trade	Registration Charges	Business Tax	Advertisement Tax
	Royalty	Entry Charges	Business Tax
	Entry Charges	Other Charges	On Natural Resources
		Parking Charges	Other Taxes
			Entry Charges
			License and renewal charges
			Fines
			Income from Sales

Source: Local Self Governance Act 2055 cited in Pyakuryal et.al (2009)

The table below shows that grants transferred to the local bodies from the center has been increasing over the years. In FY 2059/60 total grant was N.Rs. 2.3745 billion. In FY 2004/05 this amount increased to N.Rs. 4.3836 billion. During this period, it was observed that grants to VDCs have been increasing while fluctuations were observed in grants provided to municipalities.

Table 8: Grants Provided to Local Bodies (in thousands N.Rs.)

Local Body	2000/01	2001/02	2003/04	2004/05
DDCs	780662	984237	1119157	1242871
Municipalities	240901	151744	226531	176000
VDCs	1352945	1833927	1887957	29964800
Total	2374508	2969908	3233645	4383673

* Corrected Estimate

* Data not available for FY 2002/03

Source: Income and Expenditure Report of DDCs, DDC Federation Nepal

Conclusion

To conclude, fiscal federalism includes the division of competence in decision-making about public expenditures and revenue between Center and

local governments. It also denotes the degree of freedom of decision-making enjoyed by Center and local governments in assessing taxes and determining expenditures. The competency of different levels of government depends on the level of political as well as administrative decentralization (Marina, 2009).

Nepal is ethnically diverse and geographically varied country. The 2001 Census enumerated 103 distinct castes and ethnic groups including an “unidentified group”. The country offers the lifestyle from Stone Age in far-west and hills to the jet age in Kathmandu. Therefore, nurturing a thriving and inclusive democracy by safeguarding the interests of diversified groups through strong national government and fiscal model that redistributes financial resources to the poorer states in the eastern, and in particular, the western hills, and possibly also to the western terai is challenging but is a must.

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Potential Conflicts and Possible Response Provisions in Nepal's Federal System

Dr. Bishnu Raj Upreti¹

1. Introduction

Several countries have adopted or readopted federalism after armed conflict. Mexico (1971), Argentina and Venezuela (more than once), Nigeria (1966-70), Ethiopia (1991), Spain, Bosnia and Herzegovina, Sudan, Iraq, the Democratic Republic of Congo, Australia, Germany, India, Canada, Malaysia, Russia, Brazil, South Africa, Pakistan, etc. are examples. The experiences are mixed in terms of managing conflict in all these countries. Most of the conflicts in these countries were related to sharing of resources between states/provinces within countries and with the neighbouring countries.

Federalism was a long awaited agenda in Nepal since the political change of 1951. Subsequently, the demand for federalism was continued by various politicians including Gajendra Narayan Singh and other Madeshi leaders but it was not capturing enough attention at the political level. The Communist Party of Nepal (Maoist)² brought this issue more clearly once they started their armed insurrection. However, it was not concretely stated in the 12-point understanding reached between the SPA and the CPN (M) on 22

1 Regional Coordinator, National Centre of Competence in Research (NCCR-North-South).

2 Note: In January 2009 CPN (M) and Unity Centre (another communist party) united together and the name of the CPN (M): Now, changed to Unified Communist Party of Nepal (UCPN) (Maoist). However, CPN (M) is used in the chapter to avoid confusion while refereeing to text.

November 2005.³ Similarly, the CPA had not explicitly stated federalism. Instead, it had highlighted the need for progressive restructuring of the state. The article 3.5 of the CPA emphasised on ending the existing centralised and unitary state system and restructuring of the state to make it an inclusive, democratic progressive system.

When the Interim Constitution 2007 was negotiated by the major political parties, federalism was not explicitly included in the constitution. Only state restructuring provisions were enshrined in the Interim Constitution 2007. Article 138 (1) as amended on 12 April and 12 July 2008 of Part 17 (Structure of state and local self governance) of the Interim Constitutions proposes:

To bring an end to discrimination based on class, caste, language, gender, culture, religion and region by eliminating the centralised and unitary form of the state. The state shall be made inclusive and restructured into a progressive, democratic federal system.

When the Interim Constitution 2007 promulgated without mentioning federalism provisions, the *Madheshi* leaders burnt copies of the newly promulgated Interim Constitution, blaming that the major political parties were not committed to federalism. The *Madheshi* movement resulted in the amendment of the Interim Constitution to include federalism. As a consequence, the Interim Constitution 2007 was amended in 2008 to incorporate the term federalism, in response to the ethnic/regional (*Madhesh*) movement. The fifth amendment to the Interim Constitution on 12 July 2008 states, “*Accepting the aspirations of indigenous ethnic groups, and the people of the backward and other regions, and the people of Madhesh, for autonomous provinces, Nepal shall be a Federal Democratic Republic.*” The amendment further states, “*The provinces shall be autonomous, with full rights. The Constituent Assembly shall determine the number, boundary, names and structures of the autonomous provinces and the distribution of powers and resources, while maintaining the sovereignty, unity and integrity of Nepal*”.

3 See Upreti Bishnu Raj (2009), *Nepal from war to peace: legacies of the past and hopes for the future*. Nepal Delhi: Adroit Publishers, for detail.

Among the 11 committees within the C.A., the Constitutional Committee is vitally important in drafting the constitution, based on the technical work on thematic issues done by other committees. The State Restructuring and Resource Allocation Committee has already developed a concept of how to restructure the state and allocate the resources that will help minimise the chances of conflict. Similarly, the Minorities and Marginalized Communities Right Protection Committee prepared a report to address the issues of exclusion and protection of minority rights, which has been one of the main causes of conflict in the past. The Natural Resource, Economic Rights and Revenue Allocation Committee developed a concept of resource allocation in such a way that it will minimise future potential conflict. The National Interests Protection Committee had put forward concepts and proposals on vital national interests to be protected, which will also minimise the potential for future conflict. However, except the National Interests Protection Committee, other three committees were not able to unanimously decide the thorny issues between the political parties.

Conceptually, unitary and centralised states are different. However, in the case of Nepal, these two concepts are heavily mixed by political parties once the federal debate began soon after the amendment of the constitution. Nepal has been a unitary country since its inception in 1768. A unitary state is a country constitutionally governed with one constitutionally created legislature as a single unit. The political power of government in unitary state may be transferred to lower levels at regional or local governance, but the central government retains the principal right to recall such delegated power. Many unitary states have very good structure of decentralisation. However, in the centralised state, the system of governance (political power) is heavily centralised (i.e., power is exercised by the central government only, and not divided between different levels of government). Nepalese people and politicians have understood these two concepts (unitary and centralised) as the same and have been using these terms interchangeably. In contrast, a unitary system can be decentralised (one source of power, but exercised at different levels: central, district and local), and attempts were made to do this in Nepal also in the 1990s. Similarly, the federal state can also be centralised, autocratic. Therefore categorising a federal state as always democratic but the unitary system as undemocratic is indeed a very misleading way of interpre-

tation, which is unfortunately common in Nepal. The success or failure of federal or unitary system largely depends upon the governing practices, quality of leadership (commitment, vision, and ethics).

However, our political history demonstrates that Nepal as a unitary state failed to address the needs and aspiration of the country's multiethnic, multi-religious and multicultural society. The concentration of power and resources at the centre and in the hands of the power elite, excluded large sections of society (women, *Dalits*, ethnic groups, people from remote regions and other marginalised groups). Further, the centralised political system led to a centralised bureaucracy, judiciary and security, largely inaccessible to those outside the mainstream culture. The centralisation of power in the hands of a few also led to corruption and irregularities, which became an integral part of the political process. The political elite used their positions to further their own interests and the system of *afno manchhe* (literally translated as 'one's own people') made nepotism and corruption structurally embedded. One of the main reasons for exclusion was the failure of the ruling elite to recognise the importance of the involvement of excluded people in the state building process. For stability, it is important to build an inclusive state; one of the arrangements that can facilitate this is a federal structure created by a new process of nation building, involving people and sharing of power. Regrettably, the way federal debate is being facilitated and the process of state restructuring is being managed, it may not lead the desired results of addressing exclusion, stability, democracy, achieving economic growth and prosperity and peace in Nepal.

Nepal as a unitary state was unsuccessful in economic development and employment generation. Semi-educated, unemployed and left-out youths became frustrated thus became a source of conflict and insecurity. If social and economic structures and their governing practices promote and protect elite-biased, power-centred and discriminatory social practices, the potential for social tension and violent conflict is high. The state has been unable to deal with the socio-economic sources of the armed conflict – poverty, social evils and perversions such as 'untouchability', other forms of discrimination based on caste, class, religion and gender, injustice and inequality, and lack of access to and control over resources and basic services – and its propensity to even directly and indirectly perpetuate these sources, feelings of injustice

and frustration, and a deep dissatisfaction with the government. When there is great dissatisfaction with government performance and rebellious sentiment is suppressed in people, social tension is inevitable. Federal political system should be able to address these concerns in order to be successful.

The ethnic dimensions of the political change from a unitary to a federal system in Nepal are very strong. There are wide differences between ethnic⁴ and caste groups in Nepal based on language, religious practices, legal and judicial systems, indigenous group's representation, citizenship and distribution of state privileges. Although the ethnic movement existed earlier, it emerged strongly during the popular movement of the 1990s. The political change of the 1990s failed to properly address the aspirations of the various ethnic groups. CPN (M) insurgency capitalised on this by supporting ethnic groups to seek their rights and articulate their demands, bringing the ethnic movement to a turning point. At the beginning, the pro-Maoist ethnic movement focused on the right to self-determination (it was not clearly explained whether it is cessation right or full autonomy within the sovereign country), whereas the non-Maoist ethnic movement focused on guaranteed autonomy through a federal system. The CPN (M) documents during the ten years of the armed conflict clearly highlighted this issue. However, this distinction gradually faded and the focus shifted to a radical ethnic identity demanding ethnic federalism with the right to self-determination coloured by anti-caste radicalism. Now the ethnic demands coming from ethnic leaders are too one sided that deny co-existence, seek special privileges such as superior rights and impose the ethnic supremacy over other people (e.g., naming provinces based on certain ethnic group such as Limbuwan, Tamsaling or Khumbuwan, etc.) and even threatening that if these demands are not fulfilled, they will go for violence. This will ultimately induce conflict and tension. Hence, the challenge for the political decision makers is to make

4 Note: The term 'ethnic groups' is used to refer to non-Aryan people of Mongolian origin who do not fall into the traditional Hindu caste system (Brahman, Kshetri, Vaishaya and Sudra). Fifty-nine ethnic groups are identified in Nepal and constant debate is going on about how many more ethnic groups exist. Historically, they often depend on natural resources and are concentrated in specific areas, which are now changing.

sure that federalism will not become a perennial source of communal tension and ethnic conflict in the country.

2. Arguments against the federalism in Nepal

In Nepal, all of the political parties represented in the CA, except Rastriya Janamorcha, have accepted the federal political system willingly or unwillingly despite reservation of some of their members within the parties. The Rastriya Janamorcha's concerns and arguments⁵ are that federalism:

- Weakens sovereignty and increases the risk of disintegration of the nation
- Promotes communal disharmony and ethnic conflict
- When states are based on ethnicity, promotes hatred against each other
- Erodes national feeling and weakens national identity, while strengthening ethnic and communal identity
- Is not the Nepali people's agenda, but is coming from Indian vested interests of keeping Nepal weak and unstable
- Leads to the breakdown of national political parties into regional ones, which causes tension
- Leads to discrimination of people within the nation as the rules of different states vary
- Results in ineffective delivery of government services
- Is operationally expensive, unsustainable for Nepal
- Brings unanticipated consequences and problems

The proponents and supporters of the ethnic federalism view that it is *the* solution of all the problems faced by the country and those who oppose this concept are anti-federal and consequently anti social change.

Some intellectuals argue that federalism is mainly suitable for unifying separate small states, but is not appropriate to separate a unified state. On the

⁵ See the interview of Mr Chitra Bahadur KC, leader of Rastriya Janamorcha in *Budhabar* Weekly, 22 April 2009 for more details on their perspective and understanding of federalism.

political front, Rastriya Janamorcha argues that federalism was introduced by a few elite politicians under external influence who wrongly equated a centralised state with a unitary one. They believe that more decentralisation would have been sufficient to address concerns that other politicians want to address through federalism.

The opposition of Rastriya Janamorcha to federalism has provided ample inputs for decision makers to ponder challenges involved in implementing federalism and the measures that need to be taken to address the concerns raised by Rastriya Janamorcha. Proper debate on the benefits and limits of federalism can help to avoid deficiencies in design and implementation. Political decision makers may have to learn from the North-Eastern states of India, Ethiopia, Nigeria, Ethiopia, Bosnia and Herzegovina, Sudan, Russia etc. on how ethnic federalism is delicate and what are problems these countries are still facing?

3. Federalism and conflict

Federalism is both a source of conflict and a means to resolving them. But it is not a magic wand that can solve every contradiction existing in Nepalese society. The wrong handling of federalism can cause civil war and disintegration of country (e.g., Yugoslavia and the USSR in 1991, the splitting of Czechoslovakia in 1992, Serbia and Montenegro in 2006, and the civil war in Nigeria in 1967). It can even be argued that the *type* of federalism introduced is as important as whether or not federalism is introduced at all. The following are some potential problems with federalism and areas of likely conflict(s) that must be anticipated while debating about the federal design.

3.1 *Conflict between ethnic and caste groups and communal conflict*

Experiences of around the world on ethnic federalism and current day to day reality of Nepal has clearly demonstrated that opting for ethnic federalism could potentially lead to protracted conflict and serves as a perennial source of instability. It is very hard to find any theoretical as well as pragmatic reasons that some of the ethnic groups (e.g., Limbu, Tamang, Magar, Gurung, Rai, etc.) have to be privileged (differential treatment such as name of the state, prior rights, etc.) but not same privileges to others (such as Jirel, Surel, Majhi, etc. who are fewer in number). Feeling of injustice is one of the major sources of conflict and once those who are discriminated will not feel

the same like those who will be exercising the privileges from the state. The current debate on ethnic federalism is mainly coming from a retaliatory mental framework (Chhetri-Brahmin elites had exploited the ethnic groups in the past and therefore ethnic groups now have to retaliate). It is also stemming from possible benefits (to ensure ethnic support, or to retain their ethnic vote bank or certain leaders in their parties), that could give immediate benefit to certain political parties or some ethnic leaders but it will potentially cause social tension, communal disharmony and ethnic conflict.

The emergence of Khas Samaj and Brahm Samaj after their non-recognition (neither in the constitution nor in the federalisation process) is an indication of the increasing communalisation of Nepali society. Imposing particular language, culture or excluding groups for certain rights in the new federal system is not only conceptually similar to the panchayat system but also against the fundamental human rights principle and hence irrelevant to the globalised era of 21st century. Hence, political decision makers must consider the potential risks and danger of going to ethnic federalism. One of the best ways to address this problem is to decide states in the name of historical places, mountains, rivers and geography, making small numbers of provinces, ensuring equal rights to all and making provisions of affirmative action for certain time to address inequality issues.

3.2 Conflict on sharing fiscal power and resources

The sharing of fiscal power and resources is one of the main potential areas of conflict in a federal state. If appropriate mechanisms for the distribution of fiscal power are absent, it can create conflict later. Federal countries like Australia, Spain, Malaysia are relatively centralised in their distribution of fiscal powers (i.e., the central government has the main power to collect tax and other revenues), compared to Switzerland (which divide the right to taxation amongst the 3 levels), Brazil and Canada (which leave the right to raise revenue mainly in the hands of the federal units). If revenue means and expenditure needs for the various federal units are mismatched, it can lead to tension and dysfunction. Anwar Shah argues that “*vertical fiscal gaps and revenue autonomy at sub-national orders of government remain areas of concern in federal countries where the centralisation of taxation powers is greater than necessary to meet federal expenditures, inclusive of its spending power. This leads to undue central influence and political control over sub-*

national policies, and can even undermine bottom up accountability. This is a concern at the state level in Australia, Germany, India, Mexico, Canada, Malaysia, Nigeria, Russia, Spain and South Africa”.⁶ Hence, clearly defining fiscal relations, tax assignment and tax-based revenue sharing mechanisms is crucial. Once the central government starts developing direct relations with local government, the relevance of the federal units in terms of economic issues may also be in question, despite their intact constitutional or political roles (like in Brazil, USA or Canada). Indian states are facing severe water disputes and difficulties to settle them. In this context, while addressing international conference on federalism in New Delhi in November 2007, Dr Manmohan Singh said that water sharing and related disparities are major challenges to federalism in India. He further said, ‘it is perhaps no exaggeration to say that we have found it easier to manage bilateral agreements with neighbours on river water sharing than domestic disputes between states’. Controlling water of the Euphrates and Tigris rivers are becoming highly contentious between Basra, Bagdad and other states of Iraq. Sharing of water and associated fiscal benefits/resources between the provinces, development and sharing of energy infrastructures (e.g., managing national grids) are often source of inter-state conflict within a country.

Other sources of inter-provincial water conflict are pollution discharge, flood control (e.g. basin based flood control policy v/s one state action or inaction), licensing, tendering and administration of hydropower projects. For example, in India the interstate water conflict arise when the states do not follow the Inter-State Water Dispute Act (1956). For example, in July 2004, Punjab Assembly unanimously decided against the existing water sharing agreement with Harayana and Rajasthan.

3.3 Conflict on exercising of special privileges to specific groups

One of the main causes of the armed conflict in Nepal was the exploitation, discrimination, marginalisation and social exclusion of certain communities/groups. The demand for a federal governing system is largely to address this problem. If the new federal governing system fails to address the issues of minorities, marginalised and excluded groups; possibility of conflict

⁶ See Shah, A (2006) Vol. 6, No. 1, February-March issue of Federations, special section called ‘Sharing the pie: Dividing up taxes, resources and debt in federations’.

and tension remains. Similarly, if federal system introduces discriminatory provisions of privileges to some sections of society and bars other sections of society to exercise their rights equally in the name of ethnicity, language, culture then conflict is inevitable. When state and rulers deviate from the principles of equal rights for all citizens and go for discriminatory treatments in favour or against certain groups, the structural basis for the perennial source of conflict is not removed. Hence, the federal system adopted by Nepal must not introduce discriminatory arrangements like prior rights, barring certain caste or ethnic groups to access on state power and resources. For every decision that the CA makes on the federal system the question will have to be asked: what implications will it have for individuals, for Nepal and for communities/groups. What mechanisms are needed to really address these concerns?

3.4 Conflict on jurisdiction

Experiences of different federal countries demonstrate that legal tensions and conflicts are common when there is no clear definition of jurisdiction (distribution of powers) between the national and sub-national governing units. Often inter-provincial tensions are also related to sharing of trans-boundary resources. Water conflict is one clear example (e.g., 15 of 28 states of India are in water disputes on determining upstream- downstream and issue over prior use). Australia is another example where the Murray and Darling River conflicts between the 4 states namely New South Wales, Victoria, South Australia and Queensland are frequent and difficult to settle. To avoid such problems, the constitution must clearly delineate between the jurisdictions of the various constitutional bodies, as well as between the states and the centre, and the states and local governing units. Dispute resolution mechanisms must also be in place to deal with any ambiguities.

One of the examples of jurisdictional tensions between provinces and the centre can be found in the U.S. where conflict emerged in the translation of provisions of Federal Power Act by different states and the role of Federal Energy Regulatory Commission that granted permission according to the federal act to develop hydropower in California. But the California State Water Resource Control Board did not issue a permit citing different reasons. It took 16 years for settlement.

3.5 State provision on dealing with social divergence and conflict

Language, race, religion, social structures and cultural traditions in a federal system must be mutually and simultaneously reinforcing. If some factors or actors negatively highlight cleavages associated with these structures, social divisions mount and cause tension within and between federal units. In multicultural societies like Nepal, it is important to recognise the diversity and respect specificities of minority groups. Nepal needs to learn from the intensity of language-related resentment in Pakistan, Malaysia, India and Nigeria. Institutional arrangements must be flexible enough to allow for a needs-based adjustment. The experiences of Sudan, Sri Lanka and Spain show that political polarisation based on social divergence can lead to separatist movements and that state reactions and counter-reactions can make these demands stronger. Imposing identity, language and culture of one group, whether it is ethnic or caste group, over others will not solve the problem, rather aggravate it.

3.6 Conflict on institutional arrangements

The nature, type and mandate of the institutional structures of federalism determine the degree and ability to address differences, conflict and tension within the federation⁷. How the institutions accomplish tasks related to the electorate, bureaucracies, political parties, business sector and civil society, and how they deal with political conflict determine whether or not conflicts that emerge from social divergences and cleavages are resolved or escalate. Hence, the ability of institutions and the design of processes to generate cooperative approaches to bring about consensus is crucial to minimise conflict and promote self-rule and a 'shared rule'. Ensuring that the issues, concerns and voices of the people within the federal units are accommodated in decisions and that all concerned groups are represented in the legislature, civil service, executive and political party structures is also important. If certain groups are not adequately represented in the institutions of the federal units and centre they feel alienated and may start separatist activities, as

⁷ See Landau M. 1973. Federalism, Redundancy and System Reliability. *The Journal of Federalism*. (3) 2. Pp. 173-195 for detail.

observed in East Pakistan, which separated from Pakistan in 1971 to become Bangladesh⁸.

The experiences of India and Nigeria demonstrate that if there are extreme differences between the federal units in terms of wealth and the size of the population, this can also create tension and stress and led to demands for the reorganisation of the boundaries of the federal units. If one federal unit dominates demographically or economically, tension and conflict between federal units is unavoidable.

4. Response provisions and conflict resolution mechanisms

The proper functioning of a federal system requires dynamic conflict resolution mechanisms that are open, responsive and flexible⁹. The following are some critical options or mechanisms for addressing potential conflict between the centre and states, and between states and local governments.

4.1 Inter-state council

Overlaps and interdependences in the use of power and resources between federal units and between the centre and federal units require frequent and often intensive engagement, coordination and collaboration to minimise conflict and tensions¹⁰. An inter-state council (or council of states) is one of the possible mechanisms for resolving the political nature of conflict and any ambiguities arising between two or more federal units. Although their decisions may not be binding in nature, this mechanism can help to diffuse tension and facilitate collaboration. Such a mechanism may be even more effective in dealing with conflicts of interests, such as conflicts in the content of laws and decrees, which need political agreement. The Inter-State Council of India and the Council of Australian Governments (COAG) are two prominent examples of arrangements to oversee the collaboration process, to deal with potential conflict issues and to make the governing

8 See Upreti, B. R., Topperwin, N. And Heiniger, M. 2009. Peace Process and Federalism in Nepal: A Nepali Swiss Dialogue. Kathmandu: RCO SAS for detail.

9 See Pennock JR. 1995. Federal and unitary government: Disharmony and reliability. *Behavioural Science*. (4) 2. Pp. 147-157 for detail.

10 See Elazar DJ. 1993. International and Comparative Federalism. *Political Science and Politics*. 26 (2), Pp. 190-195 for interesting discussion on the federalism.

system more effective. Similarly, the Conference of Cantonal Governments in Switzerland has developed a strong collective negotiation with the central government.

4.2 Independent thematic commission and tribunals

The sharing of natural resource among the federal units can generate enormous and frequent conflict between federal units. In such cases, an independent and powerful authority (such as a natural resources commission) established to address issues related to land, water, mines and minerals, hydro-power, and other resources, is necessary. The constitutional creation of a natural resources commission is a useful mechanism for resolving conflict and possible confusion related to the sharing and use of natural resources.

Inter-state water dispute acts and setting up of special tribunals. For example, in India four tribunals were set up to settle the interstate disputes: They were the Narmada tribunal (for settling conflict between Gujarat, Maharashtra, Madhya Pradesh and Rajasthan), the Krishna and the Godavari tribunals (for settling conflict between Maharashtra, Andhra Pradesh, Madhya Pradesh and Orissa) and the Cauvery tribunal (for settling conflict between Karnataka and Tamil Nadu).

4.3 Provision for a referendum

Global experiences show that numerous inter-state conflicts occur mainly because of the inadequate, inappropriate use of federal principles by the decision makers and politicians. Clear provision for a referendum on highly contentious issues or issues of national importance should be included in the constitution to minimise conflict and strengthen democracy¹¹. Although a referendum is a means of conflict resolution, if not properly drafted, it can serve as a majoritarian device, which may divide the population into a majority-minority and serve as source of conflict. Hence, a careful assessment should be made when deciding on a referendum and all other possible options should be explored to narrow the issues for referendum.

¹¹ See Frank T. 1966. *Why federations fail: An inquiry into the requisites for a successful federation*. New York: New York University Press for detail discussion.

4.8 Dealing with extremes

Some federal countries such as USSR, Yugoslavia and Spain have faced problems leading to secession or secessionist movements. Ronald Watts argues that the constitutions of all federal countries explicitly or implicitly prohibit the unilateral secession of federal units. Wherever separatist movements appear, they are acting extra constitutionally anyway. In the case of a unilateral decision by a federal unit to secede, the central government often enforces federal constitutions on unwilling federal units. In some cases, such enforcement has resulted in civil war (like in Pakistan in 1971 and Yugoslavia from 1991 to 1995). In others, such enforcement has succeeded in keeping the country intact, such as in the USA (1861-1865), Switzerland (1847 though there was a short civil war) and Nigeria (1967-1970). But, sometimes, secession from a federation happens without bloody conflict or civil war. Malaysia expelled Singapore in 1956 after two years of its inclusion because of political tensions. The separation of Czechoslovakia in 1993 (into Czech and Slovak Republic) was largely based on the mutual interests of regional parties to separate. The separation of Serbia and Montenegro in 2006 was very much guided by the hope of gaining individual membership to the European Union. Various cases of federal countries demonstrate that dealing with extremes requires a combination of political, diplomatic and security approaches, and willingness by the central government to listen and share more power and resources, as well as the willingness of all groups to cooperate within the country.

5. Conclusion

Success or failure of federalism depends upon how politicians implement federalism. Conflict or cooperation in Nepal depends upon how the federal system is devised, how the dispute settlement mechanisms instituted and how the actors behave¹². The basic essence of federalism is a governing system of shared rule and self-rule. Hence, federalism is a governing system in which power is divided between central and sub-national units with delimited self-governing authority. If these principles are internalized, many instances of conflicts and tension can be avoided.

12 See Hicks UK. 1978. *Federalism: Failure and success: A comparative study*. London: Macmillan for detail.

The success or failure of federalism largely depends upon the degree of public acceptance of the form of federalism adopted and the degree of implementation of the basic values and process of federalism. Extreme radicalisation of issues and undermining the existence and identity of others will create conflict and make the federal system dysfunctional. Recognition of multiple identities, accommodation of the needs and interests of others, understanding and sensitivity, not imposing the language, culture, values of one group over the other group, respecting pluralism and individuality are some of the fundamental elements required, particularly at the beginning, to operationalise federalism. If political decision makers fail to address these issues conflict is inevitable in the post-federal Nepal.

Ethnic federalism is not suitable for multiethnic society like ours where there are numerous ethnic groups. Ethnic federalism is more suitable in a country with few ethnic groups with clear demographic cluster, which is not existed in our case. Only appropriately designed non-ethnic federalism with small numbers of provinces will suit Nepal to address her issues and concerns as a multiethnic, multi-lingual and multi-cultural society. Some researchers, like Daniel Elazar, argue that a federal system with a highly ethnic orientation in a multiethnic society may not be workable and has a high risk of erupting into ethnic conflict and civil war. Nepal must certainly take care in designing its federal system to minimise the risk of this happening.

Nepal can minimise possible inter-provincial conflicts by learning lessons from other countries that faced problems between provinces or neighbouring countries and thereby arranging our system in such a way that ensures scope for cooperation and provides mechanism for resolution of potential conflict.

The comprehensive work of Ronald Watts (2008) on comparing federal systems across the world highlights that the sources of tension and stress within federal systems are the cumulative effect of different factors and no single condition, institutional arrangement or strategy can be made applicable. When different social cleavages reinforce each other, the process of polarisation starts and conflict develops¹³. Therefore, one of the

13 See Watts R. 2008. *Comparing federal systems*. Third edition. Montreal: McGill – Queen's University Press for detail.

fundamental tasks of federal institutions is to address these cleavages before they turn into conflict. Political strategies for effective negotiation can help reduce polarisation; therefore, federal institutions should be designed to create that space.

Federalisation has been used as a means of conflict resolution in many countries in the past few decades. For example, Bosnia and Herzegovina, Sudan, Iraq and the Democratic Republic of Congo all opted for federalism as a way of resolving civil war and armed conflict. One of the big challenges in such a situation is to establish mutual trust and the necessary conditions for a federal system.

The concentration of power and resources at the centre and the exclusion of the peripheries were common characteristics of Nepal for centuries. A federal governing system can address the problems associated with the distribution of power and resources, while also recognising and respecting diversity, thereby reducing conflict and tension. Principally, federalism also gives federal units the right to self-rule, giving them control over their own destiny and reducing the potential for rebellion against the state.

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How Many States in a Federal Nepal?

Prakash A.Raj¹

Mandate of federalism in Nepal

Nepal becoming a federal state could be attributed indirectly to the decade long Maoist insurgency and Jana Andolan-2 in 2006 which resulted in overthrow of 240 year monarchy. Federalism was not an agenda of 40 Point demands made by the Maoists in 1996 at the time of launching their “People’s War” or Twelve Point Accord between Seven Party Alliance and the Maoists in November 2005 five months before Jana-Andolan-2 nor the Comprehensive Peace Accord signed between the Nepal Government and the Maoists in 2006. As most political parties announced in their election manifestos for constituent assembly elections (CA) that they favored a federal Nepal after movement in Madhesh in 2007 the biggest catalytic agent in declaration of Nepal as a federal state could also be attributed to Madhesh movement. It is ironic that one of the factors that led to movement for federalism in Madhesh was due to disenchantment with the Maoists and the desire of most Madheshis to live in a part of Nepal which is not ruled by the Maoists. When Nepal was a unitary monarchial state, one of the bonding factors between the hills and the Terai was Hindu religion. As 90 percent of the people in the Terai follow Hinduism, the religious bonding factor between the hills and the Terai disappeared when Nepal was declared a secular country. It is interesting to note that federalism didn’t form part of the Interim Constitution promulgated in January 2007. It was made part of it by Fifth Amendment in July 2008 two months after elections to CA. The Fifth amendment states that the centralized and unitary structure of state would be replaced by inclusive, democratic and federal system in order to end discrimination based on class, ethnicity, language, culture, religion and

¹ Vice-President, Nepal Council of World Affairs.

region. According to Fifth Amendment, Nepal would be a federal democratic republic in recognition of aspirations of Madhesis, indigenous, backward and people of other regions for autonomy. The number, boundary and structure and distribution of powers and resources of the autonomous regions would be done by CA.

Federalism including creation of autonomous regions received its mandate and legitimacy primarily as a result of election manifestoes of different political parties which participated in the elections for CA held in April 2008. Such manifestos of all major parties envisaged creation of a federal Nepal. This was a post-2007 phenomenon after Madhesh movement when it was accepted by all mainstream parties. However, the Maoists were ahead of other parties in demanding creation of autonomous states in the country as far back as 2006 after the success of Jana Andolan-2. They had proposed creation of autonomous states based on ethnicity in the hills such as Tamuwan, Magarat, Kirat, Newa, Tharuwan and Tamsaling in the hills and Madhesh in the Terai consisting of areas east of Dang in their draft of Interim Constitution proposed in 2007. There were several Terai based organizations which advocated autonomy for Terai. There was an organization called Janatantrik Terai Mukti Morcha which was reported in favour of expelling all hill settlers from the Terai.² It also wanted an independent Terai. A Maoist related organization in Madhesh called Madhesh Mukti Morcha had been advocating autonomy for Madhesh as far back as 2006.³ Analyzing the Madheshi movement three years after it started in January 2007, journalist Tula Narayan Shah has written that the first amendment of the Interim constitution included the words “Madhesh” and “Madheshi” and it was primarily due to this movement that the country became a federal state. However, he found that migration of non-Madheshis from Madhesh has continued.⁴ Some would call it beginning of “ethnic cleansing”.

There were also demands for creation of an autonomous area in the northern part of the country bordering Tibet from Kangchenjunga in the east to Darchula in the west. The main rationale for such a demand was that the

2 *Ghatana ra Bichar*, July 12, 2006

3 *Ghatana ra Bichar*, July 12, 2006

4 Tula Narayan Shah, Madhesh Bidrohaka Teen Barsha, *Kantipur*, Jan 22, 2010.

state policy had been in favour of “one language, one religion and one culture”⁵ Two such autonomous areas, in the east and west were proposed to be created according to recommendation of CA Committee. These include Sherpa Autonomous Region in the east and Jadan Autonomous Region in the northern part of the Midwest.

The manifestoes of the major political parties regarding federalism presented just before CA elections in April 2008 should be examined in detail before deciding what kind of mandate this issue had from the Nepalese people as well as its legitimacy. The election manifesto of the biggest political party CPNM (now UCPNM) states that Nepal being a multiethnic, multilingual, multicultural country having geographical diversity, the unitary structure of the state needs to be changed in favour of federal state on the basis of ethnic and regional self-determination. The basis of federalism would be ethnic (jaatiya) and regional identity. The election manifesto of Nepali Congress envisages federalism ending the present unitary and centralized state and creation of autonomous states. The basis of such states would be several including linguistic and ethnic density. CPN (UML) election manifesto states that the basis of federal restructuring would be ethnic, linguistic, cultural and geographic speciality. It states that due attention would be paid to ethnic density, linguistic and cultural factors.

One common characteristic of Madheshi parties which derive their strength mainly from Terai between Kosi River and Birganj and the Terai area of Lumbini Zone is their advocacy for one undivided Madhesh extending from Mechi in the east to Mahakali in the west. On the other hand, most Tharus have objected being called Madheshis and do not want to be part of Madhesh. This is the rationale in creating a separate Tharuwan in the western Terai. The manifesto of Madheshi Janadhikar Forum (MJF) envisages creation of federal state. Another party Terai Madhesh Lokatantrik Party manifesto aims at creation of an autonomous region extending from Jhapa in the east to Kanchanpur in the west. Nepal Sadbhavana Party published its manifesto in Hindi language and suggested autonomous regions in mountain, hills and the Terai.

5 *Saptahik Janasatta*, July 12, 2006.

Manifestoes of smaller parties, with the exception of National People's Front (Rashtriya Jana Morcha) supported federalism. Rashtriya Prajatantra Party (RPP) manifesto advocated federal system in the country. Janashakti Party favored creation of creation of federal autonomous states based upon geography, economic resources besides ethnic and cultural sensitivity. RJM manifesto advocated ending federal system recommended in the Interim constitution and abolishing "right of self-determination" which it would break up the country.

Rationale for creation of federal states

The main rationale for creation of federal states is provided by fifth amendment to the Interim constitution which envisaged it in order to address the concern of Madheshis, Indigenous people and other marginalized groups that had suffered due to centralized state. However, a study made by ICIMOD, an INGO in Nepal found that eighteen districts in the hills of Midwest and far west in Nepal were also most backward and at the bottom of 75 districts. Such a study was made on the basis of such indices as literacy, access to roads, per capita income, women's empowerment and literacy. More than half of the population of these districts consisted of Nepali speaking Brahmins, Chhetris and Thakuris who are considered to be high caste Hindus.⁶ It could thus be said that those suffering from backwardness were not only Madheshis, indigenous people and those from marginalized groups but also those from high caste Hindus who were supposed to be representing and being beneficiaries of the policy of ascendancy of "one language and one religion. Brahmins, Chhetris and Thakuris living in the hilly areas of Midwest and far west are also marginalized as the area inhabited by them is the most backward in the country.

A Nepali historian has analyzed historical basis for any federal states either declared by the Maoists or recommended by CA committee. Ramesh Dhungel writes that there was never a state known as Tamsaling surrounding Kathmandu valley which was independent or autonomous. Kirat areas conquered by Prithvi Narayan Shah in the eighteenth century were under Sen Kings who had taken the title of "Hindupati". There was no political entity known as Tamuwan in the history of Nepal. There were no kingdoms or

6 ICIMOD, Indicators of District Development.

principalities ruled by Tamus in Gorkha, Lamjung and Kaski at the time of Prithvi Narayan Shah's conquest. However, there was a separate autonomous kingdom of Mustang which was ruled by a dynasty for thirty four generations which the Maoists have included in Tamuwan. There is no evidence that any Magar king ruled before 11th century in the areas designated as Magarat. Regarding areas of Terai, he says these were under such hill principalities as Sen kings of Bijayapur in the east, Makwanpur and Palpa. Dhungel feels there is no validity in claims that Prithvi Narayan Shah had conquered states run by locals in what is now Madhesh or Terai. Regarding Sherpas he says the first Sherpas came to Solu and Khumbu in the fifteenth century. Anthropologist Haimendorf has said the same thing. Both Solu and Khumbu were under the Sen kings of Makwanpur before conquest by Prithvi Narayan Shah. Most of Kochila region was ruled by Sen kings at the time of unification. Dhungel concludes that the proposed ethnic federal states did not exist historically.⁷

Recommendation of CA committee

Constituent Assembly Committee on State restructuring and Distribution of State Powers recommended creation of fourteen states on 20th January 2010. It recommended Limbu, Kirat, Sherpa, Newa, Jadan, Tamsaling, Magarat, Tharuwan and Tamuwan on the basis of ethnicity. On the other hand, it recommended formation of Sun Kosi and Narayani states in the central and eastern part of the country and Karnali and Khaptad in the Midwestern and far western part of the country. It also recommended creation of two regions in the Terai consisting of Mithila-Bhojpura-Koch –Madhesh in the east extending from Mechi river in the east to Parsa in the west and Lumbibi-Awadh-Tharuhat in the west extending from Narayani river in the east to Mahakali river in the west. It is interesting to note that a State Restructuring Commission should have been formed for this purpose as required by the Interim Constitution which was not done.

The fourteen proposed states and their “capitals” are as follows:

1. LIMBUWAN-	Ilam
2. KIRAT-	Trijuga

⁷ Ramesh Dhungel, Itihasma bhetidainan jatiya rajya, *Himal*, Jan.. 15, 2010.

3. SHERPA-	Salleri
4. SUNKOSI-	Kamalamai
5. TAMSALING-	Chautara
6. NEWA-	Kathmandu
7. NARAYANI-	Bharatpur
8. TAMUWAN-	Pokhara
9. MAGARAT-	Tansen
10. KARNALI-	Birendranagar
11. JADAN-	Simikot
12. KHAPTAD-	Silgadhi-Dipayal
13. LUMBIBI-AWADH-THARUWAN-	Ghorahi
14. MITHILA-BHOJPURA-KOCH-MADHESH-	Janakpur

Some of the above towns have infrastructure having been regional centres such as Pokhara, Birendranagar, Silgadhi-Dipayal. On the other hand, few have been district headquarters such as Ilam, Janakpur, Salleri, Ghorahi, Chautara. Some such as Trijuga and Kamalamai have little infrastructure and would need huge investment in infrastructure before functioning as federal state capitals.

It was also recommended that largest group in each state should be given special preference for such posts as Chief Minister for two terms. An article written by the Maoist leader⁸ provides interesting insight about Maoist thinking and vision on federalism. According to him, any ethnic group which has its own language and geography (presumably meaning area in which they are living) should be given its own autonomous state. He realizes that such ethnic states envisaged by the Maoists as Tamsaling, Magarat, Tamuwan, Kirat, Mithila and Tharuwan, the “main ethnic group”, presumably meaning the one after whom the federal state is named, makes only 20 to 40 percent of the population. There may be other ethnic groups which might make majority of the population. He proposes naming the federal states on the basis of “minority groups” and giving priority (Agradhikar) to the discriminated groups for a certain period of time say (twenty or thirty years) in order to compensate for the losses they had

⁸ Baburam Bhattarai “Jatiya Ganarajya, Samajbikasko sandarbhama” *Mulyankan*, Poush, 2066 B.S.

suffered for their backwardness. He also proposes giving political leadership of the federal states to the ethnic groups after whom the state is named. According to him, there should also be proportional representation for all the ethnic groups in parliament, executive, judiciary and security related branches of the government. If his line of argument were to be followed it could also be said that Chhetris in Nepal being the largest group should be given priority in leading the country as they also make majority of population in 11 districts in Midwest and the Far West which also form the most backward districts in the country. Many indigenous people in Nepal have adopted Nepali as their mother tongue. The majority of Magars, the largest indigenous group in the country speak Nepali instead of Magar language as their mother tongue. The percentage of Gurungs, Newars, Tamangs, Rais and Limbus who speak Nepali as mother tongue is smaller but is not insignificant. Therefore, the argument about each ethnic group being given a separate autonomous state on the basis of language and geography is not entirely convincing. There are Gurung villages in the hills of eastern Nepal such as Rumjatar where they had migrated during the campaign for unification and their mother tongue is Nepali. There are Newars in many urban centres of the country. Newars living in Ilam and Dhankuta in the east and Silgadhi in Doti in the west speak Nepali as their mother tongue.

Although the exact boundaries of the fourteen federal states as recommended by the committee are not known at the present time, studies of ethnic makeup of some of the earlier models provide some indication about the proposed one. In Magaraut autonomous region declared by the percentage of Magars is only 31 whereas the percentage of hill upper caste people (Brahmin, Chhetri and Thakuris) is 47. As more than half of Magars have now adopted Nepali as their mother tongue, the percentage of Nepali speaking people in this region is overwhelming. In Tamuwan autonomous region, the percentage of Gurungs is only 20 whereas that of hill upper caste being 41 percent is almost double. There are more hill upper caste people in Newa Autonomous Region (37%) than Newars (35%). This is based on census taken in 2001. As a large number of people have migrated to Kathmandu valley in the past decade due to its location as the capital city and those affected by conflict have also migrated, this percentage could be different in 2011 census. There are more Nepali speaking people (54%) in

Tharuwan (Kailali, Kanchanpur, Banke, Bardia and Dang) than Tharus (35%).⁹ The largest ethnic group living in Solo Khumbu is Rai and Sherpas make up only 20 percent of the population of the district.

There are already protests against the recommendation of the committee. All four Madhesh based parties, MJF, TMLP, MPRF have protested division of Terai in two parts and non-inclusion of Narayani including Chitwan in Madhesh. The Madhesh based parties are in favour of a single autonomous unit for the entire Madhesh. MPRF has threatened to start agitation on this issue.¹⁰ Similarly, there are protests against non-inclusion of Terai parts in far western federal republic named Khaptad.¹¹ Some groups in the eastern hills included in Kirat Autonomous Region have protested as they should have been made part of Khambuwan. Several Tharu organizations which had struggled for a Tharuwan in Parsa and Bara districts in eastern Terai have protested the non-inclusion of Tharu areas in Tharuwan.¹² There have been disputes in areas supposed to be parts of federal states even before recommendation by CA committee. The town of Banepa inhabited mainly by Newars was declared part of Tamsaling, autonomous region of Tamangs by the Maoists. Some Newar ethnic organizations wanted it to be part of Newa Autonomous Region. So, there was a dispute between those who wanted it to remain part of Tamsaling and those who wanted it to be part of Newa Autonomous Region. Maoist leader Dr. Baburam Bhattarai has written that there are several Newar majority clusters inside proposed federal autonomous state of Tamsaling. He proposes these be made autonomous areas within Tamsaling or to settle the issue by referendum.¹³ The districts of Jhapa, Morang and Sunsari was named by the Maoists as Kochila Autonomous Region although it was made part of Madhesh in eastern Terai in accordance with recommendation of CA committee. These districts were claimed earlier by Limbuwan mainly on historical grounds. The largest group in proposed

9 Gauri Nath Rimal, *Nepal's Infused Ethnicities*, 2009

10 *Republica*, Jan. 22, 2010.

11 *Annapurna Post*, Jan. 21, 2010.

12 *Kantipur*, Jan. 22, 2010.

13 Baburam Bhattarai, "Jaatiya Ganarajya, Samajbikasko sandarbham", *Mulyankan*, Push, BS 2066.

Kochila are speakers of Nepali language who make up 37 percent of the population. They make up more than half of the population of Jhapa and Morang districts.¹⁴ The Federal Limbuwan Council has protested non-inclusion of territories of all nine districts it had claimed and inclusion of part of its territory in Sherpa, Kirat, Narayani and Sunkosi states. Nepal Tamang Federation has objected to inclusion of Tamsaling territory in Narayani and Sunkosi states.¹⁵

Conclusion

There is no doubt that federalism in Nepal has received mandate from the people during constituent assembly elections in 2008. However, such mandate was not for creating federal states based on ethnicity. Most political parties that participated in the elections favoured federalism but not on the basis of ethnicity. No such mandate was given for forming fourteen states as recommended by the committee on state restructuring. Actually, the famous Swedish economist Johaan Galtung has written that Swiss model of federalism is not suitable for Nepal as ethnic distribution in Nepal is not as orderly as in Switzerland. Besides, there is a mixed population in most parts of the country. Actually, there is only one district out of 75 where Magars make majority of population. Similarly, there is one having Gurung majority (Manang), one having Tamang majority (Rasuwa), one with Newar majority (Bhaktapur) and one with Tharu majority (Bardia)¹⁶ Is it justifiable to declare federal states on the basis of ethnicity where a particular ethnic group does not make the majority of population? Gerrymandering is a term used in the US to describe a process to change constituency in an election favoring a particular party. It appears it was done by CA Committee to make certain federal states contain a certain ethnic group.

Relevance of federalism in other countries to Nepal

Most of the states in India were re-organized on the basis of language. The majority of population in Gujrat speaks Gujrati. The same could be said about Tamil speaking Tamilnadu, Telugu speaking Andhra Pradesh, Oriya

14 Rimal, Ibid

15 *Republica*, Jan. 24, 2010.

16 Raj, Prakash A, *Crisis of Identity in Nepal*.

speaking Orissa and Bengali speaking West Bengal. However, the same could not be said about Tamuwan, Limbuwan, Magarat, Tharuwan, Tamsaling as proposed by the Maoists. Although India has been a federal state for sixty six years, several states such as Bihar, Jharkhand, Orissa, Andhra Pradesh and Chhatisgarh continue to remain backward and are experiencing Naxalite insurgency similar to that in Nepal. Such insurgency is also being experienced in West Bengal ruled by CPM for more than thirty years. Several states have split and new ones created. Chhatisgarh separated from Madhya Pradesh, Uttarakhand from Uttar Pradesh and Jharkhand from Bihar. There are demands for creation of smaller states. Telugu speaking Telangana may separate from Telugu speaking Andhra Pradesh and Marathi speaking Bidarbhā from Marathi speaking Maharashtra. Switzerland is a country having long experience in federalism. Two thirds of its population speaks German which is concentrated in cantons in eastern part, a fifth speaks French mainly in the western part and one canton is Italian speaking. Although there are some bilingual cantons speaking German and French, the population as a whole is less mixed than in Nepal. One of the reasons for success of Swiss federalism is its centuries long experience as well as affluence as a tourist and banking centre. Although Maoist Chairman Prachanda talked about making Nepal a second Switzerland after his visit in 2007, the task is far from being easy. However, some Swiss counties denied women the right to vote till the last decade of twentieth century. Federalism practiced successfully for centuries does not necessarily guarantee inclusivity and gender equality. Yugoslavia was a country created after the First World War and was relatively a homogeneous country linguistically as almost all of its inhabitants spoke a Slavic language. There was also a considerable Muslim minority in Bosnia. It was a country which was more homogeneous than Nepal. There was however, a big gap in the level of development of the constituent units. The per capita income of Slovenia was much higher than that of Macedonia. Federalism could not hold the constituent units such as Slovenia, Bosnia, Serbia, Croatia and Macedonia. There was conflict and ethnic cleansing in the last decade of the twentieth century. United States is considered to be a success as a federal country. However, there were laws legalizing segregation between whites and blacks and a black President could only be elected more than two hundred years after Declaration of Independence. As in all federal states, power was distributed between the centre

(federal government) and the states. Some states discriminated against the blacks. It was only after amending the constitution in 1865 and after judicial review from the Supreme Court that the blacks were granted equal rights in the 1960's. Women in the United States were denied right to vote till the beginning of twentieth century.

The Maoists have already declared the existence of these ethnic states in late 2009 and early 2010 bypassing the functions which falls under the jurisdiction of CA. Not only that they have also proposed that the chief of such states should be from the ethnicity after which the state is named. To practice affirmative action in order to uplift the backward communities or reserve seats for them as done in India is quite separate from designating the head of ethnic federal state to be from the majority ethnic group is against democratic norms. It is the people of the federal states who should decide who should be the head of their federal state. Some analysts have written about the real motive behind such declaration of autonomous states prematurely. One analyst writes that one of the reasons for such a declaration in case the constituent assembly is unable to promulgate new constitution as required is to make parallel government in the declared autonomous areas. He feels these ethnic republics would meet and declare a "revolutionary federal government" after declaring that the CA was not dissolved. It could also ask for recognition from foreign governments for such a government.¹⁷ Another columnist writes that the Maoist unilateral declaration of autonomous federal states would have been taken in the past as an act of rebellion against the state. However, they are leaving other parties with a *fait accompli* and stalling any political consensus on the issue of federalism. He believes that declaration of states on ethnic lines without consensus could become emotive issues. Such act in the past could have been taken as an act of rebellion against the state and its integrity. As parties are divided over such issues as caste and ethnicity they could get away from doing such activities.¹⁸ The major party supporting ethnic federalism was CPN (Maoist) and to some extent CPN (UML) as some of its members in the committee supported the Maoists proposal in creating ethnic federal states. However, they didn't get

17 Arun Baral, "Swayatta Ganarajyako Chaturmukhi Daupech *Kantipur*, Dec. 6, 2010.

18 Yubaraj Ghimire, Balkanisation of Nepal, *The Indian Express*, Dec. 16, 2009.

two thirds majority and are unlikely to gather two thirds majority in CA required for including ethnic federalism in the new constitution due to be formed by the end of May 2011.

No calculation of cost of infrastructure to be constructed and running costs for Governor, Chief Minister, state legislature, secretariat and other auxillary services such as Public Service Commission of each of the proposed fourteen states has been calculated. It remains to be seen if the cost would be prohibitive for a poor country like Nepal. It is possible however that massive bilateral and multilateral assistance could be received for this purpose.

There are many parties such as Nepal Peasant and Workers Party that want federalism on the basis of geography and not on the basis of ethnicity. Some leftist parties such as National People's Front (Samyukta Jana Morcha) organized strike in different parts of country including Kathmandu valley in January 2010 opposing creation of federal states based on ethnicity. However, the number of CA members from these parties is small. Deputy Prime Minister and Minister for Foreign Affairs Sujata Koirala has stated that fourteen federal states as recommended by CA committee is not according to the wishes of the people. As Nepal is a small country, it is not appropriate to form a large number of federal states. She said a referendum should be held to decide future of federalism.¹⁹ On the other hand, a columnist supporting ethnic federalism has stated, “Each federal state and its historically marginalized majority ethnic group will have a sense of ownership”. However, he warns “Ethnic federalism could go wrong if handled badly. For example provision for federalism was added to the Interim Constitution not as a gift of the ruling class to the ethnic groups but as a result of the Madheshi agitation in 2007. Similarly without seriously negotiating with the Limbuwan, Magarat, Tamsaling, Tamu and other activist organizations about the nature, scope, rationale and long-term viability of such ethnic states and the status of other groups within them, prematurely announcing such states is nothing but short-sighted opportunism with long-term unhealthy consequences.”²⁰

19 *Annapurna Post*, Jan. 23, 2010.

20 Pramod Mishra, “Don’t gift ethnic federalism”, *The Kathmandu Post*, Dec. 23, 2010.

A state restructuring commission consisting of geographers, economists and other experts should study the viability of ethnic federal states. Although such a commission was envisaged to be created in Interim Constitution, it was never created. When a Public Interest Litigation (PIL) was filed on this issue at the Supreme Court, it was dismissed on the grounds that it was a political issue. The sovereign people of Nepal should decide in a referendum whether they want five states or fourteen federal states based on ethnicity. Actually, five federal states consisting of five development regions in east, central, west, Midwest and far west would have the advantage of infrastructure created in Dhankuta, Kathmandu, Pokhara, Surkhet and Dipayal for regional capital and would be less expensive than creating new capitals for fourteen federal states. The only problem may be the failure of this model to address identity issues. As a particular ethnic group may not be making a majority of population in most proposed states, would it be justifiable to declare these in order to address identity issues ?

There was migration of people from the hills to the Terai in the 1960's and 1970's as a result of eradication of malaria, construction of East-West Highway and deliberate state policy which changed the demographic composition of many of the districts. The majority of inhabitants of Jhapa in the east, Chitwan in the centre and Kanchanpur in the west are from the hills and speak Nepali. The only region where demographic balance has not changed much is the Madhesh region west of Kosi river and east of Birganj. This area was already densely populated by speakers of Maithili and Bhojpuri and migration from the hills didn't affect the demographic composition of the population to a great extent except in areas north of East-West Highway. Jhapa in the fourteen state federal model has been made part of Madhesh and Kanchanpur a part of Tharuwan. There has also been a reverse migration of hill origin people from many districts of Madhesh to the hills in the past five years. The possibility of continuation of this trend in the future, especially after creation of a federal states and even ethnic cleansing could not be ruled out. The best model for federalism in Nepal that will address identity issues, economic viability and also satisfy the aspirations of majority of people in the constituent units is still being sought.

Health: Pre and Post Federal Nepal

Dr. Rita Thapa¹

Introduction

Health sector deserves greater priority, as it is the most important dimension of human activity. When we deliberate the emerging state structure and as this is the basic responsibility of the state, I will present the case of health sector as we plan a transition from unitary state to a federal Nepal.

I will attempt here to track down the key health milestones attained in continuum through the pre and post Federal Democratic Republic of Nepal; and conclude with a few challenges and suggestions to further advance the health development in continuum through the emerging federal structure of the country. In this deliberation, I have taken 2006 as the cut off point between the pre and post federal Nepal.

Background

Nepal is home to some 28 million people of more than 100 ethnic identities. 86 percent of Nepalese live in rural areas, with poor transport and communication facilities, and few health services²

Following the Historic Jana Andolan-2 of April 2006, and with promulgation of interim constitution on 15th January 2007, the Kingdom of Nepal was declared as a Democratic Republic³. After some 55 days⁴, the first

1 First Medical Officer In-charge of Nepal's Maternal and Child Health Program, and former WHO Director of Health Systems and Community Health for South-East Asia Region.

2 Population census of Nepal, 2001

3 International Crisis Group Asia Report N0 156, 3 July 2008

4 K.P Bhandari, Nepal's Interim Constitution. B.S 2063-2065

amendment of the interim constitution (IC) declared Nepal as a Federal Democratic Republic of Nepal. The basis of declaring federalism was political.

The country has come a long way since then. From a socially orthodox Hindu kingdom, Nepal became a secular, federal democratic republic. The Communist Party of Nepal-Maoist, which had waged a decade-long insurgency in 1996, emerged as the single largest party in the CA election held on April 10, 2008, with women comprising 33 percent of its constituent assembly (CA).

However, the people are currently being caught in a prolonged political transition, increasing violence, rising inflation and shortages of basic commodities.

Health Development: Historical Perspective

Having said that, allow me to quickly take you through the country's health development over the years.

Nepal's development including health is young. It began only after the country broke away from the family run autocratic regime and entered into the modern democratic era in February 1951.

In view that health development is a continuous and progressive improvement of human health, to-day's health is the outcome of yesterday's efforts over the years in continuum. And to-day's health provides the base for further improving tomorrow's population.

Human health, as we know, is not merely the absence of disease or infirmity, but a state of complete physical, mental and social well-being⁵. Achieving health requires more than medical care. Health is the outcome of harmonious interaction of several factors such as biological, environmental, behavioral, social, gender, economic and political. Clearly, health is the basic right and is universal and interrelates with several other basic human rights.

Looking back, some initial seeds of modern medicine were sown in the country during the pre 1951 era. The first Leprosy Asylum established in

⁵ 1946, The Constitution of World Health Organization

Khokana in 1857 primarily to isolate leprosy patients, gradually evolved through the 60s leading eventually to public health elimination of the leprosy from Federal Republic Nepal in January 2010⁶.

Similarly, the Tokha Tuberculosis Sanatorium came in operation in 1935, and which led to establishing a chest clinic in 1951, thus paving the path for the current tuberculosis control program- the directly observed treatment of tuberculosis (DOT)⁷.

The Bir Hospital was the first hospital in modern medicine established in the country in 1889. This has now transformed into Nepal Academy of Medical Science-training national and international post-graduate medicos⁸.

The Cholera Hospital established in the same year has also evolved in continuum into the national referral hospital for communicable diseases including HIV/AIDS.

A considered national effort to developing health system began with the country's first five-year plan of 1957-1962, starting with the Malaria Eradication Project and followed by several other important public health programs like maternal child health and family planning, small pox eradication, TB and leprosy control including the establishment of the first training schools of nursing and health assistants.

Adoption of community based approachin delivering basic health care services has been one of the distinct features of Nepal's health development since the start. By the end of sixth five-year plan in 1980-1985, the integrated community health service development program had already evolved into a nation wide community based health system.⁹ Over the time, it has scaled nationally with a network of some 48,604 ward level Female Community Health Volunteers (FCHV) connecting to 13,811 primary health care

6 1996,Mali IB, Leprosy Services in Nepal. Journal of Nepal Medical Association, 1966:3:3: 225-229

7 1996, Das GSL. Tuberculosis in Nepal, Past, Present and future. Journal of Nepal Medical Association, 1966:4: 8-15

8 1995, Dixit Hemang, Medicine in Old Days. The Quest For Health, First Edition, 1995: 15-19

9 1979 Report, Mid Term Health Review, Ministry of Health, Nepal

outreach clinics (PHC/ORC) along with Village Health Workers and Maternal and Child Health Workers, with the back up support of 207 Primary Health Centers/Health Centers (PHCCs), 676 health posts (HPs), and 3114 sub-health posts including 102 governmental, non-governmental and private teaching hospitals¹⁰.

The New National Health Policy effected following the 1991 Jana Andolan- 1 had placed a renewed emphasis to improving maternal and child health by placing one Maternal and Child Health Worker at every village development committee (VDC), including one primary health care center (PHC) staffed with one medical doctor each for each of the 205 electoral constituencies. The modality aimed to further extend primary health care services to rural areas through strengthening the existing integrated health care delivery infrastructures.

Along with the 1991 Health Policy came also the privatization of health care and rapid increase of tertiary hospitals. User charges were introduced even at government health facilities including at health post and sub health post levels.

Following the 2006 historic Jana Andolan-2, the interim constitution (IC) has now enshrined nineteen rights, including the rights to clean environment, free basic health care, and free education up to secondary school.

Health Situation Mileage: 1950s-2006

Against this backdrop, let us briefly walk through the health mileage covered between the 1951 first wave of democracy and the 2006 historic Jana Andolan-2, the dawn of Federal Republic of Nepal.

Health situation implies more than health status. It also includes measures undertaken to improve health, the health problems that require particular attention, appreciation of the level of peoples' awareness about their health and ways of improving it.

¹⁰ Annual Report, Department of Health Services, Ministry of Population and Health, Government of Nepal, 2065-66/ 2008-2009

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Table 1: Nepal's Maternal and Child Health Development At A Glance 1960s-2006:
Marching towards the MDG4 and 5

Health-MDG Indicators By Time	Early '60's	1976 NFS	1991 NDHS	'96 NFHS	'01 NDHS	'06 NDHS	Target by 2015 Goal 4	Goal 5
MDG-4 Reduce Child Mortality by 2/3 between 1990-2015								
Infant Mortality Rate per 1000 Live Births (LB)	172	108	79	64.4	48			
U 5 Mortality/ 1000 LB	<300	162	118	91	61	54		
MDG-5:improve Maternal Health								
Reduce Maternal Mortality Ratio by $\frac{3}{4}$ between 1990-2015	1500 1500/more	850 515	88 539	531	281 229 - '08-'09**		213 or 129	
% Births attended by skilled health personnel	Zero	7.4		10.8	20		100	
Contraceptive prevalence rate %	Zero	2.9	24.1	26*	39	44		100
Total Fertility Rate	6	4.8	4.6	4.1	3.1			

*Pradhan et al., 1997

** Nepal Maternal Mortality and Morbidity Study, 2008-2009, Government of Nepal, USAID, SSNMP/Nepal

Since the data on health situation in the '50s are uniformly scarce and weak, it is difficult to establish benchmark of health situation of the 1950s. Available information shows that a few hospitals, dispensaries and Ayurvedic hospitals including Homeopathic dispensary were established prior to 1951. Since they were mostly located either in Kathmandu or in other cities, the common citizens, especially the rural poor, had no access to these health institutions. Their free services were mostly used by the elites. No health policy and programs existed as such for improving the health status of the population at large¹¹. No health services existed for women during pregnancy, childbirth and after childbirth. Unattended births were a universal norm. Maternal deaths were taken as normal part of being women.

Table 1 presents at a glance the health mileage covered by Nepal between the 1950s and 2006.

The data extrapolated from the 1955 and 1961 census, including the 1963 survey of population by the Central Bureau of Statistics (CBS), and Nepal's first National Health Survey (NHS) of 1965-66 reflect a grim health situation at that time. The 1965-66, NHS had concluded that 37 percent of all deaths occurred among infants and 56 percent of all deaths occurred before the age of 15, which gave an average life span of only 27 years¹². However, according to the 1961 census, the official estimate the average life span then was 40 years.

One could safely infer from the above information that around the late 50s and early 60s the maternal mortality ratio to be at its natural level of 1,500 and above per 100 000 live births with universally unattended births, the U 5 mortality of more than 300 per 1000 live births, and the percentage of married women using modern contraceptive at zero level.¹³

When the 1950s health situation viewed against that of the 2006, it is evident that the federal Nepal is being greeted with a much healthier

11 2004, Report of Ministry of Health, Government of Nepal

12 Worth, Robert M. and Shah, Narayan K, Nepal Health Survey, 1965-'66, Honolulu: University of Hawaii Press 1969

13 1972, Country Profile of Nepal, Daniel Taylor and Rita Thapa, Country profiles, The Population Council, NYNY, April 1972

population. The health milestone reached by the country during these last 50 years is impressive. Evidence shows that the overall health status of Nepal has improved remarkably since the 50s. The average lifespan has increased from 40 to 60 years, the infant mortality rate declined from a three digit level to 48, the total fertility rate dropped from more than 6 to 3.1 children per woman with contraceptive prevalence rate among currently married women increased to 44 percent from zero level. The inhumanely and shamefully high maternal mortality ratio has declined from 1500 or more in the '50s to 281 per 100 000 live births in 2006. Similarly, the percentage of one-year children immunized against measles has increased to 85 percent. The coverage of the directly observed treatment of tuberculosis (DOT) is 85.5 percent of the cases, and has an effective reporting system in place. Malaria is effectively controlled to an annual parasite incidence of 0.19 per 1000 population in 2008-'09¹⁴. By 2010, Leprosy is eliminated at the public health level.

Because of the impressive reduction in maternal and child mortality, Nepal is now ranked as one of the few South Asian countries that are likely to achieve the millennium development goals (MDG) 4 and 5 by 2015. These are no small gains for a country held back by centuries of feudalism, poverty, illiteracy, ill health, and the decade long internal conflicts.

Discussions

Although several interacting health and social factors come into play to influence the maternal, child mortality and fertility, evidence also show that unless some proven health interventions are accessible at the population level in continuum, such health gains would not be possible. To this effect, a set of public health policy strategies implemented through the 60s seems to have greatly attributed to reach out the basic, doable, safe and proven health interventions closest to the people over the years. Establishing a nation wide health network starting from Female Community Health Volunteers at ward level upwards has been one such key policy strategies over the last 45 years. More than a dozen of major External Development Partners (UN Specialized

14 MDG Indicators of Nepal, Status and Trend, government of Nepal, National Planning Commission Secretariat, Central Bureau of Statistics, March 2010

Organizations and other bilateral agencies and NGOs) had lent their support in laying out such community-touched health care delivery infrastructure in the country.

The Maternal Mortality (MMR) deserves a special mention here. For the maternal mortality ratio is not only an important health indicator, it also mirrors the human development and gender index. It is among the important MDG set for 2015.

What is interesting in Nepal's case is that the appallingly high maternal mortality ratio has declined to almost half within a span of ten years with only 19 percent of births attended by skilled health personnel (SBA). When this evidence is viewed against the prevailing epidemiological norms of associating 20 % SBA attended births with maternal mortality ratio of 400-1500 per 100 000 live births, Nepal's MMR decline seems a bit paradoxical. But with a deeper look at Nepal's paradigm of MMR reduction, such paradox fades away.

True that the presence of skilled health personnel at birth is central, but this is not the only determinant of maternal mortality reduction. Historical and recent evidence shows that reduction of maternal mortality is a multi-sector outcome. No specific factor can be pinpointed to its decline. Several interacting health and social factors come into play to influence the fertility i.e. the exposure to the risk of becoming pregnant and the maternity factor i.e. the risk of dying of complications of pregnancy and childbirth after becoming pregnant. A reduction in either of the components or both can effect a reduction of maternal deaths. In Nepal's case, both the fertility and maternity factors have been effectively addressed at population level over a long time since the early '60s.

The increasing use of maternal health interventions at the population level like antenatal care, three cleans, iron supplements by pregnant women including the use of oxytocin after childbirth to stop bleeding, together with the effective contraceptives may have largely contributed to saving a huge number of women from the death risks arising from fertility and maternal factors.

Though limited, safe abortion care provided through trained government and private institutions following the amendment of Nepal's Civil Code in

2002, may have contributed to preventing maternal death from the complications of abortion. Clearly, the effect of these interventions at the population level over the long period has mitigated the risk of maternal death by lowering the fertility as well as improving maternal health.

However, this should not undermine the need of skilled birth attendant at every birth.

Despite the good news of declining MMR, a recent study has reported a dramatic rise of suicide rate among women of reproductive age group from 10 percent in 1998 to 16 percent in 2008/2009¹⁵.

The Challenges Ahead

The above gains are impressive. But several dark clouds overshadow these gains, especially during this prolonged political transition. I will attempt to put forward a few foremost health development challenges confronting new Nepal.

**Table 2 : Levels of Pregnancy Related Deaths by District-
2008/2009 Nepal Maternal Mortality and Morbidity Study**

Name of District	Maternal Mortality Ratio Per 100 000 Live Births
Junla	305
Rasuwa	301
Rupendehi	291
Kailali	288
Surkhet	215
Sunsari	195
Baglung	181
Okhaldhunga	181

The existing health gap-the statistics of national average rates masks the wide variation between regions, urban-rural, rich-poor and between ethnic groups. Despite the huge average health gains at national level, 21.8 percent of the total population of the country does not have life expectancy beyond 40 years of age¹⁶. Table 3 presents the MMR disparity as reported by the

15 Nepal Maternal Mortality and Morbidity Study, government of Nepal, USAID, SSMP Nepal, 2008/2009

16 Population Census of Nepal, 2001

recent maternal mortality and morbidity study. The same study has also pointed out the highest MMR among Muslims (318), Terai/Madhesi (307) and Dalits (273) per 100 000 live births.

The 2006 had reported that the infant mortality rate was highest in the Mountain (99), followed by Terai (65), and lowest in the Hill (47). The data in table 3 shows a wide urban-rural and ecological disparity in infant and under five mortality. The tragic consequences of such wide gap, as we are experiencing now, include increasing social and mental tension leading to increased violence and deepening poverty.

Table 3: Mortality by Area of Residence

Area of Residence	Infant Mortality Rate	Under 5 Mortality Rate
Urban	50.1	65.9
Rural	79.3	111.9
Mountains	112.0	157.4
Hills	66.2	93.9
Terai (Plains)	80.8	112.8

Source: DHS 2001.

With a scientifically carved federal structure, Nepal could narrow such health disparity by substantially devolving state's and external health resources including health training scholarships directly to the respective village development committees with lowest human development index. Evidence show that such locally recruited medical and paramedical workers can be retained in their respective communities¹⁷.

Narrow understanding of Right to Health

While the IC's inclusion of right to health is laudable, its scope seems limited to only to the provision of free basic health care. The term 'right to health care' connotes broader picture beyond the provision of "free medicine" alone. Every citizen must have equal access to a holistic package comprising of scientifically valid health promoting, disease preventing, and disease treating information and services according to ones' need, regardless of ones geographical location, gender, ethnicity and ability to pay.

17 Rita Thapa, "Empowering the poorest women in Nepal for Safe Birthing", <http://thewip.net/talk/>, August 2008.

In this regard, the Constituent Assembly may be advised to consider placing fundamental rights to health at par with the other mutually interactive basic human rights, consistent with the article 25 of the Universal Declaration of Human Rights, 1948. According to this, “Everyone is entitled to that which secures health and wellbeing: food, clothing, housing, medical care and security”. Clearly, this implies that the basic right to health is universal and interrelated to several other basic human rights. These basic rights must be enforceable mutually and by the courts.

Weakening health infrastructure

Despite the government's program of “free medicine”, fellow citizens were dying due to a lack of simple life saving oral rehydration solution in the likes of the Jajarkot epidemic. This tragic Jajarkot episode occurred not only due to health sector failure, but also that of other sectors in providing safe food, safe drinking water, safe disposal of sewerage/ human excreta, transport and communication, and more importantly indifferent political leadership. Health or ill health, it is indeed a multi sector responsibility. Thus realizing right to health requires incorporating health sensitive policies in all concerned sectors in consonants with their respective sector program objectives and strategies.

Concomitantly, revitalization of the existing health pipelines needs urgent attention, lest Nepal runs the risk of loosing the gains made so far, including the near achieving of MDG on child and maternal mortality reduction by 2015.

Over-centralization of power and health resources does not sit well with the concept of federalism. Devolution of central power and resources to the local self-government is among the most attractive features of federalism. For this allows the local bodies to solve local problems at local level, where it is easy to identify and solve them more efficiently. This would help embedding services point in the community with adequate human and physical resources, thus narrowing the existing health gap.

The concept of federalism should envision that the management of programs including the human and other physical resources be best with the local self governments, while the harmonization of health responsive multi-sector policies including mobilization of national and international resources

for health, and setting and monitoring standards of good practice be retained at the centre. The current practice of centralization of power and resources has led to lack of responsiveness to local needs and insufficient clarity of organizational roles and responsibilities within the health systems.

Ethnic Federalism-However, with the ethnic federalism in discussion, the prospects of health and human development seem bleaker. For the disease causing microorganisms neither recognize peoples' ethnicity nor they respect any political boundaries. The only way to protect people against such microorganisms is by ensuring every ones' equal access to quality health care services, without any preference to any particular ethnicity, geographical location and socio-economic condition. No one can remain healthy with a sick and poor neighborhood around. Because health as a basic human right, it is universal and interrelates with several other basic human rights.

In view of this, the disruptions ensued by possible ethnic divide would not only break the already ailing health system of the country, the health security of people and the country as a whole would run into a grave risk.

Health expenditures-although the total health outlay has increased from NR 6.5 bn. in 2004-5 to NR 17.8bn. in 2009-10, but the share of the national budget has actually decreased from 7.16 % in 2007-8 to 6.3% and 6.24% in the following two subsequent years. The budget allocation to essential health care services has improved from 65% in 2004-5 to 75% in 2010-15. However, individuals and households pay out-of their-pockets 55% (USD 9.0) of total health expenditure at the time when they need services¹⁸. This is indeed a regressive and inhumane way of financing health care, especially for the poor. Direct payment at the time of illness is in effect a tax on ill health. As a result, the poor either has to shun health care services they need because the costs are beyond his/her means; or he/she must become more impoverished by paying out-of -their pockets.

A well planned federal structure of Nepal could breakaway from such vicious cycle of ill-health and poverty by enhancing the capacity of local-self governments so that they can manage local health services and local health

18 Nepal Health Sector Program-Implementation Plan II, 2010-2015, Ministry of Health and population, Government of Nepal

financing through community-based health insurance schemes with targeted subsidies for the premiums of the poor.

Gender inequality is among the important factors that determine individual's vulnerability to the risks of ill health, diseases, access to care, and survival, among others. The fact that suicide and maternal mortality comprising the leading causes of women's death during reproductive age reflects women's unequal access to resources and decision making on matters that affect their own health. The adverse effect of gender inequality goes far beyond the individual sufferings. The increasing HIV prevalence among housewives with the eminent threat of spreading HIV epidemic into general population is yet another adverse outcome of prevailing unequal gender relations. A multi-sector gender responsive policies is in order, and which must be enacted at all levels, especially at local self government level.

Conclusion: The Way Forward

From the above discussion, a few public health imperatives have emerged in the way of further improving the health of Nepali people, while cashing on gains made so far. They are summarized as follows.

Firstly, the government's on-going increasing investment on community based essential health care services is commendable, and which should be advanced in continuum so that Federal Nepal has a relatively healthier population, achieves its MDGs in health and thus build a robust population base for creating a peaceful and prosperous new Nepal.

Secondly, health development is greatly affected by the evolving federal structures. The management of health programs including the human and other physical resources should be best with the local self governments, while the harmonization of health responsive multi-sector policies including mobilization of national and international resources for health, and setting and monitoring standards of good practice be retained at the centre.

Because the disease causing microorganisms do not respect any socio-economic-political construct of ethnicity and boundary, the federal structures should be based on universal human needs rather than ethnicity. Lest, Nepal runs the risk of human sufferings and diseases in the likes of the tragic events that occurred in Ethiopia, Somalia, former Yugoslavia and Sri Lanka.

Thirdly, the term - right to health demands a much broader definition of action arena than the provision of “free medicine”, and which should be enshrined accordingly in the new constitution of Nepal. Right to health must be placed at par with other mutually interactive basic human rights, and they should be mutually enforceable by the judiciary. To this effect, there is a dire need to incorporating health sensitive policies in the planning and programs of other interrelated basic rights.

Fourthly, the existing and rustic primary health care pipelines must be resuscitated at war footing, lest we run the risk of loosing the chances of achieving the MDG 4 by 2015.

Fifthly, in order to protect people from the existing vicious and regressive trap of health care financing, the local self-government must be empowered to manage local health services and local health financing, including community-based health insurance schemes with targeted subsidized premiums for the poor.

Sixthly, the evolving federal structures should invest state's and external health training scholarships directly on local communities having lowest human development index. This is to mitigate the chronic shortage of trained health worker in rural and remote areas, thus narrowing the existing health gaps.

Seven, A multi-sector gender responsive policies be incorporated and enacted by all sectors and at all levels, especially at local self government level.

Lastly, as a nation we are closing in on the MDG on child and maternal mortality reduction by 2015. Let us all give a good acceleration to achieve these coveted goals, and to build a much healthier, robust population base for creating a more peaceful, prosperous, and a secured Nepal.

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Economics in the National Interest

Madhukar SJB Rana*

Introduction: Purpose of Paper and Definitions

The aim of this paper is to provoke debate and dialogue on the economics of national interest. In short, to promote ‘economic nationalism’ which, some participants here may feel, is a phrase that is passé in the 21st century’s era of globalization.

I submit it is not an outdated concept even with globalization for the following reasons: (a) there is a dire need for politicians, planners and academicians, together with the private sector, to jointly set the economic agenda for the nation; as well as, foremost, jointly designing economic strategies in the wake of the emergent geo-strategic forces to maximize national interest; (b) strategists need to keep an open mind- set for exploring every avenue for import substitution as and when opportunities arise, and (c) policy makers must be perceptive, at all times, to minimize risks arising from the open economy by ardently following policies favouring national self-reliance and safeguarding national security.

Needless to say, being an ‘economic nationalist’ in the new era of globalization calls for great expertise in economic diplomacy to negotiate the best deals for Nepal in the context of WTO laws and regulations and, not least, UNCTAD principles in favour of landlocked and least developed economies. Not to discount the emergent negotiations over global warming and the clamour for eco-economics that bodes pretty well for Nepal’s future with so much scope for carbon trading, through import substitution, from the vision envisaged in this paper.

* Professor, South Asian Institute of Management and Former Finance Minister

National economics must be synchronized with national politics in all national decisions and they should not be completely divorced from each other; as has been the case, historically since 1955—with the possible exception during a period in the early 1960s when Nepal actually took a plan holiday break—what little was planned was executed with grand success.

In short, the contextual basis for modern ‘economic nationalism’ is not simply political nationalism but an information-age nationalism that is fully cognizant of the forces of geo-economics, geo-politics and geo-psychology.

Forward: The Economic Agenda for New Nepal

These ‘economic nationalist’ actions are the following:-

Agenda No 1: Demolish Aid Colonization

Nepal is blessed by nature with ample natural resources, which our politicians, systemically, and their planners have failed to harness. This sustained, systemic failure is mainly due to their lack of vision caused by their overarching aid dependency resultant from their neo-colonial mindset, inferiority complexes and the rent benefits accruing to them from aid.

Despite foreign aid’s emphasis on good governance, Nepal’s chronic mal governance is also due to this because of the overarching aid dependency as politicians, planners and policy-bureaucrats are spoon fed with alien ideas, money, material and machinations that go to serve their global interest –not ours.

Aid is the primary source of graft and corruption. Let me quote International Alert’s Phil Vernon. When asked “Is Aid Working” he said:

“Despite billions of dollars being spent on development assistance over the past 60 years, it is doubtful that aid is really working as intended, i.e. providing sufficient impetus to overcome the strong forces that keep people poor...If asked to project ourselves forward in time to 2030 and imagine whether, looking back, we would call today’s aid policy and practice successful, many of us would find it hard to say yes.”¹

1 <http://www.stwr.org/aid-debt-development/is-overseas-development-aid-working.htm..>

“Between 1970 and 1998, when aid flows to Africa were at their peak, poverty in Africa rose from 11 percent to a staggering 66 percent” - roughly 600 million of Africa’s billion people are now trapped in poverty” says the Zambian economist Dambisa Moyo²

Aid, therefore, is part of the problem and not part of the solution for good governance.

Is it any wonder that politicians have least regard for their duties to national tax payers as they merrily submit to populist, vote banking politics that has backfired in youth alienation, angst and the unrealistic, rising expectations that are the root causes of crime, violence, insecurity and the breakdown in the rule of law.

To be honest, Nepal is merely a clog in the wheel of development being propelled by the western industrial nations in their mission for universal liberal democracy, human rights and security (from radical social movements; international migration, terrorism and global warming).

Such is the ideological weapon being unleashed upon the developing countries for the ‘end of history’ and to maintain their cultural domination—underscored by the savage debt burden unleashed through tied aid.

Some Aid agencies are glaring symbols of colonization through aid. They bypass, completely, the foreign ministries and are not accountable in any manner or form to national parliaments. Aid bureaucracies, as well as national bureaucracies, must be down sized and right sized.

This can be done by having just a few core ministries that are constructed with the aim to have both strategic and macro-economic impact. For example, the Ministry of Industry, Supplies and Commerce should be appropriately amalgamated into the Ministry of Finance and Economy while the Ministry of Agriculture henceforth should be made responsible for agro-industrialization.

Why merge ministries? Better coordination, communication and control and strategic impact by creating self-contained synergies within related sub

2 www.bravenewtraveler.com/.../is-foreign-aid-killing-africa.

sectors to maximize multiplier benefits through backward and forward linkages.

Is this not a parody of democracy and sovereign equality of nations? In the quest for human rights, the industrial nations resort to non-governmental organizations, created and funded by them, to protect and promote human rights under the guise of 'civil society' so as to ensure weak, compliant states. Worse, it completely destroys the developing nations' social capital as traditional voluntary organizations are annihilated from the national socio-political scene.

The first act of nationalism, therefore, must be to set limits to foreign aid which is a self-perpetuating institution by: (a) developing one's own development and growth strategies; (b) bringing under the Ministry of Foreign Affairs' fold all bilateral and multilateral foreign aid, including those from INGOs, and (c) deepening and opening alternative avenues for international finance massively (remittance, tourism, transit trade, international financial centre, carbon trading and FDI mobilization; and (c) downsizing the bi-lateral international aid bureaucracy and also requiring them to hire national experts especially educated and trained in the countries concerned.

Aid driven by its mission of liberal democracy and human rights has the distinction of creating inefficient state and semi-state institutions that have weakened individual liberties and choices; and the spirit of enterprise that is possible mainly through the market mechanisms – and not through an ever expanding role of governments, political parties, labour unions and NGOs.

Total debt forgiveness is necessary as aid has robbed Nepal of its competitive advantage through padding of costs and chronic delays mainly in the infrastructure sector. Use the funds released from debt forgiveness to emancipate the people living below the poverty line as their rightful entitlements to credit; sanitation; irrigation; education; health, housing and skill training—no matter what caste, creed and culture or race, religion and region.

As far as possible, to arrest the spread of the public sector, aid should not be accepted for sectors other than the social sectors. In the event that aid to all other sectors is necessary then it should be channelled through the

private sector so that aid builds the capacity for Nepal to compete in all domains of commerce, industry and finance.

The effectiveness of aid needs to be evaluated for its impact on trade if the mantra of 'aid for trade' is to be meaningful. Foremost, mechanisms and methods must be found to promote massively micro and SMEs throughout the nation so that not just Kathmandu, but all other cities and towns are endowed with commodity and capital markets. This is eminently possible if aid³ is channelled into private enterprises in the form of equity and long term bonds. Nepal can be socially transformed by flowering social entrepreneurs in all corners of the land

Agenda No 1: Rediscover Agriculture and make Agro-Industrialization the engine of growth, development and modernization

The agriculture- horticulture- floriculture- sericulture- livestock- beekeeping mushroom farming and fisheries' subsectors have to be rescued from the abysmal, continuous neglect by politicians and planners who are still fixated on paddy, maize and wheat despite waning comparative advantages to India and perhaps even Bangladesh.

How to strategize this vast sector where more resources are spent on bureaucracy than on farms and where leakages are so rampant with hardly anything trickling down? 70 percent of the rural households depend on this sector. 80 percent jobs reside here. More than 1.2 million are landless and growing annually. Neither full employment, nor empowerment of gender, dalits and janjatis will be possible without robust agri-growth; nor indeed 'food security' for the hugely scattered, self sufficient rural households.

Two strategies will have to be simultaneously formulated and executed. One, import substitution of high-value, high- income elasticity demand crops to cope with the rising household incomes in all cities and towns. In addition to being fully backed up by irrigation and extension and massive micro and SME credit best provided by a debt moratorium by both bilateral and multilateral donors for the years of misuse of foreign aid that has robbed the country of its comparative advantage with grossly excessive input and technical assistance costs: and these include costs of management

3 <http://www.watsoninstitute.org/pub/ForeignAid.pdf>

consultancy reports galore which are hardly implemented due to rapid turnover or absence of staff. Nevertheless, Nepal must use its own funds to subsidize this entire strategy with all manner of financial and fiscal innovations.

The second strategy is more challenging and requires that we negotiate this sector more completely with India's agricultural sector engaging in free trade, free movement of FDI, including portfolio investments and free movement of labour in order to promote joint ventures; commercial farming and assistance in opening Venture Capital Funds and Land Banks to support the marketization of land. One expects that the measures will allow the agri-sector to also have equity, debt and bond markets in due course. The Agricultural Bank can play the role model in transforming the rural society from a feudal order to a capitalist one.

Last not least, the shocking neglect of the supply chain system or logistics' sub sector must be signalled out for the highest investment priority especially in areas such as cold chains; modern warehouses; survey, inspection and loss prevention technologies; documentation modernization with maximum emphasis on IT; multi-module transportation and dry ports. All these investments call for public-private partnerships for optimal risk management and sharing of risks and benefits.

An FTA for the agri-sector needs to be entered keeping in mind the second agri-revolution that India is about to launch so that there is no let with either faulty competitive advantage negotiation, but also in identification of comparative advantages. The name of the game is to garner backward and forward linkages not simply on Nepali soil but also Indian in the immediate neighbourhoods.

Agenda No 2: Maximize the Utilization of Water Resources

Nepal's hydro-energy potential is said to be 84,000 MW with at least 43,000 MW commercially viable. These assumptions have led politicians and planners to inherit the Bhutan-syndrome. Hence Senior Water Resource Expert, Ratna Sansar Shrestha, calls for a paradigm shift in energy planning.

His study shows that, in 2007-08, only 2.04% of the total national energy utilization (2,800 MW) was met by hydro-power and the rest was met

by firewood (75.06%); petroleum (9.82%); animal residue (5.87%); agri-residue (4.08%); coal (2.53%) and solar energy (0.6%). Projected peak load demand in 2025-26, based on current economic structures, is 3176.6 MW.⁴

If the economy leap frogs to the much touted 10 percent growth per annum, it would mean that total national energy demand would rise to, inter alia, no less than 11,000 MW. Now to produce 11,000 MW of hydro-energy to substitute all other sources would actually result in the economy leap frogging as well with both balance of trade (import substitution) and payment surpluses (FDI, exports, carbon trading) beyond the imaginations of the Arab sheikhs.

For Nepal to be a developed industrial nation by 2040 it requires a per capita energy consumption of around 10,000 kWh, which means it requires more than 60,000 MW of hydro-energy supply.

To be a middle level economy by say 2025 it may require no less than 30,000 MW of electricity to power the economy as the strategic engine of growth.

Action is eminently needed, as a national priority of the utmost importance, to have an in-depth, multi-sectoral and longitudinal demand simulation study done by an independent national think tank to systematically estimate the water and hydro-energy requirements of each and every sector nationally – household; municipalities; irrigation; transportation; cold storage (national loss is around 3-5 percent of GDP); manufacturing industries; storage for water security and export trade.

Let us underscore that we must reject the Bhutan model of water resource development as it is against the national interest for a middle sized country that will have a population in excess of 34.2 million in 2021 and 45.1 million people by 2040. It was 23.2 million in 2001 and is growing by 2.25% each year. The urban population absorbs 14.2% of the population and is growing rapidly by 5.4% to register one of the fastest growths in urban population in Asia.

4 http://www.ratnasansar.com/2010/02/electricity-crisis-load-shedding-in_17.html

We must use the water to its hilt for total structural transformation of the economy towards ecological security; food security, energy security, employment security and massive industrialization with a view to developing agro-industrial and energy-intensive manufacturing industries together with high speed rail and ropeway transportation and also water-borne transportation for bulk goods; and export of surplus sweet water for drinking and irrigation.

Agenda No 3: Adopt Integrated Manpower-Educational Planning

Given Agenda No 2, it follows logically that Nepal will have to enter the sphere of manpower planning and integrate it with educational planning so that the human capital needs are met for the suggested economic transformation as well as the demands for human resources ensuing from the dynamic economic growth envisaged.

Banks should be required to give loans to students of all categories with refinancing by NRB with interest to be paid only after completion of studies. Detailed global studies have shown that nowhere in the world is IRR higher and payback on investment quicker.

Investment in education is good business. The private sector knows this. It also knows that they can contribute to peace building and maintenance if they create jobs, give scholarships to the able women, dalits, *janjatis* and disabled and guarantee in the interest of inclusion and equity.

A determined policy of public-private partnership in education is eminently desirable for all this to happen in a transformational manner as the private sector can and will invest in world class universities, colleges and polytechnics to churn out engineers, entrepreneurs, technologists, technicians and apprenticeships. Hopefully, the Dalits will get a grand opportunity to be finally emancipated in their new avatar.

Agenda 4: Adopt River Basin Planning and Integrated Watershed Management

Watersheds are landmasses drained by a stream or river. As such, watersheds can be mini, micro, meso or mega (trans-boundary river basins engulfing 2 or more countries). Invariably, watershed planning and management involve multi-sector, integrated scientific approaches and interventions to include

soils, water, forests and climate to be harnessed and conserved by a community, region or nation/s to produce goods and services for the common good, including control of natural disasters.

Each river basin from the high Himalayas to the lowlands of the Terai comprises a holistic natural unit with almost all Nepalese communities permanently settled along rivers and streams engaged in farming rather than living in nomadic or tribal life styles. All communities find themselves spiritually united by the holy rivers and streams flowing from the Himalayas—the abode of the Gods.

National planning, if it is to respect people's sovereignty and pluralism, must give way to bottom-up planning to give space to local communities to be engaged in integrated watershed planning and management through local leadership based on their own felt needs, aspirations and capacities not those of sector specialists with pre-conceived ideas alien to one and all at the grassroots.

Empowered local panchayats are the true foundations for national holistic inclusion – be it caste, ethnic, linguistic, religious or gender. This happens when clusters of local panchayats form a commonwealth—or call it a confederal union—of panchayats to obtain multiplier benefits through economies of scale and scope; rendered by the expanding market mechanisms as local participatory development unfolds based on the principles of community self-governance, self-development and self-management. A fusion of local panchayats, all driven by the quest for community and individual happiness while being led by their own local leaders is far more holistically constructive, fulfilling, inclusive and empowering than modalities of social change based on extraneous political ideologies borrowed from elsewhere.

Nepal is a show case country as far as community-based natural resource management is concerned. It can, hopefully, be a global role model in nation building towards the desired new economy where ecology and economy are synthesized to cater to the welfare of all life – born or yet to be born—and contribute to the security of planet earth. The practice of doing top-down watershed management in a sectoral manner for the underprivileged backward communities must give way toward making this the *raison d'être* of the body politic of the envisaged federal Nepal.

- Mobilize local communities to be engaged in watershed planning and management and mobilize districts to draw up District River Basin Management Plans in pursuit of national and district sustainable development/environmental goals and objectives based on community participation
- Formulation of Federal/Regional Watershed Management Plans for the 3 River Basins by the respective Water Resource Councils based on District River Basin Management Plans
- Formulation of the National River Basin Plan (in harmony with and aligned to larger rivers basin plans of India and China)
- Components of River Basin Planning: multipurpose dams and reservoirs; hydro-energy plants; navigation; irrigation; sanitation; drinking water; flood control; agriculture, forestry, livestock and fisheries' development for regional development
- Take Lessons from US' Tennessee Valley Authority; India' Damodar Valley Authority; UN's Mekong Commission, Australia's Snowy Mountain; China's Three Gorges Dam Project; Canada-US Columbia River Project ; Brazil-Paraguay River Basin etc.⁵

Agenda No 5: Be the Global Voice of the Developing Mountain Peoples of the Globe

Nepal must never waiver to be an active UN member for its own collective security. Another foreign policy objective was to be the global voice of the mountain peoples in all international fora. With ICIMOD located in Kathmandu, Nepal is fortunate to have a centre of international excellence for integrated development of the Hindu Kush Himalayas as an intellectual resource institute – the only one of its kind in the world.

Agenda No 6: Create National Growth Centres and Economically Integrate with India and China based on River Basin Planning and Watershed Management by pursuing a neo- Model of Sub-regional

⁵ Ratna Sansar Shrestha, http://www.ratnasansar.com/2010/02/electricity-crisis-load-shedding-in_17.html (current, short and medium range scenario analysis)

Dinesh L. Shrestha and Guna Paudel "Water Resource planning in Karnali Basin" www.informworld.com

Cooperation (4x1 economy) in an extended SAARC Growth Quadrangle (SA-GQ)

One may visualize the Nepali macro-economy as being a 4-in-1 economy that should be well integrated unto itself and outwards with the neighbouring countries of both India and China. (Most probably, the best location to begin harnessing the Himalayan rivers is within Tibet which would be the most suitable place for high dams owing to the fact of its under-population.)

These sub-regional economies are the following: (1) Northern Trans-Himalayan Economy to be integrated into Tibet (2) Eastern Region all territory East of Koshi to link Sikkim; Darjeeling; seven North-East states, (3) West and Central Region east of Gandaki integrated with North Bihar and NW Uttar Pradesh and Mid-West and Far-West Regional comprising territories drained by the Karnali to integrate with East Uttar Pradesh up to New Delhi.

Although this author does not visualize federalism as in the national economic interest, as it is economically burdensome for such a small territory, it can form the basis of the federal new Nepal with its own Regional Planning and Execution Authorities that will design the right growth poles, corridors, axes and spokes and maximize local community participation in the full spirit of 'participatory democracy' and maximum social inclusion and local leadership development from all castes, creeds, ethics, and linguistic communities.

The above model was for Nepal to serve not just as a transit economy, as first envisaged by the former King Gyanendra in 2005, but more as a 'bridge civilization' of peace and friendship between the two greatest civilizations in the world to play their due role in world affairs as the 3 major powers along with the US and Europe by 2024.

Agenda No 7: Invest Heavily in Human Capital for Inclusive Sustainable Growth

There should be GIS mapping of all communities, which may be to the tune of 25,000-35,000 village clusters, including distance from townships/growth poles and availability of basic needs' infrastructure and social capital (tvos, cbos, ngos, guthis), resource availability- natural resources, food security;

energy security; health security; employment security; livestock security; and flora and fauna security.

There should be a national demographic survey of all these communities to obtain a count of the population size by sex, age, education, health (nutrition status), housing, ethnography—race, language, religion, household size, migration status—national, regional and global.

Demographic Projections along with Basic Needs Infrastructure Requirements by 2025 Assess local community's ability to self-manage and self-fund the basic needs and social infrastructure.

Agenda No 8: Create an Independent Bureaucracy: Depoliticize All National Institutions

Agenda No 9: Develop R & D and S & T Capacity in Core Areas

Engineering (water; construction; transportation; mechanical;) Biodiversity, Herbal Medicine and Beauty products, Soil Erosion; Pharmacology; Hybrid Seeds

Agenda No 10: Make Nepal the World's Tourism Shangri-La

Agenda No 11: Benefit from Forestry Resources

The Forestry sector has made great headway with the admirable success of Community Forestry and User Groups. This Nepali innovation has been recognized worldwide. What is yet to be recognized is the need to deal with the 'second generation' problem that goes beyond conservation, preservation and livelihood maintenance of community foresters. It needs to be made more commercially viable by combining both a-forestation and reforestation together with conservation, preservation, diversification for full realization of its revenue potential from exports, import substitution, carbon trading and building up of industrial/commercial forest products, including herbs. It is estimated that the potential for revenue harnessing might be as high as Rs 11.0 billion per year if forests are well managed as a people-public and private sector partnership.

Agenda no 12: Control the black and mafia economy by reducing all taxes— be the lowest taxing economy in South Asia

Basic Approach and Assumptions: As we move away from the paradigm of aid-led development we need to substitute it for one that is led by private

enterprise with FDI as the catalysts for economic transformation and rapid growth to make full use of the market mechanism as the hallmark for efficiency in resource allocation between competing uses. For this to happen, political stability is a *sine qua non*. So too the presence of an independent judiciary and autonomous bureaucratic institutions to effect due checks and balances and enforce the rule of law. It is also assumed that with well-functioning market mechanisms and autonomous civil service, good governance will prevail in an environment of competitive politics and economics and speedy delivery of justice.

The late Indian management guru, C.K. Prahalad has already shown us how the private sector can, through a new social compact, as it were, can create growth, employment and distribute income through his strategic corporate vision seeking to find 'fortune at the bottom of the pyramid', amidst the 80 percent of the poor living below \$ 2 per day.

Conclusion

Hopefully, the 12 strategic agendas can be further researched by a multi-disciplinary team of national experts doing scenario analyses and longitudinal studies. That it is openly debated in the National Security Council to arrive at a national consensus on economic policies and strategies for the national interest using the concept of 'comprehensive security' that includes 'human security'.

Doing business as usual will not suffice as a 'demographic bombshell' haunts Nepal unsuspectingly with Malthusian devastation if the oligarchy of politicians, bureaucrats, labour unions and the mafia do not change their behaviour and put Nepal first and foremost. Three million are unemployed and each year another 300,000 are added to this pool of labour. One may safely expect that youth will be even more alienated and in angst and violence prone. Giving political and market space to youth power and enterprise is a dire need that should tackle the brains of our sociologists and religious elders.

Forceful mobilization, with serious negotiations to deepen economic integration, is called for. In particular, mobilize FDI along with portfolio

investments and labour. The WTO rules will not apply to India and Nepal as the 1950 treaty is an exception to it.

Nepal has a friend, and world class intellectual research partners to support least developed landlocked countries for obtaining more equitable treatment under the principle of 'special and differential' treatment. A two-pronged strategy needs to be developed to negotiate with India (a) free trade in agro processed products, (b) Integrated Commodity Arrangement for select agro-industrials.

With China in bilateral economic relations Nepal must seek to have it relocate some of its low-wage labour-intensive industries into Nepal which will boost industrial employment in Nepal beyond the wildest dream of Kew, so to speak. Nepal can also design infrastructure projects to take full advantage of the US 10 billion earmarked as soft loan to developing countries on far more generous terms than the World Bank with little of the stringent, costly conditions. Negotiations with India and China need to be done judiciously without trying in any way to play off one against the other.

It is best that India and China get to jointly appreciate that a Zone of Peace may be in the best interests of all 3 countries and the entire Asian region. One feels that Nepal will be even more strategic for peace and prosperity than Afghanistan or Pakistan as the new frontiers of the economy have to be developed to combat global warming. A strategic partnership is eminently desirable with Bangladesh for preserving transit rights and accesses to its vast market for horticulture, livestock and floriculture products as well.

Recently, the IMF has advised Nepal to (a) keep the foreign exchange fixed as topmost priority and (b) keep interest higher than in India. We would like to know and see how with such a regime the balance of trade is to be ameliorated and over what period.

There is a very famous Japanese saying that goes like this: a vision without action is a dream; but action without vision is a nightmare. Nepal, led by sets of visionless political leaders, is in a state of prolonged nightmare that can only be ended with a unifying national vision and national mission (and national goals). So the strategic national agendas, as outlined above, should be driven by the following national vision and mission for Nepal :

National Vision: Be a modern, industrially developed, democratic, multi-ethnic, multi-lingual and multi-religious pluralistic nation with the best quality of life in the South Asian region.

National Mission: (a) As a secular Hindu state strive, at all times, to establish Ram Rajya where there is harmony, justice, peace and comprehensive security for all citizens living as equals before one's God and the common, unified law of the land. (b) As a state sandwiched between two ancient civilizations and emergent 21st century super powers serve as the bridge country for peace, prosperity and commerce between South and Central Asia. (c) Serve as the international voice of the mountain peoples around the world and be a model of an economy and society that demonstrates respect for Nature and all Life while striving for individual happiness, liberty through their multiple identities. (d) Be the Shangri-La of world tourism founded on spiritualism, world heritage sites for Hinduism and Buddhism; adventure tourism and resident tourism for those wishing to retire in Nepal. (d) As the SAARC capital, envisage Kathmandu as the South Asian offshore financial service centre as well as the South Asian regional centre for commercial dispute settlements.

National Goals

- Governance; unitary state with federal and confederal features
- Keep few ministries but fully integrated
- Bureaucrats not Ministers accountable to the Parliamentary Standing Committees for full application of the rule of law
- Ministers not drawn from Parliament but from Parties by a directly elected PM for a fixed period of 4 years
- No vote of no-confidence
- Public-Private Partnerships in all spheres of the political economy

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Hype and Hydro in Nepal: *What Went Wrong and What Corrective Measures Are Needed?*

Dipak Gyawali¹

Swabalambi Development

Two Nepali words have come back to encapsulate the development debate on water and energy: *swabalambi* and *parabalambi bikas*. The former means self-reliant development while the latter denotes a development (*bikas*) that brings about debilitating dependence, which, whether at the level of the state or a small village firm, is not real development but *mal*-development. And two sectors encapsulate the two ends of this development spectrum: tourism and hydropower. The growth of the former was fuelled by indigenous investments across the Nepali class spectrum from five-star to non-star establishments. The latter started a century earlier in 1911 AD but has seen too much hype and too little Megawatts even as the sector came under a *parabalambi* development model since the early 1970s, and has essentially collapsed, as the more than twelve hours of load shedding since the last two years, with no logical end in sight, have demonstrated.

It is easy to rationalize this state of affairs by arguing that we are in a state of transition, that there is inevitable political instability which, once sorted out, will lead us from darkness to eternal light and happiness. But that line of argument proves to be quite escapist: Bhutan, which among all South Asian countries enjoys unparalleled political stability, will be facing power cuts from this winter onwards for the next five years¹. This is happening there despite the fact that it has more than twice Nepal's hydropower generating capacity, and is fifty times smaller in terms of population. Obviously, some

1 Former Minister of Water Resources.

other set of forces are at work here than ‘transition’ and ‘political instability’; and by examining those drivers, this essay hopes to provoke by challenging conventional thinking and exploring alternative ways of doing business in Nepal’s hydropower sector. If conventional thinking got us to this unsatisfactory state we are in (recurrent load-shedding, measly exploitation of our resource endowment etc.), more effort along the path traditionally followed will only get us deeper into the hole, not out of it.

Developing hydropower and investing in such projects, it is widely believed, is a grand and noble idea. If it is, why has it not happened? And why do so many professional luminaries gather every so often to discuss issues and challenges facing investors who wish to invest in Himalayan hydropower? It is becoming clear that, after all the hype and hubris of the last several decades and despite the democratic discourse this sector nourished in the first half of the 1990’s, we are back to asking some fairly fundamental questions and looking for new answers, several of which were already known by August 1995 when the path followed until then of “donor-funded, government-run single hydel project for the whole country” failed dramatically with the collapse of Arun-3. That its demise provided the country in the next half dozen years with a third more electricity at half the cost and half the time is a lesson that still has not been learnt by our hydrocracy and its political masters.

The need currently is to pose some fundamental questions regarding ‘development’ and its character from a political economic perspective. Nepal’s elite political class holds the notorious ‘hydrodollar fallacy’, the mistaken notion that exporting electricity to a monopsony market in India would earn it a revenue bonanza similar to the oil exporting sheikhdoms. The idea is mistaken because water needs harnessing with sustained and constant socio-systemic while oil can be mined with one-time rapacity. Furthermore, despite the rhetoric, what India really needs is regulated water from these tributaries of the Ganga and not so much electricity.² Even more fundamental is the question of what electricity should be generated for and how it is to be used. Is it a raw material fit for export or a vital strategic input to industrial and commercial production? These issues lie simmering within the debate that is going around the proposed electricity bill pending in parliament, indicating that Nepal is on a fork on the road: will it take the high road to

swabalmi bikas of national capacity development or the low one of raw material export which is essentially that of neocolonialism?

Genealogy of Hydro-Pathology

Much of the last half a century have been spent by official Nepal chasing a mirage, that of earning hydrodollars by exporting hydroelectricity the way countries of the Middle East have earned petrodollars. At the national scale – at least in political speechifying – there is also the feeling that, when “our colossal potential” is developed, hydropower will replace fuelwood and “every Nepali will cook his or her *daal-bhaat* with electricity”, that “we will be Asian leopards if not Asian tiger economies” etc. Fortunately, there are far more productive end-uses for high quality energy such as hydroelectricity, and both community forestry as well as biogas programs have provided much cheaper cooking alternatives on a sustainable basis. These delusions are the wrong reason for developing Nepal's hydropower, and are ghosts that have to be put to rest if we intend to break the shackles of the past.

Hydroelectricity cannot give hydrodollars the way petroleum gives petrodollars for a slew of reasons. The three most important of them are that consumers of Nepali hydroelectricity will pay only in rupees; that the economics of hydropower projects, given their capital intensity as well as hydro-meteorology, does not allow for surplus storage (like oil in bunkers) that can be sold in the global market; and that hydropower has to be harvested on a sustained basis unlike oil that can be mined. The economics of harvesting requires sustained socio-economic involvement as well as mass consent, while mining does not have to contend with the messiness of having to deal with society and social issues. If we examine the history of countries with predominantly hydro-based systems, we find that they have used this natural resource endowment to develop upstream-downstream linkages in their economies rather than exporting electricity as primary raw material input for production. As recent studies have indicated³, resource rich countries that hope to develop through revenue from its export have found themselves saddled with what is known as the “resource curse” as well as the “Dutch Disease”, which in the end, places them at the bottom of the underdeveloped heap of failing countries.

Tied with this is another myth that too needs to be laid to rest: the idea that India can be a supplier of electricity in Nepal's hour of need (as during the present crisis) or that it is a market with "potentially infinite demand" for Nepal's hydroelectricity. Let us first examine this idea of importing power from India. It needs to be safely excluded because India is a heavily power deficit country: it has no significant surplus electricity capacity for its own internal need, let alone to share or export to neighbours. Furthermore, since water and electricity are state subjects and not union matters as per the Indian constitution, even if Delhi agrees to supply electricity to Nepal, the heavily power deficit states of UP and Bihar and their state electricity boards are not likely to oblige. One only has to look at how members of the Bihar Legislative Assembly have approached Nepal to supply their border areas with Nepali electricity— "Yes, you may have load shedding, but at least it is regular and announced: in the rural areas of Bihar and small towns, if electricity is interrupted, one does not know if it will come back in four hours or fourteen days!" – to realize this basic fact of life.⁴

Since home-grown prophets are not generally believed, let me quote a Bangladeshi captain of industry, Mr Mohammed Aziz Khan, chairman of Summit Group of industries and a pioneer in Bangladesh private sector investment in power. While he welcomes the idea of having a regional power grid between India, Bangladesh, Nepal and Bhutan, he emphatically says that there is no possibility of power import from India as India has no surplus. He also adds that the idea itself of importing something as essential as power from India is quite subversive⁵. Indeed, even in the short term, if power has to be generated from non-hydro (fossil) sources, there is no earthly reason why NEA cannot do that as efficiently as Bihari or UP state electricity boards!

Now let us examine the reverse: can hydropower be exported from Nepal to India? The simple answer is: perhaps in the distant future, after Nepal and India have achieved commercial and political relationships similar to Norway and Germany, and a technological capacity building within Nepal that has achieved a comfort level with risk assessment similar to at least Eastern Europe if not Switzerland, but not before, and not in the foreseeable future including the professional life spans of many experts currently around. There are several reasons for making such a provocative assertion: primarily,

the scale at which India requires electrical energy is far too big for normal Nepali investors, and often of India too.

Such a scale also involves projects with storage which provide not only peak electricity but also massive amounts of regulated water that would have significant irrigation, flood control and navigation benefits. India has not shown any willingness to enter into discussions regarding these massive economic earnings that could— in case Nepal is not capable of serious negotiation— accrue to it as “free-rider” benefits. West Seti and Pancheshwar stand as mute testimonies to the assertions made above, where unresolved water rights issues have bedeviled any forward movement. Now these issues have to be resolved politically long before the serious socio-environmental problems, including resettling and rehabilitating large displaced populations that come in the wake of mega projects can be successfully tackled. And here too, as history so far indicates, neither Nepal nor India has learnt to address them equitably or efficiently.

Another myth that we should leave behind is the mistaken notion that the Bhutan model can be replicated here. In the water resources development context as avails between Nepal and India, the Bhutani model, while obviously inapplicable politically, is also inappropriate technically.⁶ Bhutan has no Terai to irrigate, hence the issue of consumptive water rights is largely secondary, although significant political acrobatics has been witnessed during the signing of Farakka Treaty to assure that Bangladesh does not become a free-rider from Bhutani regulated waters, that such flows could be brought to Farakka and further west via the River Linking Plan.⁷ In Nepal's case, however, it is regulated water for irrigation and flood control that is of primary importance.

Another significant reason for leaving aside the Bhutani model from consideration is based on the simplest of logic. If the 336 MW Chukha hydroelectric project has dramatically increased Bhutan's per capita GNP, and the Chukha approach is to ensure something similar for Nepal, the following logic would apply. Nepal has about fifty times more people than Bhutan, which would imply that India would need to fund 17,000 MW of equivalent hydro development in Nepal on the same terms as it does in Bhutan, i.e. 60 percent grant and 40 percent soft loan, with similar per kWh royalty provisions. It is doubtful if India has that kind of development money

available: it certainly has not indicated so publicly. If India accepted that there is value in regulated water, priced it appropriately as per the principles laid down in the Columbia River Treaty regarding downstream benefits, it might have been possible to work out a financing plan for these types of hydro developments that could be more equitably justified. But as things stand, the neo-colonial, “cost plus” resource extraction model offers Nepal very little developmental benefits to be particularly excited with the projects and plans on the table.

These old ills still plague the sector and need addressing before a turn-about occurs in cooperative development of Himalayan waters. The different regime changes that Nepal has undergone (in 1990 and 2006) should have been the occasion for these ills to be addressed. Unfortunately they were not. The question is: why and when did things still go wrong after 2006? It began by ignoring and misinterpreting Article 126 of the constitution (Article 156 of the current interim constitution). Export of electricity to India would require the parliament’s permission, through a simple majority if the project did not constitute an all-pervasive, serious, and long-term matter but a two-third majority if it did. Without going through the parliament and informing the Nepali people, the current dispensation since 2006, led by all the three major political parties, has granted plum hydro sites for export even as Nepal promises to be stuck in load-shedding for the foreseeable future. Mistakes were made in the new parliamentary procedures, the *Sansad Niyamabali*: in their haste to clip the powers of the King, the parties forgot that they unwittingly castrated Article 126 by allowing only a 44 percent vote to hand over a resource site to India. Even the Supreme Court fell into the hydro-dollar fallacy trap when it decided that electricity is not a resource and agreements on it do not need to go to parliament. This is applicable even for projects that have regulated waters that would allow the downstream riparian to expand its dry season agriculture at the expense of drowning upstream villages. Fortunately, such mistaken judgments are currently under appeal.

Addressing Institutional Ills

There have been sporadic attempts at reform that have, even with half-hearted implementation, produced some good results that need replicating at mass scale. But what would a policy consist of that would allow Nepal to

achieve “energy security” in the electricity sector? In the context of Nepal, where a *dirigiste*, state-led model of water resources development has been followed for much of the last three decades, the current need is to redress the balance by enabling a more vibrant energy market to become part of the solution, held accountable as much by the government as by rural as well as urban communities. Re-defining the problem in this manner also points us to the fact that the problem of unsatisfactory development and insufficient investment in hydropower is primarily in the institutional realm. This is good news, because it means solving it will not require huge amounts of money, only huge political will to move towards a new way of doing business in the sector. What are those elements of institutional tweaking and tinkering that would provide the milieu whereby investments would pour in?

Markets love pluralism, because they can only function if a multiplicity of buyers and sellers bring about price equilibrium. Nepal has to move away from the *dirigiste* monopoly that the electricity sector was forced into through donor cajoling from the 1970s to mid-1980s. The country’s electricity institution needs to be pluralized into one where generation entities are run as autonomous corporate bodies of mixed government-local government-private ownerships, distribution is communitized both at the rural and urban ends, in the latter by bringing in municipalities as partners, and the national grid is maintained as a national highway with free entry and exit upon payment of toll (wheeling) charge. The Independent Power Producers (IPPs) as well as community electricity groups have already demonstrated the validity of such pluralism and how it is able to provide benefits that *dirigiste* cannot.

As an example, communitized electricity, where it has been implemented, has brought down electricity loss (primarily non-technical) from the high twenties and thirties to ten percent in only two years, while the NEA has not been able to come down below 24 percent despite several expensive loss reduction projects! If there is a better institutional model for energy efficiency than communization with its double accounting system, it would be worthwhile to know. Along the lines of this pluralist model, one can envisage the 200-odd MW Sapta Gandaki being developed by a mixed bag of investors, including the Chitwan and Nawalparasi DDCs, Bharatpur municipality as well as the irrigation users’ association of both the districts together

with private and community investors. One can also see the 30 MW Chamelia being developed as a “regional growth” nucleus for the Far West. The envelope of possibilities increases dramatically with the increase in degree of freedom brought about by such a plural dimensionality.

The other institutional tweaking that needs to be done is in the realm of tariff restructuring by matching price with seasonal and daily peak availability. The necessary homework has already been done by the NEA in 2003; all it needs is implementation⁸. The core idea behind this approach is to provide for seasonal as well as daily tariff variations to match the daily peak and seasonal shortages. Price would act as a better policeman, rather than exhortations on radio and television to save energy, to match demand with supply as well as to give investors the right price signal to invest in hydro-electric projects with storage since they would be receiving better price for their investments. Otherwise why would anyone invest in expensive storage (or even massive pondage) hydro when they receive the same price for their kWh as from a relatively more inexpensive run-of-river (r-o-r) project?

Now does all this mean that there is no role for government and government entities? I would argue that this pluralistic approach means that there is a bigger, better and more appropriate role for the government and government agencies, which is to leave the areas where the market is perfectly capable of doing things efficiently (such as r-o-r projects) and to concentrate on developing storage projects which our system is in dire need of. Storage projects have serious socio-environmental issues including land acquisition, resettlement and water rights associated with them which the private sector is ill-qualified to address. The benefit to the private sector of the government concentrating on doing storage projects would be to make the flood energy from their r-o-r projects more saleable and hence their projects more viable. For the needs of the Nepali power system, the appropriate storage projects that come to mind are the 122 MW Damauli Seti, Bagmati, Nalsyaugad, Langtang and the Kankai. Indeed, there is also the possibility of state agencies convincing foreign investors to develop the 300+ MW West Seti for the Nepali market, which seems more willing to pay better rates than the Indian market!

The other major activity for the state agencies to engage in is to develop transmission corridors to allow new IPPs to hook into. Since 33kV and above

transmission lines are like national highways, they become part of what should properly be called infrastructure development that would allow the private sector to make investments in appropriately located hydropower sites. Of course, under such a scenario, the national transmission grid would then be the partner of such projects in exporting any surplus that may be there in the system as a whole. Such an approach (of the national grid being responsible for any export of surplus) would soften the stringent provisions of Article 126 of the 1990 constitution (and retained as Article 156 in the current interim constitution) requiring a two-thirds majority in parliament for such exports to take effect.

Another major software related activity for state agencies to be seriously engaged in is to open new instruments of financing such as facilitating the floating of bonds as well as what is called “project financing”. These new instruments should be tried immediately on a pilot basis with preferably strong involvement of state agencies such as the NEA to encourage investor and bank confidence for future projects to be similarly financed. There can be other methods, approaches and means of institutional tinkering; and they must all be brought forth for public debate. The thrust outlined above, however unconventional and perhaps untested in some aspects it may be, certainly expands the pie for everyone, and would encourage national investors to come forward better than the conventional pattern of electricity sector management. A few years along this new path will, it is quite possible to argue, move us away for good from expensive and delayed projects (such as Kali Gandaki and Middle Marsyangdi) and the attendant the flood-drought syndrome of the last three decades. Unfortunately, the country seems to be moving in a wrong direction: rather than integrating its water resources development, it has begun the post-2006 transition by unthinkingly giving away for export plum hydro sites that should have been developed for Nepal's energy market and its security. It has also bifurcated the ministry of water resources into a ministry of energy and a ministry of irrigation, creating confusing disintegration in both, not for any sane practical reason other than to have enough ministerial berths to allocate!

Core Elements of Reform

With these sour notes of realism, is there reason and hope for developing Nepal's hydropower? Should investors, national and international, be

interested? I would argue, yes. There are great hopes of a bright future for hydropower development if we go forward with the right reasons by restructuring our thinking. Let us remember that tourism development in Nepal, unlike hydropower, has managed to unleash Nepali entrepreneurship much more effectively. There is no reason why the experience cannot be replicated in hydropower.

The fundamental but hard question, “Why invest in Nepali Hydro-power?” seems to have three primary answers that stem from economic, environmental and security considerations. The first economic consideration is the current, and may I add, cyclically recurrent, shortage of electricity in the national grid. This pattern has repeated itself again and again for the last three decades with lessons *not* learnt after Kulekhani, Marsyangdi, Kali Gandaki and so on. It is what I have elsewhere⁹ called the “flood-drought” syndrome – the few years of power and energy glut upon the completion of a major hydel project followed by years of load shedding while the tedious commission agent politics of development merchants and donor agencies holds decision-making hostage till the next big project is bagged by the right constellation of vested interests.

The second reason is concerned with national energy security. Much of Nepal’s commercial energy use derives from nonrenewable fossil fuel, primarily for transport but also for lighting (kerosene) and heating purposes. Currently, with unpaid petroleum bill to the tune of twelve billion rupees, we are well on our way to total national bankruptcy if we continue along this path. Alternatively, we know (from examples of ropeways) that weaning away our economy from fossil fuel dependency by shifting to renewables will get us out of the pitfall we are in. The Khimti construction ropeway, the Bhattedanda milkway as well as the goods carrying ropeway of Barpak have demonstrated conclusively that electrical transport is four times cheaper in terms of construction and two times more energy efficient in terms of operation.¹⁰ Indeed, the experience of Bhattedanda Milkway demonstrates that, while previously it required thirty two thousand rupees worth of diesel a month to operate, now, with connection to the national grid, it requires only an average of seven thousand rupees of hydro electricity! This is our future, and we have seen it: if we intend to achieve such a more sustainable renewable energy base for our economy, what is required is political

leadership equipped with the right vision and the will to withstand the well-entrenched vested interests of oil and allied industries.

The third persuasive reason arises from current global concerns regarding greenhouse gas induced climate change. Investing in Nepali hydropower development means moving away from burning fossil fuel to powering one's economy with renewable energy. This is a path that now has, internationally, the same moral imperative as poverty alleviation and ridding the world of hunger. However, to access funds for hydropower projects based on this moral (and also economic) logic, Nepal has to play a much more proactive role in the various forums and sub-committees within the climate change community. If Nepal's Biogas Support Program can access funds through the Clean Development Mechanism (CDM), and Bhutan can do so for its 126 MW Dagachu and the 208 MW Nikhachu schemes, there is no reason except procedural, why Nepal's hydropower should not qualify. Unfortunately, our social mindset seems to be so stuck in the old paradigm of foreign-aided development that we have not even noticed that the Age of Aid has ended¹¹. If we wish to develop Nepali hydropower, we have to pursue new financing instruments, nationally and globally. And since national instruments have to be robustly in place before international finance will trust investing in Nepal, a strong case can be made for establishing a "Hydropower Development Fund" from an across the board 5 percent tax on all petroleum products imported and used within this country for use by Nepali hydro developers of small and medium projects as well as community electrification groups.

Let us begin by concentrating on the very do-able, which is the Nepali market. This demand is by no means small: almost 60 percent of the population of a 30-million strong country do not as yet have access to electricity; of the 40 percent who do have electricity, the demand is growing at double-digit growth rates; and all estimates indicate that the Nepali electricity market can absorb anywhere from 20 to 50 MW of power per annum. Even more encouraging is that fact that we seem to have sufficient hardware and software capacity to meet the market needs as it currently stands. Our engineering firms, machine-tool workshops, surveyors, contractors, banks and insurance companies, managers as well as legal regimes, concentrated not just in the official NEA but more importantly in some two

dozen small companies that have actually built plants ranging from a few hundred kW to four or five MW, have demonstrated that they are well equipped to bring this range of hydropower projects on line provided the national polity is encouraging of such endeavors.

Endnotes

- 1 See the website of <http://www.dgpc.bt/>. The political economy behind it is also explored in Gyawali, D. 2010 July 11 Nepali Netaka Bhutani Bhram (in Nepali: The Bhutani Delusions of Nepali Leaders), forthcoming in Himal South Asia, Kathmandu, August 2010 issue as The Neocolonial Path to Power.
- 2 Details in Gyawali, D. 2009. *Hydro-Diplomacy and Hydro-Investments: Linkages, Problems and Prospects in Nepal*. Chapter in AFCAN Report of the Seminar on Pursuit of Economic Diplomacy: Problems and Prospects. Kathmandu: Association of Former Career Ambassadors of Nepal (AFCAN).
- 3 For resource curse, see Collier, P. 2007. The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It. Oxford: Oxford University Press. For Dutch Disease impact of large-scale hydropower development in Nepal, see Thapa, P. J. 1997. Water-led Development in Nepal: Myths, Limitations and Rational Concerns. Kathmandu: Water Nepal 5(1) as well as Dhungel, H. 1999. Risks and Rewards of Mega Projects: The Political Economy of Paraguayan Hydropower. Kathmandu: Water Nepal 7(1).
- 4 Request made to the author when visiting Bihar as Minister of Water Resources in 2003.
- 5 From Star Weekend Magazine, vol 11 no 533, March 2, 2007, Dhaka.
- 6 See Gyawali, D. 2001. *Water Beyond the State: Resolving Conflicts with Institutional Pluralism* In P. Sahadevan (ed.) Conflict and Peace Making in South Asia. Delhi: Lancer's Books.
- 7 For details, see Gyawali, D. and Dixit, A. 2000: *Mahakali Impasse: A Futile Paradigm's Bequested Travails*, in D. Kumar (ed.) Domestic Conflicts and Crisis of Governability in Nepal, Center for Nepal and Asian Studies, Tribhuvan University, Kathmandu. The failure of the Nepali political dispensation to be true to Article 126 is explored in Gyawali, D. 2009. *Mahakali Mess: Article 126 and the Cumulative Cost of the Path Not Taken*. Chapter in Srestha, A. and Adhikari, P., *Mahakali Treaty: Pros and Cons for Nepal*. Kathmandu: Sangam Institute.
- 8 Details in Gyawali, D. 2004. *Baandh Ra Nepali Paribesh* (in Nepali: *Dams and the Nepali Context*) in A. Dixit, P. Adhikary and S. Bisangkhe (eds) Baandh Ra Bikas: Rachanatmak Sambaad, IUCN and Nepal Water Conservation Foundation, Kathmandu.

- 9 See Gyawali, D. 2003. *Rivers, Technology and Society*. London: Zed Books (Nepali edition published in 2001 by Himal Books and Panos South Asia, Kathmandu, as *Water in Nepal*)
- 10 See Gyawali, D., Dixit, A. and Upadhyaya, M. (eds) 2004. *Ropeways in Nepal: Context, Constraints and Co-evolution*, Kathmandu: Nepal Water Conservation Foundation and Kathmandu Electric Vehicle Alliance.
- 11 See what needs to be done as the Age of Aid ends in Thompson, M. and Gyawali, D. 2007. *Uncertainty Revisited or the Triumph of Hype over Experience* in M. Thompson, M. Warburton and T. Hatley “Uncertainty on a Himalayan Scale”, Kathmandu: Himal Books with James Martin Institute for Science and Civilization, Oxford University and International Institute for Applied Systems Analysis, Vienna. Nepal also needs to be more pro-active diplomatically. See Gyawali, D. 2009. *Hydro-Diplomacy and Hydro-Investments: Linkages, Problems and Prospects in Nepal*. Chapter in AFCAN Report of the Seminar on Pursuit of Economic Diplomacy: Problems and Prospects. Kathmandu: Association of Former Career Ambassadors of Nepal (AFCAN).

Enhancing Nepal's Competitiveness: India's Role¹

Nisha Taneja²

India's trade and economic co-operation with Nepal has been governed by several treaties that have been renewed and modified over the years. India and Nepal signed the first preferential trade agreement in 1971 - much before the proliferation of free trade agreements in the 1990s. India offered preferential treatment to Nepalese exports for the first time in 1971. Since then, the trade treaties of 1971, 1991, 1993, 1996, 2002 and 2009 have offered tariff and other duty concessions to Nepalese exports.

It is argued here that an important aspect of Indo-Nepal trade and economic co-operation has been that past trade treaties have been limited to tariff concessions. Such benefits are transitory in nature and do not contribute to the competitiveness of the economy of Nepal or to sustainable trade between the two countries.

The two countries should engage in a more meaningful economic relationship that would have long term benefits for the Nepalese economy. A more substantive role in the manufacturing sector and tapping the potential in trade in services between the two countries is important. Nepal is endowed with two major resources – water and natural beauty. It is therefore important that Nepal develop the sectors related to these resources i.e. hydro power and tourism. Growth in these two sectors can not only help Nepal earn export revenues, but can also contribute to sustainable growth. Unfortunately, the

1 The paper was presented by Asst. Prof. Subhanil Chowdhury of University of Kolkata during the conference.

2 Prof Taneja is associated with Indian Council for Research on International and Economic Relations (ICRIER), New Delhi. This paper draws on Taneja *et. al* (2009) and Taneja and Chowdhury (2010).

hydropower sector has not taken off till date, and tourism, that was once one of the most important economic activities of Nepal, has declined in importance. A strong health and education sector will not only improve the quality of life of the Nepalese people but will also provide the necessary human resource base for economic activity.

This paper outlines the key features of the Indo-Nepal treaties and examines trends in trade between these two countries. Further, trends in Nepal's exports of four major products viz., vegetable ghee, copper products, acrylic yarn and zinc oxide are examined to establish that Nepal no longer enjoys the benefits of tariff concessions. Taking the case of the textile sector the paper argues that Indian firms had a presence in Nepal only in the period prior to the abolition of the Multi Fibre Agreement. The paper suggests how India can help in the rejuvenation of Nepal's textile industry. Examining the hydropower and tourism sectors the paper shows how these two sectors can play an important role in enhancing Indo-Nepal trade relations. The paper also suggests how India can help in strengthening the health and education sectors in Nepal.

Indo-Nepal Trade and Tariff Concessions

Tariff concessions lie at the core of Indo-Nepal free trade arrangements. These concessions have been offered on primary and manufactured products. In 1991, Nepal and India agreed to provide duty-free access on imports of 14 primary products on a reciprocal basis from each other. In the 2009 treaty, the two countries have expanded the list to 16 items.

In the case of manufactured products, the 1971 treaty allowed duty-free access to items manufactured in Nepal with 90 per cent Nepalese/Indian material content for import to India. This requirement was subsequently reduced to 80 per cent in 1991 and then further to 50 per cent in 1993. The Indo-Nepal trade treaty of 1996 was a landmark in Indo-Nepal bilateral trade, as India provided duty-free access to all products manufactured in Nepal on the basis of a Certificate of Origin issued by the Nepali authorities. Only three products were not allowed duty-free entry into India, namely, alcoholic liqueurs, perfumes and cosmetics and cigarettes and tobacco. A key feature of the treaty was that there was no value added criteria. The 2002 treaty introduced three stringent conditions for duty free access of Nepalese products

into India. First, the treaty re-introduced the value addition norm of 30 per cent. Secondly, articles manufactured in Nepal could qualify for preferential access to the Indian market provided the manufacturing process led to a change in classification at the four digit level of the Harmonised Commodities Description and Coding System. Thirdly, a tariff rate quota was imposed on four items i.e., vegetable ghee, acrylic yarn, copper products and zinc oxide under which duty-free access was allowed only up to a specified limit. Beyond the quota limit, the MFN tariff was applicable. In the renewed treaty these conditions have been retained except that the tariff rate quota for copper products has been increased by 2,500 metric tons.

The changes in the Indo-Nepal treaties were to a large extent guided by the trends in bilateral trade and trade balances between the two countries. We therefore examine the trends in trade between 1991-92 and 2007-08. The trends are examined during different time periods- 1991-92 and 1995-96; 1996-97 and 2001-02; and 2002-03 and 2007-08. These time periods are selected to represent the change in trade policies.

Table 1: India's Trade with Nepal

(US\$ million)

Year	Xs to Nepal (a)	Ms from Nepal (b)	Total Trade (a) + (b)	Trade Balance (a)-(b)	X:M (a)/(b)
1991/92	78	29	107	49	2.7
1992/93	68	22	90	46	3.1
1993/94	98	29	127	69	3.4
1994/95	120	37	157	83	3.2
1995/96	160	49	209	111	3.3
1996/97	157	64	221	93	2.5
1997/98	170	95	265	75	1.8
1998/99	122	145	267	-23	0.8
1999/00	151	189	340	-38	0.8
2000/01	141	255	396	-114	0.6
2001/02	215	356	571	-141	0.6
2002/03	350	282	632	68	1.2
2003/04	669	286	955	383	2.3
2004/05	743.1	345.8	1089	397.3	2.1
2005/06	860	379.9	1239.8	480.1	2.3
2006/07	927.8	305.7	1233.5	622	3.0
2007/08	1506.8	628	2134.8	878.8	2.4

Sources: Directorate General of Foreign Trade, Ministry of Commerce, India

Between 1991-92 and 1995-96, bilateral trade almost doubled from US\$107 million to US\$209 million. During this period India had a trade surplus with Nepal. In fact, India's exports to Nepal were 2.7 to 3.4 times its imports. In the subsequent period during 1996-97 to 2001-02, while trade increased from US\$221 million to US\$571 million, India's trade surplus with Nepal declined substantially and then turned negative. The ratio of India's exports to Nepal to its imports declined from 2.5 to 0.6. In the following period during 2002-03 to 2007-08, though bilateral trade increased, Nepal's trade balance with India turned negative. The ratio of India's exports to Nepal to its imports ranged between 1.2 and 2.4 during this period. (Table 1)

During 1996 and 2002, when the trade treaty of 1996 was operational, there was a surge in Nepal's exports to India. The surge was accounted for by four major products viz., vegetable ghee, copper products, acrylic yarn and zinc oxide. In 2001-02, these four commodities accounted for 29.7 per cent of India's imports from Nepal and were placed under tariff quotas. These items, are often termed as the TRQ products. By 2007-08, the combined share of these products decreased to 12.4 per cent (Table 2).

Table 2 :
Value of India's Imports of Tariff Rate Quota Products from Nepal

Commodity	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	(US\$ Million) 2008-09 (Apr-Dec)
Vegetable fats	49.3 (13.8)	27.2 (9.7)	19.5 (6.8)	12.45 (3.6)	47.9 (12.6)	36.9 (12.1)	45.8 (7.3)	N.A.
Acrylic yarn	4.8 (1.4)	0.7 (0.3)	2.7 (0.9)	0.4 (0.1)	0.4 (0.1)	0.1 (0.0)	5.7 (0.9)	7.6 (1.9)
Zinc oxide	2.4 (0.7)	0.8 (0.3)	0.2 (0.1)	0 (0)	0 (0)	0 (0)	0.01 (0)	0 (0)
Copper products	49.4 (13.9)	4.5 (1.6)	12.8 (4.5)	15.3 (4.4)	9.8 (2.6)	7.9 (2.6)	26.2 (4.2)	16.6 (4.0)
Total Imports from Nepal by India	355.9	281.8	286.0	345.8	379.9	305.7	628.0	411.5
Proportion of Above Items in India's Imports from Nepal	29.7	11.8	12.3	8.1	15.3	14.7	12.4	5.9

Source: Government of India, Export and Import Data Bank, Directorate General of Foreign trade (DGFT)

Note: Figures in parentheses give shares

Nepal imports the basic raw material required for these products and exports the processed products to India. The main raw material required are palm oil for vegetable ghee, copper scrap for copper products, acrylic fibre for acrylic yarn, and zinc ingots for zinc oxide. Nepal's trade with India in these products thrived because it was able to benefit from (i) the low duties that Nepal imposed on raw material import compared to the prevailing tariffs on raw materials in India and (ii) zero tariffs offered on all products imported from Nepal by India under the Indo-Nepal Free Trade Agreement.

Between 2001-02 and 2008-09, India reduced its tariffs on all products though the tariff on crude palm oil shows considerable fluctuation. The tariff on palm oil item peaked at 80 per cent during 2005-06 and 2006-07 but subsequently, it was reduced. By 2008-09, the tariff on palm oil was down to zero. Tariffs on raw materials such as copper scrap, acrylic fibre and zinc ingots in 2001-02 were 35 per cent, 20 percent and 35 percent respectively. By 2008-09, these had dropped to 5 percent, 10 per cent and 5 percent respectively. (See Table 3)

Table 3:
Average Tariff Rates in India on Raw materials required for TRQ Products (percentage)

Commodity	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Crude Palm Oil (1511)	75	65	45	75	80	80	45	0
Copper Scrap (7404)	35	25	25	20	10	7.5	5	5
Acrylic Fibre (5503)	20	20	20	20	15	10	10	10
Zinc Ingots (7903)	35	25	25	20	10	7.5	5	5

Source: Central Board of Central Excise, Ministry of Finance, India.

In the same period, Nepal's tariff remained at 5 -10 per cent for all these raw material (Table 4). Clearly, by 2008-09, the difference in tariffs on raw material products imposed by India and Nepal had reduced significantly.

As part of India's tariff reduction program, customs duty on the TRQ products also declined. An examination of the average tariffs imposed by India on vegetable ghee, copper products, acrylic yarn and zinc oxide shows

that these declined between 2001-02 and 2008-09. For vegetable ghee the tariffs declined from 35 per cent to 30 per cent (after reaching a peak of 100 per cent during 2007-08) while for copper products, zinc oxide and acrylic yarn tariffs fell from 35 per cent, 20 per cent and 25 per cent respectively in 2001-02 to 7.5 per cent, 10 per cent and 7.5 per cent in 2008-09.

Table 4 : Tariff Rates in Nepal for Selected Commodities

Raw Materials	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
1. Crude palm oil	5%	5%	5%	5%	5%	5%	10%	10%
2. Copper Scrape	5%	5%	5%	5%	5%	5%	5%	5%
3. Acrylic fiber	5%	5%	5%	5%	5%	5%	5%	5%
4. Zinc ingot	5%	5%	5%	5%	5%	5%	5%	5%

Source: Nepal Customs

With Nepal losing its advantage in products for which tariff quotas have been imposed by India, it is not surprising that the quota utilisation of these products by Nepal has been very low. For example, in 2007-08, the utilised quota was only 45.3 per cent for copper products, 47.5 per cent of vegetable ghee, 20.3 per cent for acrylic yarn and zero for zinc oxide.³

Nepal's experience with the exports of TRQ products shows that once the tariff differentials between India and Nepal were reduced, its competitive edge in these products disappeared. Despite the realisation that India's shift to a more open regime implied a rapid reduction in tariff rates, no steps were initiated to develop other industries that could have led to more sustainable growth.

Rejuvenating the Textile Sector

In the mid- 1980s, the garment industry in Nepal got a boost as manufacturers availed of the quota under the MFA. Nepal emerged as an important relocation site as several local and Indian firms set up manufacturing facilities in Nepal. As a result, in 1996-97, readymade garments were the largest export product of Nepal comprising of 35.2% of Nepal's exports. With the abolition of the MFA in 2005 several manufacturing units closed down. By 2007-08 the share of readymade garments in Nepal's total exports

3 Source: DGFT, India

had come down to 11.5%. The fall in the exports of ready-made garments made in Nepal can mainly be attributed to the withdrawal of Indian joint ventures that were engaged in the manufacture of readymade garments following the abolition of the Multi-fibre Agreement (MFA) in 2005.⁴ Perhaps, if the Indian firms had continued to stay in Nepal, after the abolition of the MFA, the sector would have continued to be significant for the Nepalese economy.

The textile experience in Nepal can help in drawing lessons not only for the textile industry but for other manufacturing sectors in Nepal. Nepal has abundant labour and it has the potential to engage in labour intensive manufacturing industries. In fact if Indian investors had continued to be engaged in the textile sector even after the abolition of the MFA, textile sector would have been far more competitive than it is today, and would infact have been one of the leading manufacturing sectors.

The focus of the trade and economic co-operation should be deeper than the limited scope that only permits concessions. Similarly investment driven primarily by the lure of quotas had short lived benefits for Nepal. The focus on improving competitiveness of manufacturing industries in Nepal will not only increase Nepal's exports to India but will also help Nepal in attaining sustainable growth. The expansion of trade and economic co-operation to the services sectors can further help in achieving this objective. Two such sectors which can contribute significantly in narrowing the trade gap as well as ensure sustained growth in Nepal are hydropower and tourism.

Hydropower and Tourism in Nepal

Nepal has a huge hydropower potential; yet it is power deficient and currently an importer of power from India. This sector however, has the potential to fundamentally alter the Nepalese economy in two ways— first, the generation of hydropower has forward and backward linkages and second, export of power from Nepal to India can bridge its trade deficit with India.

⁴ Data on FDI outflows from India shows a higher investment in the textile sector of Nepal during 2000-07 than during 1990-99. However, industry representatives in Nepal confirmed that there was a substantial Indian participation in textile exports of Nepal during the 1990s. See Section

India and Nepal have taken several initiatives to develop hydropower in Nepal but these projects have not made much progress as intergovernmental agreements between them were not easy to reach. On the other hand, private initiatives have been forthcoming but the investments have not been very large. This is because of problems related to the regulatory framework in Nepal and problems related to power trading with India. Nepal lacks an integrated hydropower sector policy and is therefore not able to address problems related to infrastructure, multiple clearances, land acquisition and licensing. Moreover, Nepal does not have an independent regulator. The Nepal Electricity Authority, a government owned entity, controls all aspects of power, viz., generation, transmission and distribution. Nepal has also had inconsistent policies with regard to the incentives offered for hydropower developers. Disagreement on pricing of power has been the most important hurdle in power trading between India and Nepal largely because prices are not fixed on commercial principles. The other problem that has inhibited power trading between the two countries is lack of grid interconnections and transmission lines.

Thus, to attract larger private investment in hydropower, Nepal will have to formulate an integrated hydropower policy and establish an independent electricity regulatory commission. In addition, private investors could join hands with multilateral agencies to ensure larger investments. Establishment of an independent body in Nepal similar to the Power Trading Corporation of India will help the two countries to determine the price of power on commercially determined principles. Setting up interconnections and transmission lines will also facilitate trade. The recently set up Dhalkebar-Muzzafarpur transmission line is a step in the right direction.

The second sector, i.e. tourism, has been one of the most important sectors in the economy. However, in recent years, there has been a sharp decline in the number of tourists visiting Nepal. Between 1999 and 2006, the number of tourists fell from 492000 to 384000. A reversal in trend has been visible only in the last two years, viz., 2007 and 2008, when the number of tourists increased to 500000. Between 1999 and 2008, the proportion of Indian tourists visiting Nepal decreased from 28.6 per cent to 18.2 percent.⁵

5 Calculated from Economic Survey, 2008-09, Ministry of Finance, Gov. of Nepal

A decade ago, the Indian tourist was drawn to Nepal for leisure, religious and adventure tourism, shopping and casinos. Shopping in Nepal was a major attraction to the Indian tourist because of high tariff differentials on consumer goods between the two countries. Indian tourists could combine the tourism experience with access to lower priced foreign goods. The increased availability of global consumer brands due to lower external tariffs removed the major attraction for Indian tourists to visit Nepal. Nepal's attraction has waned as Indian tourists have been drawn to destinations such as Singapore, Malaysia and Thailand, which offer more varied tourism prospects.

Several measures can be taken to revive and further develop tourism in Nepal, where India can also play a prominent role. These include up-grading existing tourism products, and developing new products.

Nepal is particularly well-placed to exploit the unprecedented surge in demand for wellness tourism, which includes naturopathy, holistic retreats, spas, and spiritual and physical well-being resorts that offer complementary and alternative therapies. Nepal has also not adequately explored the possibilities of promoting the Meetings, Incentives, Conventions and Exhibitions (MICE) segment of tourism. MICE tourism is an important and high-value segment of the tourism business and Nepal can emerge as an attractive destination.

Given the large number of Hindu and Buddhist religious sites in Nepal, she also needs to initiate measures to promote religious tourism. Since a large part of such tourists are from India, land, rail and air connectivity needs to be improved.

The Nepalese government also needs to address some of the environmental issues that have adversely affected the tourism industry. Widespread deforestation that has diminished Nepal's natural beauty and high pollution levels in cities like Kathmandu are a serious threat to the industry. India and Nepal can co-operate on developing a more sustainable tourism industry that would contribute to the long-term growth of the economy.

Another important area where India can contribute in the tourism industry of Nepal is in terms of developing skilled manpower suitable for the hotel and hospitality industry. In this regard, Indians can set up training institutes in Nepal to train the Nepalese people in this industry.

Education and Health

The government of Nepal is the main provider of school education in Nepal though in recent years, there has been an increase in the number of private schools providing primary and secondary school education. There are 6 universities in Nepal. Tribhuvan University is the largest university accounting for 90 per cent of tertiary enrolment. Private campuses account for 9 per cent of the tertiary enrolment.⁶ The University Grants Commission (UGC) of Nepal functions as a coordinating body for all the universities. A Quality Assurance and Accreditation Council (QAAC) has been established within the UGC to address issues pertaining to quality assurance and accreditation. However, the accreditation system is still not fully developed. Nepal has initiated the process of decentralisation for improving governance but the overall governance of higher education is still very weak.

A large number of Nepali students go abroad, mostly to India to pursue higher studies. While some students pursue secondary school education in India, several more are drawn to educational institutions that offer professional degrees and diplomas in engineering, management, medicine, agriculture, pharmacology, veterinary sciences, music, fine arts etc. Indian students going to Nepal for higher education are limited to medical colleges.

India has contributed significantly in the field of primary and secondary education. Much of this has been through the participation of both government bodies like the Kendriya Vidyalaya Sangathan and private sector players. Private sector players who have set up schools in Nepal include the Delhi Public School, Global Indian International School and the Manipal group of educational institutions. Apart from Indian players opening schools in Nepal, there is also a large flow of teaching professionals from India to Nepal.

In the field of higher education the most significant bilateral co-operation can be seen in the field of medicine as has been discussed in the earlier section. In recent years, several Indian educational institutions such as

6 Barakoti (2007) Accessed on 23 July 2009
http://www.unescobkk.org/fileadmin/user_upload/apeid/workshops/9th_convention/Country_Rpt_NEP.pdf

the Amity Group have shown interest in tying up with their Nepali counterparts. The Indira Gandhi National Open University (IGNOU) has set-up an office in Nepal to cater to working people who wish to simultaneously pursue their studies. However, in the fields of management, engineering, architecture and accountancy, there are no Indian institutions or joint ventures in Nepal.

There have been several efforts at strengthening co-operation in the field of education between the two countries. The Government of India has been actively involved in setting up schools and other higher educational institutions. It also offers numerous scholarships to Nepali students to study in Nepal and in India. GOI provides 1500 scholarships every year to Nepali students to study various disciplines. In addition, between 2002-03 and 2005-06, a new scheme was launched every year to provide scholarships to Nepali students studying in India and Nepal to study medicine, engineering, ayurveda, unani, and homeopathy.

The field of health is one area in which significant co-operation appears to exist between India and Nepal. Indian investment in Nepal's health sector began in 1959 when the Indian government set up a general hospital. Several others followed subsequently. More recently, the Indian government has begun to invest in the setting up of speciality hospitals in Nepal. The B.P. Koirala Institute of Health Sciences (BPKIHS) is the single largest project implemented under India-Nepal cooperation. Apart from establishing a hospital and medical college, the Indian government has also provided funds for faculty development to cover the cost of specialised training for Nepalese doctors in India and deputation of selected Indian teachers to BPKIHS. The most notable among the other speciality hospitals that have been set up or are being set up by India are the Nepal Bharat Maitri Emergency and Trauma Centre at the Bir Hospital which will be the second of its kind in South Asia, a gynaecological Hospital at Bhadrapur in Jhapa and an eye hospital at Krishnanagar in Kapilvastu.

Not only have the two governments co-operated in setting up hospital and medical education facilities, they have also jointly undertaken mass preventive and treatment programmes. There are also other programmes under which the Indian government has provided equipment, facilities and

vehicles in Nepal. Additionally, first aid kits are provided to Nepali ex-servicemen of the Indian Army every year.⁷

Besides co-operation at the governmental level, a number of Indian private sector players have also set up facilities in Nepal. The Manipal College of Medical Sciences (MCOMS) and hospital was the outcome of collaboration between the Manipal Group and the Government of Nepal. The College has been accorded recognition by the Medical Councils of Nepal, Sri Lanka, Bangladesh, Mauritius, California, New York, British Columbia and Ontario.⁸ A well-known private Nepali hospital - Norvic Hospital has tied up with Escorts Heart Institute and Research Centre in India. The hospital gets Indian doctors to visit regularly and perform surgeries and undertake check-ups. Norvic also organises regular health camps by bringing in doctors from India. Despite modern medical facilities being available in Kathmandu, a number of Nepalese still travel to Indian cities annually for the diagnosis and treatment of various diseases. The number is especially high in western Nepal where medical services are poor.

The setting up medical education facilities has resulted in a large flow of Indian students to Nepal. In 2007, there were 200 Indian students among the 600 medical graduates who passed out from Nepal-based institutes affiliated to Kathmandu university.⁹ A main attraction for Indian students is the much lower cost of education as compared to India.

Despite the apparently expansive co-operation between the two countries, however, there are serious issues that have not been addressed. A major issue is the lack of a Mutual Recognition Arrangement (MRA). Though Nepal recognises Indian medical degrees, BPKIHS is the only medical hospital that is recognised by the Indian Medical Council. Consequently, Indian students studying in other medical colleges in Nepal, most of who return to India after obtaining their medical degrees, are unable to practice in India. The conclusion of an MRA could facilitate the free flow of medical expertise between the two countries. Greater co-operation is also

7 Indian Embassy, Kathmandu (2009) "Being Together, Growing Together: Indo-Nepal Economic Co-operation."

8 <http://www.manipal.edu/nepal/users/mcomshomepage.aspx>

9 <http://www.indopia.in/India-usa-uk-news/latest-news/27842/International/2/20/2>

needed to meet the demand for specialised treatment in Nepal such as cancer treatment, non-invasive surgery, kidney transplants etc.

Concluding Remarks

The concessions provided to Nepal through the India-Nepal trade treaties have been transitory and they have not been able to close the trade deficit of Nepal with India. It is important for Nepal as well as India to look beyond mere tariff concessions and other transitory benefits such as quota utilization under the Multi Fibre Agreement. India can play an active role in rejuvenating not only the textile industry in Nepal but also other manufacturing industries. India should also focus on industries like hydropower and tourism which can contribute significantly both for closing the trade deficit as well as fostering economic development in Nepal. An active participation in health and education sectors in Nepal can help in building a strong and healthy human resource base in Nepal. However these achievements would be possible only under stable political conditions, the absence of which may obstruct Nepal's overall development.

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Reviving the Nepali Economy: A Private Sector Perspective

Suman Neupane¹

The world economic crisis set-off by the sub-prime mortgage delinquencies in USA at the end of the year 2007 has now come to an end. Global economy is expected to revive well and emerge strongly out of two and half year long recession in the year 2010. With developed economies like US expected to grow by almost 2.70%, emerging market economies like China and India expected to grow at the rate of 10% and 7.70% respectively; the entire global economy is projected to have an average growth rate of 3.90%.

Ironically when the global economy slumped into recession, our economy was least affected as we have exchange restrictions on capital accounts and very few exports that were exposed to external economic risks. The belief that we had crossed this timeline of global crisis without having to suffer much like rest of the world has now been challenged by the fact that our economy has started to show some acute problematic symptoms. This has in fact been the lagging effect of global economic downturn into our economy.

The first such symptom was negative BoP during the first six months of this fiscal year. After posting a BoP surplus continuously for almost half a decade, we now have a deficit. The deficit has obviously been prompted by rise in imports (40.8% yoy first half of FY 2066/67) and fall in exports (12.1% yoy first half of FY 2066/67) in conjunction with a lower growth rate of remittance inflows.

Major sectors of our GDP are: Agriculture, Remittance, Tourism and others. Export has been a redundant sector and has been losing steam with the

¹ Mr. Neupane is a prominent banker.

withdrawals of incentives viz: duty drawbacks and export quotas. The appreciating local currency against the US dollar has also been another factor that has dwarfed our exports and inward remittances to some extent. The local unit has appreciated by 7.5% during the first six months of this fiscal year as against the depreciation of 11.90% during same period a year ago. Major economic indicators have so far been mixed. Agricultural output which constitutes a major part of our GDP is expected to have shrunk during the FY 2066/67 due to adverse monsoon; however the winter crop yield is expected to rise due to favorable climate. Industrial output has gone up by 0.1% during the Q1 of this FY which was -1.2% during the same period a year ago. Major problem for all the economic sectors has been the continued and ever rising power cuts due to increased demand that has surpassed the supply far behind.

Tourist arrival has increased by 8.10% during the first half of this FY over the same period last year. Ten new development banks and two new finance companies have come into operation. Last FY saw a drop of 12.80% in the number of Nepalese laborers going for work abroad. However this has gone up by 3.30% during the first half of this FY. Regarding the inflationary pressures; CPI rose by 11.801% as against 14.40% last FY. Wage index rose by 17.7% against 15.40% last FY.

Political uncertainties, state of lawlessness (impunity), rampant killings, extortion, civil commotions and frequent strike and lock outs have now formed a never ending spiral of our socio political system that has strongly evolved in the past two three years. This has had a very negative impact on business and industry. Many business have shut down, industries have already closed for good. The major problem for businesses now have been trade unions (promoted by vested political interests), power cuts, frequent strikes and transportation halts, insecurity and so on. This has really converted some of industrial corridors into industrial graveyards. Many foreign investors have withdrawn and this trend is continuing and prospects of FDI remain a distant dream under such dreadful socio-political condition.

In this volatile and liquid juncture, Private Sector is still trying its best resulting in hope towards the improvement in the economic situation. Furthermore, I believe that they are keen towards achieving the goal which can be attributed towards their focus on planning, implementation and

effective monitoring (more or less to the attributes suggested by PDCA). In Nepal, economic growth through planning (five year plans) have come into effect from quite sometime, however, the delivery of the same is not up to the mark. Lacking in the carrot and stick concept can be one of the flaws of Nepalese Government. Reasons for non-implementations be sought and the perks, incentives and penalties be declared for non-implementation is a must.

Indo-Nepal Trade Relations and Sino-Nepal Trade relations should be revisited and analysis of the economic growth of India and China, the two growing economies have to be done well. Nepal, being land linked between these two has not been growing as per the growth of the neighbors, the reason being attributed to the lack of economic visions, missions and objectives. Hence, a growth model has to be finalized and the same needs to be adhered to by the government irrespective of the ruling parties. I hereby would like to illustrate amicable ways of attaining the growth in Nepal.

Financial system and payment systems are the major pre requisite of any economic development. Banking Industry is the mirror of economy. During the first half of this fiscal year the credit growth has far outpaced the deposit growth among our Banks Loan Expansion by NPR 66.98 billion as against the deposit expansion of NPR 25.93 billion. This has created a liquidity gap which coupled with lower growth rate of both broad and narrow money supply (M1 and M2) has created liquidity crunch in the financial system.

The most important point here is the application of bank credits. Had this been to the productive sectors, it would have further propelled the economic growth as well the monetary expansion through its propensity. Ironically most of credit expansion has taken place into non-revolving and non productive sectors like real estates. As the money/credit supply acts as lubricant for the economic development; a relatively affordable and accessible credits available in the banking system is a must for further expansion of economic activities. Ironically the less prioritized sectors have preemptively exhausted the resources of the banking system and the banks are now running their day by day liquidity need through Repo funds being offered by the central bank. This has been persistent for the past 3-4 months.

Mathematically, it can be inferred that higher the capital creation in the economy, higher the employment generation; higher the employment genera-

tion; higher would be the savers; higher would be the funds with the banks. Higher the funds in the banks, higher would be the economic activities. However, in the immediate past, the financing of non-productive sectors have been constrained for the bankers to compete with oneself as the size of overall economy did not grow.

Commercial Banks by their functioning itself are known for financial intermediation and creation of credit, the booster of trade and safeguarding the valuables. Thus, it can be inferred for having the effective ways and mediums for the flow of funds in the economy whether it be the rural areas, whether be it urban, suburban, semi or peri-urban areas.

Nepalese economy has competitive advantages of lower labor costs; the lacking is on the capital front; which the private sectors are accelerating towards initiation. Hence, the banking sector as a whole can work as a private-banking partnership following the participative management strategy (sahakarya with private organizations). With the growth in banking, the bankers are now not only selling the products with financial innovations but are also functioning as financial advisors for the private sectors. The regulatory boundaries and the conception of Nepal Rastra Bank for following the prescriptive approach for issuing the directives, to some extent have confined the equitable participation for the banks to catch up with the boosted private sector growth. Furthermore, I strongly opine that we need to have a free economy in the banking industry alike other sectors of economy. However, despite the constraints, banks have managed to finance the private sector to the possible extent; with due focus on financial and technical viabilities and social responsibilities.

In the past, people have been citing the reasons of land lockedness as a major obstacle in achievement of economic growth in Nepal. However this is baseless. The reason we need oceans is to transport our produce up to the people who buy it. As we are surrounded by the worlds' two most populous nations' viz. China and India, it is a great blessing for our economic development as we are surrounded by the oceans of humanity instead of oceans of salty waters. As both of China and India are moving forwards with robust economic growth and are expected to be world's leading economies in 21st century, this comes as an awakening and opportunity for us.

Situated strategically between India and China, Nepal can take proper steps to establish itself as a trading floor of the world's two most populous nations. This will create a giant tectonic shift into our current economic platforms. We will get elevated to one of worlds' highest economic levels. This can be achieved only through proper planning at government level and a strong public private partnership. The commercial banks can work as a trade booster in this issue and even contribute as a financial partner for projects, which ultimately will benefit the interest of the nation. Nevertheless, Nepalese Economy needs to be imitational driven, if not innovative driven, citing the two giant neighboring economies. Private sector is keen to increase the overall productivity of the economy either from the imitational side or from the innovative side.

Hydro-Electric generation has always been the talk of the town. Exporting hydro-electricity to the neighboring economies shall benefit the Nepalese economy at the large. However, in the prevailing scenario, the energy deficit has been really aggravated and is really a serious concern of the private sector. The overall cost of production is in increasing phase, the productivity has decreased and the operational efficiency of the private sector has been defective due to the prevailing energy deficit. Self sufficiency in the energy area of the local demand has been a great challenge. At this point, it is inevitable that energy generation is one of the most demanded and high appreciated sectors of the Nepalese economy. In the prevailing circumstances, importing energy from India has been raised. However, being precise, it can be reiterated that the Nepalese private sector has a key focus in catering the local demand. Prosically speaking, the alarming situation of energy deficit is one of the major setbacks for Nepalese private sector and hence, prime focus in this area is desirable than any of the other areas of the economy and productivity. In addition to all of these, export potentials in this sector is also existent.

Tourism is the largest industry in Nepal, which is the major source of foreign exchange and revenue. Government of Nepal has been promoting tourism in Nepal and has also encouraged the private sector for the involvement in the same. However, its growth during the last decade has been hampered mainly because of the country's security condition and political instability owing to the Maoist insurgency and the resulting state of

emergency and the frequent Bandhs in the country. As a result, the tourism industry, particularly the Hotel sector, was hit hard consequent to which some of the hotels and associated business had to close operations.

However, after the Constituent Assembly (CA) election and slightly improved security situation, the inflow of tourists remained satisfactory and the announcement of Visit Nepal 2011 has encouraged the private sector for refurbishment and new investment.

Mainly due to Himalayas, scenic beauty, ancient monuments and architecture, wild life as well as flora and fauna, sky is the limit for tourism sector to grow. Nepal is considered to be a paradise for adventure sports like high altitude hiking, white water rafting, gliding etc. High altitude bird watching is a growing trend. The trend of corporate conferencing outside the premise of corporate building is increasing. International corporate conferencing is also an increasing trend due to Nepal's popularity in tourism. Currently, we lack facilities for these conferences and the concerned industry has already felt the need for it. Due to diverse geography and its habitats, the research-oriented tourism is also a growing trend. The growth potentials of sight-seeing and wild life tourism need no further explanation. Hence, more and more areas of tourism are being developed, so growth of tourism may be expected.

The aviation industry has to grow simultaneously for our tourism sector to grow to its full potential and thanks to the international airlines which considered Nepal as their destination and started service in the recent past. The number of international airlines operating in Nepal has crossed 30 and still some are in queue to obtain government permission. Thanks to the Government of Nepal for adopting the Liberal Aviation Policy which will definitely enhance the tourism sector in the short/long run.

When we talk about the potential of the tourism sector, growth of aviation industry comes along as these sectors are closely associated. Due to the geography of Nepal, roadways and railways are expensive and time consuming to construct, maintain and commute. It is a proven fact that airways are the cost effective and quickest mode of transportation. Consequent to this fact and the Aviation Liberalization Policy adopted in 1992 by the government, the aviation industry is achieving tremendous growth year

after year in the domestic sector. There are several established domestic airlines which operate world class aircrafts. There is growth in both fleet size and passengers. Although, this sector is oligopoly in nature, network can be increased tremendously.

As regard to Air transport, domestic routes were privatized in the early 1990s, resulting in a quadrupling in domestic air traffic and in 1996, the first steps were taken to re-assign international air routes previously held by the state-owned Nepal Airline Corporation to private carriers. However the performance of private sector airlines and Nepal Airlines in the international sector has not been satisfactory. The private sector airlines one after another faced difficulty in managing the international operations and got closed while Nepal Airlines could not manage sufficient aircrafts for timely and reliable service. The possibility of transporting large number of passengers was identified by other international airlines which added flights or started Kathmandu as a new destination which ultimately helped Nepal getting more tourists.

Due to its mainly mountainous terrain and difficult weather conditions, roads and aviation are the major modes of transportation in the country.

Moreover, the growth in road construction has also become inevitable as the number of vehicles has increased many folds compared to the capacity of the road. Only 36% of the population has access to all weather roads. More than 60% of the network is concentrated in the lowland, the network consisted of 17,000 km of roads and 11,000 km of village and agriculture roads, bringing the total road network in Nepal to 28,000 km. The total number of vehicle registered in country in 2006 is 528,570. The numbers of total vehicles have doubled since 2006 but the road length added is negligible. The number of vehicles and availability of roads obviously denotes to the unimaginable traffic in the capital city.

Hence, Fly-over and railway transport for public commute in Kathmandu valley has become a must to ensure smooth traffic flow. Similarly, alternative highways for transportation of goods and public commute from all the parts of the country to the capital city has become a must as the highway road traffic has increased tremendously. The government announced construction of fast track highway from Kathmandu to

Nijghad this year but the allocated budget is negligible. Private sectors were already showing interest in this highway and construction of an international airport in Nijghad which would ensure timely completion of the project as the private sector involved would look into the project from financial viability and remain within the financial discipline to obtain the desired return and remain profitable.

Understandably, the infrastructure related sectors like hydro-electricity, airports, roads, irrigation, telecom, etc., requires huge investment and thus the public private partnership in such projects has become significant. Hence, requirement of such infrastructure development projects have opened up the opportunity for Build, Own and Transfer (BOT) system which is mainly suitable for bigger projects like airport construction, road construction, railway construction, hydro-power generation, etc. This in turn opens up doors for one more area of investment.

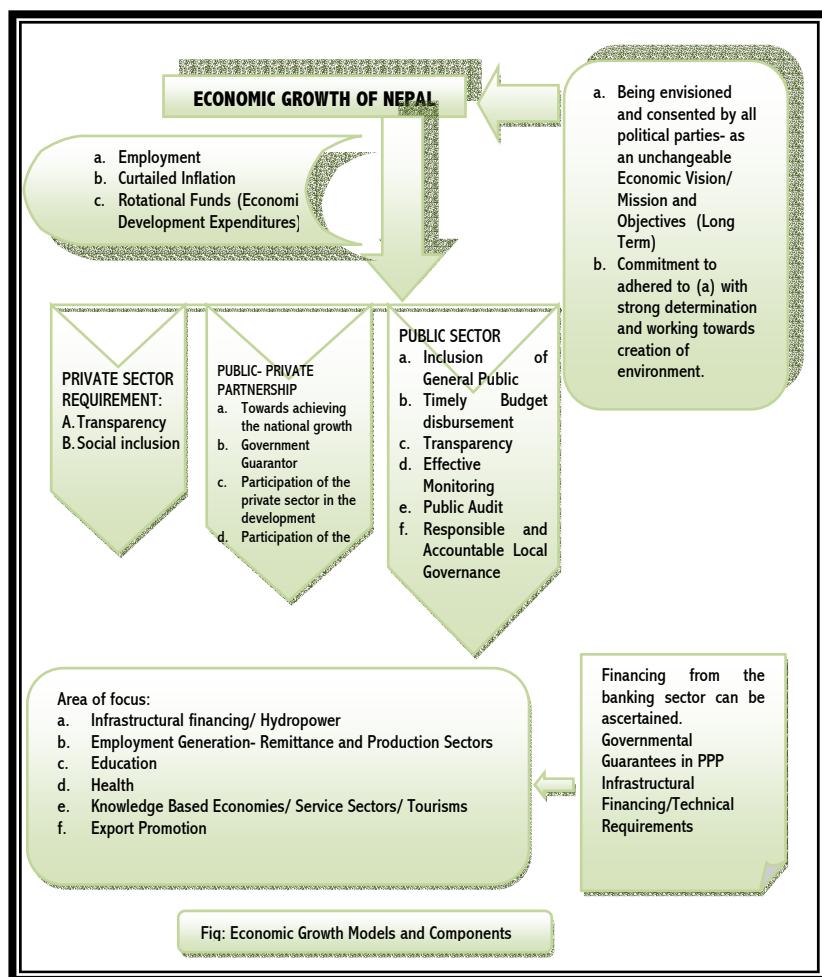
The issue of health services always comes in the beginning of every speech by politicians or government officials. But the government has not been able to provide health services in every part of the country. This is basically due to the lack of technical as well as infrastructural resources where private investment has become very crucial. The hospitals are scattered only in the urban areas, which are also not sufficient to cater the health services of the urban people. Though, few private hospitals have been established in the urban areas during the last decade, they are still not sufficient to provide health services to the growing population. But in the rural context the country, there is not even one hospital in most of the districts. The health services are provided by health post or sub health post in most of the districts, which are also dependent on district headquarters.

There is still a huge gap between the demand and supply in this sector. There is a growth potential in the hospital and healthcare service sector in Nepal. Most of the Nepalese patients have been going to India and abroad for treatments like Kidney Transplantation, Bone Marrow Transplantation, Cancer Treatment, etc., to name only a few which can be stopped and significant amount of foreign currency can be retained in the country if better healthcare facilities along with better technical know-how is provided. Moreover, the climatic condition of Nepal is better suited for long-term treatment purpose than that of India which will have the positive effect to the

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Indian patients to the country as well as contributing to the further development of the health sector.

Another noteworthy issue is that Nepal consists of more than 4,000 villages, hence rural micro-financing model needs to be discussed. Private sectors have the guts and the resources to captive the rural resources to shape the overall development model of the villages.



Hence, Hydro-electricity, Tourism, Health and Education sectors are prominent sectors of the economy, which the banks have acknowledged and have been tailoring various packages to serve and foster the growth of the nation, which I believe needs to be continued in the days to come.

In a nutshell, banking sector has always been and will always be focusing on the development of private sector development. Furthermore, with the vision of private public partnership, the financial intermediaries have also broadened their periphery. However, governmental undertaking in infrastructural financing will boost the confidence of the financial intermediaries and tax rebates to some sectors (especially export oriented and employment generating) will accelerate the overall economy towards commercial industrialization. Likewise, a strong measure needs to be looked upon for fostering the FDIs in Nepal. The framing of the materialization of the Participating Development Approach needs to be focused on.

The bottom line is again a consensus in the Economic Vision, Mission and Objective amongst the Political Parties and the Participative Model (with PDCA), which shall create an overall atmosphere to boost the morale of Private Sector. Likewise, measures to address the power deficit is a must.

Eventually nation building is not a game in isolation but an effective team activity where government ensures the infrastructure, stability and security and the private sector excels its entrepreneurship that helps to uplift the economic status of the nation as a whole.

Petroleum Products and Gas

Prof. Dr. Rhiddi Bir Singh¹

Background

Energy sector is just next to food for the general public. The requirement of food may be limited to some extent but the necessity of energy supply demand is round the clock. Therefore the exploration and development of energy resources is a never ending process. In the modern way of life, energy resource consumption will be in increasing order both qualitatively as well as quantitatively.

Few decades back, Nepal used to feel secured from the energy demand cycle with the exception of electrical power for residential lighting. At that time the transportation and the industrial sector was not developed and the demand for the petroleum products used to be very limited. The pace of economic development and population growth has drastically changed the energy scenario of the nation. Today the development status of the nation is directly compared with the energy consumption figure. More the energy resources being consumed, quicker the development target will be achieved. But such a scenario cannot be sustained for a long period without considering economic compatibility of the country. We are a land-locked country. The entire volume of its energy resource used to be derived from the locally available biomass fuel. But since about 90 years back after the first introduction of the fossil fuel in the form of kerosene oil in the eastern plains, the energy generation and consumption scenario had changed considerably. Even now in the nation's total energy consumption about 85 percent is still contributed from the biomass fuel resources. The commercial fuel energy has grown up to a share of 14 percent. The question of energy security has

¹ Prof. Singh is associated with Center for Energy Studies, Institute of Engineering, Tribhuvan University.

traumatized the recently formed Ministry of Energy. And the government of Nepal has prepared a 'National Energy Strategy 2010' for the first time. Although the nation imports just 12 percent of its energy demand from abroad, the economic impact has immense effect on the national budget structure. Thus energy security has become a national issue, which has been elaborately illustrated in this strategy document. Therefore, strategic options, the technical interventions and development programs that directly or indirectly induce sustainable approach towards the achievement of the national energy security will play a vital role in national development for times to come.

ENERGY GENERATION AND CONSUMPTION STRUCTURE OF NEPAL:

The total energy generated in the year 2009 is	9.814 million TOE
The traditional biomass fuel energy supplied –	8.340 million TOE (84.98 %)
- Wood fuel	7.365 million TOE (75.04 %)
- Agriculture residues	0.402 million TOE (4.09 %)
- Cattle dung	0.573 million TOE (5.83 %)
The commercial fuel energy supplied	1.414 million TOE (14.40 %)
- Petroleum Products	0.964 million TOE (9.82 %)
- Coal	0.249 million TOE (2.53 %)
- Electricity	0.201 million TOE (2.04 %)
The renewable fuel energy supplied	60000 TOE (0.61 %)
- Biogas energy	57360 TOE (0.58 %)
- Micro-hydro power	1980 TOE (0.02 %)
- Solar Power	660 TOE (0.006 %)

Source: Economic Survey, Ministry of Finance, 2009

The Sector wise Consumption of the Energy in Nepal- 2009

1. Residential	8.756 million TOES (89.21 %)
2. Industrial	448 thousand TOES (4.56 %)
3. Transport	364 thousand TOES (3.70 %)
4. Commercial	149 thousand TOES (1.51 %)
5. Agriculture	80 thousand TOES (0.81 %)
6. Others	21 thousand TOES (0.21 %)

Source: Economic Survey, Ministry of Finance, 2009

Major part of the energy is still consumed in the residential sector of the country. And only about 10% of the energy resources is divided among the rest of the sectors. The energy consumption structures actually illustrate the development status of the country.

The transportation sector used to be the second largest consumer of the energy resource after the residential sector. But now, industry has overtaken it. Almost all the energy resources consumed in transportation is the imported fossil fuel, the petroleum products. It is the only energy resource, which is consumed in all the sectors.

The commercial energy resources consumed last year comprise of 1.414 million TOE, which is shared by the following energy commodities.

-	Petroleum Products	964000 TOE	68.17 %
-	Coal	249000 TOE	17.60 %
-	Electricity	201000 TOE	14.21 %

About 68 percent of the commercial energy is fulfilled by the imported petroleum products that include the liquid and gaseous fossil fuels. The share of the petroleum products fuel at the national scale is just 9.82 percent. But the economic burden it generates is so strong that to fulfill 9.82 percent quantity of the petroleum products the nation has to expend more than 60 percent of the nation's total merchandise export earnings.

Renewable Energy

The current state of renewable energy that is officially recognized is the aggregate product of the biogas energy, solar photovoltaic power and the micro-hydro power. The total renewable generation share just 0.61 percent at the national level equivalent to 60000 TOE. The relative share of the renewable energy in Nepal is generated by

-	Biogas	57360 TOE (95.6 %)
-	Micro-hydro power	1980 TOE (3.3 %)
-	Solar Power	660 TOE (1.1 %)

Renewable energy in Nepal is neither commercial nor fully monetized energy source. Rather it is partly subsidized and partly monetized energy sector. The extent of the resource mobilization is largely limited centrally

prioritized in the remote rural sector the country. This is the clean energy that provides no threat to the environment. But the scale of operation and the government's incentive to the public is so limited that the service provided is narrowly centered towards the selected rural centers. Still the renewable energy is in growing stage increasing in its area coverage and resource harnessing capability.

THE STATUS OF ENERGY SECURITY IN NEPAL

Nepal consumed 9.814 million TOE of total energy including 84.98 percent biomass fuel resources, 14.40 percent of commercial fuel resources and only 0.61 percent of renewable energy resources.

Biomass Based Fuel

Biomass fuel is locally available renewable resources that does not generate the renewable energy in Nepal. Primarily the major biomass fuel, the fuel-wood resource is not sustainably harvested.

- The sustainable harvest of fuel wood as estimated by the government sector is about 7 million MT in a year.
- But the actual consumption figure is over 16 million MT.
- In the majority of the rural households the fuel wood is daily consumed in traditional cook stoves having the energy efficiency rating of 6-10 percent.
- It consumes more fuel wood per cooking, generate environmentally unsafe and health hazardous smoke, noxious gases and particulate matters.
- About 80-90 percent of the fuel wood is still non-monetized.
- Government revenue raised from the selling of the fuel wood is highly insignificant.
- The socio-economic as well as techno-economic intervention offered so far by the government and the non-government national / international organizations are still at the awareness raising level and are seriously insignificant.

Therefore, the indigenous and renewable fuel resources such as biomass is also unsustainably used and the nation cannot be confident as far as its

energy security is concerned vis-à-vis biomass. In order to build up the strategic national energy security system in a phase-wise program, more needs to be done and the vision has to come from the highest political leadership. The current situation clearly indicates that the most popular fuel resources of the nation cannot be dealt by the Ministry of Forest and Soil Conservation alone.

The other prominent biomass fuel such as agriculture residue and cattle dung also generates inefficient traditional energy. The only significant technical diversification of the traditional biomass fuel is the timely introduction of the biogas technology, which use the cattle dung feed to generate the most significant renewable energy in the form of biogas in the country. Biogas is still the major renewable energy component after the micro-hydro power and the solar power.

Commercial Fuel

Commercial energy is the second largest group but one must also understand that it is the only energy commodity, which is hundred percent monetized. Electricity is mostly generated within the country. Coal and petroleum products are totally met by the import facility. The entire sector of commercial energy resources are not sustainably generated and distributed throughout the nation. Among them the major part is being played by the petroleum products commanding 68 percent shared quantity of the commercial fuels. Petroleum products are most widely used imported fuel. The lack of domestic sources of petroleum products induced the total dependency on the import. The entire responsibility of the import, storage, sale and distribution networks for the petroleum products are being undertaken by the state owned Nepal Oil Corporation under the Ministry of Supplies. Under the normal condition of operation there seem to be no problem at all. But even the temporary high way blockade interrupts the immediate supply of the petroleum products in the urban area. The state owned storage capacity for the fuel is also limited. Petroleum fuels are very expensive and the economic burden to the 10 percent of the nation's energy bill actually surpass the over 60 percent of the country's export earnings. Therefore, the nation cannot feel secure over the current style of management of the petroleum products. Illustrations of these fuels are presented below:

Renewable Energy

There exists difference of opinion in identifying interconnections between the renewable resources and the renewable energy in the country. Nobody argues the better side of the renewable energy, but the extent of the energy service it provides is miserably low. And it is being promoted and implemented as a micro level energy systems that cater the selected and limited rural household. Major part of the population and the non-residential energy generation and consumption sector are still to be interlinked with the true image of the energy potential of the renewable energy from the resources other than the dung gas, solar PV and the micro-hydro power. Although the current generation of the renewable energy is appreciable but its limited output cannot provide the required energy security to the general public.

The nation currently utilizes energy output equivalent to 8.601 million TOE (87.65 %) that is being generated by consuming renewable resources. This is the single largest and biggest challenge to the nation before it can actually work out the road map that will lead towards the national energy security balance and maintenance.

THE GASEOUS FUEL IN NEPAL:

The gaseous fuels used in Nepal are:

1. Liquefied Petroleum Gas (LPG)
2. Biogas (Dung Based)

1. LPG Fuel

Liquefied petroleum gas is one of the commercially manufactured fuel gases out of the products and by-products of the petrol refineries. It basically comprises of a mixture of C-3 and C-4 hydrocarbons. It is an odorless gas but inside the cylinder, it is filled with trace amount of mercaptan compound for the leakage detection purpose. LP Gas is an efficient fuel with the net heating value of 49.2 MJ per kilogram of fuel. The entire volume of LPG is imported to Nepal from India.

The LPG fuel is predominantly used in the residential sector for cooking and heating. It is also used in transportation and in industries. The popularity of the LPG has increased so extensively that it is no longer limited to the

urban centres but has made its presence even in the remotest communities where it needs to be air lifted. Nowadays, even rural road side hotels and restaurants have shifted from wood fuel to LPG as they have found it to be economical, clean and time saving fuel compared to the conventional biomass fuels. The prospects and the potential of the LPG fuel is very strong in Nepal. Its import and consumption therefore is likely to grow.

2. Biogas Fuel

In Nepal the first biogas production devise was demonstrated in 1955 by Rev. Father Soubolle at St. Xavier's School in Godavari. Since the early 70s the construction of biogas plant at rural households were implemented massively. The establishment of Biogas Support Partnership-Nepal in 1992 systematized the promotion of domestic biogas plants throughout the rural districts of the nation. The introduction of Alternative Energy Promotion Center in 1996 further added the biogas fuel production particularly in the rural sector, with financial subsidy from the government. By the year 2010 the number of domestic biogas plants exceeded 200000 units covering 68 districts of the nation. This development actually facilitated the virtual substitution of the same quantity of LPG cylinders every month. Biogas is the only gaseous fuel in the renewable class that is generated domestically by mobilizing the cattle dung and the human excretion soil. Such biogas plants can be extended to 1.7 million units throughout the country in due course of time.

Biogas plant in Nepal is basically fed with cattle dung, which generate about 40 liter of biogas for each kg of fresh dung. The net heating value of the fuel gas is 23 MJ per cubic meter of the gas. Major chunk of the home grown renewable energy (95.6 %) is actually produced from this biogas plants. And interestingly the first CDM project of Nepal is the biogas plant (19396 units), which generate US \$ 7 per plant per year. It is the only sector, which uses the local biomass resource using the non-conventional Renewable Energy Technology generating the environment friendly gaseous fuel that could substitute the LPG.

PETROLEUM PRODUCTS FUEL IN NEPAL

Import of Petroleum Products in Nepal

in KL

Product	2005	2006	2007	2008	2009
MS	78097	81817	98435	101624	128372
HSD	308078	292381	299419	303212	489219
SKO	23463	225007	192576	152168	77799
ATF	68340	66100	63650	68534	74306
FO	2651	3754	4624	2940	2188
LDO	88	292	180	308	380
LPG*	77594	81005	93562	96837	115813

*In MT

Source: Supply, Distribution and Aviation Department. Nepal Oil Corporation 2010

Sales of Petroleum Products in Nepal

in KL

Product	2005	2006	2007	2008	2009
MS	75989	80989	101912	100842	124169
HSD	315368	294329	306687	302706	466468
SKO	239328	226637	197850	155216	70089
ATF	66825	64335	63778	68938	68935
FO	2696	3695	4558	2919	2171
LDO	88	290	179	306	377
LPG*	77594	81005	93562	96837	115813

*in MT

Source: Supply, Distribution and Aviation Department. Nepal Oil Corporation 2010

The Difference between the Import and the Sales Volume of the Petroleum Products in Nepal – 2009

MS	4203 KL
HSD	22751 KL
SKO	7710 KL
ATF	5371 KL
FO	17 KL
LDO	3 KL
LPG	0 KL

From the fuel energy security point of view, these after sale volumes of the petroleum products can serve hardly a week of public demand. But in

case of the gas fuel, the LPG the total import volume is sold in the same year and the balance is just zero. Gas fuel in the country is the most vulnerable item from the energy security point of view.

Storage Capacity of Petroleum Products in Nepal

1. Motor Spirit	5135 KL
2. High Spirit Diesel	41610 KL
3. Superior Kerosene Oil	16314 KL
4. ATF-Jet A1	8499 KL
Total	71558 KL

The total storage capacity of the petroleum products in Nepal is 71558 KL only. It is also claimed that this volume can serve the nation for about 45-60 days of public demand. But the actual ground situation will be quite different. As soon as the supplies stop because of any given reason, petrol pumps will cease to deliver fuel to the consumers. Eventually black marketing of the fuel comes into effect. The storage capacity volume of fuel has never been effective.

Storage Capacity by Product and Location

	Volume in KL			
	MS	HSD	SKO	Jet A1
Kathmandu	1870	8400	4960	7710
Amlekhgunj	1960	16100	5580	-
Biratnagar	560	8510	2180	280
Janakpur	30	140	70	-
Bhairahawa	140	3055	394	60
Pokhara	350	2280	760	64
Nepalgunj	140	1520	1520	280
Surkhet	-	-	45	60
Dhanagadhi	85	1590	760	45
Dipayal	-	15	45	-

Source: Supply, Distribution and Aviation Department. NOC, 2010

Out of the 75 districts in the five development regions, only 10 locations possess the storage capacity. The maximum storage capacity for MS (1870 KL) and Jet A1 (7710 KL) is available in Kathmandu. And the maximum

storage capacity for HSD (16100 KL) and SKO (5580 KL) is located at Amlekhganj. All these centers are either in the capital or at the urban center. The storage capacity volume of the major petroleum products can hardly fulfill the national demand for 30-45 days.

Nepal Oil Corporation still enjoys the sole authority for import, sale and distribution of the imported petroleum products in the country. The corporation is under the Ministry of Supplies with 98.37 % share holding by the Government of Nepal. The rest is divided among the National Trading Limited (0.78 %), Rastriya Beema Sansthan (0.47 %), Nepal Bank Limited (0.23 %) and Rastriya Banijya Bank (0.16 %).

The only gaseous fuel imported in the country is Liquefied Petroleum Gas (LPG), is totally dependent upon the imported feedstock of the fossil fuel for which NOC has to endorse the volume of the import quota.

Region wise Petroleum Products Transporters:

	Transporter	Adhoc Transporter	Nepali Vehicle	Indian Vehicle
1. Eastern Dev.	58	18	137	43
2. Central Dev.	267	0	619	0
3. Western Dev.	63	11	173	25
4. Midwestern Dev.	10	5	35	39
5. Far western Dev.	9	9	29	25
6. Other Private	50	0	57	0
Total	457	43	1050	132

Source: Supply, Distribution and Aviation Department, NOC, 2010.

There are just 500 official transporters to carry out the net volume of the imported petroleum products to cater the 30 million people of the nation. The total number of the vehicles used to transport petroleum products into the country is 1182. Out of these the Nepalese vehicles in regular service is 1050 and the Indian vehicles around 132. The domination of the Indian merchandise is still prominent in the petroleum products transportation. Therefore, the nation obviously cannot feel safe from the fuel energy security even as far as transportation is concerned.

Region wise Petroleum Products Dealers

	General Dealer	Packed Dealer	Kerosene Dealer
Eastern Dev. Region	94	75	282
Central Dev. Region	460	85	754
Western Dev. Region	188	28	261
Mid-western Dev. Region	70	7	104
Far-western Dev. Region	27	42	58
Total	839	237	1459

Within the country the total number of official dealers serving the distribution of the petroleum products is just 2535. These dealers are mostly stationed in the urban centers, district headquarters and some accessible rural areas. In most parts of the remote rural markets, the cost of petroleum products actually go upto 100 % to 400 % times more than the official price fixed by the government. Financially poor rural people are either deprived of the petroleum products or are forced to pay much higher price.

Energy Security in petroleum Products and Gas

The current situation of infrastructure development and the management system can hardly sustain the growing demand- supply of petroleum products in the nation. Under the prevailing condition, major urban areas are benefitting but rural population is not even considered for the service provision mainly because of a lack of physical facilities. Petroleum products although are preferred even in the remote village, it is expensive. The major cooking fuel of the urban population, the LPG although is refilled within the country has to be imported every week. And the same gas which is available in India at Indian currency Rs. 385 per cylinder, costs double that price of Nepalese Rupees 1250 in Nepal. The regular supply, appropriate pricing and reliable distribution constitutes the main security measure for the common people.

NATIONAL INTERSTS IN PETROLEUM PRODUCTS AND GAS

So far no known major deposit of petroleum products has been found in Nepal. The Petroleum Exploration Project of the government of Nepal despite rigorous efforts of last four decades has not come forward with

positive results. Therefore the state has to depend on the neighboring country for the fossil fuel commodity. The expansion of urban areas and population growth has induced consumption of petroleum products to a remarkable level. Despite the ever increasing import volume of the petroleum products, the concerned agency has not been able to come forward with the concrete plan and program commensurate with government's national state policy guidelines.

- The lack of basic resources for the fossil fuel production within the country.
- Energy, economic and environmental impact of petroleum products needs to be well analyzed for national level consideration.
- The storage capacity of the major fuel commodity should be augmented to at least six months of regular supply.
- The required infrastructure development for facilitating the import, storage, sale, and distribution network should be adequately expanded.
- Pricing mechanism of major consumer's choice of fuel commodity should be revised and restructured.
- Alternative / renewable energy development that can at least partly substitute overall fuel consumption should be developed.
- The strategic development approaches towards research, development, innovation and implementation of the selected liquid bio-fuel such as the bio-ethanol, bio-diesel and bio-hydrocarbon oil promotion needs to be encouraged.
- Development of biomass power plant, sustainable harnessing of wind power and the fast pace development approach for mini / micro-hydro power will have to be motivated.
- The current rate of domestic biogas plants implementation should be multiplied many fold so as to reach 1.7 million units within the 1-2 periodic plan.
- Diversification of the biomass resources that either generate the component of renewable energy or produce the solid, liquid and gaseous fuel with higher rate of energy efficiency.

- Just to procure 9.8 % of fuel requires over 60 % of the nation's merchandise export earnings. Either an overhaul of our management system or suitable alternatives will have to be worked out.

Negligence of big hydro power development is similar to the mismanagement of petroleum products in the country. In the foreseeable future, prospects and potential to develop home grown energy resource industry that possesses some capacity to substitute liquid fossil fuels such as motor spirit, diesel, kerosene and LPG in Nepal is a possibility.

However, amidst the current fuel consumption scenario, there is not much hope for the people or the Nepali state to feel secure as far as energy security in the country.

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Nepal-India Relations

Upendra Yadav¹

Let me start by expressing my pleasure for getting the opportunity of sharing my views at this gathering of eminent personalities. I also take this opportunity to express my sincere thanks to the organizers.

Nepal and India are two neighbors having unique relations dating back to antiquities perhaps even before the dawn of human civilization. In course of bilateral relations spread over such a long period, culture and history, tradition and politics, religion and mythology, language and literature, trade and commerce, matrimonial linkage and migration have bound the two countries which close proximity with open borders and freedom of movements. The geographical, historical, economic and socio-cultural factors have shaped their relations, both formally and informally, in such a manner that the two countries are bound to maintain a closer cooperation and understanding.

Political history of modern Nepal rightly starts from 1769, when King Prithvi Narayan Shah unified kingdom of Nepal and the Gorkhali king assumed the status of the monarch of the whole Nepal. Prithvi Narayan Shah said in his Divya Upadesh, “This country is like a yam between two boulders. Keep good friendship with the emperor of China. Keep also friendship with the emperor of the southern sea (east India company).” There are five main elements discernible in his foreign policy. First the unification itself, without which he saw that there was no security or independence of the mountain principalities in the face of the expanding British Colonial power that was expanding on the Indian plains. The second element was his military buildup, for which he selected competent commanders who were able to make proper

¹ Former Foreign Minister and President of Madhesi Janadhikar Forum-Nepal (MJF-N) Party.

assessments of the situation and take right steps at the right time. The third element of his foreign policy was a cautious friendship with British-India and China. The fourth element of his foreign policy was a balance between offensive and defensive approaches. He was offensive in relation to smaller principalities, which he subjugated with liberal use of force, and took defensive position against the greater powers in the south and north. The fifth element of his national security or foreign policy was strengthening the national economy by various political measures.

Before the rise of Prithvi Narayan Shah, Nepal did not have a coherent and structural foreign and domestic policy as the political situation was in a state of flux. Prithvi Narayan Shah's perceptions of Nepal's foreign policy envisages the urgent need for 'concentration' on the country's economic progress and use of the 'policy of disengagement' in relation to big powers in the country's immediate neighborhood. If the development of 'balanced' relations with India and China constitutes the 'core' of Nepal's foreign policy approach, the pursuance of mutually beneficial relations with India represent the 'hard core' in view of Nepal's landlocked status and multiple social, economic and cultural linkages with India. While the political situation in Nepal took a turn for the worse after the deaths of both Prithvi Narayan Shah and his son.

The first Nepal-East India Company War of 1814-15 led to the signing of the treaty of 1815, popularly known as the Treaty of Sugauli. It was signed at Sugauli on Dec. 2, 1815 and was ratified by both the sides on March 4, 1816.

The Treaty of Sugauli was a turning point not only for Nepal's international political development but also in the realm of bilateral relations. The political repercussion in Nepal's domestic politics and foreign policy behavior and obvious 'ascendancy' of the British side in Nepal's internal politics inaugurated a phase of troubled politics in Nepal.

Jung Bahadur Rana realized that the weak presence of China in Tibet would encourage the British to launch an attack on Nepal, as there was no force to counter balance them. He decided to move cautiously ahead to build friendship with the British. He visited England in 1850 and also assisted the British in suppressing the Indian Police Mutiny in 1857. As a result, in 1860,

he was successful in gaining a part of the territory in western terai that was lost to the British by virtue of the treaty of Sugauli. He balanced his friendship with an isolationism from British India of his time, he saved Nepal but the country remained stagnated in social and economic terms and became one of the poorest in the world. And it remains so even till today. The foreign policy of Nepal under Rana regime acquired a pronouncedly pro-British character. Nepal was being ruled by Rana oligarchy till 1950 when there was a revolution in which Nepalese people and King Tribhuvan participated succeeding in the overthrow of the Ranas and bringing democracy to the country. Indian government supported the democratic forces in Nepal. Had there been no support from India, it would have been difficult for the democratic forces in Nepal to succeed in ending the despotic regime. There was time in the 50s when India had paramount influence not only in international relations but also in domestic affairs of Nepal.

Even after India had achieved independence from Britain in 1947, Nepalese-Indian relations continued to be based on the treaty which had been signed with Government of British India in 1925. Beginning in 1950 however, relations were based on two treaties under the Treaty of Peace and Friendship ratified in July 1950 wherein each government agreed to acknowledge and respect the other's sovereignty, territorial integrity, and independence; to continue diplomatic relations and on matters pertaining to industrial and economic development to grant rights equal to those of its own citizens to the nationals of the other residing in its territory and an agreement governing both bilateral trade transiting Indian soil. The 1950 Treaty and letters stated "neither government shall tolerate any threat to the security of the other by a foreign aggressor" and obligated both sides "to inform each other of any serious friction or misunderstandings with any neighboring state likely to cause any breach in the friendly relations subsisting between the two governments." These accords cemented a 'special relationship' between India and Nepal that granted Nepal preferential economic treatment and provided Nepalese in India the same economic and educational opportunities as Indian citizens.

India's influence over Nepal increased throughout the 50s. Indian military mission as established in 1952. In 1954, a memorandum of understanding for the joint coordination of foreign policy and Indian security posts

were established in Nepal's northern frontier. Prime Minister Nehru stated in the Indian parliament in 1950, "We have had from immemorial times, a magnificent frontier that is to say, the Himalayas...the principle barrier to India lies on the other side of Nepal and we are not going to tolerate any person coming over that barrier." Nehru had reiterated in 1954, "foreign policy of the Nepalese government should be coordinated with the foreign policy of India."

King Mahendra continued to pursue a non-aligned policy begun during the reign of Prithvi Narayan Shah in the mid-eighteenth century. In the late 50s and 60s, Nepal voted differently from India in the UN unless India's basic interests were involved. The two countries consistently remained at odds over the rights of the land-locked states to facilitate access to the sea.

B.P. Koirala became the first Prime Minister of Nepal after elections were held for the parliament in 1958. However, King Mahendra dismissed Koirala in a coup in Dec. 1960 and assumed powers himself. Prime Minister Nehru was unhappy and said that the step represented a 'set-back for democracy'. Anti-monarchical forces protesting against this step launched a movement inside the borders of Nepal and India.

Following the 1962 Sino-Indian border war, the relationship between India and Nepal thawed significantly; India suspended its support to India based Nepalese opposition forces. Nepal extracted several concessions, including transit rights with other countries through India and access to Indian markets. In exchange, through a secret accord concluded in 1965, similar to an arrangement that had been suspended in 1963, India won a monopoly on arms sales to Nepal.

In 1969, relations again became stressful as Nepal challenged the existing mutual security arrangement and asked that the Indian security check posts and liaison group be withdrawn. Resentment also was expressed against the Treaty of Peace and Friendship of 1950. India grudgingly withdrew military check posts and liaison group, although the treaty was not abrogated.

In 1978 India agreed to separate trade and transit treaties, satisfying a long-term Nepalese demand. In 1988, when two countries were up for renewal, Nepal's refusal to accommodate India's wishes on the transit treaty caused India to call for a single trade and transit treaty. Thereafter, Nepal

took a hard-line position that led to a serious crisis in Nepal-India relations. After two extensions, the two treaties expired on March 23, 1989 resulting in a virtual India economic blockade of Nepal that lasted until late April 1990. Although economic issues were a major factor in the confrontation between the two countries, Indian dissatisfaction with Nepal's acquisition of Chinese weaponry in 1988 played an important role. Treaties and Letters exchanged in 1959 and 1965 which included Nepal in India's security zone and precluded arms purchases without India's approval. India linked security with economic relations and insisted on reviewing India-Nepal relations as a whole. Nepal had to back down after worsening economic conditions led to change in Nepal's political system, in which the King was forced to institute a parliamentary democracy. The new government sought quick restoration of amicable relations with India.

The special security relationship between New Delhi and Kathmandu was re-establishment during the June 1990 New Delhi visit of Nepal's Prime Minister K.P. Bhattarai at the invitation of Indian Prime Minister V.P. Singh. During the 1991 visit to India by Nepalese Prime Minister G.P. Koirala, the two countries signed new, separate trade and transit treaties and other economic agreements designed to accord Nepal additional benefits.

Exchange of high level visits has been the hallmark of Nepal-India relations during the past five decades. Indian economic assistance has played a key role in Nepal's development in the past. There are tremendous possibilities if further developing bilateral relationship in various fields. Nepal remains an important place for India's large-scale investments in capital, technology and expertise.

On the river waters issue Indian side agreed to send a technical team to Nepal to study the Bagmati civilization project, satisfaction was expressed over timely completion of the technically challenging task of the closure of the breach of Koshi embankment. To accelerate the implementation of Pancheshwor multi-purpose project, joint ministerial commission on water resources should expedite finalization of terms of reference for Pancheswor project. Progress on the Sapta Koshi High Dam and Sunkoshi diversion project and the Naumure project as per bilateral discussion is to be expedited.

On the security front, the Bilateral Consultative Group on security issues and the home secretaries of the two countries should meet frequently to enhance bilateral cooperation to effectively address all issues concerning security including cross-border crime. One of the major concerns India has with Nepal is the flow of fake Indian currency to India through Nepal. The other two concerns are Nepal being used for terrorist activities directed at India for anti-Indian activities. India's allegation has been that Nepal has not respected its sensitivities. A mutually accommodative attitude taking care of India's security interest, while fully respecting Nepal's sovereignty is the only way out to put Nepal-India relations on a sound footing. Actually Nepal should not allow its territory to be used against any of its two neighbors. It is essential to examine future prospects of Nepal-India relations from strategic and economic perspective. Nepal's economic development has been inextricably linked with India. India is the largest single partner in Nepal's foreign trade and Nepal's dependence upon India for essential commodities has been immense. It can be said that Nepal provides lot of scope for the establishment of joint ventures in large number of identified areas such as leather and skins, jute and carpet industries, cement, textiles, herbs, sports and hiking goods, pharmaceuticals, milk products, climate change and tourism, hydro-power, education and health care, food products, etc. A number of policy initiatives taken by India such as trade liberalization, utilization of river water, transit facilities, etc. indicate India's positive attitude towards Nepal. India's emphasis on sub-regional cooperation seems to be a departure from its insistence upon bilateral cooperation. Such an approach will help building confidence among smaller neighbors of India. India's initiatives should be taken in a positive direction by the neighbors like Nepal and should not be used in arousing anti-Indian sentiments for securing narrow political interests. Nepal will have to take measures for the promotion of investment friendly, enabling business environment to encourage Indian investments in Nepal. India on its part has to give priority to peace, friendship, cooperation, stability, economic development, socio-cultural relations rather than domestic politics of Nepal. Due to India's immense politico-strategic interests in the Himalayas, Nepal's small power psychology, its land-locked nature and excessive economic dependency upon India, a number of problems also arise in their bilateral relations. The two neighbors bear potential for long-term and mutually beneficial cooperation as well as strains and conflicts. How to

prevent the areas of suspicion and conflict and encourage spheres of cooperation and partnership has been a major challenge before the leaders of the two countries.

In the context of the evolution of SAARC as an important regional organization, the South Asian nations have much stronger basis for closer regional friendship and cooperation. Nepal and India can work together with better coordination in international organizations like the U.N., NAM, SAARC, BIMST-EC, etc. for the better future of the people of both countries and the world. The European nations with strong ethnic, cultural and linguistic differences and a history of bitter wars and mutual hatred have been able to rise above their past animosities in order to promote cooperation. It is imperative on the part of the South Asian countries to learn from such rare vision and statesmanship for promoting tangible cooperation. Nepal and India with so many commonalities have to take bold initiatives in terms of economic and technical cooperation so as to directly benefit the people of the two countries. This is the only way to uplift the living standards of our people, majority of whom are still denied even the basic needs of health, education, employment and shelter.

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China and Japan and Nepal's Core Interests

Ramesh Nath Pandey¹

Let me thank the Centre for South Asian Studies and the Konrad Adenauer Foundation for this opportunity to share my thoughts on two of the most critical bilateral engagements of Nepal's foreign policy. The Konrad Adenauer Foundation is a world famous organization and the conferences that you have supported in Nepal for the past one-year have been outstanding. I hope, under Mr. Tomislav Delinic, KAS will assist many more programs here in Nepal.

The themes given to me relates to 2 countries that are extremely important for us. It is a natural process for a forward-looking country to regularly define and redefine its national vision. Under this process, foreign policy and priorities of a country are determined or re-determined and efforts are made continuously towards strengthening relations with friends on the basis of mutual interests. After all, for any country, its national interest is of primary concern.

Even when the British Empire had colonised the rest of South Asia, Nepal was an independent nation and our history of international relations is oldest in this region. What is unique about our international relations exercise is that we established diplomatic relations with the United Kingdom 131 years before we did with our own immediate neighbours. The second country that Nepal established diplomatic relations with was the U.S.; India was the third, China the fourth and Japan the fifth.

Nepal's relations with the two Asian superpowers – China and Japan – that began at the people's level centuries ago is continuing both at the

1 Former Foreign Minister.

government and people to people levels guided by goodwill and mutual respect. What is noteworthy here is that Nepal's relations with these two countries have remained largely unaffected despite the changes in governments, regimes, and Constitutions inside Nepal nor the ups and downs and lingering bilateral problems between these two countries themselves.

Legends have it that Kathmandu Valley was a big lake in prehistoric days. When Manjushree came from China and saw a beautiful lotus flower blooming in the lake, he drained the water by cutting a gorge in the Chobhar hill and made Kathmandu Valley habitable. This is why during my official visit on August 17th 2005, I presented a statue of Manjushree to the people of Wutai Shan in Shanxi province. Chinese Buddhists regard Manjushree as the incarnation of Lord Buddha and Wutai Shan as his abode. The local people respectfully placed the statue inside a beautiful temple on a hilltop and hundreds of them quickly lined up for worship. This is simply an unforgettable incident of my life.

There are many such un-forgetful events during my 12 visits to China under various capacities which I cannot relate here due to shortage of space. But one aspect is significant; China has changed. Gone are the days when one could not distinguish whether the person cycling in a Peking street was a man or a woman due the same style of dress. Gone are the days when for months in a row no head of state would visit the globally isolated China. The economic prosperity achieved during the last six decades is unprecedented in human history. And this has come because of political stability and sound economic policies on the one hand and a relatively peaceful neighbourhood on the other.

All of us know that it is the world's second largest economy after the United States. It has had an average growth rate of 10 percent for the past 30 years. China is also the second largest trading nation in the world and the largest exporter and second largest importer of goods.

But the key question is that despite being an immediate neighbour, Nepal has not been able to take advantage from the economic and social progress and technological advancement of our Chinese friends. Call it coincidence that when China was in the list of poorest countries until 1950s Nepal had also just entered its modern period, but now there is a vast

difference amongst us. Global governance architecture is slipping away from G20 to G7 to G8. And now, G2 is emerging consisting of just U.S. and China. The rise of China has thus changed the world.

This development should be viewed in the overall context of Nepal-China relations in addition to the opportunities and challenges presented to us by the Chinese rise. I feel we need to strategize a few crucial points in relations to our future policy course towards China:-

- 1) An economically vibrant, politically important, militarily powerful and globally respected China can also be increasingly assertive as regards to its inherent security interests. Nepal shares a long porous border with a region that has historically been China's trouble spot. In my view, no matter which political system or political party emerges in the Nepali political variable, I seriously doubt whether anyone will venture into changing our long-standing policy of 'One China'. However, despite the massive economic development, Tibet remains a soft belly. And it is because of this that our geo-political significance has risen manifold. Squeezed from either side, we need to handle our foreign policy in a way that it becomes a strategic leverage rather than we turning into a playing field of conflicting interests of various countries.
- 2) Serious thought needs to be given over the fact that cold war between India and China that started some time ago has now reached a phase of 'war of words' with an inevitable clash of interests in their respective zones of influence. Long-term strategic interests of India and China and their desire to expand influence is further compounding regional security dynamic both in South Asia and South East Asia. Such a scenario has provided Nepal the opportunity for increase in standard of living with sustained growth from a low-income economy to a modern high income economy on the one hand but also exposed us to the risk of becoming a hotbed of regional competition. We have often heard from both Indian and Chinese leaders that there is enough space for both their countries to rise simultaneously. I hope they are right. These conciliatory stances adopted by these two rival powers augers well for countries such as ours. But we should always be watchful of the tone of Sino-Indian

relations which becomes tense during some periods and calm during others.

- 3) The Chinese have their own momentum of reacting and adjusting to changes in political equations inside neighbouring countries. They always talk and plan 10 to 15 years ahead of time. Deng Xiaoping had once said, "Keep a cool head and maintain a low profile. Never take the lead - but aim to do something big." I haven't seen any significant change in this behaviour from Chairman Mao to Jiang Zemin. Neither do I see this pattern to alter even after the leadership is handed over from President Hu to Vice President Xi Jinping in a few years. Only by becoming aware of their style of functioning can we reap the possibilities that open up in a regional environment that is becoming challenging with the strategic competition of two Asian giants both of whom happen to be our neighbours. To borrow President Obama's words, "India is not just a rising power but has already risen." Such a powerful India with its dominant position within Nepal will obviously be cautious of any Chinese overtures to minimize its traditional leverages within Nepali society and polity. Hence, utmost caution is required from our political leadership.
- 4) Focus from begging bowl diplomacy to building infrastructure connectivity towards China is the need of the hour. The train from mainland to Lhasa is now being extended to Shigatse. When I met President Hu Jintao in 2005 in Beijing, we discussed on the importance of pipelines and rail connectivity towards the Nepal border. Since then, every government delegation from Nepal that has gone to China has repeated the same request. The second road link, railway and additional air connections will boost trade and tourism and open a whole new vista of opportunity for our economy. Let me stress that the transit state concept is still valid as China has emerged as India's largest trading partner and India the 10th largest trading partner for China. Their bilateral trade is likely to cross US \$ 60 billion this year and Nepalese territory remains the shortest connection from North India to Tibet.

Now, let me speak about a country which is very close to my heart. For the past 54 years, Japan has relentlessly supported Nepal in our economic,

health, social and infrastructure development. Japan's assistance in road construction, building of hospitals, modernization of our airports, human resources development, environmental conservation - to name just a few have been remarkable. Lately, they have also supported us in our peace process. Yet they have never asked anything in return. There are lots of similarities between us in terms of culture, religion and even in terms of sentiments. The relations between Nepal and Japan started after a Zen Buddhist scholar Ekai Kawaguchi visited Nepal on January 26, 1899. He spent his two and a half years here. After the conclusion of his visit in 1903, a group of Nepali students visited Japan for the first time for abroad study. In appreciation of Kawaguchi's contribution to establishing people to people relations, as Minister for Information and Communications, I had the privilege to issue a postage stamp on December 8, 2002. Another un-forgetful event of my political career!

Unfortunately, Japan has been going through a prolonged period of political instability after the Koizumi administration. Each government of Prime Ministers Abe, Fukuda, Aso and Hatoyama survived for just one year each. Its economy has been on the decline for many years. I feel that the following main thrusts are going to determine Nepal-Japan relations in the foreseeable future:-

- 1) At a time when ground reality of Asia is witnessing major changes, Japan for the first time after World War II has arrived at a turning point. With its known strategic, political and economic supremacy not just in Asia but in the whole world, the strategic impact of such instability becomes a matter of serious concern. It is a graver concern for countries that depend on Japan's ODA and other forms of assistance.
- 2) The campaign called 'efforts to revive nationalism' initiated by Prime Minister Yoshiro Mori on June 13, 2000 has been encouraging the young people of Japan. The emerging pressure of nationalism among the people was manifested in the 2009 parliamentary elections. Now Japan is seen on the track to carve a decisive position for itself through constructive roles. Japan has made a special position for itself in the world community for its leading role in addressing global challenges including climate change, nuclear

proliferation, and poverty alleviation in third world countries. As it becomes a major party in the emerging power balance and security environment of Asia, Japan's significance and role will increase further in the days to come. We need to find our own position in this new power balance that is evolving.

- 3) For decades, our relations with the Imperial Palace was an important element of the strong bond of closeness with Japan. As a result, the then Crown Prince and present Emperor Akihito and Empress Michiko visited Nepal twice. Crown Prince Naruhito, Prince Akishino have also visited Nepal. After the declaration of a republican order in Nepal, these highest level visits not only from Japan but from other countries too have stopped completely. To add to our despair, the defeat of the LDP party in the parliamentary elections in 2007 resulted in political downfall of many of our old friends. But we have been slow in building relations with new political leaders from the DPJ party. Japan is critically important for our tourism and is also one of our major trade partners. I feel, attention is required to further expand our relations in all possible spheres.

All of you here are aware that we are at a very difficult juncture of history. At a time when new regional and a new world order is being established, there should be substance in our foreign policy matched with swift action to remove deficit of trust with our friends. Our partnership with one must not be seen as adversarial to the other.

And most importantly, only our national interest which is the main theme of this conference should guide our conduct of international relations exercise.

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Nepal in the United Nations

Shailendra Kumar Upadhyaya¹

Though Nepal aspired to become the member of the United Nations even during the Rana regime and again after attainment of democratic system in 1950 it took another five years to join the United Nations. It shows Nepal's faith in the necessity of a world organization as a savior of the freedom of small states and an institution which was "determined to save succeeding generation from the scourge of war which brought untold sorrows to mankind".

In the eight years of its existence, the United Nations discovered the root cause of aggression and war and found that deprivation of basic needs of the people, the neglect of Human Rights and the absence of freedom in vast parts of the world was creating threat to international peace and security.

Nepal was admitted to the United Nations in October 1955. At that time the world was engulfed in the Cold War which created great hurdles in the functioning of the United Nations in its task of maintaining international peace and security.

Nepal realized the necessity to strengthen the United Nations as the only hope to save the mankind from grave disaster. Nepal seriously engaged in furthering the goals set by the U.N. Charter.

Anti Colonialism

In early years, when Afro-Asian countries were emerging to their independent statehood, Nepal took active interest in their favour and in collaboration with 43 states moved a resolution in the fifteenth session of the

¹ Former Foreign Minister and Former Permanent Representative to the UN, New York.

U.N. General Assembly over the declaration of granting independence to colonial countries.

Nepal's strong voice against colonial suppression and terror established such credibility to it that in 1974, U.N. decided to send an enquiry commission to look after the Portuguese atrocities in Mozambique. Nepal headed the five nation enquiry commission.

Anti Racism / Apartheid

South Africa was a founder member of the United Nations. Yet, it ignored the saying "All men are born equal" and imposed the policy of apartheid. Nepal expressed strong resentment against apartheid - the worst form of racism. Nepal repeatedly expressed apartheid as repugnant to the principles of the charter of the United Nations and against the Declaration of Human Rights. The issue of racism was condemned by Nepal as a threat to world peace and security. Nepal took the initiative along with 26 countries to call the attention of the UN Security Council to intervene in the act of killing in South Africa. Nepal actively sponsored the creation of a UN special committee against apartheid and was for quite sometime rapporteur of the committee.

Middle East Situation

War in Korea was a bitter test of the role of the United Nations in maintaining peace. U.N. had successfully divided the country at the 38 parallel to deescalate the danger of active belligerency.

However, Middle East had emerged as another hot point of belligerence that could have escalated into global insecurity. The state of Israel was created by the United Nations which was not recognized by the Arab states and a number of newly independent and active members of two United Nations.

Nepal took a firm position on this issue. It stood against the violation of the territorial integrity of any nation and stood in favour of the right of a nation to exist in peace and harmony. At a time when relations with Israel was looked upon by most Asian states as a betrayal of Non-Aligned Movement, Nepal resisted the pressure by arguing that reality of international

development could not be ignored. Nepal had established diplomatic relations with Israel and stood firm in favour of justice to the Palestinian people and their right to stateship. Nepal unflinchingly supported the UN security council resolution 242 and 338 which recognized the existence of both Israel and Palestine.

Disarmament

World peace and security could never be maintained as long as states were engaged in producing weapons of mass destruction. The cold war led by U.S.A. and the USSR was creating danger of another war. Nepal stood firm in favour of halting of atomic and nuclear arms and pleaded for general and complete Disarmament. Nepal signed the Nuclear non-proliferation treaty and supported all efforts made by various nations to create Nuclear free zones. Nepal as a founder member of the non-aligned movement, actively participated in debates and discussions in order to control the arms race and reduction of nuclear weapons and weapons of mass destruction.

Peace Keeping

Nepal had firm conviction that by any effort, by any state to settle dispute by means of military activity could emerge into wider conflict and endanger world peace and security. This led Nepal to contribute its support to any peace keeping operation.

In 1958 Nepal started its contribution by sending a few army officers to the United Nations Observer mission in Lebanon and later on the India-Pakistan border. In 1974, after the Yom Kippur war, for the first time, large number of Nepalese soldiers were deployed in Sinai to avoid confrontation between Israel and Egypt and other Arab states. In last 36 years, Nepal has participated in almost 29 peace keeping operations and the Nepalese army has gained great reputation as effective peace keepers.

Economic Issue

Deprivation of basic human needs is one of the prime causes of discontent, terrorism, rebellion and war. Based upon this finding of the world body, Nepal took active interest in North South dialogue to establish a new international economic order.

Nepal has been leading the forum of least developed countries. Nepal was active participant during the UNCTAD conferences and has been active participant in the group of 77 of the developing and least developed countries.

Land Locked Issue

The right of transit and uses of ports of the transit counts has always vexed the land locked nations. Nepal's active role in the Law of the Sea Conference II of 1958 and later in the UN Law of the Sea Conference which lasted for almost a decade played an active role to enhance the rights of the land-locked and geographically disadvantaged countries. Nepalese delegation led the group of land locked and geographically disadvantaged countries during the Law of the Sea III conference.

Common Heritage of Mankind

In the United Nations Law of the Sea Conference-III Nepal submitted a resolution to enhance the rights of developing countries which drew the attention of the international community. However, the opposition of countries with long coasts who benefited with Exclusive Economic Zone divided the countries in the group of 77. However, the Nepalese proposal of Common Heritage Forum should not be considered buried. This issue has to be taken up whenever the occasion arises. Nepal's consistent support to the distressed and advocacy for international peace, harmony and justice made her a trustworthy nation and so Nepal was elected to the U.N. Security Council twice within a period of less than three decades.

Nepal's faith in the United Nations was well expressed by the late King Mahendra who while addressing the United Nations General Assembly had said, "the only alternative to the United Nations is a stronger United Nations."

Our peace keeping forces have been doing commendable work in disputed areas. However, Nepal itself had become a victim of armed conflict for ten years. After an agreement between the rebels and the government to end conflict and further the peace process in the national interest, the United Nations was asked to send a mission in order to help the peace process. Thus UNMIN was formed.

UNMIN had been doing its job but the peace process in order to take a logical conclusion had to depend in the political parties in the government and in the opposition to take the challenge seriously and faithfully. The political parties failed to keep their promises to the people to solve differences. UNMIN's role was only to facilitate the process which solely depended upon the activity and understanding of the political parties.

Meanwhile, the unwise move of the Army Chief and undiplomatic statements of the then Defense Minister and the Prime Minister pushed the UNMIN into dispute. Ultimately, UNMIN packed-up in January 15, 2011.

Who is going to take-up the role of UNMIN? How will the peace process conclude logically? This question has to be addressed seriously to satisfy the people who are longing for peace in the national interest. Let us hope that changes in the political atmosphere may address the question seriously and faithfully and re-consider the continuation of UN role in the peace process in any form.

Role of Intelligence: Crucial to Maintaining Security

Lt. Gen. (retd.) Sadip Shah

Introduction

Modern history is replete with examples of failing leadership that stem from the inability to collect, analyze and accurately decipher intelligence. In contrast, the artful collection of information and perfect interpretation of intelligence has repeatedly resulted in sound decisions.

At the level of a Nation State, major catastrophes have been averted and disasters effectively managed through the provision of timely and quality intelligence to key decision makers. Although a tendency to romanticize global intelligence activities with those of the likes of James Bond at one extreme and Kiddon and CIA at the other is tempting, the fact that intelligence systems remain a core enabler of the democratic system of governance should not be lost in translation.

Intelligence is processed information given a particular context, space and time, which highlights the choices available to decision makers, including those at the Head of the State's machinery, to make informed decisions. However, just as accurate and timely intelligence enables responsible leaders to formulate and implement sound policies; poorly constructed intelligence can easily have the opposite effect—the second American venture in Iraq and the inability to locate the WMD, being the most obvious example.

Like most other systemic sub-components, intelligence systems have also evolved over time. With the exception of human interventions, the exponential rate of technological advancement has placed tools that not long ago were the exclusive properties of resourceful agencies, in the hands of ordinary consumers. The same advancements in turn, have placed even higher technical tools in the hands of intelligence practitioners.

However, despite the adaptive transformations in the tools of the intelligence trade, it should be noted that ultimate end of all intelligence endeavors remain constant – the ability to remain ahead of one's adversaries in every situation and circumstance. The subject of the paper is the exploration of intelligence in a particular context – that of its application as an instrument of National Security and its functions as a vital enabler of actions and reactions in support of democratic governance.

Understanding Intelligence

Intelligence is considered the most important national instrument of power, and its ultimate purpose is to enable national policy decisions at all levels to be optimized. It also involves decisions about risk versus gain, the adjustment of means to end, implanting innovation with possible tradecraft, application of technology, and questions of public tolerance.

In the context of National Security, intelligence may be defined as the product derived from the systemic exploration of various information-sources, relevant to foreign and domestic security threats. The end – product of the intelligence cycle is disaggregated information which permits informed decisions on either forward looking events (threat perceptions and emerging risks) or current events (containment of ongoing crises, mitigation and known risks) to occur.

Dealing with such a sensitive subject as intelligence requires highly trained, vetted and efficient organization. It should be able to: identify new threats, reveal specific deficiencies of the opponents, maintain austerity in the use of resources, spread clues to mislead the opponent and assist in the formulation of an apt political strategy to protect National Interests at all times. However, it should neither raise false alarms to distort or deny recognition of a real threat; nor discard investigations on any suspicions.

Today even wars demand a different approach in the acquisition of intelligence. Unlike in the era of “Industrial Wars,” the prevalent new form of war is more complicated. We seem to conduct our conflicts and confrontations internally inconclusively and timelessly with non-state entities, in the presence of the media and with profound dependence on technology.

Yet intelligence can rarely be perfect and unambiguous; and there are always reasons to empathize for misinterpretations. Intelligence may correctly warn of an adversary's intention to strike, and even anticipate the timing, but guess wrong about where or how. Therefore efforts for prevention of inaccuracies and contingency planning as preparation should failure appear, must go hand in hand.

Hence, a nation no matter how invincible cannot remain invulnerable. The world's most sophisticated intelligence system could neither warn nor prohibit the Sep 11 attack. The four principal weaknesses identified by the 9/11 Commission were failures in: imagination, policy, capabilities and management. It is said that the US Intelligence System, failed to provide their Decision Makers a capacity for precise targeting, strategic perspective and options for both defensive and offensive counter-surprises.

Types of Intelligence

Intelligence targets could be transnational, regional or national. Those targets may be pursued under the following types of intelligence:

- a. Political Intelligence encompasses foreign and domestic politics. Most conflicts today are internal and their resolution may be through a coup, election or civil war.
- b. Economic Intelligence is concerned with the strength and deficiencies of national economies such as natural resources, pricing of key resources, impact of corruption, money laundering, drug and small arms trade and terrorist financing.
- c. Sociological Intelligence deals with the relations between the political, religious, ethnic groups and the theme of national cohesion.
- d. Scientific and Technological Intelligence is specially directed towards development that has security concerns such as nuclear and chemical capabilities.
- e. Military Intelligence is utilized to know the capabilities of the adversary, to proffer military assistance and to assess the balance of power.

Sources of Information

Information and intelligence are crucial elements in any decision making process, especially in the use of force. Intelligence activities seek to: forge selective partnerships, recruit sources based primarily upon collective opportunities, cover grey areas and make estimates, but always remain unbiased and apolitical.

Information is available from many sources – intelligence services, the military, diplomats, government agencies, international bodies, NGOs, commercial institutions, IT and the media. The source of the information collected should always be verified.

Open sources consist of widely available information and details, grey literature, targeted commercial data and individual expert findings and their deductions. Classified sources include materials collected or developed using insidious methods including covert and clandestine activities.

Major information gathering techniques are through electronic intelligence, signal intelligence, imagery intelligence and human intelligence. Superior technology will have to be utilized for intrusive domestic surveillance systems to beat countermeasures. Surveillance is in itself an important instrument of pacification, intimidation, obfuscation, propaganda and control too.

Human intelligence, more commonly known as HUMINT, is fundamental to penetrating the targeted organization, learning their plans and identifying the perpetrators. However, as a precaution, employment of clandestine HUMINT should be considered as the final and critical option.

Whatever the collection and analytical capability and sophisticated technical excellence intelligence agencies may possess, without solid counter-intelligence the program will end up as the recruiting ground for adversarial agencies to hire spies.

Counter-intelligence embraces those ranges of threats that would cause unthinkable harm to our core national economic and security interests. It pursues the task of exposing spies, deployed to conduct espionage, sabotage and subversion against us, as well as learn the potential of the existing intelligence services of the world.

Deception and denial are also expedient activities under counter-intelligence with the same basic aim of protecting own secrets. Deception is offensive and provides truth with an armor of lies to mislead and confuse. Denial involves protection of lies with an outer crust of truth. Both are precious cornerstones of intelligence service work.

Furthermore, there is Covert Action which is designed to support a policy objective while keeping the identity a secret. The conduct of Black and Grey Propaganda; paramilitary or political actions to undermine a regime; supplying lethal military assistance illegally; economic blockades; disinformation; and targeted killings also referred to as Black Operations, fall under Covert Actions.

Intelligence Process

Intelligence process begins and ends with the Decision Makers who need its support. Successful performance requires a locus in the Government for deciding who needs to be getting intelligence inputs on threats and opportunities at any given time.

The process initiates:

- a. Planning, direction and tasking by the Leadership.
- b. Collection, which can be defined as the purposeful acquisition of any information that may be desired by an analyst. Collection activity can take any of several overlapping forms: open source collection, clandestine collection, human source collection, technical collection and interrogation.
- c. Collation process involves comparison of details, conversion through interpretation, translation, decryption and segregation into headings.
- d. Analysis and Production involves integration, evaluation and analysis of all data and also elimination of discrepancies and contradictions.
- e. Dissemination entails the distribution of the valuable intelligence product to the concerned Policy Makers whose needs have triggered the acquisition of the information and the ensuing process.

The process may produce actionable intelligence such as: a statement of facts; an evaluation of capability of a force; a projection of a likely course of political events; or an analysis of the potential and intention of a non-state/terrorist group.

The Nepalese Security Environment

Prior to 1990, the existing Intelligence Agencies were totally focused and functioning professionally and the output derived was genuine, accurate and untainted. Unfortunately, the National Investigation Department (NID) was targeted and neutralized by successive political leaderships without recognizing its impact and relevancy for good governance. Gradually, the unaddressed grievances that plagued the nation were highly sensitized and exploited by the Maoists to gain support of the suffering masses.

During the insurgency, the NID did provide substantial intelligence even while facing the adversity caused by inadequate resources and lack of self-protection. Their analysis of the situation, though very accurate did not receive the due attention because the incumbent leaderships failed to comprehend the difference between information and intelligence. Till today, those deprived people remain exposed to more grievous maladies while succeeding Governments have remained oblivious of the need to resuscitate the NID for their vital contributions.

At present, NID is still responsible for all aspects concerned with National Security Affairs; the Directorate of Military Intelligence is assigned to facilitate military operations; the Criminal Investigation Department together with the recently formed Central Bureau of Investigation of Nepal Police provide law and order and crime-related intelligence; and the Armed Police Force Intelligence Department supply intelligence inputs to fulfill their allocated roles. The Intelligence inputs are supposed to be further collated and analyzed by the National Security Council and reported regularly to the Head of the Government for due decisions. Unfortunately, the present deplorable state of security distinctly signifies that the importance of intelligence has been totally discarded by the political leadership.

In this present protracted transitional phase, unintentional lapses and willful neglect of the political leadership seems to be swiftly eroding the Nepalese security environment. Acute deficiency of genuine, pragmatic and

patriotic statesmanship has confined the Nepalese psyche' in desolation. A politically polarized and indecisive Constituent Assembly, a socio-culturally disintegrating society, absence of nationalism in the political leadership, stagnating economy, encroachment of Nepalese territory, rampant armed crimes, unfocused foreign policy and the "arm-twisting" external interferences in the sovereign affairs of the nation have totally demoralized and paralyzed the judicial, bureaucratic and law enforcement institutions. Consequently, as crime syndicates rule the roost, the beleaguered citizens are compelled to bribe even while paying due taxes to the Government.

Additionally, the new era of globalization has not only ushered in unprecedented levels of economic growth, commerce, international migration and pluralism, but also facilitated transnational actors that thrive on illegal activities. Transnational criminals are non-state actors that operate across international borders and take advantage of the prevalent legal and security ambiguities. Such actors prefer to establish their operational bases in nations with frail security conditions, and visible symptoms substantiate their presence in Nepal.

There are scenarios of grave concern that needs to be highlighted as a pertinent early warning to the political leadership. Establishment of transnational criminal bases and illegal migrations along the open borders may trigger stern consequences. Stronger neighbors may be inclined to react against asymmetric transnational threats in a weaker nation's courtyard, compromising national prestige and sovereignty. Also illegal migrations instigated by unregulated borders and lenient immigration laws to safe shelters may provide stronger hosts an excuse either to launch a humanitarian intervention with military force or demand undue political or economic concessions.

Hence, political leadership should be mindful of such serious state of affairs and all intelligence institutions and mechanisms should be urgently reinforced with proper manpower, legal provisions, appropriate policies and decisions, and adequate resources.

Guideline to Intelligence Policy

The utility of intelligence activity depends on the extent to which it aids national decision makers in policy making, planning, assessing conflict

situations, warning and monitoring compliances to the laws, treaties and agreements. It is the responsibility of the leadership at the helm to task the intelligence agency. Should intelligence fail, decision makers must also share the blame because they are integral to its function.

Intelligence requires forward thinking and creativity about all the issues affecting national security affairs. In order for the Intelligence Agency to gain efficiency and objectivity, decision makers while stipulating the Intelligence Policy need to be reminded of:

- a. The universal National Security “mantra” is based upon deterrence and defense. The first line of defense against national threats, accordingly, is to develop and establish a functional Intelligence Network to warn the Government in time.
- b. Intelligence Policy must confirm to the requirements of the existing political culture, legal restraint, accountability as well as guaranteed access in exposing the grievances and weaknesses prevalent in the nation that are detrimental to National Security.
- c. A budgetary constrained intelligence system can neither be effective nor responsive to the plans and aspirations of the state.
- d. Intelligence Services’ success must be gauged by its timeliness, efficiency and accuracy with which it supports National Security Decision Making – not by the number of secrets it collects or the truth of the analysis it generates.
- e. The Decision Makers must support clandestine collection and covert action programs as a national prerequisite for aggressive acquisition of information, and not shy away from it.
- f. Using intelligence for political leverage or rivalry among political leaders runs counter to the provision of unbiased input to the concerned Policy Makers.
- g. Though intelligence activities if kept secret from public scrutiny may lead to contradictory accounts of the same events, concern must be expended on the exposure of the sources, methods and substance.

Recommendations

Firstly, a complete analysis concerning threats to National Interests should be conducted by security experts and the optimal methods of monitoring, containing and confronting them must be decided. A priority for protecting various National Interests must be ascertained through a highly structured assessment. Then only can suitable objectives be identified and essential resources earmarked.

The strategic objective is to establish a robust Internal Intelligence and Security Agency at the national level to identify the internal threats and risk exposures to various National Interests and then formulate a “Master Plan” in countering them. The Agency must be provided adequate legal framework, proficiently trained manpower, planning and operating authority, highest affordable level of state-of-the-art equipments and technology, maintenance services, training facilities and lastly, lavish resources.

The National Investigation Department has to be placed directly under the Prime Minister’s Office to be able to provide dispassionate intelligence concerning good governance. The present organization severely lacks adequate strength, support and ownership of the Government. It is rather ironic that the agency is directly under the Ministry of Home. It should be the “Roving Ears and Eyes” of the nation so that the weaknesses and maladies afflicting the “ruled” as well as the threats to National Security Affairs are directly reported to the “Ruler”- the Executive Head.

Directing the intelligence process, which is a command function, and operational planning are interdependent. Intelligence suggests objectives, course of action, type and level of force to be used and necessary contingency planning and appropriate resources. Whether to pre-empt the adversary, dislocate, disrupt, deceive or to wait in strength pretending you are unaware, are the recommendations expected from the agency.

The intelligence operative must possess a very high level of personal integrity, courage of conviction, the ability to function independently under intense duress, innovation and self-discipline. Maintenance of morale in the organization is equally indispensable because popular recognition for creditable work and observation of their actions by the higher echelons will never be visibly possible. Furthermore, problems of internal command and

control are greater due to wide dispersion of individual agents and long intervals of absence.

Leadership in an Intelligence Agency should be understood as a capacity for wisdom, clear-headed vision, courage, restraint and decisive actions. A competence to embrace failure as well as innovation as two sides of the same coin is needed in the leadership. The essence of leadership of an Intelligence Agency is not to be the Captain to go down with the ship, but to repair or purchase a new boat.

Furthermore, the following reforms should be inculcated:

- a. Streamline the chain of command permitting risk management at low levels of command and encouraging partnership among civilian agencies.
- b. Enhance the interagency teamwork domestically and abroad.
- c. Use the national leadership to coordinate the budget, program and open source agencies.
- d. Judicial control must be relaxed over the National Intelligence Agency for maintaining surveillance over internal security matters.
- e. Address counter-intelligence challenges by developing greater capacity to take offensive measures.
- f. The career of an Intelligence Operative is very risky and often thankless. Therefore a lot of incentive and guarantees are vital to attract able manpower.

Dichotomies in Intelligence Operation

The National Security Decision Makers and the leadership of the Intelligence Agency often face situations of conundrum while conducting Intelligence Operations.

- a. A single Intelligence Agency possesses the probability of manipulating, or even monopolizing the National Leadership and may function as a maverick. However intelligence needs to test common wisdom from various angles. On the other side, uncontrolled growth of Intelligence Agencies leads to: duplication in effort; competitiveness instead of cooperation; penetration of double

agents; and the inability to distinguish between fact, fiction and deception.

- b. It is perilous to concentrate on the future and ignore the immediate threats as well as to neglect the long-term and confront the short-term threats. Threats should never be overlooked; it is the priority and the resources at hand that decide the task.
- c. The best intelligence systems involve maintaining state secrecy through deception and the use of clandestine efforts to steal secrets of the adversaries. However, when such systems are turned inward to address foreign threats to vital domestic interests, it is concerned as threatening the very institution of democracy and the representative Government.
- d. Governments may consort with criminals, influence elections, listen in on private conversations, eliminate adversaries, withhold information of the public or alternately release it at some cost to the source or methods used to collect it. These are illegitimate decisions that may be executed under the pretext of preserving National Security.
- e. Law Enforcement depends upon coercive power and the law. They gather hard truth as evidence and demand publicity. Intelligence activities refrain from domestic politics, remain apolitical and demand secrecy to protect its sources and methods. However, both the institutions must collaborate to maintain National Security.
- f. In a democracy, the State's interest in maximizing power for National Security purposes contradicts with its interest in preserving the civil liberties. With international terrorism plaguing the nation, even the US is debating the need to reconcile intelligence requirements with civil liberties. The Intelligence Agencies also feel the need to be able to investigate domestic suspects and seek proper legislation to harmonize between the Intelligence and the Law Enforcement Agencies.
- g. The National Intelligence Network needs to be extensive for good governance and the need for double employment is a necessity to ensure proper surveillance under cover.

Conclusion

Let me illustrate the significance of intelligence with an example. Sun Tzu, the ancient Chinese Military Strategist in - “The Art of War,” has stated that superior intelligence with superior strategy can achieve victory with less cost on the battlefield perhaps avoiding battle altogether.

National Intelligence Agencies with their working culture reflect the level of morality existent in that nation. A nation cannot survive devoid of a functioning Intelligence Agency; that Agency cannot operate proficiently without a strong sense of nationalism amongst the citizens and total support from the Government; and the Statesman will fail to govern successfully without the art to gain, assess and utilize intelligence prudently. It is not only legitimacy, but also competence based upon a high level of intelligence capacity and transparency that are decisive attributes to determine the fate of a Government. Therefore intelligence is power.

The Intelligence Agency should function as the shadow of the Bureaucratic, Judicial and Legislative Branches as well as the Civil Society, not as an oversight mechanism, but as a preventive and remedial national instrument in support of good governance. It must function as the focal point at the National Level to analyze and disseminate intelligence on a need to know basis. Then only will proper focus in governance be maintained and national credibility preserved.

Democratic Control of any national instrument of power is an indispensable element for the sake of stability, security and democracy. The Intelligence Agency must strive to restore and enhance the trust of the people. Simultaneously, the Civilian Leadership should also develop its knowledge, proficiency and skills to direct and monitor the Agency too.

If any adversary intends to pressurize a nation to be a fundamentally unworkable construct, it will first neutralize the Intelligence Agency of the target nation. On the contrary, to expose a nation's intelligence institution to external lucrative attractions is equally detrimental to National Security. The most devastating step would be to send your agents abroad for training and compromising their identity and capability.

Certain notions about intelligence need to be transformed too. Intelligence cannot be treated as secrets always. Decentralized intelligence operations as well as independent and direct reporting channels need to be established to save time for swift decisions and actions. Technology must be accepted as a requisite “Force Multiplier,” and intelligence must be used not only to counter threats, but also to discern and exploit opportunities.

The future challenges to Intelligence Reform are:

- a. Use of open source which is available as a fast universal access – has a downside. In the age of PETAFLOP speed, the Intelligence Community may be pressed to produce its own assessments more quickly and without sufficient verification and critiques causing discrepancies.
- b. Intelligence Community has already found itself competing with non-government and media groups for accurate assessments of rapidly unfolding events.
- c. The effort to retrieve, translate and exploit open sources will require significant resources.
- d. Intelligence networking must transcend international borders equipped with modern technology regardless of the financial burden. Lack of resources as a logic for failing to produce intelligence concerning the security of the nation will just not be acceptable.

Therefore intelligence has changed from a game of amateurs to high-level professional business experts. The manpower must be highly intelligent and motivated to improve their responsiveness, flexibility, swiftness in action and stealth to acquire real time intelligence – so critical for good governance.

The dedication of an agent to such a risky service is reliant upon the norms and values instilled in the person, the benefits he has accrued and the guarantees that the National Leadership with a vision, has been able to express to him convincingly. Usage of their achievements will motivate them to take graver risks in their operation.

The ideal condition for the availability of accurate intelligence in abundance would be when every citizen is prepared to serve as: a soldier

ready to defend the nation; a diplomat ready to represent the nation abroad positively; and a spy ready to collect and report information that deems to threaten his/her nation. Then just superimpose the capability of the National Intelligence Agency for the nation to remain totally secure, peaceful and prosperous.

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Law Enforcement in Post Federal Nepal

AIG (retd.) Rabi Raj Thapa

Introduction

Nepal Police and Armed Police Force are primarily accountable for the maintenance of law and order, peace and stability of Nepal. In addition, there are many oversight bodies that influence the operation of various legitimate state security actors like Nepal Police and Armed Police Force and other actors with questionable legitimacy such as People's liberation Army (PLA); non-state actors like Young Communist Leagues (YCL) and more than 109 splintered armed and unarmed political-militant/criminal outfits claiming to be the freedom fighters of regional and ethnic self autonomy. It is evident that the success or failure of the Post Federal Nepal will depend upon three major factors; i.e. (1) comprehensive peace treaties and agreements between the government and other ethnic and political stakeholders since Second People's Uprising. (2) Constitution building, and (3) Maintenance of law and order, internal peace and security by state security agencies like Nepal Police, Armed police Force and National Investigation division ; their organizational, functional credibility and effective law enforcement. The most importantly; to reiterate Michael C. Desch, the success of these internal security apparatus largely depend upon the success of the oversight bodies, civilian control of the security apparatus, experienced (honest, loyal, and patriotic) political leaders, unified civilians, objective control of the security agencies, unified military, outward orientation, and convergent ideas and so on. Nepal Police has a 56 year long history of both praise and condemnation, politicization and political manipulation, political vengeance and victimization. Armed Police Force, although new compared to Nepal Police is credited and considered to be an integral law enforcement agency of Nepal was created in 2001. The major challenges of Federal Democratic Nepal are national political

consensus and political stability that will largely depend upon security, maintenance of law and order, rule of law and respect for human rights. The success of the Federal Democratic Nepal will largely depend upon the willingness and ability of the law enforcement agencies to evolve and transform its traditional and subservient centralized system into a more professional and people owned community based federal law enforcement system to suit Post Federal Democratic Nepal.

Since the creation of a unified and greater Nepal, it was predominantly Nepal Army that used to function as external and internal security organization and for law enforcement. Later, the Rana rulers and local administrators called BADA HAKIMS (magistrate or the big boss) had developed local indigenous law enforcement apparatus similar to Kotwali, Thanas similar of Colonial India to assist them to the maintenance of peace and security, law and order, revenue collection, jail administration and penalize the law breakers etc. It was only after the promulgation of Nepal Police Act -1955, the government of Nepal was given a centralized national law enforcement organization called Nepal Police Force. The structure and functioning of Nepal police was more or less similar to Indian Colonial Police of the British India. The personnel of the newly formed Nepal Police Force comprised of the freedom fighters, retired Indian Gurkhas and political militant cadres who were more conversant with regimentation and war than law enforcement and policing. Remarkably, Nepal Police Force (later called Nepal police only) has survived against all odds and challenges through all political change and upheavals. Nepal Police has survived and served the Panchayat Raj of King Mahendra, Constitutional Monarchy of King Birendra and the Executive Rule of King Gyanendra. After the political change of First Jana-Andolan (People's Uprising) - 1990, Nepal Police was labeled as the remnants of the old regime and their vigilantes commonly known as "MANDALE" (like Hitler's GESTAPO of German era). It was vehemently condemned as the instrument of terror and suppression by the political parties who succeeded old Panchayati regime. Subsequently, an investigation commission known as "The Mallik Commission – 1991" was formed by the new government to identify and penalize law enforcement officers of the former Panchayat government. In other words, the overall objective of the Commission was to suggest the government ways and means to democratize and professionalize

Nepal Police. But the commission report was never made public and its recommendation was never implemented. By that time, Nepal police personnel and its organizational heads had already developed a new police culture and strategy for survival by surrendering their authority, legal mandate, discretionary powers to the subjective control to civil authority and dominant political parties. It culminated into a very unhealthy precedent of political manipulation and application of the law enforcement agencies for the political manipulation of the political party in power. Thus Nepal Police succeeded to win the hearts and minds of the democratic political leaders and their ruling government instead of the people. Hence, Nepal Police lost a great opportunity to reform, evaluate and restructure its organization to make it a professional modern and community oriented policing.

After the First Jana-Andolan - 1990, Nepal Police was enlarged from around 25,000 to 46,000 strength with slight altercation. But the objectives, structure, operational procedures and enforcement style of Nepal police remained the same. During this time, India and even China specialized and professionalized their law enforcement agencies while Nepal was content with the same old traditional law enforcement organization based on central command and under the subjective control of the home secretariat and home ministry. When the intricacies of multi party democracy emerged in Nepalese politics, it lost control and balance due to the loyalty and inclination of its higher police echelons to the rightist or leftist political parties that resulted in a series of court cases, dismissal and reinstatement of police chiefs and officers of the highest police ranks. That tradition is still very alive and effective till date.

In fact, even after the political change under multiparty democratic government, Nepal Police could not get rid of its old traditional passive - punitive and repressive law enforcement trend and practices. When the Communist Party of Maoist (now United Communist Party –Maoist) declared people's war against the democratic regime in 1996, Nepal Police adopted repressive campaign strategy infamously called ROMEO OPERATION, and KILO-SERA OPERATION in 1997 that pushed indifferent non-partisan people to join Maoist insurgents against the government. When the Maoist insurgents gained strength and momentum Nepal Police was weakened by political highhandedness, political interfe-

rence and intense politicization of the security agencies including Royal Nepal army.¹ As the conflict escalated, Nepal Police was compelled to vacate its remote police posts located in the insurgent affected areas. With the loss of life and property and the low-level of moral and motivation of Nepal Police, the government was compelled to create Armed Police Force (APF) in 2001. The establishment of Armed Police Force was initially resisted and labeled as a force created to repress Maoist insurgency. But later, it proved to be a timely action by the government which played a crucial role in balancing and stabilizing Maoist pressure to a great extent. By now, APF has established itself as an integral and important part of national security, internal law and order, and most importantly, as a border security force.

During insurgency period of 1996-2006 the security and law enforcement agencies were alleged of gross human rights violation and culture of impunity that may be partially true but, in fact, it was a combination of propaganda, and political maneuvering. This was grossly intensified during the direct executive rule of the King Gyanendra. After the political change of 2006, a short-sighted political decision made by the new government helped the Maoist combatants and the Young Communist League (YCL) to claim themselves as parallel to the legitimate state law enforcement agencies like Nepal Police. That badly damaged the law enforcement situation all over the country. The new government after Jana-andolan suspended top echelons of Nepal Police, Armed police and National Investigation Division, alleging them of using excessive power during popular People's Movement – II – 2006. To investigate and examine the cases, a five member high level commission (Rayamajhi Commission) was formed. The commission submitted its report to the Prime Minister G.P.Koirala, but the report was not made public one more time². Hence, the government missed another opportunity to review and reform law enforcement agencies.

1 Note: Actually Royal Nepal Army came up with Integrated Security Development Program (ISDP) and military operation against the insurgents that was denied and when the Nepal Police proved ineffective and weakened compared to the Maoist Insurgents, Royal Nepal Army remained passive and did not react until its own military base was attacked by the Maoist guerillas in Dang.

2 Note: The first commission being the Mallik commission -1991

There has been one more police reform commission to improve and reform security and law enforcement in Nepal. In 2007, Deputy-Prime Minister and Home minister Bam Dev Gautam had formed Sangrula Commission – 2007 with a view to eliminate corruption in law enforcement, professionalize all three law enforcement agencies and to professionalize and enhance their law enforcement capabilities.

To sum up, security sector reform and strengthening of the law enforcement agencies in Nepal has never been taken seriously by any government since 1990 till date. As a result, the problem of law and order situation is failing to address post conflict security challenges. Now, Nepal as an independent and sovereign federal democratic country is in a dire need of a comprehensive national security policy with effective legislation and equally effective law enforcement agencies to actualize its dream of a successful Federal Democratic Nepal with sound law and order environment.

To conclude, the characteristics of law enforcement agencies of Nepal can be summed up as follows:

- The existence, survival, functions and operations of Nepal police has become a legendary history of success, ups and downs and its exemplary resilience to serve and survive all types of systems and rules. The Armed Police Force, although it has crossed just one decade of its existence, seems to adopt a similar pattern and strategy with better organizational performance.
- Despite various periodical outcries, there has never been a serious effort to improve and professionalize law enforcement agencies in Nepal. Ultimately, the blame goes to the organizational head and his helplessness to bring out substantial change. The blame goes to the vested interest of the political parties and their ulterior political interference and maneuvering. For example, despite all efforts, Nepal Police has always been denied its valid demand for a Nepal Police Commission so that Nepal Police may recruit police personnel in a fair and transparent manner.
- Law enforcement organizations are more often subverted and negotiated by the political parties and their sister organizations. The turf war between various trade unions and student unions affiliated

to the various political parties under political patronage manipulate and challenge the law enforcement mandate.

- There is a huge demand and political pressure to disintegrate the Nepal Police on ethnical and regional basis so that it may serve political parties locally and regionally. In reality, Nepal Police needs to decentralize and compartmentalize professionally as specialized professional units and departments. Disintegrating police organization on the basis of regional, ethnic ground may be risky and suicidal. Working on the federation of law enforcement agency before the development of federal constitutional framework will be like placing the cart before the horse.
- Existing law enforcement agencies have unhealthy inter-agency competitions and these agencies are going through internal conflict and rivalries on their higher echelons within their own organization since decades. Court cases, departmental sanctions, suspensions and delayed promotion have become a common concern of even a mid-ranking officer. Many of the top-notch officers have been blamed and condemned for corruption. Many officers have been reinstated after a long suspension on the strength of court verdicts.
- Nepal Police has a glorious history of devotion and dedication; loyalty and sacrifices made by gallant officers since decades. Despite all its dedication it has a history of corruption and apathy to the community's concern. The recent corruption scandal of the UN Peace keeping mission in Sudan is one of the most glaring examples. Apathy, lack of effective correctional measures and its helplessness to the political pressure due to the lack of strong effective leadership in the organization has dented Nepal Police and its credibility.

The Possible Role of Nepal Police in Post Federal Nepal

The success of a democratic society depends, to a larger extent, on the voluntary compliance of citizens with its social customs, society's laws and codes of conduct. Law enforcement agencies are more concerned with social accountability than with social control. The police agency's basic job is to prevent rule-breaking by any of its community member if possible; and if

they cannot, to hold accountable those who are responsible for violation of the law. Therefore, the law enforcement personnel are sometimes called “a visible government “because it is more often seen as a representative of the government’s regulating and control body.”

A rising crime rate and civil disorders and culture of impunity in Nepal should stimulate a rethinking of the police role and restructuring of the whole organization. Law enforcement agencies and law enforcement personnel need to change their old traditional law enforcement perception, culture and upgrade their professional performance and efficiency to catch-up with the developing national and international crimes such as criminal conspiracy, organized crime, terrorism, trans-national and border crimes etc. Law enforcement organizations will need to adjust with political change to make it compatible with democratic social norms and public expectations.

Modes of Police Officers’ Performance

Nepal Police has distinctive philosophies and characteristics of policing. The style of law enforcement and its service outcome must meet community expectations. The performance of individual law enforcement officer must confirm its organizational norms and ethos. The role and performance of a Nepalese law enforcement officer can be examined and evaluated as follows:-

1. Watchman’s Role

Law enforcement agencies have a tendency to overlook, tolerate, or ignore minor violations of the law or to handle them short of arrest. Law enforcement officers are more often encouraged by their organization to follow the path of least resistance. While many minor crimes are ignored, however, they tend to take a ‘get tough’ approach when they think certain activities are getting out of hand.

In many ways Nepal Police fits into this category. There is a clear mandate for the law enforcement officer, but the skill and attitude does not match with the norms and objectives of credible law enforcement organization like Nepal Police. Law enforcement agencies and its personnel need to develop professional and pro-active community based approach and attitude to replace reactive and passive-punitive cycle of policing and law enforce-

ment. In Nepal, law enforcement measures like correction, probation and parole, juvenile detention centers are yet to be introduced. There is lack of clear policy and demarcation between juvenile justice and adult crimes. Federal Democratic Nepal must develop a professional and pro-active crime prevention and law enforcement approach and attitude.

2. Legalistic Role

More often, law enforcement officer sees every situation only in terms of legal alternatives to gratify one's power and self image. The legalistic police organization acts as if there is only a single standard of conduct – the law – for the whole community and finds only one appropriate solution – a legal one – for each situation.

Such approaches are appropriate in a colonial and totalitarian regime. Federal police system and structures demand public private partnership, community participation and sense of ownership on the part of the service provider (i.e. law enforcement officer) and the served (the community). In Federal Nepal, law enforcement needs to be community based and community friendly.

In Nepal, law enforcement organizations and enforcement personnel behave as watchman police for some and legalistic for others (whatever suits an individual officer or their organization). In some case, law enforcement officers face a lot of criticism for being too legalistic to the weaker section of the society and too lenient to the higher and stronger sections of the society. Besides, there are mock or proxy legalistic law-enforcement agencies like Young Communist League and more than 109 Tarai-outfits that may challenge and neutralize the federal law enforcement organization's capability and efficiency in future.

3. Service Role Model

The service style of police officer seriously takes all situations encountered. Patrolman in a service style does not formally apply hard legalistic law but referral to a social service agency is encouraged or the development of a special police program. This attitude best suits the federal and community police behavior.

Besides, police role on natural disaster and calamities also play a vital role as service style policing.

A HYPOTHETICAL CASE STUDY OF POLICE PERSONALITY AND THEIR RESPONSE:

The response of a watchman-type of police personal, while confronted by a juvenile drinking beer would try to ignore the situation or perhaps to confiscate the beer, pour it out, and tell the juvenile to go home.

A legalist-type police would probably arrest the juvenile and confiscate the beer for evidence and proceed with the case file.

A serviceman – type police would probably confiscate the beer for evidence and take the juvenile home to their parents, and might suggest parents to attend some programs along with the juvenile that would educate the youths in a problem related institution and encourage/ help the juvenile to get out of the drinking habit.

On the other hand, in a law-enforcement situation involving a “robbery in progress” calls; all three types would undoubtedly rush to the scene of crime and attempt to arrest the suspect, as there would be little difference in community expectations of the police in such a situation.

(In Nepal, the case may vary from police to police, juvenile to juvenile, district to district and region to region. The style of policing is based on individual officer’s responses to police situations. It is important to develop institutional culture and ethos within law enforcement agencies too.

A conceptualized hypothetical structure of Nepal Police in Federal Structure:

As the administrative levels (tiers) are not yet ascertained and the constitution is yet to be promulgated, the number of provincial, state and metropolitan police organization and its organizational structure is yet to be ascertained as per the constitutional directives of the Federal Democratic Republic of Nepal.

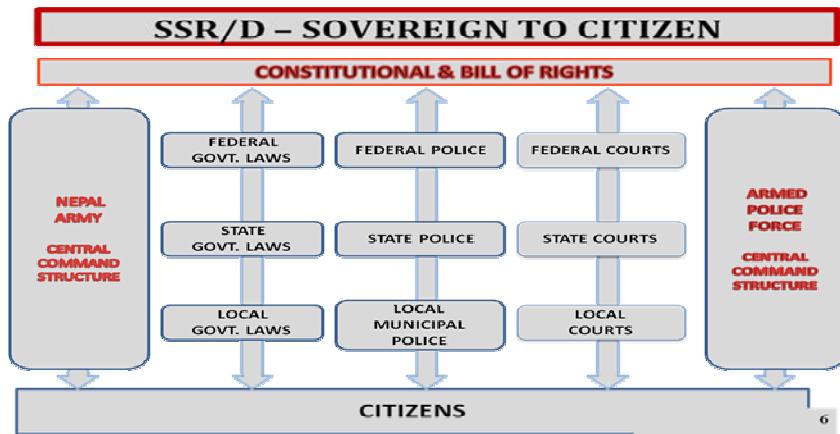
If there is going to be three tiers of the government, then the Nepal Police will have to be divided into three tiers as Central, Provincial and State

respectively. Then the structure, mandate and jurisdiction needs to be developed at each level. Subsequently, the number, structure of the provincial and state governments will have to be determined by the constitution depending on the population, language, ethnic or any variables as decided and mandated by the constituent assembly. Therefore, the federal law enforcement structures will have the following characteristics:

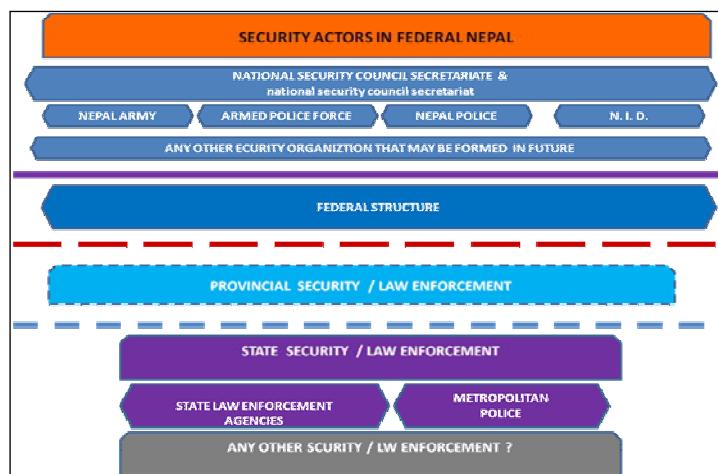
1. There will be a provincial police in each province,
2. Number of state and municipal police will have to be decided by the central and provincial government.
3. Recruitment and training within the provincial territory will have to be determined by the provincial government itself,
4. There should be no overlapping between provincial and state jurisdiction; Enforcement of rules / procedures must be stated in detail; head of the provincial police and the major experts and specialized detective and investigating officers will have to be determined and posted from the central or federal police,
5. There has to be a specific conditions where federal or central police will have power and authority to intervene, overlap the power and jurisdiction of the provincial or state police jurisdiction/authority; for example –
 - a) Dealing with national security issues
 - b) Dealing with foreign or extra-territorial issues
 - c) Job or action extending the provincial territory
 - d) Issues related to two or more provinces
 - e) As per request by provincial or state government or police organization

INTERRELATION BETWEEN VARIOUS LAW ENFORCEMENT AND OTHER RELATED BODIES OF THE CRIMINAL JUSTICE SYSTEM

As Nepal has yet to develop its national security strategy so far, a hypothetical outline of the national security structure in the post-federal Nepal may be outlined as follows:

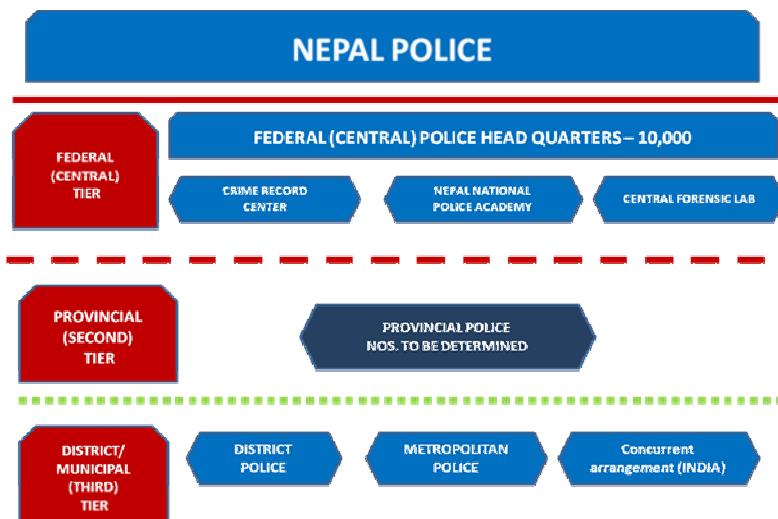


Generally Nepal Army and Armed Police Force will be centrally controlled and mobilized. Nepal police will have a more decentralized structure that will be under the command and jurisdiction of the provincial, state or metropolitan government or authority. Nepal Police being an investigating and prosecuting law enforcement agency, it will have to confirm with its parallel bodies like federal government, laws and federal court at the federal level and subsequently state government laws and state courts at state level and local government laws and local courts at the local municipal level respectively. (As shown in the figure)



INTERRELATION BETWEEN VARIOUS LAW ENFORCEMENT AND OTHER RELATED BODIES OF THE CRIMINAL JUSTICE SYSTEM

The figure envisages the possible federal structure of the security organization in the Federal Democratic Nepal. The National Security Council will be the apex body. There will be the National Security Council Secretariat as an advisory body and supporting arm of the NSC and the Ministry of Defense. Under NSC will be all security agencies including Nepal Army, Armed Police Force, Nepal Police and National Investigation Department. These organizations will have two or three tiers of government that will depend upon the Federal Constitution.

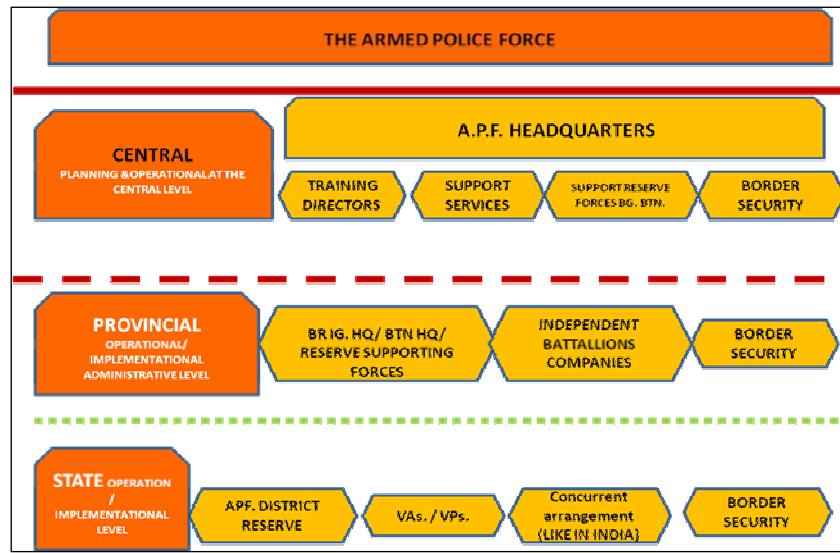


Nepal Police Under Federal Structure

Nepal police is a centralized law enforcement agency with more than 60,000 personnel covering the entire territory. This organization will have to be divided into federal, provincial, state and metropolitan police.

Restructuring and reorganization of Nepal Police is a very sensitive and a risky business because it has responsibilities of diverse nature. Although there have been many commissions formed to improve the organizational structure and functional efficiency of Nepal Police, no government has ventured to come forward and implement their recommendations. That is

why there have been no significant changes in its structure and administration since its establishment in 1955.



Conclusion

As the new government led by the prime minister Jhala Nath Khanal has very little time to draft the constitution and propose the structure of the Federal Democratic Government of Nepal, it is hoped that it will chart the future outlines of the law enforcement agencies with due credentials and space including integration of the People's Liberation Army in the law enforcement agencies as well.

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Crime Prevention, Ensuring Public Safety and Nepal Police

SSP (retd.) Dr. Chuda Bahadur Shrestha

1. Introduction

1.1 Nepal's Population

In 2058 B.S (2001) the total population of Nepal was 2,31,51,423 at a growth rate of 2.25% per year. If the growth rate will remain as this, then it will double within 31 years. In addition to this increasing trend, as per the opinion of the general people, the post 2006 citizenship distribution also added the number of population. This unmanaged and unorganized demographic change will create internal insecurity and threat to national interest.

1.2 National Interests

Nepal's national/public security interests could be following:

- Preservation of independent sovereign, unified and territorially secure democratic Nepal;
- Preservation of sovereign rights of the people, democratic system, fundamental human rights, equality, and freedom;
- Preservation, development and realization of economic potential (natural and human) for the wellbeing and prosperity of the people;
- Maintenance of internal peace, security and preservation of vital interests of the country
- Maintain rule of law to ensure peace and security; protect people's lives and property at home and abroad;
- Maintenance of inclusive democracy and public security in line to peoples' expectations
- Contribute to international peace and security

- Provide effective and efficient essential service deliveries etc.

2. Understanding Crime

Crime is an abnormal act conducted by human beings and is a social fact. Every citizen of the country expects peace, tranquility, development, prosperity and crime free society but crime occurs in every corner of the world. It can be said that crime is an act that violates a political or moral rule. Occurrence of series of crimes whether it is against person, property, public enterprises and national security causes more serious loss and damage to the citizens of the country. Crime can be classified according to the degree or severity or the offence, or according to the nature of the acts prohibited (minor-major, grave, heinous or public interest crime) which includes;

- Crime against person (including violent and organized)
- Crime against property (public and private)
- Crime against internal/national security (organized and transnational)
- Transnational organized crime (human trafficking, cyber, drugs, illegal arms, terrorism, etc.)

2.1 Measurement of Crime and Statistics

Globally, people who read daily newspapers or watch television believe that crime is the most pressing problem in the world whether they are in rich or poor, developed or under developed countries. Crime statistics provided by the government or law enforcement agencies through media usually would not represent real statistics of actual occurrence of the crime in every society including ours. Government statistics of the crimes are only based on reporting of the cases in police which is in fact less than the number of crime actually committed. Main reason of not reporting all crimes to the police are:

- Victim may consider the crime insignificant and not worth reporting.
- They may hope to avoid embarrassing the offender, who may be a relative, school friend or fellow employee.

- They may wish to avoid the negative publicity that might result if the crime were reported.
- They might have agreed to the crime, as in gambling offences and some sexual offences
- They may wish to avoid the inconvenience in calling the police (filling out a report, appearing in court and so on)
- They may be intimidated by (or afraid of) the offenders
- They may (dislike) the police or (be) opposed to the punitive policies of legal system.
- They may feel that the police are so inefficient that they will be unable to catch the offender even if the offence is reported.

2.2. Crime Situation in Nepal

Nepal was once regarded as a peaceful country with the minimum crime rate. With the decade long Maoist insurgency including other conflicts, Nepal has been experiencing numerous politically motivated modern and transnational organized crimes in addition to minor and traditional crimes. This is seen in increasing trend. After the political change in 2006, several illegal criminal armed groups came into existence. These in turn started committing heinous types of organized crime such as kidnapping, extorting, killing, looting, and financial robberies, etc. Rampant circulation of illegally manufactured home made arms are found especially in Terai/Madesh and Kathmandu Valley. Crime statistics of Criminal Investigation Department, Nepal Police Headquarters shows the increasing trend of crime. (See Annex I)

3. Understanding internal security

Security means the state of being secure; specifically, freedom from danger, risk, care, poverty or apprehension, that secures or guarantees; written promises or something deposited, bonds etc. It is a method of ensuring freedom or secrecy of action, communications, and the protection of the citizen during peace or wartime. In “*Mahabharata*” security was considered “*a young new bride, laden with ornaments may walk across the street at mid-night unescorted without any fear or risk to her.*”

Traditionally security was considered as nation states defending their borders to protect their citizens from foreign military threats. But the broad goal of comprehensive security is to enable people to live without fear for their survival, well-being, and freedom. Thus public security means control of infectious diseases, the prevention of impoverishment, the elimination of illiteracy, and the protection of people from sudden (man made or natural reversals) that threaten the quality of their daily lives. Modern concept of “Human Security (HS)” was introduced in *1994 Human Development Report* of the United Nations Development Programme that was crafted as agenda for the Social Summit in Copenhagen as a peace dividend (*Sabina Alkire, 2005: 18, 19*). The report was based on people centered approach to human security with intent to bridge the concepts of the “*freedom from want and freedom from fear*”. UN Commission on Human Security, 2003 further clarified the concept of HS with the people centered focusing on threats from both Poverty and Violence.

3.1 Homeland/Internal Security

Nepal has been facing various types of conflicts as well as increasing number of modern types of crimes. Some of the reasons are; political instability, inter-party conflicts, rampant corruption and maladministration, lack of political morality, weak state institutions (especially those pertaining to rules of law), politicization of security forces, formation of organized armed groups in-line of socio-ethnic, religion and regional basis.

Uncontrolled proliferations of illegal small arms and explosive, terrorism, insurgency, human trafficking, kidnapping, extortion, etc. are other aspects of insecurity in Nepal. Similarly, major issues related to disarmament, demobilization, reintegration of Maoist combatant including other various armed groups are yet to be addressed.

Furthermore, other various kinds of ethnical, regional, and terai (*madesh*) movement and the activities of the organized crimes have brought high number of forceful migration and demographic shifting from rural to urban and southern terai to northern side as well as Kathmandu valley due to insecurity.

Unsolved issues such as; Internally Displaced Persons and Refugees, property return, urbanization and environmental degradations, land and forest encroachment, misuse of science and technological devices, culture of violence/crime/ disregard of law are other internal security challenges.

Likewise, Nepal has to confront with natural and human-made disasters (commercial and industrial hazards, shut-down/banda/hadtal/strikes, transportation haltege, etc) at the same time, ensuring the basic human needs such as food, shelter, education, health related issues (epidemic, water and air born disease, malaria, HIV/AIDS etc.).

4. Fear Factors and Costs of Crime

4.1 Fear factors

By product of crime, beyond actual physical and mental loss, is also associated with fear. Research shows that people who have heard about other people's victimizations are nearly as fearful as the people who have been victimized themselves. Fear of crime especially, violent crime is widespread. In America, according to the poll opinion 80% of Americans are "concerned about becoming a victim of crime"; 29.4% are "somewhat concerned"; and 50.6% are "very concerned." According to the survey categories they fear:

- 40% worried about sexual assault
- 40% concern about burglaries when they are not home.
- 30% worried about being attacked while driving their cars.
- 30% worried about being mugged (attacked)
- 25% worried about being beaten up, knifed, or shot.
- 25% worried about burglaries when they are home
- 20% worried about being murder.

Though we do not have research data but interaction with people, we could calculate such fear working in every individual which demands safety.

4.2 Cost/Impact of Crime

All the crimes does have various impacts but modern, organized and political related crimes (drugs, human trafficking, arms smuggling, white collar, cyber and terrorism, etc) affects and are more costly to individual

victim as well the surrounding. There is a direct and indirect cost/impact on human self when occurred, any mishaps/incidents due to which they suffer psychologically, physically, financially and socially in relation to their family, society and Nation. In addition to these costs to individual victims, there are other costs to the business and communities such as emergency medical services, long terms hospitalization, continuing medical care and lost wages.

5. Politics, police and law enforcement agencies

Introduction

What is happening in Nepalese political systems and the behaviour of the political activities is well known to all, home and abroad.

Therefore, this paper tries to explain the role of Police and the other investigating organizations. According to the code of conduct for law enforcement officials adopted by general assembly resolution 34/169 of 17th December 1979, law enforcement official shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Law enforcement officials include:

- All officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.
- In some countries where police powers are exercised by military authorities, whether uniformed or not, or by state security force the definition of law enforcement shall be regarded as including officers of such services
- Service to the community is intended to include particularly the renditions of service of assistance to those members of the community who by reason of personal, economic social or other emergencies are in need of immediate aid.

5.1 History of Nepal Police and its role

In the early phase of Nepal Police, it had developed with several specific police units (*kotwali*, Goswara Inspector office, thana, chawki) established in

many parts of the country under the command of Army General and Magistrate (*bada hakim*). Militia Company was established under the command of Magistrate in Terai region tasking for Police Job. Similarly, in 1874 temporary Militia Army was established by Junga Bahadur Rana in central level (Kathmandu). The *Rakshya Dal* (Defense Force from the Army) and Police jointly mobilized in various occasions.

After the Rana regime an independent police force was created for preventing and detecting crimes, and maintaining peace, law and order; under the Police Act, B.S. 2012 (1955). Most of the provisions of this act are similar to the British India Police Act of 1861 which needs amendment in line of present day context.

Till the date, police organization functions through the centrally command structure. Police headquarters is headed by Inspector General of Police (IGP) and other departmental chiefs are Additional Inspector Generals of Police (AIGP). Kathmandu Metropolitan Police and five regional offices are headed by AIGP and Deputy Inspector General (DIGPs.), Senior Superintendent of Police (SSPs) are the head of the Fourteen Zonal Office. Headquarters to zonal level perform the supervisory role where district and Circle's Office headed by Superintendent of Police (SPs), Deputy Superintendent of Police (DYSPs) and Inspectors and below are the main units that are directly involved in detection, investigation, prevention of crime, security and maintaining peace, law and order in their respective areas. Circle and many Area Offices are authorized for crime investigation, prevention as well as enforcement of varieties of laws and regulations. They also perform their role through community participation with the establishment of community police centers.

The Interim Constitution of Nepal, 2063 B.S. (2006), has the provisions of National Security Council (*article 145*), Local Administrative Act, 2028 (1971) including the provisions of Central, Regional and District Security Committees managing security from nation to local level governance. Similarly there are several International, Regional, and National laws, regulations, policies/strategies and directives related to public security including the rights of the vulnerable groups; women, juveniles, refugees and internally displaced persons, marginalized communities, minorities groups etc.

5.2 Function of Police and Investigating organizations

Generally, the traditional function of police which remains the most important even today is to deal with the criminal in action. These functions require detection and investigation of crime, arrest of the offender and the collection of evidences against those who are prosecuted in the courts of the law. For achieving these goals, police have to go with the process of criminal justice system, which are individual member, government institutions, government attorney, court (quasi judicial), prison and correctional administration and society as a whole.

Other function of the police is the prevention of crime and ensuring public safety. Similarly, enforce wide variety of regulations which are not direct with the criminal law, such as: traffic management, crowd control, disaster management and also looking against obscene literature and films, civilian defense, security of the person including public and private properties. These functions can be fulfilled with the collaboration of multi-sectoral government and private institutions central to local level.

In addition to above, police and other security organizations have to manage various types of social conflicts like insurgency, terrorism, people's movements, riots, revolution, etc. This bitter experience has already been faced by our law enforcement agencies.

6. Ensuring public safety and Crime Prevention

Crime Preventive and safety strategy is a multi dimensional task that requires various steps from individual, family, community, national and international dimensions. Prevention could be reactive and proactive through people-police partnership. It is more relevant to the political scenario and police professionalism. In USA, looking at the political and crime prevention in 1931, Wickersham Commission proposed "taking the police out of politics" for politics had influenced the police in terms of being "dirty," "contaminated," "corrupt," "unethical" and "dishonest." Hence, the commission recommended "professionalizing, the police as an antidote for the despicable "disease of politics" in USA. Without delay, discussions of professional policing have made it appear that professionalization and depoliticalization go hand in hand. The irony is that we in Nepal still have a similar situation in our law enforcement agencies. Many of the police personnel are competent

enough as par their developed countries' counterparts but politicians and some members of the Nepal Police are responsible for damaging the police's image.

6.1 Law makers' role

Constitutional and legal provisions of any country are the key factors of political system and public security. The task of managing the polity is assigned to the politician who has to be versed in the science of governance with the vision of a statesman. The role of lawmakers/legislators or "vidhayaks" are envisioned as that of managers; makers of destiny of the people. Law makers (*Vidhayaks*) have enacted several contemporary laws related to public security where as executive and its various organs including security organizations have to perform as an enforcer so as to maintain law and order and service delivery to the public. Judiciary and other constitutional organizations take their responsibilities in accordance with the legal and constitutional framework to render justice along with check and balance.

6.2 National Actors

Public security related actors/agencies are providing services at various levels e.g. national, state/provincial/cantonal, regional, district and local/ community level. At the same time service delivery has also to be performed. Thus, to manage the public security the state functionaries, the legislative- Parliament, the PM's Office, the National Defense Council, related Ministries, the Security Agencies and Civil Administrations including the other civil society's organizations have to render their service to the people of Nepal by preserving national interests.

6.3 Rule of law, Maintenance of Peace and Security

In a democratic system, transparency, accountability, responsibility and administration of rule of law, peace and security are fundamental elements. People always watch the functionaries to see if they are performing their jobs honestly, impartially, independently and effectively in accordance with the law of the land without any discrimination. Application of Rule of Law starts from; Political representatives in the state functionaries (Executive legislative and local governance) but here in Nepal, all this has failed due to politicalization in law enforcement agencies and civil service including public and private enterprises.

6.4 Maintenance of Peace

Maintenance of peace, stability and security in a country are largely dependent upon the capacity of its political leaders and law enforcement agencies. They must be capable of enforcing national laws and maintaining public order in the society with the application of fundamental and legal rights. In developing societies, maintenance of peace has become a great challenge due to the various types of agitations, crowd, mobs, disorders, insurrections, terrorism, communal riots, political violence, ethnic and separatist movements, civil disobedience, hunger strikes, demonstrations, transportation/industrial/ strikes, criminal and armed gangs, student/labor agitations, youth unrest, agrarian and urban unrest, rallies, and difficulties to deliver essential commodities etc.

6.5 Crime Investigation and Justice

To protect the citizens, laws and prevention policies are designed to regulate human behavior and the state provides crime prevention policies, remedies and sanctions if the laws are broken. Criminal activities cause social stigma as well as loss and damage to the life and property of the citizens. In course of providing public security, law enforcement agencies have to collect information/ intelligence, search and arrest, interrogate/ interview the offenders and witnesses for necessary legal action in the court of justice.

In Nepalese context, people are facing property related crimes such as: Bank robbery, Extortion robbery, Dacoit, Theft, Smuggling of goods, House breaking, Day time burglary, Vehicle, Automobile/motorcycle/ bicycle, and Jewel lifting, pick pocketing racketeering and syndicate crime etc. Life/ person related crimes are: Hijacking, Kidnapping and Murder for ransom, Human Trafficking (Women/Children), Killing of Senior Citizens, Sexual abuses, Juvenile conflict with the law etc. National security and Organized Transnational Crimes such as: Illegal Small Arms Ammunition and Explosive, Terrorism, Drugs Trafficking, Endangered listed wild animals, Criminal Patronage by politician, Corruption, etc. Other crime and security issues are: Territorial and Ethnic agitations, Hadtals, bands, gheraos and transportation bands, politics of opposition and politics of agitation' 'revenge & 'politics of mass violence' traffic accident and natural and manmade hazards etc.

6.7 Maintain better relation with Youth

Youth in every society whatever the racial or ethnic characterization are the victims of discrimination. This has been graphically reflected in criminal justice processes where juvenile offenders have had a somewhat torturous history. Therefore, relationship between youth and law enforcement is not friendly. The reciprocal attitude of youth and police are crucial in police-community relations currently and in the future.

6.8 Law abiding political socialization

Political Socialization also plays important role to shape the attitude of the child toward the police and authority, hence political socialization must be based on law abiding civic education.

6.9 Awareness to the people

TIPS (Teaching Individuals Protective Strategies), GREAT (Gang Resistance Education and Training), DARE (Drug Abuse Resistance Education), Gangs control, Law Enforcement and the Community relations, Preventive intervention Program, MADD (Mother Against Drunk Driving)

6.10 Community police, people alliance and partnership

Crime prevention cannot be fruitful or achieved as per people's expectation by merely depending on state security agencies, rather it requires the support and partnership of the people, community and concerned service providers and stakeholders of the nation. To enhance this system, government of Nepal has to initiate certain policy and strategies for implementation of the suggestions given above.

7. Conclusion

Protecting life and property, detect crime, apprehend criminals, ensure safety and security by maintaining law and order and peace in the community are the primary task and national interest of every nation. But war-torn societies like Nepal faces various types of complexities such as political instability, politicalization in security organizations and nexus between politics and criminals. Withdrawal of dangerous criminal cases in the name of political cadres, etc. has created internal insecurity. Therefore, following recommendation are suggested for law enforcement agencies:

- Government should ensure apolitical, neutral and professional police with high morale hence, contemporary police laws and regulations needs to be amended.
- Public Service Commission should intervene to ensure impartial recruitment and promotion system like in other SAARC countries.
- Independent Inspectorate System should be made mandatory for the performance audit of the police organization in relation to crime prevention, safety of the people.
- Public awareness program has to be launched to motivate victims for crime reporting in police and concerned agencies.
- Collaborative efforts has to be made for the control of sources of crime such as manufacturing and circulation of illegal arms
- Metropolitan local bodies should implement system of personal verification
- Better collaboration with public and private security organizations as well as financial enterprises for the protection of arms robberies
- Creation of professional police unit to combat against high profile kidnapping cases as well as cyber crime, hijacking, etc.
- Strengthen community policing to ensure safety at the neighbourhood level.
- Hit and Run, killing and Red Mist culture is an increasing trend hence to control drivers' behaviour, there must be stringent enforcement policies to prevent road traffic injuries and deaths.
- Collaborative efforts should be made for road safety audit with the protection of environment in Nepal.
- Law enforcement friendly program should be launched for the protection of elderly people, victims, children and women including other the vulnerable strata of the society.
- According to the data of the police headquarters, suicide rate has increased; hence there should be social- psychological research on the issue.

- Government should form a committee on the study of “Crime Prevention and Road Traffic,” accidents, injuries and death.
- Needs to better coordinate the security and civil organizations to control trans-border crimes and protection of national interest and internal security.
- Government should enact policies and regulations entrusting the criminal investigation department/ Central Bureau of Investigation with nationwide investigation related to national interest and organization crime
- Government should strengthen quasi-judicial administrative power/ authorities by attaching senior legal officer for speedy dispensing of administrative cases.

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Annex-1
Police Headquarters, Criminal Investigation Department, Kathmandu

Case		062/63	063/64	064/65	065/66	066/67
Crime against person	Robbery with murder	30	28	24	14	18
	Murder (homicide)	596	758	869	875	786
	Poison related murder	0	3	10	3	6
	Attempted to murder	187	294	374	440	588
	Abortion	15	9	13	12	15
	Accidental death	961	995	1096	1236	1685
	Miscellanies	627	741	798	760	437
	Cattle killing	15	8	11	13	22
	Total	2431	2836	3195	3353	3557
Suicidal death	Poison taking suicide	781	933	1023	1190	1296
	Burning	31	36	35	53	41
	Hanging	1140	1490	1637	1724	1836
	Weapon used	25	19	10	7	11
	Falling	30	52	37	52	48
	Electrical circulation	3	6	1	3	9
	Drowning	19	31	42	32	68
Organized and financial related crime	Total	2029	2566	2785	3061	3309
	Robbery	194	233	246	157	168
	Larceny	60	55	11	23	19
	Burglary	325	585	527	575	730
	Cattle theft	8	6	2	4	10
	Ancient monument stolen	2	1	1	0	6
	Cheating	103	117	127	121	156
	Gambling	12	4	0	11	36
	Counterfeit	33	36	45	49	35
	Misuse of corporate property	0	0	0	1	0
	Drugs	262	315	483	551	871
	Black market	17	6	6	15	
	Illegal donation collection	14	9	5	21	46
	Used of fake government's seal	114	64	45	78	159
	Passport related crime	7	2	1	1	4
Social Crime and security	Total					
	Public offences	1610	2203	2591	3350	4169
	Citizenship related	63	52	39	31	32

Crime against state	5	2	0	2	0
Religion conversion	3	0	0	0	2
Protection of essential commodities	5	13	26	10	9
Essential service operation	0	0	4	2	0
Beating/deformity	34	35	48	49	63
Total	107	102	117	3454	4275
Women trafficking	91	109	123	139	161
Polygamy	67	88	122	170	147
Child marriage	1	7	4	2	7
Rape	195	317	309	391	379
Attempted to rape	38	70	73	75	103
Total	392	591	631	777	797
Vehicle accidents : injuries and death	1058	916	1483	1300	1703
Human death	687	777	686	1700	2085
Human injuries	581	651	1790	1840	7472
Cattle death	21	16	21	34	22
Cattle injuries	1	5	2	0	37
Plane hijacking	0	0	0	0	0
Vehicle hijacking	0	0	0	0	1
Human kidnapping	0	0	99	152	149
Explosive related case	10	6	14	13	33
burning	38	99	57	85	87
Runaway from prison	0	2	0	0	0
Weapon related	109	212	480	417	463
Runaway from police custody	0	0	0	0	1
Terrorism related crime	326	0	0	0	0
Air crash	1	2	0	0	0
attempted to human trafficking	5	4	0	0	0
Foreign currency exchange	1	1	0	0	0
Bomb blast	14	5	8	8	8
Ancient monument theft	0	0	2	0	0
Human organ transplantation	0	0	2	0	0
Intellectual property	10	4	0	14	9
Robbery crime	7	10	2	1	0
Exam carelessness	4	8	5	0	35
Cast discrimination	2	4	0	0	6
Injuries from vehicle	28	24	25	11	10
Theft, <i>Nakabajani</i>		26	35	0	
Industrial theft (crime)	10	10	1	0	
Industrial Kidnapping				57	43
Others	4	302	31	57	43
Total	9335	11336	13167	14412	16775

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Internal Security Problems: A Journalistic Perspective

Jan Sharma¹

Introduction

Nepal is grappling with problems of internal security. The very concept of security has been narrowly defined. A number of new internal, external and global actors are actively engaged in setting the cultural, social, political and economic agenda. This perhaps explains the present limitations of the state structures and processes in meeting the challenges of internal security. Seriousness on discussions on security is lacking at a time when attempts are being made to redefine the relationship between the Nepali state and the society. This also happens at a time when instances of criminalization of politics and politicization of crimes have been growing. One wonders whether democracy building is possible without first building the state.

The problem is largely but not solely due to the weak and ineffective security and law enforcement agencies. It is also due to a lack of the culture of strategic thinking in planning and implementing a comprehensive national security strategy in its internal as well as external dimensions to ensure the personal safety and security of the Nepalis as well as safeguarding and defending national sovereignty and independence. In this light, the paper attempts to look at the nature of the internal security problem, examine sources of threats to internal security, its impact and implications, and finally summarize findings and recommendations.

Security for People

Nepal's growing, if somewhat reluctant, integration into the global economy has given a faster exposure to global issues and invited a variety of actors in

1 Author is a well-known journalist.

different human activities. In this context, internal security should be looked at with the focus on the people. In other words, it calls for a shift away from the state-focused approach to “freedom from want” and “freedom from fear.”² It basically means economic security in terms of income and employment, food security in terms of access to basic food, health security in terms of basic prevention and cure from diseases, environmental security in terms of prevention of environmental deterioration and promotion of the natural habitat, security of the individuals in terms of protection from threats or physical violence, security against encroachment on traditional culture and values, and human security in terms of well-being and prosperity of the people.

In other words, internal security is interconnected with the global security environment. Globalization is reshaping security. This is posing new challenges for the security of the state as well as internal security. Buzan notes of a continuing tension between internal, external and global security interests when he argues that “the national security imperative of minimising vulnerabilities sits unhappily with the risks of international agreement, and the prospects for international agreement are weakened by the power-security dilemma effects of a national security strategy.”³ The concept of security is thus changing with the “endless interpretations of the world around them... there are no constants, no fixed meanings, no secure grounds, no profound secrets, no final structures or limits of history... there is only interpretation... History itself is grasped as a series of interpretations – non primary, all arbitrary.”⁴

Sources of Threat

A survey in 2008 found that the number of people who think the country is “heading in the right direction” has dropped by 20% from 2007. Most

2 United Nations. 1994. *Human Development Report 1994*. Oxford University Press

3 B. Buzan. 1983. *People, State and Fear*. London: Harvester, pp. 214-42, quoted in John Bayalis and Steve Smith. 2001. *The Globalization of World Politics: An Introduction to International Relations*, Second Edition. Oxford: Oxford University Press.

4 John Mearsheimer. 1994/5. “The False Promise of International Institutions” in *International Security* 19 (3); 5-49, quoted in Bayalis and Smith.

Nepalese see security as comprising “freedom from want” and “freedom from fear” yet crime and social unrest are felt to be hindering economic development. People are increasingly prepared to go to the Police and feel security services are making efforts to improve the situation but people are also becoming less patient and are keen to see tangible improvements in their security.⁵

The federal democratic republic is being increasingly identified with anarchy mainly because there has been no let up in the incidences of assassinations, abductions, extortions and other criminal activities in the name of political activities.⁶ Security agencies have little success in nabbing the criminals, most but not all of whom enjoy political protection. According to INSEC, 58 people were killed and 61 people were abducted, mainly from the Terai, between April and September 2010.⁷ The key motivation for such abductions was ransom. The precedence was set by the Maoists, and the same patterns are being repeated by criminals to get rich overnight. It is now perhaps the most important factor obstructing democracy building and constitution writing in Nepal. Political party workers and leaders, rising from the villages to the national level, are involved in serious criminal activities that are not even remotely related to politics.

Perhaps the most important threat to internal security comes from different groups either established by the political parties as affiliated groups or directly or indirectly supported by them. Most political parties have established, promoted, funded and trained youths as muscle power. The militarization of political parties in such a way has contributed to criminalize politics and politicize crimes. More than 16 political parties have created paramilitary forces, as shown in the table. Youth Force says YCL has assassinated at least 10 of its leaders and seriously injured 25 others between November 2006 and August 2010. Such charges and countercharges are now common.

5 Findings of the survey on Public Perceptions of Security in Nepal undertaken jointly by Saferworld UK and Interdisciplinary Analysts in 2008. See for details, visit: www.saferworld.org.uk

6 *Himal Khabarparika*, June 30-July 15, 2008, p. 27

7 www.inseconline.org [Accessed on January 8, 2011]

Paramilitary Wings	Affiliate Party	Networks
Young Communist League	UCPN-M	Countrywide
Youth Force	CPN-UML	countrywide
Madhesi Youth Force	MJF	East to Midwest
Chure-Bhabar Santi Sena	Chure-Bhabar Ekata Samaj Party	Central & Midwest
Rakshya Bahini	NSP-Rajendra Mahato	Central & Midwest
Madhesi Commando	NSP	Central and Western
Tarai-Madhes Sewa Surakshya Sangh	TMLP	West and Farwest
Akhil Nepal Democratic Youth Organization	Rastriya Janmorcha Party	West and Farwest
Tharu Army	Tharuhat Autonomous Council	West and Farwest
OBC Regiment	Organization of Backward Class	Middle Tarai
Limbuwan Volunteers and Liberation Army	Limbuwan State Council	Eastern region
Kirat Limbuwan Volunteers	Pallo Kirat Limbuwan National Forum	Eastern region
Jan Surakshya Bal	CPN-Maoist (Matrika Yadav)	Some districts
Madhesi Rakshya Bahini	Sadbhavana Party	Tarai
Khas Chettri Ekta Samaj	Khas Chettri Ekata Samaj	Some areas
Tarun Dasta	Nepali Congress	Proposed

Source: *Nepal National Weekly*, August 22, 2010, p. 29.

Crimes are often committed by many for building an environment and psychology of terror to force the people pay any amount of ransom for life. The practice is so widespread that one incident of blast is claimed by several groups. Criminal groups benefit the most from the psychology of terror. When a Maoist, Keshari Yadav, 38, was murdered in cold blood in Bara in July 2010, several armed groups –Janatantrik Terai Mukti Morcha, Madhes Rastra Janatantrik Party and Samyukta Janatantrik Terai Mukti Morcha – claimed responsibility. The same was the case when media entrepreneur Arun Singhaniya was murdered in Janakpur in February 2009. Many groups have been encouraged also because the government signed a number of deals with such groups. Information on most of them is sketchy and incomplete and some have left psychology of terror to pocket hefty extortion from businessmen, who do not report to police because they suspect the terrorists are the first to know of such complaints.⁸ Criminal groups in the Terai are

8 One such person is Mohan Karki, 27, of Ramechhap district claiming to be leader of an underground 'national liberation army.' He was arrested by police and subsequently released. Unable to find any job, he relaunched his underground party to continue extortions. See for details *Nepal National Weekly*, January 16, 2011, pp. 22-23.

thriving mainly because of their nexus with local government officials and mobile police personnel deployed in the Terai, and these activities have serious implications on national security and sovereign independence.⁹

The Limbuan Movement was initially confined to champion the cause of Rais and Limbus. However, it has now been promoting an inclusive Limbuan Autonomous State to include people from other cultural or ethnic groups living in the nine districts east of the Koshi River. The movement will collapse if it does not drum up support among other groups such as Brahmin, Chettri, Tamang, Magar, Tharu, Gurung, Newar, Dhimal and Lepcha. It is perhaps for this reason that the Limbuan State Council does not argue for prior rights of the Limbus. However, the Kirat Yakthung Chumlung wants prior rights for Limbus. There are also other smaller groups but with only pockets of influence. For the ordinary people, security is a burning concern with extortions and fund collections widespread with at least 15 armed groups active in the eastern hills, according to the Nepal Police. The failure to promote inclusive nature threatens social and political stability in the region close to volatility of several terrorist organizations active in the neighboring Indian states of West Bengal, Arunanchal Pradesh, Meghalaya and Assam.

Organized criminal gangs have grown in their influence, reach and international networking. International network of criminals are masterminding their plans in Mumbai and other metropolis, executing them in Nepal and delivering ransom money in Singapore.¹⁰ Several criminal gangs are reported to have expanded their international network after the Maoist insurgency came to a halt when the government turned a blind eye on criminal activities and the morale of the security forces were at the lowest ebb. Despite this, abductions, assassinations and threats continued for extortions and collection of protection money. The gangs are now engaged in producing counterfeit Indian and Nepali currency notes and fake academic certificates, drug peddling, smuggling of illegal weapons and vehicles and engage in financial crimes and bank fraud. Major investment of these groups

9 A confidential report prepared by the National Investigation Department quoted in *Kantipur*, June 19, 2009.

10 Ishwar Rauniyar. 2010. "Just Like a Company." *The Kathmandu Post*, December 25, 2010.

goes to hotels, construction contracts, film production and real estate.¹¹ These gangs are run by smarter people with clear objectives with adequate resources and use of technology. Nepal Police is unlikely to do anything so long as they enjoy political patronage of the political parties in return for 'financial assistance.' The establishment of the Crime Investigation Bureau in August 2010, introduction of the Abduction (Crime and Punishment) Act in 2006, and the proposed Organized Crime Act are an exercise in futility and an eye wash.

Impact and Implications

The internal security environment is already beginning to worry both our immediate neighbors. Chief Minister of the Indian state of Bihar, Nitish Kumar, wants a security audit along the Nepal-India border to check infiltration, smuggling of narcotics and fake currency. "We have a long 726 km porous border with Nepal" where "political turmoil and recent activities" have given "rise to serious and genuine concerns. We have problems of illegal infiltration, smuggling of narcotics, fake currency, human trafficking, criminal and other activities."¹² Indian officials have also been complaining that Nepali soil is being used for terrorist activities targeted against India. Indian security concerns have been discussed at the highest levels. India's Chief of the Army Staff Gen. Bijaya Kumar Singh during his Nepal visit in 2010 held wide range of discussions on security related issues with the President, the Prime Minister and other senior officials of the government.

Similarly, Chinese government officials are seriously worried that the political vacuum in Nepal could be exploited by anti-Chinese elements to use the Nepali soil for anti-Chinese activities by using Tibetan refugees in Nepal and India. There have been a number of high level Chinese delegations and they have also conveyed their security concerns. A high-level Chinese security delegation was especially worried about the slack security

11 Ibid.

12 Bihar Chief Minister Nitish Kumar in an address at the conference of chief ministers on internal security chaired by Prime Minister Manmohan Singh in New Delhi on August 17, 2009.

arrangements along the border with Tibet, China's soft underbelly.¹³ China wants the border to be monitored effectively to prevent Tibetans from fleeing as refugees. It has even proposed that it would meet all the expenses for setting up a modern and computerized border security posts if funding was the constraint for Nepal. A number of Buddhist monasteries that have sprouted along Nepal's northern border, such as the ones in Dolakha, Humla, Mustang and Rasuwa districts, are being used to smuggle Tibetans first into Nepal and India, then to Europe and the United States with the involvement of interest groups in those countries.

The security concerns conveyed by China and India have wider ramifications involving other global powers like the European Union countries as well as the United States. Such concerns expose the weaknesses of the arms of national security in Nepal. There have been reports of rapid process of deforestation both in the community-managed and government forest, especially in Pachathar, Morang, Sunsari, Udaypur, Sarlahi, Bara, Rautahat, Kaski, Kapilbastu, Dang, Surkhet, Banke, Kailali, Kanchanpur, Doti and Dadeldhura. Nepal, which had the forest coverage of 5.5 million hectares, is believed to have lost 150,000 hectares or a decline by 3% between July 2009 and July 2010.¹⁴ This poses a serious threat to the security of the environment. Deforestation has been blamed on the weak and corrupt administrative leadership as police officials, community forestry members, district forest officials have joined timber contractors to cut down trees in order to make quick money and profits at the larger interests of the community. Food security has been threatened by government officials and traders who allow import of bogus corn seeds that refuses to bear fruits. But most important, personal security of the people remains at greater risks because assassins, murders, rapists and extortionists roam the towns and villages scot free.

The deepening nexus between criminals, construction contractors and politicians has been undermining the rule of law. Contractors who are

13 The high level Chinese security delegation was led by Li Chao, Vice Chairman of the Tibet Autonomous Region of the People's Republic of China, paid a four-day visit to Nepal December 21-24, 2010.

14 *Himal Khabarpatrika*, December 16-30, 2010, pp. 46-47.

primary source of financing for many political parties, allocate at least 10% of the budget for paying goons, and the Morang Construction Entrepreneurs Association publicly admitted of spending Rs. 150 million in a year on 'mobilizing' the goons.¹⁵ The involvement of organizations affiliated with the political parties during the awarding of the construction contracts has been widely reported in the media. Money and power are what link the contractors, goons and politicians. The influence of criminals in different political parties has seriously undermined the security situation and poses a major challenge to the criminal justice system.

The parties in power have been encouraging impunity. The Maoist-led government withdrew 349 law suits, mostly hard criminal cases involving the Maoists and their supporters/sympathizers. There are several other instances when purely criminal law suits involving assassination, rape, abduction, dacoit, narcotic drug and human trafficking that have nothing to do with politics, are withdrawn on "political grounds." The CPN-UML-led government of Prime Minister Madhav Kumar Nepal continued the tradition by withdrawing 27 such cases, mostly on political grounds. Criminalization of politics is being institutionalized. Even the assassination of King Birendra was investigated by politicians.

Conclusion and Recommendations

A number of measures could be taken to improve the security situation. The first could be a hard strategic thinking for conceptual clarity on security in all its dimensions with the focus on the well-being and prosperity of the people. Security sector reform or the formulation of National Security Policy must take into account the cultural, economic, social and political dimension of security. In other words, mere policing is not enough. It must be defined in terms of income and employment opportunity, environmental protection and preservation, food security, energy security, access to basic health and education, and a host of other issues that have direct or indirect bearing on the prosperity of the people.

The second step would be to reinforce the current structure to implement the people-oriented security culture. A modest if somewhat confusing

15 *Nepal National Weekly*, August 22, 2010, p. 28.

beginning was made in 1990 when the constitution provided for a structure but bereft of strategic calculations. It was modest because it created the National Security Council that was supposed to reinforce the Nepali culture of strategic thinking, whatever its limitations or constraints, and it was bereft of the needed calculations because of the limited mandate given to NSC.¹⁶ It took 12 years just to get it established. It subsequently became a victim of power sharing conflict between the heads of state and government. Security threats are coming from different armed and unarmed groups with serious implications in terms of energy, trade, food, finance, environment and tourism. NSC needs to analyze the trends on these fronts and map out a strategy to reinforce security. Unfortunately, NSC has neither the resources nor experts to do this. Even more distressing is the absence of any strategic thinking on security.

Thirdly, all the arms of national security— Defense Ministry, Nepal Army, Home Ministry, Nepal Police, Armed Police Force, National Investigation Department and other arms— must be restructured and reoriented to discharge their clearly defined duties under the new thinking on security in a professional manner without political interference. Security lapses or failures are to a large extent the reflection of intelligence failure. National Investigation Department, formerly known as the Nepal Intelligence Department, has the most critical role in gathering data on security and objectively analyzing them. This has not been possible because of the politicization of the intelligence.

Finally, the government should fund serious research on different dimensions of internal security and their implications in terms of political, social, cultural, economic and strategic implications for the country. Government agencies cannot do this job. There are a number of reputed think tanks

16 The 1990 Constitution provided for the Rastriya Surakchha Parishad which in proper English means National Security Council. The official translation of the constitution in English uses the term 'Defense' instead of Security despite the constitution's use of the term surakchha (security) and not rakchha (defense). Even a child can point out it was a compromise provision to cut the king's arbitrary authority on the army that the monarchs had used and abused for political ends. But the subsequent political leadership was so blurred in the vision that it was never fully mobilized to promote the culture of strategic thinking in promoting security.

and research organizations now in the country engaged in policy and strategic studies. They would do a good job in undertaking objective studies. Such studies would provide valuable policy inputs in formulating National Security Policy.