

Civil-Military Relation

(Strengthening Democracy in Nepal)

Lt. Gen (Retd) Bala Nanda Sharma

1. Introduction:

1.1 Nepal has changed from 'Kingdom of Nepal' to 'People's Democratic Republic of Nepal'. This change is an unprecedented change in our country. The transition was less painful but it is yet to be completed. The time taken for transition is considered to be too long to some and too fast to those who had been studying such changes taken place elsewhere in the world (history). The reality is that we are changing and changes are concurrent and they are taking places in every segment of the society. We are going to discuss, in this context, how the security forces must change to satisfy the people who had given this mandate to our political leaders. Also, we discuss this in a competitive multiparty democratic terms and values.

1.2 Nation-states exist (nation's obligation) to deliver political goods-security, education, health services, economic opportunity, environmental surveillance, a legal framework of order and a judicial system to administer it, and fundamental infrastructural requirements such as roads and communications facilities-to their citizens.

1.3 Among many tools of national security, the military is merely one of the tools listed. Security requires a variety of tools in addressing complex threats. The toolkit includes hundreds of different tool like treaties, negotiation, advocacy, law enforcement, economic development, and trade policies.

1.4 Therefore, it is the necessity for security forces to work together with other relevant state institutions/organs to fulfill the mandate given to them in the best possible way. Also, security forces retain the hard power. If the only tool you have is a hammer, everything looks like a nail and there are chances that this hammer used wrongly. So, it should be minimized by a well established operating mechanism. It must be used in the best possible way to fulfill the national interests and also must be ensured that this power is not abused. Hence, the reason for civil-military relations!

2. Security Force:

2.1 Every nation, for the reasons best known to them, maintains security forces. In the Army's level, the Army's highest priority is to maintain a trained and ready force. When a crisis arises, the President will not ask if the Army is ready. He will assume, and rightly so, that the Army is ready to secure the nation's interests, wherever and whenever needed. Tough, realistic, mission-focused training and high quality people ensure the Army is a force capable of decisive results in any endeavor.

2.2 Security forces provide advise to civilian masters as and when they are called upon. Army does not always go to war; but should it be called upon it should go to war and also win the war. Therefore, peacetime is the time to train and prepare the forces to meet the likely future challenges. Also, this is the time the civilian leadership contemplates if country is getting the value

for money spent over such forces. Striking a right balance between the cost and return and the liberty versus security seems to be a challenging exercise in democratic countries.

2.3 The types, sizes, number, equipments are directly related to the country's security threat perceptions against their national interests. Defining core values, identifying National Interests and developing a 'National Security Strategy' after evaluating threats is done by the Civilians (in consultations with members of security forces). Civilians direct their nation's military and decide issues of national defense not because they are necessarily wiser than military professionals, but precisely because they are the people's representatives, they are charged with the responsibility for making these decisions and remaining accountable for them. Army performs only to support National Security Strategy.

3. Civilian Supremacy in Democratic Country:

3.1 In democracies, questions of peace and war or other threats to national security are the most important issues a society faces, and thus must be decided by the people, acting through their elected representatives. A democratic military serves its nation rather than leads it. Military leaders can advise, but the decisions made by the elected leaders must be carried out. Only those who are elected by the people have the final authority and the responsibility to decide the fate of a nation. This idea of civilian control and authority over the military is thus, fundamental to democracy.

3.2 In countries like India and the US, the largest and most powerful democracies in the world, have their Presidents as the Supreme-Commander in Chief. Executive or Ceremonial president, both have been the commander-in-chiefs.

3.3 It is not only the supreme-commander-in-Chief, but also the system should be such that there is check and balances in every level of operations from civilian, bureaucracy to security forces level. This is the reason why we see the organizations and committees like State Affairs Committee, Cabinet Committee of National Security, Parliamentary Standing Committee on defense, National Security Council, Ministry of Defense, National Defense Committee etc.

4. Nepal's past experiences:

1. In relation to Head of the state, executive head, Ministry of defense and the Security forces a different relationship had existed during the Panchayet-era

and also during the time of constitutional monarchial system in Nepal. The monarch, although he wore the military uniform and ranks was not a trained soldier. The palace had an institution called *Principal Military Secretariat* through which the security forces were managed. The *Ministry of Defense* was very small and managed by non-professionals. Invariably, the *Prime Minister* himself headed it. After the Jana-andolan of 1989, *National Security Council* (NSC) was introduced whose president was the PM and the members were the *Defense, Home* and *Finance* ministers. Army, Armed Police, Nepal Police and National Investigation Department officials filled the NSC secretariat. The working procedure had not changed much. The civilian leadership showed reluctance to bring much change in the entire management system of the Armed Forces. The relationship was as shown below:

Figure-1: Relationship between HM, NSC, PM and the COAS

4.2 The Army was reorganized, trained and maintained on conventional setting on British and Indian modules. In short, 'Delaying Action' was the military doctrine, which aimed to deter the invading troops with an aim of delaying their offensive action (run over the country). Militarily, delaying time was thought to be enough to hold the invading forces for a given number of days and politically, this time would be used to regionalize/ internationalize the problem. After the delaying action battle, the Army would enter into *unconventional type of warfare* till the time the conflict would politically resolve.

4.3 Was there a defined Core Values, National Interests or politically debated and approved 'National Security strategy'? Definitely, not in the way it is understood in to-days democratic set up. However, among the generic basic interests of any nation, Nepal Army's military doctrine was developed to deter, if forced upon fight long enough to draw the international attention and resolve the conflict diplomatically.

5. Provision regarding the Army:

5.1 After the advent of Jana-andolan-2, the Interim Constitution of Nepal - 2063 was promulgated. Chapter-21 describes as to how the Nepal Army would be managed by the state.¹

1. Article 144.1: There shall be a 'Nepal Army' in Nepal as an institution.
2. Article 144.2: The council of ministers shall appoint the Commander-in-Chief.
3. Article 144.3: The Council of Ministers, according with the law, shall control, mobilize and manage the Nepal Army. The Council of Ministers shall, with the consent of the political parties and by seeking the advise of the concerned committee of the parliament, formulate an extensive work plan for the democratization of the Army and implement it.
4. Article 144.4: While formulating and implementing the action plan pursuant to clause (c) above, determination of appropriate number of Nepal Army, its democratic structure and national and inclusive character shall be developed, and training shall be imparted to the Army in accordance with norms and values of democracy and human rights.

5.2 National Defense Council:

5.2.1 Article 145.1: There shall be a National Defense Council in order to recommend to the Council of Ministers for mobilization, operation and use of the Nepal Army comprised of the following chairman and the members:

a. Prime Minister President

b. Defense Minister Member

c. Home Minister Member

d. Three ministers as nominated by the PM Members

5.2.2 Article 145.2: The senior most member of the Council of Ministers shall be the member of the NDC in case the PM holds the portfolio of the Defense Minister.

- 5.2.3 Article 145.3: The NSC, if it deems necessary, could invite other persons at the meeting of the Council.
- 5.2.4 Article 145.4: The secretary of the Ministry of defense shall work as the secretary of the NSC.
- 5.2.5 Article 145.5: Except in case of mobilization of the NA for reasons of natural calamities, the decisions made by the Council of Ministers of the Government of Nepal for the mobilization of the Army shall have to be presented to the special committee prescribed by the parliament within a month of decision, and be approved accordingly.

Figure-2, showing the chain of Command and NSC

5.3. The constitution promulgated after the 1st Jana-andolan had clearly defined the place of the monarch as a 'Constitutional head' and stripped him of the power he enjoyed during the Panchayat era. Accordingly, the 'National Defense Council' as described in 4.1 above was created to exercise the democratic control of the military. However, the government of the day did not want to change the existing relationship between the military and the monarch as long as both did not threatened their political ambition. However, after the Jana-andolan-2, a new National Security Council, as shown in the 5.2, was created but it is functioning with jerks.

6. National Security Strategy:

6.1 The cardinal test of Security Strategy is that it deters the aggression. In case of failure, this strategy wins the war. Therefore, a nation state must maintain and update Armed Forces sufficient to deter likely threats (evaluated objectively against the national objectives) and in case it is drawn to war, it achieves the stated national goals by using prepared and trained Armed Forces. It is this hard force that guides the destiny of nation. In case of Nepal, before developing a 'National Security strategy' the following exercises has to be carried out.

6.1.1 Identification of the Core Values of the nation.

1. National interests and the National Vital Interests (NVI) are to be identified.
2. Strength of the nation has to be ascertained.
3. Weakness has to be identified.
4. A Grand Strategy to further the NVIs has to be formulated with clear aims.
5. Based on the Grand Strategy, National Security Strategy has to be formulated after identifying the threats to the NVIs.
6. Then, the Army produces its Military Strategy, doctrine and operational plans.
7. Army's number, equipments, arms and logistics are decided to accomplish the envisioned aims.
8. Training institutions start training the officers and soldiers to meet the aims of the operational plans.
9. Such doctrines are changed as and when the threat perceptions change.
10. If the dimension of Human security has to be included, then it should be included while defining the NVIs and plan accordingly.

6.2 Army works through the chain of command. Command starts right from the Army Chief. Chain below Army Chief is operational command and the civilian authorities should not interrupt it; if it is interrupted it spoils the cohesion.

6.3 Global climate change is considered to be the greatest challenge to global stability and security and therefore to national security². An increase in the frequency and intensity of extreme weather events –floods, droughts, storms will generate more frequent and intense humanitarian crises which will add pressure on local governments³.

6.4 Poverty, inequality, lack of economic development and opportunity and poor governance are highly co-related with insecurity and instability, both in individual country and the region⁴. Together poverty disease, and inequality can undermine political and economic development, fuel instability, increase the risk of violent conflict, and create grievances, which can be exploited by extremists. The single biggest positive driver of security within and between the states is the presence of legitimate, accountable and capable government operating by the rule of law.

6.5 Internal migration of population for better opportunity and inability of the government to create jobs and other opportunities may force the new graduates and labor forces to engage on criminal activities.

6.6 If the country becomes internally weak then the place becomes haven for terrorists and narco-mafia. Therefore, country like ours has to be more cautious not to let unwanted elements work not only against us but also use this land against our neighbors.

6.7 All of these points must be considered well before deciding over the NVIs and developing a grand strategy to address the goals and neutralize the threats.

7. Civil-Military relations :

7.1 Effective control of military is what is desired in the democratic world. Military is the asset of the nation and the elected civilian body is legally authorized to control and use it to achieve the national goals and they remain accountable to it. Therefore, the civilians who reach to the position of controlling the military must have enough knowledge of the military's working system. They should be able to exercise the control over military in the following way.

7.1.1 Up-to-date security and National Security Strategy: It should be publicly debated and approved by the parliament.

7.1.2 Modern Organizational structures: It should be within the defense and more widely within government

7.1.3 Credible resource based plan: Controlled by the Parliament on what is done and how resources are used

7.1.4 Appropriate legislative underpinning: to support national plans and international objectives

7.1.5 Accountability: to national parliament and the publics in the narrow, financial sense and more generally for policies and operations.

7.1.6 Adequate security arrangements and access to intelligence: to facilitate exchange of classified information within government and internationally

7.1.7 Effective arrangements for public information: To ensure transparency in respect of national policies and security forces activities and to respond to points of public and media concern.

7.1.8 Appropriate military structure: sized, trained and equipped to meet national and international obligations and objectives

7.1.9 Trained manpower: Both the military and civilians should be trained to work in tandem.

7.1.10 What military strategy is adequate to the threats and national security strategy? What are the appropriate military roles, missions and tasks and how they could be prioritized? Does the entire defense organization fits to these missions? What defense reorganizations are needed and how urgently should they be pursued? What defense planning approach should be used to manage the Armed Forces? The civilian leadership should be able to find the answers to all these questions. To produce the best result, it is obvious that the civilian-military relationship has to be healthy. Also, these relations should be institutionalized.

7.2 Civil control of the military has been suggested as a necessary condition for democratization. In a democracy, the military serves the country by accepting the authority, the legitimacy, and the leadership of elected officials. However, using civilian control of the military as “a measure of progress toward democracy” can be problematic at times. Civilian leaders are just as likely to govern in an authoritarian manner because of their ability to use the military to assert their power. The civilian leadership may co-opt the military to serve the ends of dictatorship and repression as easily as it might to serve the ends of democracy.

7.3 Military in Western societies have remained neutral in the state’s affairs due to the mechanism they had developed to control the military. The “*subjective civilian control*” model is interested in maximizing the civilian control of the military through governmental institutions, social classes, or constitutional avenues. The “*objective civilian control*” can be achieved by capitalizing on military professionalism in order to cultivate the professional attitudes and behavior among the members of the officer corps. The goal is to militarize the military and make them as a tool for the state.

7.4 The theory of neutrality and the separation of the military from politics are not flawless either. Day-to-day, strategic interactions between soldiers and civilians can influence the soldiers. Also, the theory has not worked in many countries in Africa because of the trends of military interventions in the African politics either through coups or its unclear relationship with civilian authorities. The military has been politicized to become an effective tool to gain power and protect the regime’s interests. For that reason, the purpose of this paper is to fill the gap in the literature on civil-military relations in Nepal to contribute to our understanding of the challenges of democratization here.

8. Democratization of Nepal Army

8.1 Nepal is changing from a kingdom to republic. Traditional relations of the Army with the monarch have to replace with the new relationship with the elected and legitimate people’s

representative. The constitution has clearly spelt that Nepal Army has to be inclusive and democratic. What it implies is:

1. Civilian Control has been exercised.
2. COAS is appointed by the Council of Ministers and the COAS remains accountable to the Parliament through the Cabinet.
3. National Security Strategy and Military Strategy should be complementing the Grand Strategy, which is made by the Civilian authorities.
4. Army's control, mobilization and arming is done by the Council of Ministers. \
5. National Security Council advises the Cabinet and MoD exercises the control.

8.2 The part the Council of Ministers, National Security Council, Ministry of Defense and various parliamentary Committees has to be played by them. All these institutions must be, may be reorganized, filled with right type of people and they should start asserting their positions. Civilians working in these organizations must interact with the Army at various level, complements at each other's role and make the system work.

8.3 The NA has already committed itself to incorporate in teaching the International Humanitarian Law and Human Rights. Interim Constitution-2063 had made sure that NA is accountable to the Parliament through the Council of Ministers. This institution is already inclusive than many other institution; still, it is working to accommodate more ethnic and tribal group as possible.

9. Integration, Rehabilitation and Supervision of Maoist Combatants

9.1 The peace process and the integration, rehabilitation and supervision of Maoist combatants has been an ongoing process in Nepal. The then seven political parties on one side and the Maoist Party on the other side, in the presence of International community, have agreed to proceed ahead with consensus. Starting was good, calm has prevailed but peace is yet to come. After the CA poll and particularly, after the Maoist formed the government the relationship between the political parties have soured. Whatever happens, the bible to all of is the Interim Constitution, Comprehensive Peace Agreement, Agreement on Management of Armies and the Arms and the last 11-point understanding between the Maoist and the Nepali Congress. A practical working solution has to be found from there.

9.2 The Special Committee (SC) with its terms of reference (TOR) has already been formed. Also the members for Technical Committee (TC) of experts to work under the SC have been chosen. TC must come up with alternative plans for rehabilitation and integration of the UNMIN verified Maoist Combatants. The method suggested is as shown below:

Figure-3; Integration. Rehabilitation and supervision process

9.4 Rehabilitation and reintegration of MCs is not an easy job. Rightly, the major parties have understood that the only way forward is 'consensus' and 'confidence building'. The wound of yesterday's war is still fresh. Rehabilitating ex-combatants without arms into society are difficult enough but integrating two opposing forces with arms is definitely a recipe for disaster if it is not managed well. Maoist is the only political party with an Army for itself, which has to be either rehabilitated into society or integrated into the security forces. Hopefully, with the wisdom will dawn upon all the political parties and ego, anger, party position, intimidation, and biased views will be put in the back burner and forgiveness, making new friends, compromise and the idea of

working together to achieve the national goal will prevail. If the mind is changed-it is much easier to find the mutually agreed upon solution.

9.5 As regards to other armed groups and gangs, the security agencies must deal with them under the prevailing laws, and new laws should be enacted to meet new type of threats.

10. Conclusion

10.1 Nepal is undergoing political change. Lot of restructuring will take place during the process. 'Federal Republic of Nepal', hopefully will start with new vision and leadership. The core values will be enshrined in the new constitution, therefore we can pick up the Core Values from there. The people's representatives should define national Vital Interests. A well-balanced Grand Strategy to protect the core values and further the interests and the National Security Strategy to support the Grand Strategy could be produced. The National Security Strategy must encompass all security issues including the human security.

10.2 Unless these documents are produced there will not be clarity in thought to run the government. Also, these documents help us to further our goals of development and providing peace and security to the Nepalese people.

10.3 While developing the National Security strategy, there should an extensive consultations with all political parties and Parliamentary authorities. National Security Strategy shows that the government is committed to working with the whole of society to build confidence on our core values, our shared approach, and security capabilities. It sets out a new and clearer understanding of what security means and how we need to work together in an integrated and coherent manner. It should enable us to work together to manage risks, harness the opportunities, and achieve a single overarching national security protecting Nepal and her interests and enable people to go about their daily lives freely and with confidence, in a more, secure, stable, just and prosperous Nepal.

References :

1. *Edward N Luttwak, Strategy-The Logic of War and Peace, President and Fellows of Harward College, USA, 1987.*

2. *Gen KV Krishna Rao, Prepare or Perish, Lancer Publishers Pvt Ltd, New Delhi, 1991.*

3. *Hans Bern, Parliamentary Supervision of Security Forces, Geneva, (Nepali Translation), Inter-parliamentary Union, Geneva Center for Democratic Control of Armed Forces, 2003.*

4. *Chuda Bahadur Shrestha, Surya Kanta Paudel and Krishna Katuwal, Nepalko Antarim Sambidhan and Sambidhansabha, Sampurna Publication, Gairidhara, 2007.*

5. *Natan Sharansky, The Case for Democracy, United States by Public Affairs, a member of the Perseus Books Group, 2004.*

6. *Interim Constitution of Nepal 2006.*

7. *Military Act of Nepal 2006.*

8. *Comprehensive Peace Agreement-2006, Peace Committee, Peace Secretariat..*

9. Government of Nepal, Peace Secretariat, Agreements and Understandings on Peace Negotiation of Nepal, Singa Durbar, Jan, 2007.

Note: Paper Presented at a High Level Seminar organized by Ex-Police Organization and FES in Kathmandu on April 24, 2009.