Chapter IV

MILITARY-DEMOCRACY INTERFACE SINCE 1990-2002

The new democracy in Nepal started facing so many challenges shortly after its restoration in 1990. First, there was no future roadmap with the political parties and the leaders involved in the mass movement after restoration of democracy in 1990. Inter and intra-party conflicts between and within the parties also weakened democracy. Second, because of the desire of monarchy to be assertive; non-cooperation of the army to the civil government, and regular effort of both to discourage the political parties, leaders and the democratic system became normal. Third was the government’s inability to either face or settle the challenges posed by the ultra-left Maoist armed rebellion. Fourth was the attitude of the international community that promoted military strength for suppressing the rebels but discouraged the government for peaceful settlement of the conflict. Against this background, this chapter highlights the main challenges faced by the system established in 1990. The chapter will further explain how the king-military tandem in the 1990s worked to make the system weak. The constitutional monarchy, unsatisfied with his power and position, gradually started to take steps against the interest of the sovereign people, and the leaders in power compromised with the king for the sake of gaining and remaining in power. So, the chapter also analyzes how the Royal Nepal Army (RNA) was used as personal army of the king and how the whole system collapsed mainly because of the non-cooperation of military to the elected government after 1997, and especially since 2000 to 2002.

Background of Mass Movement-I in 1990.

The thirty-year-old partyless Panchayat system established in 1960 under the patronage of active and dynamic leadership of the king was overthrown by the popular movement led by the political parties in 1990. There were mainly four factors that were responsible for promotion of political parties. First, the partyless system had inherited contradictions from the very beginning. Neither it had well-defined ideology nor could the role played by the Panchayat elites control the opposition directly or indirectly within and out of the system. It was the major contradiction of the system which by nature opposed recognition
of pluralism and opposition. Most political debates among the Panchas heightened competition for getting favour from the establishment and the king. As a result, they failed not only to achieve the objectives of the new system to legitimize it but also to socialize younger generation in the system. In addition, several institutions, which were directly or indirectly patronized by the palace, also helped weaken the system itself.

Second, the popular strength had been gained by the movement because of the NC-United Left Front (ULF) coalition within the country. The coalition was made possible, because left parties had no alternative except for recourse to capture power through elections. The leftists had no option except to adopt the multiparty democracy as a strategy for survival in Nepal, at a time while the world was moving towards unipolarism after the developments in Eastern Europe following the collapse of the Soviet Union and 'the end of the history' of ideologically guided cold war. In other words, the democratic movement in Nepal might have been influenced in 1990 by the "third wave" of democracy rising in the world.

Third, political environment in South Asia was changed by the end of the cold war and "third wave of democracy" worldwide. It had emboldened the anti-regime opposition more prominently in South Asia, especially Pakistan, Bangladesh, Nepal and Bhutan. The authoritarian regime under the military in Pakistan and Bangladesh also returned to some sorts of democratic rule in 1990. Political leaders in India and the US, who think themselves as role model of democracy, played an important role individually and institutionally in encouraging political parties in Nepal either by publishing report on human right situation or pressuring the regime through decision made in the respective

1 The objectives of the system as rationalized by the king were: (1) to establish a decentralized democracy (by giving power to Chief District Officer in district and Zonal commissioner at Zonal level) in which every citizen was considered a pancha, (2) to achieve class coordination through economic and political measures, and (3) to lay the foundation of planned economic development free from exploitation.


3 Nilambar Acharya, a member of Constitution Recommendation Committee representing the United Left Front in 1990 while talking to researcher. Now he is CA member of NC since 2006 and Chairperson of Constituent Committee.


6 The Nepali Congress conference held in January 1990 created a lot of enthusiasm for the restoration of democracy. The participation of Indian leaders and their open support for the movement for the restoration of democracy indeed electrified the situation. See Lok Raj Baral, Nepal: The Problems of Governance, New Delhi: Konark Publishers Pvt. Ltd 1993: 77

7 Asia Watch Report, August 1998:1
parliaments. Ultimately, these actions taken by these powers in the world and the region discouraged the monarch in Nepal which in turn gave a drive to the movement. Actually, the Nepal government could have used the army to contain the protests of 1990. But its dependence on the goodwill of the aid-giving community made such a course of action impossible in spite of its wish to do so.

India, which surrounded the small land-locked country, Nepal, on three sides, was dissatisfied with the king because of the import of Chinese arms into Nepal without consulting it. It was taken as a violation of not only the Treaty of Peace and Friendship and Agreement on Import of Arms by Nepal concluded by the two sides in July 1950 and January 1965 respectively. The Treaty, the Letter exchanged with it and the Agreement bind the two countries together on the issue of security. The cooling off bi-lateral relations put tremendous pressure to the establishment in Nepal that reflected multiple effects against it. That is why, India, as an immediate neighbour of Nepal which is located in its heart, boosted the morale of political parties of the latter to fight for democracy. However, it was reportedly told that the army advised the king to respond to the demand of the parties; otherwise there would be bloodsheds, which ultimately might create a threat to the institution of monarchy. Backed by the military, the King used his judgment to concede the demand of the agitating parties in spite of suppressing the movement in the later days using the police and army. Hoping support from nowhere, the king was compelled to remove the partyless Panchayat System and restored democracy in

8 Meanwhile, the letter sent by six US legislators to King Briendra drawing his attention to the deteriorating situation in human rights violation and urging him to avoid the "use of excessive force, especially deadly force, in maintaining order". See the letter sent through FAX on 22 February 1990. Similarly, later, during the movement, 207 members of Indian parliament signed a joint statement upholding the movement for the restoration of democracy. See Lok Raj Baral, Nepal: The Problems of Governance, New Delhi: Konark Publishers Pvt. Ltd 1993:77.

9 The moral support to the NC, a banned party, from International community, especially India, had discouraged the government under Marich Man Singh at a time when the Indian government imposed an economic blockade unilaterally in March 1989. See Lok Raj Baral, Nepal: The Problems of Governance, New Delhi: Konark Publishers Pvt. Ltd 1993:77.

10 Article V, Treaty of Peace and Friendship, 31 July 1950. Point 2 of the Letter exchanged with the Treaty by both the countries, 31 July 1965. Article 3, 4, 5, 6 of the Agreement on Import of Arms by Nepal, January 1965,

11 Bishnu Datta Upreti during an interview taken by the researcher. Most senior military retired officers also accepted it during the interviews.

12 Retd. Let. General Bala Nanda Sharma, Gopal Singh Bohara told that they had not been formally informed about the matter while they were not in the position at that time, but might be right.
1990\(^{13}\). An interim government was accordingly formed under Krishna Prasad Bhattarai, then president of NC, “to draft a new constitution and hold the election of parliament”\(^{14}\).

**Mass Movement-I and Response of the State**

The movement for the restoration of democracy was first initiated by the NC at its conference held on January 5-7, 1990 at the premises of Ganesh Man Singh's house in the presence of all the political leaders representing various parties in India. Its objective was indeed to announce a mass movement for the revival of multiparty system in the country from February 18 (Democracy Day). Later, a United Left Front was created to support the movement to be led by the NC. At that time, all former stalwarts and beneficiaries of the regime deserted him during the crisis prevalent at that time. Hence, the King and his loyal prime minister defended the regime reminding the opposition that he had got the mandate during the national referendum held in 1980. The King and his supporters also accused the opposition of being inspired by foreigners to destabilize the partyless regime\(^{15}\). Although the organizers lacked initial confidence of the success of the movement, it picked up the momentum soon after the solidarity shown by people and the Indian leaders, and also due to the crisis of legitimacy suffered by the regime. However, the movement was confined only to a few towns in and around Kathmandu. Its psychological effects were enormous in the initial phase of the movement.

The Mass Movement was aroused in various parts of the country to urge the people to come out to the streets during the last phase of the movement on 6-8 March. It declared Patan and Kritipur as “liberated” towns by defying government prohibitory orders and setting up blockades by controlling the state security force giving a sense of the collapse of partyless system\(^{16}\). Sensing the much bigger trouble in the offing, King Birendra took the initiative of defusing the crisis by making Prime Minister, Marich Man Singh a scapegoat accusing him of having “failed to establish law and order” in the country. He appointed Lokendra Bahadur Chand as PM in place of Thapa with three responsibilities:

14 Ibid.
15 Taken from Royal Address in Panchayat rally held in Pokhara on 16 March 1990. King Birendra had said, “Any political system by itself is not an end but means by which people’s rights, interests and potentials are realized. As is known to all, our political tradition relies on the popular will, and the mandate given by the national Referendum is the basis for retag strengthening Panchayat policy”.
to begin talks with the leaders of the banned parties, conduct an enquiry into the killings, and form a Constitutional Amendment Commission. This further aggravated the situation by drawing a large number of people to the streets of the capital. When the movement took a violent turn near the Palace, the security forces opened fire killing some people and injuring several others. The government had no option but to clamp down the curfew and invite political leaders to the Palace for negotiations. Finally, the king gave in to the agitating parties and issued a communiqué for deleting the "partyless" from the Constitution. Although political parties terminated the movement, they continued to put pressure on the king for the termination of the entire panchayat system. The king had to yield again when the agitation did not accept the continuity of the panchayat government to also work as interim government. This led to the formation of a new interim government.

Formation of Interim Government: Struggle for restoring Democracy

The Interim Government was headed by Krishna Prasad Bhattarai — leader of Nepali Congress. The representatives of United Left Front (ULF) and nominees of the King also were included in the government that made the status of the king shift from absolute monarchy to one of the power centres among the three—King, NC, and the ULF— of the country. The situation was easily acceptable neither to the beneficiary of Panchyat System including key members of royal family nor to the progressive forces of the movement, especially hardcore leftists.

The interim government had to face its worst crisis soon after its formation because of two reasons. The first was the lack of vision and mission of the political parties and their engagement in partisan interest guided by their respective ideology rather than national, for establishing and institutionalizing the newly restored democracy. The second was non-cooperation of the law enforcement mechanism, mainly police and the army, to the interim government. The incidents carried out by the regressive groups created

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18 There were no reasons: first, ministers from both the NC and the ULF were engaged more in the Bhagbanda (distribution of positions) and in the respective strategies for influencing the emerging political developments in the country rather than in the homework for establishing democracy. Second, pro-panchayat groups were trying to create disorder through planned attempt for counter-revolution by training "secret police" in the National Sports Council. Thus, several incidents that took place were carried out by vigilante groups in police uniform. See, Samaj 27 April 1990.
misunderstanding between the police officers and the newly formed interim government, creating a revengeful attitude of the former against latter. It also showed the dependency of the government on the military and the king for solving every such problem, to the extent that the successfulness and effectiveness of the new government depended only on the attitude of the traditional institutions.

The prime minister appealed to the people “for the full co-operation”, failing to handle the situation with the law enforcement machinery — the police, the army and the bureaucracy, especially the office of the His Majesty of Government Chief Secretariat.

Likewise, the Home Minister issued a press statement to take action against any activity that “hurt the morale and confidence of the police.” Prime Minister Bhattarai also sought the intervention of the king with an ultimatum to resign if the king did not fully support to the new interim government. Thus, the king addressed the people with the “confidence that all Nepalis will rise to the occasion and extend full cooperation to [prime minister and Council of Ministers]... in the discharge of their duties in the interests of Nepal and the well-being of the Nepali people.” The king’s appeal was crucial for smooth functioning of the government on the one hand, and it continued the recognition of the king as one of the “power centre[s]” of the country on the other, as the police, the bureaucracy and especially army, showed loyalty to the king, not to the interim government.

19 Six of them were killed by the people displaying the dead bodies in the open. On 23 April 1990, some people in police uniform, without identity cards had been taken prisoners by the people suspecting them as Mandales or agents of the previous regime. Five of them were beaten to death and the other six were severely injured. The crowd then paraded carrying the dead and injured persons round the town shouting slogans against the king. The joint effort of the Home Minister and Inspector General of Police (IGP) had succeeded in releasing and securing these men by controlling the crowd after the IGP promised, in an open air meeting, to dismiss within a week all police men who had been found abusing. See, Nepal Press Digest 30 April 1990; Gorkhapatra, 22 April 1990.

The injured and killed persons were indeed genuine policemen. In its reaction chanting the slogans against the interim government, especially the Home Minister, more than 300 angry policemen on trucks, vans as well as on foot, marched in procession in the valley with the dead bodies vowing to take revenge for the murder of the policemen. The next day, by shouting same slogans of the previous day, police personnel protested at Bir Hospital and started their revolt by charging the medical staffs also of denying treatment to wounded police. Three cars full of armed men had tried to enter into the government buildings at Singh Darbar (office of interim government) during midday with the intention of kidnapping the cabinet members. After the prime minister asked military for intervention, the latter succeeded in persuading the police to leave the hospital and Singh Darbar peacefully. Samaj, 27 April 1990.

20 Rising Nepal 24 April 1990.

21 According to the statement of Home Minister, “...The situation can be controlled without using force. As Home Minister, I pay tributes to the bravery to the police men who were killed or injured on April 23. Strong action will be taken against any such action which hurts the morale and confidence of the police”. He expressed, “I am confident that the Police, on their part, would perform their duty with dedication”. See, Gorkhapatra 25 April 1990.

government. The traditional forces succeeded though the massage tactically to make general people realize the importance of the king even under the system of multiparty democracy, for which they had been fighting for more than four decades.

In addition, the political environment and people's expectation with state and government were changed but the institution formed under the old structure, especially the palace and the security sectors, could not internalize the change. Several incidents like Godawari conspiracy of the then Queen Aishwarya were hatched for making the new system and government fragile, creating a law and order problem to that extent that no civil authority was aware about not only the action of security agencies in the name of providing security in public place to members of the palace but also under whose direction these agencies were operating. They tried to applying the strategies of the game theory with the expectation that they should win the game anyhow, otherwise they should not loose, even if winning is not possible. What was surprising was that the conservative powers, including the palace, tried continuously to create disorder in terms of security, so that the first, the new system could not be established. The second, if it was established, the expected political transformation could not go smoothly in the spirit of the movement so that people could be disappointed with the political leaders. Then the third, even if the change could be well settled, they could continue their vital role even in the new system.

Members of the royal palace used vigilantes formed and trained by them for creating law and order problem, challenging the capacity of the new leaders in government to use, handle and maintain coercive capacity of the state.

The motto of such incidents might be double-edged. First, it might help the palace to turn the sympathy of the people and security forces to it because the genuine people still had some sort of respect for the King, as perceived by the members of the royal palace. Second, it could be a pretext to arrest influential cadres of the political parties in the name of crime, so that the impression of the political parties could go down, and parties could

24 Innocent people belonging to the political parties were arrested by the security force on the accusation of physical attack on the members of royal family including Queen Aishwarya at Guheshwori, Kathmandu. Neither the Home Minister nor the Prime Minister were informed or aware of the incident. As clarified by the Home Minister about helplessness of the interim government then, "neither police nor army, was totally under [their] control. Nor did they [the leaders in government] support the arrest". See, Indra Adhikari, Military-Democracy Interface in Nepal: 1990-2002, M.Phil Dissertation, submitted to the Jawaharlal Nehru University, New Delhi, 2006.
be seen as less effective within the system. Thirdly, parties involved in the formation of
the interim government could be weakened, and could not go against the interest of the
royal palace thinking that it was inevitable for commanding the security sectors and for
controlling the rightwing fundamentalists at a time, while people felt insecure because of
wide spread crime all over the country and the state was passing through lawlessness
making it unable to maintain law and order. The motto of such an effort of the members
of the Royal Palace was to as secure as possible more power to the king under the new
constitution.

People were not unaware of the fact. Thus, some leading political analysts commented
that the king had not lost anything after the mass movement in 1990 because of his
"prerogative"—"royal command" that made political leaders weak, fearful and
dependent. This view was rightly proved by the expression of the interim Prime Minister,
K.P. Bhattarai in an interview with BBC that they (political parties) could not undermine
the king, who "had the 35,000-men army and the police behind him". The perception of
the Prime Minister, appointed with the mandate of popular movement, gave two
contrasting observations on the crisis: there were strong possibilities of political
intervention by the king as in 1960. However, an unprecedented public fury/warning
directed against the old regime discouraged the king who wanted the survival of
monarchy, even if the monarch lost his absolutism. Thus, he might not like to play the
risky game for loosing the then status in terms of power and prestige of "constitutional
monarchy", as agreed by the major political parties.

Constitution Making and the Role of Military

The termination of the 1990 movement did not make the future political arrangement of
the country very clear. Panchayat structures continued unless some other pressure was
put on the King to take a definite line towards dismantling these structures and handing
over power to the Interim Government to be formed by the NC-ULF. Hence, divergent
views and questions were raised by the people. Had the king, who was still unchallenged,
sacrificed absolutism? The main power of the king, was all practical purposes, was the

25 Samaj 11 July 1990.
military, whether or not its loyalty to the king could be shifted to the democratic government. And, whether or not the democratic political leaders or government would be able to limit the king within the boundary of constitutional monarchy. It was felt by the leaders that the King obviously would try to enjoy the military support.

The king, in the meantime, announced the Constitution Reform Recommendation Commission on 10 May including the so-called “liberals” from the NC and ULF without consulting the interim government. The formation of the commission by the king alone gave an actual sense that the democratic government was still running “without power” for execution and the king had set up a Commission only to “Reform” the Panchayat constitution but not to draft a fresh one. After there was nationwide condemnation against the formation of the “king’s commission”, the members of the commission nominated from the NC and UPF submitted their resignation from the post on the advice of the respective parties. The interim prime minister was threatened with a strong stand to resign from the post in case the king did not remove certain persons from his nomination. The king on 20 May was compelled to announce the nine-member “Constitution Recommendation Commission” (CRC) including the persons recommended by the government.

The interim government sought the help of the king from the very beginning of its formation for balancing and maintaining the entire traditional elements existing in the country. On the contrary, radical forces were pressurizing to the government to draft a paper to limit the king fully in the palace for avoiding his activism that could discourage himself and its allies. The logic behind the demand was that the king at any time might

27. Among the seven members of the commission, Bharat Mohan Adhikari and Daman Nath Dhungana were from ULF and NC, respectively and the other five — Ramananda Prasad Singh, Hora Prasad Joshi, Ms. Kamal Rana and Suryanath Upadhyaya (as secretary) were royal representatives, and Bishwanth Upadhyaya (as chairperson) was justice of Supreme Court.
29. The composition of the Constitution Recommendation Commission was: Bharat Mohan Adhikari, Madhav Kumar Nepal and Nirmal Lama from ULF; Daman Nath Dhungana and Mukunda Regmi from NC; Pradyumna Lal Rajbhandari and Ramanand Prasad Singh from Royal Palace and Laxman Aryal and Vishwanath Upadhyaya (Chairperson) from Supreme Court.
hatch a conspiracy against the democratic achievement\textsuperscript{30}. But it could be observed that the reality was different than that of the logic of the radicals. The Prime Minister also was fully aware of the fact that without balancing the ultra-leftists and rightists the achievement of the movement could not be established and institutionalized by the government, for that the King also should be taken in the confidence of the government where the communists were the coalition partners. The compulsion of compromise with the king was cleared by the statement issued by the prime minister of the interim government\textsuperscript{31}:

\begin{quote}
There was no need for an interim act for putting the king within a constitutional framework.... The king cannot be tied with a scrap of paper for he has the 35,000-men army and the police behind him. Blood will be shed if we try to do so in the present situation. We can tie the king only by framing a constitution and holding elections immediately thereafter. We should also try to change the king's heart by reminding him of the factors that have now compelled him to hand over power to the people.
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Similarly, the military was not only sensitizing soldiers within the organization about the interests of military under the broader concept of powerful kingship, but also exerting its organizational power frequently in the interest of the king. Such a practice was evident while it pressurized the CRC institutionally, as well as the Chairman of Constitution Recommendation Commission (COCRC) and the Prime Minister personally for not minimizing the role of the king in the forthcoming constitution. In addition, officially, the Military Operation and Staff Duties Unit of the G. Branch of the Royal Nepal Army Headquarters (RNAHQ) meanwhile distributed a circular to all RNA units for their suggestions, which were to be submitted later to the CRC on behalf of the institution. It thus read: "His Majesty should remain the Supreme Commander-in-Chief and Field Marshal of the Royal Nepali Army. Sovereignty must be vested in His Majesty, who should also control the army. The Post of Commander-in-Chief should have a constitutional status as before, and appointment to the post must be made by His Majesty. The Royal Nepal Army traditionally worships God Mahadeva and Goddess Kali, and

\textsuperscript{30} Indra Adhikari, Military-Democracy Interface in Nepal: 1990-2002, M.Phil Dissertation, submitted to the Jawaharlal Nehru University, New Delhi, 2006

\textsuperscript{31} \textit{Samaj} 11 June, 1990
Hindu ceremonies are performed at every barrack, hence Nepal must remain a Hindu State. After much debate held for either supporting or opposing the suggestion of the army and strong reaction from COCRC, Bishwanath Upadhyaya, the Commander-in-Chief of RNA had followed the decision of COCRC. In spite of the rejection of the request of Commander-in-Chief of RNA to CRC Chief-Commissioner for seeing the latter in his office, the former was allowed to meet at the latter’s residence. The Commander-in-Chief of RNA had proposed — sovereignty should be vested with the monarch, RNA should be under the king who is neutral and above party-politics. Out of 11, majority members of National Security Council should be from RNA personnel, and king should be Supreme Commander of RNA. It was argued by the Commander-in-Chief of RNA that running the constitutional monarchical multiparty system was difficult in such a dual ruling system where supreme power of the state was with the king and ruling power with the people’s representative who could misuse or politicize the national armed force, i.e, the RNA. After the COCRC rejected the demand of the Commander-in-Chief of RNA, the latter came next day with some sort of a revision plan in his demand. Both of them discussed that day and reached a tentative conclusion, which was further revised by the committee in the draft constitution.

Both the forces were afraid of each other. Neither the King backed by the army nor the CRC members were fully satisfied during the process of constitution-drafting. The King was afraid of the drafting committee and the government that could curtail his power and make him a nominal head. The government and people wanted the king’s position as a

32 Officially, the Military Operation and Staff Duties Unit of the G. Branch of the Royal Army Headquarters sent a circular (No. 1103/46/179) on 9 Ashadh, 2047 (23 June 1990) to all Royal Army units directing them to submit their suggestions to the CRC. These suggestion were submitted to the CRC later on behalf of the RNA. See in detail, Saptahik Bimarsha, 6 July 1990 as quoted in Press Digest 1990, p300.
33 All Nepal Mahayana Buddhist Society and some leaders from the ethnic community were suggesting “full religious freedom” but did not mention any official status on religion in the constitution: secular or non-secular. Rising Nepal, 10 July 1990.
34 He said that the commission had not solicited suggestions from the army, nor from any one else, but had only accepted suggestions that had been presented to it. According to him, the army and police should not be responsible to any individual, but to the nation and the system.
constitutional monarch, titular head of the state, but were afraid of its possible conspiracy as in 1960. The military was also not interested in remaining under the parliament where most of the members might be elected from the middle and lower class people who had been ruled in the past with the help of military. Hence, there was a big debate within the members of the CRC\textsuperscript{37} during the constitution-drafting period on the issues of sovereignty, unchangeable provisions in the constitution, military commission, name of the military institution (whether RNA or NA), power to declare the state of emergency, state stand on religion, etc. Most of these were decided in favour of the king in the Constitution of the Kingdom of Nepal 1990.

The draft constitution that was completed on 10 September was handed over to the king by COCRC. A new draft constitution prepared separately was simultaneously circulated by the Palace in order to know the reaction of the people. After strong reaction of the people on the provisions of the palace's draft and pressure of the people to give back the draft to the government, surprisingly the king delivered a speech by saying that he was "studying the draft" and would "receive suggestions personally in-between two great Hindu festivals — Dashain and Tihar from interim government" and the constitution would bring a "strong multiparty system under the constitutional monarchy"\textsuperscript{38}. The message clearly indicated four things: First, the king was not satisfied with the provision of the draft and wanted special changes which would not be easily accepted by the government; second, declaration of Constitution would be delayed; third, multiparty system would be subordinate to the monarchy; and finally, "Hindu" would be the state religion. In the meantime, the draft of the new constitution was shuffled back and forth between the palace and the cabinet with adjustment of some points each time. As a result, thousands of people marched on the streets by raising slogans like: "Stop Palace Conspiracy". Members, especially from the ULF in the government, threatened to resign in case a new constitution was not made public immediately. In addition to pressurizing the COCRC to publish the constitution, Prime Minister Bhattarai was under pressure due


\textsuperscript{38} Martin Hoftun, et al., John; People Politics and Ideology: Democracy and Social Change in Nepal, Kathmandu: Mandala Book Point, 1999, p.301.
to the king-military tandem during the whole period of constitution-drafting process. It could be clear from what he said in an interview with foreign researchers:

One day, the commander-in-chief rang at eight o'clock and said he was coming at nine. He walked in uniform and gave me a file. It said that the king's prerogative and powers, and sovereignty should all remain with him. So I said that this is not my business, it is the business of the Constitution Commission. I put it before the commission and they rejected it. Then I duly informed the commander-in-chief. Then one day I had a telephone call in the office. Some generals and the commander-in-chief wanted to see me personally. All of them came — 22 generals — in uniform led by the commander-in-chief. They gave me a file which was the same thing again. Prerogatives and private purse and all that should remain not with the people, but with the king. I replied that the political changes were the result of a very big movement. "How do you suppose that I can do these things or get these things accepted by the people?" I asked.... Then the king called me one day suddenly. ... [I] went there at 5pm [after office hour]. He called in his private secretary and the king said he did not agree with what the commission was doing. I said it was beyond my power to change anything. I could not get it accepted by the commission or by the cabinet. There were all kinds of people involved in this, I said that communist and others — and they would become very angry.

There were several tags and wars, and pull and haul in-between the palace and the government, but also leftists and democratic lobbies within the popular forces on the issue of power of the monarchy during the constitution-making period. The government, especially the Prime Minister, had played a very mature role to make the constitution "the best" in the contemporary world. For assuring democracy forever, he not only defended the king and military personally, but also used the radical forces, especially communists and the people in some particular cases, to create pressure on the government itself. As a result of such pressure, the government, on the one hand, might have an easy way for not compromise in the cost of democracy with the traditional and conservative, and provided an opportunity to such forces also for reviewing their expectations with regard to the people's interest on the other. This fact is cleared by the incident given below.

Surprisingly, a "counter-constitution" that was completely different from the one drawn by the CRC was handed over to the prime minister by the palace writing 'in the front page of the draft that it was "prepared in consultation with and approval of the Prime

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40 Nilambar Acharya, a member of the CRC from the United Left Front, talking to the researcher.
41 It was announced by the Nepal Television (NTV) and published in Gorkhapatra daily on 22 October 1990.
Minister". It seemed impossible to ordinary people that the king could turn around and announce his constitution in spite of his repeated commitment to democracy and his announcement for supporting the new regime. The situation had not only created misunderstanding between the CRC and the interim government, but also between the Communist members and the prime minister within the cabinet, and government and ordinary people in the country. This is because; the main points of the palace document were not fundamentally different in word and spirit from the Panchayat constitution, except for the provision of a multiparty system. After K.P. Bhattarai threatened to resign at once from the post saying that the palace constitution was "utterly unacceptable to the interim cabinet, to the Nepali Congress Party, to the Nepalese people and to [the Prime minister] himself personally", the palace was under pressure to issue a statement on 22 October denying any knowledge about the announcement of NTV and Gorkhapatra and condemning "these attempts to sow discord between the Palace and the people".

The reality was that the Palace had circulated its draft as a new constitution and the draft was given to the Prime Minister, K.P. Bhattarai. The Prime Minister had handed over a copy of the document to each member of CRC with an acceptance to publicize it. Subsequently, the Palace issued a statement on 23 October by claming that the draft had "been circulated after continuous discussion and consultation with the prime minister".

The prime minister clarified later that he did not object to the draft while King Birendra had read it in front of him, because "he was neither legal expert nor had the right to decide anything individually". Then, the three veteran leaders of the NC — K.P. Bhattarai, G.P. Koirala and Ganesh Man Singh, met the king and expressed their own opinion about what the constitution should entail and how serious they thought the whole matter had become. As a result, King Birendra announced the final constitution on 9 November marking the end of a long power struggle. Several provisions of the draft

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42 The main points of the palace constitution were that sovereignty should remain with the king and the people, and not just in the people; and that all the powers should be vested in the king. Crucially, the document specified that these powers of the king should be exercised "by and with the advice and assistance of the Council of Ministers" rather than, "by and with [their] advice and consent that was the formula in the commission's draft.


constitutional changes submitted to the king were announced by King Birendra on 9 November 1990, saying that "the constitution is as democratic as the situation possibly permitted". It proved that it was the result of the general agreement between the traditional and democratic forces of the country. There is no doubt that the Constitution of the Kingdom of Nepal 1990 accepted the king as head of the state, a duly elected parliament representing sovereign people and human rights that has provided more civil rights to the people than provided by any other previous constitution of the country.

**Constitutional Loopholes and People's Reactions**

The main characteristics of "The Constitution of Kingdom of Nepal 2047" (1990) were adult franchise, parliamentary system of government, multiparty democracy, bi-cameral legislature, constitutional monarchy, sovereignty of the people, independent judiciary, guarantee of fundamental human rights with "liberty" and "equality, and rule of law, etc. Many were of the opinion that the achievements were more than the expectations because political parties were continuing the movement with the one-point agenda — "Lifting of ban on political parties". The provisions, such as sovereign people, constitutional monarchy and other positive aspects of the constitution, were extra-achievements of the movement except the multiparty system. Thus, most people used to say, it is one of the good democratic constitutions of the world, though so many ambiguities and loopholes were present.

According to the constitution, Nepali people were the "source of sovereign authority" as "sovereignty of Nepal was vested in the Nepalese people". Contrary to the word and spirit of such provision, the constitution was "promulgated" by the king reading the preamble, "I, KING BIRENDRA BIR VIKRAM SHAHDEV, by virtue of the state authority as exercised by us, do hereby promulgate and enforce this CONSTITUTION OF THE KINGDOM OF NEPAL". A genuine question could be raised here as to who was sovereign in de-facto sense — king or people? The individual or institution that gives the constitution is real sovereign. Nepali people would be sovereign if there was a

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46 *The Rising Nepal* 10 November 1990.
Constituent Assembly which could have prepared the constitution declaring “we the people give this constitution to ourselves...” as written in the Indian and American constitutions. If the king, who was not sovereign by constitutional provision, granted the 1990 constitution in Nepal, how could the people be sovereign?

Moreover, the “sovereign” people had no power to change the four fundamentals of the constitution — multi-party system, constitutional monarchy, sovereignty of people, and adult franchise. It was therefore a rigid constitution that could not be amended by the “sovereign” people. It was more so in absence of other alternative provisions for reflecting “the popular opinion on certain crucial areas that might not necessarily go along with the demand of time and situation or people themselves might want to bring about changes in them”\(^49\). Even during the constitution-drafting period, there was long debate among the members of the CRC on the issue of constitutional amendment. Most of the members, especially communists, did not want a rigid constitution. The Nepali Congress wanted certain features of the new constitution to remain unchangeable because of the possibility of repetition of the history of 1960\(^50\). Time and again, many were of the opinion that the king might make a move against the restored democracy. The leaders and people were confident that a counter-coup would not succeed in the prevailing situation, but they were worried that the king and the army might act against the new democratic regime. The intention of the leaders of Nepali Congress was to secure and assure basic democratic characteristics by making the constitution unchangeable\(^51\) in spite of an argument of the ULF members and Mukunda Regmi, one of the NC members in the commission, that “everything in the constitution should be amendable”\(^52\). His logic was that a flexible constitution would make the people really sovereign. It provided an open space to the people to change the polity of the state in accordance with the changes required by the time and situation under which they wanted to be governed. The CRC


\(^{50}\) Govinda Raj Joshi, leader of NC during an interview taken by the researcher.

\(^{51}\) Ibid.

eventually made the Preamble unchangeable and the cabinet passed it unanimously to cement the basic principles of the new political system.\(^{53}\) The constitution defined Nepal state as “multiethnic, multilingual...Hindu, Constitutional Monarchical Kingdom”\(^{54}\) excluding the identity of non-Hindus in the state, even though they were in minority. In spite of strong lobbies of non-Hindu religious organizations and ethnic groups to maintain Nepal as a secular state as the commitment of interim government in it, political parties involved in the constitution-making process could not play their due role because of the pressure of the “orthodox groups” representing the military, palace and other religious organizations who wanted to identify Nepal as the only Hindu state in the world. The CRC was neutral about the official position of religion in spite of a doubt that if the state adopted a secular position, any regressive step be taken by orthodox element for dismantling the new system on the pretext of making Nepal as a Hindu state. Thus, the position of the state in the draft constitution was “Hindu Constitutional Monarchical Kingdom” (monarchy is Hindu but not the Kingdom, or only monarchy should be Hindu), but the provision converted into “Hindu, [and] constitutional Monarchical Kingdom” (both monarchy and kingdom are Hindu) in the final constitution\(^{55}\) as in the Panchayat Constitution. However, the provision of the final constitution made a Hindu state religion, which denied religious freedom to other non-Hindus, especially ethnic, indigenous and tribal communities, who had their own language, religion and culture as symbols of identity. Likewise, It was also the case that certain concessions had been made to the king, some purely symbolic and others possibly of practical importance. If he had lost his power, he would not have retained the old position. Some provisions of the constitution gave the king special facilities, which were


\(^{55}\) The interim government and CRC were pressurized from various lobbies related to Hindu fundamentalism. Achyut Raj Regmi, one of the royal nominees in the interim government, founder member of the World Hindu Federation and active member of Pashupati Development Trust that was closely linked to the center of power in Kathmandu, declared that he would stage a hunger strike at the gate of Pashupatinath temple, if the new constitution did not include provisions to retain Nepal’s status as a Hindu state. Other religious organizations, such as Nepal Buddhist Association, however demanded Nepal as a “secular state”, see in detail, Martin Hoftun et al. \textit{People Politics and Ideology: Democracy and Social Change in Nepal}, Kathmandu: Mandala Book Point, 1999, p.91
above legal remedy. The income and personal property of royal family members were "tax free"\(^56\).

The king could neither be clarified nor interrogated by any institution of the state. No question could be raised against any activity preformed by the king\(^57\). If the king was not satisfied by his power and did not accept his role morally as directed by Article 35(2) of the constitution\(^58\), he could do so on his own, because there was no provision of legal remedy against the unconstitutional steps taken by the king. Article 35(2) did indeed lay down that, unless it was explicitly stated that a particular power was his alone, the king must always act on the advice of his cabinet through the prime minister. However, the court could not enquire as to, whether or not such advice had been given by the cabinet.

The ambiguity of the constitution was that all the provisions of "constitutional monarchy" had been copied from other countries' constitutions, which limited the king as a titular head who was neither responsible in everything done in his name or done by him, nor had power in practice. But the case of Nepal was different. Most important, some powers such as declaration of State of Emergency, house dissolution, military mobilization, etc., were with the monarch. The king could exercise the power to impose an emergency for three months "by proclamation"\(^59\), though it had to be approved by the parliament within three months for its continuation\(^60\). But the experience of 2001 has shown that if parliament was not able to approve the state of emergency, it could be dissolved but could not discontinue the state of emergency imposed by the king, whether or not a royal discretion was retained and used to exert as his power by the king. In particular, Article 53(4) stated that the king "may" (sakibaksine) dissolve the House of Representatives and call fresh elections on the recommendation of the prime minister. Did this mean that the king was free to act on the recommendation if he chose to do so, or that the prime minister was free to make a recommendation which the king must then follow? The king decided to accept or reject the different proposals of the three elected prime ministers

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\(^{58}\) According to Article 35(2). "Except as otherwise expressly provided as to be exercised exclusively by His Majesty or at His discretion or on the recommendation of any institution or official, the powers of His Majesty under this Constitution shall be exercised upon the recommendation and advise, and with the consent of the Council of Ministers. Such recommendation, advice and consent shall be submitted through the Prime Minister".


\(^{60}\) Article 115(1, 3 & 4), *Ibid.*
from both majority and minority governments for dissolution of House of Representatives (HOR) after 1990. The king also took two contradictory decisions if it suited his interest. On the one hand, he could concede the demand of one-fourth members for fixing the date and time of the special session of the house; he could accept the advice of the prime minister to dissolve the house and declare the date of election on the other. In addition, he decided on the same proposal of prime minister after taking advice from the Supreme Court. These incidents raised questions not only on the role and power of the constitutional monarchy, but also on the independent role of the Supreme Court, which was helpless in exerting its independent role except to be a silent eyewitness for such activities performed by the king.

The spirit of the constitutional provision in both — in the exercise of emergency powers and in dissolving parliament — was that the king should act only on the advice of the cabinet and should not retain a veto over the recommendation. Being aware of the past experience, most members of CRC had a similar opinion that a state of emergency might be declared only in special circumstances, which should be clearly defined by a two-third majority in the parliament and a referendum should be held to extend the state of emergency beyond a period of 6 months. However, ultimately they were compelled to give up their views for reaching a compromise among the forces.

Traditionally and constitutionally, the location of military power remained with the king because he was the Supreme Commander of RNA and had the power to appoint the Commander-in-Chief of the army staff on the recommendation of Prime Minister, who was not only the head of the government but also Chairperson of National Defense Council (NDC). In addition, the king had the power to operate and use the RNA on the

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61 In 1994, the king accepted the proposal of PM G.P. Koirala whose party NC had got majority in HR, to dissolve house and go to general elections. In 1996, he supported the same proposal by Man Mohan Adhikari, PM of minority government that had lost the confidence of other alliance in HR, but the Supreme Court issued a verdict against the acceptance. But in 1998, PM Surya Bahadur Thapa, technically enjoying the confidence of the House in his government, failed to get the house dissolved because of the king, who acted on the advice of Supreme Court that "would not be appropriate to give any opinion to the king against the elected PM with the confidence of the HR. Thus, no uniform standard seemed to have followed neither by the King nor by the Supreme Court.


64 Article 119(2), Ibid.
recommendation of NDC\textsuperscript{65} comprising the Prime Minister as Chairperson, and the Defense Minister and the COAS as members\textsuperscript{66} with “the power to regulate its working procedures on its own”\textsuperscript{67}. After King Tribhuvan declared himself as supreme commander of military in 1953 affirming the right vested in him given by his forefathers, the king has been controlling and commanding the military as chief and field marshal. Such decorative posts were made real for using the army in the interest of monarchy after 1950 and similar positions had been provided in the new constitution also without underlining any limitation. On the other hand, no constitutional provision for “establishment and management of RNA and other matters relating to any was fixed but left out for determining all these things by law in the future\textsuperscript{68}. The strange reality was that the parliament itself was not constitutionally free to make the law related to RNA. For any Bill relating to the RNA (and Armed Police Force), it was to be introduced as a government Bill and any amendment to such Bill might “be introduced upon the prior approval of the king”\textsuperscript{69} who was not compelled by the constitution to approve such a bill\textsuperscript{70}. In such cases, parliament itself was inferior to the King, thereby raising a question not only on the sovereign right of the people, but also supremacy of the civilian government formed from within the parliament.

In actuality, the king was not satisfied with his limited role provided in the constitution, since theoretically the king had no other role except for making palace rules for the royal family members and Palace bureaucracy. It was said that King Birendra showed his grievances immediately after the promulgation of the constitution that he was “treated as a defeated king..., and he had more limited role than that of the President of India”\textsuperscript{71}. Therefore, he had been acting gradually against the spirit of the constitutional monarchy after 1990. Neither the military that was constitutionally under a constitutional body — NDC, nor the lobbying groups inside the palace, especially king’s brothers and palace secretariat, were generally happy. The reason was that they did not like the king playing a

\textsuperscript{65} Article 188(2), Ibid.
\textsuperscript{66} Article 118(1), Ibid.
\textsuperscript{67} Article 118(4), Ibid.
\textsuperscript{68} Article 118(3), Ibid.
\textsuperscript{69} Article 68(2), Ibid.
\textsuperscript{70} A bill famously known as Citizenship Bill, introduced by the government as Finance Bill, had been nullified by the king after both houses passed and sent it for approval of the king, for formalizing it as a law in 1999. The king had no right to kill any bill introduced by the government as Finance Bill.
\textsuperscript{71} Uddhab Pyakurel, 2046 Ko Paribartan ra Nyayapalika (1990 Change and Judiciary), Kathmandu: Nepal Centre for Contemporary Studies 2005, p.6.
liberal role as designed in the Constitution of 1990, but wanted him to retain most power as enjoyed by him during the Panchayat era. In a similar way, the old panchas, who were not included in drafting the new constitution, also were not satisfied. Their official complaint was that the new constitution needed to be made either by the king himself or by the Constituent Assembly, which could be only the authorized institution for drafting the constitution representing the nation. As they thought, the movement launched by the banned political parties had been provoked by other powers, especially India, but not supported by the Nepali people. The logic of the panchas was that “only the parties represented in the commission [would] respect the new constitution — nobody else”. The well-known hidden fact behind such logic was that they were never in support of multiparty democratic system. Thus, the panchas felt insecure in the democracy that ensures one’s position on the basis of popular support, as they were losing their absolute opportunities and political constituencies enjoying for thirty years granted by the monarch under the Panchayat system.

In addition, ethnic groups from Tibeto-Burman affinity and people from Tarai, who were not satisfied, did not celebrate the release of the constitution because of certain provisions. Nepali language as a national language, and Hindu as a national religion, were not acceptable to them. There were negative reactions of some of the “Janajati groups”. They staged mass meetings at Tundikhel, the parade ground at the centre of Kathmandu, and condemned the constitution. Political parties, such as Nepal Sadbhavana Party representing the interest of Tarai people, were not accepting the unitary structure of the state and were threatening the government that the only way this country could survive was by fulfilling the Tarai people’s rightful demand of federal state. On the other hand, Communist parties except CPN (UML) that “supported” the new constitution “critically” criticized the constitution for being undemocratic. Commenting on the new

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72 Responding to the NC's resolution passed by the National Convention in 1990, Navaraj Subedi, Chairman of National Panchayat said, "Reactionary elements are trying to harm the national unity and independence with the support of external forces...to fulfill their selfish interests by creating gulf between the king and the people....these elements who are seeking to fulfill their selfish interests in the name of democracy and following foreigners to malign the crown, the Panchayat system and Nepal at the instigation of the foreign power". Gorkhapatra 22 January, 1990. See, Gorkhapatra 22 January 1990.

73 Rejeshwar Devkota, leader of the National Democratic Party (Chand) which had been formed by old panchas expressed his grievance that neither he personally nor his party would respect the new constitution, see, Martin Hoftun et al. People Politics and Ideology: Democracy and Social Change in Nepal, Kathmandu: Mandala Book Point, 1999, p.91

74 The Kathmandu Post 22 November 1990
constitution, Rishikesh Shaha observed that the king had not given up anything. He controlled the army; he had discretionary powers — and had the right to give assent to cabinet decisions; there was royal command; there might be an understanding, but the king could dismiss the government at any time he wanted.

The ambiguities and lack of transparency in the constitution were mainly because of the pressure of the king and military in tandem to the CRC and interim cabinet, since they could not work with a free mind. The traditional mindset of the political leaders in parties and the government that the army was always a source of power of the king helped create a situation against the spirit of democracy. Such a psychology and approach of political leaders provided room to the king to use the military confidently as his personal army, thus maintaining a big gap automatically between the government leaders and the military. It also nullified the spirit of constitutional monarchy as envisaged by the 1990 Constitution in spirit, and the military also remained with the king thinking that it was only the unchallengeable state authority.

Problems of Adaptation and Democratization After 1990

No political parties had any roadmap during the movement. They only had a one-point agenda— the attainment of multiparty democracy. Nepal’s experiment with parliamentary democracy and the constitutional monarchy was marked by a sharp division of opinion and concepts held by the key political actors. Problems of adjustment of king-in-parliament and harmonization of thought and behaviour with the ongoing parliamentary system were the main problems of democratization. Moreover, the communist parties, such as Mashal group and the Unity Centre did not comply with the institution of monarchy and the parliamentary system. Most hardcore communists who “act[ed] in coordination” and “unity in action” were participating for “moral support” of the NC led democracy movement in 1990, assuming that the “democracy movement” as a “reformist movement”, and defining democracy as “one step ahead of the Panchayat System”. Therefore, it was not unknown that most leftists, especially Mashal group and

76 Dristi Weekly 24 January 1990; Daily Diary 22 January 1990
Fourth Congress, might not be satisfied by the 1990 movement's achievement\(^7\). Only the CPN-UML accepted the restored system by defining its own model of 'democracy' and 'revolution' through *Janatako Bahudaliya Janabad*\(^7\). The rest of the communist parties were stressing the need of a powerful people's movement after 1990, including an armed revolution for 'New Nepal' or 'Complete Democracy'. Their thinking went beyond the limits of the parliamentary system\(^7\) that, according to them, protected the interest of the capitalists, not those of the "exploited and oppressed people"\(^8\). Hence, the main spirit of the achievement of the 1990 movement — constitutional monarchy and multiparty system — was continuously targeted by the radical communist factions\(^8\) by starting to play an "extra-systemic" oppositional role.

On the other hand, the king, who had indicated "no interference...in the work of government", as stated by the first prime minister shortly after some months of the formation of the elected government\(^8\) in 1991, began to express his displeasure mainly because of his "more limited role than that of the Indian President", as he thought his role "as of the defeated monarch"\(^8\). At this time, the communists too were disclosing divergent views against the monarchy that also helped to provoke the king for the defense of his position and existence. He threatened that he would take over power and held a referendum on the issue of monarchy if that institution continued to be attacked by the

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\(^7\) In an interview, Nirmal Lama, leader of the Fourth Congress group of the Nepal Communist Party said that "the newly-formed seven-group united leftist form was not a front in the sense of the term, but only represented unity in action for ending the Panchayat System and ...[restoring] democracy". He reassured his group's commitment to the cause of transfer of sovereignty to the people, that is their right to frame the constitution. In his opinion, the proposed movement for restoration of democracy was only a reformist movement. He added "however the multiparty system is one step ahead of the Panchayat system, hence we will extend moral support to the movement and join it, if possible or at least act in coordination. Even Mohan Bikram Singh, General Secretary of Mashal Group of NCP said in an interview that his group would support the movement being launched by the NC against the Panchayat "dictatorship" calling for a union of "patriotic", "democratic" and "leftists" forces at least unity in action to take ahead the movement.

\(^8\) Among the radical communist factions, the Unity Center participated in the 1991 general election in the name of United People's Front of Nepal (UPFN) by stating that it did not mean to attain power like the UML but "actually aimed against the parliamentary system", though one of its leaders, Nirmal Lama, was a member of the Constitution Recommendation Commission in 1990. But the Mashal faction boycotted the election.

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\(^7\) Madan Bhandari, *Sankalit Rachabaharu* (Collected Writings), Kathmandu: Central Committee CPN (UML), 1994: 24.

\(^9\) *Nepal Press Digest* 27 May 1991; Chhalphal 16 June 1991

\(^8\) *Chhalphal* 17 June 1991

Since then, King Birendra had gradually started crossing the constitutional limit against the public perception that King Birendra was the liberal. He started to nominate members of National Assembly, the Upper House of the Parliament, without formal advice or recommendation of the prime minister, though the first nomination was made "on the advice of the prime minister" in accordance with the constitutional provision. The prime minister had apparently preferred to play a safe role in order not to annoy the king by raising such issues. But his submissiveness violated the spirit of the Prime Ministerial system in accordance with which all functions, except those listed separately for royal prerogative, were needed to be undertaken by him.

In addition, recognition of King, aftermath of the Mass Movement as one of the power centers equivalent to the mainstream political forces—NC and Leftists parties—was the contradiction of the new constitution and political environment. It helped fix the political system in Nepal as "semi-constitutional monarchy", which gradually reduced the effectiveness of political parties. The king always tried to make his position decisive beyond the spirit of constitution, when any issue was contentious among the political parties. He was seeking the advice of the Supreme Court unnecessarily on such issues as the dissolution of the House of Representatives (HOR)—Lower House of Parliament—in 1995 and in 1997 proposed by the Prime Ministers, Manmohan Adhikari and Surya Bahadur Thapa, respectively. This trend not only made the prime minister weak, but also made the Supreme Court controversial in the name of advising the king to go against the advice of prime minister. Similarly, the king nullified the Citizenship Bill passed

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84 It is reportedly said that the king said so in the meeting with Manmohan Adhikari, the opposition leader from CPM (UML) in the newly elected parliament. Nepal Press Digest 17 June 1991, pp. 233-234.
86 Since 1993, nominations were made by the king giving special favour to those persons who were more identified with the previous partyless Panchyat regime. See in detail, Krishna P. Khanal, "Parliament and Governance" in Lok Raj Baral (ed.), Nepal: Political Parties and Parliament, New Delhi: Adroit Publishers, 2004, p.45.
88 The Bill regarding the citizenship was introduced as a Finance Bill by the government and passed unanimously by the Lower House. The king did not have the right constitutionally to hold pending or nullify any bills introduced as Finance Bills in the Lower House of Parliament by the government. But the king, however, had taken advantage of the weakness of the parties by polarizing the Upper House for taking his side because the nominated members were perceived as the king's representatives and as members of the House. NA sent back the bill to the HOR that had sent it there for approval by raising the issue of "nationalism", because they thought that no foreigners (Indians) could get citizenship so easily, as was allegedly provided by the bill. Especially royal nominees and the members of CPN (UML), which party was passed it in Lower House were together to oppose the bill. Ultimately king sent it for the
unanimously by the Lower House of Parliament in 2000 when royal nominees and the members of CPN (UML) that voted in the support of bill in the Lower House (the House of Representatives) raised question against the bill in the National Assembly, the Upper House of Parliament. All the attitudes of the king to take advantage of fragmented political parties were causing a setback to the process of democratization in the country, even though parliamentary process was not stopped in spite of being weak. The last step taken by the king against democracy was the incident of October 4, 2002\textsuperscript{89} that collapsed the whole system restored in 1990. The elected prime minister was sacked by King Gyanendra on the accusation of being “incompetent”, and he held the executive power in his hand and ruled the country by hiring and firing the prime minister, and recruiting his favourites in the local and central government in accordance with his interest after 2002 to Mass Movement-II, April 2006. Constitutionally, the king could not dismiss an elected prime minister, nor could he select his own prime minister and ministers as he did after the dismissal of the elected government. Fortunately, popular forces that have had a taste of freedom could not be managed by royal decrees or aadesh, as was done in the past after 1960\textsuperscript{90}.

On the contrary, parliamentary political parties too were most responsible for providing the ground for collapse of the system. Inter and intra-party conflict between and within the mainstream political parties were represented in the parliament, and their revengeful attitude towards the prime minister did not help to soundly implement the parliamentary experiment based on the constitutional monarchy. Each and every government formed after 1990 had failed because of the non-cooperation of not only opposition parties in parliament, but also the opposition faction within the party of the prime minister. On the other hand, without trying to search for other alternative gateways to solve the problem within the existing parliament, the prime minister eventually used to advise the king to dissolve the house and declare the date of election. The constitutional right of the prime

\textsuperscript{89} King Gyanendra had sacked the elected Prime Minister Sher Bahadur Deuba on October 4, 2002 by accusing him of being “incompetent” for holding the general election of HOR and restoring peace in the country. He started to rule the country by hiring and firing the prime minister as his private employees until 2005 when he formed a government under his prime-ship that was continued until Mass Movement-II in 2006.

\textsuperscript{90} \textit{Ibid.}, pp.28-29.
minister to advice the king for dissolving the house and declaring the date of election was abused invariably as an “exit strategy” in the crisis for saving his skin without being concerned about its consequences for the country. The leaders, time and again, sought royal intervention in their favour by ignoring the constitutional principles and parliamentary norms. There are several examples that prompted the king to act beyond the limits of constitutional monarchy when the responsible leaders of major political parties openly asked the King to intervene without challenging the prime minister and his policy through due process as underlined in the constitution.

The first elected government after 1991 led by G.P. Koirala had been facing non-cooperation from all sides. Firstly, most members were first-timers who did not have any idea about the parliamentary business. Secondly, the parliament was heterogeneous in its political composition represented from leftists, rightists and centrists. Communists were the second largest force after the NC with strong opposition. The CPN (UML), which was the main opposition party, started “politics of opposition” from the street to the floors of parliament (Sadakdekhi Sadansamma) by warning that it would bring down the government if it ignored the opposition’s interest. Thirdly, the authority of the prime minister started to weaken by two of NC’s troika leaderships — party Supremo and the Commander of the 1990 movement, Ganesh Man Singh, and party president, K.P. Bhattarai. Most of them were engaging openly for undue power struggle without being

92 Manmohan Adhikari, leader of the main opposition in Parliament, asked the King to intervene when PM Koirala rejected their demand for stepping down following the Supreme Court’s ruling that the agreement concluded by the government with India on the Tanakpur Barrage constituted a treaty attracting the Constitutional provision for parliamentary ratification. Similarly, the leaders of political parties, including the president of the NC, petitioned the King not to accept the PM’s recommendation for the dissolution of the HOR and allow for formation of the alternative government. Surprisingly, the government’s policy proposal was defeated in the house because of the absence of the vote of some of the MPs of the ruling party. There was an attempt to seek the King’s intervention even by such seasoned leaders of parliamentary process like K.P. Bhattarai and Mahendra Narayan Nidhi. See, *The Rising Nepal* 16 December 1992; Gorkhapatra 10 July 1991
94 While forming the NC government after the 1991 general election, the party stop executive selected PM G. P Koirala and his cabinet members. Koirala was equal to two other senior leaders of the Party, G.M Sing and K.P. Bhattarai in the NC’s troika structure. After Sing, Supreme leader did not contest and Bhattarai, NC president defeated the general election, G.P Koirala, was most influential leader among the party rank and file elected in elected for HOR and became PM. Taking account the collective leadership of the party and source of power of each of the troika leaders, dispute among the leaders were started
responsible to the system by raising small issues in favour of personal/party interest. The tradition of conflict for power among the Nepali political leaders and parties came in to sharp focus following G.P. Koirala's decision to advise the King for dissolving the HOR in 1994. Soon some top-ranking leaders of both, the Nepali Congress and CPN (UML), went to the palace with a petition to the king, urging him to reverse the prime minister's advice and goaded the king into taking drastic action by dismissing the prime minister elected by the HOR. Such trends developed after 1990 provided several precedents that made the role of the king decisive for most contentious issues.

In democracy, there is symbiotic relationship between the political parties and institution of parliament that may be lifeless without the active participation and full commitment of the parties. But no parliament after 1990 had completed its life fixed in the constitution in a peaceful manner. Even minor disputes in the parliament could not be solved amicably. Joint actions were organized both in the Parliament and in the street — "sadak dekhi sadan samma" (from street to parliament) on several issues like civil servants' agitation, the Tanakpur agreement and Dasdhunga incident. The series of Nepal band, street demonstrations and obstructions to proceedings in the parliament created serious problems of law and order that triggered coercive measures. Ultimately, Koirala dissolved the house in 1994 because of non-cooperation of his colleagues in the party and opposition in the parliament.

with two alternatives in forming party-government relation. First was sharing the power of the PM with the party top leaders on which Singh and Bhattarai insisted strongly. The NC CC took a number of to control over the government in 1991 such as "Decisions should be taken by the consensus among the leaders of the troika on all major issues including appointment to high ranking posts such as secretaries, general managers, ambassadors etc and in 1992 "The government is responsible to the Parliament as well as to the party. The party Central Committee is the main apparatus, which coordinates all the said bodies. See, Bimarsa Weekly 20 September 1991; Krishna Hachhethu, "Executive and Authority Building in Nepal: A Study on Premiership of Girija P. Koirala" in Dhurba Kumar (ed.), State Leadership and Politics in Nepal, Kathmandu: Centre for Nepal Asian Studies, Tribhuvan University, 2004, pp.90-91. The disputes in parliament were on matters such as dress of the MPs, language whether they had to wear official dress or dress of their own choice and whether they had to take an oath in the official language or in their own language. There were 17 Boycotts and 6 disturbances of various types in the HOR, see in Parliament Secretariat, Pratham Pratinidhi Sabha: 41-47.

95 One of the causes of House desolation and declaration of mid-term election in 1994 was the Tanakpur issue because the party belonging to Prime Minister G.P. Koirala was divided into two groups — 36 led by Ganesh Man Sing and 74 led by Koirala. Prime Minister G.P. Koirala declared mid-term election following his own party's internal conflict. The Communist Party of Nepal — Unified Marxist-Leninist (CPM-UML), major opposition party of Koirala government, formed a minority government on December 9, 1994 when no other parties including the Nepali Congress failed to become the largest party. The NC was hit by it's inter-division and was thus relegated to the second position in the election. Hence, the CPN-UML, by virtue of being the single largest party in the Lower House of parliament, was supported by other parties to form a minority government under the leadership of Man Mohan Adhikari.
The same problem had been faced by all prime ministers of the coalition government in second parliament (1995-99) and by the prime minister of NC in the third parliament (1999-2002) as well\(^\text{98}\) at a time when the king-military from the extreme right and the Maoists from the extreme left posed a threat to the system and the government. Thus, Koirala became helpless in 2001 after the military betrayed the government because political parties in parliament including the Bhattarai faction of his party were also in his opposition demanding his resignation on the pretext of corruption and bad governance\(^\text{99}\), at a time while the military had preconditions that all party consensus should be made by the government to mobilize it. Later, King Gyanendra showed dissatisfaction particularly on his assigned role and asserted that he wanted to be “heard” and “seen” by the people, but he would wait “until the first phase of the consolidation of the constitutional process is complete” and “look forward to get to know the people’s problems at first hand in their own localities”\(^\text{100}\).

Sher Bahadur Deuba succeeded Koirala in 2001 and advised the king to dissolve the house being in a trap between the military and political parties. NC members and other

\begin{itemize}
  \item The Central Committee of UML was divided equally. 17 members including the former Prime Minister
  Man Mohan Adhikari were in a majority against the 16 opponents after the Mahakali Treaty between
  India and Nepal. It was the main cause of split of the CPN-UML into two groups—MPN-UML and
  CPN-ML. The UML government fell in September 1995 leading to the formation of a new coalition
  government of Nepali Congress (NC), Rastriya Prajatantra Party (RPP) and Nepal Sadbhawana Party
  (SP) headed by Sher Bahadur Deuba. Lokendra Bahandur Chand succeeded Deuba after the NC-MPs
  refused to show up during a crucial vote on March 3, 1997. Chand was succeeded by Surya Bahadur
  Thapa with NC as coalition partner after raising debate within the RPP on the question of unprincipled
  coalition with left. There was an argument that the treaty had lost its legitimacy and could be considered
  as having lapsed, but a counter argument was raised that only the body which rectified the treaty had the
  right to change it The Chand faction of the RPP was seen on the opposition of it. Thus, Thapa had
  advised the dissolution of the house. Similarly, the NSF remained divided throughout the tenure of the
  second parliament.
  \end{itemize}

\begin{itemize}
  \item The Kathmandu Post 15 December 1997, as cited in Krishna P. Khanal, “Parliament and Governance” in
  \item The government and opposition could not agree on so many issues and parliamentary business
  obstructed. The government faced a “united opposition” especially from the communist block within and
  outside parliament (the first and third) through street agitation, protest programmes and demonstrations,
  torchlight procession, blackouts, band etc. that often turn violent damaging public and private property.
  During the second parliament, there were 19 boycotts and 24 disturbances of various types, including the
  rostrum gherao, picketing and dharma, see Parliament Secretariat, Pratham Pratinidhi Sabha, 1994:50-55.
  \item The eighth and fifteenth sessions were completed without work, except to collect vote of confidence to
  the government, and to reach an agreement for the posts of Speaker and Deputy-Speaker and taking oath
  respectively. No single meeting could take place in nineteenth session of the third parliament due to
  opposition’s boycott of parliament demanding the prime minister’s resignation for he was implicated by
  the Public Account Committee on a deal relating to aircraft lease with Lauda Air and for soughing at the
  explanation of prime minister before the Commission for the Investigation of Abuse of Authority
  (CIAA).
  \item Independent, 8 January 1992.
\end{itemize}
parties represented in the parliament did not want to extend the State of Emergency (SOE) imposed by the government for curbing the Maoists, but the military was not ready to go to barrack without any result. Thus, the experiment with the parliamentary system of government neither became stable nor institutionalized, since the game of numbers in the parliament determined the life of government. Prime Ministers had to compromise for the longevity of the government that made the Prime Minister weak and helpless. It was clearly demonstrated in the late 1990s when the Prime Minister wanted to use the army against the Maoists. Both the King and the Army Commander-in-Chief put obstacles in his mission by putting forth preconditions. One of the conditions was that an all party consensus should be formalized, if the army were to be mobilized, at a time when not only opposition parties in parliament but opposition faction in the party of the prime minister had already asked for his resignation.

The role of parliament and the government deteriorated considerably after the mid-term poll's mandate in 1994, as parties were engaged in the formation and dissolution of the governments, leaving the people's expectations to be addressed genuinely. The coalition government, not having majority in parliament and due to increasing influence of the minor parties like Nepal Sadhbhabana Party (NSP), Nepal Worker and Peasants' Party (NWPP), and independent members of Parliament (MP) determined the fate of the government. The situation had not only brought instability to the government but also introduced unhealthy practices by erasing the systemic values. Moreover, each government came to power in quick succession competing to lure the MPs. The constituency development fund, increasing allowances and other financial incentives were provided to the MPs. The concept of a jumbo-sized cabinet beyond proportion was adopted to keep the support of MPs to the incumbent government.

With expectation of better governance under democracy, people had come forward and supported the pro-democracy movement in 1990 against the Panchayat system. After the formation of an elected government, better governance was supposed to ensure freedom, security and access to opportunities. The government was also expected to translate these promises into policies and policies into action. No government after 1990 was able to meet the expectations of the people by using the limited resources of the country. Its liberal economic policies could neither improve the conditions of the people nor did it inspire them for the future.

No income tax was deducted from their salary and allowances. MPs were also given an unlimited amount for medical treatment and allowed to import vehicles with duty exemption. Furthermore, the special fund under the Home Ministry was made available to those who were politically influential and accessible.

The main cause of the failure of Koirala government in 1994, 1998 and 2001, and Bhattrai government in 1999 was the absence of accommodation of their dissidents in the cabinets. Each government formed by Sher Bahadur Deuba, instead, were big cabinets to woo the members for the survival of the
Such practices increased corruption at the political level unexpectedly and were institutionalized at each and every level. No monitoring was done of ministerial assets when they left the government\textsuperscript{104}. Neither the Public Accounts Committee of the HOR\textsuperscript{105} nor the Commission of the Investigation of Abuse of Authority (CIAA) — a constitutional body for probing into the misuse of authority — could effectively contain the highly growing corruption because of the influence of high-ranking officials including ministers. Thus, such corrupt practices in parliament and government, compromising minimum norms and values in public life, forgetting their own long struggle and commitment, disillusioned the people in general.

Similarly, the pattern of representation in HOR during 1990-2002 has not made any significant change in accordance with the spirit of inclusive democracy in spite of strong opinion being voiced for greater representation of women, ethnic and Dalit groups. The social categories, including the poor and disadvantaged, could not establish their relation with the power structure, except being the voters in periodic elections. Hence, the “primacy of politics” that had to be focused on the focal point of identity politics could not be improved as expected. It not only gave continuity to centralize the power structure, but also helped create a big gap in education, social and economic conditions between the rulers and the ruled. Of course, political leader’s lack in vision and mission to provide good governance, to establish good political culture in terms of inclusive democracy and its institutionalization in accordance with the spirit of liberal democracy were responsible factors for creating people’s disappointment with political elites, if not the system. On the other hand, weak leadership, escalation of the Maoists’ violence and failure of government for negotiation with the Maoists through peaceful resolution had adversely affected the government’s efficiency. If the Maoists could draw the attention of the government by introducing “jumbo-sized” cabinet with the number of ministers expanding to 49 during his coalition and 42 during his majority government as the government of the UK formed by “Harold Wilson with 118 MPs in 1975”. See in Krishna Hachhethu, “Executive and Authority Building in Nepal: A Study on Premiership of Girija P. Koirala” in Dhruba Kumar (ed.), \textit{State Leadership and Politics in Nepal}, Kathmandu: Centre for Nepal Asian Studies, Tribhuvan University, 1994.

\textsuperscript{104}Political appointments in the public sector, particularly those having financial dealings, were made on the basis of monetary offerings to the ministers and the party fund. The political leaders’ lifestyle had become visibly lavish, beyond their legitimate income in spite of the policy and principle of every government to fight against corruption that used to ask ministers to submit their assets soon after they joined the ministry in vain. See, Krishna P. Khanal, “Parliament and Governance” in Lok Raj Baral (ed.), \textit{Nepal: Political Parties and Parliament}, New Delhi: Adroit Publishers, 2004, p.56.

\textsuperscript{105}It had conducted inquiries into several cases and summoned ministers and high-ranking authorities including the PM for clarifications. However, most of its actions remained inconclusive.
underprivileged people to its insurgency, the anti-retrogressive elements represented by the Palace and others did enough damage to the ongoing political processes.

**Steps and Challenges for democratizing NA**

The separation of power is one of the principles of democratization of all organs of government. The army which comes under the defense ministry needs to work in close coordination and cooperation of executive, legislative and judicial organs. The proper system and channel should be developed between the COAS and Defense Minister or Prime Minister as head of the government and National Defense Council. The main obstacle for good civil-military relation during the 1990s was the old *modus-operandi* followed by the new leadership. During the Panchayat Period, the Supreme commander-in-Chief of the RNA was the king and the Military Affairs was controlled by the Military Secretariat in Palace. After political change in 1990 also, the Palace continued the de facto control of RNA and the COAS was required to be in good rapport with it thus bypassing the defense ministry. Naturally, RNA had a strong control over national security issue even under the civilian government, as the government leaders considered the RNA as the exclusive domain of the Palace and refrained from raising any question concerning the army. So the elected governments formed after 1990 were not even able to amend the Military Act amended during the Panchayat period. The Prime Ministers invariably tried to develop rapport with the COAS by passing the Ministry. So, the control of the military lay with the King rather than with the government regardless of the nature of it - elected or nominated till 2006. Theoretically, the pos-1990 governments were more powerful than those of the royal regime but in actual practice, however, the old relationship of the palace with the army continued. Thus, parties' leaders, guided by the petty interest for being in power, did not care for changing the military structure, as they knew that former PMs—not only B.P Koirala but most influential leaders during the Panchyat period, Bishwa Bandu Thapa and Surya Bahadur Thapa—became scapegoat because of their confrontation with the military organization and officers. For civilian leaders in power after 1990, it was "sensitive" area which could hardly be changed.

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106 Major General (Retd), Keshar Bhandari while presenting a paper in a International Seminar organized in BHU, Baranasi on Internal Conflict in Nepal: Transnational Consequences, on 4th and 5th June 2010.

107 Bishnu Datta Upreti shared with the researcher while interviewing.
without the prior-approval of the King, since he wanted more to strengthen the "single command system" rather than to establish the check and balance and separation of power in accordance with the spirit of liberal democracy.

For the first time after restoration of democracy in 1990, the Parliamentary Committee for State Management (PCSM) of the House of Representatives (HoR) of Nepal formed under the chairmanship of Khum Bahadur Khadka, tried to play an important role for the first time in 1995 to put the military under the elected representatives. The initiation of the committee in spite of opposition of military moved a step forward to establishing civilian oversight on the military. It was a time where there was a coalition government after the mid-term election in 1994 under the premiership of Lokendra Bahadur Chand, a leader of RPP. The PCSM called the then Chief of the Army Staff thrice to brief about the security situation in the country before the committee which was ignored by the then COAS. Then Mr. Khadka, chairperson of the PCSM wrote a complain to the PM informing the ignorance of the COAS with an ultimatum that the committee would take further steps against the COAS, if he continuously disregarded such a call of the PCSM. However, PM Chand, requested the committee to give a couple of days for him to understand the situation. Later, he requested the committee to give a last option to the COAS suggesting to issue a letter to the latter copying it to the office of PM too. Then, the COAS went to the HoR but denied to brief the security situation with a pretext that the meeting venue of the committee was not secured enough for such briefings. The meeting got ended fixing the next such meeting at the RNA Head Quarters (RNAHQ). From then, the COAS of the RNA has been under the people's representatives to some extent. But such briefings usually were conducted at the RNAHQ rather than in the HoR that gave a sense that the people's representatives were still subordinated to the military. It was like the situation that the military called the respective committee in the RNAHQ for security briefings, taking class on security issues and making them observe the situation of the barracks. It is because of the fact that the meeting could not

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108 One of the senior staffs in parliamentary secretariat told so on 18 May 2008 while interviewing him on the condition that his name will not be mentioned.

109 Ibid.
contribute even a single point for the security arrangement at national level, and the internal management in institutional and professional level\textsuperscript{110}.

After the political change of 1990, the NA suggested civilian authority time and again to make a security policy using its expertise, but the civilian authority did not take it seriously\textsuperscript{111} either because of inferiority complex of incompetent politicians in front of the competent professionals in the respective issues, or because of their shortsightedness that made them reluctant on the military and security issues. Because the political leaders might have thought that the military was the “royal”, as the name of the Nepal Army was changed by King Mahendra in 1962 from Nepal Army to the “Royal Nepal Army” and, any change or reform in military structure or matter would be counterproductive for them, since the army also supported the king with full spirit. But verbally the military always express their contribution not only establishing but strengthening democracy. One of the former COASs claimed RNA’s credit for successful Mass Movements, saying that that “there was no evidence in 1990 that the RNA had committed any crime against the democratic movement”, but on the contrary, “saved the lives of the people using its conscience”\textsuperscript{112}. He further said, “If the army had not been responsible, no democracy struggle in and after 1990 would be possible”. Evidences also showed that the RNA neither tried to capture power nor disobeyed the order of its Supreme Commander-in-Chief.

However the RNA seemed to be reluctant over the role of civilian leader who time and again recognized by word and action the King as one of the major power centers. The constitutional ambiguity that recognized both the King and people's representatives as power centres was against the spirit of constitutional monarchy as understood by the political leaders. So any reform of the army was first of all to be approved by the King constitutionally. It was also interesting to observe that activities performed by the king required the approval of the Council of Ministers, but no activities preformed by him

\textsuperscript{110} Prajwal Shamsher Rana, the former COAS of RNA told that during his tern, he called the State Management Committee thrice to the RNAHQ and made them observe the barracks and consult them about the security issues along with management of classes for them.

\textsuperscript{111} Ibid.

\textsuperscript{112} He did not tell clearly how the NA used its conscience but security analysis have been telling that the military had suggested King Birendra to take the 1\textsuperscript{st} Mass Movement in 1990 liberally fearing that there could be more bloodshed.
could be questioned in the court\textsuperscript{113} whether so was preformed as per the approval of the Council of Ministers or not. The king, therefore, enjoyed both the powers --- that of an active player and as head of the state as in any parliamentary system. So, when the views and policies of its non-professional commanders---the King as Supreme Commander-in-Chief and Prime Minister as head of the government and Chairperson of Defense Council contradicted, the military obviously tilted to the King without whose prior-consent no military policy could be introduced by the government\textsuperscript{114}.

Thus, theoretically, the army was under the elected government but in practice, it was to be regulated only with the consent of the King. It can be argued that the role of the military after 1990 had been controversial mainly because of conflictual role and interest of its non-professional commanders under the system. In fact, there was controversy on the role of the king and the Prime Minister regarding the NA, as the king was the Supreme Commander-in-Chief of army and the Prime Minister was the chairperson of the National Security Council (NSA). Though the then constitution mentioned the role of NSA for mobilizing the army, there was a strong belief that the king, being the Supreme Commander of NA, had control over the military issues. And no legal remedy was mentioned in the constitution if the recommendation of NSA could not be materialized by the king. The advocacy of the then COAS in 2001 showed how the military followed the king’s stand and how the then government reacted to normalizing such advocacy. The COAS, Prajwal Shamsher Rana addressed the military officers in Staff Collage requesting the political parties to be together for further security strategy, while PM Sher Bahadur Deuba succeeded the G.P Koirla after the King-military did not support the former in his policy to mobilize the NA for curbing the Maoists.

There were preconditions for such mobilization: mainly political consensus among parties\textsuperscript{115}, at a time while oppositions not only in the parliament but in his party had asked for his resignation. The advice of the COAS, the leader of apolitical institution, was unnatural for the political parties leading to initiate a debate in the parliament.


\textsuperscript{114}Article 68(2), \textit{Ibid.}

\textsuperscript{115}COAS Speech “Sri Sam. Pra. Se. Pa. Lyu bata Si. Sam. 11 Kamand Tatha Estaf Talimko Dichayanta Samarohama Dinu Hune Sambodhan”, (The Statement prepared for the Rt. Hon’ble Chief of Army Staff to be delivered at the 11\textsuperscript{th} Command\,and Staff Convocation Ceremony of the Military Academy), 14 May 2001.
whether the military should be under the civilian authority or the authority itself should follow the suggestion of the military institution. Although the parliament urged the Prime Minister to sack the COAS, PM Deuba could not follow the parliament’s suggestion but warned the COAS to be careful of the concern shown by the parliament. It was also expected that the COAS would not commit such mistakes in the future. Nevertheless, the army did take such a warning for the first time in its history as humiliation and the embarked on telling later that Prime Minister Koirala had resigned in 2001 due to his internal political reason, not because of the non-cooperation of the army. Although, the then Prime Minister Deuba claimed, “[he] had full cooperation of the army but not of the King” that seemed to be an exaggeration in the given context of Nepali politics. Such exaggeration was proved by the view of one of the senior retire officers. He said: (1) RNA, which never fought full-hearted with the Maoists, was always defensive for the safety of the organization and its professional interest but not offensive for neither the King nor the government. (2) The aim of the RNA was not to defeat the Maoists but bring them to the negotiating settlement. (3) Unconditional support of RNA to the king was not true either. But what were the conditions of RNA to support the king, while the policies of its non-professional commanders on military matters contradicted, were not cleared by him.

Here, one can take a position that the civilian leaders were equally responsible for such non-cooperation of the military, because they did not have the courage to expose the non-cooperation of the king who also claimed as having a right to regulate the military. Second, the political leaders in government after 1990 seemed casual in military related matters. Thinking military as “an untouchable matter”, they never tried to bring the mobilization process under democratic control, as it was highly bureaucratic and time taking job for fulfilling all the formality. Rather, they used to give oral order in the royal consent to the military for immediate action in every major crisis, forgetting that the king was waiting for the pretext to make them fail and “incompetent”. The both military and monarch in tandem tried to rationalize the non-cooperation of military to the civil defense

116 He clarified so while interviewing him by the researcher.
117 He told so while interviewing him by the researcher.
118 Brigadier General (Retd.) Kesher Bhandari. He had indicated that the RNA went in the field with offensive purpose after the Maoists attacked in the military barrack in Dang since 2001.
119 The phrase was used by one of the former COAS of the RNA, Prajwal Shamsher Rana, while interviewing him by the researcher.
policy and program as a lack of "sensitivity in military matters", and "formal procedure" and "due order" for its mobilization. Giving the impression that no politicians were sincere in their mission, the King also took the advantage of their weaknesses.

In addition, the differences between the legislative effort and executive action also show that the leaders in government were either "hunted by the ghost of the palace" or ignored the need and importance of the professional army to the nation. The PCSM made annual reports since (2057 and 2058 BS) for its institutional and professional improvement after visiting both the barracks across the country and different countries of the world where the NA was sent under United Nation Peacekeeping Operation (UNPKO) for maintaining peace. The reports directed the Ministry of Defense to make available the necessary information related to the military for further study or discussion. It also suggested taking immediate steps to fulfill the genuine need of the professional army, in the absence of which, the military could neither be able nor be motivated to effectively fight the threats.

The reports directed the government to:

- Collect moral support of people to the army by increasing their mental sources of motivation through providing help and developing self-confidence.
- Fulfill the minimum need required for the institutional and infrastructural development of army
- Manage immediately the required training and firing places for the RNA
- Solve the problems faced by the RNA for fulfilling the responsibility of managing the internal security—for rescue operations, medical campaigns, developmental activities, protecting the strategically important places etc—through the process of specialization.
- Make live the defence secretariat in accordance with the constitutional provision
- Make RNA presence at least at a place of each district.
- Manage the Welfare Fund and arrange the required infrastructure and instrument from the government for the RNA group serving under the UN. The arrangement had been managed by the Welfare Fund till the UN reimbursed.
- Reestablish the process of auditing the formal-informal source and expenditure of RNA.

120 Most officers with whom the researcher took interview, had expressed the grievances.
• Be careful for managing the professional discipline in the RNA and request to all political parties to keep military far from politics.

• Manage a building for Ministry of Defense with essential rooms separately and fulfill the vacant posts in the ministry immediately.

The repetition of the directions in the report in following years showed how the government had taken the directions of the PCSM, though the directions of the committee came after more than a half decade of establishment of democracy that too in the wake of tackling the Maoist insurgency. Till then the Maoists had challenged with full capacity the established political system.

**Cooling Civil-Military Relations: Impact on Democracy**

Traditionally and constitutionally the government was subordinate to the King. No civil government formed between 1997 and 2001 had been able to mobilize the military for curbing the Maoists because of disagreement of the king and the military with the proposal of the then governments. The then prime ministers were helpless and failed mainly because of the non-cooperation of the king and military for fulfilling their main responsibility — “to maintain peace and security” through enforcement of law and order in the country mainly after 1997.

The king rejected the decision of the National Defense Council under the prime ministership of Surya Bahadur Thapa, for the first time in 1997, to mobilize the military in only some Maoists affected districts. The military itself disagreed with the decision of the government but had its precondition that military should be mobilized in every district of the kingdom, if its mobilization was necessary. Ultimately, the government could not agree with the proposal of the military thinking that it would be “untimely militarization”. Prime Minister Lokendra Bahadur Chand was succeeded by Surya Bahadur Thapa. The military, during this period, came into a political controversy in the context of governmental instability in the case of dissolution of the House of Representatives in January 1998. The army then appeared to be independent of the elected government, because the Prime Minister and Defense Minister were incapable of telling the truth following the disclosure of army surveillance on former Chief Justice Bishwanath Upadhyaya on whose advice Prime Minister Thapa was said to be asserting his prerogative vis-à-vis the King to dissolve the House. It appeared as a result of his
opinion that the king had no need to seek the opinion of the Supreme Court on the question of dissolving the house and holding elections\textsuperscript{121}, because he had been advocating that "the dissolution of the House is the constitutional prerogative of the PM, which he can exercise on the strength of the vote of confidence which the majority of the MPs have already given to him"\textsuperscript{122}.

Opponents did not like the move of the Prime Minister, and Upadhyaya was made a villain of the events. Some Military Intelligence Agents connected to the Department of Military Intelligence with their identity cards and walkie-talkie sets were arrested by police from outside the residence of ex-Chief Justice Bishwanath Upadhyaya. The latter claimed in his statement, "so-called Military Intelligence agents made inquiries in [his] neighborhood, which showed that they were not interested in the activities of foreigners" as clarified by Royal Nepal Army Headquarters\textsuperscript{123}, but the "especial watch" on him as he

\textsuperscript{121} Home Minister, Khum Bahadur Khadka issued a statement describing the action taken by the RNAH as "unfortunate". Supporting Upadhyaya’s stand he said :"Bishwanath Upadhyaya has only said that His Majesty need not have sought the opinion of the Supreme Court on the question of holding election Kantipur Daily 24 January 1998.

\textsuperscript{122} In an interview, Bishwanath Upadhyaya, who was Chief Justice at the time when the Supreme Court had delivered its August 28, 1995 verdict reinstating the House of Representatives which had been dissolved by His Majesty on the recommendation of the then Prime Minister, Man Mohan Adhikari, said, “His majesty can seek the opinion of the Supreme Court, or any one else, only on the recommendation of the PM. This is what is prescribed by Article 35(2) of the Constitution. The consequences of whatever His Majesty does on the recommendation of the PM will be borne by the PM, not by His Majesty. Our basic concept concerning constitutional monarchy is that the king can do no wrong. Under constitutional monarchy, the King must accept the recommendation of the PM, and leave the responsibility on the PM himself. In case His Majesty takes any step on his own initiative, there will arise the question of who will assume the responsibility. The King should, therefore, stay away from the controversy and work according to the recommendation and advice of the PM. We cannot accuse His Majesty of having abused the constitutional provision empowering him to seek the opinion of the Supreme Court. However, wrong advice appears to have been given by someone to His Majesty. The dissolution of the House is the constitutional prerogative of the PM, which he can exercise on the strength of the vote of confidence which the majority of the MPs have already given to him. This does not mean the denial of the crucial role of the majority of the MPs”. See, Saptahik Bimarsha 16 January 1998.

\textsuperscript{123} On 20 January 1997, the Royal Nepali Army Headquarters (RNAH) published the following statement: "In view of different circumstances connected with national security, the Military Intelligence Directorate of the RNAH has been keeping a watch on the activities of foreigners. It will not be proper to publish other details about the report of some media that some military intelligence agents have been arrested outside the residence of ex-Chief Justice Vishwanath Upadhyaya". Actually the arrested men were connected with the Department of Military Intelligence. The official statement had been issued in the name of Colonel Gyanendra Jang Thapa of the RNAH rather than by the Defense Ministry, because the portfolio is now held by PM S. B. Thapa. They included Subedar Lok Bahadur Khadka. As Jana Astha gave more information, they had with them their identity cards, walkie-talkie sets, and a motorcycle with the number BPA 4710. They were handed over to the army after they said that had been ordered to arrest some persons who were throwing stones at the house of Brigadier General Vivek Shah near Bishwanath’s house at Gyaneshwar. The official statement had been issued in the name of Colonel Gyan Jang Thapa of the RNAH rather than by the Defense Ministry, because the portfolio is now held by PM S. B. Thapa.
felt, was “due to the fact that leaders of different political parties [used to] visit him for consultation on the constitutional situation, that ha[d] arisen as result of the recommendation for dissolution of the House and demand for a special session”. Contradicting the Upadhyaya’s version, the RNAHQ clarified it and said: they had been assigned a job for “keeping watch on the activities of foreigners”, and “arrest[ing] some persons...throwing stones at the house” of one of the senior military officers etc. proved that the intention of RNA was wrong. Ignorance of the Prime Minister and Ministry of Defense on the request of ex-Chief Justice “to place the full fact before the People” also proved the “use of RNA personnel in internal political controversies”. But the then Home Minister, Khum Bahadur Khadka of the same government, political leaders of (most) parties, and Human Rights and other organizations reacted in respective statements criticizing the action of RNAHQ as “unfortunate”124. The incident also influenced psychologically incumbent judges in Supreme Court who gave the verdict against the recommendation of Prime Minister for dissolution of the House125.

After G.P. Koirala succeeded Prime Minister Chand, the issue of military mobilization for repressing the Maoists was raised time and again. Most influential and senior military officers used to express single grievance in threatening language in any function with any minister of the government that “they [Army] are not trusted by the prime minister”, even though they are democrats, educated from good universities of the world and understanding democracy very well126. They threatened, “the situation is going out of hand of the government because of the prime minister’s wrong thinking and doubt of possible harm to democracy in case military is mobilized”, at a time while the proposal of the PM to mobilize the RNA to the king for curbing the Maoists was rejected saying that he was not interested to mobilize military against his own people127. But at that time all the efforts of the prime minister for mobilizing the military had already become unsuccessful128.

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124 An interview with Upadhyaya published in, Kantipur Daily 24 January 1998
125 Ibid.
126 Based on an interview with ex-military officer of RNA taken by the researcher.
127 Govinda Raj Joshi.
The Home Minister, Govinda Raj Joshi of the Koirala government, was compelled because of non-cooperation of military and the king to resign from the post after the Maoist attacked Dunai, headquarters of Dolpa District, on 25 September 2000. In the attack, the Maoists looted Rs. 60 million from the branch of Nepal Bank Ltd., bombed CDO office, broke into the prison and set free 19 prisoners, killed 12 policemen and injured 40 others in the Dunai attack. District Police headquarters, the District jail, and several other government owned-offices were destroyed in the attack of around 1,000 Maoists. But the Home Minister had blamed the army for not providing weapons to the police with the understanding that the army should have provided weapons worth Rs. 170 million. "The army declined to provide the arms to the police by saying that they were incapable of operating these highly modern weapons. Had the police received arms from the army, the Dunai incident could have been averted." The reality was that the military had neither provided arms to the police as agreed (upon) between the government and it, nor had gone for help to the police in the attack of the Maoists against police and district administration in Dunai.

Finally, the king told the Prime Minister to get the resignation of his home minister, and the Chief of the Civil Police Administration, Inspector General of Police (IGP) who was accused of being out of country without informing the Home Ministry. The question was not raised because the RNA for disobeyed the orders of government, but because the serious debate, alleging guilt on the part of RNA following the attack of the Maoists, had drawn the attention to the Defense Ministry. The hidden fact was that the King and military were not feeling comfortable with Home Minister Joshi because of several causes. One of them was that Joshi was known as the strongest home minister, he usually mobilized not only National Investigation Department for gathering security related information, but also youth and his younger colleagues in party. Army was not happy with him because he was not relied on the information of the military but on other

129 Prime Minister G.P. Koirala asked his Home Minister to resign from the post because he mentioned that it was the direction of the palace that it was not feeling comfortable with Joshi and whenever he was remaining in the post, there was no possibility of getting any help from the king and the military as well. See in detail, Ibid.
sources that could undermine the role and capacity of military intelligence. One day police was ordered from the Ministry of Home on the basis of information repeatedly given by an unknown person to raid one of the houses in Lalitpur. The Home Ministry, also as a source, said that it was not very much assured whether the information was correct, because the informer did not disclose his identity on phone, in spite of desperate requests. Then the police in Lalitpur raided the suspected house and got additional information that it should raid another house in Kitcha Pokhari. Then the Home Minister ordered the police in Hanuman Dhoka, Kathmandu to proceed with the raid accordingly. The police recovered thousands of caskets from the house. All these seized caskets were full of telephone conversations between the Home and Prime Minister (then Defense Minister), which were recorded and stored secretly by RNA. The police seized all the boxes and kept them in the Hanuman Dhoka Police Office. Then military came to the police office and pressurized them to give back the boxes to the RNA. The police informed the Home Minister about the incident, but he, with the consultation of the Prime Minister, ordered the police “to save the boxes any how”. Then the RNA personnel went back to the barracks. The Commander-in-Chief came to see the Prime Minister and asked him touching his feet, to forgive him and expressed strong commitment that he would “never repeat again the plot against political leaders in government”\(^\text{134}\).

As such, the resignation of the Home Minister was not on moral grounds only, but also to help the three-member committee headed by Madhusudan Gorkhali that was formed by the government to investigate into the incident happening in Dunai. The statement of the Home Minister and the report of the committee exposed for the first time in Nepali history the civil-military confrontation and Home Minister’s disagreement with the king and military. Indeed, Home Minister Joshi had given his resignation with the consent of the Prime Minister on the condition that the government would make public the King-military tandem against the non-cooperation with civil-government by publicizing the following: (1) the case of recorded caskets mentioned above, (2) report of the investigation committee of Dunai incident and (3) Commander-in-Chief’s written clarification to the government about why the military could not go to rescue the police in

\(^{134}\) The incident was mentioned during my field visit to Kathmandu by one of the then ministers on the condition that his name and designation should not be exposed, also it is verified by another top leader of NC who was appointed shortly after the incident in the government and a then Senior Police officer.
Dunai and in several other places\textsuperscript{135}. However, the Prime Minister changed his stand and could not do so accordingly, because he perhaps might have thought it better to balance the king and the military at any cost to get their cooperation, rather than to intensify the confrontation at a time when the Maoists were escalating their attacks. Such trends established the tradition leading the politics of compromise that not only promoted the king-military to go beyond the limit of the constitutionalism but weakened the process of democratization.

G.P. Koirala, who had never appointed a defense minister since he held the defense portfolio himself, appointed Mahesh Acharya as the new defense minister on 2 October 2000 to fulfill the constitutional requirement for activating the National Defense Council comprising the Prime Minister, Defense Minister and Commander-in-Chief of army staff. The appointment was a significant step towards the process of army mobilization. After Ram Chandra Paudel became the Home Minister, a briefing programme for mobilizing military was organized by the palace with the participation of Chiefs of the Civil Police, APF and Army, and some important ministers including the Prime Minister and Home Ministers, at a time when the king-military activities were becoming highly controversial among the people. King Birendra had allegedly expressed bluntly some preconditions to mobilize the military in the meeting. These were: (1) the government should negotiate at least once with the Maoists before mobilizing the military, (2) there should be a consensus among the political parties represented in the parliament for it, (3) the budget should be restructured immediately by providing a big amount for defenses to bear necessary expense for mobilizing the military, (4) the government should not make the decision of the military to return to its barrack without completing the work, (5) all-party consensus should be reached by the political parties for continuation of military mobilization in case the government was changed through election in future, if the war was not ended\textsuperscript{136}. Such expression of the King raised a crucial question on who was the de facto authority of the state that represented the popular mandate for execution, and how could a duly formed government establish “civilian supremacy over military” in accordance with the spirit of liberal democracy.

\textsuperscript{135} The information has been taken from a member of the Cabinet, while interviewing him by the researcher.

In addition, the parties in government and opposition were badly facing intra and inter-party conflict. Thus, all-party consensus on the one hand was not possible at a time when the parties in parliament, including another faction of Prime Minister Koirala’s party NC, demanded his resignation and CPN (UML), major opposition party, opposed the deployment of the army. Koirala could not accept any kind of influence on his power, because military mobilization in the security crisis, as he argued, was the constitutional right of the government that should be free from any preconditions of the palace, and also from the opposition in parliament. Speaking publicly about the army for the first time, Koirala said “I am sorry to say that the same Nepali Army is going to other countries [under the UN Peacekeeping Mission], but they are not involving themselves here [at home]”\(^{137}\).

Again, the king Birendra granted the PM an audience. PM Koirala with three senior ministers\(^{138}\) went to the Royal Palace appeal to him to allow the mobilization of the RNA in the Maoist-affected districts. The meeting between the monarch and the government leaders came at a time of increased speculation of a growing rift between the cabinet and the Royal Palace over the use of the army. The reality was that the king expressed a precondition for national consensus on its proposal to launch an Integrated Development and Security Plan (IDSP) through the military carrying out an economic development programme in the Maoist affected areas\(^{139}\).

Ultimately, the intention of the king became clearer after Gyanendra succeeded Birendra following the palace massacre in June 2001 when the prime minister, G.P. Koirala, himself was compelled to resign from the post without disclosing the cause. The reality was that the government got no support from the army when Maoists attacked Holery, the headquarters of Rolpa district, and kidnapped 71 policemen and destroyed public property. The following morning of the incident, a decision was taken between the Prime Minister and the Commander-in-Chief of army staff in the presence of King Birendra to send the military for surrounding the Maoists and seizing all weapons looted by them in


\(^{138}\) The Ministers were deputy prime minister Ram Chandra Paudel, defense minister Mahesh Acharya and Finance minister Dr. Ram Saran Mahat.

the attack. The army was sent but it neither arrested the Maoists who were returning freely from Dunai nor checked them in search of the weapons. As disclosed by the prime minister later, this was happening in the knowledge of the king who had ordered the army in front of the prime minister that “we should confine in the work of disarming the Maoists, we would later talk about the subject of full deployment of military”\(^\text{140}\).

The Government was hopeful of the success of the army and sent it by using both means – air and land attacks for rescuing the abducted policemen, destroying the Maoists who had celebrated their victory by organizing a fair at Holery with the participation of thousands of local people, its cadres and guerillas near the spot. The Home Ministry released a press statement that the RNA had surrounded the Maoists on four sides and within a couple of days they would be totally destroyed or controlled. In reality, the RNA did not act to counter but returned without action. After the incident, various journalists and Human Rights activists reached there and came to know the reality that the RNA had returned from the spot by compromising with the Maoists through negotiation that neither side would perform the first attack and spent more than a couple of days having food managed by the Maoists. It was taken as an informal understanding between the Maoists and the army\(^\text{141}\). The RNA could neither rescue the abducted police by the Maoists nor informed the government about what was happening in the field. The king got the chance to harass the Prime Minister who was oblivious of the RNA position, while he asked the Prime Minister about the incident. The Prime Minister had not been

\(^{140}\) Ibid, p.146.

\(^{141}\) Barsa Man Pun, Maoist militant-commander of the Dunai attack, told the researcher that the Maoists were cooking and having food in Nuwagaun, 500 metres away from the spot. RNA team was dropped by five helicopters. The Maoists took a position that they had no plan to attack the RNA and started making announcements through mikes suggesting the RNA to surrender their weapons and go back. The RNA replied that they were not there for fighting with the Maoists, but for rescuing the police from them. In between another RNA helicopter had flown in the sky, but the Maoists attacked it and did not allow it to land. The Maoists had the privilege of having the walkie-talkie sets of the police by which they identify each and every plan of the government and make their plans ineffective. The climate suddenly changed, and other helicopters could not land. The landed RNA team in the spot became helpless; as such both were able to exchange letters. They reached a consensus that two persons from each side would meet at a designated place for negotiations. Accordingly, four people including one commander from each side met for the negotiations. The Maoists told the RNA to surrender the weapons they had to the Maoists and to go back safely, but the RNA said they would neither surrender their weapons nor betray the Maoists. Hence, they reached a conclusion to go by their own way. In between, the helicopter (which was supposed to take them back) could not land because of bad weather, and they had to stay for a few more days on the spot. The RNA had neither extra clothes nor food. The local people were not ready to help the army without getting approval from the Maoists. So, the Maoists saved them from hunger and the cold by not only arranging food and utensils necessary for preparing food, but also by providing shelter. Later, a group of RNA came from Dang and took them together.
informed by the Commander-in-Chief of the RNA who also might have ignorant of the RNA group in the field. But the king and Commander-in-Chief had known that the RNA group would not attack the Maoists but at least it could rescue the Police. The RNA-King plan to betray the Prime Minister also proved unsuccessful while the RNA team used their strength to save only their life and weapons. The Prime Minister was forced to resign from the post being morally humiliated by the non-cooperative attitude of the king and military.

Neither the King nor the military was happy with G.P. Koirala. The main causes of non-cooperation of military with the Koirala government were (1) Koirala was Prime Minister chiefly after 1990, but he always tried to engage RNA in developmental activities mainly for construction of roads instead of its professional and organizational development. Koirala considered the RNA as the “king’s army”, so the military was never supportive of Koirala; (2) even after escalation of the Maoist conflict, the fund assigned for ISDP\textsuperscript{142} in 1998 was preferred to be used by the police instead of the RNA. Expressing his resentment, General Dharmpal Thapa reportedly advised King Birendra not to allow the deployment of RNA by the Koirala government. The advice was against the broad consensus obtained by the Chand government. Prime Minister Koirala formed an Armed Police Force (APF) in 2000 as advised by the king for countering the Maoists, that helped widen the gap between the PM and the RNA. The military, who thought that the APF was formed as its substitute, developed a revengeful attitude against the government, especially the PM; (4) the mutual antipathy between the army and police was the competition to commandeer resources and stake claim to the security outfit, but civil government always prioritized the police force rather than RNA because of its historical background and country’s geo-political reality; (5) Koirala did not care to fulfil the preconditions of the RNA for its mobilizations in 2001. These preconditions were: Maoists should be declared terrorist, TADA should be either introduced or activated as in the Panchayat period, and State of Emergency (SOE) should be imposed all over the

\textsuperscript{142} The ISDP adopted in 1997 and 1998 was eventually only for development of the Maoists affected areas through RNA and not for employment of the security force. It was conceived to address the root causes of the insurgency at a time when the Maoists strength was estimated to be no more than 700 fighters. The plan was to launch limited operations concurrent with the development project targeted to win the hearts and minds in the four Maoist afflicted districts of Rukum, Rolpa, Sallyan and Jhajharkot, where people were brutally repressed by police operations — Romeo and Kelo Sera that had traumatized the people.
country\textsuperscript{143}. However, he thought that such preconditions would curtail civil rights and liberties guaranteed in the constitution.

The then Commander-in-Chief of RNA, Prajwal Shamsher Rana clarified the Holery incident with the researcher — the RNA being very much conscious of its reputation and responsibility, it could not attack the Maoists as thousands of local people had been compulsorily used in the attack as shield, the RNA was neither able to differentiate the Maoist combatants and genuine people, nor could it attack randomly because that would take the lives of several innocent people. The abducted police in civil dress also were encircled by them and it was impossible to rescue them without dispersing the people.

The question can be raised here why the situation was not briefed to the PM by the COAS exactly as it was at the field, even if his clarification was real. It can be understood that the major problem of non-cooperation of the military for its immobilization and ineffective action was the dual command system, including personality and power clash of the non-professional authorities of RNA — the King and the PM.

Deuba succeeded Koirala on 23 July 2001. He imposed the SOE along with the deployment of army after he fulfilled the preconditions of the latter — enforcement of anti-terrorist act, imposition of SOE, and enforcement of Terrorist and Destructive (Control and Punishment) Act. The SOE was the first step towards weakening democracy\textsuperscript{144}, since the government was compelled to extend SOE\textsuperscript{145} because of the rigidity of the RNA not to return to the barrack “without any result”\textsuperscript{146}. But the other parties and the prime minister’s own party rejected its extension because of massive human rights violation by the RNA and curtailing civil liberty of the people by the security forces\textsuperscript{147}. Initially, the prime minister himself was not in the support of continuation of SOE, but called an all-party meeting in the presence of the chiefs of all


\textsuperscript{144} Prime Minister Sher Bahadur Deuba’s Address to the Nation after Declaring the State of Emergency, Kathmandu, 28 November 2001.

\textsuperscript{145} The SOE proclaimed by the king on the advice of the Prime Minister was that it should “be laid before a meeting of HOR for approval within three months from the date of issuance” [(Article 115(2))] and such proclamation shall “be continued in force for a period of six months from the date of issuance” after it was “approved by two-thirds majority” of HOR present at the meeting [Article(115(3)), \textit{The Constitution of Kingdom of Nepal} 1990].


\textsuperscript{147} All the security agencies — Nepal Police, Armed Police Force, National Investigation Department and RNA had been mobilized under the Unified Command of RNA.
security sectors for reviewing the strengths and weakness of SOE and its relevance for continuing or discontinuing it. The Commander-in-Chief was exposed strongly in favour of the SOE without giving the rationale as to why the RNA could not be mobilized without imposing SOE. However, he had warned the political leader, in using threatening language:  

Political leaders have to decide about it being concerned in the national security situation, but political parties are insensitive on such serious subject of national security. Today's necessity is to make a consensus in the security matter, and to extend the duration of State of Emergency is inevitable for it.

On the same day of the all-party meeting, the cabinet decided to call a session of HOR by giving emergency notice without consulting the Speaker. The palace formalized it as advised by the government, and the government registered a proposal in the parliament secretariat to extend the duration of SOE without discussing it in the cabinet meeting or with the spokesperson of the government. The prime minister became helpless because neither opposition parties in parliament nor opposition faction in his party (NC), except the ministers of his cabinet were in favour of the proposal of the government during the session of the HOR. The Prime minister's party wrote a letter to him to give a satisfactory clarification within 24 hours and also seized his ordinary membership of the party by accusing him of deciding it against the party's stand and policy. With the support of the King, not only the HOR was dissolved on 22 May by Prime Minister Deuba, but the biggest democratic party of the country (NC) was also split on 16 June.

Holding elections, conduct of negotiations with the Maoists and restoration of peace in the country were the responsibilities of the government. The main focus of the government was on holding the elections. Home Minister, Khum Bahadur Khadka, was secretly negotiating and reached an understanding with the Maoists that the government

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149 Ibid, p.93
150 Prime Minister Sher Bahadur Deuba had not consulted anyone before deciding to dissolve the HOR. Earlier, he told to his minister, Chiranjibi Wagle to return the proposal of government as suggested by his party when he advised him not to dissolve the House because of the unfavourable situation for holding election. Instead, he went to the palace at night dissolved the HOR and lied to the ministers that he was going to attend a dinner somewhere. Radio Nepal announced in the news at 11 pm that the HOR had been dissolved by the King on the recommendation of the prime minister and the date of election had been fixed as 27 Kartik English date?. Even the spokesperson of the government, J. P. Gupta (Anand) who claimed later that the decision had been taken by consulting the king, was informed about the dissolution of the HOR only from the news of the Radio. Ibid, pp.97-98.
would call the latter for talks and fulfil the minimum demands of the Maoists and the (latter) would declare cease fire and reach conclusion before the first phase of election, and then other phase of election would be held with the negotiation\textsuperscript{151}. The Maoists were nevertheless continuing their attacks and issuing their statements against the election.

Meanwhile, the coming election was the top issue in the country. No political parties, except the party leading the government—NC(D), were expected to hold "free and fair election"\textsuperscript{152}. The Election Commission was not preparing the ground before a couple of weeks of the date of election\textsuperscript{153}. RNA was going to lose its influence unexpectedly for curbing the Maoists and expressing unnecessary and irrelevant grievances against the government. The Inspector General of Police (IGP) had declared publicly against the interest of the government and home minister that the election could not be held at any cost. Moreover, addressing the king in a meeting in front of the prime minister, the Police Chief said that the king had no alternative except to take power in his hands\textsuperscript{154}.

Indeed the Army had played a double role. It was clearly against the election but its public expression was for making the government as "incompetent"\textsuperscript{155}. The Commander-in-Chief of the army had stressed in a meeting of the National Security Council that the election could not be held within the stipulated date in the prevailing situation. As a result, the Security Council decided to request the government to postpone the election\textsuperscript{156}. But next day, the spokesperson of the army told the press that RNA was able to hold the election by arranging security in the country, but holding of the election or postponing it depended on political decision\textsuperscript{157}.

\textsuperscript{152} Sher Bahadur Deuba, then PM told while talking to researcher.
\textsuperscript{153} The Election Commission had not prepared the list of voters. No election officers reached in the destination. No election observers from within and outside the country were invited and the Commission had not worked on it.
\textsuperscript{155} Royal Address, 4 October, 2002.
\textsuperscript{156} In the meeting of the Security Council, IGP of APF and Police were included but not the Home Minister, Khum Bahadur Khadka because he was rigid and confident and of holding the election at any rate. Only the prime minister, defense minister and the Commander-in-Chief are the members of the Council, but generally chief of the security sectors and home minister, and sometimes finance minister, can be included. But then the prime minister was his own defense minister also. Hence, the meeting was held between the prime minister and the chiefs of the security forces.
On the other hand, the king was using his mind to weave the net of conspiracy by leaving no alternative exit to the prime minister except to accuse him of being "incompetent". (1) He used to advise the prime minister on matters which he could not handle by himself\(^\text{158}\). (2) He advised the prime minister to postpone the election\(^\text{159}\). (3) He tried to cash the rejection of Brussels government to provide arms\(^\text{160}\). (4) The king mobilized the pro-palace groups in the streets against the government and the prime minister\(^\text{161}\) for creating a suitable environment to sack the latter.

Meanwhile, the king also applied his father's way of engagement with different leaders from various political parties differently. He created divisions with the parties and ruled the country by hiring and firing ministers one after another. Adopting the same path of his father — King Gyanendra granted an audience to G.P. Koirala and Madhav Kumar Nepal, for being potential alternatives to Deuba, on the pretext of discussion regarding the prevailing crisis. The king tried to stress that since Deuba could not hold the election, the king would form an all-party government for rescuing the country from the crisis, if the parties helped him. It was the indication to lure both the leaders by showing them equal possibility to succeed Deuba and to divide them for making each other compete to be near the king. On the other hand, the king repeatedly asked Deuba for his resignation

\(^{158}\) By taking advantage of the political rivalry between Deuba and Koirala, the king suggested to Deuba to arrest Koirala and his daughter, Sujata on the accusation of corruption. He was unable to do so, that is why he was unable to control corruption.

\(^{159}\) King Gyanendra made the following suggestion to the Prime Minister Deuba: "Political parties are against the election. What is the rationale of holding the election in democracy without participation of political parties? Moreover, to hold election in the bloodshed is not good. Neighbouring countries and international communities do not recognize such an election. Hence, it is better to postpone the election. Such a recommendation is your right, being the prime minister. I will not feel uncomfortable to accept the recommendation submitted constitutionally." See Ibid, p.42.

\(^{160}\) RNA had bought 5,500 items of self-loading automatic rifles from the Brussels government in 2001. But the opposition had put the 'no confidence' proposal against Brussels government in the parliament to stop the supply of arms to RNA, because there was a policy whereby no arms could be provided to any government for repressing the internal insurgency. However, the government put Nepal on the list of warfare state. The reality was that Nepal government never consulted in the wake of the decision for importing arms, but the consultation and agreement of the palace was necessary for importing arms. RNA did not consult the government during the decision-making process. When Brussels government denied providing arms, the prime minister and the defense minister were considered responsible for such denial.

\(^{161}\) By understanding the intention of the prime minister to ask for help of the king for solving the problem faced by the government, the king mobilized the pro-palace groups and so-called parties in the coordination of Mohan Neraula of Paribartan Nepal, Kuber Sharma from Hariyali Party, Bharat Jangam, etc. by chanting the anti-government slogan asking for resignation of the prime minister and intervention of the king.
from the post\textsuperscript{162} by pointing to the background of the country, as mentioned above. He also indicated that the king would make Deuba the Prime Minister in the next government and tried to convince him that he would run the government and strengthen his new party for forming an elected government in the future. After Deuba ignored all suggestions of the king, ultimately the latter threatened Deuba: “PM either you take my advice or you will be surprised…”\textsuperscript{163}

The cabinet meeting on 2 and 3 October 2001 decided to postpone the election as suggested by the all-party meeting and prepared a recommendation to the king to remove difficulties relating to the implementation of “only the Article 53(4)” of the constitution in accordance with Article 127 of the constitution. This gave an upper hand to the King who dismissed the prime minister on October 4, 2002 and provided political balance to the side of conservative forces as the prime minister had so many doubts about the possible announcement of the palace. He took all the power of the country in his hand by accusing the prime minister of being “incompetent” for holding the election within the framed time and restoring peace by negotiating with the Maoists. He formed a cabinet under the premiership of Lokendra Bahadur Chand using Article 127 of the constitution under the recommendation prepared by the Attorney General of the government and Secretary of the Ministry of Law and Justice. The action was taken under the direction of the palace but not as decided and prepared by the cabinet. After making experiments with the appointed governments, the King, with the support of the army, ruled the country justifying that his decisions were in accordance with the provisions of the constitution. The King was above legal remedy, and the constitution had provided no right to any organ of the government to raise questions about whether the activities performed by the king were constitutional or not.

\textbf{External Factors and Assistance: Militarizing RNA}

Being located in-between China and India, the rising powers of the world, strategic importance of Nepal is more vitalized than that of the cold war period. Nepal’s relations

\textsuperscript{162} After Deuba asked for some time to think over the response to the king (advice), the latter asked for his resignation again during the dinner at the palace held on the occasion of birthday of Princess Himani. However, when Deuba became reluctant on his advice, the king advised his wife, Arju Deuba, the same night that she should suggest to her husband to submit his resignation.

with the US and other western powers had been perceived by India and China with suspicion. India and China never wanted the over-involvement of other (extra-regional) powers in Nepal. They did not favour arm supplies and other activities of western powers until 2000. Even the UN involvement in the Maoist crisis did not get favour from India. India thought that it should be settled internally.

India was one of the first countries to come out in support of the government, offering assistance in the fight against the Maoists, as India itself had been suffering for long from such a problem. It provided not only diplomatic help for declaring the State of Emergency since 2001 but also termed the Maoists as “terrorist” in early 2001, long before the Nepal Government did so. It was perhaps because of some incidents that happened in 2001 and before — terrorist attack on Twin-Towers of the World Trade Centre in New York, USA, on 11 September 2001; Indian Airline hijacking from Tribhuvan Airport Nepal to Afghanistan on 25 December 1999; terrorist attack on Indian parliament in New Delhi on 13 December 2001; increasing activities of CPN(M) in India, and a real danger of a physical tie-up with Indian Maoists groups. Thus, India not only provided military assistance with a heavy-hand in terms of arms, military instrument and money for strengthening military in Nepal, but also deployed security personnel of the federal Special Services Bureau along the Nepal border “mainly to prevent infiltration by Pakistan-sponsored militants”, because India had long accused the ISI of using the open border with Nepal. But India was not free from both accusations of being an “imperialist” in the eyes of the Maoists, and a “safe haven” provided to the Maoists by it. Because, India helped the government militarily with a heavy-hand for curbing the Maoists on the one hand, and most top leaders of the Maoists spent greater part of their time in India during the “People’s War” on the other. The perception became more vocal, while the Indian security forces arrested middle ranking leaders of the Maoists from its territory at a time the top leaders succeed in escaping, even though all of them were under the red-corner notice of the UNIPOL.

After declaring the Nepali Maoist activities as terrorist activities, India assured Nepal of possible help for curbing “terrorism”. Reports poured into Nepal about the arrest of

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Maoists in India. It thus indicated that the two governments were cooperating with each other for avoiding threats coming from the terrorist organizations. In addition to this mutual cooperation, India provided military support, such as arms and other materials as demanded by Nepal, for fighting against "terrorism".

The Maoist movement in Nepal had also become a serious concern for the US, especially after 11 September 2001, if not before. As analyzed by some people in Nepal, the government was keen on imposing the SOE assuming that following the September 9 incident, the US would come forward to help quell the Maoists in Nepal. The government under Sher Bahadur Deuba, as an "aggrieved party", quickly received the backing of foreign countries over the SOE. Even the US Secretary of State, Colin Powell landed in Kathmandu in January 2002 as a gesture of encouragement. The US in particular wanted to suppress the Maoist movement with a heavy-hand encouraging the Nepal government not to compromise too much with the Maoists against the spirit of the 1990 constitution on the issues of constitutional monarchy and multiparty democracy. The stand of the US was further clarified by his statement that "the US believes that representatives, constitutional democracy is the very best form of government.... Under no circumstance does the United States support or advocate the overthrow of an elected government through violence or non-constitutional methods." India time and again was making clear its stand on the two-pillar theory, constitutional monarchy and multiparty democracy in Nepal, while the Maoists put their one of the demands on the negotiating table that Nepal should be "Republic".

Moreover, the US's vow against terrorism around the world and the Maoists perceived as terrorists by the US had further added fuel to the fire. In a statement issued by the US Deputy Secretary of State, Richard Armitage stated in Washington, "I hereby determine that the Communist Party of Nepal (Maoist)... has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of US nationals, or national


167 When the Chairperson of the Nepal Communist Party, Parchanda in the statement issued on 11 April 2000 argued with the government and other forces to work seriously for the dialogue for "political solution" of the conflict, the US Ambassador Ralph Frank issued a statement in which he attempted to clarify the current report published in a local leftists weekly about his audience with King Birendra. While doing so, Frank went on to state the long-standing US goals in Nepal and the world as quoted above in the text. See, The Kathmandu Post 14 April, 2001; The Himalayan 14 April, 2001.
security, foreign policy or the economy of the United States\textsuperscript{168}. Branding Nepal Maoists as a security threat to the US, he decided to freeze the group’s assets as part of the package of sanctions. Such a decision of the US indicated that further military assistance to Nepali regime aiming to curb Maoists activities was beyond denial. It also helped Nepal militarize with more sophisticated firepower (Appendix IV-1).

Similarly, some western countries tried to engage Nepal on the pretext of development intervention by marginalizing the political issues raised by the Maoists as they argued that rapid development in the conflictual area could solve the crisis. The Norwegian Ambassador to Nepal also said that all humanitarian agendas should be given priority in the peace process for which the financing and implementation mechanism for the reconstruction and rehabilitation would not be a problem as the Karnali region was already being examined from this angle\textsuperscript{169}. This suggestion was just the reverse of that of the Maoists opinion, as they thought the political agenda should come first. In this context, India also liked to be informed about all aspects of foreign assistance. Perhaps it felt that too much involvement of other foreign powers like the US, China and others, especially the EU and the UK, which was a good follower of the US, would not be in the interest of India. It was candidly expressed by no other persons than the Foreign Secretary of India in the course of a seminar discussion held in Delhi in February 2001\textsuperscript{170}.

On the international front, the British government, supported by the US and India, convened an international meeting on Nepal in London and vowed not to allow Nepal to be a failed state. They favoured a search for political solution to the conflict backed by military assistance. Notably, they also favoured a “strong leadership”\textsuperscript{171} in Nepal in order to resolve the crisis. Pointing to the notion of “strong leadership”, some international relations experts argue that the meeting’s conclusion might have partly contributed to initiate the incident of October 4, 2002.

Similarly, the influx of foreign assistance had been helping Nepal to militarize the country, which could not be sustained in such a position in the future, if government wanted to give priority to human security. The US alone had provided the security


\textsuperscript{170} \textit{The Kathmandu Post} 1 February and 27 April 2003

assistance for training, education, and weapons as given Appendix 3. The UK had aided Nepal militarily with its initial fund of Rs. 780 million (6.5 million Sterling Pounds) under the Global Fund for Prevention of Conflict. India, which was previously seen as reluctant to provide military assistance, had became generous and the largest provider of military hardware worth Rs. 6.5 billion "sensitizing its own security interests in Nepal" towards the end of 2002\textsuperscript{172}. Notwithstanding it, RNA was not satisfied and grumbled that it had not received sufficient funds as proposed.

Other countries of the world also supported Nepal on the issue of Maoists, though these governments had not called the Maoists as terrorists until October 2002. Any foreign assistance towards militarization of Nepal delayed not only in resolving the crisis, but also in restoring the democratic institutions in the country after 2001. Contrary to this, the donors' group and international community had expressed grave concern over the deteriorating human situation in Nepal, as RNA was responsible for two-thirds of human rights violation in the country.

The Maoist problem had invited the involvement of big powers — the US, the UK, India Belgium, EU and the United Nations. The four countries were supplying arms and ammunition and helicopters for fighting the Maoist insurgents. India suggested to the Nepal government not to send RNA in UNPKO, but use it at home for curbing the Maoists. The UN had shown its concern by offering to facilitate the ending of the Maoist crisis. Nepal had denied the third party mediation as it made India sensitive. India did not like other powers to play that kind of a role in its immediate neighborhood until the end of 2002. As a result, militarization was spiraling, and democratic institutions were weakening at a time when human rights violation was taken seriously across the world.