Chapter V

RETURN OF KING’S RULE AND DEMOCRATIC STRUGGLE SINCE 2002

The practice of statecraft through rule by discretion influenced the structure and composition of the armed forces of the country. The succession to high military rank remained narrow and parochial and was possible only through matrimonial ties, or by some other form of familial and patronage routes. The movement for reversing power from the traditional monarchy to people was a threat to the high ranking officers in military in the country. The royal patronage and patrimonial system prevalent in the country since 1951 to 2006 had indeed drawn the military high command closer to the king, who actually manipulated the power of the state during this period by virtue of his clan relationships with the army. Both the king and the military were commonly benefited by the loyalty of the army to monarchy. It automatically motivated military politically even though it had been verbally advocating its “apolitical” role as “it is not an instrument of any [political] party”.

The history of military conserved the political-military interest of feudal class safeguarding the regime against domestic opposition. The military had been invariably used by either courtiers or by the King until the situation had been reversed after 1990. The military loyalty and ethos allowed the king to re-emerge as an undisputed patron. On the contrary, the political leaders who emerged from the grassroots felt inferior vis-à-vis the king. Hence, the class interest between the King-military and the people was in conflict and incompatible. It showed that military always remained as the exclusive domain of the King. It could neither show solidarity with any elected government nor did it go against the interest of the traditional monarch that was not compatible with the spirit of democracy. In a speech, the Commander-in-Chief said: “It is not an instrument of any [political parties], but a national institution, the moral obligation for maintaining political stability and good governance in the country primarily rests on the political leadership...Royal Nepal Army as [historically] being the symbol of

continuity, stability and unity of the state should therefore be used only for [attending] comprehensive national interest. But, how such national interest could be judged had been made vague. On the contrary, the army continued to support the King's action despite all his deeds being anti-people. Moreover, national interest and regime interest were consolidated by the King. Hence, while imposing his authoritarian regime, he used the army against democracy.

For military, only the monarchy was the 'source of sovereignty and national unity' and it had the responsibility to save the sovereignty and the nationality. Any effort for political change by the popular forces in its view was a threat to the status quo causing instability and discord for peace, independence and integrity of the state, preserved since the time of the formation of the modern Nepali state. The military perceived the people as 'subjects' for contributing to the interest of the king, having no identity and interest except to be subjugated by the kingship, and the nation could not be imagined without a monarch. It was reflected live vibrantly by the speech of the Commander-in-Chief. "The Crown is the symbol of our identity and the kingship is the progenitor and guardian of the Royal Nepal Army along with the unalterable symbol of Nepali nationalism and national unity. The faith, devotion and the trust of the people towards the Crown have remained the essence of Nepali nationalism since time immemorial. All Nepalis should, therefore, be united to work towards preserving the symbol of our identity along with the fundamentals of our national interests." Therefore, it is needless to describe here again why the Nepal Army was used to suppress the Mass Movement-II. It was also used on different other occasions including the coup staged by the King in 1960.

The guiding principle developed by RNA was "Raj Bhakti Hamro Shakti" — 'loyalty to the king is the power of the army" and without loyalty to the king, as they know, they would be unable to fulfill neither their professional interest — corporate enhancement, nor duty — to save the "King and the Country". The military knew that its professional and corporate interest could be fulfilled more easily by the government under the king rather than under an elected government. So in the context of Nepal, struggle for democracy means unity of political parties for confrontation with the king-

2 Ibid.
3 Ibid.
military tandem. Here, the chapter deals first how the “constitutional monarch” became assertive in the backing of military and how the military was benefited from the process of militarization that undermined the civil government as a background. It has mainly dealt how the political parties, other constitutional bodies including Judiciary and National Human Rights Commission, and also international communities and civil-society respond such assertion that made an environment to come the Seven Political Parties and Maoists together to restore democracy in 2006.

Reversal of Democracy and Return of King’s Rule

King Gyanendra Bir Bikram Shah, who ascended the throne after the Palace Massacre that took place on 1 June 2001, sacked the elected Prime Minister, Sher Bahadur Deuba for his “incompetence” to fulfil his responsibilities. Then the King assumed the executive power of Nepal in his hand, as his father King Mahendra did through a coup on 15 December 1960. The Proclamation was not only “surprising and unconstitutional” but also “unexpected ... impractical.” Political leaders remarked it as politically “serious.” His nature of consultations to people from different sections of society indicated that he could not remain a mute spectator like his brother when the people were in pain. Later he came up with the full-fledged explanations of the royal take over at a civic reception in Nepalgunj. Unlike his father, he praised the spirit of liberal democracy but vented anger on political parties for not using the system successfully to the advantage of the people and the country. He categorically expressed his preference to be seen as well as heard by the people. The king’s keen interest to intervene or to be a supreme authority to guide politics was made open by the explanation. Accordingly, he felt the pulse of the political parties by hiring and firing the Prime Minister (PM) from the Rightist Political Party, leaders from Rahstriya

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4 The main responsibilities of the Deuba government were: (1) to hold the election to the House of Representatives within the stipulated time, (2) to negotiate with the Maoist insurgents, and (3) to provide peace and security to the people maintaining law and order. See also, The Rising Nepal, 5 October 2002.

5 The immediate victim, Sher Bahadur Deuba reacted to the King’s step as a surprising one. According to him, the king could not remove him as per the Constitution (The Kathmandu Post 5 October 2002).

6 The opposition leader of dissolved House, Madhab Kumar Nepal reacted to the royal move saying that it was “no more than unexpected and impractical” (The Kathmandu Post 5 October 2002).

7 Arjun Narsingh K.C. Spokesperson of the Nepali Congress said “the new political development was very serious”. See, The Kathmandu Post 5 October 2002.

8 The Kathmandu Post 9 February 2003
Prajatantra Party (RPP) — Lokendra Bahadur Chand first, then Surya Bahadur Thapa, both known as royal allies. Both had the experience of the post not only during the Panchayat period, but also in the post-1990 democratic era. The king killed two birds at a time presuming that Maoists would help him to form a government by applying the strategy of warfare — the enemy’s enemy is their friend. The king also thought that he would get legitimacy for his action from the parliamentary political parties. Following a divide and rule policy, he could contrive divisions within the political parties together with the Maoist support for power sharing. Unfortunately, the royal massacre in 2001 that led to the division within the Maoists — pro-royalist led by Prachanda and pro-democracy led by Dr. Baburam Bhattarai — aborted such “unholy alliance”.

Both the governments led by Chand and Thapa failed to negotiate with the Maoists and to suppress the Seven [Political] Party Alliance (SPA)9 agitation with the primary objective of “ending the despotic rule of monarchy”10. Then the King had no option left except to form a government under the leadership of the agitating seven political parties. Still he used the last weapon to divide political parties, making them weak and ruling the country by himself by appointing the weakest leader as PM. Ridiculing the political parties’ leaders, King Gyanendra went to the extent of advertising the post of prime minister asking for applications from politicians and others. It had been believed that even Madhav Kumar Nepal of the CPN(UML) applied for the post, but failed to get it.

It seemed that there was an uneasy triangular relationship between the King-the Maoists, the SPA-the Maoists, and the King-the SPA. Such a situation was unbalanced, as the relation between the government appointed by king and the Maoists was complicated further by the latter’s demand that government should clarify its status. They urged the king either to deal with them directly or delegate publicly full power to the government for negotiation. The Maoist did not believe that the nominated government could negotiate on crucial demands, nor did the army obey the command of the government. Such a Maoist assumption proved correct with the military killing

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9 SPA was formed with Nepali Congress (NC), Nepali Congress (Democratic), Communist Party of Nepal — Unified Marxist-Leninist (CPN[UML]), Nepal Workers and Peasants Party, Nepal Sadbhavana Party (Anandi Devi), United Peoples Front of Nepal and CPN Marxist-Leninist (ML).

17 Maoist cadres in Doramba at a time when the country was under the third ceasefire arrangement made in 2003.

Even earlier in 2001, the Maoists played a more offensive role by attacking the army barracks in Dang, Surkhet, Salyan and other places. They sensed that they were bent on making a surprise attack on them. The Maoist attack on the barracks was beyond the imagination of the government because of the Maoist engagement in negotiation with the government. This situation led to the imposition of a state of emergency in the country declaring the Maoists as "terrorists" again. As an indication for a full assault on the Maoist power, the government formed a unified command under the RNA with the combination of other security agencies — Civil Police, Armed Police Force (APF) and National Investigation Department (NID).

The CPN(UML) had supported the Deuba government in 2004 saying that the regression was corrected. Hence, ultimately, the king again successfully used political parties creating a big gulf between the Maoists and political parties on the one hand, and among the systemic political forces on the other. The SPA-led movement was weakened as expected by the King limiting the SPA to Five Party Alliance (FPA). However, the Maoist offensive increased despite the mobilization of the RNA. The Maoists also used the strained relationship between the ruling and opposition parties to achieve their proclaimed goal. They stated that the solution of burning issues were virtually impossible from within the existing political structure. Against the background of malfunctioning of the democratic and progressive forces, King Gyanendra ventured to depose the Sher Bahadur Deuba government in February 2005 as he had done in 2002 albeit this adventure was akin to the 1960 coup, since he not only dismantled the parliamentary process but also brought back the old palace henchmen in government.

How the democratic reversal was evident could be seen after the royal move in February 2005, when the King who was not ready "to give it [power] back to the corrupt and incompetent [leaders of political parties]" became the chairman of his

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12 Kanak Mani Dixit told so, reminding the researcher about a conversation between him and the then King Gyandra in an audience with the civil-society at compound of Nagarjun Palace, See also Kanak Mani Dixit, Dekheko Muluk (The Country I Have Seen), Kathmandu: Jagadhamba Publishers, 2009, p43.
own government. The government also consisted of the old hardliners, Tulsi Giri, Kirtinidhi Bista, and others who supported his action. Having no popular base, the King's action was criticized by the political parties announcing that they would go against it unless it was brought back on the track. Party leaders and activists, intellectuals and others were taken under detention. Press freedom was curtailed. Movement of politicians, intellectuals and journalists was restricted. The country was kept in the dark cutting off telephone and mobile service, regulating private newspapers, the radio and television stations by the army, and blocking the foreign television news channels, especially those beamed from India. An article in Himal Khabar Patrika, which was published as it was after it edited by the military, shows how the military was used to censor the reputed print media publications for depriving the masses from the right to information about what was happening in and out of the country (Appendix V.3).

Similarly, "Parties were not banned but party system, their freedom and political activities were severely restricted through new ordinances and other actions adopted" in the name of ending Maoist "terrorism". Going against the spirit of the 1990 constitutional provision — constitutional monarchy and multiparty system, the King proclaimed the contribution of the Shah dynasty "on the foundations of [the] unification process initiated by King Prithvi Narayan Shah" and his forefathers "having initiated revolutionary measures of historic importance, ensuring a bright future of the nation and her people". He exposed more vocally his interest while talking to the Time magazine saying that he was happy to see his role as "the preserver of all things, a role that has been spelled out for a King in Hindu mythology as the personification of God Vishnu".

**The Process of Militarization After 4 October 2002**

The RNA got opportunities of expansion of military strength and increased its influence in the domestic sphere after 4 October 2002 that gave an indication that the executive power of the state would be exercised directly or indirectly by the King. Since the power of the Supreme Commander-in-Chief(C-in-C) of the armed forces was vested in

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the king, RNA was able to make a policy for increasing its strength by recruiting fresh personnel and importing sophisticated weapons in consultation with the palace. In 2001 before imposition of national emergency, RNA submitted a figure of 47,411 personnel to the twentieth session of the House of Representatives\textsuperscript{16}. Since 2002 to 2005, during the "civilian rule" of the king, the number reached from 53,000 to 85,000 though the military institution was not satisfied with the increased strength.

The numerical military strength that was expected to make a force of 125,000 would hardly be able to manage the Maoist insurgency. Its involvement in the counter-insurgency operations since 2001 belied all hopes of the establishment that the military would be successful in eliminating the Maoists from the scene. Its policy to increase personnel up to 100,000 along with the establishment of more divisional headquarters for meeting the requirement of core command — also proved wrong\textsuperscript{17}. The number of personnel reached 92,122 till the Jana Andolan II, in April 2006. The structure of RNA was expanded accordingly from Brigade to Division level. The size of the military was extended to 6 Divisions from its previous size, 3 Divisions. In addition, Divisional Headquarters were established in each development region of the country that included a Central Command base. Out of 18 Brigades of the RNA, 3 were attached to a Division except the Far-Western Division till 2006. 5 Military Divisions excluding the Valley Command Division and 14 Brigades stationed in the five Development Regions and 14 zones of the country respectively. Each district has a Battalion. Its total strength today consists of 22 battalions and 44 independent companies\textsuperscript{18}. The map given below show the organizational distribution of Nepalese Army except the Battalions stationed at district level.

\textsuperscript{16} Rajdhani 2 November 2001
\textsuperscript{17} Deshatantar Saptahik 25 July 2004; The Himalayan Times 20 April 2004
\textsuperscript{18} http://flagspot.net/flags/np-army.html, server date: 22 July 2010.
Organizational Distribution of Nepalese Army, 2010


Source of Information: E-mail correspondence with the Retd. and in-service Senior Officers of Nepal Army in 2009 and 2010,
Now there are no 8, 12, 13, 14, 15, 20 Brigades anymore. 11 Brigade is the Aviation wing, 16 Brigade is Logistic Brigade, 17 Brigade is maintenance Brigade. They are directly under NA Headquarters. In the past 13, 14 and 15 Brigades were Artillery, Engineer and Signal Brigades respectively. Now these are not anymore Brigades but are called Directorate and are directly under Army HQ.

In addition to the structural systemic features relating to the strength and position of military in the state, civil government on the pressure of the military vitalized the rationale of extension and scope of militarism in the given situation by taking several measures that acknowledged the superiority of military. Thus, militarization has not indicated simply the numerical strength of arms, ammunition and soldiers and other expansion. However, it is also a policy that deliberately preferred excessive means of violence with the intention of “resolving conflicts” rather than adopting any other socio-political resolvable means.

In a major move to attract the Maoists to surrender, the government on 18 December 2003 initiated a policy measure. It assured a guarantee of physical, social and financial security including amnesty to those who surrendered to the government with or without arms before 12 February 2004. Additional assurance was that the government would “also provide technical and employment training, loans for managing employment and necessary assistance for foreign employment”. Under the surrender scheme, different rewards were announced in the “arms buy back scheme” but equal opportunities in resettling and leading a social life to those who individually or collectively in mass surrended.

Unified Military Command (UMC) formed in the civil-military coordination on 4 November 2003 brought “all elements of the national power including political, economic, information and diplomatic activities” under the operational control of the

19 The information has been given on the basis of email exchange with a couple of Officers working in NAHQ on 23 and 31 August 2009, and Retired officers on 12 April 2010.
20 Ibid.
21 The surrender package of the government contained: (1) Rs. 200,000 for an 81 mm mortar, (2) Rs. 100,000 for a general purpose MG and a 40 mm rocket launcher, (3) Rs. 75,000 for an LMG, (4) Rs. 50,000 for a base set and an M-16 rifle, (5) Rs. 40,000 for a Chinese Sniper rifle, (6) Rs. 30,000 for a 2-inch mortar, Gallol rifle and INSAS rifle, (7) Rs. 20,000 for a self-loading rifle (SLR), (8) Rs. 15,000 for a handset, (9) Rs. 10,000 for sun-machine carbine (9mm), 22 magnum shot gun, 12 bore gun, 22 bore gun and Browning Pistol, (10) Rs. 8,000 for a Chinese pistol, (11) Rs. 7,000 for a 303 rifle, (12) Rs. 6,000 for a revolver, (13) Rs. 2,500 for home-made weapons, (14) Rs. 1,000 for home-made guns and air guns, and (15) Rs. 400 for a 36 plastic hand grenade, See, The Himalayan Times 21 December 2003.
There were several implications of the UMC. Firstly, it was perceived by the community that the situation of the country was still in emergency that created havoc in the society. It created an atmosphere of fear because of the curtailment of freedom. Secondly, it was understood as a measure taken for assertion of the state power through the military as if the state was under the war. Thirdly, it was a threat to the civil order in the state.

Being free to form a defense policy in the absence of people’s representative body, RNA made a Civil-Military National Campaign Plan (CMNCP) to “tackle the Maoists problem” under the UMC. On 4 October 2003, exactly after a year of the Royal takeover, the government appointed by the King pursued it as a strategy encompassing “all elements of national power to include political economic information and diplomatic activities” in making “grand strategic objectives”. It was conceived primarily as a strategy to conduct relentless “operation against the Maoists to disarm them in order to stop violence and terrorism”. Its main objective was analyzed “to defeat the Maoist military capability” with a central thought of the plan. It was assumed for “enhancing popular support at the strategic level”. The plan was confined to strengthen military capability at the operational level by relocating, reinforcing, strengthening and equipping security forces with an enhancing intelligence system under the UMC. The CMNCP had eventually evolved the Concept of Operation for the Security Forces, and compartmentalized it in three different ideas- Interest, Method and Measures- to achieve the designed end.

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23 Brief to U.S. Assistant Secretary of State, A Policy Brief presented by the Director General of the Royal Nepalese Army (RNA) to the visiting U.S. Assistant Secretary of State Christina Rocca at the RNA Headquarters, Bhadrakali, Kathmandu on 17 December, 2003, p.3.

24 These objectives were: (1) to conduct relentless operations against the Maoists to disarm them in order to stop violence and terrorism; (2) to negotiate with the Maoists when their military capability was reduced considerably or if they agreed to abide by the present constitution; (3) to enhance the credibility of the monarchy; (4) to provide effective governance; (5) to continuously seek support and cooperation of other political parties; (6) to continuously seek the faith and support of the citizens; (7) to disarmament, demobilization and reintegration; and (8) to seek the support and cooperation of the international community, civil-society, and the media. See, Ibid, p.4.

25 Ibid.


Finally, to make the operation more effective and result oriented, the CMNCP had undertaken a contingency plan with a particular intention\textsuperscript{28} of defeating the Maoists by the combined might of security forces under the UMC. The plan intensified the militarization of the civilian sphere using CMNCP as a ploy by the RNA. It undermined any attempt to curb the non-military security forces and the supremacy of the civil government that was already disrupted by the assertion of the king since 2002. The CMNCP had clearly stated its ultimate “end”. The first was for defeating military capability of the Maoists at the operational level, while the second one aimed at establishing a long-term peace and security under a multi-party democracy and constitutional monarchy at the strategic level\textsuperscript{29}. Meeting these objectives of CMNCP, the RNA had been advocating the essentiality of the TADA and declaration of Maoists as “terrorist” for making the military operation convenient. Arguing the inevitability of TADA for force mobilization, an army General told that the army “can’t be deployed by any other laws...except TADA”\textsuperscript{30}. The responsibility of the law to protect human rights from violation also was surrendered to the military that made the position of all existing laws including the Military Act not only obscure, but also threatened the civil rights of people. It put the country under TADA instead of national law. Furthermore, it forced the civil authority to be completely subservient to the demands of the security forces, leading it towards the reorientation of national priority from civilian to military interest.

The Surya Bahadur Thapa government had announced on 4 November 2003 to create a ‘Self-defense Force’ at the local level by distributing arms to the citizens for their security\textsuperscript{31}. It helped to widen conflict, to misuse arms and victimize the civilians. Such a move could identify the armed civilians which might have made them targets of the Maoists, as they had been killing civilians on the accusation of being “informers of the government”. It, at the same time, developed a “gun-culture” across the country.

\textsuperscript{28} Brief to U.S. Assistant Secretary of State, A Policy Brief presented by the Director General of the Royal Nepalese Army (RNA) to the visiting U.S. Assistant Secretary of State Christina Rocca at the RNA Headquarters, Bhadragali, Kathmandu on 17 December, 2003, p.5.

\textsuperscript{29} Ibid, p.4.


\textsuperscript{31} \textit{The Kathmandu Post} 5 November 2003
diagram given below show, how the whole society was militarized by the policy of the government in the name of curbing Maoists.

**Figure V.2**

**Militarizing Society and Economy**

Source: the diagram has been prepared by the researchers on the basis of the Sources of the government and the RNA.

The government decision came at a time when an unconfirmed report was circulated indicating that the defection of police and army personnel with the newly acquired guns and ammunition was responsible for intensification of the Maoists. It was also an
integrated programme of the UMC to achieve the goal according to the given Interest, Method and Measure. It also helped to intensify the military operation with the involvement of civilians including the retired Gurkha soldiers of Indian and British armies. Perhaps this realization of the government was not only to make the people potential, but also to use them as village guards so that they could avoid the possibility of their use by the Maoists for training and combat operation. As guided principle, the result of the military operations proved negative through different plans (UMC, CMNCP and Self-defense Force). The RNA had only involved such agencies to show the combined force to intensify cordon and search operations, raiding the Maoists hideouts and training camps. In their calculation, it could maintain a secure line of communication to avert terrorist activities by denying the resources to them.

The economic situation of the country after 4 October 2002 was different. The "propensity to unrestrained militarism and militarization" as observed by an analyst was increased through restrained budgetary allocation for security sector in the absence of elected bodies and non-existence of informed oversight agencies. Government expenditure on defense for a period of 18 years showed a high increase. Budget allocation on defense is comfortably comparable with the budget expenditure on social sector. The ratio of defense expenditure was lower than social service expenditure as given in the government record, since the social sector that included health, education, drinking water, local development and other social services were on the higher side of the budgetary allocation. It shows that the priority had still been given to the social security rather than the military even though the Maoists insurgency had led to escalate the security budget. The fiscal year 2000/01 was an exception due to the allocation of additional security budget for forming a paramilitary force — APF — and procuring arms for them. However, the official budgetary allocation, if one sees the social service sector item-wise, indicated a sharp rise in figures for the security sector. The increase was nearly 300 percent in comparison to regular allocation to the social service sector in 1993/94. Since then, the regular allocation for the security sector officially remained

more or less the same in comparison to the budget allocated for the social service sector as given in Figure no V.3 and V.4.

Figure V.3

Comparative study between Defense and Social Service Expenditure

Source: Appendix V.1 and V.2.

However, the budget allocation for RNA had been more rapidly increased than that of the Police force. The diagrams given above help in making a comparative study on expenses between the police and army within the security sector, and defense and other social services as a whole, respectively. However, the allocated budget for defense only did not show the defense expenditure as a whole. The budget allocated for social services under different titles was transferred for the defense purpose, especially to the military in each fiscal year after 2001. The resources diverted from the development to security section had not only affected the growth, but also created the vicious circle of economic stagnancy that constricted productive investment. Even budget allocated for the general elections had been diverted to the defense. “Actually, the government used to maintain budgetary balance between the security sector and social sector by

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keeping security spending off budget.\textsuperscript{34} What was observed was that the government had been regularly practicing the supplementary allocations also “to meet the required security needs” as per the demand of the RNA.

In addition to off-budgetary supplementary allocation, the military had been receiving additional amounts from different sources: charges for guarding strategic installations like hydro-plants, telecom towers, industrial structures and commercial buildings. Similarly, it had financially benefited from non-transparent or largely aggregated budgetary categories: government funding for road buildings, health service activities, and involvement of army in business like petroleum products that remained undisclosed.\textsuperscript{35} Again, the national budget announced by the government for the fiscal year 2002/03 had primarily focused on “Investment for Peace” reflecting the need for arms, ammunition and armament for security imperatives of the state by bringing the prime concern of military to the fore\textsuperscript{36} while the Maoists intensified “People’s War” by attacking the military posts. Most importantly, friendly countries like India, China, the USA and the UK provided security assistance by providing military aid, supplying military hardware and equipment — helicopters, weapons, communication gadgets and other accessories, providing military training, and also development aid to the military.\textsuperscript{37}

Such flow of national expenditure on militarization and military assistance or military development aids from the friendly countries led the country towards militarism, where military itself started making a policy in the absence of parliament after October 2002. Both the civil appointees and Royal government prioritized the “required need of the military” and revised laws through ordinances. The situation provided full space to the

\textsuperscript{34} Dhruba Kumar, a security analyst of Nepal, evaluated the budget trends allocated between the security sector and social sector during the interview taken by the researcher in May 2008.


\textsuperscript{36} Ibid, p.139.

military for playing a dominant role not only in the society but also in the organs of the state. As observed by a security expert in Nepal\textsuperscript{38}:

It is exactly a situation in which a weak and fragile government can be forced to comply and made subservient to the interests of the armed forces. This situation has therefore given rise to militarism in Nepal. Militarism begins with threats of sanctions (non-cooperation) if the governments[s] do not cooperate to military demands. This is, in other words, the high-handed technique that the military uses when the reliance of the government increases on the armed forces. Nepal provides an ideal situation for the army to bankroll its needs, as the government is most unpopular, illegitimate, isolated and moribund that cannot survive a day the army pulls out its support. This is the classic situation of "blackmail" that ... the "armed forces in fact begins to rule covertly, either by exercising a veto or by substituting policies and personnel of their own choice for those of the de jure government.

It was notable that RNA had proposed money for domesticating and managing street urchins because it was afraid that they would be used by the Maoists. RNA had also asked for the release of money for recruiting Armed Police Force and Police personnel. The RNA had recruited a total of 6,440 personnel in the fiscal year 2003/04\textsuperscript{39}. However, all these were not the domains of the army but of the Social Welfare Council, the Home Ministry and Ministry of Defense, respectively. These initiatives of the military showed that the UMC was working in full swing for the control of the state affairs. The RNA had indeed decided to bargain with a "take it or leave it" option with the government. The main concern of the RNA was to release funds under any possible title. The RNA used the urgency of ensuring security of national capital as its bargaining chip with the government after 2002 to drive their point home\textsuperscript{40}.

Interestingly, the Chief of Army Staff (COAS) dared openly to criticize political leaders for dishonouring the glorious military tradition of the RNA\textsuperscript{41}. The opportunity to

\textsuperscript{39} Vijaya Ghimire, "Senadwara Thap Eighara Araba Maag" (An Additional Eleven Billion Rupees Demanded By Army), Kantipur Daily, 31 August 2004.
\textsuperscript{41} See, written speech by General Prajwal S.J.B. Rana, COAS, RNA, delivered at the Ninth Convocation Programme at the Command and Staff College, Shivapuri, Kathmandu, 27 March 2002, entitled "National Security Rests on Unity".
equipping with high-tech communication, sophisticated weaponry and surveillance equipment empowered the military to intervene in the socio-cultural, civil and political life of the people. The armed forces had opportunities to use the law that helped them shield from the exposure of their abuses, misuses and excesses, at a time there was no people's representative body. Their control on people's mobility, supply of goods and services also were subject to their clearance. Even the transfer of administrative personnel such as Chief District Officer (CDO), and each administrative activity related to security arrangement, organization of programmers at the district and village level were subject to military approval (Adhikari 2005). District Security Committee, consisting of the CDO, District Superintendent of Police (DSP) and head of the district intelligence department also used to be run under the direction of a Major of the army battalion.

State Towards Militarism: Oppositional Role of NHRC and SC

The Royal move taken on 4 October 2002 had made the constitution of 1990 irrelevant, while the judiciary had to confront the challenges posed by the state for delivering justice. As the situation was abnormal, national emergency was declared, and TADA was adopted, all these actions robbed the rights of the people. The emergency led to suspension of sub-clauses a, b, d of Clause 2 of Articles 12 (Right to Freedom), Clause 1 of Article 13, and Article 15, 16, 17, and 22 and 23 of the fundamental rights stipulated in the Constitution of 1990 for nine months. Under the State of Emergency, TADA was provided with wider latitude with the inclusion of several clauses of sections directly contravening the Constitutional order in the country. As a result, the apex court received 107 writs on habeas corpus, 252 mandamus, 45 prohibitions, 3 quo warranto and 3,410 certiorari, totaling 3,817 cases according to the Annual Report of Supreme Court (SC), 2002. It was under the provision of the fundamental rights as stipulated in Article 88(2) of the Constitution. The total disregard for the human rights of people, therefore, is a denial of human security by the state. Reports on excessive violation of human rights released by the National Human Rights Commission

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42 Brig. General Rtd. Gopal Singh Bohara mentioned this in an interview with the researcher in May 2008.
(NHRC), a constitutional body, were being ignored. Hence, the NHRC had been forced to disclose the record of human rights violation by publishing the details of the disappearance of persons on the International Human Rights Day yearly. The State was responsible for most of the disappearance cases as well as the killing cases. Numerous cases of illegal detention and disappearance had been filed in the 16 Appellate Courts and 75 District Courts, and habeas corpus petitions were filed in the Supreme Court, most of which were dumped. The judiciary had failed to uncover the cases of disappearances related to the security forces leading to the dismissal of the filed cases.

The helplessness of the judiciary was also understandable as the law enforcement agencies were themselves operating in contravention of the court orders in many cases. Blatant disrespect of the court order and disrespect of the law had been observed in several cases of persons released by the court within its premises by the police without any warrant order.44

Thus, sensitive human rights issues, particularly illegal detention and disappearance made by the security forces, had become the core of contention between the judiciary and the security sector. Certain differences occurred between the judiciary and the army regarding the investigation on habeas corpus cases over the issue of not allowing the search operations to be conducted inside the barracks to look for the illegally held persons. The army’s denial of the right to enter the sensitive premises of the barracks had been interpreted as instances of contempt of court, further straining the already unpleasant relation between the judiciary and the security forces. The COAS responded to this issue by ordering the military to respect the rights of the judiciary as a ‘damage control measure’. Military, however, asked the investigation team to visit the barracks premises through proper channel after pressure poured from several national and international rights organizations and their heavy criticism of the army.45 The army had even refused to register the letter of intent for investigating the case either of the Supreme Court or the NHRC. Similarly, the army did not respond to the SC order several times regarding military affairs. This refers to a report that mentions the

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44 Kapil Shrestha, a leading Human Rights activist and ex-member of National Human Rights Commission, mentioned this while the researcher took an interview with him.

45 As noted by Amnesty International in its report of 28 July 2004, “Nepal: Human Rights Defenders Under Threat”. The situation had become so frustrating that the country had really plunged into lawlessness and anarchy. The defenders of human rights and their families were increasingly becoming targets of the security forces as well as of the Maoists.
“army’s refusal to respond to the Supreme Court” concerning an inquiry made by the apex court to submit the audit report of the last thirty years of RNA’s income and expenses in connection with its involvement in the peacekeeping mission abroad. The SC has repeatedly asked the RNAHQ to submit the audit report following a writ petition filed by a chairperson of the Nepal National Ex-Army Commission along with some former army personnel invoking Article 16 of the 1990 Constitution on Right to Information.

In addition, on 31 May 2005 the Supreme Court Bar Association (SCBA) started to boycott pleadings before the Royal Commission for Corruption Control (RCCC) levelling it as an “unconstitutional entity” and “anti-graft commission” for being detrimental to the prestige and honour of its members who had been raising their voice for Rule of law and human rights. NHRC also charged that the matter of RCCC filing a case, prosecuting and handing out a verdict on its own was “unjustifiable”. It initiated formal contact with the Maoists in the course of investigation of case of human rights violation.

The persistent probe on the *habeas corpus* issue made by different human rights organizations along with the hunger strikes of the family members of “disappeared” persons were supported by law practitioners and the international pressure. However, it led the Home Ministry to continue the Malegu Committee, which also disclosed a series of reports of persons who disappeared due to army's action. Such disappearances were caused by the state under the TADO. These reports of the committee proved that the army had lied to the SC “which is incredible”.

As the chief of the Human Rights cell at the RNA, Brigadier B.K. Kumar Sharma, usually responded to such allegations by saying “It is baseless that we are responsible in disappearances of anybody”. This helped the SC to order the army to immediately inform it on the

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47 The *Kathmandu Post* 1 June 2005.

48 The committee disclosed the condition of 24 out of 36 persons involved in the cases of disappearance in the document released by the state. It published names of 54 persons “disappeared by the state” in its third report and again it disclosed names of 126 persons detained by the security forces under TADO (TADA was extended through Ordinance issued by the government appointed by the King on 13 October 2004), see, *Kantipur Daily* 12 August 2004; *The Himalayan Times* 12 October 2004.


whereabouts of “447 persons disappeared by the state”\textsuperscript{51}. Earlier, the army was arguing that certain cases falling within the jurisdiction of the military court conformed to the Military Act 1953. Hence, these cases could not be reviewed or investigated by the SC\textsuperscript{52}. The issue to release the “disappeared persons” and the response of RNA having no knowledge of whereabouts of them led to the loss of the credibility of the Army. On the contrary, NHRC documents were taken as “true evidence”. Later, other security agencies following the attitude of RNA also did not feel it necessary to respond to the Court. Similarly, the Mahendra Police Club did not receive the letter sent by the apex court regarding the case of disappearance of the people in the Club\textsuperscript{53}.

The government extended the TADA (rectified by the parliament in April 2002 for two years) through an ordinance termed Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) in 2004. Some clauses of TADO could counteract directly the constitutional rights regarding criminal justice. The ordinance provided special authority to the military to violate directly the civil right stating that “no person who is arrested shall be detained in custody without being informed...of the grounds for such arrest”; the person should have access to defense by a legal practitioner chosen by the detainee, who should appear within 24 hours of his/her arrest before the Court. If such arrest had no sufficient grounds of evidence, it would be understood as “an immediate threat to the sovereignty, integrity and law and order situation.” Because, “the source of sovereign authority of the independent and sovereign Nepal [was] inherent in the people”\textsuperscript{54}. However, Section 3 of TADO granted the security forces unquestionable authority to arrest, search, detain and use necessary force to accomplish their objectives. Section 3(ii) had broadly defined a terrorist as any one who “commits, conspires, encourages, compels, participates, remunerates, publicizes or hides persons committing such acts”. Similarly, Section 5 provided “special authority” to security

\textsuperscript{51} The Himalayan Times 7 October 2004; The Himalayan Times 19 October 2004.
\textsuperscript{52} Article 86 of the Constitution of 1990 exempts the military court from the judicial orbit of the SC. Clause 2(a) of Article 88 of the Constitution restricts the SC from interfering in the military affairs except in the case of the involvement of non-military persons tried by the military court for offences not related to the Army. See, HMG/Nepal, The Constitution of the Kingdom of Nepal - 2047, Kathmandu: Ministry of Law, Justice and Parliamentary Affairs 1990, pp.67-68.
forces so that they could arrest without warrant any person suspicious of being involved in terrorist and disruptive activities.

Similarly, under Section 9, people could be arrested and held for preventive detention for up to 90 days and detention for investigation for 60 days. Moreover, its amendment through ordinance provided the security force the authority to arrest people and hold them in prevention and detention up to 365 days\textsuperscript{55}. There were several clauses under which the security force could defy the judiciary’s order in the case of constitutional “Rights against Preventive Detention”\textsuperscript{56}. In addition, Section 20 provided total immunity to security forces even in the case of extreme violations of human rights if any act or work performed or attempted to be performed was “in accordance with the rules formulated under this ordinance”\textsuperscript{57}. The TADO provision adopted by the state dissociated the country notionally from normal judicial practices. The government established a Coordination Committee under Section 13(5) of TADO. It was to be supervised by the CDO and had compartmentalized the system of justice confining it to the arbitrary decision of the persons comprising the committee. The CDO was empowered “to imprison a person even on the most flimsy charge for a seven year period without trial”\textsuperscript{58}.

Hence, the government after 2002 was subservient to the king-military and worked in accordance with the preference of the military. It was proved by a letter sent by the Home Ministry to NHRC on 29 March 2004 pressuring the independent body to be complicit to the military interest. The NHRC was charged of reporting “one sided” story and of sending the “message to the people and also to the international community” “thereby tarnishing the images of the security forces”\textsuperscript{59}. The letter

\textsuperscript{55} Article 7, Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2004, 10 October 2004; Nepal Gazette 13 October 2004:10.


\textsuperscript{59} The letter sent by the Peace and Security Division of Home Ministry to the NHRC stated that the NHRC has been “preparing one-sided reports sending messages to the people and also to the international
instructed, in the reference of the letter sent by the Ministry of Defense on 23 March 2004, the Commission and other rights organizations to “compulsorily inform the local security forces and include a representative from security forces in the investigation team”, while examining the cases of human rights violation and excesses caused by the security forces\textsuperscript{60}. The NHRC publicized it widely resisting the pressure of the government as a gross infringement on the rights of the independent commission or on its function humiliating it through imposition of military condition on its working procedures\textsuperscript{61}. Thus, it was not worrisome for guaranteeing civil rights. Following the same strategy, a letter was sent by RNAHQ to human rights organizations demanding details about the origin, objectives, scope of work, code of conduct as well as name of the office bearers with their contact address, without clarifying why the army needed the information on rights bodies\textsuperscript{62}. The idea was understood that the military wanted to create havoc on the rights organization psychologically so that they could not freely report human rights violation, for which the state is responsible.

In addition, after releasing the series of reports from the NHRC on executive violence of human rights and on reactions of national and international civil societies, the government formed “Human Rights Promotion Centre (HRPC) under the chairmanship of the Prime Minister as a parallel organization of the NHRC having a similar function. It was formed, as understood, only for justifying the structural violence performed by the security forces as well as for monopolizing power, perhaps with the intention of distilling and distributing information\textsuperscript{63}. The HRPC was seen as a counter institution of the NHRC — constitutional body. The NHRC that suggested to the security forces to be aware and respectful of human rights was accused by the RNA as being “one-sided” claiming that the RNA was “fighting against the Maoists in order to respect Democracy” and “Human Rights”\textsuperscript{64}.

\textsuperscript{60} Home Ministry, HMG/N 2004.
\textsuperscript{62} A Circular in the name of Lieutenant Colonel Raju Nepali, Chief of the Human Rights Branch at the RNAHQ, was sent to human rights organizations (The Himalayan Times 10 January 2005).
\textsuperscript{63} Kantipur Daily 10 December 2003; Kantipur Daily 12 December 2003
\textsuperscript{64} The RNA spokesperson, Colonel Deepak Gurung, charged the NHRC of being “one-sided”, and claimed that “RNA is fighting against the Maoists in order to respect Democracy...Human Rights”. See, The Himalayan Times 10 December 2004.
The government nominated by the King tried to humiliate the constitutional bodies, like the NHRC and SC, which were playing active role of opposition, at a time when there was no parliament. Hence, the NHRC had its own limitations. Firstly, the NHRC was established only in 2000 according to the NHRC Act, 1997. Article 10(a) of the Act formally restricted the jurisdiction of the NHRC to investigate “any matter related to the Military-Act 1959”\(^{65}\). The provision clearly limited the operational scope and capacity of the NHRC that was not “a law enforcing agency” also. Sections a, c and d of Article 10 were also equally incompatible to the functioning authority of the NHRC that prohibit it to make any inquiry into interests considered to be sensitive to the government. The reality was that the gross human rights violator was the government. It practiced such violation not by other means but by its security forces.

The life of TADA was extended further to curtailing civil-liberties, to depriving the people of democratic rights. It was done in the aftermath of February 2005 — like censorship in media, putting political opponents under detention on the lame excuse of being “terrorists” or of “corruption”. RNA demolished a school building in Banke district to build an army barrack\(^{66}\) making it not only the case of militarization but also of militarism. The intervention of the army in student’s politics was another cause of such trends\(^{67}\). Similarly, the civil government was under the military sub-surveillance. It could be proved by the decision taken by the Deuba government appointed by the king in 2004: the government granted permission to the RNA to open a Commercial Bank, run industries, set up companies and launch projects in partnership with national and multi-national companies\(^{68}\).

The SC allowed the FM stations to air news issuing the full-fledged stay order to the government that had limited the scope of FM stations through an ordinance\(^{69}\). The SC

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\(^{66}\) Kantipur Daily 23 December 2003

\(^{67}\) The Kathmandu Post 24 December 2003; The Kathmandu Post 26 December 2003

\(^{68}\) The RNA had proposed to the Finance Ministry four years back, when Mahesh Acharya was Finance Minister, to open the commercial bank by investing its fund which was for welfare but not business. However, the Finance Minister himself personally and his party, as an NC member in government, rejected the proposal by claiming that RNA could not participate in the commercial sector as its job was to save the country and its sovereignty. See, The Kathmandu Post 15 August 2004; The Kathmandu Post 17 August 2004.

\(^{69}\) The government tried to restrict most FM stations from airing news on the pretext of not meeting legal requirements in accordance with new ordinance brought out by the Royal government. Some provisions
warned time and again that the government should not go against unlawful and arbitrary preventive detention arresting of citizens under TADO. It reminded the government time and again about constitutional provision, its commitment to national and international laws that guaranteed civil and political rights of the people.

The collapse of democratic authority before and the unprecedented challenge posed by the domestic conflict, however, helped to bring about the military into prominence after October 2002. The army under the monarchy had become a crucial factor for national policy-making process. RNA initiated talks directly with the armed forces of other neighbouring countries after the February 1st 2005 royal takeover when the international community suspended their military support to the RNA. When India suggested to Nepal that the RNA should not be sent to the UN Peace Keeping Operation mission but instead use it in fighting against the Maoists, it reacted to it in lieu of government response. It said that the RNA would not stop going to the UNPKO. If it was not going, then the charm and encouragement of RNA would be decreased. Observing the then situation a writer states, "stubbornly defiant to respect court orders in relation to the observance of human rights and humanitarian law, RNA now has a legal mandate to violate the human rights. Such a subversive power is impossible to obtain when there is an active parliament".

RNA and Issue of Human Rights Violation

The massive "human killings" were also the result of militarization as the RNA continued to kill "civilians" claiming that all those killed were "the Maoists". The RNA was responsible for a number of killings including deaths and suicides in custody,
in which torture was credibly alleged\textsuperscript{75}. What was perceived that killings and tortures were necessarily "required" for "preservation of national security" and "for maintaining peace". Thus, the security forces killed "more people" indiscriminately in the name of "suspected Maoists" than the rebels. After failure of the second talk in 2003, the intensity of killing increased tremendously and security forces were more responsible for the killing than the rebels\textsuperscript{76} up to 2003. The killings by the security forces in 2004 were nearly double that of the Maoist's killings\textsuperscript{77}, and per day killings of the people were 12\textsuperscript{78}. The security forces, like rebels, were guilty of extortion. Involvement of members of security forces in criminal activities in Kathmandu by killing innocent people, demanding money from entrepreneurs at gun point, and even daylight looting in jewellery shops had led to lawlessness\textsuperscript{79}. Even if the commanding security officers in the Maoists affiliated area were paid "royalty\textsuperscript{80}", such incidents occurred regularly. Several reports which provided the nature of violence committed by the security forces were rape, forcible eviction after rape, disappearances, torture, extra-judicial killing, custodial killings and arbitrary arrests\textsuperscript{81}. No one was brought to the legal proceedings nor was any one punished properly in spite of evidence established for committing rape

\textsuperscript{75} Tortures found in the custody were thus reported: beating on [the sole of] feet; electric shocks; being hooded or blindfolded; rolling of weighty sticks along thighs; burning with cigarettes; forcing detainees to remain in painful posture; animals, insects, and even needles applied as tools of torture; threats, deprivation of food and drinks; forcing to consume [human] excreta; forcing to remove 'sacred thread' of upper caste detainees; long-term isolation; confinement in a dark room inflicting noise, etc. See, Dhruv Kumar, \textit{Nepali State, Society and Human Security: An Infinite Discourse}, Dhaka: Bangladesh Institute of International and Strategic Studies, The University Press Limited, 2008, p.208-209.

\textsuperscript{76} Brief to U.S. Assistant Secretary of State, A Policy Brief presented by the Director General of the Royal Nepalese Army (RNA) to the visiting U.S. Assistant Secretary of State Christina Rocca at the RNA Headquarters, Bhadrakali, Kathmandu on 17 December, 2003.

\textsuperscript{77} According to the report between 28 August 2003 to July 2004, security forces killed 4,396 "Maoists" people which were nearly double of the Maoists killings, 2,241. See, INSEC database, \texttt{www.insec.org.np}, 8 May 2004.

\textsuperscript{78} \textit{The Kathmandu Post} 18 December 2004.


\textsuperscript{80} \textit{Jana Astha} 11 August 2004.

and other kinds of crimes\textsuperscript{82}. Extreme cases against security personnel such as rape, and killing after the rape had been taken as a common by top brass officers justifying that “the security personnel have their own problems” because “they are far away from their home and can’t keep their family with them”\textsuperscript{83}. The personnel having law enforcement duty ignored the sensitivity of the Human Rights abuse cases by simplifying it as natural. Three massacres by the state force are enough to describe about how the atrocity of the security forces crossed the limit that caused the massive and indiscriminate human killings\textsuperscript{84}: killings in cold blood of 15 NC party workers in Rukum District on 22 February 2001; killing of 35 labourers at an airport construction site on 24 February 2002 and killing of 17 unarmed Maoists excluding 2 commoners on 17 August 2003 were glaring examples. These incidents are popularly known as \textit{Khara Massacre, Kotbada Airport Massacre, and Doramba Massacre}, respectively.

The RNA was responsible for breaking the negotiation between the government and the Maoists. Some cases, where RNA did not obey the terms and conditions of the truce during the negotiation with the Maoists, showed that RNA was not helping the government for being “honest” in using “competency” to establish peace in the country. The logic could be substantiated by the activities of the RNA during the truce in 2003 under the Chand and Thapa governments. The government had withdrawn the terrorist tag, red corner notice and bounty from the head of the Maoists, for making the favourable environment to bring the Maoists to the negotiation table. The Maoists were also badly waiting to talk to the “boss” rather than the “servant” for a long time as they realized it when the result of the earlier talk in 2001 failed. Accordingly, the truce II was announced through separate statements on 29 January 2003, throwing the political parties on the sideline. The truce II led to adoption of the code of conduct by both parties. One of the decisions agreed to was on confining the military within the five kilometers of the barrack. The controversy came to the fore for making the state force

\textsuperscript{82} On 31 December 2004, the RNA spokesperson Brigadier Deepak Gurung, told the press that six soldiers found guilty of having raped a 15 year-old girl at Bharaul Village of Sunsari district of southeastern Nepal on November would be handed over to civilian court. See, \textit{The Kathmandu Post} 1 January 2005.

\textsuperscript{83} According to DSP Ram Kripal Shah, “as they are far from their home and can’t keep their family with them. Such incidents [of rape] could have resulted because of this” as cited in Dhrub Kumar, \textit{Nepali State, Society and Human Security: An Infinite Discourse}, Dhaka: Bangladesh Institute of International and Strategic Studies, The University Press Limited, 2008, p205.

immobile by fixing the five km restriction. The members of the government negotiation team also realized that the agreement and the army too defied the decision. Meanwhile, the king appointed Surya Bahadur Thapa as Prime Minister on 4 June 2003 forcing PM Chand to resign without any substantive grounds for change. All issues dealt with by the previous Chand government remained the same. So were the Maoist preconditions and commitments for a fresh deal. Feeling a situation of insecurity after the Doramba incident, the Maoist team also decided to break the talk, which eventually dragged both the government and the Maoists to the fierce fight between the RNA and the insurgents.

The story of precipitated RNA action can thus be narrated briefly. The people at Doramba had all gathered for a wedding ceremony and were unaware of the situation that surrounded them. All were shot dead at close range and their hands were tied behind their back. After they had been marched several hours away from their village, troops lined up the captives and shot them with rounds of bullets. It was reportedly investigated by the RNA and said that the “security forces had to retaliate in self-defense” refuting the fact that emerged from the on-the-spot investigation report of NHRC. What was significant was that the RNA had succeeded in breaking the negotiation process forcing the Maoists to take up arms again. In the process, it became successful for forming a “Valley Command Division” under the coordination of the Major General in order to show the “sensitivity of security situation at Kathmandu Valley” at a time when political parties were agitating and the Maoists also reportedly planned to encircle the Capital. Similarly, in its bid to tighten the national security, RNA established a new “18 Brigade” in Udayapur district rationalizing that the Maoists had plans to turn the district into one of their hotbeds in the eastern region of the country. In 2003, the RNA established six division, 18 brigades and 77

86 Dr. Baburam Bhattarai narrated this in an interview with the researcher in May 2008.
89 *The Himalayan Times* 1 September 2003
90 *The Himalayan Times* 7 September 2003
battalions covering each development region, zone and most districts of the country, respectively.

**Role of International Community**

Military assistance and aid from the friendly countries and support of the International Community for military action for curbing the Maoists helped the king to be assertive in 2002. The terrorist attack on the Twin Towers in the US and the US policy to wage "war against terrorism" urging the people of the world "either come with us or with them" also provided a pretext to promote the military with a heavy hand in Nepal. The convergence of interest of the countries, Nepal and the US, made the latter's official visit to Nepal who promoted the military as if it was the single institution to save the people and the king. Then the Assistant Secretary of State, Christina Rocca strengthened the defense cooperation in order to spread intelligence and increase internal security capacity in Nepal. Similarly, the US Ambassador who made frequent trips to the RNA regional barracks also indicated where actually the US interest lay.

The regional environment also helped promote RNA. Military coup in Pakistan in 1999, terrorist attack on Indian Parliament in 2001 and India's initiation to declare Maoists as "terrorist" before the Nepal government had encouraged the process of militarization. Along with its increasing military assistance, India extended diplomatic support for the declaration of State of Emergency in Nepal in 2001 which was responsible for increasing the military strength in Nepal. The growing military strength through unconditional military aid or assistance by the world and regional power boosted the morale of the King. After the government formed UMC, CMNC and Self-defense Force in 2003, the international community paid more attention to the growing military force.

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91 Brief to U.S. Assistant Secretary of State, A Policy Brief presented by the Director General of the Royal Nepalese Army (RNA) to the visiting U.S. Assistant Secretary of State Christina Rocca at the RNA Headquarters, Bhadrakali, Kathmandu on 17 December, 2003.

92 Dhurb Kumar, and Hari Sharma, Security Sector Reform in Nepal: Challenges and Opportunities, Kathmandu: Friends for Peace, 2005, p.34.

93 India's then Minister for External Affairs and Defence, Jaswant Singh declared Maoists as terrorist even before the Nepal government had done so (Jha 2006).

massive human rights violation by security forces. Amnesty International widely published cases of disappearances committed by the security forces, UN Working Group on Enforced and Involuntary Disappearances (WGEID) identified Nepal as the foremost country in the list of human rights violation in the world. The agenda of donors and the international community at large had gradually shifted from their unquestionable support for the Nepali state's major agenda — "war against terrorism" — to suspicion, then forcing it to honour its human rights obligations. The annual country report of the US Department of State highlighted the "killings...deaths of custody...and the responsibility of RNA for these killings" through "arbitrary and unlawful lethal forces" concluding that the "governments human rights record remains poor and it continues to commit numerous serious abuses". Similarly, Human Rights Watch (HRW) charged the RNA for being responsible for more than 2,000 cases of unlawful killings after the breakdown of the truce on 7 August 2003. It also exposed numerous other cases that noted the modus-operandi adopted by the security forces to "detain civilians", "take no prisoners" principle, kill "Maoists in encounters" and make "disappearances". Time Magazine helped to expose the intention of King Gyanendra through an interview that underlined the so-called objectives of the king by questioning him about the human rights excesses committed by the state security forces against its own nationals. The deliberations of the 60th session of the UN Human Rights Commission in Geneva in March 2004 led to unfolding the measures prioritizing human rights as a precondition for avoiding a rogue state status. Nepal, however, was saved there from being declared a pariah state but the dissatisfaction came to the fore from the majority of EU countries for: (1) the utter disregard shown by the state about the criminal offences committed by the state security forces against human rights as well as, (2) its failure to prevent the criminal follies of its non-statutory forces. Similarly, Amnesty International (AI) reported about unlawfully killed civilians suspected of providing shelter, food or financial assistance to the Maoists and the

96 HRW, Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal's Civil War, New York: Human Rights Watch, October, 2004, p.27.
97 Time, 26 January 2004
circumstances under which the security forces could have taken the “Maoists” into custody or could treat them as if they had already been taken to “prison”\textsuperscript{99}. Likewise, an observation was reported about the “terrified people... by both the RNA and the Maoists”, ranking Nepal’s human rights condition as “the worst” among numerous countries of the world in conflict\textsuperscript{100}. The report warned that “the UN’s credibility is at risk, if it fails to recognize this need and is diverted into funding projects... having little and no visible impact on the rapidly deteriorating human rights situation in the country”. Questioning the “wisdom” behind the launching of National Human Rights Action Plan (NHRAP) in a country without a parliament and a genuine representative government, the report stressed that “nothing the UN should permit the weakening or marginalization of the NHRC”\textsuperscript{101}. The report left untouched the countries under the UN which had been supporting Nepal through military aid or assistance, compelling one to think about the rationale of such assistance.

All the reports that poured from international agencies and institutions supported the spirit of NHRC that had already become a problem to the government. The Human Rights issue became an issue of tension between the government and various advocacy groups including media. The government started accusing the people who played the role of strengthening the NHRC from within and outside the country. It offended the government to the hilt\textsuperscript{102}. Charges were common that all those who supported the cause of human rights were “Maoists sympathizers” indulging in “unwarranted interferences” in the affairs of the independent and sovereign state\textsuperscript{103}. The government ignored the suggestions of national/international forums that allegedly served as “associations of leftists”. The spokesperson of RNA had also charged the rights-based forums that noted human rights violation of security forces by saying that “human rights organizations are leftists, anti-government and they made allegations without evidence”\textsuperscript{104}. Again, AI,


\textsuperscript{101} Ibid.

\textsuperscript{102} John Bevan, the human rights special advisor to the resident representative of the UN, remarked it while he was “offending to the government”. He had played a vital role in strengthening the NHRC. See, Nepal Weekly 9 May 2004:26.

\textsuperscript{103} The government refuted the charge levelled against it by the EU diplomat for the violation of human rights as an interference in Nepal’s internal affairs.

\textsuperscript{104} HRW, Between a Rock and a Hard Place: Civilians Struggle to Survive in Nepal’s Civil War, New York: Human Rights Watch, October, 2004, p.20.
HRW and the International Commission of Jurists jointly emphasized the “increasing harassment” of “human rights defenders, journalists, lawyers, officials of NHRC and local human rights activities” by killing, detaining under anti-terrorist legislation, abducting, torturing and threatening, and raiding the offices of human rights organizations\textsuperscript{105}. The statement conveyed that the UN Working Group on Enforced or Involuntary Disappearances received “more reports of disappearance cases than any other country of the world, during its Nepal visit in December 2004. Similarly a EU delegation noted rapid deterioration of the human rights situation stating that they would do nothing that “support the authoritarian regime” and the continuing intimidation and harassment of human rights defenders was “unacceptable”. The team clarified its helping condition that the EU could continue the military aid only on the condition that there should be a functioning parliament, and NHRC must be given unhindered access to all places of detention\textsuperscript{106}. In addition, the US Senate, following the position of Rocca, demanded that the government respect human rights\textsuperscript{107} and proposed to reconsider the Foreign Assistance Act to block military assistance to Nepal against the setting of growing human rights violation by security forces\textsuperscript{108}.

It was clear that the international community was not satisfied with the human rights situation in Nepal after 2002 and had become more critical for continuing military assistance to the Nepali state till December 2004. The warning of the countries providing military aid was converted into reaction by stopping it after the royal coup on February 1\textsuperscript{st} 2005. India, reacting to the King’s move as a “serious setback to democracy”\textsuperscript{109}, cleared its position that “no military supplies have been delivered since 1 February coup”\textsuperscript{110}. The UK and the USA came forward with support for India’s “leading role”, saying they were actively considering either to cut or suspend all military aid and assistance to Nepal until the “restoration of democracy”\textsuperscript{111}. The UK, the USA, EU and India called back their diplomats “for further consultations” so that

\textsuperscript{105} The Kathmandu Post 20 December 2004.
\textsuperscript{106} The Himalayan Times 20 December 2004.
\textsuperscript{107} Christina Rocca, the Assistant Secretary of State for South Asia, had said earlier: “We can’t equate the terrorism of the Maoists with the government efforts. We do hope that the government respects the human rights”. See, Spotlight 26 December 2003.
\textsuperscript{108} The Kathmandu Post 8 and 9 October 2004.
\textsuperscript{109} The Hindu 2 February 2005
\textsuperscript{110} The Kathmandu Post, 23 February 2005
\textsuperscript{111} The Kathmandu Post 11, 18 to 21 February 2005.
they could reflect with the ambassadors and their international partners on the way forward. The SAARC summit that was going to be held in Dhaka was postponed after refusal of the Indian Prime Minister, Manmohan Singh presumably against the background of developments taking place in its “neighborhood” causing “grave concern”. World Bank and the EU announced suspension of their aid under the Poverty Reduction Strategy Credit (PRSC) and Integrated Rural Development Projects, respectively. The UK, which had been advising the King after October 2002 for re-establishment of the democratic process and providing military aid to Nepal only if democracy was reinstated, first adopted the policy of “wait and see” like the US, wanting India's role in Nepal’s political affairs. It declared that its military aid to Nepal would follow after consultation with India. Similarly, the US which had been continuously emphasizing on the necessity for cooperation between the king and the political parties, wanted India’s role in Nepal and showed interest to move ahead with India’s views, as expressed by the US Secretary of State, Condoleeza Rice during her visit to India, saying “India and the US perspectives were same”, since India is Nepal’s immediate neighbour.

On the contrary, Russia, Pakistan, Bangladesh and Democratic People’s Republic of Korea, which had fewer roles for development of Nepal, supported the royal coup. Yet, China termed it as “internal affair of Nepal”. The government, on its side, embarked upon a mission to China (and Pakistan and Russia). Islamabad stated that it would support Nepal in safeguarding its sovereignty, while China had already offered US$...
989,000 by way of military aid with a further amount to follow in 2004. RNA Commander-in-Chief, General Pyar Jang Thapa secured a “no strings attached” grant of US$ 12 million from China in November of the same year. It was the first assistance when 1998 since the reports poured in that truckloads of arms and ammunition crossed over the China-Nepal border under the close escort of the Chinese army.

However, the government could not feel secure with the Chinese assistance because of the lessons learned from the arms imported from China in 1986. On the contrary, despite the assistance from China, the Panchayat system had collapsed in 1990. The Royal government was not unaware of the sensitivity of India, and knew if China or any country other than India came forward to supply arms, Nepal would have to face a difficult situation not only in economic activities and trade, but also in arms and ammunition to be imported. Nepal’s option has been limited by the bi-lateral treaties with India that do not easily allow such import from other countries except “with or through India.” As a result, even Pakistan forward for supply of arms was helpless to support Nepal militarily.

Similarly, the donor countries also suspended their projects through INGOs for pressuring the Royal government to create a favourable security environment. Asian Development Bank and the UK cut their aid to Nepal because of lack of security assurance from the government. Danish International Development Assistance (DANIDA) and UK’s Department for International Development (DFID) suspended forestry aid due to the monitoring problem linked with the changing political scenario. In addition, the UK cancelled aid to police of PM’s office (PMO) considering it “inappropriate to continue support to the police, prison services, and the

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121 The Chinese deal with Nepal in 2005-06 included the sale of 25,000 China-made Rifles and 18,000 grenades at the time when the government was brutally repressing civilian demonstrations, as reported by Amnesty International, *The Kathmandu Post* 13 June 2006.


125 *The Kathmandu Post* 2 and 10 March 2005.

126 *The Kathmandu Post* 14 May 2005.
PMO... in the face of increased and unacceptable risk in Nepal. The USA put off its military training programme scheduled for early March 2005 for the RNA. These reactions or pressures, particularly military aid withdrawal by the major donor countries like India, the UK, the USA and EU obviously made the Royal government weak, though the government was not ready to listen to the suggestions of these powers for adopting alternative options. The Finance Minister, Madhukar Shumsher Rana responded that "we have adequate internal resources to support military development and work for peace" and Nepal can "take Chinese offer of military assistance as China has offered military cooperation to combat terrorism." RNA spokesman Brigadier Deepak Gurung gave a brief at the Tribhuvan Army Officers' Club that "RNA has enough arms at present, and we are capable of manufacturing ammunition for small arms including SLR, M-16 and INSAS, if the situation demands". In the year 2002, RNA had already procured a Mi-24 D combat helicopter worth US$ 6.2 million from an unknown source of origin. Between 2001 to 2004, Nepal was recipient of US$ 60 million worth of conventional weapons at 1990 constant prices. In 2004 alone, the country inducted US$ 32 million worth of arms. Such response of international community compelled the government to recognize the limitations of a developing country. It had survived because of the assistance, aid and loan from the friendly countries of the region and the world. The military also took initiatives to normalize the situation by expressing commitment for protection of human rights, while the king tried to trap the international community asking it whether they wanted escalation of terrorism or of defeating it? The logic had been proved by the opinion of the then Foreign Minister who said that "they [countries] have assured us more support if emergency is lifted and civil rights are restored. Accordingly, the...
COAS directed the security personnel to “conserve international law, the Geneva convention and human rights” adding that the security personnel must also not convey the message that army men or security wings are enjoying unbridled powers during the state of emergency. In spite of demand of left parties in and out of Indian Parliament pressurizing the Indian government not to continue military aid that would strengthen the authoritarian royal regime, India continued to supply the lethal weapons or vehicles after a meeting between King Gyanendra and Indian PM, Manmohan Singh in Jakarta during the Non-Aligned Summit. It gave the gesture that the international community was slowly becoming soft in helping the royal regime and the military. Meanwhile, the RNA planned to recruit 7,000 more personnel to sustain a battalion in every district, after terminating the TADO-2005. It was resumed through an ordinance in 2005.

The Royal government did carry no substantive change in its policy, except to show the cosmetic change in the field of human rights protection by making the COAS express commitment that the security personnel involved in human rights violation “would be punished” and “doors are always open for Human Rights observers in RNA.” Some well-known political leaders, rights activists, journalists and intellectuals taken under detention after the 1st February coup were released by the government after Human Rights organizations, professionals and intellectuals in and out of the country pressurized the King to respect human rights, restore press freedom, release intellectuals taken under detention. Similarly, RNA, which worked without being accountable, initiated the court-martial against the guilty soldiers who were charged with torturing and murdering people. It created a unit to address the military’s poor human rights records giving just a “cosmetic gesture” for responding to international pressure. The King assured Kofi Annan, UN Secretary General, on the margin of the Afro-Asian Summit in Jakarta that he would allow activities of political parties by restoring the constitutional monarchy as the “UN wants to see in Nepal.”

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134 *The Himalayan Times* 4 February 2005
135 *The Rising Nepal* 9 February 2005
138 *The Kathmandu Post* 16,17 and 18 February 2005.
139 *The Kathmandu Post* 30 September 2005
140 *Kantipur Daily* 5 April 2005
King Gyanendra's direct rule also started hounding the politicians through the Royal
Commission for Corruption Control and other measures. The Commission for
Investigation of Abuse of Authority (CIAA) was allegedly used for "political vendetta".
Political freedom was curtailed when the government started restricting the movement
of people, of holding peaceful demonstrations and other forms of protests, which are
normally allowed by any democratic state. Since the parties were agitating for
restoring the dissolved parliament, the King decided to hold municipal elections, thus
igniting the anti-regime movement further. It has been learnt that the SPA leaders urged
the Maoists to foil the elections by any means so that the regime could be challenged
effectively.

After the failure of the non-cooperation policy of the international community against
the Nepal government, they adopted the carrot and stick policy. They came with the
clear view that their assistance should not be benefited by either extremist: the
autocratic monarchy or Maoists "terrorists". Thus, they resumed their military
assistance by providing either "non-lethal" aid or "vehicles" that had already been in
the pipeline before February 1st royal step. The EU and India supported the SPA
urging "all parties to recognize that there could not be a military solution of the conflict
urging them to commit themselves to a joint approach towards re-establishing dialogue
and peace based on a negotiated settlement". Getting strength, a joint meeting of the
dissolved house passed a resolution asking the SPA to take initiatives for dialogue
with the Maoists and also urging the rebels to create a conducive atmosphere.
Accordingly, the SPA decided to take the initiative to bring the Maoists to the
negotiating table accepting "the constituent assembly election only an alternative" to
ensure "an inclusive democracy... [by] address[ing] ethnic, ideological and

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142 The UK, the US and Germany resumed non-lethal aid (The Himalayan Times 25 and 26 May 2005; The
Kathmandu Post 29 May 2005). India "supplied the military 70 percent of assistance which was in the
pipeline (Times of India 26 April 2005; Indian Express 26 April 2005; The Hindu 26 April 2005;
143 The Himalayan Times 4 June 2005.
144 Major points in the resolution were: (1) Need for intensification of movement (2) Reject budget of the
government, (3) Denounce Civil Service Ordinance and Social Welfare Council Ordinance and the ban
on employees' unions and NGO activities, (4) Support separate movements for democracy launched by
professional organizations and civil societies, (5) Denounce government's protection to smugglers,
the corrupt and defaulters, (6) Condemn police action against civil society members on July 25, (7) Demand
immediate release of Sher Bahadur Deuba and Prakash Man Singh and condemnation of "prejudiced"
action against them, and (8) Immediate dissolution of RCCC (The Kathmandu Post 27 July 2005).
geographical grievances” that had surfaced for the last couple of years. India called for urgent measures to begin the process of “international reconciliation” in Nepal. It also urged “a Nepali leader to involve Maoist in the process of national reconciliation in Nepal.” The Nepali Congress (NC) meanwhile decided to delete “constitutional monarchy” from Clause 2 of the party statute in order to remain “silent” on the institution of monarchy. CPM (UML) leaders favoured “democratic Republic” officially. RPP, a rightist party, formed by the royalists and ex-Panchas urged the King “to give up autocracy” by ending the trends of revival of partyless regime of the past for the sake of the safety of monarchy. The King took such developments and oppositional response the parties as “unnecessary” and “backed by foreign money”. He formed Chairman and Vice-Chairman to guard such activities in districts of Bagmati zone. RNA also proposed a budget of Rs. 18 billion for the fiscal year 2005/06, invited “reputed foreign-based manufactures and authorized distributors” through advertisement for getting “supply of military and civil-pattern goods to the RNA”. It recruited 7,000 soldiers and established two companies comprising soldiers belonging to the indigenous nationalities from the mountainous and the Tarai regions.

The First Committee of the UN General Assembly backed by 22 countries including India, China and Japan passed a resolution urging Secretary General Kofi Annan to ensure the physical operation of the Regional Centre for Peace and Disarmament in Asia and Pacific from Kathmandu at a time when the UN was accused of “deflecting security forces” from its image in Nepal (The Kathmandu Post 27 and 29 October 2005). It was very sad news for RNA as the charm of a soldier was the possibility to

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145 Leaders of the seven agitating political parties, gathered at an indoor seminar organized to mark Parliament Day on June 30, said they have decided to take initiatives to bring the Maoists to the negotiating table as the talks between the king and the Maoists seem like a far-fetched dream. “I will hold open dialogue with the Maoists”, said Giraja Prasad Koirala, adding, I am ready to face a jail term if our initiative to stop the killing of innocent people everyday becomes unacceptable to the government. CPN(UML) General Secretary, Madhav Kumar Nepal, argued that there was no alternative except to hold the constituent assembly elections to formulate a new constitution that ensures an inclusive democracy, which address ethnic, ideological and geographical grievances surfaced in the past few years (as given in The Kathmandu Post 1 July 2005).

146 Indian PM, Dr. Manmohan Singh and UPA Chairperson, Sonia Gandhi, had called for urgent measures to begin the process of “national reconciliation” in Nepal. Such a process meant that G.P. Koirala and the SPA leaders would have to stick to the agreed common agenda. The idea was floated during Koirala’s separate meeting with them in New Delhi on 9 June 2005. See, The Kathmandu Post 10 June 2005.

147 The Himalayan Times 6 June 2005; The Himalayan Times 20 June 2005

serve in UN once during his/her service. The King, who responded to it by talking briefly to British television journalists in Hetauda on September 16, said\textsuperscript{149}:

We respect human rights...don't believe in the solution only by force. Talk is necessary. We welcome any effort towards this...we have to put our hands together for something more durable. There are rooms for us all constitutional forces...to bring peace together and solve problems that we have in our country today.

Similarly, in a different meeting with the US Assistant Secretary of State for South Asia, Christina Rocca, the COAS Pyarjung Thapa charged the international community with siding more with the Maoist rebel. He responded to the resolution saying that since "we are very much committed to respecting democratic ideals and international law, the directives have already been given to our security forces. A new mechanism has been created to inquire into human rights abuses, subsequently punish the abusers involved in 13 different incidents so far\textsuperscript{150}.

RNA took the three month unilateral ceasefire of the Maoists issued on 3 September 2005 as "drama" "for fulfilling their cooked objectives"\textsuperscript{151}. Supporting the view, the Home Minister, Kamal Thapa threatened the SPA as suggested by ex-COAS of RNA, Sachit Shumsher Rana\textsuperscript{152} that the government would treat all the allies of the Maoists as "terrorist". The threat came at a time when the SPA decided to negotiate with the Maoists after the "soft policy" made by the Central Committee meeting of the latter to dialogue with political parties for restoring "full-fledged" democracy. Accordingly, the SPA boycotted the election of municipalities, defied government's prohibitory order thinking it "illegal" and refused to talk to the King who welcomed the talk with the SPA.

The European Parliament (EP) called on the international community to establish a Contact Group, made up of Nepal's key partners and international organizations — the EU, India and the US — to coordinate international action in Nepal. The aim of the initiation was "to guarantee the full sovereignty of parliamentary democratic

\textsuperscript{149} The Kathmandu Post 17 September 2005
\textsuperscript{150} The Kathmandu Post 18 December 2005
\textsuperscript{151} The Kathmandu Post 6 December 2005; The Himalayan Times 5 September 2005.
\textsuperscript{152} "Why should not political parties, who join (hands) with the Maoists and dance to the tune of foreigners, be declared anti-national elements?" Sachit Shumsher Rana, Member of Rajparishad Standing Committee and former Chief of Army Staff of RNA said this while releasing a bulletin of Mukti Nepal, an NGO in the capital on July 2, The Kathmandu Post 3 July 2005.
authorities\textsuperscript{153}. "Acknowledging the work of SPA in conducting negotiation with the Maoists", the Foreign and Common Wealth Office of UK and EU pledged their continued support to the transition of the Maoists into a mainstream political party, but under the condition that “this process must include the renunciation of violence and the decommissioning of weapons”\textsuperscript{154}. The international community, especially India followed by the US, came up with the reaction against the King’s regime and initiated the reconciliation policy between the SPA and the Maoists, though the US was critically reluctant initially to the latter's policy\textsuperscript{155}. The initiation had been taken by them after the king ignored their urge to reach to the political parties and start a democratic process as written in a letter to King Gyanendra by President George W. Bush\textsuperscript{156}. The logic they argued was that “Time for rhetoric is over, the time for action is now”, because the royal government also failed to address its four point agenda — cleaning up corruption, attacking terrorism, imposing fiscal discipline, and ensuring good governance\textsuperscript{157}. The reaction of the US might not come in the support of the SPA-Maoists tandem but helped to defame the King’s regime. It also recognized the necessity to search an alternative that obviously helped other powers rationalize the initiation of the India. India, which had declared Maoists as “terrorist” before the Nepal government declared them so, was reluctant to accept the third party involvement including the UN for mediation. As a result, the Maoists and the SPA could agree on the 12-point agreement in Delhi in spite of actions and reactions within and outside the country.

Polarization of Parliamentary Forces against Monarchy

After 2002, Nepali politics had polarized broadly into two camps: royalist and anti-royalist. That is why the political society also was divided into pro-and anti-king forces, even if some parliamentary parties wanted to settle on constitutional monarchy. Option was open to anti-king forces, even though it was difficult for the "progressive cadres"

\textsuperscript{153} The Kathmandu Post 2 October 2005.
\textsuperscript{154} The Himalayan Times 29 November, 2005
\textsuperscript{155} The Kathmandu Post 5 and 8 November 2005; The Himalayan Times 16 November 2005
\textsuperscript{156} The Kathmandu Post 20 December 2005
\textsuperscript{157} The Kathmandu Post 10 August 2005
of major parties to advocate for the abolition of monarchy because of the traditional mindset of the main leaders who led their mother parties. In addition, leading intellectuals and political scientists argued that “the time has come to choose either Monarchy or Democracy”. They concluded that “the monarchy and democracy cannot go together in Nepal”. The idea eventually helped create a nationwide debate radicalizing the country towards republicanism. Students affiliated to the systemic political parties, except RPP, conducted a mock referendum in most colleges under the Tribhuvan University to choose either the monarchy or republic. The referendum result also showed that most of the educated youth of Nepal were in favour of Republic Nepal. Even, NC adopting the middle path was compelled to listen to the voice of its 56 district committees which passed a memorandum for the party to go for Republic Nepal. Meanwhile, resistance to the royal coup became vociferous, while several professional groups, media, human rights organizations and students came out onto the streets by chanting slogans for Republic Nepal. Similar organizations working abroad also showed solidarity with the groups.

Ideologically, political forces under the system and out of the system came together with conceptual clarity by accepting the multiparty democracy. The Maoists, who had opposed “bourgeois democracy” and struggled for establishing communism for a decade, also changed their stand assuming that no “People’s Democracy” advocated by them would be possible without passing through the state of bourgeois democracy. The changed ideological position of the Maoists made them adapt to and adjust with the broader framework of liberal democracy. The issues of a constituent assembly (CA), which was the major demand of the Maoists for ending the insurgency, became a conflictual point, though it was the main issue of major parties like NC during the early 1950s, as determined by the Delhi tripartite compromise between the Ranas, the NC and the King. Both the Maoists and agitating political parties accepted the CA as a meeting point in addition to many other conditions for making democracy a success.

Demand of popular sovereignty along with the democratization of RNA was also accepted by both the sides, thus paving the way for a pluralist democracy. The understanding was formalized through the 12-point agreement between the SPA and the Maoists. Some major pints of the 12-point understanding were:

- The commitment for restoration of parliament, all party interim government with complete authority that holds the election of constituent assembly.
- Agreement to keep armed Maoist forces and RNA under the supervision of the UN or any other reliable international supervision to conclude the election in a free and fair manner.
- Commitment to the democratic norms and values: competitive multiparty system of governance, civil liberties, human rights, press freedom, rule of law, fundamental rights, etc.
- Agreement to undertake self-criticism and self-evaluation of the past mistakes for not repeating such mistakes in future while in parliament and government.
- Appeal to the people to boycott the election holding by the king and call upon every walk of society to participate in the peaceful movement.
- Appeal to the international powers and the people to support the democratic movement against the autocratic regime.
- Emerging problem between the parties settled through peaceful dialogue at every level.

The convergence of both political forces made the radical groups within the systemic political parties enthusiastic for Republic Nepal. However, the political parties still had a dubious position because they were trapped in between two extreme ideological groups — rightist and leftist. Both had armed forces and both of them were not only using each other strategically, but also had formed a working relationship to weaken the

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One of the top leaders of CPN-UML, Bam Dev Gautam was in Delhi while the Jana-Andolan II was in the optimum stage. The view has been written below on the basis of conversation of the researcher with him. "The Jana-Andolan II has been indeed started because the King is not ready to give up his ambition to be an active monarch. The Andolan will be peaceful and will not be allowed to be converted into a violent movement. Its demand was just to restore the situation before October 2002. It is meant that the king should be constitutional. We will not call back the movement until the regime declares the election of the Constituent Assembly. Its minimum objective was to make the king titular head of the state and maximum aim, if the first was impossible, to convert the country into a Republic."
liberal democracy and democratic forces by adopting the strategy of warfare—‘enemy’s enemy is my friend’. The logic could be proved by an article by Dr. Baburam Bhattarai who wrote that “we [the Maoist and King Birendra] had tacit understanding”\(^{163}\). Similarly, the Maoist ceasefire in 2003 and their expression to negotiate with the “boss” (King) and not with the “servant” (government formed by him) helped to “raise suspicion of an unholy alliance” between them\(^{164}\). Hence, parties and people in general were not prepared then to trust the Maoists unless they allowed other parties to enter into competitive politics at all levels in the area which had been under the de-facto control of the Maoists. In spite of their populist campaigns, position of strength, and ability to reach out to wider sections of society across the country, the Maoists were not confident whether they would be rewarded even if they gave up arms and entered into competitive politics.

Meanwhile, the regular anti-regime agitation made people politically more conscious to oppose the King’s way. Hence the assumption that the King was still a symbol of unity proved wrong. In addition, the regime had no ideology that manifested popular sovereignty, mobilization capacity or mechanism and other attributes required for modern popular legitimacy and governance\(^{165}\). Due to of the failure of the government in every sector, the political parties had been able to attract the conscious segments of society. Therefore, the Royal takeover helped show that the people in general were still with the parties and in favour of the multiparty system, unlike the assumption of the King. The takeover compelled political parties under the system to come together and to form the SPA for agitating against the king, which helped parties to learn a lesson of coalition culture and strength of unity. Similarly, it helped to easily bridge the gap created by the conventional ideological compartmentalization — communists and democrats — and made the competitive parties internalize the ‘emergence of complexity of Nepali politics’. The major players — the NC, the non-Congress parties of the Left, and the Maoists — realized the need for a broad alliance among them until the democracy was institutionalized. In contrast to it, the political parties in Nepal were


heterogenous in nature and showed shifting ideological and tactical positions every now and then. Thus, the unity among the ideologically diversified political parties might not have been possible, had the King not hatched the “coup” in 2005.

**RNA and the 2006 Mass Movement**

The practice of statecraft through rule by discretion influenced the structure and composition of the armed forces of the country. The succession to high military rank remained narrow and parochial and was possible only through matrimonial ties, or by some other form of familial and patronage routes. The movement for reversing power from the traditional monarchy to people was a threat to the high ranking officers in military in the country. The royal patronage and patrimonial system prevalent in the country since 1951 to 2006 had indeed drawn the military high command closer to the king, who actually manipulated the power of the state during this period by virtue of his clan relationships with the army. Both the king and the military were commonly benefited by the loyalty of the army to monarchy. It automatically motivated military politically even though it had been verbally advocating its “apolitical” role as “it is not an instrument of any [political] party”\(^{166}\).

The history of military conserved the political-military interest of feudal class safeguarding the regime against domestic opposition. The military had been invariably used by either courtiers or by the King until the situation had been reversed after 1990. The military loyalty and ethos allowed the king to re-emerge as an undisputed patron. On the contrary, the political leaders who emerged from the grassroots felt inferior vis-à-vis the king. Hence, the class interest between the King-military and the people was in conflict and incompatible. It showed that military always remained as the exclusive domain of the King. It could neither show solidarity with any elected government nor did it go against the interest of the traditional monarch. In a speech, the Commander-in-Chief said: “It is not an instrument of any [political parties], but a national institution, the moral obligation for maintaining political stability and good governance in the country primarily rests on the political leadership...Royal Nepal Army as [historically]

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being the symbol of continuity, stability and unity of the state should therefore be used only for [attending] comprehensive national interest”. But, how such national interest could be judged had been made vague. On the contrary, the army continued to support the King’s action despite all his deeds being anti-people. Moreover, national interest and regime interest were consolidated by the King. Hence, while imposing his authoritarian regime, he used the army against democracy.

For military, only the monarchy was the “source of sovereignty and national unity” and it had the responsibility to save the sovereignty and the nationality. Any effort for political change by the popular forces in its view was a threat to the status quo causing instability and discord for peace, independence and integrity of the state, preserved since the time of the formation of the modern Nepali state. The military perceived the people as ‘subjects’ for contributing to the interest of the king, having no identity and interest except to be subjugated by the kingship, and the nation could not be imagined without a monarch. It was reflected live vibrantly by the speech of the Commander-in-Chief. “The Crown is the symbol of our identity and the kingship is the progenitor and guardian of the Royal Nepal Army along with the unalterable symbol of Nepali nationalism and national unity. The faith, devotion and the trust of the people towards the Crown have remained the essence of Nepali nationalism since time immemorial. All Nepalis should, therefore, be united to work towards preserving the symbol of our identity along with the fundamentals of our national interests”. Therefore, it is needless to describe here again why the Nepal Army was used to suppress the Mass Movement-II. It was also used on different other occasions including the coup staged by the King in 1960.

The guiding principle developed by RNA was ‘Raj Bhakti Hamro Shakti’ — loyalty to the king is the power of the army”. Without loyalty to the king, as they know, they would be unable to fulfill neither their professional interest — corporate enhancement, nor duty — to save the “King and the Country”. The military knew that its professional

167 COAS keynote speech to the graduate officer cadets at the 11th convocation of the Command-in-Staff College of the RNA, 14 May 2004.
and corporate interest could be fulfilled more easily by the government under the king rather than under an elected government.

Nevertheless, during the 2006 mass movement, the role of the RNA remained unclear. At the initial stage, agitating political parties might have taken the RNA-king alliance seriously expecting that the 12-point understanding reached between the SPA and the Maoists. The Maoist supremo Prachanda stated that the Maoist party was committed to support the SPA protest programme. He appealed to the general public to come to the street. The Maoist involvement in the movement alerted the government to mobilize all its forces urging them to “avoid disruptions...and attempts to spread violence” by Maoists and by the “anarchist activity” of the SPA. The government threatened the protesters either “to retract or face use of force”. Similar statements were made by the Vice-Chairman of the Council of Ministers, Dr. Tulsi Giri, saying that security forces would use all means needed for quelling such violent trends.

Since the municipal election was the “hollow attempt to legitimatize the power” taken by the King on 1st February 2005, the movement was consolidated for the anti-municipal election campaign. Then, the RNA came out, threatened the protesters “to withdraw the protest” from the polling stations and the security agencies ultimately used force against the protesters. The RNA in Ghorahi, Dang, killed a young man, Umesh Chandra Thapa. The SPA took out a rally demanding strong action against RNA soldiers who killed Thapa — the first martyr — to fall prey to army bullets since 1st February pro-democracy protests. When the situation was beyond the control of the security agencies, the Home Ministry directed the security officials to keep a strong vigil on SPA leaders and their activists by which they were trying to garner public support for a democratic republic and also to arrest leaders who were likely to forge unity with the Maoists. The Commander-in-Chief of RNA, Pyar Jung Thapa, glorifying the history of Shah dynasty in the process of unification and after, expressed “confidence” on the occasion of Mahashivaratri and Army Day 2062 BS to resolve the

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170 The Kathmandu Post 8 February 2006.
171 The Kathmandu Post 11 February 2006.
173 The Kathmandu Post 10 February 2006.
174 The Kathmandu Post 14 February 2006.
then "challenges through joint effort of the King, people and army". RNA obtained permission from Ministry of Information and Communication to operate 10 mobile FM stations throughout the country "to counter" not only the pro-democracy movement, but also the independent media. The step "further politicized the RNA" making it involve in "a conspiracy to destroy the structure of the state" in contravention of the RNA Act. RNA personnel were involved in beating up villagers on the charge of providing shelter and food to Maoists, while the Maoists came to the village for participating in the agitation organized by SPA. The RNA spokesperson Nepal Bhushan Chand said that RNA got "credible information" about a special Maoist force which arrived in Kathmandu valley to infiltrate into the general strike called by the SPA and demanded that "RNA should be mobilized" to prevent the strikes. However, it was senseless to advocate by the RNA for its mobilization for suppressing the agitation, because all the security forces — Nepal Police, Armed Police Force, and National Investigation Department, were mobilized under the Unified Command of the RNA.

The SPA-Maoist alliance, which had an electrifying effect on people mobilization, announced a three-point appeal in Delhi in April. The appeal contained these points: (1) they would issue a joint appeal, (2) SPA would announce a nation-wide strike and a non-cooperation movement on April 6, 7 and 8, 2006 in the capital, requesting the Maoists simultaneously to withdraw their programmes, and (3) the Maoists would then call off their programmes (withdraw the blockade and possibly announce a ceasefire) and support the SPA programme requesting the people to make it a success. The government renewed TADO on 4 April adding some new provisions in 2005 that people, who were accused of having contacted Maoists in the past and would give

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175 The Kathmandu Post 26 February 2006
176 The Kathmandu Post 1 March 2006
177 Former Brigadier General in the RNA, Dipta Prakash Shah had objected to the RNA’s plan to run FM stations saying that this has politicized the RNA. Speaking at a programme organized by valley-based branches of the Federation of Nepali Journalists (FNJ) on 10 March 2006, Shah said “To allow the RNA to run FM stations in contravention of the RNA act is to politicize the army”. He further added that operation of FM stations by the RNA means a conspiracy to destroy the structure of the State (as given in The Kathmandu Post 11 March 2006).
178 The Kathmandu Post 6 March 2006
179 The Kathmandu Post 18 March 2006
direct or indirect financial and physical support to the Maoists or provided them shelter also were labeled as terrorists.\(^{180}\)

The TADO was renewed specifically for “disrupting the planned [protest] programmes of the SPA...in tandem” with the Maoists in accordance with the new understanding reached in March. Since the Maoist leaders had already extended moral support and called upon their cadres to take part in the rallies\(^{181}\), the strength of the movement was naturally increased. The Royal government took several steps to disrupt the protests: (1) the local authorities of Kathmandu and Lalitpur imposed curfew in Kathmandu city from 11 p.m. to 3 a.m.\(^{182}\); (2) both the district administrations of Kathmandu and Lalitpur banned all kinds of public gatherings and protest programmes inside the Ring Road area effective from 5 April — a day before the SPA’s four day-strike and rally\(^{183}\); (3) the valley police impounded over 100 vehicles and detained their drivers to force them to ply during the strike and assist in local administration work in some of the Maoists affected districts surrounding Kathmandu Valley, and instructed bus owners to stop plying their vehicles\(^{184}\).

In spite of the prohibitory orders of the government, people from every walk of life\(^{185}\) came for the nationwide demonstrations intensifying the strike for Jan Andolan. The police afflicted injuries on the demonstrators and arrested the agitators at several places throughout the country against the spirit of human rights and international humanitarian laws. Army and police opened fire at massive and peaceful rallies launched for the restoration of democracy\(^{186}\). The RNA, which should have been responsible and accountable to national and international law for the action of all security agencies, used force in Pokhara where a protester was shot dead. The shooting from the top of a building at demonstrators indicated that the security forces, especially the RNA, failed to maintain “the international standard for law enforcement”\(^{187}\). Six people were killed and 35 injured at Belbari, Morang, at a time while

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\(^{180}\) TADO, HMG/N, Kathmandu: Ministry of Law, on 4 April 2006.

\(^{181}\) Home Minister Kamal Thapa at a press conference held at his office said on 31 March that “the government will not allow the planned programmes as they were restructured after the alliance and the terrorists reached the second understanding on March 19”. He further said that the protest programmes of the parliamentary parties would end up in bloodshed, as the Maoist leaders had already said that they would extend moral support and had called upon their cadres to take part in the rallies, see, The Himalayan Times 1 April 2006.

\(^{182}\) The Kathmandu Post 6 April 2006.

\(^{183}\) The Kathmandu Post 6 April 2006.

\(^{184}\) The Himalayan Times 5 April 2006.

\(^{185}\) Students from schools and colleges, professional associations like doctors, teachers, employees’ association in banks, telecom, electricity, etc. journalists, farmers and housewives took part.

\(^{186}\) The Kathmandu Post 13, 16 and 17 April 2006

army men fired at demonstrators protesting against the gang rape and murder of a 22-year old woman by some RNA men. The RNA was involved in several attacks on protesters in Tanahu, Arghakhanchi, Pokhara, Kanchanpur, Morang and Nawalparasi despite the low profile maintained by the army. The RNA also launched an indiscriminate aerial strike by using helicopters when the Maoists were staging a parade to obstruct the Butwal-Narayangarh section of Mahendra Highway. Thinking that the situation was going out of control, the king was eventually compelled to restore the dissolved parliament. An interim government was formed under the Premiership of G.P. Koirala. It was supported by the major political parties including the Maoists in April 2006. At least 15 pro-democracy protesters were killed, nine were missing and 5,144 were injured, during three weeks of pro-democracy protests. It was reported that 161 people had broken bones in the police action, and a dozen protesters permanently lost their vision.

The death toll during the 19-day mass movement was less in comparison to the daily death toll after truce II failed in 2003 whereby 12 people used to be killed daily. It seemed that the military had not used its whole strength due to its lack of perception that the movement would ultimately end in declaring Nepal as a republic. If it had used its full strength, there would have been more bloodshed. The RNA, which was exercising its strength in favour of the powerful king in the post-1990 Nepal, did not come openly to the streets to suppress the movement in 1990 for saving the regime led by the king. On the contrary, it reportedly advised King Birendra to be moderate in accommodating the grievances of the agitating parties as well as for avoiding bloodshed. The same army pressurized the Interim government and Constitution Recommendations Committee to place the King as one of the major power centres under the 1990 Constitution, while it felt that the Interim Prime Minister, who viewed not to undermine the king having 35,000 military strength, also felt being unsecured from the palace. The so-called “royal army” could neither save the then King Birendra and his relatives in 2001, nor could it help the government in investigating into the palace massacre. In 2006, demoralized as the king and the army were due to the eroded national and international support and also owing to the combined strength of the SPA and the Maoists, most observers thought that the days of the royal regime were numbered. As expected, the movement could soon set the future trends of the country, not the King.  

188 The Himalayan Times 7 and 28 April 2006.  
189 The Himalayan Times 30 April 2006.  