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Nepal in Crisis

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Introduction

Nepal's peace process has been transiting from one crisis to another. The latest one has been precipitated by the resignation of Maoist Prime Minister Pushpa Kamal Dahal (Prachanda) and the search for a new coalition government. Prachanda's resignation was in protest against President Ram Baran Yadav's decision to reject the cabinet's decision to sack the army chief, General Rookmangud Katawal. The Maoist-led government sacked General Katawal on the charges of his "defiance" of civilian authority. The government wanted to establish the principle of "civilian supremacy" by curbing the army's tendency to ignore the government's directives. The other coalition partners in the Maoist-led government, the Communist Party of Nepal-United Marxist Leninist (UML) and the Madhesh Janadhikar Forum (MJF) had reservations about the sacking of the army chief. The UML walked out of the cabinet meeting and the MJF submitted a note of dissent when the cabinet took the decision on 3 May 2009.

The Nepal Army's Defiance

The Defence Ministry, which is headed by a Maoist Minister, identified three issues of the army's defiance under General Katawal's leadership, namely, i) fresh recruitments in the army; ii) extension of the services of eight Brigadier-Generals, and iii) the withdrawal of the army from the national games in reaction to the participation by the Maoist armed cadres, that is, the Peoples' Liberation Army (PLA). On all these issues, the Nepal Army's position is not tenable.

New recruitments are a violation of Comprehensive Peace Agreement (CPA) of November 2006 (Article 5.1.2). The United Nations Mission in Nepal (UNMIN), which is managing both the PLA and the Nepal Army under the peace process, had categorically said so. It is true that the Nepal Army had recruited soldiers during the interim government headed by G. P. Koirala of Nepali Congress (NC) in 2007. The Maoists, then as a junior partner in the government, had let go of the recruitment as 'one-time' decision to replace the vacancies created. However, they could not approve of the similar move on the part of the Nepal Army after a popularly-elected government had assumed office under their leadership. There was

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also no urgency or any security requirement for the Nepal Army to proceed with the recruitment of about 3,010 soldiers during October-December 2008, in defiance of the Defence Ministry's instructions.

On the extension of the officers' services, the Nepal Army was insisting on the past norms and practices that are no longer in vogue. There is a new Army Act of 2007 which clearly empowers the Council of Ministers to "control, mobilise and manage the Nepali Army". Accordingly, matters of promotion and extension of services are a prerogative of the Council of Ministers. The Defence Ministry refused to approve the army headquarters' recommendation for the extension of the services of the eight officers. This was seen as a move by the Maoists to create vacancies in the Nepal Army where the PLA commanders could be placed later in the course of the PLA's integration into the Nepal Army. These officers went to the court and obtained a temporary stay on the directions of the Defence Ministry. The army chief allowed these officers to resume their duties without even consulting or coordinating with the Defence Ministry. The boycott of the national games on the entry of the PLA teams by the Nepal Army was a direct and avoidable affront to the Prime Minister who had recommended the PLA's participation. The Nepal Army could easily have avoided that.

However, it seems that the Nepal Army's purpose behind the defiance was to send a political message that it will not subordinate itself to the Maoists. This political message is also reflected in General Katawal's explanation submitted to the Defence Ministry in which he justified the Nepal Army's position on all the three counts of defiance charges. Ignoring the provisions of the Army Act of 2007 (of the Council of Ministers' supremacy in matters related to the army), General Katawal referred to the provisions in the interim Constitution to assert that he could only be removed by the President and not the cabinet. He also cited the provisions of the bygone 1990 Constitution to assert his claims for the "continuity of the job".

An interesting aspect of the Nepal Army-Maoist controversy was the media exposure of a "soft coup" by the army to deter the government from sacking the army chief. Under the alleged coup plan, the Maoist leaders, the ministers and other selected individuals would be arrested. The former King would be put in Nagarjun Palace in 'line arrest'. Prachanda, the NC President, Koirala, and a number of other leaders would be cut off from the public. Singhadurbar, Baluwatar, the Young Communist League and the Maoist offices, and the Ministers' Quarters at Pulchowk would be put under 'siege'. At the UN-monitored cantonments, the arms containers would be guarded but the PLA combatants would not be harmed and would be allowed to leave the cantonments for home or for foreign employment. The UNMIN monitors would be put in helicopters and flown to Kathmandu – "they would be treated with dignity."

Under this plan, the Nepal Army was contemplating, on the advice of General Katawal, to take the President into confidence and impose his rule rather than that of the Nepal Army. When this coup plan was exposed by the media, the Nepal Army officially denied that there was any such plan. The army sources, leaking the coup plan, also disclosed that General Katawal was in touch with Dr Yadav on the question of his threatened sacking by the Maoists.

The Nepal Army's Resistance to Democratisation and Reform

The conflict on the Nepal Army's defiance issue is a reflection of the unresolved conflict between the discarded feudal order and the promised new democratic Nepal. General Katawal, a protégé of the late King Mahendra, who remained loyal to King Gyanendra during the *Jan Andolan-II* (people's movement-II), is, in some ways, an icon of the old order. Both the Maoists (particularly their PLA) and the Nepal Army carry the baggage of mutual hostility nursed by the 10-year long insurgency. The Nepal Army suffers from a serious sense of inferiority vis-à-vis the Maoists for having failed to defeat the PLA and the insurgency. The Maoists also could not bring their 'people's war' to victory by capturing the state militarily but an insurgency wins as long as it is not defeated. However, both the PLA and the Nepal Army have been treated generally equally under the provisions of the CPA on the "management of arms and armies", duly incorporated in the interim Constitution and the UNMIN guidelines. This has emboldened the PLA but left the Nepal Army resentful, more so because under the peace process, the Nepal Army has also to be "restructured" and "democratised". General Katawal subtly admitted to this when he said in his clarifications to the government that, "In the process of obliterating remnants of past conflict...the feeling of some uneasiness is natural."

The Nepal Army tried to adjust with the unfolding parameters of the new Nepal so long as the Maoists were not the dominant partners in the interim government of Prime Minister Koirala. That government, during the two years of its rule, did not make any move towards integrating the PLA and the Nepal Army. During this interim government, the Nepal Army went along with the removal of the monarchy and of the King from its traditional residence, the Narayanhiti (Royal Palace), howsoever reluctantly. However, the Nepal Army's conflict with the new Nepal has sharpened with the Maoists assuming leadership of the government in August 2008, after the April 2008 Constitutional Assembly (CA) elections. The core conflict between the Nepal Army and the Maoists is on the integration of the PLA into a "restructured and democratised" Nepal Army. The Maoists have consistently pleaded for the integration of the PLA into the regular army as an essential part of peace process. The NC and the UML have endorsed this, as evident in all the agreements and understandings between the Maoists and the Seven Party Alliance since November 2005. Even the international community and the UNMIN accepted the need and rationale both of the PLA's integration into the Nepal Army and the restructuring and democratisation of the Nepal Army under the umbrella of 'security-sector reforms'. These reforms even include the proposals to downsize the army after the successful completion of the peace process. The Maoists have also tried to take legislative measures to hold the Nepal Army accountable for a number of disappearances during and prior to the *Jan Andolan-II*.

The integration of the PLA and the restructuring of the Nepal Army are, therefore, integral aspects of Nepal's peace process. The Nepal Army has been resisting on both these counts. Its insistence on the recruitment of the new soldiers and the extension of the services of the Brigadier-Generals reflect this resistance. The Nepal Army's resistance to the integration of the PLA has been argued on the technical grounds of educational qualifications and professional competence of the prospective PLA recruits. This argument may sound valid in normal circumstances as the PLA cadres are uneducated and not professionally trained in the art of modern warfare though they had given a tough time to the Nepal Army on the ground during the insurgency. However, the pre-condition of educational and professional qualifications for the recruitment of the PLA cadres is untenable in substance in the evolving political context of the new Nepal. These issues have emerged as a result of Nepal's radical

shift from a feudal order to a vibrant democracy. They are essential components of conflict resolution and have to be dealt with special care and sensitivity. It is always possible to create new mechanisms to upgrade the education and professional levels of the integrated PLA cadres. There are a host of security-sector reforms that the Nepal Army itself has to undergo with patience and perseverance.

The PLA's integration is also resisted on the basis of the Maoist cadres' ideological orientation. However, then, what about the Nepal Army's own ideological orientation for having been an institution loyal only to the Royal Palace? It has used its professional training and firepower in either the UN peace-keeping operations or against its own people, in suppressing various democratic uprisings against the Nepalese monarchy. The Nepal Army has rarely fought any war to defend Nepal's territorial integrity and sovereignty in its recent history (since 1951). That is why the peace process decided to "democratise" the Nepal Army. The fears of the integrated PLA cadres becoming a fifth column of the Maoists' political machination are consciously exaggerated by the Nepal Army to secure political support from non-Maoist parties against the integration. The Maoists seem prepared to settle for the integration of 5,000 to 7,000 cadres out of a total of nearly 20,000 living in cantonments. The rest will be accommodated either through a special economic package or in the recruitment in newly-raised paramilitary formations. How can retrained and re-educated 5,000 to 7,000 soldiers dispersed in a 100,000 strong army become a political fifth column of the Maoists? Who knows if the sections of the Nepal Army at the lower levels are already sympathetic to the Maoists for the change they promise in the lives of poorer Nepalese. The real concern may not be about the numbers but the ranks as the elite and management layers of the Nepal Army do not want to see a single PLA commander occupying critical decision-making positions equal to them.

Politics of Civil-Military Conflict

The resistance to the PLA's integration has its own politics. By denying or delaying the integration, the Nepal Army is breeding discontent among the PLA cadres, provoking them against the Maoist leadership and weakening their organisation. In this political objective, the Nepal Army has naturally received ready and spontaneous support from the NC, the UML and the old royalist parties. That the powerful sections of the NC and the UML have linkages with the army establishment is widely known in Nepal's knowledgeable circles. The old royalist network of politically-vested interests operating beyond and across the party loyalties has also been activated to isolate the Maoists on the army chief's issue. They are being accused of "power-grab" and institutional domination. The Maoists have become vulnerable to these charges in view of their periodic strong arm tactics. The exposure of Prachanda's tapes on 4 May 2009, the day after his resignation, and the President's intervention have made the Maoist leadership more vulnerable to these charges. In the tapes, Prachanda is seen claiming that he inflated the number of PLA cadres from 8,000 to 35,000 and his plea for the elections was explained as a part of his overall strategy to capture the Nepali state. There are, however, Nepali analysts who adopt a more balanced view of Prachanda's tapes and credit him for preparing the hardened PLA cadres for the elections and democratic politics. After all, any party in power would like to consolidate its political hold by controlling as many institutions as possible. The real yardstick should be to see that the ruling parties do not expand their influence in administrative and constitutional institutions through undemocratic means and for the eventual subversion of democracy.

Notwithstanding the provocations and political polarisation, the Maoists must not have precipitated the civil-military crisis. There are other priorities of constitution writing and consolidation of democratic gains that need careful and wholesome attention. The Maoists must realise that they have secured unexpected popular support and what they need to concentrate on is to consolidate and expand this support through good governance and the deliverance of development. However, the Maoists are immature in operating the levers of democratic power. The required political resilience to carry the contentious forces along in the challenging exercise of democratic state-building comes hard to them. The Maoist rank and file is still not completely free from the legacy of the gun culture and the language of force. This makes them vulnerable to the charges of irrationality and dominance. The leadership is under constant pressures from this rank and file to take precipitate decisions to demonstrate the radical and revolutionary character of their organisation. That the leadership succumbs to these pressures is an indication of its weakness and political immaturity in relation to democratic dynamics.

President Yadav's decision to reject the cabinet's position on the sacking of the army chief has generated a strong debate on his constitutional powers. The Maoists have challenged the President's position and sections of the other parties, including in the UML and the MJF, have also questioned the propriety of the President's decision.

It is important to note that the civil society leaders have endorsed the Maoists' decision to sack the army chief, and have since been protesting against the President's move to nullify this decision. Even prior to the decision, the civil society leaders had pleaded with the President to remain in his constitutional limits. In the defence of his decision, the President underlined his status as the "Head of the State" and the "Supreme Commander of the Nepal Army". However, in both these capacities, he has to act on the advice of the cabinet, not on his own. He also referred to the lack of a consensus behind the cabinet's decision on the army chief since the other coalition partners did not endorse it. He also mentioned the visit of the 18 opposition parties' delegation to him to ask him to nullify the cabinet decision.

These are not very valid reasons. The lack of a consensus in the cabinet meeting and the representations by the opposition parties are political issues and not constitutional matters. The dissenting parties can go to the CA to vote the government out. The President, of course, had the right to return the cabinet's decision on the army chief for review and reconsideration but it was not within his powers to undo the decision and go further even to administratively ask the army chief to remain in office. The concept of a consensus has been underlined in the interim Constitution but the spirit of that concept broke down much earlier when the NC refused to hand over power to the Maoists soon after the election results were out, and join the post-election Maoist-led government. In fact, even on the question of the army chief, there is no real consensus among the political parties, including the main opposition, the NC. The UML leader and the Deputy Prime Minister had publicly declared that the army chief deserved to be sacked. Prime Minister Prachanda, in fact, had obtained the in-principle consent of the leaders of his coalition partners, Jhal Nath Khanal of the UML and Upendra Yadav of the MJF, on the sacking of the army chief. However, since these leaders were travelling abroad when the decision was actually taken, others in their respective parties went against the Maoists in the absence of an internal consensus in these parties.

The international community hardly cherished the rise of the Maoists in Nepal. They are only gradually coming to terms with this hard reality. The leading members of this community such as India and the United States have, therefore, found it easy to side with the Nepal Army

on the civil-military tangle. India has long standing traditional and special links with the Nepal Army which cannot be allowed to be vitiated. The Indian Ambassador has been in constant touch with Prime Minister Prachanda, dissuading him from taking the precipitate action against the army chief. Prime Minister Prachanda has subsequently confessed that he sought India's support in this decision but he could not secure the same. In popular perceptions and media assessments in Nepal, India has come to be seen as siding with the army chief and against a representative government, and has been criticised for pressuring the Nepali government on an issue which is entirely of internal concern. India's unhappiness with the Maoists is believed to be arising out of the growing proximity between China and the Maoists, and the rather assertive stance of the Maoist rule. India's action has also come under criticism in the Indian media.

However, both India and the international community also need to keep in mind the overall context of civil-military relations in South Asia. The political dominance of the military over the civil authorities in Pakistan and Bangladesh has left unfortunate scars on the democratic institutions in these countries. The potential of the Sri Lankan army dictating political terms on the ethnic issue and even seeking a share in the power structure following its "impressive" victory over the Liberation Tigers of Tamil Eelam has been enhanced. Nepal should be saved from drifting on this risky path, particularly in view of the fact that the controversial army chief is widely known for his political outreach and uncharitable human rights record. The international community must devote its efforts to rebuilding the shattered political consensus in Nepal that drove the 2006 'people's movement' for democracy. The present crisis must be approached in the interest of Nepal's faltering peace process and the strengthening of the democratic and representative foundations as well as completing the unfinished task of mainstreaming the Maoists.

What Next?

Efforts are under way in Kathmandu to cobble together a new, preferably a non-Maoist government. President Yadav first called for the formation of a national government within a deadline of five days. That deadline passed without producing a government. He has now asked the CA to form a new government based on a majority. This is also not proving to be an easy task in view of the numbers that the Maoists hold in the CA and the sharp internal conflicts around personalities and issues involved within all the major non-Maoist parties. It may, however, still be possible to form a non-Maoist government with the united efforts of the domestic and external stakeholders in Nepal. Madhav Kumar 'Nepal', the former Secretary-General of the UML, is being tipped as the next Prime Minister and there are claims that enough numbers of the CA members are willing to support his leadership. A non-Maoist government is naturally aimed to isolate the Maoists, who on their own, will also not join any other combination as junior partners, in view of their parliamentary strength. A non-Maoist government will also be contrary to the spirit of the CA election results where the popular support was in favour of the Maoists to lead the country. The Maoists' popular support was reiterated during the by-elections held for six seats in April 2009, where the Maoists secured three, leaving one each for the NC, the UML and the MJF. It would indeed be an irony of the democratic process in the new Nepal if Madhav Kumar, who lost decisively in the CA elections of April 2008, is finally endorsed to lead the new government by the majority of the elected CA members. The longevity of the non-Maoist government would depend upon the balancing skills of the new Prime Minister and the capability of the new government in dealing with the opposition put up by the Maoists. What governance the

new government will be able to deliver in the face of the Maoist protests and disruptions in the CA, and on the streets all over Nepal, remains to be seen.

Besides governance, the present political crisis in Nepal has pushed the peace process into serious difficulties. A non-Maoist government is not expected to endorse the decision of the Maoists on the sacking of the army chief. This will indirectly embolden the Nepal Army and put the question of PLA's integration and security-sector reforms in cold storage. One also wonders if the constitution-making process will advance in any meaningful way as many of constitutional provisions may require a two-third support in the CA which cannot be ensured without the Maoists' participation. The continuing spectre of instability and political uncertainty has considerable potential of dragging Nepal back into the chaos and disorder that characterised the pre-*Jan Andolan-II* (April 2006) situation.

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