Friends for Peace (FFP)

‘Friends for Peace (FFP)’ is a non-governmental, non-profit organisation registered under the Association Registration Act 1977. It was established in May 2004 with a view to facilitate research in the field of conflict transformation and to contribute to future peace processes in Nepal. It works with local and international specialists on specific issues of concern in Nepal, convenes workshops for the sharing of experiences on peace processes from around the world and endeavours to be a leading research organisation providing a central source of information for a range of actors on conflict-related issues. It also aims to build the capacity of Nepalese and other researchers to develop these strategies. In a post-conflict environment, it remains a public resource to be drawn upon for relevant information and expertise on post conflict transformation.

The main objective of FFP is to establish a credible knowledge-base that provides technical expertise on issues of concern in future peace negotiations and wider peace process, and facilitates greater participation of civil society organisations and individuals in bringing about a peaceful resolution to the Maoist insurgency.

Based on a range of consultations, FFP is conducting research on various issues thought to be of concern in the current conflict context. Initial areas of research identified are comparative peace processes, security sector reform and international relations specific to the conflict.

The on-going Maoist insurgency and its catastrophic implications for the country have already attracted the attention of the international community. Not only our immediate neighbours, but also other powerful world actors such as the USA, UK, EU and the United Nations have already raised their serious concerns about the internal conflict in Nepal. Thus, the horizon of Nepal’s International relation in consideration with its local politics has widened much and needs to be discussed in the global context. Hence, FFP is conducting series of research on various issues of Nepal’s international relation given the current conflict situation in Nepal. However, considering the historical relation and open border with India, the first series of research has been focussed in the Nepal India relation as a stepping stone of the issue. Five researches have been carried out under this theme, one of which dealing with the ‘geopolitical situation of Nepal and international responses to conflict transformation’ has already been published. Rest of the four, namely open border regulation issue in the context of conflict, proliferation of small arms and light weapons in Nepal, India’s possible role in the future peace process in Nepal and water resource conflict between Nepal and India has been combined as four core chapters of this volume. In the future, FFP continues to build on these and other contemporary issues of international relation of Nepal in the context of internal conflict to widen the knowledgebase on conflict transformation in Nepal.
Foreword

The growing intensity of the fighting between Maoist insurgents and the state security forces and its devastating effect on the security situation, human rights and socioeconomic life of the people have started to bring Nepal into sharper international focus. The global and regional powers have expressed serious concerns over the deteriorating political, social, economic and security situation of the country. As the possibility of finding a domestic solution to the problem slips away, studies are being focused on the unique geographic features which are thought to have lent advantage to the insurgents in their war with the security forces forging consensus on the need of international mediation.

The escalation of violence and growing instances of human rights violation have tarnished the image of the country. It has not only lowered Nepal’s stature in the international community but has also added to the concern of international powers and immediate neighbours. The spill-over impact of the insurgency has alerted its neighbours and there is growing risk of unwanted foreign intervention if the insurgency is not resolved through peaceful negotiations.

The geopolitical specialty of Nepal has lent comparative advantage to the insurgents allowing them to conduct a prolonged armed insurgency. Given the two rounds of failed negotiations and growing bitterness and bloodbath going on between the insurgents and the government, it is unlikely that a domestic solution to the problem of insurgency will be found soon.

The arguments for and against the involvement of international community are getting space in the Nepalese political debate in the past few years, specially after failure of the locally facilitated peace
talks between the Government and the CPN-Maoist. The international community, specially the United Nations (UN), the European Union (EU) and some other European countries, have already come forward with their willingness to mediate or facilitate the future peace talks. Similarly, the United States (US) and United Kingdom (UK) are also willing to contribute towards the peaceful settlement of conflict in Nepal. However, India, which is historically involved in settlement and transformation of political disputes or conflict in Nepal is directly opposing the involvement of international community in Nepalese peace talks, specially that of the UN.

The special geopolitical situation of Nepal, the open border between Nepal and India and the compulsion of Nepal to use Indian territory for accessing the sea port has made Nepal highly dependent on India. Further, the one-sided Treaty of Peace and Friendship 1950 between Nepal and India has made Nepal handicapped to deal with its security related and political issues independently. Under these circumstances, Nepal can not ignore the role of India in the peaceful transformation of conflict in Nepal. India’s positive willingness to contribute in the conflict transformation in Nepal can determine the pace of progress towards it. How Indian unwillingness to solve the problem has complicated the process of solving the Bhutanese refugee crisis is a glaring example that Nepal can learn for giving due consideration to India’s positive contribution and assistance for solving the Maoist insurgency in Nepal. Considering this fact, Friends for Peace (FFP) has decided to reassess Nepal’s relation with India in relation to its perspective, attitude and dealing with the rebels, the impact of Nepal’s left-wing insurgency in India’s internal security and its possible contribution to resolve the Maoist conflict in Nepal as a stepping stone and entry point for generating broader debate on Nepal’s international relation as a whole in the context of the on-going Maoist conflict in Nepal. As we progress further, FFP intends to deal with Nepal’s
relation with other stakeholders of global politics and their contribution in the conflict transformation in Nepal.

Through this publication we hope to generate wider debate among the stakeholders of conflict in Nepal and world community on Nepal’s relation with India, mutual cooperation in certain issues of contention and India’s policy and contribution towards conflict transformation in Nepal. Even though the discussions in this volume cover the incidents prior to the Royal takeover of 1 February 2005 only, we still believe that such debate will help provide the necessary feedback for preparing for future peace talks and receiving productive support from our neighbour in the south.

Laxman P Aryal
Chairperson
<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>ABNES</td>
<td>Akhil Bharatiya Nepali Ekata Samaj (All India Nepalese Unity Society)</td>
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<td>ADB</td>
<td>Asian Development Bank</td>
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<td>AIMCC</td>
<td>All India Maoist Communist Centre</td>
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<td>AMG</td>
<td>Assault Machine Gun</td>
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<td>ATTF</td>
<td>All Tripura Tiger Force</td>
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<tr>
<td>BCP-MLM</td>
<td>Bhutanese Communist Party-Marxist Leninist Maoist</td>
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<td>BJP</td>
<td>Bharatiya Janata Party</td>
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<td>BMC</td>
<td>Boarder Management Committee</td>
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<tr>
<td>CCOMPOSA</td>
<td>Coordination Committee of Maoist Parties and Organisations in South Asia</td>
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<tr>
<td>CDO</td>
<td>Chief District Officer</td>
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<td>CGO</td>
<td>Consulate General’s Office</td>
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<td>CHD</td>
<td>Centre for Humanitarian Dialogue</td>
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<tr>
<td>CPML-PW</td>
<td>Communist Party of India Marxist Leninist-People’s War</td>
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<td>CPN-M</td>
<td>Communist Party of Nepal - Maoist</td>
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<td>CPN-ML</td>
<td>Communist Party of Nepal - Marxist Leninist</td>
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<td>CPN-UC</td>
<td>Communist Party of Nepal-Unity Centre</td>
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<td>CPN-UML</td>
<td>Communist Party of Nepal-Unified Marxist and Leninist</td>
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<td>CRPF</td>
<td>Central Reserve Police Force</td>
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<td>CRZ</td>
<td>Compact Revolutionary Zone</td>
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<td>CSP</td>
<td>Civic Solidarity for Peace</td>
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<td>EPW</td>
<td>Economic and Political Weekly</td>
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<td>EU</td>
<td>European Union</td>
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<td>FFP</td>
<td>Friends for Peace</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GPMG</td>
<td>General Purpose Machine Gun</td>
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<td>GRINSO-Nepal</td>
<td>Group for International Solidarity-Nepal</td>
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<td>HMG</td>
<td>His Majesty's Government</td>
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<td>IANSA</td>
<td>International Action Network on Small Arms</td>
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<td>IDA</td>
<td>International Development Association</td>
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<td>IED</td>
<td>Improvised Explosive Devices</td>
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<td>IIC</td>
<td>Imperial Irrigation Commission</td>
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<tr>
<td>IHRICON</td>
<td>Institute for Human Rights Communications-Nepal</td>
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<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IMM</td>
<td>Indian Military Mission</td>
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<td>INBRC</td>
<td>Indo-Nepal Border Regional Committee</td>
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<td>INSAS</td>
<td>Infantry Small Arms System</td>
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<td>INSEC</td>
<td>Informal Sector Service Centre</td>
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<td>ISI</td>
<td>Inter-Services Intelligence (Pakistan)</td>
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<td>ITDMR</td>
<td>Integrated Treaty on the Development of the Mahakali River</td>
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<td>KLO</td>
<td>Kamatapur Liberation Organisation</td>
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<td>LMG</td>
<td>Light Machine Gun</td>
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<td>LTTE</td>
<td>Liberation Tigers of Tamil Eelam</td>
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<td>MCC</td>
<td>Maoist Communist Centre</td>
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<td>MCP</td>
<td>Military Check-Post</td>
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<td>MOHA</td>
<td>Ministry of Home Affairs (India)</td>
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<td>NAM</td>
<td>Non-Aligned Movement</td>
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<td>NC</td>
<td>Nepali Congress</td>
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<td>NDFB</td>
<td>National Democratic Front of Bodoland</td>
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<td>NHPC</td>
<td>National Hydro Power Corporation</td>
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<tr>
<td>NRB</td>
<td>Nepal Rastra Bank (Central Bank of Nepal)</td>
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<td>NSCN</td>
<td>National Socialist Council of Nagaland</td>
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<td>NWPP</td>
<td>Nepal Workers and Peasants' Party</td>
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<td>PACO</td>
<td>Pancheshwor Project to Pancheshwor</td>
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<td>Abbreviation</td>
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<tr>
<td>Consortium</td>
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<td>POTA</td>
<td>Prevention of Terrorism Act (India)</td>
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<td>PWG</td>
<td>People’s War Group</td>
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<tr>
<td>RBR</td>
<td>Regulated Border Regime</td>
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<td>RIM</td>
<td>Revolutionary Internationalist Movement</td>
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<tr>
<td>RNA</td>
<td>Royal Nepalese Army</td>
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<tr>
<td>RPP</td>
<td>Rastriya Prajatantra Party (National Democratic Party)</td>
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<tr>
<td>SAARC</td>
<td>South Asian Association for Regional Cooperation</td>
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<td>SAIR</td>
<td>South Asia Intelligence Review</td>
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<td>SAP</td>
<td>Structural Adjustment Programme</td>
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<td>SASA-Net</td>
<td>South Asia Small Arms Network</td>
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<td>SHGs</td>
<td>Self-Help Groups</td>
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<td>SLR</td>
<td>Self-Loading Rifle</td>
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<td>SMEC</td>
<td>Snowy Mountain Electric Corporation</td>
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<td>SMG</td>
<td>Sub-Machine Gun</td>
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<tr>
<td>SSB</td>
<td>Special Security Bureau</td>
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<tr>
<td>TADO</td>
<td>Terrorist and Destructive Activities (Control and Punishment) Ordinance</td>
</tr>
<tr>
<td>TOPF</td>
<td>Treaty of Peace and Friendship</td>
</tr>
<tr>
<td>UGC</td>
<td>Upper Ganga Canal</td>
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<tr>
<td>UK</td>
<td>United Kingdom</td>
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<tr>
<td>ULFA</td>
<td>United Liberation Front of Assam</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UPA</td>
<td>United Progressive Alliance</td>
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<tr>
<td>UPFN</td>
<td>United People’s Front-Nepal</td>
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<tr>
<td>US/USA</td>
<td>United States/United States of America</td>
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<tr>
<td>USSR</td>
<td>Union of Soviet Socialist Republics</td>
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<tr>
<td>VDC</td>
<td>Village Development Committee</td>
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<tr>
<td>WAPCOS</td>
<td>Water Power Consulting Services</td>
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<td>WB</td>
<td>World Bank</td>
</tr>
<tr>
<td>ZOP</td>
<td>Zone of Peace</td>
</tr>
</tbody>
</table>
Contents

Foreword ................................................................. iii

List of Abbreviations and Acronyms ......................... vi

CHAPTER ONE ......................................................... 1
The Maoist Insurgency and Nepal-India Relations:
The Issues in Contention – Shiva K Dhungana .......... 1
References ................................................................ 23

CHAPTER TWO ........................................................ 27
Nepal-India Border Regulation in the Context of
Present Conflict – Hari Roka ..................................... 27
Introduction ................................................................ 27
Historical Relations and Border .............................. 29
The Treaty of 1950 and the Efforts for Border Regulation ... 34
The Nepalese Maoists, Indian Government and the
Treaty of 1950 ......................................................... 36
People’s War, Migration of the Nepalese and the
Indian Policy .......................................................... 38
Open Border in the Eyes of the People of the Border Areas ... 41
The Possible Impact of Maoist People’s War in India ...... 46
Conclusions .............................................................. 48
References ................................................................. 53

CHAPTER THREE ....................................................... 55
Proliferation of Small Arms and Light Weapons in Nepal:
A Discussion – Hiranya Lal Shrestha ....................... 55
Introduction ............................................................... 55
Gradual Development of Arms and their Supply ........... 57
Users of Small Arms in Nepal .................................. 60
Situation of the Use of Arms after the Start of the
Armed Conflict ....................................................... 64
Growing Demands for Small Arms and Light Weapons .... 68
Arms Diplomacy ....................................................... 71
Legal Framework for the Control of Arms ........................................... 74
Governmental and Non-governmental Views on Control of Small Arms and Light Weapons .................................................... 78
The Status of Arms as Revealed from the Field Survey ............. 81
Landmines in Nepal ........................................................................ 87
Conclusions and Recommendations ............................................ 90
References ........................................................................................ 98

CHAPTER FOUR ........................................................................... 101
Water Resources Cooperation: Moving away from Hierarchy Led Contention to Pluralised Resilience —Ajaya Dixit and Shreshna Basnet ......................... 101
Abstract ................................................................................... 101
Upstream vs Downstream Contentions .................................... 102
Political History of Sarada/Mahakali Project ......................... 105
Political Expediency ............................................................. 121
Prisoners of Development Hype ............................................. 128
Vision and Contradiction ........................................................ 137
Cooperation through Flexible Paths ........................................ 145
References ................................................................................ 153

CHAPTER FIVE ................................................................... 159
India’s Possible Role in the Future Peace Process of Nepal —Shyam Shrestha ................................................................. 159
Introduction ................................................................................ 159
Nepal-India Relationship: A Historical Perspective ............. 161
Maoist Insurgency and India’s Changing Perspectives .......... 174
India’s Latest Fears and Concerns, Policies and Attitudes .... 184
Possibility of Indian Military Intervention .......................... 197
Third Party Involvement in the Peace Process of Nepal ...... 197
Indian’s Possible Role in the Future Peace Process of Nepal .. 201
Conclusions ................................................................................ 206
References ................................................................................ 209

CHAPTER SIX ...................................................................... 213
The Maoist Insurgency and Nepal-India Relations: Contemplating the Future —Shiva K Dhungana ....................... 213
References .................................................................................. 228
Nepal is undergoing one of the biggest socio-political crises in its entire modern history. The Peoples’ War launched by the Communist Party of Nepal-Maoist (CPN-M) in 1996 has entered its tenth year of continued fighting and has already spread all over the country. During the past ten years of fighting and related violence triggered by the state as well as the rebels, a total of 12,595 lives have been lost of which almost two-thirds (8,133) were killed by the security forces and remaining (4,462) by the Maoist rebels (INSEC 2005a; INSEC 2005b). The data shows that almost two-fifths (4,648) of the entire casualties took place in 2002 alone, i.e. during the State of Emergency. Almost 400 innocent children have been

1. I am thankful to Mr Narad Bharadwaj for editing the language of this paper.
2. Shiva K Dhungana, a PhD candidate at the University of the Philippines at Diliman, is Researcher at Friends for Peace, Kathmandu Nepal and leads the research themes on Nepal’s international relation specific to the conflict and conflict induced displacement in Nepal.
3. The latest database as of 12 February 2006 provided by Informal Sector Service Centre (INSEC) shows that the death toll has already crossed 13,000. INSEC monitors human rights violation in all 75 districts of the country and is the only source of authentic information regarding the human rights violation in Nepal.
killed during the ten years period (INSEC 2005c) and hundreds of children and women have become victims of landmine blasts and crossfire between the Maoists and security forces (NCBL 2005). The loss of physical infrastructures is estimated to be worth US$250 million per year (Mahat 2003; DFID 2002a; DFID 2002b), not to mention trauma faced by the family who lost their loved ones in the fighting. Another estimate shows that the infrastructure loss is estimated to be worth 8-10 per cent of national GDP (Sharma 2004) that comes to be around Rs18-20 billion per year. The conflict has caused internal and external displacement of people. Nearly 400,000 rural families have been displaced internally while hundreds of thousands of others have crossed over to India in search of work (Rai and Singh 2005). The legal as well as illegal labour migration to India, Malaysia, Gulf countries and other parts of the world has accelerated in the past few years. The youths are desperate to go abroad to get employment, to escape from the forced recruitment in the Maoist militia and possible atrocity of the state security forces in suspicion of being Maoists. Such desperation for exiting the national boundary at any cost has brought severe consequences to those fleeing the country where they are compelled to involve themselves in inhumane nature of jobs in India and other countries.

The on-going Maoist insurgency and the severe human rights violations by either of the warring parties, its unimaginable socio-economic impact and the destruction of infrastructures worth billions of rupees in Nepal has already drawn attention of international community. The international community, especially those contributing major financial and technical assistance for the socio-economic development of Nepal has, naturally, a right to worry as the conflict is also taking toll on their effort of many years and, obviously, their activities in Nepal. The world community, be it various governments, bilateral or multilateral international organisations or civil society organisations, have shown their serious concern about
the conflict and its impact on the future of Nepalese people, their descendents as well as the regional security.

After the disintegration of the Soviet Union and the fall of the Berlin Wall in the early nineties, the face of global politics has changed significantly. The mathematics of international relation has seen major restructuring in the past one decade with many permutations and combinations. Further, the birth of the concept of globalisation, communication revolution in the world, the rise of terrorism- especially the 9/11 incident in the US, the widening gap between the rich and the poor have made global politics very narrow and all political developments or political conflicts including terrorism in any corner of the world are becoming the concern of the entire international community. The Maoist insurgency and its impact on the socioeconomic and political future of Nepal as well as regional security of South Asia (India, in particular) has been a serious concern of the international community that has direct contact with Nepal.

Because of the typical geopolitical situation of Nepal sandwiched between two emerging superpowers India and China, its international relation needs to be discussed in consideration with its physical location as a land-locked country. It has its own demerits of its access to the international community other than its immediate neighbours. Nepal is geographically isolated from and has very limited accessibility towards its northern neighbour, China, because of the presence of high mountain range in between the two countries. Nepal’s eastern, southern and western borders are connected with India because of easily accessible plain land and century old open border between the two countries. The entire movement of people and goods has to take place through Indian territory. Though the

4. It might be interpreted and defined differently by different political community or country.
history of modern Nepal dates back to 1768, when Great King Prithvi Narayan Shah conquered the small and fragmented states into a single country under the auspices of the Gorkha Kingdom, Nepal’s international relation was mostly confined to the relation with India and to some extent Tibet region of present day China until the middle of the twentieth century.

After the defeat in Anglo-Nepal war (with British India) in 1814-16 and subsequent Treaty of Sugauli with British India, Nepal remained isolated from the entire international community for 130 years. Nepal could not establish foreign diplomatic relations with any country other than the UK and British India during the period. It was only after the exit of British rulers from India and Rana regime in Nepal, it started to build its international relations with countries other than India. As a result, diplomatic relations were established with the USA (1947), France (1949), China (1955), the USSR (1956), Japan (1956) and Germany (1958) within a decade of overthrowing the Rana Regime. Nepal also became a member of United Nations and founder member of Non-Aligned Movement in 1955, which brought it to the notice of entire international community.

Nepal’s diplomatic relation with other countries and the membership of the UN and Non-Aligned Movement definitely gave Nepal a global identity. However, the specific geopolitical character of Nepal and age-old social, religious and cultural relation, the open border, passage to the sea through India only and the special treaty of security could not let Nepal escape from the dominance of India in political and economic front. Hence, during the past 45 years from 1950, Nepal’s political issues never drew the attention of international community other than India. Even our northern neighbour China did not bother to give its attention to Nepal’s political development in the period. India enjoyed the sole monopoly in engaging itself in every political development of Nepal.
Whenever India felt that Nepal was trying to escape from its security umbrella, it punished Nepal by imposing economic blockade and other sort of restrictions on it. The glaring example of which is the Indian economic blockade of 1989 when Nepal bought some arms from China without consulting India.

In this context, there is an urgent need for a genuine debate on what should be the role of international community in the future peace process in Nepal and what possible scenarios might arise in the future political as well as socioeconomic development of Nepal. Hence, the research theme “Nepal’s international relations specific to the conflict” intends to deal with the role and perspective of various international communities towards the Maoist insurgency in Nepal and their possible concern and effort to conflict transformation and safeguard the prosperous socioeconomic and political future of Nepal. However, considering the historical relations and geopolitical situation of Nepal, this publication reassesses Nepal’s relation with India in relation to its perspective, attitude and dealing with the rebels, the impact of Nepal’s left-wing insurgency in India’s internal security and its possible contribution to solve the Maoist conflict in Nepal as a stepping stone and entry point for generating broader debate on Nepal’s international relation as a whole in the context of on-going Maoist conflict in Nepal. The first series of researches has been devoted in the four specific issues of Nepal-India relation having direct implication on the ongoing conflict and associated socio-political development in Nepal.

The first issue discusses the possibility of regulation of Nepal India open border. Nepal and India are very close neighbours having unique ties governed by religious, cultural and economic interdependence as well as open border stretched to 1,751 kilometres. The issue of open border is as old as the historical relation of these two countries. Although no formal agreements before 1950 maintained that the border between the two countries should remain
open, both countries never introduced any provision of travel permits for the people of either country moving across the border. Based on the 1950 treaty and letters of exchange, no country is in a position to unilaterally introduce such travel provisions restricting the free movement of people across the border. The issue of regulation was never discussed seriously in the past as neither of the governments felt it necessary (Treaty of Peace and Friendship 1950). Nepal was enjoying the benefit of uninterrupted movement of its citizens to India for employment and other opportunities whereas India was also enjoying the easy flow of Indian goods and labourers into Nepalese markets. However, the open border and subsequent free movement of people across the border have brought various social, economic and political problems in recent times, especially after the birth of Maoist insurgency in Nepal. The Maoists have demanded (through their Forty Point Demands presented to the then Deuba Government in February 1996) the provision for the control of entire Nepal-India open border, ban on cars with Indian number plates plying (through) the Nepalese roads, closure of the Gorkha Recruitment Centre, making the provision of work permits for the foreigners in Nepal and end of the precedence of foreign technicians over Nepalese technicians at the local jobs and ban on Hindi video cinema, films, videocassettes, magazines, and all other vulgar materials coming from the Indian markets through the unregulated open border (CPN-M 2001).

The open border and socio-cultural similarity of the people on either side of the border have made quite easy movement of the Maoist rebels to acquire arms and ammunition and other necessary materials from Indian market. The free movement of Nepalese Maoists in the Indian territory and their organisational activities and political coordination with Indian rebel communist groups and north-east insurgents have alarmed both Indian and Nepalese governments in recent times. Further, the mediation of Nepalese
Maoists to unite the erstwhile detractors People’s War Group (PWG) and Maoist Communist Centre (MCC) of India has seriously alarmed Indian government of jeopardising their internal national security. Besides, the open border has also facilitated the increased incidents of illegal transaction on small arms and light weapons, provided sanctuaries for the Maoists and other criminal actors for treatment, hideouts and encouraged kidnapping for ransom, human trafficking, drug trafficking, cross-border robbery, smuggling of forest resources and destabilising the local labour market in recent times. Further, it is also believed that the open border is being utilised by some undesirable elements against both India and Nepal. India has time and again complained that the Inter-Services Intelligence (ISI) of Pakistan is carrying out activities from the Nepalese side of the border, despite Nepal’s repeated denial that its territory is being used against India. India’s accusations have received further credence after the hijack of Delhi bound Indian Airlines flight (IC 814) from Kathmandu in December 1999 by pro-Kashmiri militants from Pakistan. Against the circumstances, the issue of regulation of open border has gained momentum in both the countries.

A study conducted by Task Force in 1983 points out that there has been disproportional flow of migrants from Indian side to Nepal with serious implications for Nepal’s demography and economy (Gurung et al 1983). After the start of the Peoples’ War by CPN-M in February 1996, the migration flow has been a serious concern of the Nepal’s security aspect. Further, there is a heavy outflow of Nepalese nationals victimised by both the rebels and the security forces towards five bordering states of India as well as some inner states such as Delhi, Punjab, Haryana, Himanchal Pradesh etc. These political victims are living in India as nomads and are said to be displacing the local labourers with very cheap wage rate. Such an unprecedented increase of Nepalese population in certain Indian States has been
creating a kind of uproar among the general public as well as the government authority in India. These people are living miserable life in India, not to mention the frequent police questioning, harassment and even physical torture already reported in some of the states. Considering the fact of increasing Nepalese population in India, there is a great risk of outburst of some kind of anti-Nepalese sentiment among the Indian population that might convert into an ethnic conflict in the future, if the internal conflict of Nepal prolongs for another few years. There is a need to analyse the perceptive of the Indian general public towards the Maoist rebellion as well as of those Nepalese victims who have fled to India to escape the terror.

The incident of killing of two Nepalese in Mumbai, India in 2004 by the Nepalese Maoists has created a serious security concern for those who have fled the country to escape the rebel offensive. The Nepalese government has not realised the gravity of the plight of those fleeing the country as victims of the internal conflict in Nepal. In this context, such response of the rebels towards the dissidents needs a serious thought and analysis in relation to the open border between Nepal and India and its connection to the free movement of rebels in Indian territory. It is also necessary to explore the perception of the Union as well as the State governments in India towards the Maoist rebels of Nepal.

There is an argument among various political analysts that the large numbers of Indian immigrants to Nepal are displacing Nepalese labour force from the national labour market. These displaced labourers are undergoing a period of frustration and are slowly deviating towards Maoist rebellion when they do not get any alternative sources of livelihood.

5. Such incidents have already occurred in Assam, Meghalaya and (lately) in Bhutan against the population of Nepalese origin with some political manipulation from the respective authorities.
The open border has been operating at the pleasure of Indian interest. India has time and again used the open border issue to threaten Nepal whenever it feels that Nepal is not responding to its interest. There are incidents of major transit points closed for long duration by India without consulting Nepal as a punishment for dealing with other countries without India’s prior knowledge and consent. However, after the birth of Maoist insurgency in Nepal, and especially in the past few years, India is also feeling the heat of negative implication of the left-wing coordination in both countries that is linked to its internal security concern. It is, therefore, time for India also to rethink its strategic policy about the open border with Nepal in the changing context of regional security as well as cross-border undesirable activities.

Being a small country, Nepal is suffering more than India, from the negative consequences of the unregulated movement of population across the open border. In reality, Nepal has become the poor victim of the negative implication of the open border between the two countries. It is impossible for the security forces of Nepal to guard every inch of the 1,751 Kilometres long border to control illegal activities. There are severe social, political as well as economic implications of the unregulated transaction of illegal activities across the border. Such incidents can not be regulated unless India shows a strong commitment to help Nepal. There is a need of India’s direct involvement in regulating such incidents. Thus, FFP has realised that the discussion on regulation of open border between Nepal and India in relation to on-going conflict situation in Nepal has a strong significance and needs to be dealt separately. With this motive, the paper on open border regulation looks at the open border issues and its implication for increasing intensity of conflict situation in Nepal, be it political rebellion or social crime.

The second issue the book deals with is the rapid proliferation of small arms and light weapons (SALW) in Nepal. It is another
serious problem that has emerged as a result of the birth of Maoist insurgency in Nepal. Worldwide, the proliferation of SLAW has come to be regarded as the leading threat to human security (UNDP 2002). The uncontrolled trade in small arms and light weapons is a significant and growing problem to which international policymakers are devoting unprecedented attention in recent times. The misuse of SALW is a worldwide problem requiring an orchestrated response at many levels: locally, nationally, regionally and globally within the framework of a coherent development strategy for crisis prevention and recovery (UNDP 2002).

Broadly speaking, small arms and light weapons include a wide variety of lethal instruments from handguns to human-portable air defense systems (Calhoun 2001). Whilst international agreement on a definition for small arms and light weapons has proved elusive, there is a general working definition that can be drawn upon. Small arms are weapons designed for individual use, such as pistols, submachine guns, assault rifles and light machine guns. Light weapons are designed to be deployed and used by a crew of two or more, such as grenade launchers, portable anti-aircraft and anti-tank guns and missile launchers, recoilless rifles and mortars of less than 100mm calibre (Calhoun 2001; UNDP 2002).

It is estimated that there are 639 million small arms and light weapons in circulation: more than one for every 10 people on the planet (UNDP 2002). Based on a conservative estimate, the weekly toll of lives lost to SALW currently stands at more than 10,000 (Regehr 2001). The easy access to these weapons exacerbates conflicts, facilitates violent crime and terrorism, thwarts post-conflict reconstruction and undermines long-term sustainable development. Lack of effective mechanism to regulate the transfer, possession and use of small arms and light weapons makes their global spread difficult to manage.
The use of small arms and light weapons (SALW) in ancient Nepal was seen on a limited scale. Most of the small arms were used for personal security, hunting and ceremonials purpose. The flow of small arms into Nepal intensified when the British Gurkha soldiers started to return home with fairly modern weapons upon completion of their service. The organized use of SALW started by Mukti Sena (Liberation Army) in 1950 to fight against the Ranas, by Nepali Congress in 1960 to protest against the Royal takeover and by a communist peasant group during the Jhapa Movement in early seventies. In 1985, the Rastriya Janabadi Morcha (National Peoples’ Front) led by Ram Raja Prasad Singh bombed at various locations in Kathmandu including the periphery of the Royal Palace.

Although the small arms were used for self-protection, hunting and social ceremony in earlier times, its use for fighting for the political cause had already started as early as 1950. Further, 1990 political change is also attributed, though disputably, for criminalisation of politics and politicisation of crime, increased use of small arms in the election process and show of power of individual politicians as well as of political parties. Though the small arms were popularly used for criminal activities, including criminalisation of election in the border areas in the south and other major urban areas of the country, their massive use for political cause started with the launching of Peoples’ War by CPN-M in 1996.

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6. Jhapa Movement was a peasant movement led by one of the radical communist factions of Nepal that carried out physical assault on landlords of eastern Nepal in the early 1970s. This communist faction was influenced by the radical peasant movement of North-East India, called Naxalite Movement led by Charu Majumdar. This movement in its underground period went to form Communist Party of Nepal-Marxist Leninist (CPN-ML), which after 1990 unified with CPN-Marxist to form CPN-Unified Marxist and Leninist (CPN-UML).
Of late, there has been some concern regarding the use of SALW in Nepal. From 9 October 2003, more than 65 countries, including Nepal, started public campaign against the use of SALW. South Asia Small Arms Network-National Alliance for Nepal (SASA Nepal) organised a press conference on 9 October 2003 to campaign for the effective control of proliferation of SALW in Nepal (Shrestha 2003). This is the beginning of the formal campaign in Nepal against SALW. There is an urgent need for developing a national information database to launch a nationwide campaign against the proliferation and use of SALW in Nepal.

The paper on small arms and light weapons discusses the issues related to SALW in Nepal and the government commitment to the global campaign against SALW. It also estimates possession of SALW by the Maoist rebels, other legal and illegal sources and the security forces in the country. It also attempts to estimate the national expenditure on the small arms and light weapons in Nepal and assesses the political, social and economic impact of proliferation of SALW in the society. With the help of field level interviews it assesses the public perception towards the proliferation and impact of SALW in Nepal. It tries to identify the problems posed by illegal possession of SALW at local level, especially in the areas bordering on India and furnishes recommendation for future policies and strategies to overcome the problem created by the proliferation of SALW in Nepal.

The third issue deals with the half-a-century old confusion and controversy on sharing Nepalese water resources with India. It is not a new issue of contention; however, it has become a renewed debate after the birth of Maoist insurgency, because of the strong opposition of the Maoists to the 1950 Treaty of Peace and Friendship with India and all the water resources sharing treaties signed between Nepal and India starting from early fifties. The CPN-M had submitted forty point demands to the then Deuba Govern-
ment before starting the People’s War. Among the forty point demands put forth by the Maoists was the demand related to the nullification of Mahakali Treaty. Similarly they have demanded the removal of all the unequal stipulations and agreements included in the 1950 Treaty between Nepal and India. India’s interest in Nepal’s water resources, Nepalese market and Nepal as a buffer zone against its northern border has always motivated India to interfere in Nepal’s political issues inducing turmoil and instability in Nepal in the past and present (Nepali Times 16 February 2001) to extract benefit from water and natural resources of Nepal in its favour.

Growing scarcity of water resources, increasing population and poor water management in developing countries have resulted in an increasing demand for water resources. India’s bargaining on water resources sharing with Nepal and its desire for fishing in the troubled water of Nepalese politics is also influenced by its ever increasing demand of water for its large population. The increasing scarcity of water leads to the desire for control of water resources, which, in turn, becomes the ground for breeding conflicts (Noshab and Mustaq 2001) and controversies between/among countries concerned. Water planners and international agencies have popularised the concept that the 21st century’s conflicts will be fought over water (Pottinger 2000). The growing conflicts and controversies over water resources sharing are about the broader questions of ownership of common resources, and equity of access to those resources (Pottinger 2000). Out of the eight SAARC countries,

7. A treaty was signed between Nepal and India on 29 January 1996 and 12 February 1996 to generate electricity and develop the irrigation facilities, by constructing a big dam in Pancheswor of the Mahakali River, an international border river to the south-west of Nepal. This treaty is known as the Mahakali Treaty.

8. SAARC refers to South Asian Association for Regional Cooperation and is comprised of eight countries Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.
three, namely Pakistan, Bangladesh and Nepal are engaged in water resource sharing conflicts with India (Dixit 1997).

Nepal’s rich water resources, with estimated capacity of 83,000 MWs of power generation, is well known in South Asia. Water is one of the major natural resources that could be utilised for the nation’s economic development. In theory, water and water-generated energy commodities could be exported to the huge Indian market in the south. However, there is no single water resource as a joint undertaking that can be claimed as a success story in the past 50 years of water resources development project in Nepal (Chintan 2001).

It is obvious that India has never considered Nepal as an equal partner in sharing the huge surplus water resources in Nepal that can be of immense help in fulfilling the unmet demand among the huge and starving Indian population. Other experts view that India has an attitude of exploiting the rich resource base of Nepal without returning equal benefit to Nepal. The water dispute between these two countries started as early as 1950s when the Koshi and Gandak I hydropower projects were started.

The treaties on water resources between Nepal and India have always been coloured with political opposition. The treaties caused serious uproar among the Nepalese political circle, especially the left-wing political parties. The then Prime Minister B P Koirala was blamed for selling those rivers to India and the issue would be raised in every election in democratic Nepal even after four decades. Then comes the most controversial Integrated Treaty on the Development of the Mahakali River (ITDMR) in 1996 during the time of Nepali Congress Government, which brought economic, social and political consequences in all sectors of society in Nepal. This treaty became major issue of political battle among the ruling and opposition parties in the streets as well as in the parliament. The opposition communist parties organised nationwide protests blaming Nepali Congress once again for selling Mahakali River to India.
Those opposing the Mahakali agreement with India argued that the agreement should be ratified by the parliament riding on the article 126 of the 1990 constitution which stipulates that any agreement on sharing of country’s natural resources needs ratification of the parliament by two-thirds majority. If such agreement causes long-term impact to the nation, it has to be ratified by a two-third majority of joint seating of both the houses of parliament (Constitution of Nepal 1990). The government claimed that the Memorandum of Understanding (MoU) was an understanding between the countries and did not require ratification. The opposition parities and civil society groups dragged the government to the Supreme Court. The apex court ruled that the MoU on Mahakali River was, indeed, an agreement and not merely an understanding. In the meantime, there was major split in ruling Nepali Congress and one faction led by Senior Leader Ganesh Man Singh wrote a letter to the Speaker opposing the ratification. The agreement subsequently failed to gain majority support in the parliament. As the bitterness among the factions within the Nepali Congress grew further, the minority group failed to appear in a crucial parliamentary vote on government’s programmes precipitating the fall of the Nepali Congress Government headed by Girija P Koirala. However, after sometimes, to the dismay of everybody the MoU was ratified by the parliament with the consent of all the major political parties in the parliament without any further benefit to Nepal from what was already agreed in the earlier document. The issue of Mahakali River and subsequent political battle brought many unholy permutations and combinations in Nepalese politics and betrayed one faction of left parties that subsequently raised arms against the state in the name of Maoist People’s War.

The four decade long experience of sharing water resources with India shows that Nepal has been a great loser even in terms of narrow economic benefit through irrigation, flood control, elec-
tricity, not to mention the disastrous social and environmental cost (Chintan 2001).

The discussion on water resources sharing issues has been dominated by political emotions rather than practical research and study (Dixit 2004). Every water resources development project involving India raises the eyebrow of Nepalese opposition political parties (including CPN-M) and is viewed as an attempt to surrender Nepal’s water resources to India. Similar issues and accusations were raised during the visit of Indian Foreign Secretary’s visit to Nepal in February 2004. CPN-M top brass also tried to connect the arrest of their top leader Mohan Baidya alias Kiran by Indian police to a conspiracy of surrendering Nepal’s rivers to India (Dixit 2004).

There is a strong argument on India’s opportunist intention of exploiting Nepal’s political crisis situation and weak/illegitimate/unaccountable government to sign major water resource treaties to its benefit. Various water resources and foreign experts have raised their voices on these issues time and again citing the timing of the signing of those treaties. The failed attempt of India to sign an unequal treaty (which was rejected by Nepalese government) in 1990 (during the time of historic people’s movement) has given further credence to such accusations. Article II and III of part VI of the proposed treaty\(^9\) seeks priority

\[9\] \textbf{Part VI Article II:} Should His Majesty’s Government of Nepal decide to seek foreign assistance for the development of natural resource of Nepal or for any industrial project, they shall give first preference to the Government or nationals of India, as the case may be, provided that the terms offered by the Government of India or Indian nationals, as the case may be, are not less favourable to Nepal then the terms offered by any other state or its nationals or by any international organization or agency. \textbf{Part VI Article III:} The two contracting parties being equally desirous of attaining complete and satisfactory utilization of the water of commonly shared rivers, undertake to i) plan new uses or projects subject to the protection of the existing uses on the rivers and ii) cooperate with each other to formulate and modify planned new uses or projects taking into consideration the water requirements of the parties.
to Indian government and nationals to invest in water resources projects and asks Nepal to cooperate with India to formulate or modify the planned new uses or projects taking into consideration the water requirement of India (Proposed Agreement by Indian government 1989). One of the intentions of this paper is to highlight, conceptualise and contemplate such issues for future cooperation on water resources development projects with India.

Article 126 of the Constitution of the Kingdom of Nepal 1990 has been one of the most powerful tools to protect the sovereign right of Nepalese people over Nepal’s natural resources. There is an emerging debate on the possible Indian influence to tamper with the Article 126 if the country goes for the Constituent Assembly. However, no political party seems to be worried over this issue except Nepal Workers and Peasants’ Party (NWPP). This issue needs a serious debate in the present context.

The democratic culture after 1990 provided a platform for a generation of Nepalese advocates of water resource rights of Nepal to propagate the idea of developing self-reliant water resources projects at local level. Until now, there are few successful pilot projects implemented with local technical expertise, local investment with comparatively lower cost for ‘per unit of electricity’ production. Nepal’s hydropower policy has been focussed on the export-oriented approach on the assumption that Nepal has surplus power generation capacity and that could be exported to India (Dixit 2004). However, the government has forgotten the reality that overwhelming majority of the population has been deprived of power supply. It is urgent that the government has to change its export-oriented approach to fulfil the unmet demand of its local population. This fulfils the electricity demand of rural population in Nepal and reduces our dependency on India for developing our water resources.

Further, there is a grave concern among the water resource experts in the SAARC region regarding India’s proposed water link-
Shiva K Dhungana

The paper assesses and analyses the socio-political circumstances of the treaties related to water resources sharing between Nepal and India and suggests a strategic model to resolve the existing conflict and goes for long-term mutual understanding and cooperation for the region’s water resources development. It is further expected to furnish recommendations for mutual sharing of benefits in trans-boundary water resources without depriving the rights of either country, especially of Nepal. This paper attempts to tease out some lessons from these events and explore the contours of a less dispute-ridden cooperative path along which to develop and manage the country’s water resource in a socio-environmentally viable and economically sustainable manner. It suggests that such a path needs to be pursued in a pluralistic policy terrain and to employ a problem-solving mode ensuring the livelihood of the people of Nepal and India who live in the Ganges basin.

The fourth and final issue this book deals with is the issue of India’s policy and perspective on the Nepalese Maoists and their war against the Nepalese state and its possible involvement on Nepal’s peace process in the future.

As mentioned by the Great King Prithvi Narayan Shah in his divyopadesh (divine counsel), “Nepal is a yam between two boul-
The on-going Maoist conflict in Nepal has already drawn attention of international community. Our neighbours India and China as well as the UN, USA, UK, EU and other countries are expressing their concerns about the deteriorating situation due to internal armed conflict as well as political confrontation within the constitutional forces. However, there is a difference of views in the international community on perceiving the Maoist rebellion. Considering the historical role of India in the political development of Nepal and its social, religious and cultural similarities, the interest of India in the on-going rebellion as well as the political wrestling between the Maoist, the King and the political parties has a strong significance. Further, the increased attention of western countries has warned India to come forward strongly so that it can maintain the influence it holds in the Nepal’s internal political affairs as it has done in the past.

The policy and perspective of India towards the Maoist insurgency has been inconsistent over the last one decade. Earlier it had a policy of indifference towards the Nepalese Maoists. However, in the past few years, Nepalese Maoists are playing an active role in revitalising the relation among various leftist insurgents in India and even helping them patch up their differences and unite under a single brand name. Further, the suspected relation of Nepalese Maoists and India’s north-east insurgents has also alerted India. It has
now started to consider such relation and connections among the insurgents as an internal security threat to it and is slowly hardening its policy against the Nepalese Maoists. The arrest of four high level Maoist leaders and many other leaders in various places in India supports this argument. However, the Indian police has handed over some second rank leaders to Nepal Police and is holding some of the top Maoist leaders in Indian custody. Such attitude indicates that the Indian government wants to strengthen its grip on the political dialogue that could take place in the near future by using these leaders in their custody as bargaining chips and compel both the warring parties in Nepal during the peace negotiation to compromise on certain issues that may serve India’s vested interests.

In this context, Friends for Peace (FFP) has realised an urgent need for undertaking a research work on the possible role of international communities, especially of India, in the future peace process for a durable solution of the political stalemate in the country. Though the overall intention is to analyse and discuss the current role played by various countries as well as organisations to resolve the conflict as well as their future possible role, the major focus will be on analysing the Indian reaction as a powerful neighbour (with emphasis on social, cultural, economic as well as political relations between the two countries) on the possible role of international community (the UN, USA, UK, and EU) and its direct involvement in facilitating the future political settlement of the on-going conflict in Nepal. Further, it is interesting to understand the Indian interest on Nepalese politics and how India perceives the on-going conflict situation from its internal and regional political perspective. This book discusses Nepal-India political relation in the historical context, merits and demerits of the past Indian role in political settlement/development in Nepal and also analyses the chronology of India’s involvement in the internal political play in Nepal. It further discusses how India perceives the
political conflict situation and the crisis Nepal is facing and analyses political as well as security implications of Nepal’s conflict for India, especially the bordering states. It also attempts to draw some argument on the ground reality of the policy shift of Indian government in dealing with the CPN-M. The issue of the third party involvement in the peace process and its reaction against the involvement of the UN, USA, UK, EU or China is also discussed. Finally, it also tries to assess to what extent India should be involved in the peace process in Nepal for long lasting transformation of the conflict and what can and should Nepal expect from India to ensure durable peace in Nepal.

Hence, this book discusses four major issues relating to Nepal-India relations that are in the debate once again as a result of the Maoist conflict in Nepal. In view of the socioeconomic, cultural and political relations strongly guided by Nepal’s geopolitical situation it cannot avoid involving India in solving any national crisis, especially that of political nature that has some kind of ramification to India. There is a strong argument among the Nepalese people and well wishers of Nepal that India always wants ‘to fish in the troubled water’ by using its influence over Nepal’s internal affairs since time immemorial. India’s major interest in Nepal are directed by the necessity of power, drinking water and irrigation for its huge and ever increasing population, Nepal’s strategic location as a buffer zone against its long northern border with China, growing internal security threat from the left-wing insurgency in India, their subsequent functional coordination with the Maoist insurgents of Nepal and India’s interest to see Nepal as a market for the economic products from India. In order to get maximum benefit from Nepal in these areas of interest and keep its traditional influence over it, India wants to play a role in Nepal’s conflict transformation so that it might dictate or use influence to include certain terms of negotiation that will be beneficial for its interest in the long term. However,
the advent of globalisation and its effect on political and international relation as well as changed world security scenario in the wake of growing terrorism, political conflicts, civil war and their impact on global and regional security, Nepal has an opportunity to minimise the Indian influence on deciding its future by involving other countries in the peace process also. This book primarily deals with the four major issues that we need to address properly for ensuring sustainable water resources cooperation with India and also at the regional level, a value added Indian role in the future peace process in Nepal, control or regulation of the proliferation of small arms and light weapons in the country and the proper management of the open border between Nepal and India without creating much hindrances to the free movement of their respective citizens and travel to each other’s territory. The papers in this book try to reassess the Nepal-India relation in the conflict perspective and to generate a genuine discussion and debate on Nepal-India relations for the sustainable transformation of conflict in Nepal that benefits both the countries in the long run.
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Introduction
It is now ten years since the Communist Party of Nepal-Maoist (CPN-M) started its People’s War. The government is gradually losing its control in the rural areas. Hundreds of thousands of people have been affected by the retaliatory actions of the insurgents and the government security forces. More than 12,000 people have been killed and thousands of them have been displaced (INSEC 2005).

It is widely accepted that the century old open border between Nepal and India has helped the Maoist insurgents to freely use Indian territory for conducting their struggle, supply illegal arms and ammunition from Indian market and take shelter in Indian territory whenever there is a crackdown on the Maoists in Nepal by the security forces. Besides, the open border has many positive as well

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2. Mr Hari Roka is a freelance political analyst. Currently, he is PhD Fellow at Jawaharlal Nehru University, New Delhi.
as negative social, economic, political and security implications for Nepal and India. In this context, the issue of open border and its possible regulation in the coming days has been, once again, become an issue of debate in the Nepalese political circle. Realising this fact, this paper intends to discuss the issue of Nepal-India border regulation in the light of the Maoist insurgency in Nepal.

The open border between Nepal and India has had a distinct significance in the present day conflict because of Nepal’s geopolitical structure, its 1,751 kilometres long open border with India, the planning and execution of large-scale political movements in the past from the Indian soil and the past experience in which India has played a major role in managing each and every internal conflict/dispute in Nepal.

There are both merits and demerits of the open border. There may be some compulsive factors that necessitate open border. In the context of Nepal and India, the age-old economic, social, cultural and political roots running deep inside each other’s territories are responsible for the creation of an open border.

Some people like to call the border between Nepal and India
the bordering region. But the boundary between Nepal and India is not only bordering region, it is marked by a clear borderline. Besides marking rivers and streams as boundary line, no man’s land has also been created on both sides of the boundary line marked by concrete pillars.

This study centres around the debate on the regulation of Nepal-India border in the context of present day conflict. It is mainly divided into four parts. The first part covers its historical context, the second concerns with the social and political relation between Nepal and India, the third compiles the opinions of the people of border areas as to how the border should be regulated, and the fourth focuses on how the ruling class, intelligentsia and the general people look at the present day conflict and how they feel this can be resolved, and finally, an attempt has been made to furnish some recommendations for the solution of the problem.

**Historical Relations and Border**

Since the high snow covered mountains have distinctly separated the northern border, it was natural for Nepal to have more interaction with the southern neighbour and to develop religious, cultural and linguistic proximity with it. Nepal and India have a 2,500-year-long recorded economic, religious, cultural and political history of friendship. As Nepal served as a transit in the trade with Tibet, Caucasian region, Mongolia and Russia, the Kathmandu Valley and other towns had developed as dry ports in ancient times (Rose 1971).

For natural and environmental reasons, the mid-hill area became the first habitation for the people of Nepal. In the beginning, the people of hill found the Terai\(^3\) impenetrable because of ex-

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\(^3\) The flat land that stretches east to west along the Nepal-India border in the south.
xtreme heat, dense forests and the epidemic of malaria. But it cannot be denied that the plainsmen did inhabit the Terai combating malaria even then. At that time, both malaria and dense forest had served as the defense line of the Nepalese border by discouraging the infiltrators from the south. Following the war of 1814-16, Nepal had to forfeit areas like Saptari, Mahottari, Bara, Parsa and Rautahat in the east and Seoraj, Khajahan, Palhi, Majhkhanda, Banke, Bardiya, Kailali Kanchanpur in the west, areas like Kumaun, Gadwal on the west of the Mahakali River and other territories. However, Nepal’s boundary in the east, south and west became finally settled after the British government returned Banke, Bardiya, Kailali and Kanchanpur districts in accordance with a treaty signed with Nepal during the reign of the then Prime Minister Janga Bahadur Rana. The northern border was finalised through the Nepal-China War of 1791-92 and the treaty of 1961 (Regmi 1988).

Though the issue of delineation of border has been settled, Nepal has not been able to maintain its status of an independent country in diplomatic, economic and political fields. The Nepalese people started their migration to India after the war. The Nepalese government which felt humiliated because of the defeat in the war, started to raise taxes and fill its coffer in the name of preparation for war. The exorbitant tax rate and the high interest loan from the local usurers compelled the people to migrate to India. The flight of the Nepalese people was further precipitated by the East India Company’s recruitment of the Gurkhas in its army and the settlement of Nepalese in the vicinity of the Gurkha regiment (Regmi 1972).

Nepal’s trade was limited to India only immediately before and after the Treaty of Sugauli. When the trade between India and

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4. These five areas were temporarily occupied by the British East India and were handed over to Nepal in December 1816.
Tibet (China) became affected by the war and the border was delineated in the south, the process of settlement in the Terai was expedited. During the last two decades of the twentieth century, Nepal opened its Terai to the traders, farmers and workers from the plains of north India to encourage the clearing of the forest for farming. This is why no difference is found in the colour, language, values and culture among the people living across the Nepal-India border (Rose and Fisher 1970). Because of the common values, culture, way of life and the availability of market for the Nepalese timber, herbs, rice, jute and other forest products the tendency of liberalisation became stronger than building restriction along the border.

Politically, the provision in Clause 7 of the Sugauli Treaty requiring Nepal to obtain permission from Britain to establish relation with the third country had also created difficulty for Nepal (Hussein 1970). Nepal did not even need to think about its southern borders because of her compulsion to become over dependent on Britain in conformity with this provision.

The memorandum signed by Edward Gardner and G Uiles states that it would be impossible to delineate the border without deputing surveyors from both sides to undertake a survey while the 8th point of the same memorandum states that the survey shall be considered to have been accomplished after the signature and the seal of authorised persons obtained in a way acceptable to both sides (Hussein 1970). After 1860, the delineation of Nepalese border was accomplished and the practice of keeping tab on the immigrants was also started with the help of the employees of the customs wherever such

5. After 1816, the then prime minister Bhimsen Thapa had tried to recruit the service of a Frenchman and the British had put this provision in place to lay restriction on this.
customs exist and by the boatmen and the postman who would record the people’s movement and later inform the government (Regmi 1972).

The then Prime Minister Chandra Shamsher set up a police station at Birgunj in 1916 with a view to counter the possible influence of the militants fighting for the independence of India. After three years, police stations were set up in other districts also. In this way police force was systematically deployed along the border only after 1916 from the point of view of the security (Ludwig and Stiller 1993). The British rulers had sent a 12-point agreement letter demanding regulation of Nepal India border to help quell the Indian rebellion. The Nepalese government, however, accepted it to implement it only in a few districts. Later in 1923, the UK and Nepal formally signed an agreement of friendship, in which Nepal’s Independence was recognised by the UK (Wikipedia ND).

Nepal expanded its trade relation with other countries after the Treaty of 1923. As the Japanese goods were cheaper than the British goods, the Nepalese traders ordered Japanese goods, which could be sold in Indian markets also. This is why the Nepalese government kept the relaxation on border intact (Ludwig and Stiller 1993).

6. The terms of the agreement were as follows:
   a) To prepare the list of robbers, criminals and bad characters every six months and hand it over to the police of another country.
   b) If any one in this list crosses the border the border police of other country shall be promptly informed.
   c) A list of persons committing serious crime like theft shall be prepared and handed over to the police of other country.
   d) The superintendent of Indian police and the office of Nepal, 'Amini Goswara shall meet directly in connection with the control of crime and hold necessary discussion on the matter.
   e) The Indian and the Nepalese police shall visit each other’s check posts at least twice a week.
   f) The police of both the countries shall not pursue criminals into the
territory of other country. Instead, they shall duly inform the magistrate of the other country and request the border police to arrest and detain them.

g) In case of serious crime, the police of both the countries shall have the right to enter the territory of the other country. In case of specific types of criminals, the police of one country shall not have the right to enter the territory of another country even if required permission has been already taken from the magistrate of the country concerned.

h) According to the above clause, the criminals thus arrested, should be handed over to the local authorities.

i) If the Indian magistrate of an area requests the help of the Nepalese police in controlling robbery or crimes of serious nature, it should be immediately informed to the Resident.

j) If any incident of robbery takes place in a village, the suspected people of the area should be summoned for interrogation. If such persons are not available in the village, a search should be launched to find them.

k) The individuals and groups with criminal attitude or bad character are found to have entered the territory of the other country; the border police of that country should be informed about this. The police of that country should maintain surveillance over them and when they return, the information of the same should be passed to the police station of the area they live in.

l) In case there is enough evidence of the fact that robbers are taking shelter in a house or the robbed property is being hidden there, such a house can be searched. But such a search should be carried out secretly to ensure that the robbers do not escape or the property shifted to another place.

Of the above clauses the government completely rejected the clause ‘m’ concerning the visit of each other’s police stations, and clause ‘l’ concerning the search of a house. Even in relation to clauses from ‘f’ to ‘k’ the Nepalese government agreed to implement only in some districts. The Nepalese government, however, did not express any objection over clauses ‘f’ to ‘j’.
The Treaty of 1950 and the Efforts for Border Regulation

In the context of small but powerful voice of the Nepalese people against the Ranas\(^7\) after India’s independence in 1947, China’s post-revolution declaration of free Tibet, and the launching of armed struggle by the Nepali Congress to occupy Nepal’s Terai (plain) and other lands, India sponsored a tripartite agreement in 1950 among the King, the Ranas and the Nepalese Congress in conformity with the changing international context and to mitigate the impact of potential communist threat (Rose and Fisher 1970). At the same time, there was another treaty in 1950 between the Indian and the Nepalese governments. According to Article 6 and 7 of the 1950 treaty freedom has been given to the Nepalese to travel, make investment, have domicile, hold jobs, and take up and give service. This is why the question of regulating border never came up for discussion even when the new government was formed. The reason for this was not only the consideration of loss and profit in trade and industrial investment but the concern for how to guarantee the security of India. It becomes clear from Indian Prime Minister Jawaharlal Nehru’s speech of 6 December 1950 in the Indian Lower House and the concern he expressed during his visit to Nepal on 11 June 1959 about the activities along the northern border with China (Bhasin 1994).\(^8\) The Indian

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\(^7\) Jung Bahadur Rana took power from the King through a bloodied coup called "Kot Massacre" in 1846 and he and his 17 brothers and their family ruled the country for 104 years. The 104 years of dictatorship is known as Rana regime in Nepal.

\(^8\) Pundit Nehru was more concerned with security rather than border regulation. At the Indian Lower House of Parliament he said, "as far as Nepal is concerned, we are interested in our security system and the security of the border. This is not very difficult issue but the other side is more difficult. So long as the Himalayas are concerned, they are on the north of Nepal not on the south of it. Therefore, the main fence or wall for India is on the north of Nepal and we cannot reconcile with the idea of anyone coming to Nepal by crossing the frontier."
interest in keeping its border with Nepal open is concerned firstly with its security, secondly with its trade and market and thirdly with the mobilisation of resources. A separate extradition treaty was signed between the two countries on 2 October 1953. This treaty provides for the extradition of criminals who flee to the other country after committing various crimes like murder (Bhasin 1994). In this way, despite efforts to regulate the Nepal-India border as a crime free area, no effort is being made towards practical implementation of the clauses of the treaty until today.

As an effort to preserve Nepal’s status as a free, neutral and non-aligned country King Mahendra removed 14 Indian military check posts from the northern borders in 1969. Since then until the present day, disputes have surfaced at 53 places along 1,751 kilometres long border. An Indian army contingent is stationed at Tinker in Darchula district since 1962 occupying hundreds of square kilometres of land (Shrestha 1997). King Mahendra may have connived at the occupation in reciprocity of India’s ban on the hit and run activities of the Nepali Congress cadres following 1960. That is why he chose to bargain on the border instead of putting restriction and regulation in place.

Till 1960s, 90 per cent of the foreign trade of Nepal took place with India. There was a compulsive situation in which the import and export of consumer goods had to be done from India. The open status of Nepal-India border was considered conducive to Nepal because of the existence of a situation in which an excessive number of Nepalese went to India to work not only in the Indian

9. It states that criminals accused of murder, genocide, attempt to murder, rape, dacoit, highway robbery, arson, desertion from the army, deception in import and export, defaulting while in government office, theft of more than Rs 500, kidnapping, false litigation, corruption and breaking away from custody or jail shall be extradited to the concerned officials of other country.
army and the police, but also to work as watchmen and other seasonal workers.

The Nepalese Maoists, Indian Government and the Treaty of 1950

As the Communist Party of Nepal was established only in 1949, its organisation and role was limited till 1950s. Still, they had opposed articles 2, 6 and 7 even at that time. They argued that the implementation of these articles would allow India to inflict direct and indirect exploitation socially, economically, politically and culturally reducing the country to a semi-colonial state (Shrestha 1997). That is why they were demanding a system of work permit, control of open border, non-aggression treaty, closure of Gurkha Recruitment Centre and the annulment of the Treaty of 1950 (Hachhethu 1999). The Communist Party of Nepal-Maoist which has launched the People’s War since 1996 has said that its people’s government would scrutinise all the treaties and agreements signed against the interest of the people by the old regime with any foreign organisations and the states and will either renew or abrogate them. They have vehemently opposed the Treaty of Peace and Friendship 1950. They have put forward the proposal for establishing a South Asian Soviet Federation\(^\text{10}\) by accomplishing revolution in countries where various communist revolutionary groups are fighting against Indian expansionism saying that it was the main enemy and the principle threat for all the countries of South Asia (Special Central Command of CPN-M 2003).

For some time, the Indian government had not taken the Maoist activities seriously. But it appears to have started to become more

\(^{10}\) It purports to portray the eight countries of South Asia as part of an autonomous confederation just like the states under the former Soviet Union.
alarmed after the Maoists started to expand their activities in the Terai areas. The initiative of the Nepalese Maoist to mediate the difference between the Maoist Communist Centre (MCC) and People’s War Group (PWG) helped foster cooperation, factional unity and reconciliation among the ultra-revolutionaries of Andhra Pradesh, Karnataka, Chhattisgarh, Jharkhand, Bihar, Uttar Pradesh and Uttaranchal (Kantipur 13 September 2004). As the Nepalese Maoists have served as a link between the communist militants of the Nepalese Terai and the North Indian Plains, there is fear at the level of state and central government that the revolt might expand (Subrahmanyam 2004). Similarly, since the Indian government suspects the Nepalese Maoists establishing relation with organisations like United Liberation Front of Assam and the Kamatapur Liberation Organisation of West Bengal which have launched violent struggle with an avowed goal for independence they have started to become sceptical about the open border. This is why the then Indian Ambassador to Nepal and the incumbent Foreign Secretary of India remarked during the then Prime Minister Sher Bahadur Deuba’s visit to India that the Maoist insurgency constituted a threat to both of the countries (Kantipur 11 September 2004).

As a result, India has agreed to extend security assistance for Nepal’s war against terror and to regulate border. An additional 20,000 forces have been deployed in Bihar, Uttaranchal and Uttar Pradesh with a view to put restriction on the Maoists using Indian soil for trafficking small and medium sized weapons, explosive materials, treating wounded militias in border towns of India and to run training camps. The security posts previously set up at the distance of five kilometres have now been brought closer to two kilometres (Kantipur 11 September 2004).

In addition to this, a decision was made during the visit of Nepalese Prime Minister to India to effect coordination between
the districts of the Nepalese Terai and the districts of state govern-
ments of India. It was also notified that decision on this regard
would be taken in the meetings to be held in the near future. But it
is to be seen how the border would be regulated and coordination
between the two countries effected in view of the withdrawal of
the Maoist security contingents from rural areas for fear of the
Maoist attack and their limiting only around the district headquar-
ters. Moreover, it is also difficult to believe that Indians, too, would
be able to regulate the border in the absence of systematic check
posts, regulating offices and other infrastructures along their side of
the border.

People’s War, Migration of the Nepalese and the
Indian Policy
The number of people killed in the people’s war has already crossed
12,500 and the number of the displaced people has been esti-
mated to be in hundreds of thousands (INSEC 2005a). Ordinary
people have been badly affected by the People’s War and retaliatory action of the government. It gradually started to affect the
industries, trade and commerce, agriculture and physical infrastruc-
ture.

Both the state and the Maoists are imposing heavy burden on
the Nepalese people. They had no other option but to migrate from
their native places when they, already pushed to the margin, faced
the threat to their lives. In addition, the week financial condition and
the problem of language they are likely to face in the foreign coun-
try have compelled them to go to India.

It is not strange for the youths to choose flight to escape from
the expansion of Maoist People’s War in villages where the people
are living a marginal life politically and economically and the Mao-
ists are using all kinds of stratagems to lure the youths towards
them. Moreover, no one can deny that the people have the neces-
sity to go to foreign countries for employment as five per cent of the total population is completely unemployed and 32.3 per cent of the people are semi-employed (The Mahbub Ul Haq Human Development Centre 2002). In such a situation, the majority of uneducated people flee towards India.

Of the people who have fled to foreign countries, 591,741 people, i.e. 77.6 per cent of them go to South Asian countries, especially India. But this figure is not reliable. According to a survey carried out in 2000, at least one person from 70 per cent households of Nepal goes to India for employment (Bhattarai et al 2003). In view of this a large section of the working population, i.e. at least 2 million people go to India on a temporary or permanent basis. It is quite obvious that the number has increased with the intensification of conflict. There were 78 thousand Nepalese immigrants in Delhi in 1977. That number is estimated to have reached 250,000 by 2002\textsuperscript{11}. It shows how the problem of immigration has increased and how jobs are growing competitive in India.

In view of the compulsion for the Nepalese people – the young, the old and the children- to go to India for employment has rendered ridiculous the earlier slogans of the Maoists to apply work permit. In a country like India where more than a billion people live, the presence of the Nepalese people will remain insignificant.

Even then, the workers of the Indian states such as Uttar Pradesh, Himanchal, Uttranchal, Kashmir, Haryana, the Punjab, North East and Orissa have started to complain that the Nepalese have been interfering with their employment and jobs because of their willingness to work even for food\textsuperscript{12}. However, no serious trouble has been reported so far because of the willingness of the Nepalese to work in areas such as private and community security guards, dish

\textsuperscript{11} Information provided by Dr Rajendra Ravi, Director of Lokayan, a Delhi based NGO.

\textsuperscript{12} Corroborated by field research.
washing in hotels, cooking and farm work, which the Indian workers generally do not like to do.

For some years, the employment opportunities for the Nepalese people have been gradually shrinking. In a country maintaining a growth of 8 per cent, it is not that there is a dearth of work but the changing technology accompanying the growth is rendering jobs out of the reach of the Nepalese people. As the tendency of acquiring workers through a direct contact with the organised manpower companies is growing, the jobs of the Nepalese looking for employment on individual basis have been threatened.

Till now India has not imposed restriction to the extent of causing inconvenience to the Nepalese people. After the Nepalese government declared the State of Emergency in 2001, the Special Security Board stationed at the border has started to ask for citizenship certificate or work permit. There is not a single day in which the Nepalese people are not harassed by the Indian police that generally asks bribe ranging from a stick of cigarette to thousands of rupees.

The pouring in of the Nepalese workers may not be a big issue for India from where near about 20 million Indian workers have gone to foreign countries for employment. That is why India was not worried about the problem of Nepalese immigrants. As for the concern of the Nepalese government about the mass migration, it never cared about the Nepalese people in the past nor has it shown any such concern now. Further, since those who migrate to India seek employment for their livelihood in India, the Nepalese government is free from its obligation of providing employment to them in the country. The migrants do not become refugees in India. Hence, there is no possibility of international pressure on the Nepalese government to compel it to solve the problem by introducing change in the
state structure. It is possibly because of these reasons that the Nepalese government has not taken the problem of migration to India seriously.

Open Border in the Eyes of the People of the Border Areas

A large number of citizens and indigenous people, who were invited to the Terai to reclaim the forests for farming, sale of herbs, timber, wild animals and the surplus grains, continue to be ignored even today. The Mahantha Thakur Commission and Dhanapati Commission\(^\text{13}\) formed after the restoration of democracy are found to have mentioned that 3.4 million people living in the lower Terai have not received their citizenship certificates. It has not remained unstudied that the growth of the immigrants remained 4.5 per cent during the 25 years from 1958 to 1983 (Gurung 1983). However, the status of migration and immigration- the rate of their growth or decline- has not been investigated ever since; nor has the government tried to implement the recommendations given by the commission. The government has not shown any concern about the border regulation since then. Despite the multiplicity of the problems, no public discussion was ever organised or sponsored to find out their solution.

Many problems have emerged after the government control became nominal owing to the withdrawal of a number of area police stations. Smuggling, drug and human trafficking, abduction, theft, robbery, murders, hiding of criminals, trafficking in weapons and the flight of capital have increased. Failure to regu-

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13. Both the commissions were formed after the restoration of democracy in 1990 and their job was to recommend the ways to the government on how the eligible people could be provided citizenship in a convenient manner.

14. On the basis of interview with Advocate Rameshwor Sedhai of Birgunj and Dr Kulananda Das, Lecturer of Thakur Ram Multiple Campus, Birgunj.
late the border is one of its reasons\textsuperscript{14}. The security system on the border is not adequate. There are also more hassles from the administration in social function such as marriage\textsuperscript{15}.

The open border should not be taken as the cause of the present conflict. Open border is related only with trade and business. It may have some impact but the main problem lies with the state machinery. If this problem is solved, all other problems would be solved automatically.\textsuperscript{16} There is no point in linking with the border the conflict going on at the power centre \textsuperscript{17}. The Maoists are found to have used the open border to their advantage since the very beginning of their People’s War. They have used the border in bringing in weapons and explosive materials, arranging training, transporting their wounded militias to Indian hospitals for treatment, collecting donation from the Nepalese working in India, managing safe passage from Indian territory when travelling from west to east and vice versa. That is why the open border has become helpful in the origin and development of the Maoist People’s War. Since the people living in the border areas are affected the most, an attempt has been made to assess the views of the people living in and around the major entry points, border areas and deeper inside the Nepalese or Indian territories. In this study, questions on the Maoist movement and their trafficking of weapons were asked only after the questions about education of children, marriages, trade and commerce, wage labour, work site, need of an open border or its regulation.

Region-wise, the people of Kakarvitta and Bhadrapur in the east want to see the open border intact, while the people living near

\textsuperscript{15} Based on the interview with Prof Surendra Lal Karna, Cmpus Chief of Rara Multiple Campus, Janakpur.
\textsuperscript{16} Based on the interview with Jagat Prasad Joshi, advocate from Mahendra Nagar Munisipality, Kanchanpur.
\textsuperscript{17} Based on the interview with Rajendra Kumar Singh, an entrepreneur of Jhapa.
Rani check point of neighbouring Morang district want the regulation of border and introduction of work permit. At other places also, the local people are in favour of regulation of border rather than closing it. But the inhabitants living in or around Gadda Chauki in Mahendranagar feel that the introduction of work permit would bring misery to the children, old people, women and youths who are being compelled to enter India in a continuous flow.

In the context of open border, a survey carried out in 2004 with 250 respondents has revealed the following. A survey on the family relation of the Nepalese with the Indian villages on the other side of the border shows that 36 per cent have their in-laws and 44 per cent have their maternal uncles’ house in India. Similarly, the children of 22 per cent of the respondents study in the Indian schools. Eighty-eight per cent respondents cross the border daily to purchase essential commodities.

Fifty-six per cent of the respondents held the open border responsible for the exacerbation of the Maoist insurgency, whereas 44 per cent of them did not think so. Only educated people were asked whether the Maoists brought weapons from India. Eighty-six per cent of them answered in the affirmative, whereas 14 per cent of them were not sure about it.

Similarly, literate and illiterate people were separated to ask the questions concerning the border regulation in the future. Among the illiterate, those who opposed the idea of open border were 16 per cent, those who supported the idea of open border were 84 per cent, those who wanted effective control of the border were 67 per cent, those who wanted introduction of work permit were 40 per cent and most of them (90 per cent) expressed the view that there should be a provision in recording identity on the border. In the same way, among the literate, 32 per cent did not support the idea of open border, 68 per cent said that the border should be open and 75 per cent of them feel that the system of work permit
should be introduced. The literate respondents expressed the view that effective regulation and recording of identity would not carry any significant meaning. All the respondents said that the border check posts were not systematic, corruption was rampant, the custom employees, the army and the police were persecuting the ordinary people and the border was not duly delineated.

In connection with the border regulation, most inhabitants of the border area think that the country should be self-reliant and the goods necessary for the people should be produced in the country itself. In their view, it is pointless to talk about closing the border when we depend on India for everything from ploughshare through salt to fertiliser. But they feel that security is the first priority to defend the people from daytime robbery and occasional encroachment from the relatively undeveloped side of the Indian border.

Those who do not want the border to remain open argue that it should be regulated all over again to make people feel that India and Nepal are separate countries, to control criminal activities taking place because of the open border, to supervise the activities posing threat to national security and to preserve the employment opportunities. But they have no answer as to how this can be achieved.

In the view of those who want open border, there is a risk of people suffering from psychological inhibition and it may have negative impact on the cultural aspects of the society. It will also have serious negative effect on social structure and will do the nation more harm than good.

The negative impact of the Indian blockade of 1989 had been greater in inhabitants of the border areas of the Terai than on the people living in the hills and the hill business centres. It had serious

18. Based on the interview with the people living in the border areas.
19. Based on the interview with Surendra Lal Karna, professor of Rara Campus, Janakpur.
impact on the youths of the lower Terai whose long-term effect is coming to surface at present. The students of the border areas have lost interest in studying in the educational institutes located across the border and marrying with citizens of the other side. During the past 3-4 years, the instances of cross-border marriage have considerably declined. Its various reasons are the breakdown in the law and order situation in Nepal, declining economic condition of the Nepalese people in comparison with the people of India and the gradual increase in the cases of inter-caste marriage in the Nepalese society. In this way one can witness a gradual change in the social and economic values taking place in the villages and towns of the border areas. Still, there are some differences in the views of the old and the new generations.

The People’s War of the Maoists has also been gradually impacting on the general people in the Terai. The well-to-do people of the border areas have been displaced to the city areas because of insecurity. The rural life has been stricken with terror because of the rampant cases of robbery along with an increase in the intensity of conflict.

The people living in the villages and towns on the other side of the border are baffled by the outbreak of violence in Nepal. The people engaged in small-scale business had never seen such a great number of people migrating towards India. It has not only affected the towns along the Nepalese side of the border but has also affected the business activities in the Indian towns on the border. Similarly, the number of pilgrims from India has come down to half causing concern among religious heads of temples, enlightened people and tourism entrepreneurs.

20. Based on the interview with Sitanandan Raya, politician and advocate of Janakpur.
21. Based on the interview with the head priest of Ram Janaki Temple in Janakpur.
The Possible Impact of Maoist People’s War in India

People like Anil Singh and Swarnajit Ray who were previously engaged in the Naxalite Movement in West Bengal of India but are in the non-governmental organisations now feel that the Nepalese Maoist People’s War may have effect on India. In their view, the people gave a lot of opportunity to the centralised parties of North India. In case the Maoists succeed in establishing themselves as the central power, it will have effect on the North Indian politics that has been disintegrated into regional and ethnic levels. In their view, the Maoist People’s War may help bring new transformation in the class perception of the North Indian people who are feeling that their regional and ethnic votes are being dishonoured.

But the regional and provincial governments, leftist and non-leftist political parties having influence on central politics do not see such a possibility as evident from their practices. They feel that a revolt like that of Nepal is not possible in India because the people are relatively accustomed to democratic practice, people’s voices are being heard to some extent and the political parties possess considerable strength.

But the Indian ruling class has become alarmed since the Maoists laid seize on Kathmandu, threatened to close and even sabotaged the industries owned by the King and the multinational companies with Indian investment. The then Indian Home Minister Lal Krishna Advani, in a conference of the Members of Parliament (MPs) of the Bharatiya Janata Party (BJP), said that India should be worried about the growing Maoist insurgency as the alliance of the Nepalese and the Indian Maoists had put the 6 states from Bihar to Andra Pradesh at risk. This comment is enough to understand how serious Indian leaders are towards the Maoist movement (Kantipur
13 September 2004).

In the view of Prof D. L. Seth, Nepal had, has and will have importance for India from the point of view of its security. The Indians carry out baseless propaganda about anti-Indian activities of ISI (Inter-Services Intelligence) of Pakistan because of the existence of open border and the worsening situation of conflict. They are not picking issues just to sell more copies of their newspapers. Such rumours are set afloat from time to time to warn their government and make it take things seriously. Such things help sideline the main issues. So far as Nepal is concerned, security is the main concern of India. If Nepal is not secure, Indian security, too, will be disrupted. It shows that India looks at the activities in Nepal from its own security point of view. The Indian media and the government have been carrying the legacy of Jawaharlal Nehru from 1947 to the present day.

The Indian intellectuals have separate opinion regarding the allegation that India is giving protection to the Maoists. Those who raise such issue should understand that India is an independent democratic republic. Even if the government is not responsible, the people of India will always stand on the side of democracy. Further, there are instances in which the king, the Nepali Congress and the communists have mounted revolt in Nepal taking advantage of the open border existing between the two countries from time immemorial. This being the case, they do not feel it necessary to view the use of Indian territory by the Maoist in the course of their People’s

22. Professor associated with Centre for Social Development Studies, Jawaharlal Nehru University, New Delhi.
23. Based on the interview with C Rajamohan, Professor of South Asian Studies Centre, Jawaharlal Nehru University.
24. Jawaharlal Nehru always considered Nepal as India’s security buffer zone against China.
25. Based on the interview with Yogendra Yadav, a political scientist and electoral expert in India.
Hari Roka

War in a different way. 25.

Hundreds of thousands of Nepalese work in India and the Maoists have established fraternal relation with different communist groups. The Maoists, therefore, may not face too much difficulty even if the CPN-M is banned in India. It is beyond doubt that the treatment of the wounded militias, purchase of small arms and light weapons, arrangement of explosive materials and supply of ammunition to Nepal takes place through the open border. As the weapons are supplied in an organised way under the protection from political level, it cannot be said that full restriction can be laid on it.

Conclusions

The 1,751 kilometres long border between these two countries has remained open ever since it was physically delineated. As the most inaccessible Himalayas lie on the border of Nepal and China, Nepal has not been able to use it properly. On the other side, as there is flat land along the eastern, western and southern borders of Nepal with India, they have received single-handed attention. As Nepal can have contact with the outside world only through India, it may not have shown interest to rethink about the regulation of border in existence for generations. Nepal is regarded to be under practical compulsion to accept the direct or indirect interference of India owing to the age-old traditional relation, open border and the economic, social, political and cultural relations subsisting between the two countries.

The 1950 Treaty between Nepal and India has given freedom to the citizens of both the countries to travel to each other’s country, make investment, set up domiciles and give or receive services. India had its industrial and business interest in keeping the border open and using the Nepalese territory as the “buffer zone” against China. King Mahendra started to remove the 14 military check posts situated along
the northern border with a view to keep Nepal independent, neutral and non-aligned. Since then disputes have arisen at as many as 53 places along the 1,751 kilometres long border. No collaboration has become possible till date to seek solution to these problems. No significant change has been noted in the meaning and usefulness of open border between Nepal and India during the past 50 years since 1950. India has often resorted to pressure on some issues taking advantage of the open border and the compulsive geo-political situation of Nepal. In view of Nepal’s inability to lodge protest with India even when the latter closed borders or shifted marking pillars, there is a big problem in the regulation of border between Nepal and India. India has used the open border with Nepal as a means to serve its vested interest.

The availability of employment opportunities for the Nepalese people in India can be taken as a positive aspect of the open border in view of very limited options for employment and income generation in Nepal. It has also made easier for the illiterate and uneducated youths to flee to India when they are displaced by the conflict that was started a decade ago. In the same way, the open border has also directly helped the ruling class. As hundreds of thousands of people are migrating to India by being displaced from their native places, it has spared the government the economic, social and political inconvenience. If the borders were closed and the displaced were compelled to stay inside the Nepalese border, the situation might have taken a different turn.

For some time in the past, the Indian citizens have been complaining about the heavy influx of Nepalese workers from western Nepal to various states of India, though the Nepalese people are engaged in very low-grade jobs, which are often shunned by the Indian workers. But the possibility of considerable impact on the Nepalese employment market from the entrance of even a small section of Indian population can be taken as the problem created
by the present day status of open border.

Because of the above reasons, the governments formed in Nepal did not consider it necessary to rethink on the various difficulties concerning the provisions of border regulation. As a result, the issue of Nepal-India border regulation never became a topic of discussion. It has, however, figured as a topic of debate in the past few years following the start of the Maoist insurgency. The CPN-M has registered a strong objection to the 1950 Treaty and its provisions. In line with its old habit of fishing in the troubled waters, India had given a free hand to the Maoists to conduct their activities from India for about half a decade since the insurgency started. Similarly, the Maoists had also been smuggling weapons and explosive materials through the open border in an unhindered way. Of late, however, the Indian government has become alarmed when the Maoists of Nepal mediated a unity between the ever-bickering Maoist Communist Centre and the People’s War Group and were suspected to have forged alliance with other outlawed insurgent groups of India.

In view of the above, India has increased its alertness on the border. Similarly, it has dubbed the Maoists as terrorists and has agreed to expand security assistance and regulate border. Of late, it has also laid restriction on the Maoist activities in India to some extent. In this connection, India has also imprisoned a number of Maoist leaders handing over some of them to the Nepalese police and detaining others in Indian prisons for their potential use in its political bargaining in the future. Because of Indian vigilance, it is becoming increasingly difficult for the Maoists to smuggle weapons across the border. Taking advantage of this it appears appropriate for Nepal to introduce some timely changes in border regulation.

But it is not easy to have clear understanding about the situation due
to frequent change of the Indian viewpoint about the Maoists. History tells us that there are instances in which the king, the Nepalese Congress and the Communists have mounted insurgency and revolt by taking shelter in India. In such situation, it is not necessary to take the use of Indian territory by the Maoists in a different way.

A field survey was carried out among 250 people living along the border on the status of open border and its regulation. Similarly, discussion was also held with various people having knowledge on various aspects of the border regulation. Most of them expressed the view that border check posts were not regulated, ordinary people were harassed by custom staff, the army and the police and that the border was not properly delineated. Most of the people living along the border said that the country should be self-reliant and the necessary consumer goods should be produced within the country and their equitable distribution should be ensured. In their view, there was no point in closing the border in a situation when everything from ploughshare to needle has to be imported from the other side of the border. More than half of the respondents shared the view that the open border was also responsible for the expansion of the Maoist insurgency. A majority of the respondents said that the border should be open but a record of the people crossing the border should be maintained. In their view, it is necessary, to regulate the border in a new way to make the people realise that Nepal and India are separate independent countries, to control the criminal activities that are going on due to the existence of open border, to put restriction on activities threatening the national security and to preserve the possibility of employment.

Hence, a special effort should be made to preserve the Nepalese labour market for the Nepalese labourers by bringing about a change in the provision concerning the access to the labour market. Similarly, it has become acutely necessary to develop a border secu-
rity mechanism to control girls trafficking, weapons and drug smuggling, black marketing on timber, wild animals and their organs, cross-border theft and robbery and abduction. An appropriate use of the border existing between the two countries is possible only if the above tasks can be accomplished.

Thus, an open border is not a problem in itself. There are many countries in the world, which have succeeded in promoting their bilateral interest by keeping their border open. The problem generated from the open border could be streamlined and used for the better of both countries and its people by developing a sustainable border management strategy with the consent of both the governments.
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The Indian Nation Daily 22 March 1961.


Introduction
The continuous physical and humanitarian loss taking place in different countries of the world from the proliferation of small arms and light weapons has come as a great challenge. The unchecked spread of these weapons has exacerbated inter- and intra-state conflicts, contributed to human rights violations, undermined political and economic development, destabilised communities, and devastated the lives of millions of people (Small Arms Survey 2005). There are an estimated 640 million small arms and light weapons in circulation. One out of 10 persons of the world population shares a gun (UNDP 2002). Although 8 hundred thousand guns are destroyed in the world each year, 8 million are manufactured each year i.e. 10 guns are illegally manufactured at the place of one destroyed gun (IANSA/Amnesty International/Oxfam 2004). In the same way, about 1 billion 400 million bullets are produced in the

1. I acknowledge the contribution of Mr Chhatra Pradhan as a Research Assistant. I am thankful to Mr Shiva K Dhungana for extensive content editing of the paper. I also acknowledge the contribution of Mr Narad Bharadwaj for editing the language of this paper.

2. Mr Hiranya Lal Shrestha is former member of House of Representatives and currently, he is Royal Nepalese Ambassador to Russian Federation.
world. That means each person of the world population shares 2 bullets. Now, more than 1000 companies in 98 countries in the world manufacture arms and ammunition worth more than US$ 7 billion (Coe, Jim and Henry Smith 2003). According to a statistics of arms/weapons, about 1 million weapons are lost or illegally trafficked each year and one hundred thousand is lost from government bodies themselves. Per minute, one person loses his/her life from the misuse of small arms and light weapons in the world, (IANSA/Amnesty International/Oxfam 2004). An Estimated 5, 00,000 people each year die from wounds caused by small arms. The illegal arms trade market ranges from US$ 2-10 billions (Global Arms Oversight Project 2004; UNDP 2002). It seems that more people have lost their lives due to the proliferation of small arms and light weapons in the world than by the use of atom bomb. So, the United Nations and non-governmental human rights organisations have been launching global campaign to stop the uncontrolled/illicit trade of weapons.

In Nepal, more than 12 thousand people have lost their lives during the last 10 years’ of armed conflict (INSEC 2005). Thousands have been maimed. With the intensification of the conflict, the state or non-state secret agents, organised criminal gangs and international terrorists, all have got small arms or light weapons in their hands. The Nepalese people have suffered much from it. That the Nepalese land has been used as a transit point for arm trafficking and other terrorist activities has been already proved by the hijack of an Indian airliner in 1999 by people loyal to Jaish-e-Mohammed, a Pakistan based terrorist group which supports Muslim separatists fighting in Indian-administered Kashmir. So, for all these reasons, the proliferation of small arms and light weapons has become subject of great concern for the Nepalese people who ardently demand for immediate action to stop it. This issue cannot be ignored from the point of view of regional stability and
peace. This paper purports to start discussions on the proliferation of small arms and light weapons in Nepal and the problems created by it.

The studies and researches conducted in Nepal so far on small arms and light weapons are not sufficient. Therefore, an attempt has been made to shed light on the following points to start an extensive debate to solve the problem by analysing and studying the various aspects of small arms and light weapons.

- Analysing the status of small arms and light weapons in Nepal.
- Identifying their users.
- Analysing the problems brought about by the easy availability of small arms and light weapons.
- Recommending ways to solve the problems.

It was not easy to gather authentic statistics owing to the paucity of published materials concerning small arms and light weapons, lack of authentic statistics and the absence of transparency in the security sector. However, this study has been prepared with the use of the methodology of reviewing published materials, analysing news items about the supply of weapons and their smuggling, interview with the local people through structured questionnaires at various entry points and estimation based on secondary information.

**Gradual Development of Arms and their Supply**

Stone implements were used in the prehistoric period. In the ancient and Middle Ages different wars took place in Nepal. During those periods, weapons were also gradually developed. In those periods the attacking weapons were scimitars, swords, knives, axes, flings, spears, arrows etc. The means of defense were shields, armours, wire garments, metal caps, body armours etc. Among the weapons of ancient and Middle Ages, bow and arrow was...
more effective than sword, knives and others. Swords, knives, axes etc. were used only in wars. But as the arrow could be shot to a long distance, archeries could play an effective role in wars (Manandhar et al 1999).

Guns came into use toward the fag end of the Middle Age. In Nepal guns were introduced in the 17th Century. After King Prithvi Narayan Shah got victory over Kathmandu Valley, an inventory of weapons of Bhaktapur Palace was prepared. The guns found in the palace were Laskary, Jirahi and Jajayal. Among them the four-barreled and fifteen Todawala are especially notable. It is also noted that the guns were manufactured in the Valley. Mention of a pistol has been found in Bhaktapur only. In those days, big arms like cannons were used in Bhaktapur, Lamjung and Makwanpur. After Prithvi Narayan Shah got victory over Gurgin Khan and Captain Kinlock’s army, he snatched their guns. As a result the number of arms rose up. As Prithvi Narayan Shah had imported modern guns or weapons from Benaras (India), it became easy to succeed in the unification campaign (Manandhar et al 1999).

In view of the colonial expansion of British power, the then Mukhtiyar (Prime Minister) Bhimasem Thapa began to modernise Nepalese army. Along with the building of army hierarchy, westernisation began in arms and army dress. Necessary arms for wars began to be manufactured within the country since the time of Bahadur Shah’s regency. Muslim mechanics from India and weapons experts from France were invited to Nepal for manufacturing arms. The arms mechanics were included in army companies. The British themselves had admired that the arms manufactured in Ne-

3. Laskary, Jirahi, Jajayal and Todawala are different type of old fashioned guns found in ancient Nepal.
4. General of the Nawab Mir Kasim Ali Khan of Bengal who had come to try to defeat Prithvi Narayan Shah on behalf of British East India Company.
pal were comparatively of higher standard (Manandhar et al 1999). During Nepal-British war in 1814-1816, mostly Khukuris (traditional Nepalese weapons), cannons and guns were used. Immediately after the war ended, the British began to recruit Gorkhali youths in British army.

Following the rise of Jung Bahadur Rana through Kot Massacre\(^5\), the number of army battalions reached 13 in around 1877. After he returned from visit to Britain, westernisation of army was intensified. That Junga Bahadur had organised militia for the third war with Tibet has been mentioned in Gilder Stone Report of 1874. During the Rana period, the Nepalese youths were recruited in British army to fight for the British in the First and Second World Wars. So, the British used to supply necessary arms and ammunition to Nepal. Clause 5, Schedule 3 of the Tripartite Treaty on Gorkha Recruitment concluded between Nepal, India and Britain in 1947 stipulates about providing help to establish factories in Nepal for manufacturing modern small arms, bullets, supplying military hardwares by planes and other necessary military-wares to Nepal after holding discussions (Bhasin 1991). The first modern arms and ammunition factory was established at Sundarijal during the Rana period. The second modern arms and ammunition-manufacturing factory was established at Bhimphedi, Makwanpur during the Panchayat era.

When it became difficult to control the ‘hit and run’ campaigns launched by the Nepali Congress in 1960s along the southern border and the Khampas (Tibetian rebel ethnic group) in the 1970s along the northern border, the need to modernise the weapons was acutely felt in Nepal. Subsequently, a number of different steps were taken towards this direction.

\(^5\) Through this massacre Jung Bahadur Rana killed all of his political opponents and became the virtual ruler of the country by keeping the monarch under his control.
Users of Small Arms in Nepal

Both the governmental and non-governmental actors and the agents have been using small arms and light weapons in Nepal. Traditionally, the princes, security personnel, high level courtiers, landlords and privileged persons used to have arms like shields, swords, guns etc. After the Gurkha recruitment was introduced in the foreign army some two hundred years ago, some military officials started to come back home with arms on their retirement. The privileged class used to decorate their guest room with swords, shields and guns as a show of the pride of place they occupied in the society. As some ethnic communities of the hilly regions had the practice of firing guns on occasions like marriage and other traditional or cultural functions, blacksmiths used to manufacture small homemade guns for that purpose at their workshop. In the southern Terai region, the well-off families used to possess small arms for the purpose of protecting their property from armed bandits. When we look back, small arms and light weapons are found to have been used for political cause in the anti-Rana revolution of 1950, in the ‘hit and run’ armed campaign conducted by the Nepali Congress after the Royal takeover in 9160, in the armed struggle started in Jhapa by the then CPN-Coordination Committee in the 70s, and in the bomb attacks organised by the Janabadi Morcha (Peoples’ Front) in Katmandu Valley in 1985. But the monopoly of the persons in power and privileged classes over firearms ended since the CPN-M started armed insurgency since 1996. The Royal Palace Massacre\(^6\) of 2001 can be taken as the climax and unexpected consequence of the misuse of small arms and light weapons in Nepal.

\(^6\) On 1 June 2001 thirteen members of the Royal family including the King, the Queen and the Crown Prince were mysteriously killed during a Palace dinner. The late Crown Prince was blamed controversially for the massacre.
There are different armed organisations like the army, the armed police, the Nepal Police, Guruji’s Paltan (the Cheif Priest’s Army) in the country. The number of Royal Nepalese Army personnel has already reached 80 thousand and there is a plan to increase the number to 100 thousand in the near future. So, it is natural for the army to have possessed the same number of arms. The strength of the Nepal Police is 47 thousand and there is a plan to increase the number to 50 thousand. So, the Nepal police also must have about 50 thousand arms in its possession. The number of Armed Police is about 17 thousand and there is a plan to increase the number to 20 thousand. So, the Armed Police also must have about 20 thousand arms with it. There are about 100 army men under the command of the Chief Priest for use in religious and traditional functions. They have only muzzle loaders. The Nepal Police has rifles, magnum rifles, shot guns, pistols, revolvers, horns, gas-guns etc. Royal Nepal Army and the Armed Police have Sub-Machine Gun (SMG), Light Machine Gun (LMG), Self-Loading Rifle (SLR), 2-inch mortars, Sniper Rifles, Pistols, grenades etc. Due to the lack of

### Table 1: The rough estimate of arms and weapons with the government:

<table>
<thead>
<tr>
<th>S.N</th>
<th>Agency</th>
<th>Number of persons</th>
<th>Number of arms</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Royal Nepalese Army</td>
<td>80 thousand</td>
<td>100 thousand</td>
<td>Including the reserve of the old pieces of arms after being replaced by the new ones.</td>
</tr>
<tr>
<td>2</td>
<td>Armed Police</td>
<td>16 thousand</td>
<td>16 thousand</td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>Nepal Police</td>
<td>47 thousand</td>
<td>50 thousand</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>143 thousand</td>
<td>166 thousand</td>
<td>X</td>
</tr>
</tbody>
</table>
transparency and real data, arms and weapons have to be calculated on the basis of the number of security personnel. The rough estimate of the number of security forces and quantity of small arms and light weapons possessed by government at present have been presented as follows:

The Maoists are increasing the number of their arms/ammunition by smuggling from foreign countries, snatching from landlords, robbery, looting from different police posts and military barracks in Dang and Beni. Due to the lack of their transparency, the data on the number of their militia and People’s Army as well as arms and ammunition, cannot be presented accurately. In the areas where they have influence, the Maoists have increased their recruitment with the slogan of ‘one family one people’s warrior’. They have been collecting arms. They have provided arms to 25 thousand ‘people’s fighters’. They have trained to other 50 thousand militias to use landmines, socket bombs, pipe bombs, ambush and other explosives.

In the non-governmental sectors and private security services such as the banks, the guards take twelve-bore and twenty-two bore guns. Many private security service companies have been established for the last few years. A preparation is being made to provide non-governmental security services to different private sectors including industrial security forces. Arms were provided to some villagers’ groups under the controversial village security programme to counter the insurgents. But this has become counter-

7. This estimate is based on: a) Hodbaji hatiyarko (Competition of weapons), Samaya Weekly, Kathmandu, 20 May 2004, b) Shahi Senama dai pritana ra panch bahini thapine (Two divisions and five battalions will be added to Royal Nepalese Army). Space Time Daily, Kathmandu, 9 July 2061.
8. Com. Prachanda in his interview to Janadesh Weekly, 3 November 1998, has mentioned three sources of arms supply: a) looted from enemies, b) produced by the party, and c) purchased from international market.
productive. There were some people having private arms with license. But, when the armed conflict escalated in the country, some of them have handed over such arms to the district administration offices while many of such arms have been taken by the Maoists from the owners. Even today there are some licensed arms with some of the retired security persons and other powerful elites. The then National Panchayat Members and parliamentarians have imported arms with license while returning from foreign visit.9

Because of the open border, the international terrorists have misused Nepal’s land as a transit point for arms trafficking. This land has been used as the meeting point for terrorists and extremist groups. As the South Asia is situated between the narcotic drug producing regions like Golden Triangle10 and Golden Crescent11 (see the map in the following page), smuggling of arms is also related with the smuggling of narcotics. The international power centres have on occasions provided arms to the Tibetan insurgents to conduct campaign against Chinese government in Tibet misusing Nepal’s land. Arms are being trafficked from one conflict ridden South Asian countries to another. The bitter reality can not be denied that Nepalese land has been misused by international terrorists as transit point for arms and narcotics trafficking, conspiracy and smuggling due to inability of Nepalese government to exercise control. Among the non-governmental users of arms, history of organised crimes is very old. It is continuing even today. The criminals, who hunt rare animals, collect important organs of musk deer, smuggle fur and tiger’s bones in the northern region of Nepal, have been using arms. The armed bandits infiltrate the bordering dis-

9. The author himself is a former MP.
10. The large quantity opium producing region located at the triangular border of Myanmar, Thailand and Laos.
11. The mountain corridor of Iran, Afghanistan and Pakistan, where the largest quantity of opium is produced in the world.
districts of Nepalese Terai. The cross border criminals are involved in trafficking of arms along with the narcotic drugs. The latest mode of crimes committed with the help of arms has been to kidnap members of rich families and demand huge money as ransom.

The armed criminals have harassed both the government and the Maoists. There are also fake Maoists who are involved in looting, robbing and collecting money by force. Whenever such armed criminals are found the government or the Maoists have taken actions against them. The Maoists have also given death penalty to some notorious criminals. So, controlling the misuse of firearms is a big challenge for both the government and the Maoists.

**Situation of the Use of Arms after the Start of the Armed Conflict**

The state possesses automatic and advanced firearms. But the public possesses small arms and light weapons like homemade guns, twelve-bore guns, air guns, shotguns, rifles, pistols etc. Maoists started the ‘People’s War’ in 1996 with some homemade guns and some simple guns collected from locals. With the passage of time, they increased both the quantity and quality of their arms. They also increased the number of guerrillas and militias.

At the workshop on the ‘Proliferation of Small Arms and
Light Weapons in South Asia’ held in Sri Lanka in 2000, three main sources of arms supply to the Maoists were mentioned. First, the arms collected from the locals. According to a police record, the Maoists had 165 units of twelve-bore and 150 units of home-made guns up to June 2000. Second, the arms snatched from the police. During the five years period after the start of insurgency, the Maoist collected 310 units of 3.3 rifles, 14 units of 22 bore rifles, 17 shot guns and 35 pistols and revolvers by attacking and looting police posts and individual army men. Third, the most important source is the arms secretly imported from India. Till April 2000, the Maoists looted more than 160 million rupees from different banks and have imported arms from the illegal arms markets of India (Thapa and Shah 2000; Shah 2001).

Immediately after the breach of the first ceasefire, the Maoists collected modern arms by attacking Royal Nepalese Army (RNA) barrack in Dang district. This increased both the quantity and quality of their weapons at once. After the break-up of the second ceasefire, they became successful to collect a lot of arms and ammunition from the attack on army barrack in Beni district. Among several purposes of their attacks, the main is to collect arms and ammunition from the RNA barracks. The Maoists collected 265 units of different types of arms in total from Beni attack. They are 2-inch Mortar 1 unit, LMG 3 units, SLR 35 units, INSAS 20 units, Magnum Rifles 29 units, AMG 25 units, twelve-bore rifles 30 units and shot guns 31 units (Paudel 2004).

The nature and price of the arms the Maoist have possessed can be simply estimated from the following description of arms and the reward the government has announced for any Maoist coming to surrender with arms.

The Maoists attacked Myagdi district headquarters and the RNA barrack by using the arms looted from the RNA in Dang and AK-
Table 2: The description of the rewards to be given to Maoists who surrender with arms:

<table>
<thead>
<tr>
<th>SN.</th>
<th>The government’s description of arms that the Maoists possess</th>
<th>Reward (price per unit) announced by the government to the Maoists who surrender with arms</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>81 Minimi mortar</td>
<td>200 thousand rupees</td>
</tr>
<tr>
<td>2.</td>
<td>40 Minimi mortar</td>
<td>100 thousand rupees</td>
</tr>
<tr>
<td>3.</td>
<td>GPMG</td>
<td>100 thousand rupees</td>
</tr>
<tr>
<td>4.</td>
<td>LMG</td>
<td>75 thousand rupees</td>
</tr>
<tr>
<td>5.</td>
<td>SLR</td>
<td>20 thousand rupees</td>
</tr>
<tr>
<td>6.</td>
<td>SMG</td>
<td>10 thousand rupees</td>
</tr>
<tr>
<td>7.</td>
<td>2&quot; mortar</td>
<td>30 thousand rupees</td>
</tr>
<tr>
<td>8.</td>
<td>Chinese Sniper rifle</td>
<td>30 thousand rupees</td>
</tr>
<tr>
<td>9.</td>
<td>Base set and M-16 rifle</td>
<td>50 thousand rupees</td>
</tr>
<tr>
<td>10.</td>
<td>Galil and INSAS rifle</td>
<td>30 thousand rupees</td>
</tr>
<tr>
<td>11.</td>
<td>SMM pistol</td>
<td>15 thousand rupees</td>
</tr>
<tr>
<td>12.</td>
<td>22 Magnum shot gun, Twelve bore, 22 bore guns, Bawning pistol, loding gun, and air gun</td>
<td>10 thousand rupees</td>
</tr>
<tr>
<td>13.</td>
<td>Chinese pistol</td>
<td>8 thousand rupees</td>
</tr>
<tr>
<td>14.</td>
<td>Revolver and pistol</td>
<td>6 thousand rupees</td>
</tr>
<tr>
<td>15.</td>
<td>Very light postol, (Made at new factory)</td>
<td>2.5 thousand rupees</td>
</tr>
<tr>
<td>16.</td>
<td>The pistol and Katuwra purchased or made by Maoists</td>
<td>1.5 thousand rupees</td>
</tr>
<tr>
<td>17.</td>
<td>3.3 rifles</td>
<td>7 thousand rupees</td>
</tr>
<tr>
<td>18.</td>
<td>66 no. plastic hand grenade</td>
<td>4 hundred rupees</td>
</tr>
</tbody>
</table>

47 rifles received from People’s War Group and United Liberation Front of Assam (ULFA) of India. Looking at the capacity of the Maoists’ arms they have used so far, they have all types of the arms that the RNA has except armoured helicopters (Adhikary 2004).

In view of the expanding activities of the insurgents, it is not unnatural for the government to increase the number of the police and the armed forces as well as the arms and ammunition. Formerly, the government mobilised only the Nepal Police and the Armed Police, but after the emergency was declared, the RNA has been mobilised. The government then began to modernise it, equip it with additional and advanced weapons and military equipment and collect internal resources and international supports. After the terrorist attack on 11 September 2001, the USA began a worldwide watch over the terrorists and gave priority to military support. With the same approach, it began to provide arms, military hardwares and training to the RNA. India and Britain were traditionally giving training along with supplying arms to the RNA. But after the USA began to provide military support, the RNA has increased the quantity and quality of its arsenal. Arms and ammunition began to be imported from other countries as well. The RNA began to play an active role making a plan to equip its soldiers with modern weapons and equipment, increase its number from 75 thousand to 80 thousand men immediately and 100 thousand in the near future. Unified Command\(^\text{12}\) was formed under the RNA.

Now a great change has been affected in the types of personal arms of the soldiers. American M-16 has reached the hands of the soldiers in the process of displacing old weapons. According to the military sources, more than 15 thousand units of M-16 have been imported during the last 3 years. Belgian Minimi Machine Guns,

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12. The Unified Command was created by mixing Armed Police and RNA personnel under army command.
Israeli Galil and Indian INSAS were imported during the same period (Khadka 2004).

**Growing Demands for Small Arms and Light Weapons**

In the context of escalating conflict, it is natural for the demands of small arms and light weapons to increase from both the state and the insurgents. As the police posts have been withdrawn to district headquarters from villages and border areas, it is also natural for the demand of small arms and light weapons to grow from organised criminals. As the Maoists have launched a campaign to confiscate lands from landlords to be distributed to the ethnic people, the poor, the squatters, the landless farmers, and the backward and suppressed people of Terai in return for their help to their party, it can not be denied that the landlords of the area may, in near future, imitate the formation of the ‘Ranavir Sena’, an armed group of Bihar, India, to fight against the Maoists contributing to further intensify the armed conflict. The tribal armed groups are conducting their activities demanding autonomy in the eastern hills. The CPN-M has already organised different ethnicity based regional autonomous governments in most parts of Nepal except Kathmandu Valley. So, it is also possible that the demands for small arms and light weapons will grow further in the future. In China, the warlords had their own military forces before the People’s Democratic Republic was established there in 1949. In Nepal also, there may appear many such armed groups, escalating armed conflict and paving way for anarchy unless the present armed conflict is ended through a proper political solution.

It can be easily guessed from the expressions, demands and activities of the governmental and non-governmental actors that

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13. The illegal armed organisation maintained and led by landlords in Bihar, India. This armed group is always active despite government ban on it.
there will be further proliferation of small arms and light weapons. Following is the brief discussion on this subject:

**a. Growing demand within the state party:** His Majesty’s Government (HMG) of Nepal made a decision in July 2004 to add two divisions and five battalions in the RNA. It had demanded for establishment of additional division to look after each development region and battalion to look after each zone accordingly. Since there is no RNA division to look after the mid western and far western regions, eastern, central and western divisions have been leading the army. Similarly, there is no separate battalion of RNA to look after Mechi, Janakpur, Dhaulagiri, Karnali and Mahakali zones.

The security officials have been complaining that it has become difficult to coordinate security works due to the lack of military organisation in keeping with Nepal’s geographical structure. Defense Ministry argues that it is necessary to add divisions and battalions according to the geographical structure to effect coordination with all other security bodies. Special class major general becomes the chief of a division and first class assistant major general becomes the chief of a battalion. With these additions, now the RNA has five divisions and twenty-two battalions. Formerly, there were only three divisions and seventeen battalions. About 10 thousand posts were opened in RNA in the fiscal year 2003/04 only (Pandey 2004).

The more divisions and battalions are added, the more arms are needed. So, demand for small arms and light weapons in RNA is increasing. It is also easily understood from the import of military helicopters and surveillance planes that the RNA is gradually taking steps towards developing Air Force. During
the last 10 years after the Maoist had started armed insurgency, the number of soldiers has been increased to 75 thousand. It is to reach 1 hundred thousand in the near future. This means, 100 thousand guns will be used to control the Maoists.

The security expense has increased by 300 per cent in the last 5 years. Purchase of war materials and military hardware has increased by 100 per cent. The increase of security budget a high degree is seen in the purchase of arms and ammunition, manpower and military mobilisation (Sapkota 2004). Table 3 clearly shows how the security budget is increasing.

b. Growing demand for arms within the Maoists: The CPN-M has conducted ‘One family, one recruitment’ campaign for the expansion of its’ People’s Army’. The Maoists have issued order in the areas of their hold that one member of each family must join the Maoist guerrilla. The Maoists conducted a campaign in the mid and the far western districts in

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>Police</th>
<th>Army</th>
</tr>
</thead>
<tbody>
<tr>
<td>2053/054</td>
<td>2235</td>
<td>2425</td>
</tr>
<tr>
<td>2054/055</td>
<td>2521</td>
<td>2629</td>
</tr>
<tr>
<td>2055/056</td>
<td>2922</td>
<td>3028</td>
</tr>
<tr>
<td>2056/057</td>
<td>3324</td>
<td>3511</td>
</tr>
<tr>
<td>2057/058</td>
<td>5271</td>
<td>3897</td>
</tr>
<tr>
<td>2058/059</td>
<td>5795</td>
<td>4521</td>
</tr>
<tr>
<td>2059/060</td>
<td>6304</td>
<td>7228</td>
</tr>
<tr>
<td>2060/061</td>
<td>6279</td>
<td>7179</td>
</tr>
<tr>
<td>2061/062</td>
<td>6779</td>
<td>8000</td>
</tr>
</tbody>
</table>

June–July 2004. They also warned the youths of these areas not to go to *Kala Pahad*¹⁴ for seasonal emplyment (Kantipur 10 July 2004). Similarly, the Maoists have begun to force the local youths of eastern hilly districts to join the ‘People’s Army’ (Annapurna Post 20 July 2004). Due to such policy of the Maoists, the number of their fighters is growing day by day. The demand of small arms and light weapons is natural to grow with the increase in the number of Maoist militias.

**Arms Diplomacy**

Whether Nepal should depend forever on any particular country for the supply of necessary arms or it should diversify its source of purchase has remained one of the outstanding issues of arms diplomacy in Nepal. After the start of the Maoist insurgency, particularly after the declaration of State of Emergency and mobilisation of RNA, the subject of modernising security sectors with advanced weapons received high priority. The possibility of arms supply has been one of the main agenda of talks when an influential foreign leader comes to visit Nepal or a high ranking Nepalese official visits an arms producing country.

In the treaties or agreements signed between Nepal and foreign countries, there are some that are concerned with the supply of arms. Among them is the Tripartite Treaty of 1947 on Gurkha Recruitment signed by Nepal, India and the United Kingdom. The schedule 3, section 5 of this treaty mentions that Nepal would be provided help for the establishment of a factory to manufacture all types of modern arms and ammunition. Some military aircraft would be supplied for military transport and the talks about military stores and non-military supply would be held later (Bhasin 1991).

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¹⁴. Certain places of Uttar Pradesh and Uttarakhal of India are called *Kalapahad* (black hill) by the migrants from western hill of Nepal.
According to section 5 of Nepal-India ‘Treaty of Peace and Friendship 1950’, Nepal government has the right to import necessary military hardwares, machines and machinery parts or goods through India for the security of Nepal. The treaty mentions that the two governments would, with mutual consultation, make necessary arrangements for the implementation of this provision. The section 2 of the attached letter to this treaty mentions that while importing arms through Indian land, Nepal shall have to get consent of India and India shall give necessary assistance for easy transport of these arms (Bhasin 1991).

A treaty was signed between Nepal and India in 1965 on the supply of arms. India agreed to provide necessary arms and ammunition, and other military hardwares for the then 17 thousand RNA soldiers. The treaty also mentions that India had given consent to the USA and the UK’s defense related help to Nepal as supplementary to India (Bhasin 1991).

In the background of the intrusion of Nepalese sky by an Indian fighter plane in 1989 and the incidents of plane highjack by terrorists in different parts of the world, Nepal had purchased some modern arms including some ‘air defense weapons’ form China in the form of partial aid. India imposed economic blocked against Nepal to express dissatisfaction towards the import of such arms and weapons in 1989. At the same time the party-less Panchayat System was dissolved and multiparty democracy was established through a joint People’s Movement. In June 1990, the dispute with India was settled during the Delhi visit of the then Interim Prime Minister Krishna Prasad Bhattarai, the status-quo-ante was restored and an agreement was signed to respect the sensitivity of security sector of each other (Bhasin 1991).

In 1991, prior to the visit of India, CPN-UML, the then main opposition party, had given a memorandum the then Prime Minister Girija Prasad Koirala, reminding him not to accept any kind of
security umbrella of any country and not to be involved in any military alliances.\footnote{The letter mentioned the following: a) Since China and India are the only countries with which Nepal shares common border; to enter into alliance with one country is tantamount to declare hostility against another. This is not the era of military alliance either. It is also not necessarily true that one neighbor’s enemy is our enemy also. This is why we should not act like an appendage to the security of others. b) We should not accept the limitation imposed on us by others on the quantity and the types of weapons and other materials necessary for our security. It is for us to decide on the choice and purchase of the weapons we need. External intervention is not desirable. There should be diversification in the supply of defense related materials. To depend only on one side, will be tantamount to entering into military alliance. c) If Nepal is to bring weapons from a third country through the territory of China and India, Nepal will inform the concerned country in accordance with the international practices (1991).}

After the start of the Maoist insurgency, especially after the declaration of State of Emergency, the government began to acquire modern arms and ammunition. Arms diplomacy was re-activated in a new way. During the Nepal visit of the then US Secretary of State Colin Powel and the Indian Defense and Foreign Minister Jasawant Singh, long exclusive discussions were held on the subject of arms and ammunition with the king, the prime minister and the senior military officials. Secretary Powel had agreed to provide two attack-helicopters, but this agreement has not been implemented due to India’s complain. Import of arms and ammunition from the third country has also become complicated due to India’s complaints. India has often been complaining against the import of arms from the third countries citing the provision of the 1950 Treaty. It has been giving pressure to buy India-made arms which are comparatively low in quality and are rather costly (Adhikary 2004).

When Nepal wanted to import advanced rifles from Belgium through Indian sky, the Indian government held the air cargo for
two weeks. Only after arduous diplomatic efforts did India allow to bring these rifles to Nepal (Adhikary 2004). At present, Nepal has imported arms from India, the US, UK, Belgium, Israel, South Korea, Germany etc. It has imported communication materials from China and helicopters from Russia. The diplomacy to keep Nepal dependent on the providers of arms for spare parts and training to handle arms seems meaningful.

Nepal has been able to utilise the time in collecting arms, receiving training, increasing security capacity and modernising security sectors after the start of Maoist insurgency. Human right cells have been established in the RNA and the Nepal Police, and a practice of giving classes on human rights and humanitarian laws has been started for the first time in the history of Nepal because of national and international pressures.

Legal Framework for the Control of Arms
For the first time, arms and ammunition act was enforced in Nepal in 2019 (1963) as an effort to control arms. At present, Arms and Ammunition Act, 2019 (1963) is in force. Before that, ‘Explosive Materials Act, 2018 (1961) was in force to control production, use, sell, transport and import of explosive materials. When the violent armed activities began to widen in the country, Terrorist and Destructive Activities (Control and Punishment) Act 2060 (2004) was enacted through ordinance in the absence of parliament. Mentions about arms control have been made in various rules and regulations relating to police administration. The short descriptions of such acts, rules and regulations have been made as follows:

**Arms and Ammunition Act 2019 (1963):** This Act was framed with the purpose of integrating and amending the existing Arms and Ammunition Act in order to maintain security, peace and order in Nepal. The arms and ammunition as defined by the
Act have been strictly prohibited to sell, keep and carry without permission. If anybody keeps arms or walks with arms without license, any authorised person can arrest him or her without warrant and seize his/her arms. The Chief District Officer (CDO) decides the case. Similarly, there is a provision for stopping and searching vehicles, bags or luggage, boxes and porters if there is any suspicion about their carrying arms and ammunition; and if such arms or related material is found, the concerned person shall be arrested without warrant and the arms or related materials shall be confiscated.

If the date of license of an arm or ammunition has expired or is cancelled or keeping such arm is made illegal by issuing a notice, the owners shall have to hand over their arms to local police office. There is also a provision that the HMG at any time can order confiscation of even licensed arms if deemed necessary for public security.

**Explosive Materials Act 2018 (1961):** This Act was enacted to maintain peace, security and order, and to control production, possession, sale, transportation or import of explosive materials. This Act provides authority to CDO or the concerned police official assigned by him to inspect, investigate, and search such materials, and if found they can be seized, or impounded. The person committing such offence shall be arrested without warrant by police and the CDO shall initiate the case and award punishment.

**Terrorist and Destructive Activities (Control and Punishment) Ordinance 2060 (2004):** As deemed necessary to make a legal arrangement forthwith in order to control terrorist and destructive activities to maintain peace and order in the King-
dom of Nepal and provide security to the general public, His Majesty the King, in consonance with the Constitution and on the recommendation of the council of ministers as there is no session of the parliament, has issued the ordinance. According to the ordinance, weapons mean rifle, gun, cannon, pistol, revolver, machine gun, rocket, rocket launcher, or similar types of other means, machine, equipment, or spare, knife, Khukuri, or any kind of sharp or blunt weapon capable of inflicting injury to the body.

In Section 3 of the Act, terrorist and destructive crime has been defined as follows: i) any act of using weapons, bombs, explosives or any other equipment or a thing with the intention of undermining sovereignty and integrity of the Kingdom of Nepal or disrupting peace, security and order in the Kingdom or in any part of it or at any foreign based Nepalese diplomatic missions, or damaging property or making plan for such a purpose, or act of killing, inflicting injury to any person, firing at or killing people or inflicting damage by using poison in consumer goods or at public places or any of the above mentioned acts of terrorising general public or their free movement or their gathering or ii) any act committed for the above mentioned purpose or intention using or without using any material referred to in the above section or any act of threat by using or without using such or other materials, or similar means to take somebody’s life, inflicting, injuring or causing any damage, or threatening to damage, or using force against anybody at any place or in any means of transport, or terrorising or abducting anybody travelling in a vehicle with or without such means of transport or terrorising with such acts or iii) act of producing any kinds of arms, weapons, or bomb, or other explosive or poisonous materials, supplying, distributing, storing, transport-
ing, exporting or importing, selling, carrying such things, installing them, or knowingly helping in such acts or iv) the acts of gathering people for the above mentioned intention, giving training to them and v) the acts of extorting money or materials for the above purposes, the acts of looting property, besides the acts referred to in Section (2) if any person attempts to commit terrorist act or conspires to commit, or instigates anybody to commit such acts or forces anybody to commit or causes to commit, gathers more than one persons for such purpose or forms any gang or group to commit such acts or orders, directs or assigns anybody to commit or takes part in such acts taking or without taking remuneration or propagates or causes to commit such acts, or puts obstructions on government communication system, such acts shall also be deemed to be terrorist and destructive crimes. But such acts committed under duress shall not be taken as terrorist and destructive crimes.

A legal provision of strict and rigid punishment has been made for such a crime. Besides, if anybody is suspected to have kept any arms and ammunition, bomb, or explosive materials or any person related with terrorists is hiding at any person’s house, shop, store, means of transport or any other place shall be searched at any time by giving notice. If the circumstances are such that the terrorist may abscond, or flee or cannot be arrested, use of necessary force or arms is also mentioned in the Act. The Act has also made provisions to grant authority to declare any area and a person as terrorist affected or terrorist as the case may be and order given to prohibit to carry arms or ammunition, put any person on trial by keeping him/her under study.

Other Acts and Rules: There are also provisions in the acts and rules concerning the administration, police and the army
for controlling, searching and seizing arms. According to Section 17 of the Police Act 2012 (1955/56), the police can without warrant or arrest any person walking at night time without any reasonable cause carrying arms, weapons, or any other tools used in breaking home. According to Section 33(b) of the same Act, if any one sells the government’s and other’s firearm or weapon kept under his care, such person shall be awarded up to 10 years imprisonment or a fine equivalent to 2 years salary or both. According to Section 3 of the State Offence and Punishment Act 2046 (1989/90), if any person collected arms and ammunition, or instigated others to collect them, such person shall be awarded up to 10-year imprisonment. According to Section 5 of the same Act, if any armed insurgency is started from Nepal’s land against any friendly country, or makes an attempt or instigates others to do so, such person shall be imprisoned up to 7 years or fined up to 5 thousand rupees or both. According to Section 6 of the same Act, all the arms, ammunition or weapons used by such persons shall be seized.

**Governmental and Non-governmental Views on Control of Small Arms and Light Weapons**

Through national and international level discussions, mobilisation of pressure, formulation of functional plans and reviews of the control of small arms and light weapons, campaign is being made to get the UN endorse Arms Trade Convention by 2006. The task force for the control of small arms and light weapons under the Disarmament Department of the UN is active as its source of contact. International Action Network on Small Arms (IANSA), Oxfam and Amnesty International are actively lobbying for the control of small arms and light weapons. With the initiative of South Asia Partnership (SAP- Nepal),
seminars were held in Kathmandu in 2001 and 2002. A gathering of participants of the last seminar formed an ad-hoc committee, South Asia Small Arms Network-Nepal (SASA-Net-Nepal). A full-fledged executive committee was formed in 2004 by a gathering of the representatives of Amnesty International, Oxfam-Nepal, Informal Sector Service Centre (INSEC), Institute for Human Rights Communications-Nepal (IHRICON), Groups of International Solidarity-Nepal (GRINSO-Nepal) and other interested agencies and individuals. The concerned organisations have remained active in holding meetings, seminars, conferences, interactions on the necessity for the control of small arms and light weapons.

A meeting was held at the UN in June 2004 for discussions about tracing of small arms and light weapons. Following the meeting, the Nepalese delegates had presented the views of Nepalese civil society at an interaction programme held there by non-governmental organisations. The permanent Royal Nepalese Consular to UN in New York had presented the government’s views at the UN meeting saying that small arms and light weapons had become the subject of serious concern of the entire international community. He said, ‘Nepal is standing against the expansion of small arms and light weapons. The non-state actors possess and use illegal arms. In such situation no peace loving country can support the proliferation of small arms. Illegal armed gangs are killing innocent people using small arms. On that occasion, he also informed the meeting that Nepal was taking necessary step towards formation of a national task force involving different national agencies for the implementation of Plan of Action (POA) to control illegal trade and trafficking of small arms and light weapons. Nepal also seconded the proposal tabled at the UN.

16. The national task force was never formed.
General Assembly held to discuss all the aspects of illicit trade of small arms and light weapons. It was expressed that Nepal was always committed to develop an international machinery to solve the problem of tracing weapons and identifying the illegal small arms and light weapons.

The non-governmental delegates at the UN meeting on the control of small arms gave stress to find solution to armed conflicts through dialogues and consensus instead of military solution. The Nepalese non-governmental delegates also forwarded the proposal saying that the Nepalese people are being tormented by problems of small arms, the foreign countries should also consider the human rights situation in Nepal while supplying arms to the Nepalese government and should take steps to stop illegal trade and trafficking of small arms. As the issue of small arms is directly related to the right of human being to life, this issue should be looked into with humane point of view.

CPN-M is a member of Revolutionary Internationalist Movement (RIM) (Prachanda 1998; Singh 1999). It is also one of the principal members of Coordination Committee of Maoist Parties and Organisations of South Asia (CCOMPOSA), a regional organisation of South Asian Maoist parties. They define the ‘Maoist People’s War’ to be the political movement against the ‘state terror’ for the liberation of the people. As Nepal government is getting help with arms and ammunition from western and southern power nations, so also the Maoists think it natural to have solidarity and mutual cooperation among international and regional revolutionaries in politics, arms and exchanges of other helps among themselves. This view was expressed at the Mumbai Resistant Hearing held by pro-armed struggle parties and in the demonstration held by them in Mumbai to show solidarity with ‘People’s War’ (Nepal Samacharpatra 25 January 2005).
The Status of Arms as Revealed from the Field Survey

A field survey was carried out in Jhapa, Morang, Parsa, Kapilvastu, Rupandhehi, Dang, Banke, Kailali, and Kanchanpur. The survey was conducted at Kakadbhitta/Panitanki, Rani/Jogbani, Birgunj/Raksaul, Krishnanagar/Badani, Sunauli/Nautanuwa, Koilabas/Jaruwa, Nepalgunj/Rupaidiha, Dhangadi/Gaurifanta, and Gaddhi/Banbasa transit points of the above mentioned districts. The places which are mostly used for arms trafficking due to open border and where most of the armed criminal activities take place were selected for the purpose of the survey.

Sixty-two per cent of the respondents said less than 10 per cent of the residents of those areas possess small arms, 24 per cent of the respondents said ten to twenty per cent of the dwellers have such arms and 15 per cent respondents said more than 20 per cent of the residents had small arms. They said most of such arms were illegally imported through the southern open border. In those areas legally owned arms have either been taken away by the Maoists or have bee already handed over to the local administration. When asked about the source of arms, 67 per cent of the respondents said they were brought from across the border, 33 per cent said they are obtained locally from across the border. They said some arms were imported from China and Pakistan. Sometimes, arms are brought from other countries also. As such, arms are imported through licensed sellers, they are owned legally.

When asked about the medium for supply of arms, 49 per cent replied that most of them are brought using agents. Twenty-eight per cent have got them through inheritance from forefathers or relatives. Nineteen per cent bought from retailers and 4 per cent by direct purchase. They said most of the
arms are imported from illegal markets of India. Of the arms owned by the locals 18 per cent are Katuwa (hand made), 17 per cent muzzle loader, 16 per cent twelve bore, 16 per cent 22 bore, and 16 per cent air guns, 4 per cent shot guns, 13 per cent rifles and others.

The respondents said that 27 per cent of arms cost less than 5 thousand, 24 per cent cost 5-10 thousand, 31 per cent cost from 10-20 thousand and 18 per cent cost more than 20 thousand rupees.

The local mechanic used to make arms before the start of Maoist insurgency, but after that they have stopped making small arms due to fear of Maoist abduction and trouble from security forces. However, the Maoists have been making such arms and explosives secretly in the areas of their control. Recently, AK-47, Mousers and LMGs have appeared with the Maoist fighters.

Ninety per cent of the respondents were found against the expansion of small arms and light weapons. According to them, crimes such as robbery, looting, killing, abduction, smuggling, drug trafficking etc are increasing owing to the existence of such arms. It has struck terror in the people who have no arms. More than 70 per cent of respondents said the security, peace and order of the country is deteriorating day by day due to the increasing use of small arms and light weapons. Six per cent of the respondents said the arms have both merits and demerits. According to them, if the arms were utilised within the legal norms, it would make no difference. But if they are imported illegally and used in crimes, it would bring perversions in the society. Thirteen per cent of the respondents said that they had not found any noticeable impact of the arms in the society.

Sixty-five per cent of the respondents have no knowledge about
Thirty-five per cent said they had heard about such programme of the government. Seventeen per cent of them took it positively but 31 per cent said such a programme would not be successful. According to them, if arms were handed over to the people, the insurgents would attack them and snatch the arms. But 52 per cent could say nothing about this.

Ninety per cent of the respondents were found to be unknown about the distribution of arms to the Village Security Forces and 10 per cent of them said they had heard about it but they knew nothing about how many and what types of arms were distributed. Eighty-four per cent of the respondents said they knew about the arms control mechanism of the government, and among them 29 per cent said it was effective whereas 71 per cent said the arms control mechanism was not effectively implemented.

When asked about the ability of local police administration to stop illegal arms trafficking across the border, only 24 per cent said it was successful. Most of the respondents except in Morang district said that the government was unsuccessful to stop illegal arms trafficking.

When asked about the past cases involving the use of small arms, they said that such events were continuously increasing. They also complained about increasing incident of setting up of ambush, bombs and other explosives for the last 10 years. Pressure cookers, sockets, pipes etc were being collected by the Maoists to make bombs.

Most of the respondents said they had no knowledge about displacement of traditional *Khukuri* makers, arms mechanic and

17. Rural Volunteer Security Groups and Peace Committees, also known as Village Security Force or local civilian militias created by Nepalese government to counter the Maoist Militias at civilian level. The government had plans to equip them with arms.
their families, but some respondents of Banke, Dang and Kailali said they knew about displacement of some of these families. Sixty-two per cent respondents said arms were widely used during the election time. Thirty-five per cent said arms are used sometimes and four per cent said they were not used.

Most of the respondents said small arms are brought from across the southern border and used in election time to terrorise voters, threaten them and capture election booths and to protect election candidates.

The survey shows that the crimes such as abduction, smuggling, theft, looting, robbery, killing and girls trafficking were found to be increasing for the past few years. According to the respondents robbery has greatly increased compared to other crimes. Generally, both the Nepalese and the Indians are involved in such crimes. The respondents expressed concern over the increasing involvement of Nepalese citizens in such crimes.

It is found that those who own illegal arms are likely to get involved in crimes. An overwhelming majority of respondents except Jhapa (40%) and Dang (50%) reported the existence of cross border crimes. The respondents viewed that the main factor of the cross border crimes is the open border. The criminals commit crimes on one side of the border and flee to hide on other side. Table 4 shows the situation of the cross border crimes.

According to Table 5, the respondents except in Dang, Kailali, Kapilvastu and Jhapa said the government has become successful in controlling small arms and light weapons.

When asked, forty-four per cent of the respondents said the government would not be successful to curve the increasing misuse of small arms and light weapons, thirty three per cent said it would be successful only if it got help from the local people across the border and twenty-three per cent did not say anything.

Among the respondents, sixty-one per cent said there was no role
### Table 4: The situation of cross border crimes along the Nepal-India Border

<table>
<thead>
<tr>
<th>S.N.</th>
<th>District</th>
<th>Yes (in percentage)</th>
<th>No (in percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kanchanpur</td>
<td>80</td>
<td>20</td>
</tr>
<tr>
<td>2</td>
<td>Kailali</td>
<td>100</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>Banke</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>4</td>
<td>Dang</td>
<td>100</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>Kapilvastu</td>
<td>80</td>
<td>20</td>
</tr>
<tr>
<td>6</td>
<td>Rupandehi</td>
<td>62</td>
<td>38</td>
</tr>
<tr>
<td>7</td>
<td>Parsa</td>
<td>75</td>
<td>25</td>
</tr>
<tr>
<td>8</td>
<td>Morang</td>
<td>67</td>
<td>37</td>
</tr>
<tr>
<td>9</td>
<td>Jhapa</td>
<td>40</td>
<td>60</td>
</tr>
</tbody>
</table>

*Source: Field Survey, 2004*

### Table 5: Shows how much the government has been successful in controlling the small arms and light weapons.

<table>
<thead>
<tr>
<th>S.N.</th>
<th>District</th>
<th>Unsuccessful (in percentage)</th>
<th>Successful (in percentage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kanchanpur</td>
<td>100</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>Kailali</td>
<td>40</td>
<td>60</td>
</tr>
<tr>
<td>3</td>
<td>Banke</td>
<td>80</td>
<td>20</td>
</tr>
<tr>
<td>4</td>
<td>Dang</td>
<td>25</td>
<td>75</td>
</tr>
<tr>
<td>5</td>
<td>Kapilvastu</td>
<td>43</td>
<td>57</td>
</tr>
<tr>
<td>6</td>
<td>Rupandehi</td>
<td>71</td>
<td>29</td>
</tr>
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<td>7</td>
<td>Parsa</td>
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<td>8</td>
<td>Morang</td>
<td>67</td>
<td>33</td>
</tr>
<tr>
<td>9</td>
<td>Jhapa</td>
<td>50</td>
<td>50</td>
</tr>
</tbody>
</table>

*Source: Field Survey, 2004*
of non-governmental organisations in controlling the misuse of small arms and light weapons whereas other twenty-nine per cent said non-governmental organisations had also played a role in controlling it. Most of them argued it was necessary to mobilise people for creating pressure to stop misuse of small arms and light weapons.

While carrying out the field survey in Janakpur in the south and Kodari in the north, it was known that small arms, however enter through the main points but are imported through different by-passes. The Tibetan Khampas had secretly collected arms in the northern part of Nepal to fight against China. They are now supplying the same weapons concealed so far to the Nepalese insurgents for money. Similarly, the small arms which were being used by the poachers to smuggl fur, musk deer, tiger-bone etc. are now being supplied to the insurgents. Not only this, the drug smugglers are also supplying arms to the insurgents for making fast money. So, in last June, the joint meeting of Nepalese and Chinese security officials agreed to take stern steps to fight against smuggling of drugs and small arms (Kantipur 26 May 2004).

After the attack on Yadukuha Police Post of Janakpur by the Maoists and the subsequent government withdrawal of other police check posts from the border areas to district headquarters, it has become very easy for the arms smugglers to transport arms to hilly regions along the bank of Kamala River. The traditional practice of making local arms is also thriving secretly in some areas even today. The arms sold in illegal Indian markets are also being supplied by smugglers through the open border in the southern. Nowadays, the subject of controlling cross border crimes and arm trafficking has become the main agenda of the regular joint meetings of Nepal-India border administrators and security officials (Kantipur 8 July 2004). The smuggling of arms has not been stopped anywhere in the world without the cooperation of neighbouring countries and border regulation.
Landmines in Nepal

It would be contextual to mention in passing the use of landmines while studying the problems of the proliferation of small arms and light weapons in Nepal. During the on-going armed conflict, a lot of people have lost their lives and properties ruined from the misuse of explosives and landmines.

The use of landmines, that is the act of setting up of explosives under or over the ground, near or on the surface of land with a view to explode them by means of a contact or proximity of people for causing death or injury, damaging property, displacing the people and destroying development infrastructures and so on, has increased in Nepal. It has become as a serious challenge to the government to impose ban on such acts.

Since the start of armed conflict between the state and Maoists in 1996, the use of landmines has been increasing gradually. The landmine-affected areas are expanding day by day. Many of innocent people have become victims of the landmines. The data of the victims of landmines since 1998 has been given below:

Looking into Table 6, the tendency of using landmines is found to be increasing. The numbers of victims is also found to be increasing.

In Table 7, of the victims of landmines, the number of the general public, the security personals and the Maoists have been given below:

According to the Table 7, the number of landmine victims among security personnel and general public is increasing each year but the number of Maoists has remained low. It is clearly understood that the Maoist use landmines for defense and attack and the security forces use them for defense of their barracks and security posts but the general publics have become victims innocently.
Table 6: The victims of landmines in Nepal (1998-2004)

<table>
<thead>
<tr>
<th>S.N</th>
<th>Year</th>
<th>No. of victims</th>
<th>No. of survivors</th>
<th>No. of dead</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1998</td>
<td>43</td>
<td>32</td>
<td>20</td>
</tr>
<tr>
<td>2</td>
<td>1999</td>
<td>53</td>
<td>34</td>
<td>19</td>
</tr>
<tr>
<td>3</td>
<td>2000</td>
<td>182</td>
<td>76</td>
<td>106</td>
</tr>
<tr>
<td>4</td>
<td>2001</td>
<td>424</td>
<td>210</td>
<td>214</td>
</tr>
<tr>
<td>5</td>
<td>2002</td>
<td>720</td>
<td>518</td>
<td>202</td>
</tr>
<tr>
<td>6</td>
<td>2003</td>
<td>731</td>
<td>535</td>
<td>196</td>
</tr>
<tr>
<td>7</td>
<td>2004 up to June</td>
<td>976</td>
<td>696</td>
<td>280</td>
</tr>
</tbody>
</table>


Table 7: Classification of the victims of landmines (1998-2004)

<table>
<thead>
<tr>
<th>S.N</th>
<th>Year</th>
<th>No. of victims</th>
<th>No. of general public</th>
<th>No. of security personnel</th>
<th>No. of Maoists</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1998</td>
<td>43</td>
<td>23</td>
<td>20</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>1999</td>
<td>53</td>
<td>19</td>
<td>32</td>
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<tr>
<td>3</td>
<td>2000</td>
<td>182</td>
<td>62</td>
<td>117</td>
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<td>2001</td>
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<td>6</td>
<td>2003</td>
<td>731</td>
<td>225</td>
<td>452</td>
<td>54</td>
</tr>
<tr>
<td>7</td>
<td>2004 up to June</td>
<td>976</td>
<td>432</td>
<td>392</td>
<td>152</td>
</tr>
</tbody>
</table>

Source: Ban Landmine Campaign Nepal, 2004
Table 8 shows that the number of landmine victims among the general public is higher among adult men than of women and children as the adult men walk out more than women and children. But the number of children and women victims is also increasing each year. As the landmines used in armed conflicts in different places have not been removed or neutralised, innocent women and children have become victims unknowingly while playing with or stepping over them.

According to the statistics presented by Deputy Superintendent of Police Rana Bahadur Chanda at the National Seminar on Landmine and Impairment in 2004, more than 500 police personnel had become victims of landmines by 2003. Out of them 33 per cent lost their life and the rest 67 per cent suffered mutilation and incapacity.

The families of those who lost life from landmines have been living in miserable condition. The number of widows and the helpless is growing. Those who have become unable and physically impaired are not only passing their life in misery but have also made

<table>
<thead>
<tr>
<th>S.N</th>
<th>Year</th>
<th>No. of general publics</th>
<th>No. of children</th>
<th>No. of females</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1998</td>
<td>23</td>
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Source: Band Landmine Campaign-Nepal, 2004
their dependents miserable. If one person in any family loses a leg, other four persons need to look after him/her. So the use of landmines is inhumane. According to a news published in 2004, the problem of landmines has become serious in nine countries of Asia including Nepal.

Conclusions and Recommendations

A serious problem has been created by the increasing use and proliferation of small arms and light weapons in Nepal. The events of abducting, torturing and killing of people on the basis of ideological differences are mounting. Social crimes persist. Criminalisation of politics is also increasing. Both the state and the insurgents are resorting to militarisation. Taking advantage of the weak situation and anarchy, organised criminals are escalating their criminal activities.

There are various instances of using small arms in committing criminal activities in Nepal. The hijack of Indian Airlines on Kathmandu-Delhi flight, the mysterious murder of the then lawmaker Mirja Dilshad Beg, who was suspected of having relation with international criminal gang, in the Capital, finding of huge quantity of explosives, counterfeit foreign currency and narcotic drug etc on different occasions, make it clear that small arms and light weapons are widely used in Nepal. Suspected foreigners also often enter Nepal through southern open border to use it as their hiding place. Nepal has been used by international criminals as a transit point as a result of which illegal dealing with small arms and light weapons is growing in Nepal.

Although, small arms have been used from time immemorial, it was limited only to cultural and traditional functions before. There was a practice of legally keeping small arms as part of luxurious living and for hunting and personal security by some well-to-do people in Nepal and this practice is continuing even today. The use
of small arms and light weapons took a political form towards the end of Rana regime. Small arms and light weapons were used in the revolution of 1950. Light weapons were used in the ‘hit and run’ campaign conducted by Nepali Congress, in the 1960s, in the political campaign conducted by the then CPN-Coordination Centre in the 1970s and the bomb blast orchestrated at different places including Kathmandu Valley by the ‘Janabadi Morcha’ in 1985. Since there was no tradition of handing over the arms and weapons even after the end of hostilities, the proliferation of small arms and light weapons continued in secret. The use of small arms grew more in the open environment after the political change of 1990. During the Panchayat era, the leaders used to take help of armed gangs during election time with the intention of bringing election results to their favour by force. The same tradition flourished more after the change in 1990. Political criminalisation grew more, especially, along the southern border during the election when armed gangs were used to capture election booths. In this way some secret relations were forged between criminal gangs and the politicians.

There are various instances of amnesty given to different national and international criminals who are under the protection of influential persons, high-level politicians, and bureaucrats. The coming of the notorious international criminal Charles Shobhraj in Nepal and his arrest and the mysterious release of the notorious international narcotic drug smuggler Gordon Williams Robinson by the Supreme Court are the facts, which corroborate this. It was found that Charles Shobhraj was given VIP treatment in the prison in Nepal by the jail authority ignoring the law and also given three lines of telephones for his personal use inside the prison cell. Similarly, the controversy surrounding the pre-planned release of Robinson from the prison within minutes of the controversial decision involving two judges of the Supreme Court and their subsequent resignation as a fall out of the decision to avoid the action by the Judicial Coun-
cil was shameful incident in Nepal’s judicial history.

The dissatisfaction caused by social injustice, deep-rooted exploitation in the society, oppression, discrimination and injustice to the ethnic people and classes, lack of economic opportunity to backward and unemployed people, the wretchedness and misery has taken a violent political form now. Because of the Maoist violence and the counter violence from the government security forces, a competition is going on to collect modern firearms and to increase their military strength. The open border and illegal arms markets of India have facilitated the armed insurgency to become more violent. Trafficking of small arms and light weapons has become rampant. It is certain that the more extreme and militarist the Maoists and the state become, the more dependency grows on arms and ammunition. The arms trafficking have escalated taking advantage of the fragile situation and anarchy.

Organised crimes have further increased after the withdrawal of police posts from border areas and villages to district headquarters. The criminal activities such as abduction, robbery, looting, drug smuggling, girls trafficking etc are increasing. The criminals, who are engaged in smuggling of rare wildlife products like musk, fur, tiger-bones and rare herbs, woods etc, also carry small arms and light weapons. The crimes of raping women at gunpoint are increasing. The organised crimes like looting, robbing, extorting by impersonating Maoists have arisen as great problems for not only the government but also for the Maoist insurgents. So, it has become urgent for all the sides to be careful that the small arms and light weapons do not reach the hands of the organised criminals.

For the last few years, the use of landmines has created a serious humanitarian problem in Nepal. A large number of innocent women, children, and general public have lost their lives or have suffered physical disability. This type of inhuman crime is ever increasing.

As the help of neighbouring countries is necessary to stop all
kinds of crimes including international terrorism and trafficking of small arms and light weapons, a new border management and control system should be made and implemented. The South Asian countries should sign a protocol at regional level relating to control of small arms and light weapons. SAARC Police (SAARC-Pol) should be formed and mutual exchanges of information and help to one another be maintained. It has become urgently necessary for all the neighbouring and friendly countries to give up the tendency of ‘fishing in the troubled water’. It should be realised that peaceful, stable, democratic, transparent and prosperous neighbours would contribute to their own prosperity and stability. The international level arms manufactures and black-money minters through illegal arms trade should be brought to book. The UN decisions and Action Plan to control the proliferation of small arms and light weapons should be fully abided by. The world community should endorse and bring into force the UN Convention on Illicit Trade in Small Arms and Light Weapons by 2006. It is not unnatural to have interrelation between international terrorism and illegal arms trafficking. So, the protocol against terrorism signed by Nepal with the UN and the SAARC should be put into effect. Without such means prevention of the proliferation of illegal small arms and light weapons is impossible.

It has become necessary to take various steps including ban on landmines to save Nepal from being a failed nation trapped in violence, murder and destruction.

The best way towards this direction is to reach consensus between the state and the Maoists through peace talks and ceasefire. Until such situation is brought about, the state and the Maoists should sign an agreement not to violate human rights and not to use landmines and other explosives. Both sides should show commitment to abide by the Geneva Convention through practice. Instead of seeking military solution, both sides should be committed to
bring stable peace in the nation through political, economic and social transformation. An agreement should be signed by both the conflicting sides mentioning clearly the points that Nepal should sign the international convention to ban landmines, all the landmines should be removed, the victims should be provided with financial help and resettlement. Besides, steps should be taken to stop the proliferation and use of small arms and light weapons including explosives and landmines. For this, civil society, other national and international organisations should lobby and create pressure.

It is necessary to end the conflict through good governance and political solution along with socioeconomic transformation to accomplish the task of halting proliferation of small arms and light weapons. The international communities should make human rights situation a parameter while providing arms and ammunition to Nepal. Mainly a situation of democracy and pluralism should be developed where every body is committed not to suppress, kill or hate political opponents. Political solution should be found out through dialogues and consensus based on the coexistence of all political forces. The subject where to dump the arms and how to employ the ex-combatants should be one of the agendas of the peace talks. All sides should take conscious steps at all level for the prevention of the proliferation of small arms and light weapons. For this some recommendations have been given below:

1. **Responsibility of the State:** The three organs of the state the Legislative, the Judiciary and the Executive have an important role for preventing proliferation of small arms and light weapons.

   **The Legislative:** To prevent the proliferation of small arms and light weapons the House of Representatives should formulate necessary policies, amend old provisions and enact new
legal provisions, ratify international conventions, impose ban on illegal making and selling of arms, enact provision for compulsory registration of arms, make provisions for compulsory registration of companies which manufacture and sale arms with transparency in commission and taxes, incorporate or cause to incorporate the legal provisions for extradition of arms traffickers in the extradition treaty.

The Judiciary: To award severe punishment to those who make weapons illegally and misuse them. Declare international arm-trafficking an organised crime. To issue mandamus to implement arms blocked in the troubled areas, and to award harsh punishment to illegal arm suppliers.

The Executive: To take a rigid step to prevent illegal arms trade, systematise border and transit points, validate marking and registration of arms while importing, seize and destroy unregistered and smuggled arms, form responsible national commission for prevention of the proliferation of small arms and light weapons, collect data and publish information on all the government and private sector arms and ammunition, make rules to prevent touching arms in drunken condition, prevent secret making of arms in any part of the country, make arrangement for prevention of cross border crimes including trafficking of arms and narcotic drugs, control organised crimes in consultation with neighbouring countries, reward those who surrender arms, give instructions to security personnel to respect human rights etc. Killing anybody with impunity in the excuse of skirmishes or encounter should be totally prevented.

2. Responsibility of the Government and the Insurgents: It will be the best way for both the state and insurgents to
take step towards finding political solution by declaring cease-fire, holding dialogues and creating consensus. Even if the armed conflict could not be stopped, both the sides should sign the Geneva Protocol and respect human rights and abide by the international humanitarian law. In the context of abolition of the provision of death penalty after the 1990 People’s Movement in Nepal, the insurgents should also revoke their practice of killing others in any excuse or on any charge. For the interest of the nation, an alternative way of launching joint peaceful movement should be developed to prevent possible foreign military intervention and foreigners’ entry in our country. Even if there are ups and downs at the negotiation table, people should be mobilised for forward-looking changes without breaking ceasefire. Both the state and the insurgents should soon realise that military solution is impossible, and that a political solution should be sought. Only then it will be possible to prevent the proliferation of small arms and light weapons.

3. Responsibility of the Political Parties: The political parties should, instead of hankering after power, try for peaceful solution and join hands with all the political forces for the establishment of peace and democracy. They should jointly call the CPN-M for talks assuring that they have whole-heartedly accepted the Maoist’s justifiable demands and agendas for social transformation and that they will go head together for its implementation. They should also express the commitment that they will not repeat the mistakes made during the last 13 years. If peace, political coexistence, democracy and national reconciliation are given priority, the proliferation of small arms and light weapons will certainly be prevented.
4. **Responsibility of the Civil Society:** The general public have become the main victims of the proliferation and misuse of small arms and light weapons. Among them the number of women and children is larger. So, the main agenda of the civil society should be peace. The civil society should create a wave of movement for the establishment of peace. It should be strongly accepted that to glorify arms and violence is to devalue human life and its existence. The civil society and human rights organisations should, without behaving like spokespersons of any conflicting side, raise strong voices against the extremist thought trying to find military solution of the present day problems. They should create pressure for dialogue, consensus and national reconciliation. A concerted effort for peace should be made and an effective national peace commission should be established by the civil society. The civil society should also play an effective role to narrow down the gap between the conflicting sides. A massive pressure should be created to convince the conflicting sides about the futility of arms and the greatness of wisdom.
References


Kantipur Daily. 8 July 2004.


Abstract
When historians look back at the Nepal of the mid-1990s, they see it as a watershed for a variety of reasons; some positive but others so negative they dragged Nepalese politics and society into violent conflict. One major event was the World Bank’s decision, after much public debates, not to fund the Arun III hydropower project. In the aftermath of the Bank’s withdrawal, in August 1995, Nepal’s hydropower terrain moved onto a pluralistic path, which indicated that a paradigm shift had begun. In January 1996, Nepal and India initialled the Integrated Treaty on Development of the Mahakali River (ITDMR), in which the Pancheswar High Dam is a major focus. On 12 February the same year, the prime ministers of Nepal and India re-signed the treaty in New Delhi. The next day CPN-Maoist declared it’s ‘People’s War’ in Nepal. The Mahakali Treaty was construed as a landmark instrument designed to herald a new and prosperous future for Nepal, and in September, Nepal’s second parliament ratified the treaty by a over two-third majority, as stipulated by Article 126 of the Constitution of the Kingdom of Nepal 1990. This Article

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requires that all treaties, which have a long-term, serious and pervasive impact, be ratified in this way. The treaty specified that the Pancheswar Dam would be completed eight years after the Treaty was signed. Today, eight years after ratification, the Treaty’s provisions have still not been implemented. At least on the Nepalese side, the issue of parliamentary ratification hangs like a sword. Instead of finding the promised new dawn, Nepal has become entrenched in violent conflict and political crisis. What went wrong? This paper attempts to tease out some lessons from these events and explore the contours of a less dispute-ridden cooperative path along which to develop and manage the country’s water in a socio-environmentally viable and economically sustainable manner. It suggests that such a path needs to be pursued in a pluralistic policy terrain and to employ a problem-solving mode to build the livelihood of the people of Nepal and India who live in Ganga basin.

**Upstream vs Downstream Contentions**
The Ganga River and its tributaries have sustained the vast majority of people living in the eponymous basin for thousands of years. The rivers have supplied food and drinking water, and in its ever-changing seasonal scenes along its entire length, even provided poets, writers and painters with boundless inspiration. Commerce has prospered along the banks and navigable courses of the watershed. Empires have risen and fallen along it, and spiritual thinkers have realised the sublime reality by meditating at holy places on its banks. Many believe that their last mortal remains should mingle with its flow. This is the gist of a piece of writing by former Indian prime minister Jawahar Lal Nehru on the essence of the Ganga River. The notion of the universality of water embraces the people of the region sharing a common hydro-ecology. Rivers have economic, religious, cultural and social importance; they influence the daily lives of millions. They also involve a political aspect, wherein the use of
river water is regulated by negotiations among various users, including neighbouring countries.

The rivers of Nepal, which constitute the major tributaries of the Ganga, flow through the Indian states of Uttar Pradesh, Bihar and West Bengal, before joining the main stem. Flowing through the deltaic country of Bangladesh, the Ganga joins the Brahmaputra and the Meghna rivers and eventually empties into the Bay of Bengal. Every year the rivers dump a colossal amount of water into the sea, but the flow shows seasonal and spatial asymmetry. Most flow takes place in the four months of the monsoon, which also is one cause of flooding in the region. Governments have tried to balance out this asymmetry by modifying the stock and flow of rivers with the help of physical structures like barrages and dams, but this approach has been riddled with uncertainties and unmet expectations. The Ganga and its tributaries also transfer a prodigious amount of sediment from the inland landscape to the sea.

These rivers face the serious stress of change. Their resultant degradation threatens the sustenance base and livelihood of communities that depend on them. The incidence of polluted and dried up rivers, depleted groundwater tables, poor access to drinking water, unreliable irrigation, and lack of access to energy is widespread. These adverse outcomes result from many factors, ranging from local to regional, national and even international, all of which interact with social and political realms. The governments’ focus on implementing projects at local, regional and national levels aims to increase water supply and distribution but they have not yielded the desired benefits. Issues of the international level are related to inter-state relations between countries, including developing an understanding of the dynamics of ongoing changes within which water is a key element. Interactions among activities at different levels and scales are, however, poorly linked, in both concept and operation. In addition, disputes over
how water should be shared and distributed among various users exist at all levels. Users of a river, who live in the upstream and downstream regions (individual farmers of states and nations), have always had different opinions about how a river is shared. Many times, these disputes are engendered by geopolitics and overlook informed decisions about what ought to be done to make the lives and livelihood of the dependent people secure.

Dixit et al. (2004) conceive the relationship between Nepal and India on water cooperation in terms of (a) river water treaties and projects (b) hydropower development projects (c) electricity exchange (d) water education (d) flood forecasting and (e) human-induced inundation in Nepal along the border with India. The first river water sharing agreement between Nepal and India concerned the Kosi River and was signed in 1954. This treaty included provisions for flood control, irrigation and hydropower generation, areas that were seen as benefits for both countries to share. The treaty paved the way for building the Kosi Barrage close to the India-Nepal border town of Hanuman Nagar. In Nepal, the agreement instigated political debates. Opposition parties questioned Nepal’s loss of control over its water rights and claimed that the agreement was a sell-out to India. The Kosi Agreement was revised on 19 December 1966, and validated for a period of 199 years from that date. The next cooperative project signed governed the design and implementation of a barrage on the Gandak River in 1959. This treaty, which promised irrigation and hydropower benefits, was revised in 1964, at which point Nepal got the right to upstream water withdrawal and trans-valley use for irrigation and other purposes. Like the Kosi, the Gandak Treaty also sparked controversy in Nepal as it was seen as an unequal deal.

3. To that end the treaty specifies that a separate agreement for the dry season from February to April is needed.
The history of water sharing however is much older. The governments of Nepal and India began sharing river water in 1920, when an agreement to build the Sarada Barrage in Nepal was concluded between the Allahabad Presidency and the Nepalese Rana Prime Minister Chandra Shamsher. Nepal used its share of water from the barrage in 1980 when the Mahakali Irrigation Project was built. Few years later National Hydro Power Corporation of India began designing the Tanakpur Project in the section of the river downstream of Brahmadevmandi where the Mahakali River debouches into the plains. This barrage project became an issue of intense debate in Nepal from 1990 till 1996, when the Integrated Treaty on the Development of the Mahakali River (ITDMR) was signed between Nepal and India. The ITDMR’s premise is that by constructing the 315-metre-high Pancheswar High Dam, power and irrigation benefits would be derived for both countries (Gyawali and Dixit 2000). The project would have an installed capacity of 6,840 MW, will generate about 10,000 GWh of energy annually and will offer the potential of irrigating 1.6 million ha land in Uttar Pradesh and 93,000 ha in Nepal (Dixit et al 2004). It is estimated that flood control benefits will amount to 3.7 per cent of the total benefits that will accrue from the project (Shrestha 1997).

Political History of Sarada/Mahakali Project
Though ITDMR makes provisions for benefit sharing, uncertainties about how benefits will be allocated remain. Also the fanfare and hype with which the treaty was signed in 1996 lie in tatters in Nepal’s changing social, economic and political landscape. In order to understand the motives of the hierarchic departments in Nepal and India in signing the ITDMR that aims to build the Pancheswar Project, a discussion of the history of the Sarada River is useful.

After the completion of the Upper Ganga Canal (UGC) in 1854, the East India Company began building irrigation barrages in
the Indus River in order to irrigate the western plains. About the same time, a proposal was put forth to use the water of the Sarada River (the Mahakali in Nepal) to irrigate land in Awadh. The Mahakali River drains west Nepal and the hills of Kumaon and debouches onto the plains at Brahmavedvandi along the border of Nepal and Uttar Pradesh. The proposal for a canal was first put forth in 1869, 12 years after the Lucknow Rebellion⁴, but it did not receive local support as the talukdars (local revenue collection officer) of Awadh opposed it. In 1872 they submitted a petition against the project to the government of the United Province arguing that groundwater wells already provided water for irrigation to the region and that the proposed canal network would cause waterlogging and malaria. According to some historians, waterlogging, salinisation and malarial infestation along the UGC fuelled the dissatisfaction of the local people and might have contributed to the 1857 rebellion. Since the petition was submitted just 12 years after the rebellion, the government could not disregard the demand of talukdars to shelve the project (Whitcombe 1983).

The Imperial Irrigation Commission (IIC) of 1901-1903 revived the proposal to build a canal off the Sarada, but the talukdars again expressed their opposition. For the next decade, the project proposal remained shelved. In 1911, the government of the United Province revived the proposal but pursued a new strategy to see it through: it suggested that the water of the Sarada River was being ‘wasted’ and that it could be used to augment the Lower Ganga Canal and diverted to Punjab to irrigate land there. With the threat of the water being diverted away from Awadh, talukdars agreed to the canal project. In the first decade of the 20th century water levels in wells in the region had also declined prompting the talukdars to agree to the proposal. Initially, local opinion considered the canal

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⁴. Sepoy rebellion of 1857 against the British occupation.
unnecessary because of its low rate of revenue generation and its adverse effects on soil and public health. The government, however, was no longer as disposed as it had been in the past to let the surplus water of the Sarada River go to ‘waste’. The result was that the 1911 plan for the Sarada Irrigation Canal faced no opposition.\(^5\) The stage was thus set to implement the irrigation project and constructing the Sarada Barrage.

The barrage had to be located at a suitable upstream section of the river, just as the barrage of the UGC was located at Hardwar, where the Ganga River debouches onto the plains. The government of the United Province identified a suitable site but its eastern flank lay within the territory of Nepal. The government of the United Province sought about 4,000 acres of Nepalese forestland to construct the barrage and began negotiating with the Rana government of Nepal in 1910 with its request to conduct a survey (Gyawali and Schwank 1994). That the government sought to negotiate an agreement one year before the canal proposal was revived suggests that it had made up its mind to implement it.

To allow the barrage to command as large an area as possible, it seemed logical that the barrage be located at a high elevation. The selection of the Banabasa site made hydraulic sense to optimise irrigation command. The actual reason for seeking land at Bansbasa downstream of Brahmadevmandi is not, however, explicit. Gyawali and Schwank (1994) induce that ‘the barrage was constructed on or close to the left bank by isolating construction portion with a cofferdam. After construction of the barrage on the swapped land, the water of the Mahakali was channelled through the Sarada Barrage. This indication comes from the visible filling on a perched

\(^5\) Discussions about the Sarada Project are found in Whitcombe (1983). In Punjab, the use of the term ‘waste’ reflects the onus of the colonial government to intervene in the colony’s land and water systems (Gilmartin 1995).
portion of the Sarada canal to the west which was probably the main course of the Mahakali River before it was diverted to the present channel'. Shrestha (2000) suggests, "during the preparation of this project, the river showed signs of swinging over towards the Nepal bank below Tanakpur necessitating a change in the site of the headwork". Shrestha also mentions that a major flood occurred in the Mahakali in 1910. It could be argued perhaps that this flood was the incentive for United Province to begin discussions with Nepal Durbar for securing land at Brahmadevmandi.

Ten years later, in 1920, an agreement to transfer 4,000 acres from Nepal to India and sharing the water of the Mahakali River was concluded. The British provided the Nepal Durbar with Rs50,000 and Nepal was to receive 230 cusec of water from the Sarada Barrage. The agreement paved the way for implementing the Sarada Canal Project. In 1924, the government of the United Province sanctioned a revision of the Sarada Canal Project, whose 4,000 miles of canals and distributaries supplied a command area exceeding seven million acres. In 1928, Sir Malcolm Hailey, the then governor of the United Province, formally opened the first section of the canal, which was the last and the largest of the canal systems built by the British in India. The initiative behind building the project was guided by the desire to harness the ‘surplus water’ of the Sarada

6. While the East India Company was expanding its rule in the south; in the north, along the Himalaya, Nepal had also begun territorial expansion. In the ensuring Anglo-Nepal War, Nepal lost to Britain. In 1815, Nepal was forced to sign the Sugauli Treaty, which together with subsequent events, defined Nepal’s present-day territory.

7. Whitcombe’s (1983) discussions of the Sarada Canal Project make no mention of the trans-boundary nature of the Mahakali River or that prior to approval of the canal project in 1924 an agreement had been signed with the Nepal Durbar in 1920 to build the barrage. Landon (1928) only mentions that the then Prime Minister Chandra Shamsher invited engineers from the United Province to build the Chandra Irrigation Canal; he
River in order to earn revenue and prevent waste. Only many years later, with the implementation of Mahakali Irrigation Project in the 1980s, did Nepal begin using its share of the water allocated to it by the Sarada Project.

The interest of the centralised hydrocracy on the Mahakali River did not end with the building of the Sarada Barrage: in 1956 India’s Central Water and Power Commission identified an upstream site on the river and proposed the Pancheswar High Dam. A field investigation was initiated in the 1960s and Government of India’s Water Power Consultancy Services (WAPCOS) prepared a report in 1971 proposing a 232-m-high concrete dam with an installed capacity of 1,000 MW. The Pancheswar High Dam was conceived mainly to benefit Uttar Pradesh, and Nepal also seemed to accept this fact. In 1978, Nepalese Prime Minister Kirti Nidhi Bista, while on a state visit to India, went to Lucknow, where he announced that “the completion of Pancheswar Project would infuse new life to the slow pace of industrialisation of Uttar Pradesh caused by lack of electricity”

But no agreement was reached on implementing the Pancheswar Project, though India agreed to help build the 14.5 MW Devighat Hydropower Project on the Trisuli River. This run-off-river project was completed in 1984 and the same year National Hydro Power Corporation (NHPC) of India completed its design of the Tanakpur Hydropower Project.

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Gyawali (1993) provides some information about the negotiations between Nepal’s Executive Engineer Kumar N. Rana and United Province’s Executive Engineer S. Athims. According to the terms of the 1920 agreement, Nepal was allocated a flow of 4.25 m$^3$/s from the Mahakali River at the Sarada Barrage between September and July. The Mahakali Irrigation Project (MIP) in Kanchanpur district, Nepal, which was completed in 1980, uses this flow.

8. Mr. Bista was addressing the welcome meeting organised by Nepal-India Friendship Association. See Gorakhatpra 19 April 1978.
In 1989, with the aim of examining its feasibility, HMG entrusted a study of the Pancheswar Project to Pancheswar Consortium (PACO). International Development Association (IDA) provided financial support for the study. The Consortium’s report of 1994 agreed that the site recommended by WAPCOS was a good one. Nepal and India, however, disagreed on how to share the benefits, particularly regulated water. In the midst of the Tanakpur debate, Gyawali and Dixit (1991) claimed that “Nepal has maintained that power be shared equally, but the sharing of water is contentious”. Their piece identifies the nature of the underlying disagreement over the allocation and sharing of water from the proposed Pancheswar Project.

NHPC’s Tanakpur Project involved a barrage in the Indian part of the Mahakali River upstream of the Sarada Barrage. The initial NHPC plan was to divert the water of the Mahakali to generate 120 MW of electricity at Tanakpur and to discharge the water from the tailrace directly into the Sarada Canal. Thus, though the project was built in Indian territory, Nepal became involved because, the NHPC’s plan entailed threat to flow that Nepal was to receive as per the 1920 agreement. In 1984, in a secretary level meeting held in Kathmandu, Nepal “expressed the concern about possible submergence and other adverse effects due to this project in the Nepalese territory”. 9

The Indian side “assured that in case such probability is found India will consult HMG before any work is started”. 10 The issue was raised again that year during a meeting in New Delhi. India assured Nepal that the project would bring no ‘adverse effect’ to Nepal. In another meeting held in Kathmandu in 1987, “the Nepalese side referred to the minutes of the secretary level meetings held

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9. See minutes of the meeting.
10. ibid.
in April 1983 and September 1984 and the information supplied in 13 November 1987, and pointed out that if the water from the tailrace channel of Tanakpur Project is not brought back into the Banbasa Barrage, the pond level at Banbasa may be reduced and affect irrigation releases on the Nepalese side…” After detailed discussions held to alleviate the concerns expressed by Nepalese side, it was agreed that:

1. The tailrace of Tanakpur Hydroelectric Project will be directly connected to the Mahakali River upstream of the Banbasa Barrage instead of connecting it with the Sarada Canal, which will ensure the agreed supply of water to Nepalese irrigation system on the left bank at Banbasa.

2. All requisite measures shall be taken by India to prevent submergence of the Nepalese territory due to the construction and operation of the Tanakpur Barrage.\(^\text{11}\)

At that meeting, the Nepalese delegate opined that since the Mahakali River was a common border river both countries were entitled to equal use of its resources. He added that HMG makes it clear and records the fact that the construction of the Tanakpur Barrage would not in any way entitle India to claim more than fifty per cent of the water by way of prior use. The Indian side took a different view. It clarified that neither the formula of fifty-fifty sharing, nor, in fact, any other mode of sharing was settled. The Indian delegate “mentioned that the Tanakpur Project was based on non-consumptive use of water”.\(^\text{12}\)

The Tanakpur Barrage was, except for an afflux bund in the east, completed in 1989. The afflux bund was needed to connect the barrage to high ground in Nepalese

\(^{11}\) ibid.

\(^{12}\) ibid
territory.\textsuperscript{13} And this issue was not resolved which continued even after multiparty democracy was restored in Nepal in 1990 and not addressed during the interim period. It was during this period that the Indian side requested for connecting the afflux bund of the barrage to Nepalese territory. In 1991, the then Prime Minister of Nepal Girija Prasad Koirala visited India and signed the first MoU to resolve the Tanakpur and other water issues. This MoU set the stage for the completion of the eastern afflux bund, and stipulated the benefits that Nepal would get as a result of making such a contribution. Soon, Nepal’s contribution to this boundary river project and the benefits it desired based on its contribution became an issue of dispute.\textsuperscript{14} Following questioning in Nepal, the 1991 MoU was revised in 1992, when the then Indian Prime Minister P V Narasimha Rao paid a state visit to Kathmandu. The details of the two MoU relating to Tanakpur are shown in Table 1.

One of the issues of disagreement over the Tanakpur Project involved the quantum of benefits, though it has been argued that the share allocated through the 1992 MoU was fair considering the fact that Nepal made no investment in the Project (Gyawali and Schwank 1994). There was also disagreement within Nepal on procedural matters, which was set by the Article 126 of the 1990 Con-

\textsuperscript{13} After the Nepalese government questioned the provision, which stated that water from the tailrace of Tanakpur Power House was to be released into the Sarada Canal, the design was changed. Water from the tailrace is currently discharged back into the Mahakali River above the Sarada Barrage. For discussions of the debates surrounding the Tanakpur Project see Shah (1994), Dixit (1997a) Gyawali (1998) and Swain (1998).

\textsuperscript{14} On 17–19 April 1991, yet another meeting took place. The minutes state, “on this item of agenda an in depth discussion took place and the views of both the sides were carefully examined. However, since no concrete decisions could be arrived at, both the sides agreed to refer the matter to the Joint Commission for finalisation.”
Opposition political parties and members of the nascent civil society used Article 126 as the basis of their argument that the 1991 MoU needed to be ratified by the parliament. The contention of the government was that the MoU was an understanding and therefore did not require ratification. A case was subsequently filed in Nepal’s Supreme Court, and on 15 December 1992 the court made the following rulings:

Table 1: 1991 and 1992 MoUs on Tanakpur

<table>
<thead>
<tr>
<th>Nepal-India MoU 1991</th>
<th>Nepal India MoU 1992</th>
</tr>
</thead>
<tbody>
<tr>
<td>India will construct a head regulator of 1000 cusecs capacity near the left under-sluice of the Tanakpur Barrage, as also the portion of canal up to Nepal-India border for supply of up to 150 cusecs of water to irrigate between 4,000-5,000 hectares of land on Nepalese side. The releases from head regulator will be increased as and when substantial upstream storage at Pancheswar, or similar, is developed on the Mahakali River.</td>
<td>Future upstream water developments such as the Pancheswar Multipurpose Projects were disassociated from the agreement on Tanakpur with the provision that both countries were free to negotiate upstream projects independent of whatever was agreed to at Tanakpur.</td>
</tr>
<tr>
<td>In response to a request from Nepalese side, as a goodwill gesture, the Indian side agreed to provide initially 10 MU of energy annually free of cost to Nepal in spite of the fact that this will add to a further loss in the availability of power to India from Tanakpur Power Station.</td>
<td>India will provide 20 MU electricity to Nepal free of cost.</td>
</tr>
</tbody>
</table>

**Sources:** MoUs between Nepal and India on Tanakpur (Gyawali and Dixit 2000).
The MoU is an agreement and not merely an understanding.

The government should formulate criteria to define what a ‘pervasive, serious and long-term impact’ constitutes and submit it to the parliament.

The Supreme Court would reserve the right to evaluate these criteria.

The MoU has to be ratified by the parliament, but the parliament itself has to decide on how to ratify the agreement, on the basis of criteria submitted by the government: by two-third or simple majority.

Following this decision the government formed a commission headed by political scientist Lok Raj Baral to identify the impact of the Tanakpur Project. Its report, submitted on 14 February 1993 suggests six criteria (See table 4, page 120). The Koirala government later submitted the MoU to the parliament for ratification with simple majority as recommended by the commission. The government did not, however, present any guidelines, though the commission’s report did include a first draft of suggestions. The parliament did not discuss this draft or any other proposal. Following the Supreme Court’s verdict on Tanakpur, the parliament had also constituted an all-party committee to look into the issue of ratification. Though the committee met on many occasions, no criterion to define the impact was suggested. The proposal for ratification of the Tanakpur MoU with simple majority did not receive the endorsement of the parliament because the Nepali Congress (NC) leader Ganesh Man Singh wrote what subsequently was described as ‘letter bomb’ to the speaker of the House of Representatives suggesting that ratification of the MoU in its current form would be a ‘death knell’.

In the meantime, the thirty-six party members of the ruling NC abstained from a crucial parliamentary vote causing embarrassment to the then Prime Minister Girija Prasad Koirala, who on 15 No-
November 1993 recommended that the parliament be dissolved. The move was challenged in the Supreme Court, which upheld his decision as the right of a Prime Minister. In the parliament that was subsequently elected, the CPN-UML emerged as the largest party and formed a minority government with outside support from the NC. When it became clear that this support would cease, Prime Minister Manmohan Adhikary recommended that the parliament be dissolved. His decision was also challenged in the Supreme Court, which nullified Adhikary’s decision and re-instated the parliament on 28 August 1995.

What followed was a period of unholy coalitions with opportunistic musical chairs that forced Nepal’s nascent democracy into a nose-dive and the gains made in social, economic and political terms were squandered. The ITDMR (or the Mahakali ‘Package’) was conceived, initialled, re-signed and ratified during this era of unstable coalitions in Nepal. The concept of Mahakali Package was conceived during the tenure of CPN-UML in the government, and as explained above initialled when Sher Bihadur Deuba was the Prime Minister of a coalition between NC and RPP. Before the ITDMR was initialled, representatives of the NC, CPN-UML and RPP signed a national consensus document that stipulated certain provisions regarding how the treaty on Mahakali should proceed (Table 2). Almost six months after putting the first signature and tumultuous public opposition in Nepal, the Mahakali Treaty was ratified at midnight of 26 August 1996.

15. In an article in the Nepali Times, analyst Gyawali (2004) defined the period from 1991 to 1996 ‘Democracy I,’ which saw proliferation of private domestic airlines, quality schools, private medical services, emergence of print media and FM stations. He goes on to argue that after 1996 the excluded exploded in anger that tragically morphed into Maoist violence.
Pashupati Shamsher Rana, the coalition government’s Water Resources Minister presented the ITDMR for ratification in the parliament with these words: “the Mahakali Treaty will greatly help in achieving the economic upliftment of the country as a whole. … With the conclusion of this Treaty, we have cut through the Gordian knot that has tied up the issue of water resource development for over fifty years, and that the treaty be ratified by a two-third majority of the parliament.”

He presented no criteria as to how the Mahakali Treaty necessitated two-third majority of the parliament for its ratification. Subsequent events in Nepal have shown that the Treaty indeed had a serious, pervasive and long-term impact, not simply physical and social but also political as the Maoist insurgency raged and political events went into a tailspin. But before it ratified the Treaty, the joint session of the parliament passed four strictures that redefined three clauses of the treaty. India was not a party to this interpretation. The key dates and events regarding the Mahakali River, Tanakpur and the ITDMR are shown in Table 3.

Nepal held its third parliamentary election in 1999; the NC again secured a majority and Krishna Prasad Bhattarai became Prime Minister. He resigned on March 2000 and was replaced by

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16. For more details about the presentation, refer to the Integrated Treaty on the Development of Mahakali River including the Sarada Barrage, the Tanakpur Barrage and the proposed Pancheswar Project, along with letters, opinions, and write-ups, etc. Ministry of Water Resources, 29 Kartik 2053.

17. Representatives of NC, CPN-UML and RPP signed the document on 26 January 1996. The signatories were Bimalendhra Nidhi and Chiranjibi Wagle of NC, Madhav K. Nepal and K P Sharma Oli of CPN-UML, Pashupati Shamsher Rana and Prakash Chandra Lohani of RPP. The table includes parts of the consensus as they relate to specific aspects of the stricture and ITDMR. For details on the national consensus document see Gyawali and Dixit (2000).

## Table 2: Provisions of the four parliamentary strictures, ITDMR and provisions of the three party consensus document

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Preamble:</strong> From its origin to Brahmadevmandi the Mahakali flows as a border river between Nepal and India.</td>
<td><strong>Preamble:</strong> Recognising that Mahakali is a boundary river on major stretches between the two countries.</td>
<td>Saying that 'Mahakali is a boundary river on major stretches between the two countries' is the same as saying it is 'basically a border river.'</td>
</tr>
<tr>
<td>4(c) arrange to bear cost in proportions to the benefits acquired from the development of Pancheswar Project</td>
<td>Article 3: Both parties agree that they have equal entitlement in utilisation of the water of the Mahakali River without prejudice to their respective existing consumptive uses of the waters of the Mahakali River.</td>
<td>'Equal entitlement in the utilisation of the waters of the Mahakali River without prejudice to their respective existing consumptive uses of the Mahakali River' means equal rights to all the waters of the Mahakali.</td>
</tr>
<tr>
<td>4(d) apply the principle of maximum net benefits while implementing other project that use the border river water, including the Pancheswar, to be made in future.</td>
<td>Article 3(b) exchange of letter: Paragraph 3 of Article 3 of the Treaty Precludes the claim, in any form, by either party on the unutilized portion of the shares of the waters of the Mahakali River.</td>
<td>Nepal's electricity bought by India will be sold as per the 'avoided cost' principle.</td>
</tr>
<tr>
<td>Any future structure to be built in Mahakali will be based on above mentioned principle 4(f) ensure that both countries seek consensus of others on use of the Mahakali River.</td>
<td>Article 3(a) exchange letter: net power benefit shall be assessed on the basis of, interalia, saving in costs to the beneficiaries as compared with relevant alternatives available.</td>
<td></td>
</tr>
<tr>
<td>4(a) While implementing Pancheswar Project establish equal capacity powerhouses in both countries.</td>
<td>Article 9(1): There shall be a Mahakali Commission. The Commission shall be guided by the principles of equality, mutual benefits and no harm to either party. Article 9(2): The Commission shall be composed of equal number of representatives from both parties.</td>
<td>When the Mahakali Commission is constituted, it will be done only upon agreement by the main opposition party in Parliament as well as by parties recognised as national parties.</td>
</tr>
<tr>
<td>4(b) Arrange equal utilisation of water to operate these powerhouses.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 3:  **Chronology of events and positions about Tanakpur leading to ITDMR**

<table>
<thead>
<tr>
<th>Year</th>
<th>India</th>
<th>Nepal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>NHPC initiates the 120 MW Tanakpur Hydropower Project. Maintains that the project should not harm Nepalese territory. Asks design of the tail-race to be modified.</td>
<td>Maintains that the project should not harm Nepalese territory. Asks design of the tail-race to be modified.</td>
</tr>
<tr>
<td>1990</td>
<td>Makes a request for connecting left afflux bund to Nepalese territory to protect Nepalese territory.</td>
<td>Claims some water and electricity from Tanakpur</td>
</tr>
<tr>
<td>1991</td>
<td>Provides 10 MU electricity and 150 cusec water</td>
<td>Dissatisfaction on the provision, ambiguities related with sharing of water.</td>
</tr>
<tr>
<td>1992</td>
<td>Provides additional 10 MU electricity making a total of 20 million unit. 150 cusec from Tanakpur Barrage, delinked from Pancheswar and Sarada</td>
<td>Supreme Court comes into picture. Supreme Court verdict that 1992 MoU needs ratification</td>
</tr>
<tr>
<td>1996</td>
<td>Provides 300 cusec water from Tanakpur Barrage. 70 million unit electricity from Tanakpur power house</td>
<td>Integrated Mahakali Treaty subsumes the MoU on Tanakpur and Sarada barrage and the proposed Pancheswar Project as a package. Nepalese parliament ratifies the Mahakali treaty.</td>
</tr>
</tbody>
</table>

Girija Prasad Koirala. On 19 July 2001 Girija Prasad Koirala resigned and Sher Bahadur Deuba became the Prime Minister. On 22 May 2002 Sher Bahadur Deuba dissolved the parliament and local level governments. An election to the new parliament, according to the Constitution of 1990 should have been held within six months. On 3 October 2002, Deuba suggested to King Gyanendra that elections could not be held because of the Maoist violence and asked the monarch to extend his term by another fourteen months. Next day on 4 October 2002, invoking Article 127 of the Constitution of 1990, King Gyanendra sacked Deuba and appointed Lokendra Bahadur Chanda as the new prime minister on 11 October. In March 2003, Nepal’s Ministry of Water Resources released a paper suggesting nine triggers for defining
what constitutes a ‘pervasive, serious and long-term impact’ of a treaty and circulated the paper among prominent individuals for their comments (Table 4).  

Article 126 of the Constitution had, in fact, enhanced Nepal’s bargaining position and enabled it to get more benefit than it otherwise would have in the case of the Tanakpur Project. Without this provision, it could be argued that the 1991 ‘understanding’ would have formed the basis for allocating the river’s water, and handicapped Nepal in all future negotiations on sharing of the Mahakali. With the ambiguities of 1991 MoU cleared in the second MoU of 1992 the next step was to develop criteria to define pervasive, serious and long-term impacts of a treaty. The criteria such as those proposed in Table 3 can provide an objective basis to make decision and in the process introduce the much-needed transparency in such decision-making because the content has to be submitted to the parliament for ratification. Such a criteria would provide social auditors a basis to practice their voluntary science (Gyawali 2001) and to contest the policy terrain dominated by bureaucracies. This is important given the nature of the practice of bureaucratic science in South Asia. Referring to the practices of water development in India, Bottral (1992) writes that, “it is high time to end the old fiction—started during the days of the empire, uncritically accepted by political leaders after independence and vigorously encouraged by those who benefit most from it—water development is technical subject best left to technical specialists to deal with preferably behind close doors”. But logic, rationality and long-term vision did not guide Nepalese politics in those fermented years of mid 1990s.

It may be argued that Article 126 would be a constitutional vehicle for democratising water science and bringing decision-mak-

19. Dixit (2004) has argued that Article 126 had placed historical responsibility on Nepalese parliamentarians to safeguard the rights of the Nepalese people.
Table 4: Criteria for defining ‘serious, long-term and pervasive impact’ of a treaty on sharing of natural resources

<table>
<thead>
<tr>
<th>1993 Commission*</th>
<th>HMG status paper (2003)**</th>
</tr>
</thead>
<tbody>
<tr>
<td>If a single treaty were made regarding the use of several different river basins of Nepal, the treaty should be considered &quot;pervasive, serious and long-term.&quot;</td>
<td>If any hydroelectric project is of capacity greater than 1000 MW.</td>
</tr>
<tr>
<td>If a treaty were made for an entire river basin, then the treaty should be considered &quot;pervasive, serious and long-term.&quot;</td>
<td>If a proposed water project will require a trans-basin transfer of water.</td>
</tr>
<tr>
<td>Run-of-river hydroelectric projects (with no water storage) would be excluded from this definition.</td>
<td>If the population to be displaced by project is more than 10,000.</td>
</tr>
<tr>
<td>This definition would apply to storage projects of capacity greater than 1,000 MW or a capacity factor less than 0.3.</td>
<td>If a project will affect or submerge more than 25 square kilometres of agriculture, grazing or forest land.</td>
</tr>
<tr>
<td>This definition would also apply to projects whose costs were large compared to economic indicators such as annual GDP, or which involved sovereign loans which would have to be paid back not just by the generation making the decision but by future generations or which would be difficult to pay given the state of the economy.</td>
<td>If the foreign to Nepalese investment share in a project is more than 80:20 in favour of foreigners.</td>
</tr>
<tr>
<td>The definition would apply to projects with large reservoirs requiring resettlement difficult to handle within Nepal’s finances, land availability, etc.</td>
<td>If investors in a project ask for sovereign guarantee for their investments.</td>
</tr>
<tr>
<td>If there are possibilities of intersectoral or cross-sectoral trade-offs between water and other benefits from a project.</td>
<td>If more than 50 per cent of the electricity output of a project is to be exported.</td>
</tr>
<tr>
<td>If more than 50 per cent of the electricity output of a project is to be exported.</td>
<td>If, at the point of a river leaving Nepal’s border, an upstream project’s reservoir will increase the dry season flow by 10 per cent or reduce the flood peak by 10 per cent.</td>
</tr>
</tbody>
</table>

Sources: * Dixit (1997a) and Gyawali and Dixit (2000) ** Dixit et al. (2004)
ing closer to the people. The new Nepalese parliament—assuming that it will be elected in due course—must develop such criteria for ratification of cooperative initiatives. The criteria listed in table 4 provide a foundation, but there could be other ideas too. When such criteria is set for cooperative water development agreements, government departments need to do their homework, and also take cognizance of the broader context. Furthermore, it will force those who challenge and disagree with governmental analysis to put forth credible alternatives instead of polemical hype and take the public dialogue to a creative height. In the long run, such approaches would help minimise disputes. The end product will be projects that meet some interests of all involved, not all the interests of one party. In the present day Nepal, this vision may appear too idealistic, but it is imperative that Nepalese and Indian people explore ways that allow them to cooperate and meet their needs for safe drinking water, reliable irrigation, affordable energy and resilient livelihood.

Political Expediency
What lessons about understanding disputes over the sharing of rivers that flow from one country to another or between two countries can we learn from the tortuous saga of the ITDMR? Answer to this question is important because the question of how to allocate benefits and competition over river water lies at heart of increasingly intense problems between communities, between states within a nation and between nations. Beach et al. (2000) argues that “as global population continue to grow exponentially, and as environmental change threatens the quantity and quality of natural resources, the ability for nations to resolve conflicts peacefully over internationally distributed water resources will increasingly be at the heart of stable and secure international relations.” The condition in South Asia’s Ganga basin is similar as the river remains at the centre stage of the region’s politics. Pun (2004) has argued that, "key policy
makers in India link water shortage in the Ganga Basin to “national security”. But the notion of national security defined by governments automatically does not translate into security for the people. According to Blatter and Ingram (2001), responses made by governments to achieving water security in trans-boundary rivers reflect the domination of narrow perspectives and the limited range of disciplines, and is true of the ITDMR. Water has many meanings and by not considering it from a holistic perspective can give rise to a deep sense of insecurity and societal dissatisfaction.

The ITDMR experienced such dissatisfaction. Dixit (1997a) has suggested that the 1991 MoU on the Tanakpur Project did not satisfy substantive, procedural and psychological elements related to resource-sharing negotiations. In Nepal, dissatisfaction was expressed on all three counts. On the substantive count, the benefits provided were considered to be inadequate. Further dissatisfaction rested on the ambiguity of the 1991 ‘MoU’, particularly in terms of the provision that Nepal was to receive 150 cusec of water from the Tanakpur Barrage. The provision was seen to limit Nepal’s share of water from the Mahakali River to the maximum of 1,000 cusec (28 m³/s) and to replace the benefits from the Sarada Barrage. It was interpreted to mean that the share would be made available only after the completion of the Pancheswar Project had modified the flow of the Mahakali River.

With a capacity of 566 m³/s, the power channel of the Tanakpur Power Plant would have been able to accommodate the bulk of the Mahakali’s regulated flow once the storage project came into operation. Nepal would then have been entitled to an additional flow of only 850 cusec (23.75 m³/s). After signing the ITDMR, India claimed that it had the prior right to Mahakali water in order

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20. Priscoli (1993) identifies these three types of dissatisfactions likely to emerge during negotiations about sharing of environmental resources.
to irrigate the lower Sarada Command, this despite the fact that the claimed water was more than the flow in the river in the dry season (Gyawali and Dixit 2000). Bias towards lowlands seemed to be silently at work to the detriment of highlands as almost all the flow of the border river was appropriated to the advantage of the Indian plans. This was not unexpected because the open-ended nature of Clause 3 of ITDMR leaves room for different interpretations. It states: “both parties agree that they will have equal entitlement in the utilisation of the waters of the river without jeopardising their existing consumptive uses of the waters of the Mahakali River”.

The procedural dissatisfaction with the earlier MoUs continued with the ITDMR. While the then Government of Nepal attempted to label the 1991 MoU an ‘understanding’ rather than a ‘treaty’, and thus as an extra-constitutional issue, the opposition parties demanded parliamentary ratification as per Article 126 of the Constitution, because the MoU involved sharing the country’s natural resources. Though a two third majority of the parliament ratified the ITDMR, there was a procedural lapse because the government had offered no criteria as stipulated by Nepal’s Supreme Court. The most damaging aspect of the ITDMR was psychological. The 1991 MoU seemed to imply that India had gifted Nepal with electricity and water for irrigation as a ‘goodwill gesture’, but the benefits were actually Nepal’s rights for conceding its territory to India to complete the hydropower plant. Furthermore, Indian attempts (and Panchayati Nepal’s concurrence with) to deny any benefits from the project to Nepal for its contribution was seen as ‘highhandedness’ and as the imposition of solutions of a unitary nature on resources having features of shared ownership (Dixit 1997a). The second MoU clarified these ambiguities (See table 1 page 113). The Pancheswar Project and other possible interventions in the Mahakali River were de-linked from the Tanakpur MoU, and allowed both countries the freedom to negotiate any other developments in the Mahakali Basin. Nepal received additional benefits too.
Although, with hindsight, it could be argued that a joint effort with Nepal would have produced a better project, the second MoU in 1992 did correct the ambiguities of the first MoU and provided Nepal with reasonable benefits from a project in which it had made no investment. It would have been prudent for Nepal to end the debate there, and to begin constructivist cooperative relationship on water development. Unfortunately, instead of vision and sanity, knee-jerk reactions and polemics prevailed. At the same time, Nepal’s executive and legislative branches essentially subverted the decision of the country’s Supreme Court that the government should formulate criteria to define what constituted pervasive, serious and long-term impact. Nothing further was heard from the Supreme Court either. This oversight implied demeaning the constitutional provision and in the process Nepal’s parliamentary polity undermined the legitimacy of the rule of law central to any democratic polity.

Nepal’s opposition parties including the CPN-UML had argued that the Tanakpur MoU had to be de-linked from any other interventions in the Mahakali River. Their report to the parliament suggested, “it is not appropriate to link water Nepal is to get from the Tanakpur Barrage Project with the Pancheswar Project. In fact, trying to direct any part of the Pancheswar Project through the Tanakpur Project is against the constitution.”21 The Mahakali Package conceived during the CPN-UML’s tenure in the government fundamentally changed this position. It remains unclear what factors led to the party’s changing its position and agreeing to consider the Mahakali package, which integrated the Sarada, the Tanakpur and the proposed Pancheswar

21. The signatories of the press-release were Bharat Mohan Adhikari, C. P. Mainali and Jhalanath Khanal representing the CPN-UML; Narayan Man Bijukche representing the NWPP, Lilamani Pokhrel representing Samyukta jana morcha Nepal and Prakash Chandra Lohani representing RPP. Dr Lohani has since left the RPP to join Rastriya Jana Shakti Party of Surya Bahadur Thapa floated in 2005.
Projects. It was rumoured in Kathmandu’s political circle that the CPN-UML changed its position after it had formed the minority government and that the concept of the ‘Mahakali Package’ had been mooted on the advice of leftist leaders in India. According to Himal (1996b) “the main reason seems to have been that, during its period in government, the communist leaders realised that there could be no politics in Nepal without a minimum level of understanding with the powers-that-be in New Delhi.” The ITDMR brought the Sarada and the Tanakpur barrages and the proposed Pancheswar High Dam Project into one umbrella.

Political analyst Dhurba Kumar (2004) opines, “the Mahakali Package, shrewdly defined as a measure for equitable sharing of water resources along with the cost and benefits shared equally. Although there was parliamentary opposition and the critics of the CPN-UML had accused the government of trying to undermine the issue of the Tanakpur Treaty ratification, camouflaging it under the Mahakali Package deal, they saw no better alternative than to rescue themselves from the Tanakpur imbroglio. The only possible alternative to evolving a national consensus on the issue and ratifying the Tanakpur Treaty separately in the parliament either by a two-third or simple majority would have been embarrassing for both the CPN-UML in government and the Nepali Congress in the opposition. Hence, to save themselves from the public opprobrium, initiatives for a negotiation on the entire Mahakali River system became apparently promising than to be confined to the Tanakpur portion of that river basin.”

In sum, the ratification of the ITDMR did not meet the substantive, procedural and psychological needs. Clause 3 specified Nepal’s share of water but left it up to India to make any interpretation it wished about the remaining water. Nepal could have received as little as 4 per cent and as much as 49 per cent of regulated water from the proposed Pancheswar Project (Dixit 1997b), depending on how the prior right of the other party (India) was de-
fined. The four strictures passed by Nepal’s parliament before ratifying the treaty attempted to clarify ambiguities contained in the ITDMR. Table 2 (page 117) compares the provisions in the treaty with these four strictures including the related stipulation of the consensuses by the three parties (NC, CPN-UML and RPP).

Of the four strictures listed in table 2, two attempted to clarify ambiguities embedded in the substantive content of the treaty. One stricture was related to the formation of the Mahakali Commission and the other to the status of the Mahakali River. The Nepalese parliament proposed these strictures unilaterally without engaging the other party (India). Iyer (2003) has argued, that ‘If the parliament of Nepal had been deeply troubled by certain questions, it could have refused to ratify the treaty…. Strictures passed by the Nepalese parliament can apply only to itself, not to the Government of India…. It is possible to argue that there can only be ‘ratification’ on non-ratification and not a conditional ratification: that a conditional ratification is the same as non-ratification.’ The procedural limitation emerged because the Nepalese government did not follow the Supreme Court’s decision that criteria for ratification be defined.

The hype championed by the proponents of the treaty was unreal and the treaty thus failed on a psychological count too. The questions about the treaty’s ambiguities and the warnings against entering into an arrangement to build one of the highest dams in the world on such flimsy foundation were, however, swept under the carpet when the ITDMR was ratified. The ITDMR instilled a deep sense of betrayal in Nepal; people felt that their representatives were more interested in serving interests of outsiders than those of their own people. This contradiction became even more blatant during the Enron Saga, as explained in the following section. The conditions speak for themselves: in 1996, when the Mahakali Treaty was signed and the World Bank withdrew from the Arun III Hydroelectric Project, only 12 per cent of Nepalese people had
access to electricity from the national grid;\textsuperscript{22} Nepal’s internal capacity to build hydropower projects was grossly inadequate; and, the backward and forward linkages between investments in hydropower development and local economics abysmally poor. Only a small and vocal civil society group in Nepal highlighted that the country needed to pursue a self-reliant path to develop water resources.\textsuperscript{23} The major political parties and their representatives resorted to development rhetoric, and missed the opportunity to fulfil their obligations to their constituencies.

The stricture on ITDMR was essentially an appeasement policy adopted by the then coalition government led by Deuba towards the disgruntled faction of opposition, especially that of the CPN-UML, whose cooperation and support was necessary to acquire a two-third majority in the parliament.\textsuperscript{24} In same line as Iyer, Kumar (2004) has argued that the conditional ratification concerns the Nepalese government and cannot be applied to and made binding on the Indian government in accordance with international practice. He points the future challenge related to the ITDMR as follows, “the possibility however is that in case India agrees to reopen the treaty for further

\textsuperscript{22} This figure is based on the fact that of the 4,94,965 meters, 471,599 were in the domestic categories in 1996 (NEA 1997). Assuming all of these are with single independent families, multiplying by 5.5, the average family size in Nepal, yields a figure of 2,593,794.5. According to (CBS 2002), the 1996 population was projected to be 20,832,000. On this basis the percentage of people having access to electricity from Nepal’s national grid is obtained as 12 per cent.

\textsuperscript{23} Kharel [2055 BS] in NEFEJ has mentioned the concept self-reliant approach of developing hydropower in Nepal. Also see Dixit et al (2004) for a summary of discussions about such a path.

\textsuperscript{24} Despite this, the treaty ratification process was not whole-heartedly supported by all the MPs belonging to the CPN-UML. At the end, the ratification of the Mahakali Treaty itself became an anti-climax for the CPN-UML party’s factional politics, leading to its break up in March 1998. For more details see Kumar (2004).
negotiation, it will automatically invalidate the existing treaty. Viewed in this light, the passing and the adoption of the strictrues in the parliament was deceptive enough to misguide the parliamentarians with promises and commitments never to be realised, because the strictrues cannot be imposed legally on another contracting party, i.e. India, and under the pretext of India’s refusal to reopen the treaty for negotiation, Nepal cannot legally reject the stipulations agreed to already. Thus ratification was simply ‘voting up’ or ‘voting down’, a peculiar democratic practice seemingly empowering the parliament in policy-making process that can always be manipulated by the party(ies) in power to suit its/their interests as was evidenced by the manipulative sankalp prastav (stricture).” The ratification was deceptive and parliamentary practice at its polemical worst.25

Prisoners of Development Hype

It is then no surprise that the ITDMR exacerbated the pre-existing distrust between the state and the people, particularly in terms of

25. In his recent book on Nepalese history John Whelpton presents a rather normal context of the ratification of the Mahakali Treaty. Whelpton (2005) writes “in January 1996, Deuba secured an agreement with India on the use of the Mahakali River, which both increased Nepal’s share of benefits from the Tanakpur Project and provided for the development of a larger-scale hydroelectric and irrigation project at Pancheswor. Despite strong opposition from radical left and some right-wing nationalists, he managed to secure ratification of the treaty by the necessary two-third majority in the joint sitting of the parliament.” There were many non-radical left and non-right nationalists who objected to the Treaty and its ambiguities. Some of those questioning the Treaty highlighted the high social and environmental risks of building one of the highest dams in the Himalaya and how such an approach exacerbated dependence rather than fostering self-reliant approach to hydropower development. Also Whelpton makes no mention of the four unilateral strictures passed by the Nepalese parliament before the treaty was ratified. The passing of the strictures was a deception perpetrated by the then coalition government to get the treaty ratified. For Nepal, the cost of the deception has been horrendous.
water relations with India that had begun with its signing of treaties on the Kosi and Gandak rivers. The opposition political parties of Nepal (mostly the leftists) had always been critical of these past two agreements. Though proponents of the ITDMR have argued that "it has been a victory for the nation, multiparty polity and Nepal’s internal confidence", ITDMR has been everything on the contrary and water relations between Nepal and India has not moved to a productive level. This relation shows several signs of stress. An example of the tension was seen when Nepalese media claimed that Prime Minister Surya Bahadur Thapa’s government ‘made arrangements to hand over’ three hydropower projects capable of generating 1,700 megawatts (MW) of power to India when the Indian Foreign Secretary visited Nepal in February 2004. The underlying message of the reports was that it was not right that at a time when the democratically elected parliament had been dissolved and a new one not yet reconstituted, the government nominated by the King was making decisions about export-oriented hydropower projects, though the epistemology of the three projects was rooted in Nepal’s power-exporting paradigm and that specific details about them had been laid out earlier.

The question is what motivated the NC, the CPN-UML and the RPP to subscribe to a project such as Pancheswar whose time horizon for implementation was long? Letter associated with the ITDMR however, did not recognise this and states that (i) the treaty would be exchanged six months after being ratified by the Nepalese parliament (ii) the financial resources for building the project would be mobilised within one year after the instrument of ratification.

26. This statement was made by Secretary General of CPN-UML Madhav Kumar Nepal see Gorakhpatra 22 September 1996.
27. The three hydropower projects were Budi Gandaki (600 MW), West Seti (750 MW) and Upper Karnali (300 MW). For details, see Dixit (2004) Ibid.
tion was exchanged and (iii) the dam’s construction would be completed within eight years. All three provisions were impractical and untenable because projects of the scale of the Pancheswar High Dam have a history of having a long period of implementation. For example, although India’s Central Water Commission (CWC) cleared the Tehri Dam in the Garhwal Himalaya in 1972, it is still not complete. Yet both governments set for themselves an unachievable goal in the ITDMR.

The prevailing assumption about large-scale water development projects is that because many developed countries had already implemented many such projects, Nepal needed to follow suit. One such view attacking the environmental perspective came from the then Water Resource Minister Pashupati Shamsher Rana who said, “these purveyors of the pastoral dream have a hidden neo-colonialist agenda. Having achieved the highest levels of development in the West they want to freeze underdeveloped countries in pastoral poverty. The West does not need any more large dams, has built enough. Europe exploited the world’s environment to achieve its development. Now they want to prevent us from exploiting the natural resources in our own backyard, with even the best measures of environmental mitigation. So, that we are condemned to perpetual underdevelopment. So that the difference between the advanced nations and backwards ones can be institutionalised. Let us oppose their neo-colonialist agenda disguised as environmental idealism”.

28. The chief minister has made a statement to the press that Uttaranchal will not undertake any large dams in the future, possibly in the belated recognition of its hazardous consequences (See EPW 2004). The implication of this statement for the proposed Pancheswar High Dam is open to interpretation.

Former Prime Minister Deuba went to the extent of arguing that multinational companies should be given the responsibility of developing large-scale water project and would do the needful to negotiate the downstream benefits with India. Nepal’s political leadership seemed to be enamoured with images of completed large projects, and did not heed the fact that in the United States, the former Soviet Union, India and many other countries, such projects had been conceived, designed and built to consolidate the forward and backward linkages within their economies and not to export the power produced. This was especially so in the United States, which built several large-scale hydropower projects in the aftermath of the Great Depression of the 1930s as part of President Roosevelt’s New Deal.

Furthermore, these countries had simultaneously built up their capacities and established institutions to undertake the projects. The projects thus built did bring economic prosperity but entailed high social and environmental costs, too. In Nepal, however, large-scale hydroelectric projects are conceived as an extractive industry and are expected to herald a new prosperity through the export of power and revenue accrued. Since the early 1970s the country has hoped to make a quantum leap by exporting energy; and both the NC and the CPN-UML, coming to power in the aftermath of the

30. See NEFEJ (2055 BS).
31. This simple lesson remained unheeded in Nepal as they succumbed to the myth of hydro dollars bonanza. Dahal (1998) has suggested that, “in the surface-level politics of Nepal, whichever government is able to bring large dollops of foreign aid or projects is seen to be successful. That is why even though in private conversation, Koirala (former prime minister) claims to be smitten by the philosophy of small is beautiful of E F Schumacher, in public, he speaks of mega projects to convert flowing water into green dollars.”
32. For discussions on loss of ecosystems in U.S. see Postel (1999) and Outwater (1996). See Harden (1996) for a discussion of the impact on lives of the native Indians when projects on Columbia River were built.
1990 political change, jumped onto the same conceptual bandwagon without questioning or exploring alternatives. One cannot pick up a physical artefact, (a dam for example) representing a particular theoretical paradigm, transplant it to a new social context and expect the results to be similar. Nepal’s power-exporting approach aimed to achieve the unachievable by assigning development of hydropower projects to multinational companies.

The argument that Nepal would prosper in this fashion contains three fundamental flaws. First, global capital-led, large-scale construction of water-related infrastructures cannot be reconciled with the self-reliant empowerment, which Nepal’s impoverished population needs. Second, the centralised and top-down culture within which such capital funds operate does not balance with the participatory, bottom-up approaches essential in promoting self-reliance. Third, the asymmetries of wealth, knowledge and information between likely investors from the West and the beneficiaries of Nepal will further exacerbate existing social, political and economic contradictions, and the propensity of officials to engage in ‘rent seeking’ and other corrupt behaviour while developing water and energy resources. The journey of ‘development’ takes time, incurs costs, requires choices to be made, and therefore, demands a resolute collective determination not simply to cope with risks arising from change, but to try in a long-term perspective to guide change in a particular fashion. It does not proceed linearly simply by allowing multilateral companies to build water projects.

Why did Nepalese political leadership jump into such a bandwagon? Was it naivety or informed decision-making? Given the trajectories of the leadership, particularly of NC and CPN-UML, naivety offers a plausible explanation. Both parties banned till 1990

34. See Salomon (1997)
spearheaded the movement for restoration of multiparty democracy in Nepal. This change took place on the crest of the global changes ushered by the 1989 collapse of the Berlin Wall including spread of democracy in countries of the Eastern Europe and finally the end of the Soviet empire. The transition to this new democratic order following the collapse of communism consolidated the belief in market fundamentalism pushed since the 1980s by the IMF, World Bank and the US Treasury (as Structural Adjustment Programme, SAP). Referred to as ‘neo-liberalism’ or ‘Washington Consensus’, this philosophy entailed minimising the role of the government by privatising state-owned enterprises and eliminating government regulations and interventions in economy.\(^\text{35}\)

Consequently, the need for unfettered privatisation was imposed, as an ideology to nascent democracies like Nepal, though in reality, even the United Sates was more circumspect. Stiglitz (2003) writes, “at home we recognised the limitation of markets and argued that there was an important (but limited) role of the government. But while we did not believe in market fundamentalism, the view that markets by themselves would solve the economy’s and (society’s) problems, we pushed market fundamentalism on the rest of the world, both directly and through the IMF. I could have understood Ronald Reagan and Margaret Thatcher doing it. But I could not understand Bill Clinton doing it...[US] Treasury’s views did not coincide with those of Clinton. Treasury had its own perspectives, its ideology, its own agenda, and it was largely, though not completely, able to follow the agenda internationally through its domination of the IMF”.

This new political order of liberalisation and privatisation thus acquired a great momentum and the process was pushed through in developing countries without much public debate (Gyawali 1998).

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A subtle pressure was applied for ratifying the ITDMR: the US Assistant Secretary of State for South Asia Robin Raphael and the British Minster for State for Parliamentary Affairs Liam Fox during their visits to Nepal around 26 August 1996 hinted that non-ratification of the Mahakali Treaty would send a wrong signal driving away private international investments in Nepal.\footnote{See Gyawali and Dixit (2000).} In the case of awarding licence of the Karnali Chisapani Project to the now bankrupt energy giant Enron, the pressure was obvious and visible. Dahal (1998) writes “rather than make its application to survey the Karnali Project with the Ministry of Water Resources and the Electricity Development Centre as required by the law on prospective investors, the company made a direct approach to the office of the then Prime Minister Sher Bahadur Deuba through a local agent who happened to be a cousin of Deuba by marriage.” Finance Minister Ram Saran Mahat in Deuba’s cabinet concurred the proposal but Pasupati Shamsher Rana, the Water Resource Minister despite being an avowed champion of large dams, disagreed with Deuba.

While the NC, the CPN-UML and the RPP espoused different political ideologies, their differences fudged on one issue: all three parties championed projects that consolidated unitary and centralised structures, such as the building of a large dam under the ITDMR and the doling out of hydropower projects to multinational companies (West Seti to Snowy Mountain Electric Corporation and Karnali Chisapani to Enron). Again to quote Dahal (1998), “it was as late as September 1997 that the first official meeting with Nepalese government. Enron had come to realise that, even if, late the need for an across-the-board understanding on the matter. Upon Enron’s suggestions an all-party meeting was held to discuss its proposal. Following the meeting Enron was assured that it would receive the licence”. The move to give the survey licence was opposed by the then Deputy
Prime Minster Sailaja Achraya who argued that Karnali was a multi-purpose project and that issues involved were not just electricity export but also included significant downstream flood control and irrigation benefits in India. While she stuck her ground, the NC central committee decided that Pancheswar and Karnali Chisapani projects were not linked and that Enron should be invited for talks to give it the survey licence. The end of the story was that Enron did not receive licence, left and few years later became bankrupt.

Enron’s interest in Karnali Chisapani Project came in the aftermath of the company securing a lucrative contract at Dhabol Power Plant in Maharastra, India. Referring to Dhabol Project, Stiglitz (2003) writes, “the whole transaction was tainted by political influence”, and asks, “why did the U.S. government guarantee a project which even the World Bank had rejected as not economically viable, a project which would make India less able to compete in the global marketplace, while it earned Enron huge returns not commensurate with the risk it was bearing? What was the role of political influence?” Stiglitz goes on to suggest, “Enron was story of the nineties—the excess of deregulation, accounting chicanery, corporate greed, bank complicity…. Enron showed the world the darker side of globalisation.”

Except for Deputy Prime Minister Shailaja Acharya who stood her ideological conviction, Water Resources Minister Pasupati Shamsher who seemed to understand the immense political risk of making this particular decision, and members of civil society groups

37. An all parties’ meeting on 3 August 1997 wanted the government to write a letter to Enron inviting it to invest in the 10,800 MW project. See Gyawali and Dixit (2000) for details.

who argued that Enron should not be given the licence, the political leadership in Nepal seemed to be in favour. The prevailing belief seemed to be based on confusions of a fundamental nature. Gyawali (2001) has succinctly captured the confusion that politicians faced not just in Nepal but also in the Third World in general, about the phenomena of neo-liberalism and globalisation. He writes: “elites operating the governments levers have stopped actively questioning the philosophy of development (or lack of it) espoused in these programmes (e.g. SAP). There seems to be fatalistic acceptance that the forces at work are so much more powerful that any chance of changing the future is beyond any thing that can be attempted: some unseen hand in faraway place, a good providence, will probably work, somehow in their favour”. This was hardly the case with Enron. Linda Powers, an employee of Enron testified to the Committee on Appropriation, US House of Representatives, “working through this process (of evolution of Enron’s Dhabol Project) has given the Indian authorities a real and concrete understanding of the kinds of legal and policy changes needed in India….. Our company has spent an enormous amount of its own money—approximately $20 million—on this education and project development process alone.”

39. Deputy Prime Minister Acharya was gheroed and booed in Nepal’s parliament. Former Prime Minster and CPN-UML opposition leader went to the extent of making a speech in the parliament that he would make the non-giving of licence [to Enron] a jihad issue.40

39. For the statement made by Enron’s functionary see Mehta (2000) ibid. Mehta goes on to suggest, “an appropriate conclusion that can be inferred from the above statement is left to the reader.”

40. See Gyawali and Dixit (2000).
Vision and Contradiction

The section above has described the contradictions in the way the Nepalese state and its mainstream political parties have acted regarding Pancheswar and Karnali-Chisapani projects. Below we touch upon the position of CPN-M, which heads the violent rebellion in the country. The 40-point demand the party presented to the Deuba government on 4 February 1996, mentioned nationalism and the abrogation of unequal river water treaties, especially the MoU on Tanakpur and the ITDMR. The second point states “the so-called Integrated Mahakali Treaty concluded on 29 January 1996 should be repealed immediately, as it is designed to conceal the disastrous Tanakpur Treaty and allow Indian imperialist monopoly over Nepal’s water resources”. Since then, the CPN-M has not made public how the party would develop Nepal’s water resources or how it perceives water relations with India should proceed. Instead, Maoist guerrillas have destroyed the country’s twelve small hydro projects and five medium size hydroelectric plants (Upadhyaya 2003) and several substations and transmission towers. In 2003, when Maoist leader Mohan Vaidya was arrested in Siliguri, India, Comrade Prachanda and Baburam Bhattarai suggested on 29 March that the arrest was “a conspiracy to hand over our rivers and streams” to India indicating the embedded role of water in Nepal-India relation and Nepal’s politics, and clear lack of understanding of how such a relationship should be fostered.

The vision of getting rich by selling hydropower, which the Nepalese state and its hydrocrats are bedazzled by, contains the

42. On 21 February 2005, suspected Maoist guerrillas blasted the sub-station at Kohalpur with a bomb, resulting in a power blackout in four districts of Mid-West Nepal.
following risks in addition to the three flaws mentioned above. First, because the approach entails selling power to a single buyer its price and hence revenue will be uncertain. Second, even if the financial returns or revenue were agreed upon, the national government would probably not be able to handle this influx of revenue effectively and the economy is likely to face Dutch Disease effects. Gyawali (1989) has highlighted this issue thus “excess of revenues to a state unprepared structurally to handle large capital inflows leads to what has been called the ‘Dutch Disease’ and a breakdown of the state apparatus.” In a qualitative analysis of the likelihood of Dutch Disease affecting Nepal’s large-scale hydropower development, Thapa (1997) distinguishes between the financial return a government is likely to get from the sale of electricity and economic development. Third, the export-led approach would render Nepal devoid of the benefits of the means of production (Bhadra 2004) and have weak forward linkages with local economics. Fourth, the proposed reservoirs entail high social and environmental costs but remain poorly acknowledged.

A preliminary assessment in 1994 of twenty-nine proposed reservoir projects suggested that about 600,000 Nepalese people would be involuntarily displaced (Dixit 1994). In a recent detailed review of five reservoir projects (Pancheswar, West Seti, Karnali Chisapani, Burhi Gandaki and Sapta Kosi) among the twenty-nine, Dixit et al. (2005) suggest that 648-km$^2$ of lands in Nepal’s middle hills will be permanently flooded and about 167,700 people involuntarily displaced. The inundation will result in an annual food grain loss of

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44. Gyawali (1989) has used Michael Watt’s analysis of revenue inflow from sales of oil in Nigeria while discussing the implication of Dutch Disease effects of hydro revenue inflow to governmental coffers in Nepal. Watt’s analysis was presented to Energy and Resources Group’s ‘Growth Seminar’ of 1986 at the University of California, Berkeley.
many thousands tonnes.\textsuperscript{45} The cessation of production of course, would imply loss of vast number of rural livelihood. The on-going water development discourse, however, recognises neither the value of regulated water nor the rehabilitation of lost livelihood despite the fact that in the late 1990s the issue of involuntary displacement began to be acknowledged in the track two level discussions on water between Nepal and India.\textsuperscript{46} The sense of uncertainty at the level of the Nepalese state is reflected in the lack of proper articulation of irrigation and flood control benefits, as well as in the disagreement over how to allocate costs to the electricity generated from proposed high dam projects after subtracting irrigation and flood control benefits.\textsuperscript{47} The question of how to reconcile national interests with local has also not been answered.

A fifth problem with large-scale hydroelectric projects is that Nepal does not have the institutional capacity to rehabilitate the large number of people who will be involuntarily displaced. The country’s experiences with the voluntary resettlement programme of the sixties, its inability to rehabilitate the freed Kamaiya in 2002 and the miserable condition of families from the on-going conflict imply that humanly Nepal cannot, at this point, rehabilitate the involuntarily displaced. Sixth, the capacity of social auditors to func-

\textsuperscript{45} On the basis of simple extrapolation of the loss from three projects, the total, loss would be between 35,000-40,000 tonnes. See Dixit et al. (2005)

\textsuperscript{46} For a discussion on track two initiatives in South Asia, see Behera and Rizvi (1998). One such initiative was the Ford Foundation-funded process involving three NGOs: Nepal's Integrated Institute of Development Studies (IIDS), India’s Centre for Policy Research (CPR) and Bangladesh Unnayan Parishad (BUP). The recent product of their joint study includes a section on displacement of people by water projects. See Adhikary et al. (2000).

\textsuperscript{47} Indian government has tended to deny assessment of downstream benefits of storage projects in Nepal and to stick to cost plus position for pricing of electricity. For discussions, see Dixit and Gyawali (1997).
tion as a vanguard to comply with the stated principles of rehabilitation is weak or non-existent. In India, in the case of both the Sardar Sarovar Project and the Tehri Dam, social activists were able to engage the Indian state in a sustained battle for just rehabilitation and compensation. Democratic space and a constitutional guarantee have allowed civic dissent to survive in India. Nepal’s democratic project lies in tatters and with the on-going violence, at least in its present situation, it is unclear how nascent social movements will institutionalise itself. Seventh, all Himalayan rivers carry a heavy sediment load which places a high risk on proposed reservoirs in their cost-benefit accounting.\textsuperscript{48} Eighth, and lastly, the tectonic character of the Himalaya makes seismicity as a major risk. These are not new issues; all except the first three were debated intensely in the 1980s in the case of the Tehri Dam. The debate over costs, benefits and risks in the case of the proposed Pancheswar Dam and other large-scale projects will simply shift to a new geographical locale and in a new time period.

Converting the flowing water in the Himalaya into a productive resource is mired with complexity, and an approach that underplays the complexity poses major risks to Nepal and its people. Given the complexity, perceptions related to development of water and energy also vary. Since different social groups frame problems differently, the technological solution one prefers will differ from what another finds desirable. How do we assess such technologies? Experience shows that a full assessment of the possible future impact of any technology cannot be made. One cannot hope for a comprehensive evaluation because much cannot be known until the technology is implemented, and once implemented, it is too late for some technologies (a high dam for instance) to be retracted. Such technologies are inflexible: they cannot be adjusted to the learning

curve because they are entrenched. The trick is not to find all potential impact, because it cannot be assessed until tried, but to see if technologies are flexible or inflexible. The technical and institutional indicators shown in table 5 inherent in any technology help determine whether it is flexible or inflexible.

### Table 5: Indicators of Inflexibility

<table>
<thead>
<tr>
<th>Technical</th>
<th>Institutional</th>
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<tbody>
<tr>
<td>Large scale</td>
<td>Single mission outfits</td>
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<tr>
<td>Long lead time</td>
<td>Closure to criticism</td>
</tr>
<tr>
<td>High capital needs</td>
<td>Hype (as in if we don’t cover the Himalaya with trees, Bangladesh will sink forever beneath the waves)</td>
</tr>
<tr>
<td>Major infrastructure needs early on</td>
<td>Hubris (often in the form of overconfidence as to what the future holds, or the categorical certainty that ‘there is no alternative’)</td>
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**Source:** Thompson (1994).

How does the proposed Pancheswar Project fare when compared with above indicators? The comparison is summarised as follows.

**Technical**

*Scale:* The Pancheswar Multi Purpose Project aims to build a 315-m high rock fill dam. When completed, the dam will be higher than the 305-m-high Rogun Dam in the former USSR. The dam’s reservoir will inundate 134 km²: 80 km² in India and 54 km² in Nepal.

*Time:* Large-scale hydropower projects have long gestation periods. The Itaipu Project between Brazil and Paraguay was started in 1972 and completed only in 1990. The construction of Bhakra Nagal Dam in Sutluj River, Punjab, spanned 15 years starting in 1955. In the Himalayan region, the 261-m-high Tehri Dam in the Bhagirathi River, which began in the 1970s is now nearing completion. Hydro-projects of this size often face major delays due to the lack of financing and other unforeseen difficulties.

*Capital Needs:* The preliminary estimated cost of the Pancheswar
Project is about US$3 billion. This estimate is probably low: a project of comparable scale experience cost escalation many times (WCD 2000) during implementation.

**Major infrastructure needs:** Before energy is made available, the dam and its appurtenances must be built.

**Institutional**

**Single mission outfit:** The first flaw is the fact that the organisations entrusted with execution have a single focus. Though a dam serves multiple purposes: electricity generation, flood control, irrigation, recreation, and fish production—the dominant purpose of the Pancheswar Project is electricity generation. The flood control benefits of this project, for example, are estimated as just 3.7 per cent of the total benefits.

**Closure to criticism:** Even though initiatives of a similar scale, Sardar Sarovar Project (SSP) and Tehri Dam, are bogged down in litigation, these issues that have arisen are considered peripheral in the case of the ITDMR. Despite the controversy facing large-dam, a business-as-usual approach is being pursued.

**Hype:** The treaty acquired a very high profile in Nepal and the hype associated with the treaty, with advantage of hindsight, could be termed unreal. Some of the examples of the hyped statements were as follows: The sun would rise in the west, Nepal would become an Asian leopard, Nepal would get an annual revenue of Rs.1200 million, “the treaty would be noted in the United Nations, as the latest treaty that had established the most solid principle in allocating water and power benefits (on an international river)”; the treaty was landmark agreement between the two countries— all this sensationalism was rife.

**Hubris:** The notion of categorical certitude in ITDMR can be

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49. See Gyawali and Dixit (2000).
applied to the dominant approach whose roots date back to when the Sarada Barrage Project was first conceptualised in 1872, during the British rule in India.

The very conceptualisation of the ITDMR had technological inflexibility embedded in it. It is therefore not surprising that it has faced and continues to face hurdles and that it has not been successful in meeting its stipulations. The ITDMR is a classic bureaucratic response that has arrogantly filtered out social and environmental questions; it reflects the hubris of domineering civil engineering with whose superiority the hierarchic mindset in Nepal and India concurs. The only criticism of the ITDMR came from social auditors, who highlighted the social, economic, political and environmental risks inherent in this path, but was filtered out.50

Moreover, the protagonists, in this case the governments of Nepal and India, which had been in total disagreement about a wide gamut of issues relating to the nature of problems and goals, suddenly leapt into a state of total agreement as if transformed by some magic. They did not engage iteratively in defining problems and their causes, or in identifying solutions acceptable to all. No wonder then that the ITDMR failed to move forward and has ended in an impasse.51 By getting themselves locked in ITDMR, Nepal’s political

50. See Dixit and Gyawali (1997).
51. Vlachos (1988) has used such an analysis. Dixit (1997a) used similar concept in the case of the two MoUs on Tanakpur. The ITDMR is a classic case of how proponents can move from a state of total disagreement into a state of total agreement. The Indian Foreign Minister arrived in Nepal on the 26 January, 1996 and the treaty was initialled on the 29 January 1996. The following statement by Foreign Minister Prakash C Lohani reflects the nature of haste in getting the ITDMR signed. Lohani writes, “A long and extensive discussion took place to decide the issue as to how the rate of selling power should be fixed. It stretched over the whole night.” (Lohani 1996).
leadership demonstrated little understanding of the complex society they represented and little commitment to seek a path that would provide tangible benefits to the Nepalese people. The export-led paradigm itself is antithetical to Nepal’s discourse on an inclusive democracy. It may be worth reiterating the fact that electricity is, after all, a means of production and a stimulus to local industries and to facilities like clean public transport systems. Exporting hydropower generated from large-scale projects means that Nepal’s economy will not be able to take advantage of the produced electricity as a means of production, while bearing risks listed above. The only benefit is uncertain revenue that would accrue to the government.

Instead of ratifying the treaty with unilateral strictures, what would have happened if the Nepalese parliament had instructed the government to do the necessary homework, clarify ambiguities and engage the government of India? How would the Indian government have reacted? Instructing the Nepalese government to clarify ambiguities and renegotiate with the Indian government would have been an act of assertion on the part of the parliament, and perhaps Nepal would have followed a different political trajectory since 1996. The above questions and subsequent logic about assertion by the parliament are hypothetical, because unfortunately, that was not to be. The decision to ratify the ITDMR was hierarchic, and simply bad politics, and it also rejected alternative possibilities. Instead of leading to a win-win situation as hyped, the ITDMR has been a classic lose-lose event for Nepal. The promise of benefits is nowhere in sight: the Constitution is derailed, mainstream political parties have de-legitimised themselves, the country faces serious political crises, the violent insurgency has taken more than 12,000 Nepalese lives by the end of 2005, and amidst the chaos the monarch took over power on 1 February 2005. The above analysis has, of course, the advantage of hindsight, and there still are many ‘ifs’ and ‘buts’.
Cooperation Through Flexible Paths

What are the alternative paths? Referring to the challenges of water resources development in Nepal, Gyawali and Dixit (2001) write, “responses to water management in the Himalaya-Ganga region have traditionally sought under the hierarchic mode by defining science in a unitary sense. Because it has ignored the pluralistic context and thereby specific approaches to each demands, the particular notion of science has led to entrenched position and exacerbated disputes”. The ITDMR, Nepalese government’s short-lived honeymoon with Enron and its intercourse with the SMEC (West Seti Project) all reflect technological entrenchment. Gyawali (2002) offers both a critique of Nepal’s fixation with gigantism and the contours of new possibilities, “in this flux, the basic social unit, which has withstood the stress of change, is the family with its larger clan: almost all interactions of individuals revolve around this unit and its collective decision-making. The nation-state is much younger institution and consequently does not quite command the same uniform loyalty as the clan-based intermediary institution. The market is still younger than the state, but because the market often caters to the comfort of the family better than the state does, a rapacious, rent-seeking government is preferred. In this milieu the nature of homogenising technology militates against the nature of a diversified society”. In other words, flexible technology can help build sustainable livelihood and will also suit Nepal’s geographical, social and economic diversity.

A new cooperative path must provide social and economic security to the peoples of Nepal and India, which the current path of technological determinism cannot. To that end, cooperation needs

52. HMG and SMEC signed the first MoU to build the West Seti Project in 1994. Ten years later, SMEC is still seeking to make an agreement with the Power Corporation of India.
to be conceived as a process, which meet the interests of both governments and people. And in the case of Nepal and India, these interests are the provision of secure livelihood to all, poverty alleviation, employment, water, health and food security services, the outcomes that cooperative resource development could play a central role in fulfilling. According to Dixit and Gyawali (2003), “human security is closely related to the issue of livelihood, which in turn depends on specific activities like irrigation, food and drinking water supply, pollution, flood mitigation and energy.” Moench and Dixit (2004) highlight the following eight lessons as being relevant for the building of resilient community livelihood in flood and drought affected regions of India and Nepal.

First is the nature of livelihood systems within a region, more specifically, the extent to which individuals and households are able to diversify income strategies and incorporate non-farm components. Income diversification, particularly the development of non-farm sources of income, is the primary avenue through which households are able to maintain their livelihood, even during floods. This is achieved by establishing a business or by securing outside jobs, either abroad, in cities or simply in regional labour markets. Diversification provides access to secure income streams that can be used to maintain consumption, avoid debt, rebuild agricultural activities and retain or rebuild assets. Because local agriculture is vulnerable to setbacks caused by its dependence on services like irrigation, diversification into non-agricultural activities is, in fact, often essential in order to ‘ride out’ bad years. The ability to diversify is critical to the maintenance of rural agricultural livelihood systems.

Second factor reducing vulnerability is the ability of people to migrate or commute in order to obtain access to non-farm or non-agricultural sources of income. Migration and commuting help households obtain access to income streams that are unaffected by local problems. They are a core strategy in managing risk. The fact
that much migration is long-term and driven by a wide variety of factors (such as the growth and diversification of national economies and the degradation of traditional livelihood) only increases its role in flood and drought mitigation. This does not imply that all migration is good. Displacement caused by drought, flood, local impoverishment, other disasters or by conflict often leads to impoverishment. Even so, the role migration plays in maintaining the livelihood of rural populations cannot be disputed. The flow of people across rural and urban boundaries, districts, states and national borders provides access to a diverse range of livelihood strategies that are absent in many rural areas.

Third is the ability of information, goods and services to flow in and out of an area. Such flows are as important as flows of people in determining adaptive capacity, or the ability to manage risk. During the recent drought in Gujarat, for example, fodder moved to rural areas whereas in the past people had to migrate to fodder. The presence of regional markets, government programmes and large-scale cooperatives enabled people in rural Gujarat to access fodder produced in other areas. As a result, milk production in some areas actually increased, to some extent compensating for the loss of other sources of agricultural income. Income from non-farm economic activities also depends on regional trade and on the free flow of goods, services, finances and information into and out of rural areas. Systems that enable flow of this type, whether they be remittance from migrants, information regarding markets, support of cooperatives, weather or access to national financial markets through banks, are central to economic diversification within rural areas and thus to the ability to improve livelihood opportunities.

A fourth way to promote resilience in livelihood is the social capital and institutional checks and balances that households have access to, including education, community institutions such as self-help
groups (SHGs), formal institutions such as government departments and banks, NGOs, the media and social networks. The social capital and institutional checks and balances present in rural areas are crucial on building resilience. Unless people have the skills required to identify and take advantage of alternative income opportunities, their ability to adapt is limited. Access to capital and social organisations is key since many activities, however small, require both an initial source of financing and the assistance of others. The need for money and support underlie the critical role of self-help groups (SHGs) and formal institutions. Unless banks are present in rural areas and are able to make the types of loans people require, people are forced to depend on local moneylenders and to pay the high rates of interest they charge. Institutions like SHGs provide credit for whatever investments are essential for rebuilding livelihood systems and can create a critical formal check on moneylenders and other informal capital markets.

The presence of diverse and competing organisations and sources of information is essential both to ‘keep such organisations honest’ and to provide the diverse array of services required for building livelihood in the face of unexpected but emerging natural events, climatic variability and similar other types of change.

Fifth is the existing pattern of vulnerability created by gender, income and social position. A pattern of differential vulnerability is the hallmark of the people of the Ganga Basin. Women and girls in areas are particularly vulnerable. The poor also suffer disproportionate hardship. Actions that address gender and other forms of differential vulnerability are essential if cooperative efforts are to be able to build societal security.

Sixth is the nature of the physical infrastructure (roads, houses, water supply systems, etc.). In many localities of the Ganga Basin, local hydrological systems have been altered by the overdraft of regional groundwater aquifers or by the construction of roads, bridges, railway lines, and flood control embankments that funda-
mentally alter drainage patterns and water availability. These conditions can exacerbate the risk to livelihood systems. Forms of infrastructure that are themselves adapted to hydrologic variability, in contrast, enable social adaptation and thereby minimise vulnerability. The challenge is to explore and identify points of leverage through cooperative efforts.

A seventh risk-reducing element is the access of households in regions to reliable water, health and hygiene services. A reliable water supply is essential for maintaining secure livelihood. Unless they have access to clean potable water, households face major health problems and may be forced to migrate. In flooded areas, the quality of water supply systems can make a significant difference.

The eighth and final insight, Moench and Dixit identify, is the condition of the natural resource system, particularly the degree to which ground and surface water systems have been disrupted. Environmental degradation, particularly of water supply systems, is an indicator of vulnerability. Long-term declines in groundwater levels during normal years are, for example, a key advance indicator of a region’s vulnerability to drought. Although the timing of a drought may be impossible to predict, the severity of its impact depends heavily on the ability of the local population to access groundwater. The recent discovery of arsenic contamination of groundwater is a potentially debilitating factor unless serious measures are taken to mitigate its devastation and alternative sources of water developed. Areas where development activities have included the construction of structures that impede drainage are likely to be vulnerable to floods. Overall, as has been widely recognised in a variety of situations around the world, environmental conditions

are central to determining how vulnerable a population is and how resilient they will be in the face of livelihood depletion.

Alternative strategies with potential for immediate cooperation include the following:

a) Delineation of the most vulnerable groups in a common basin and initiation of cooperative strategies involving activities for building resilient livelihood.

b) Activities which deliberately strengthen strategies that can promote cooperative initiatives of non-consumptive water-based interventions and which begin to develop interest-guided mechanisms for meeting energy, water and food needs. At a more substantive level, such a path may involve the development of say 75-100 MW (non-consumptive) hydropower plants, the bulk of which would be used to enhance forward backward linkages in Nepal. The energy generated could be further utilised to foster the consumptive management of surface and groundwater as well as include energy exchange through Nepal’s national grid to settlements in border areas. A secure population on the two sides of the border would build their sense of trust and consolidate the age-old ties between the people of the two countries.

These alternative paths sketched above are decentralised, flexible and multi-dimensional. Because of their modest scale these options are less likely to exhibit the inflexibility inherent in the monistic path embodied in the proposal such as the ITDMR. If one approach fails, others can be taken forward and in the process, incentives for cooperation are continued. The resources, knowledge and skills needed to pursue such a path are available within both governments, but this path has not been discussed in the current cooperative discourse, and the result has been entrenchment leading to depletion of resilience. In proposing this alternative approach we aim
to bring to the fore the imperatives for the cooperation of the constructivists. Nepal and India need to implement several strategies of cooperative resource development. A facilitative government can tread one path while allowing efficiency and creativity of the private sector to foster. Introducing the conservation ethics of the civil society and voluntary sector will provide a cautionary edge and thus nurture the initiative. Despite the fetishism of gigantism among Nepal’s leadership, the good news is that Nepal has seen the beginning of a self-reliant approach to hydropower development. Referring to these changes in Nepal, Pandey (2004) has argued that “after Arun III there has been a paradigm shift, but learnt the hard way”.

Gyawali (2005) provides a theoretical underpinning of such a shift. He suggests, “Egalitarian-minded activists and academics have often protested against the attempts by the Nepalese government and its aid donors to gamble the fate of the country on a few massive hydro projects. They have frequently exposed the dubious economic assumptions hidden in the design of these projects, and have deplored the regional inequalities, environmental destruction, graft and destitution that these projects were bringing about. Advocates of individualistic perspectives have pointed out that Nepalese private companies are quite capable of finding efficient, practical and innovative business solutions to the problems of lacking water supply, irrigation and drinking water. Before the restoration of multi-party democracy in Nepal in 1990, these alternative voices were frequently silenced; thereafter they were too often ignored, despite occasional successes, by the nexus of politicians, bureaucrats and

54. In an interview with the weekly Nepali Times Pandey (2004), who was with the ‘Alliance for Energy’ that opposed the Arun III Project, has argued, "the Tenth Plan (Nepal’s) has made plurality a policy." This change is welcome, but much more creative efforts will be needed to bring about similar paradigm shift in bilateral cooperation.
contractors/suppliers. Power development in Nepal will only blossom when defenders of all three ways of perceiving and organising can freely engage in a clumsy debate over what the problems are and how they should be solved.”

This paradigm shift offers points of leverage for a contested but self-reliant hydropower development path. It should be the contours of the terrain within which Nepal’s political leadership need to take objective stock of the events during the tumultuous years of the nineties, and re-craft their role in developing Nepal’s water resources in the future. It is within such contours that alternative paths, for meaningful bilateral cooperation need to be sought. We must recognise though that limitations exist and subject our assumptions to deeper cooperative evaluation.
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Nepal is in a position to exercise powerful influence on India’s internal stability and if it were disaffected, the anarchy will spill over.

- A British Foreign Office Document 1919

Introduction

This was British India’s view on the geo-political significance of Nepal some 85 years ago. A lot of change has taken place in India since then. However, this observation holds true even today. It still guides the foreign policy and outlook of the modern Indian governments towards Nepal’s political events and insurgency.

Nepal is facing the gravest left-wing armed insurgency since its formation in 1768. More than 12 thousand people have been killed in the past 10 years, thousands have been maimed, more than fifteen hundred have disappeared from the detention centres, and

1. I am indebted to Mr Shiva K Dhungana for his effort in extensive content editing of the initial version of the paper submitted to FFP. I am also thankful to Mr Narad Bharadwaj for his contribution in editing the language of this paper.

2. Mr Shyam Shrestha is Chief Editor of Mulyankan Monthly, a Nepalese magazine.
hundreds of thousands have been displaced from their native villages and towns (INSEC 2005).

According to an independent estimate, Nepal has lost infrastructures worth about Rs37.6 billion between 1996 and 2003 (Sapkota 2004). Further, Nepal would have saved Rs43 billion from security expenditure only in the past nine years, if it had not been involved in the bloodiest conflict (Shrestha 2005). The government has reached the point of collapse that no revenue remains at all at its disposal for the development expenditure. No political insurgency in the past had such a devastating impact in its entire history. The impact of the armed conflict can now be seen in all aspects of life.

There have been two peace talks and ceasefires in the three years between 2001 and 2003, but all were unsuccessful and were followed by more severe onslaughts. The magnitude and intensity of the violence is increasing and its consequent impact is not limited within the national boundary. The armed conflict of Nepal has become a topic of regional and international concern. Having been surrounded by India on three sides with open border, the immediate spill-over effect of the armed insurgency in Nepal has been on India.

India is not only a very close but also a very powerful neighbour of landlocked Nepal as well as having economic, socio-cultural, political and military relationships for centuries. The geopolitical realities of Nepal, surrounded by open border with India on three sides and the mountainous northern border with China, has made Nepal highly dependent on India since time immemorial. By taking advantage of Nepal’s dependence on it, India has always played a crucial role in every political development in Nepal. Further, the current Maoist insurgency is proving to be a cause of a serious internal security concern for India as the Nepalese Maoists are playing the role of re-energising the Maoists and other rebel groups in India.

A neighbour, who is more developed in economy and very big
India’s Possible Role in the Future Peace Process of Nepal

in size, usually has the tendency of interfering in the politics of the smaller country. India has repeatedly shown that tendency in the past. Under these circumstances, Nepal cannot ignore the perspective and role (direct or indirect) of India while deliberating on the peaceful transformation of the Maoist conflict in Nepal.

It is quite obvious that India has some vital national interests in Nepal. Those interests primarily determine its policies, attitudes and perspectives towards Nepal’s peace process. That is why this paper endeavours to analyse India’s vital interests in Nepal in its historical perspective and relate those interests with its present outlook and policies on the Maoist insurgency in Nepal. It attempts to shed light on the changing attitudes and policies of Indian government towards the Maoist rebels in Nepal and the reasons behind them. An analysis will also be presented on how India perceives and reacts on the role of other international communities in the peace process of Nepal, mainly the UN, USA and EU countries. An attempt will also be made to recommend some ways on how Nepal could do better in dealing with India in relation to its role in the future peace process, keeping its independence intact, and at the same time making peace process a success. This is a very delicate, difficult and sensitive question, however.

Nepal-India Relationship: A Historical Perspective

The British India Period (1816-1947)

After the defeat in Anglo-Nepal war with British East India Company in 1814-16, Nepal’s political independence as a sovereign state largely shrank. The Treaty of Sugauli 1816 symbolically restricted Nepal from appointing any foreign citizen in its service without the consent of British government. However, the political and psychological implications of the treaty had been immense and multi-faceted. The process of expansion of Gorkha Empire
was totally halted. Nepal could not have foreign diplomatic relations with any other country other than the UK and British India for 130 years. The tendency of struggle with British-India was completely transformed into appeasing and following the British colonial rulers at any cost and with all the means they had at their disposal.

For British colonialists, Nepal was a buffer zone between gigantic China and India which saved them from maintaining a huge security force along 500 miles Nepal-China border and from face to face confrontation with China, a sleeping lion of the time. British had security concerns vis-à-vis Nepal, because the open border and geo-political situation of Nepal provided a situation that there was a spill-over effect on India, if some sorts of revolt or anarchy emerged in Nepal.

British-India was quite aware that Nepal had abundance of water and natural resources. They attempted to get advantage of them as building Sharada Barrage in Far-western Nepal, and importing timbers from the Terai for constructing the Indian railways.

Impressed by the admirable bravery and loyalty of the Nepalese in the war with it, British-India had luring eyes on Nepal for recruiting them as their soldiers. This began in 1815, just after the Anglo-Nepal war and continued in increasing number in the future. Hundreds of thousands of Nepalese youths had been recruited as mercenary soldiers for British rulers during the First and the Second World War, providing very little or nothing for the soldiers, but a large purse of money for the Rana prime ministers. Not only as a provider of soldiers, the British India had seen Nepal as a source of very cheap labour for other areas of social life and economy. As the Rana rulers were very loyal and dependent on the British-India regime, the later did see no harm accepting Nepal as a sovereign state. With this mindset, they accepted Nepal as a sovereign state for the first time through a treaty of 1923.
The Period of Mono-Dependence on India (1947-1955)

Although British colonial regime ended in India in 1947, the colonial mindset did not end in new Indian leadership. The rulers in Delhi changed; however, the vital national interests of India in relation to Nepal remained almost the same and their attitudes and policies arising there from. Three main factors seem to have influenced the Indo-Nepal relationship when Nepal entered into the democratic era in 1950.

First, very short history of democratic movement in Nepal, which had not reached the point of maturity and natural culmination to take-over and run the democratic state, produced highly inexperienced and weak political leadership in Nepal. And they were very much dependent on the Indian government for everything. Second, Indian government felt a grave security threat by communist revolution in China in 1949 and the successive take-over of Tibet in 1950. And the third, the birth and development of capitalist class in India, its control over the state, the national interests of India and their colonialist mindset generated the same attitudes and policies in the new Indian government as before.

The political base of Rana regime and its strength was not popular support, but the support of British colonial regime in India and its own military machinery. When the British rule in India ended, Rana regime became very weak. Democratic movement in Nepal in 1950 was getting momentum, but the major parties leading the movement did not have long history of their existence. So it was quite natural that the leadership, which was leading the democratic movement in Nepal was not politically experienced and mature at the point when they started armed insurgency in 1950. The decisive battles in (the power) struggle had not been fought in the hills of Nepal, but in the halls of New Delhi (Rose 1971). The fall of Rana regime had been possible mainly because of its utter isolation at the
loss of international and national support base. They lost even the support of King Tribhuvan, who risked the throne and went into exile in India.

Indian government had put a big pressure on isolated and weakened Rana rulers at the verge of their collapse and had been successful to sign a very unequal treaty in July 1950, six months before the fall of Rana regime. The Treaty of Peace and Friendship (TOPF) and the letter exchanged with it had limited the political sovereignty of Nepal and brought it within the Indian military perimeter. Nepal had to accept India’s security threat as its own threat and vice versa. Nepal had to ask for the consent of India to import arms, ammunition or warlike materials via India. Nepal was compelled to give first priority to Indian government and nationals, if Nepal took any foreign assistance in regard to development of the natural resources and industrial projects. It tried to develop a ‘special relationship’ between India and Nepal in which the later would develop as a dependent recipient country of a periphery and Delhi would emerge as a centre of political and military decisions, the heart of industry and trade.

In addition, India, which ‘preferred’ to deal on monopolistic terms with Nepal, enforced a trade treaty which narrowed Nepal’s resource base, made it more dependent on India. Combined with the TOPF, which was exclusively directed against Nepal’s other neighbour, Communist China, Nepal took shape as a near full-fledged hegemony of India (Mishra 1987).

With the support of India, King Tribhuvan and his family, including Crown Prince Mahendra and eldest grandson Birendra, took refuge at the Indian embassy in Kathmandu on 6 November 1950, and were flown to Delhi four days later in an Indian plane. The King was immediately deposed by the Rana Prime Minister Mohan Shamsher for his betrayal and his four year old second grandson Gyanendra was declared as the new king. But Indian govern-
ment along with the international community never accepted this declaration. However, India feared that revolutionary democratic change in Nepal could jeopardise its own security. Therefore, Prime Minister Jawaharlal Nehru sought “the middle way”. Nehru declared in the Indian parliament on 6 December that India could not “risk her own security by anything going wrong in Nepal which permits either that barrier (Himalayas) to be crossed or otherwise weakens our frontier” (Bhasin 1970: 25). Consequently, a compromise deal was made for Nepal’s democratic future by India, which included a Constituent Assembly to draft a new constitution and an interim government headed by the Rana Prime Minister and with ‘popular’ Nepali Congress representation and recognition of King Tribhuvan by the Ranas. However, it was surprising that, when this very important deal was made, Nepali Congress leader B P Koirala had very clearly stated that the three Nepalese parties involved in the deal were neither properly consulted by India, nor given a chance to sit together and discuss the matter. All communications took place through Prime Minister Nehru, who never spoke about terms concretely (Koirala 1998). In spite of all that, all parties agreed upon the ‘Delhi Agreement’. The King returned to Nepal and was enthroned again. The Nepali Congress leaders also returned to Nepal on 7 February 1951 to form a new government.

The transition after the Delhi Agreement was messy. Nepal’s political dependence on India increased after the 1950 ‘democratic revolution’. The degree of economic dependence was even more so (Mishra 1987).

For some years to come, the making and dismissing of the Nepalese cabinet was almost decided at New Delhi. Even the Private Secretary of King Tribhuvan- Govinda Narayan Singh had been sent by the Indian government from among the officials of Indian Civil Service. The first Chief Justice of the Supreme Court of Nepal was an Indian-Nepalese- Hari Prasad Pradhan.
The Indian Prime Minister dared to state openly that the Himalayas had been the frontier of India too. He told the Indian parliament on 6 December 1950: “...No other country can have as intimate a relationship with Nepal as ours is. .... Our interest in the internal conditions of Nepal has become... more acute and personal in view of the developments across our border in China and Tibet. .....From time immemorial, the Himalayas have provided us with a magnificent frontier. Of course, they are no longer impassable as they used to be but they are still fairly effective. We cannot allow that barrier to be penetrated. (Nehru 1961: 435-6).

This speech of Premier Nehru had come basically because of the presence of Communist China in Tibet. Indian government had felt a serious security threat from it. However, the way it chose to address the threat was tantamount to taking Nepal as one of its own provinces, not a separate sovereign nation.

In order to address that security threat, the Indian Air force and Indian Army engineers constructed Tribhuvan Airport and Tribhuvan Highway in the first half of 1950s respectively. The Indian Army continued to operate the highway long afterwards (Mishra 1987).

In the meantime, in the name of reorganising and training the Royal Nepalese Army (RNA), Indian Military Mission (IMM) came to Nepal and penetrated deep into its highly sensitive security machinery in the 1950s. India’s security interests in Nepal were further consolidated by New Delhi’s attempt to establish 17 Military Check-Posts (MCP) along Nepal’s northern border with China in September 1951 (Dharamdasani 2001).

Indian government publicly demanded that Nepal should have the same foreign policy that India pursues. Nehru told the Indian Parliament on 18 May 1954: “...When His Majesty the King of
Nepal and some Ministers of Nepal government were here, it was again reiterated that the foreign policy of the Nepalese government should be coordinated with the foreign policy of India” (Singh 1994:49).

Indian government followed such a foreign policy that it did not care much about the fate of process of democratisation in Nepal, if its national interest was better fulfilled by some undemocratic regime. King Tribhuvan never fulfilled the promise he had made before Nepalese people in 1950 as per the so-called ‘Delhi Agreement’ envisaged by Nehru: the convening of constituent assembly, making a new constitution and handing over power to the people according to the constitution. On the contrary, he had usurped all the executive and judicial power in 1953, which he himself had given to the cabinet and the Supreme Court. But so long as the king was fulfilling the interest of India, it did not care and oppose the king’s move to absolute monarchy.

On the economic front, Nepal’s dependence on India seemed to have increased after 1950. In the pre-plan period (1951-1956), India emerged as the biggest aid-donor contributing 74 per cent of all foreign aid it was receiving (Muni 1996). In 1956/57 Nepal’s total volume of trade with India was as much as 98 per cent (Bhatt 1996). The volume of trade with India had reached Rs. 265 million Indian currency in 1956-57. By 1966/67, it had increased to more than four times (Mishra 1987). However, Nepal’s export constituted mainly the primary goods, while imports from India were mainly composed of manufactured products, fuels, chemicals and food items. This one-way traffic of trade between India and Nepal engendered underdevelopment and dependence of Nepal and a state of neo-colonial economic dominance and hegemony of India (Mishra 1987).

In order to fulfil the water resources interest of India, two important projects were agreed and implemented in the 1950s: The
Koshi Barrage Project, 1954 and the Gandak Barrage Project, 1959. Both of the projects gave a little advantage to Nepal and an enormous advantage to India. The treaty, which incorporated these projects, created sharp criticism and opposition among the Nepalese people for being unequal.

Towards Less Dependence (1956-1989)

However, after the death of King Tribhuvan in 1954, Nepal seems to have moved from total dependence on India to less dependence, albeit with several contradictions.

After 1955, Nepalese political leadership seems to have begun to resist the Indian government’s hegemonistic behaviours. Diplomatic relationship with USA (25 April 1947), France (20 April 1949), China (1 August 1955), the USSR (20 July 1956), Japan (28 July 1956) and Germany (4 April 1958) had created a basis for it. Nepal’s admission as a member of the United Nations (UN) in 1955 was also a watershed event in this regard.

One of the remarkable events of resistance was seen in the response of Nepalese Prime Minister B P Koirala, when Indian Premier Nehru, during a debate in the Indian Parliament on 27 November 1959, stated, “…any aggression against Bhutan and Nepal would be regarded aggression against India.” (Nehru 1959: 2211). He amicably reacted by saying “I take Mr Nehru’s statements as an expression of friendship that in case of aggression against Nepal, India would send help, if such help is ever sought. It could never be taken as suggesting unilateral action” (Asian Recorder 1959: 3060-61).

The emergence of the USA as a prominent aid donor since the pre five-year plan period (1951-56) and increasingly in the following plan-periods played a decisive role in curtailing the mono-dependence on India for economic aid. In the pre-plan period, India had contributed 74 per cent of the foreign aid in the total, and the
USA- 26 per cent. But in the First Five Years Plan (1956-61), USA's contribution surpassed India to a large extent and reached 58 per cent, while India contributed only 21 per cent. In the Second Plan period (1962-65), too, the USA contributed nearly the double that of India (USA 45 per cent - India 23 per cent in the total) (Muni 1996).

Meanwhile, the emergence of China and USSR as major aid donors since 1956 and multilateral sources since 1970s also changed the composition of aid donor scenario completely. Now, India has turned into a dwarf aid donor in relation to the total amount provided by the USA, China, the USSR, the UK and multilateral sources collectively. The contribution of Indian aid to Nepal as percentage of total foreign aid to Nepal decreased from 74 per cent in 1951-56 to just 10 per cent in the late 80s. The exceptions were the Third and Fourth Five Years Plan in which India had single-handedly contributed 57 and 37 per cent of the total respectively3 (Muni 1996).

Although, the percentage of Indian aid in relation to total was continuously declining, but not the amount of it. On the contrary, it was increasing the amount plan after plan. After King Mahendra’s coup de ′tat in 1960 against the elected government under parliamentary democracy, Indian aid to Nepal had been surprisingly increased manifolds. Taking the Second Five Year Plan (1962-65) as a base, the amount of Indian aid had been increased more than five times in the Third (1965-70) and Fourth Five Year Plans (1970-75) and 10 times in the 6th Five Year Plan (1975-80).

It clearly proves again as mentioned earlier that India does not care much about the growth and setbacks in democracy, when its national interest comes on the way. Any regime as bad as King

Mahendra’s *Panchayat* autocracy could get its backing and stronger financial support, if its interest was better served. It is remarkable that there had been Indo-China war in 1962 and Nepal had managed to remain neutral in it. The significant increment of Indian aid to an autocratic regime in 1960s and 1970s at the cost of nascent democracy should be seen in that context. Actually, one of the major factors of survival of *Panchayat* autocracy for three decades had been the continuous Indian backing. When India showed its back in late 80s, it became very weak and kneeled down against the historic People’s Movement in 1990.

Not only the economic aid but also the trade dependence on India decreased significantly after 1955. In Nepal’s total volume of trade, India’s share was as much as 98 per cent in 1956-57. Until 1966/67, too, India’s share in the total volume of trade was almost the same. However, after a decade, in 1976/77, it had remarkably declined to 67 per cent and ten years later in 1986/87, it came down to 40 per cent only. It had reached all time low in 1989-90 to 23 per cent (NRB 2004).

Moreover, the Arniko Highway, linking Kathmandu to Kodari, border with China, was constructed in late 1960s with China’s aid mainly to end the mono-dependence on India for essential commodities, international relations, and security. It was an attempt to come out of the security umbrella of India, and the era of ‘special relationship’, together. It provided a basis, a standing ground for Nepal to oppose India’s mono-hegemony and to demand equal relationship.

The demand for the end of ‘special relationship’ and the beginning of ‘equal relationship’ had begun in 1956. The then Prime Minister Tanka Prasad Acharya raised objection over the role of Indian members in the ‘Consultative Mechanism’ in Nepal. This objection eventually led to the winding up of this mechanism in 1956. He also demanded for the withdrawal of the Indian Military Mission in
India’s Possible Role in the Future Peace Process of Nepal

The most severe and final blow to India’s military presence in Nepal came in 1969 when Prime Minister Kirtinidhi Bista wrote India to withdraw the Military Liaison Group, Indian technicians and observers posted on the Nepal’s northern check-posts along the Chinese border saying no more consultations on security matters were required (Muni 1996).

Nepal’s increasing participation in the international forums, especially the UN and Non-Aligned Movement (NAM), Nepal’s diplomatic relationship with more than 97 countries since 1947, entrance of multilateral sources such as the World Bank (WB), International Monetary Fund (IMF), Asian Development Bank (ADB), Saudi Fund, and the UN agencies in the aid scenario, changed the absolute dependence on India to a large extent.

The proposal of Zone of Peace (ZOP) put forth by late King Birendra in February 1975 was also directed towards relative political independence vis-à-vis India. It was thought out as one of the ways to come out from the Indian security umbrella and to change the existing security perceptions. The Indian government never approved this proposal, even when more than 100 countries of the world including USA, USSR and China recognised it.

The irritation culminated to climax when Nepal imported arms and ammunition from China in 1988 without informing India. Three factors, namely the decreasing trade and aid dependence on India, the proposal of Zone of Peace (ZOP) and import of Chinese arms without Indian consent showed very clearly that Nepal was trying to find an exit from the absolute political, economical and security dependence on India. And the trade embargo of 1989 was the reaction of India against this tendency of independence.

The phase of 1955 to 1990 was not only the phase of struggle for increasing independence, but also full of contradictions and capitulation. The agreement on Gandak Barrage was signed on 4
December 1959 by the Nepali Congress government led by B P Koirala and the agreement was very unequal and unjust for Nepal. In the same way, immediately after 1962 Indo-China war, Indian security forces encroached the Nepalese territory in Limpiadhura and Tinkar in the far western hills of Nepal and established a permanent military base. However, King Mahendra never opposed the encroachment, nor brought it to the notice of the people. “In 1965, there was a secret agreement with India, which gave it a virtual monopoly on determining Nepal’s defense needs. The agreement envisaged that India will supply arms, ammunition and equipment for the entire Nepal army, replace existing stock with modern weapons and provide for the maintenance and replacement of equipment supplied, provide all training facilities for the Nepalese armed forces either in India or Nepal, and that all the assistance would be on grant basis” (Mishra 1992). This agreement was also inked by King Mahendra.

These are the few examples of major contradictions and capitulations. There are many minors. However, in spite of all these contradictions and lapses, the dominant tendency in the period of 1955-1990 was of struggle for decline in mono-dependence on India. There are evidences that while Nepal was on decisive democratic struggle with the autocratic monarchy in 1989, and the monarchy was losing against the historic People’s Movement, the Indian government had been bargaining with the last gasping monarchy for the conditions of complete military and political dependence. It was apparently an opportune moment for India to seek a deal. An Indian delegation arrived in Kathmandu on March 30, 1989 and submitted a secret wide-ranging treaty proposal, which, among others, envisaged cooperation with each other in the ‘military field’. The proposal forbade the two countries to enter into any military alliance with any other state against each other. It also required pre-consultations with the Indian government by the Nepa-
The government of Nepal apparently rejected the secret (treaty) proposal (Mishra 1992) that motivated India to support the People’s Movement to overthrow the autocratic Panchayat System.

Towards More Dependence (1990-2004)

After the restoration of parliamentary democracy in 1990, Nepal seems to be heading again towards more dependence on India. Just after the restoration of multi-party democracy, Krishna Prasad Bhattarai visited India as the Interim Prime Minister of democratic Nepal in 1990. In the Joint Communiqué issued after the visit, it was again agreed at the cost of our sovereignty that “the two countries shall have prior consultations with a view to reaching mutual agreement on such defense related matters which, in the view of either country, could pose a threat to its security” (Joint Communiqué 1990). This provision of communiqué again put Nepal into the security umbrella of India and made Nepal dependent on India militarily and politically. Though the provision was reciprocal, the stronger country often does not have prior consultation before reaching mutual agreement on defense related matters.

The latest facts and figures astonishingly suggest that our trade dependence on India is again on increasing trend after 1990. In comparison with the total international trade, our trade with India in 1989/90 was merely 23 per cent. After five years in 1994/95, it increased to 28 per cent. After a decade in 1999/00, it reached 39 per cent. And now in 2003/04, it reached 59 per cent of all the international trade. In fifteen years, the proportion of our trade dependence with India has more than doubled; an increment of 157 per cent (NRB 2004).
After the beginning of Maoist insurgency in 1996, our military dependence on India has registered a vertical growth, especially after November 2001. Military dependence has been the entry point through which India is trying to increase political dependence. Not only the arms and ammunition, military hardware and equipment, all the military uniforms of RNA are being supplied by India for the last two years. Indian military aid has drastically increased since 2001. It has already provided 3.2 billion rupees for military hardwares and equipment since 2001, and has given word to give Rs one billion more for arms and ammunition (Kumar 2003). India has been the biggest donor of military hardwares for Nepal.

India has been able to sign very important agreements on water-resources or hydroelectric projects vis-a-vis Nepal for the last 14 years. Among them the unequal Integrated Treaty on the Development of the Mahakali River (ITDMR) 1996 is one of the major projects. Upper Karnali, Koshi High Dam and many others, too are on the pipeline.

Recently India has been able to get permission to establish an office of Indian Consulate General at Birgunj, which Nepalese government was rejecting for years. India is now trying to penetrate deep into the polity and social life of Nepal Terai.

**Maoist Insurgency and India’s Changing Perspectives**

**Emergence of insurgency**

Neither the Nepalese government nor the Indian government had taken the Maoists seriously in the initial years, notwithstanding the fact that the top three demands of the Maoists were related to India. The government had perceived it as a negligible law and order problem. The then Home Minister declared: “I am confident that we will be able to bring the present activities under control
within four to five days” (Sharma 2003: 371).

However, the Maoist demonstrated their strength by halting the local election of 1997 in 83 VDCs of Rolpa, Rukum, Salyan and Jajarkot. They began to practice ‘People’s Power’ openly by forming ‘people’s committees’ in the areas where political vacuum was created by disrupting the local bodies election. They started some socioeconomic reforms where they began to practice local state power. Encouraged by the success in halting the local elections, exercising the local state power in the vacuum, the Maoists set about consolidating their power in their strongholds in western Nepal (Thapa 2003).

Then began the brutal nationwide police operation in May 1998, in all the Maoist affected areas simultaneously. It was named ‘Operation Kilo Sera 2’. This ‘search and kill’ police operation surpassed all the past police atrocities, killing around 500 people, most of them innocent unarmed civilians, raping hundreds of women, burning several houses, and arresting thousands of people indiscriminately. Paradoxically, this police suppression helped Maoists win wider public support and expand their organisational strength beyond imagination. The casualty of innocent people was far more than those of Maoists and therefore many people (victim’s family and relatives) joined insurgency to avenge police brutality (Sharma 2003).

The following years were characterised, by Maoist offensives against the police stations and even the district police offices. The first such big offensive was in Rukum on 22 September 1999, in which 7 policemen were killed and deputy superintendent of police was taken as a prisoner. Another fearsome assault was in Dunai, headquarters of Dolpa district in north-west Nepal, on 25 September 2000 in which 14 policemen were killed, a dozen went missing and many government offices were set ablaze by the insurgents consequently. By the mid-2000, Nepal police made a strategic deci-
sion to withdraw their police outposts from far-flung villages in the face of increasingly daring attacks by the Maoists (Thapa 2003).

The Dunai incident was an eye-opener to the rulers in Kathmandu and the entire international community. India could not be an exception to it. It was the first time the Maoists insurgents had been able to attack and seize a district headquarters for some hours. However, for India, Maoist insurgency was still a law and order problem of Nepal. It did not create grave threat to their internal security.

In early 2001, reports about the Nepalese Maoist’s connections with the like-minded Indian Maoist organisations, namely the People’s War Group (PWG) and the Maoist Communist Centre (MCC), were gaining prominence in the Indian media. Quoting intelligence reports, the Times of India and Frontline claimed that the PWG was planning to create Compact Revolutionary Zone (CRZ) from Hyderabad to Kathmandu, taking Madhya Pradesh, Bihar and Jharkhand into its area of influence with the help of other rebel outfits. But, the Maoist leaders have recently rejected the existence of so-called CRZ and branded it as a rumour spread by the Indian intelligence.

Policy Shifts

Although Nepalese government was constantly complaining against the Maoist using India as a passage for importing arms and ammunition and as a safe heaven for shelter, Indian government had not been responding and cooperating with them. It was behaving like a passive spectator. ‘Look, but let it go on’ was the policy of India towards the Maoist insurgency for half a decade. Former Indian ambassador to Nepal- KV Rajan has candidly depicted the scenario, albeit self-critically:

\[ \text{India, too, must accept its share of responsibility- it has been a passive spectator for far too long, despite the obvious dangers it poses to its own security. There is no excuse for the fact that despite frequent communications} \]
from the Nepalese side, Maoist leaders for the past few years, have been moving freely across the border, holding meetings with senior Nepalese politicians on Indian soil, without Indian agencies apparently knowing about it (Rajan 2003: 101).

It is probable that Indian government, as its Nepalese counterpart, did not and could not foresee that an insurgency started by a small group of revolutionaries with crude home-made guns and Khukuris in four hill districts would expand so dramatically and become security threat for both of the countries in such a short period of time. It cannot also be ruled out that India could have been waiting as a passive spectator for an opportune moment in the form of a severe political crisis in Nepal in order to ‘fish in troubled water’.

However, three events seem to have changed the whole perspective and policy of India towards the Maoist insurgency of Nepal: First, the formation of CCOMPOSA in July 2001; second, the 9/11 incident in the USA and the US’s direct military involvement in Nepal; and suspicion of growing relation of Maoists with the alleged “terrorist” and arms supplying organisations of North-East India.

According to the Annual Report of Ministry of Home Affairs (MOHA) of India 2002-2003, countrywide Naxalite violence had increased by about 13.8 per cent since September 2001. In 2003, there were 546 incidents of Naxalite violence and 509 people were killed in them. The MOHA Report has recorded that a group-wise activities of the “left wing extremist groups” in the country revealed an increase in the violent activities of all the major groups in India as compared to the previous year (MOHA 2002/2003).

Why Indian sensitiveness towards CPN-M increased dramatically since 2001 lies in the fact that CPN-M was being a motivating
and unifying factor for many Naxalite outfits in India. The People’s War Group (PWG) and Maoist Communist Centre (MCC) had inimical relations in the past. Now they were not only united in actions, but also trying to unify their party organisations into one. And this had created a big havoc in the South Block. They felt that the PWG and the MCC would merge under a new identity: the All India Maoist Communist Centre (AIMCC), and would acquire a more militant ‘avatar (incarnation)’ in India’ (Nayak 2004:1). If they succeed in doing so, a Compact Revolutionary Zone (CRZ) would be created which would link Andra Pradesh, Orissa, Chhattisgarh, Jharkhand, Bihar and all the frontier territories of Nepal - the Terai. The Annual Report of MOHA of India 2002-2003 has clearly stated this possibility in these words:

*The restructuring of relations between Naxalite outfits, extensive militarisation, particularly by the Communist Party of India Marxist Leninist-People’s War (CPML-PW), formation of new organisational structures for military as well as organisational tasks by CPML-PW, possibilities of cooperation between Naxalite outfits and other terrorist organisations in India and abroad are all matters of concern. Efforts were made by left-wing extremist outfits towards actualisation of the Compact Revolutionary Zone (CRZ) envisaged by the MCC, CPML-PW and CPN-M of Nepal for linking up the strongholds of CPML-PW in Telengana and Dandakaranya and of the MCC in Bihar and Jharkhand with those of the CPN-M in Nepal (MOHA, 2002-2003:6).

So, a concrete basis for security threat to India was created by the restructuring of the relations between various left-wing insurgents, and the possibility of cooperation among them with the formation of CCOMPOSA.

Indian government seems to have felt such a big security threat from the cooperation and unity among the Maoist organisations in India and Nepal that it organised a Special Conference of
the Chief Ministers, related senior ministers and security officials of
nine states\textsuperscript{4} in Hyderabad on 21 September 2004 on the single
Naxalite related security agenda. The conference was also
attended by the Union Home Minister and took a decision to coor-
dinate the security and administrative machinery in all nine states in
order to check the left-wing extremist activities within and across
the border.\textsuperscript{5}

It is noteworthy that before the formation of CCOMPOSA,
the Maoists, in their Second Conference (February 2001), decided
that they would attempt to organise a federation of Soviet type, if
they could complete the revolution in the South Asia. This decision
should have alarmed Indian security interest, but it was only after
the formation of CCOMPOSA in July 2001, the Indian govern-
ment began to respond and react very seriously. Two months later,
in November 2001, CPN-M was branded as a ’terrorist organisa-
tion’ by India while Nepalese government was holding peace-talks
with them. Immediately afterwards, \textit{Akhil Bharatiya Nepali Ekata
Samaj} (ABNES), a Maoist front organisation for the unity and wel-
fare of Nepalese residing in India, was banned under Prevention
of Terrorism Act (POTA) in July 2002.

Then began the series of arrest of important Nepalese Maoist
leaders in India. Bamdev Chhetri, an employee at Jawaharlal Nehru
University and the General Secretary of ABNES was arrested at Delhi
on 6 September 2002, on the allegation that he had links with Kasmiri
militants and Indian extremist groups and was deported to Nepal
(Rajamohan 2004). And within a month, Parth Chhetri was arrested
and deported to Nepal. They were freed from Nepalese prisons
during the second peace talks (Feb–August 2003) only. CPN-M Polit-
buro Member Chandra Prakash Gajurel was arrested at the Chennai

\textsuperscript{4} Uttar Pradesh, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Andhra
Pradesh, West Bengal, Orrisa, and Maharrastra.

\textsuperscript{5} Kantipur Daily reported on 22 September 2004.
Airport in Tamilnadu on 20 August 2003, when he was trying to travel to Europe, on the allegation that he had been using fake passport and was in close contact with PWG and Liberation Tigers of Tamil Eelam (LTTE) of Sri Lanka. Mohan Baidya (*alias* Kiran), the senior-most Maoist leader and a Politburo Member, was arrested in Siliguri, on 29 March 2004 on the allegation that he was in close contact with Kamatapur Liberation Organisation (KLO), the north-eastern insurgents of India. Similarly Matrika Prasad Yadav and Suresh Aale Magar were arrested in New Delhi and handed over to Nepalese immigration authorities on 8 February 2004. They were arrested on the alleged belief that they were the chief link-makers of the Nepal Terai and northern frontier states of India. Earlier Matrika Prasad Yadav was appointed as the Chief of the ‘Madhesi Autonomous People’s Government’ on 20 January 2004 (Rajamohan 2004). More recently, five central committee members and a central adviser were arrested in Patna, Bihar, on 2 June 2004, on the eve of Indian External Affairs’ Minister Natwar Singh’s visit to Nepal.

In between the above mentioned arrests of the top brass Maoist leaders, many lower level leaders, commanders, and wounded militants were arrested in India and many of them were handed over to the Nepalese security agencies.

It is obvious that India is hardening its policy towards Nepalese Maoists and it has ceased to be a safe heaven for them. However, there is wide speculation in Nepalese ruling circle that Indian government is still double-dealing. It has arrested some leaders, and handed over some of them, too; but they have refused to handover and even to allow meeting with the major ones. It is widely suspected that Indian government may use those leaders as a trump card for bargaining their vital interests. The Maoist Supremo Prachanda has publicly alleged that Indian government is making their arrested leaders as a bargaining chip for valuable natural resources.

Indian government has become very sensitive to CCOMPOSA
also because it is coordinating communist activities not only in Nepal and India, but also in Bangladesh, Sri Lanka and Bhutan. Recently, United Liberation Front of Assam (ULFA), Kantapuri Liberation Organisation (KLO) and National Democratic Front of Bodoland (NDFB) had been driven out from Bhutan at the Indian initiative. However, in the mean time CCOMPOSA has been able to organise Bhutanese Communist Party-Maoist Leninist Maoist (BCP-MLM) in Bhutan. BCP-MLM had participated in the Third Conference of CCOMPOSA (16-18 March 2004) as an observer. It is notable that the coordinator of CCOMPOSA has been a Nepalese Maoist leader named Kishor (Sharma 2004).

Security threat for India was not only from CCOMPOSA and the cooperative and unified activities of various left-wing insurgent groups at CPN-M’s motivation and coordination, but also from the alleged Maoists’ initiatives to integrate various insurgent groups of North-East India, such as ULFA, KLO, NDFB and many others.

The third factor which played a vital role to change the policy and perspective of India in relation to Nepalese Maoists is the military involvement of US and UK in Nepal after 9/11 incident and the Maoist’s attack on RNA garrison at Dang in November 2001. Nepalese government was seeking western help to contain the Maoist insurgency when the Maoists began to attack successfully on important police stations, especially on Dunai, Naumule and Holeri in between September 2000-July 2001. Most of the police stations in the villages in western, midwestern and central hills were being withdrawn to district headquarters. But the western powers were not giving proper attention. However, the US’s attitude changed drastically after 9/11 incident. In the name of the so-called ‘global war against terrorism’, the US began to focus on Nepal, too, keeping its geo-strategic location in mind, in order to encircle China, the next would-be superpower and its potent rival. Maoist attack on RNA garrison and the declaration of ‘State of Emergency’ in
Nepal in November 2001 gave the US government a rationale and a suitable pretext to enter Nepal militarily with over ground intelligence machinery.

In January 2002, Colin Powell, the US Secretary of State, visited Nepal. It was first ever visit by any US Secretary of State to Nepal. Subsequently, US provided 5000 M-16 rifles to Nepal and additional 15,000 are being provided as a grant. Before 2002, there was no military office in the US Embassy in Kathmandu. But since then, a military training and assistance programme is being seen by a defense advisor. Throughout the year 2003, there were up to 25 American military trainers periodically present in Nepal as part of exercise ‘Balance Nail’ (Mehta 2004). The US Ambassador to Nepal James F Moriarty stated that in the three-year’s period from 2002-2004, US$24 million military aid had been given and it was increased to US$40 million in 2004. The UK also provided Rs780 million as military aid in 2002/03. It provided bomb disposal equipment, two MI-17 helicopters, two vertical take-off jets and wireless equipment. It also appointed a special envoy for Nepal too in order to coordinate the military relations between the US, UK and India. At the British government’s initiative, an international conference was held in London in June 2002 to look at the Nepal’s Maoist crisis (Mishra 2003).

In normal circumstances, receiving any military assistance from countries other than India would have deeply upset Delhi, and strong reactions could have followed such as blockade as in 1989, when Nepal imported arms and ammunition from China. But now Nepal was receiving the military aid, weapons and full backing of the US, UK and others leaving India no choice but to support Nepal’s bid for military assistance from around the world. To put in the words of former Indian ambassador to Nepal, KV Rajan, India

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India’s Possible Role in the Future Peace Process of Nepal

India did not feel comfortable about the US and UK involvement in Nepal but there was not much Delhi could do about it. India was left in a “weak position to question the need or assent itself under the 1950 treaty” (As cited in Mishra 2003: 11-12).

When Nepal bought 5,500 Minimi Machine Guns from Belgium in 2002, India did not allow the passage of the consignment through Indian territory for some days, until Nepal was ready to buy INSAS rifles from India. However, when M-16 was imported from the USA the same year, India could do nothing to stop it (Sharma 2004). For India, the US-UK block was too powerful to react. Therefore, India followed the new policy ‘if you cannot stop it, join it’ in the name of ‘strategic partnership’. Indian External Affairs Minister Natwar Singh said that ‘India is determined to work closely with the US to take the partnership forward in all areas. The two sides “had a discussion on the situation in various parts of the world and how this affected India and the US”. The US Ambassador to Nepal has also very clearly indicated about it in Kathmandu on 10 September 2002: “the US government is working together with Indian government to fight against the Maoists in Nepal”

Lately, India has been in tough competition with the US in providing military assistance to Nepalese government to contain the Maoist insurgency, and in the pretext of helping, they are trying to penetrate deep into the military machinery of Nepal. As already mentioned, India has given Rs3.2 billion military aid to buy military hardwares and equipment between 2002-2004. It has given word for additional Rs1 billion for buying weapons. It has also provided 13,000 INSAS rifles, 6 helicopters, 2 gunship and many more military trucks. Thus India has become the biggest military donor for Nepal (Kumar 2004; Sharma 2004).

The jealousy and competition between the US-UK and India

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seems to be such that if Colin Powell, without any respect to Nepal’s sovereignty goes to the military headquarters of Nepal, and discusses defense related policy matters, without talking with Nepalese counterpart, Natwar Singh, the Indian External Affairs Minister, demands the same and does the same. If the US ambassador or the UK army Chief, violating all the diplomatic norms, goes inside the Nepalese military barracks around the country to observe and know the security position, instead of knowing it from the Nepalese government, the Indian counterpart follows the suit. The consequence is that Nepal’s sovereignty, political independence and its state secrecy has become a matter of joke for the superpowers.

In this way, we can notice significant shifts in the Indian government’s policy towards Maoists insurgency of Nepal. From 1996 to mid-2001, it had the policy of indifference. Since November 2001, it began to take the Maoist as a security threat to India and labeled it as a ‘terrorist organisation’ and started the vigilance on Indo-Nepal border. Since July 2002, it’s policy toward Maoist hardened much more; it banned ABNES, arrested top Maoist leaders in India and tightened the Indo-Nepal border with thousands of SSB. It started strategic partnership with the US and UK against the Maoist and began to pour military aid to Nepal. Chart-1 (page 185) clarifies the basic tendency of the Indian government’s policy shifts vis-a'-vis the Maoist insurgency.

**India’s Latest Fears and Concerns, Policies and Attitudes**

**Fears and Concerns**

We have already mentioned that initially indifferent India has now become fearful of the growing linkages between CPN-M and Indian Maoist insurgents, particularly PWG and MCC. The reason behind the apprehension is very clear. Their coordinated activities and movements across and along the Indo-Nepal border now joins
hundreds of districts and 9 states of India, creating a huge insurgency corridor extending from Nepal through Bihar, Uttar Pradesh, Jharkhand, West Bengal, Madhya Pradesh, Maharashtra, Orissa, Chhattisgarh to Andhra Pradesh.

The bordering states have been highly alarmed by the dramatic expansion of the organisational strength of Maoist insurgents in India, their unity, augmentation of their offensive capacity in recent
years and cross-border movement of cadres and weapons. While the MCC is dominant in Bihar and Jharkhand, PWG is influential in Andhra Pradesh, Orissa and Chhattisgarh. When the two parties got united with the leverage and linkage of CPN-M, they would fill many “vacuum areas, too, which would create a compact insurgency corridor from Nepal to Andhra Pradesh. And this has been a matter of great worry for India.

The worry has been augmented by the formation of Indo-Nepal Border Regional Committee (INBRC) between organisations of CPN-M and Indian Maoists recently. This committee coordinates all the Maoist activities along the Indo-Nepal border. Indian bordering states have now been turned into a single interconnected geographic unit for Maoist insurgents of both countries and expected to intensify the violent activities on both sides, ease the movement of weapons and ammunition and make India more vulnerable to left-wing armed insurgency, which they call ‘Naxalite extremism’.

The porous 735-kilometers Bihar-Nepal border has only 54 police stations along such a long sketch of the boundary. It is considered highly prone to infiltration by the Maoist insurgents of both countries by taking advantage of very poor law and order situation along the border. Indian government is worried that Maoists have set up bases at several places along the border (Jha 2003). There is growing concern in the South Block that Maoist insurgents in Nepal are also attempting to establish a network in the border districts of Eastern Uttar Pradesh, Bihar, Uttaranchal, North Bengal, and Sikkim (Jha 2002).

The arrest of Matrika P Yadav\(^8\) seems to be closely related with the fear and suspicion of the Indian government that he was playing primary role on building deepening nexus between Nepalese Maoists and the Indian Maoist insurgents along the Terai and Indian

\(^8\) Matrika P Yadav is the Chief of the Madhesi Autonomous Regional Government of the CPN-M in Nepal Terai.
northern border.

India is also highly alarmed by the fast growing organisational base of CPN-M among 8 million Nepalese-speaking people in India, who are primarily concentrated in Sikkim, Darjeeling, Siliguri, Shilong, Deharaadun, Himanchal Pradesh and Gorakhpur-Lucknow belt. Indian government thinks that vast number of Indian Nepalese and Nepalese immigrants are being organised in India under the umbrella of ABNES in favour of Maoist insurgency. ABNES is also alleged of working for so-called ‘Greater Nepal’ and right of self-determination of Indian Nepalese. It seems to have aroused serious concern and indignation in the Indian government, which led to the proscribing of ABNES in July 2002 and the arrest of Bamdev Chhetri, Secretary of ABNES, in the following month.

The Indian government appears to have been highly worried by the consolidating Maoist position and activities in very sensitive chicken neck corridor of Siliguri and North Bengal. Among the seven states of North-East, five states have been facing the challenges of armed insurgency for decades: Assam, Tripura, Meghalaya, Nagaland and Manipur and some parts of Arunachal Pradesh. Indian intelligence reports presumed that Nepalese Maoists had been trying to consolidate their position in North Bengal by making Siliguri as a rendezvous point and thereby establishing links with north eastern insurgents such as KLO, active in West Assam and North Bengal and through KLO-with All Tripura Tiger Force (ATTF), National Socialist Council of Nagaland (NSCN), ULFA and NDFB of Assam. Although North-East India comprises only 4 per cent of total land area, geo-politically the region is highly sensitive because of its nexus to China, Myanmar, Nepal, Bangladesh and Bhutan and it is linked to India only though a tenuous land corridor of Siliguri, the chicken neck area (Jha 2003).

Indian government probably feared that the Maoists might in-
flame the separatist tendency of north-east insurgents with the ideas of right to self-determination, as they did in Darjeeling, Sikkim and many other Nepalese speaking areas of India. The government could also have been very sensitive by the newspaper reports that Maoists were unifying dozens of north-east insurgents under the umbrella of RIM sponsored ‘Global People’s Resistance Movement.’ (Sharma 2004), both could bring serious security implications to India.

It is believed that Mohan Baidya alias Kiran, the senior-most Nepalese Maoist leader in Indian detention so far, had been arrested because of his ‘working relationship’ with KLO and consolidating Maoist position in North Bengal. North Bengal police has been reported to have said: “in the custody Kiran has accepted his relationship with KLO” (Sharma 2004).

Sources in the troubled Indian State of Assam indicated in November 2003 that there was increasing evidence that the proscribed ULFA was forging links with the Nepalese Maoists and may soon set up bases in the Himalayan Kingdom (Rajamohan 2003).

The rationale behind the Maoist’s endeavour to develop ‘working relationship’ with north-eastern insurgents seems to be in the conjecture that Maoists will have to fight a decisive war with Indian government finally to complete their ‘new democratic revolution’ and they aim to weaken their future main enemy by aggravating their own insurgency problem with separatism. Moreover, the north-eastern insurgents could be very useful for constant and viable source of weapons. Weapons could be obtained from Myanmar, Thailand and Cambodia via Bangladesh, all adjoined or interconnected to North-East India with very porous border. When there was crackdown in Nepal, the North-East India or North Bengal could provide a safe heaven, too. Actually, the Maoist had been compelled to enter North Bengal and from there to North-East India, when there had been series of brutal police operations in Nepal since mid-1998.

Indian Union and State governments should have been quite
aware and alarmed by the series of meetings taking place between the Maoists and the leaders of different political parties of Nepal in different parts of India. The famous ‘Siliguri meeting’ took place on 17 August 2001 at Champasari in West (North) Bengal among CPN-UML Secretary General Madhav Kumar Nepal and Maoist leaders Prachanda and Baburam Bhattarai. The meeting between NC leader Girija Prasad Koirala and Chakra Banstola and Maoist Supremo Prachanda and Baburam took place at Noida, Delhi. Again on 20 November 2003 an important meeting took place at Lucknow, Uttar Pradesh between CPN-UML leaders including Secretary General Madhav Kumar Nepal and Yubraj Gyawali, and Maoist leaders including Chairman Prachanda, Baburam Bhattarai and Krishna Bahadur Mahara. All these meetings and many others created an impression that Maoist leaders were having a safe heaven in India under the scrutiny of Indian government. The Maoist leaders also had softened their stance towards India, especially after the crackdowns in Nepal in 1998. It created doubt and confusion even among the scholars that they had a secret nexus with the Indian government. The Nepalese government was unceasingly complaining against the lenient and indifferent attitude of Indian rulers toward the Maoists.

However, it did not last long. So long as the Maoists did not hurt the security interest of India, Indian government did not care much about the complaints and criticisms from any corner. It took indeed an indifferent and lenient attitude with constant vigilance upon its activities. Indian government seemed to be even in touch with Maoist leaders. But as soon as its national or security interest was at peril, the policies and attitudes towards Maoists, changed drastically since late 2001. There was major shift in the Indian attitude of indifference and leniency. And India was no more a safe heaven for the insurgents. Maoists had to shift their central headquarters from India to Nepal.
So there is no point to prove the so-called nexus theory. What B P Koirala faced in India in 1976 for being compelled to return to Nepal at the cost of his and his friends’ life, was also faced by Prachanda, Baburam Bhattarai and his entire company in 2004. India has always and repeatedly made it clear that India can never be a safe heaven for any revolutionary of the world at last, although one may find many reliable friends in India among the people.

Further, the exodus of hundreds of thousands of people from the villages of Nepal to India as a result of the armed insurgency has created a panic among the people in some frontier states. There is no reliable data on the displacement of people due to armed insurgency. It is estimated that more than one million people have been displaced from the villages since “The Kilo Sera-2” police operation in 1998. Among them, nearly 300,000 are internally displaced. Others have left the country. The majority of them crossed into India.

Records at the border crossing at Gaddachauki in Kanchanpur district, far western Nepal showed that in the 30 days between 14 December 2002 and 14 January 2003, 10,000 Nepalese crossed into India. Across the border at Banbas, India, the border police recorded more than 100,000 Nepalese going over to India between mid-September 2002 and mid-January 2003. Similarly, Indian embassy officials indicate that roughly 120,000 displaced Nepalese crossed into India during January 2003 alone (Thapa 2003).

This data presents an approximate scenario of flow of displaced Nepalese people into India. The number might be much more than we have presented here. The flow of so many people should have been a matter of grave concern for the Indian Union government and State governments at a time when they themselves have high

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unemployment rate. It would have waxed the number of unemployed youth and heightened the problem of security. On the other side of the coin, the wages of the unskilled needy immigrants is reported to have been very low. There are reports of continued harassment of the Nepalese immigrants by the Indian police. The number of Nepalese women sex workers in the Indian market is certainly on big rise in absence of other alternatives for survival.

In the last few years the Indian government has realised the security threat that Maoists can pose to India in the long run and has changed its attitude towards them. Now India is indeed facing serious spillover effects of Maoist insurgency in Nepal, which they belittled in the beginning for nearly half a decade. Their fears and concerns have led them to a new series of policies and attitudes.

**Latest Policies and Attitudes**

India’s newly elected United Progressive Alliance (UPA) government has now taken Nepalese Maoist insurgency not only a challenge Nepal is confronted with, but also a ‘shared threat to both countries’. Indian government now openly acknowledges, “there are linkages which exist between Nepal’s Maoists and the MCC and PWG. It is now a shared security threat”.

The so-called ‘shared security threat’ is a very careful bunch of diplomatic words Indian government has chosen which implies that India is seeking a strategic partnership in dealing with the Maoist insurgency. Since Maoist insurgency is a shared threat, there should be shared information, shared strategies and tactics, shared steps to follow, and even shared deployment of forces to deal with the Maoists. India is taking the policy of trying its best to sever the

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11. This policy statement has been given by Indian Foreign Secretary Shyam Saran in the official press conference on 10 September 2004 during the ‘working visit’ of Nepalese Prime Minister Sher Bahadur Deuba (8-12 September 2004) to India.
relationship of Nepalese Maoists with the Indian insurgents. It is trying to ensure that Maoists of both countries are unable to establish the insurgency corridor.

For achieving this end, Indian government is, on the one hand, resorting the policy of managing and tightening the border effectively to restrict the cross border movement of leaders, militants and weapons. On the other hand, it is pursuing the policy of arresting the insurgents responsible for developing such relationship between Nepalese Maoists and Indian Insurgents, plus monitoring, locating and disrupting the Maoist presence in India.

Indian government has shown the attitude that it will not tolerate cross-border activities and sojourn of Maoist leaders and cadres in India anymore. There is deployment of thousands of Special Security Bureau (SSB) forces along the Indo-Nepal border from east to west since late 2001 and such deployment is increasing day after day. Indian and Nepalese government have recently agreed to set up Border Management Committees (BMC) headed by district magistrates (India) and CDOs (Nepal). The BMC will also include security personnel, custom officials and development related officers\(^\text{12}\). It will not be surprising if there will be a Regulated Border Regime (RBR) with the system of identity cards or other kinds of identification in near future. Passport or citizenship card has already been made necessary for those who travel through the air route. There has been decision to introduce advance passenger information system and two-way flow of intelligence of operational value on terrorists (MOHA 2001).

India is also trying to disrupt the linkage of Maoists with the Nepalese speaking people of India. Nepalese dominated settlements in border areas have been brought under strict surveillance by the

\(^{12}\) This policy has been clarified in the interview with Shyam Saran, the then Ambassador of India to Nepal, Spotlight Weekly, 16 July 2004.
Indian security forces. Indian concerns are accentuated by intelligence inputs regarding the growing cooperation between the Indian left-wing extremist groups and Nepalese Maoists. The Indian government has decided to form a special Central Reserve Police Force (CRPF) wing, comprising of 20 to 25 companies to safeguard the border in 53 districts seriously afflicted by left-wing extremism. The decision was taken in a Home Ministry meeting with the chief secretaries of nine Naxalite infested states on 21 November 2003 (Rajamohan 2004).

The Indian police has arrested 13 central leaders of CPN-M in India as yet. The major purpose of the arrest is said to disrupt the relationship between CPN-M and Indian Maoist insurgents and north-eastern insurgents. However, there are wide speculations that India may use Maoist top leaders in their detentions as a trump card to bargain for its national interests in the future. India has also shown the attitude of appeasing the Nepalese government by arresting and deporting even the very sick insurgents in Indian hospitals and nursing homes. At the same time Indian government was also attempting to dispel the complaint that India was nurturing the Maoists in India.

India did not have to wait long to receive a reward for its acts of appeasement. It got permission to establish the second Consulate General’s Office (CGO) in Birgunj, the heart of the Terai in 2004, which was pending for last seven years. None of the past governments of Nepal had agreed to allow such an office to be established over there on the ground that Birganj was just 6 hours drive from Kathmandu and had serious security concern on such an office. With CGO in Birgunj, Indian government could augment its activities, movement and grip on Nepalese Terai in diplomatic garbs. Moreover, Indian government was also allowed to open its pension camp in Butwal, another important centre of the western Terai.

On the question of resolving the Maoist insurgency in Nepal,
India has double-edged policy at the latest. On the one hand, it is saying that there is no military solution of the insurgency, on the other; it has been the biggest donor of the military aid itself. By providing the military aid, it is encouraging the Nepalese government resorting to the military solution, hindering the negotiated political settlement of the conflict. What India is saying and doing in reality is contradictory.

However, Indian government has its own explanation on this question. It says, “India’s own experience in dealing with insurgency clearly indicates that military solution is neither practical nor even possible. The armed forces can only help create a space within which political process can be activated for a negotiated solution. We believe the same applies to the current situation in Nepal.”

But at the same time, Indian government states that ‘it is committed to provide all possible military and non-military assistance to Nepal in addressing the difficult challenges that it presently faces.’ This statement seriously contradicts the above mentioned policy statement of itself. The basic question is - if military and non-military assistance of India helps Nepal in addressing the challenges of insurgency it presently faces, then how is it correct to state that military solution is neither practical nor even possible? If military solution is neither practical nor even possible, then how it is appropriate to say that Indian military and non-military assistance helps Nepal to address the challenges of insurgency it presently faces? Both policy statements cannot be true at the same time and are incompatible and antagonistic to each other. It makes

14. This is stated by Prime Minister Manmohan Singh of India during an official luncheon when Nepalese Prime Minister Sher Bahadur Deuba visited India (Sep 8-12, 2004) as quoted in Nation weekly, Sept 19, 2004.
Nepalese peace process more complicated, knotty and protracted. The reason behind the contradiction lies in its fear that if India, as a regional superpower fails to assist Nepalese government in combating the insurgency militarily, then outside superpower could step in to do the job.

Not only arms and ammunition, India is also providing counter-insurgency training to Nepal Police by the special contingent called “Grey Hounds” in Andhra Pradesh. For the first time since 1970, Indian military teams have been located inside Nepal to train RNA. India is providing counter-insurgency and jungle warfare training to all ranks of RNA personnel in India and Nepal. Nearly 1,000 personnel of all ranks have been already trained. The course included counter-insurgency training capsules, intelligence training, Improvised Explosive Devices (IED) training, army dog handler training, training on mine protected vehicles and weapons. Indian weapons are being provided on 30 per cent pay and 70 per cent grant basis (Mehta 2004).

It seems that Indian government’s latest attitude is to increase Nepal’s military dependence on India to the maximum level. More than three fourth of Nepal’s arms and ammunition is said to have been supplied by India alone. It is perilous to increase military dependence on any country to such a level. Nepal should take some concrete steps and long-term strategy to end the excessive military dependence on one source.

On the question of resolving the armed conflict in Nepal, India has, of late, adopted the policy of taking multi-party democracy and constitutional monarchy as the two pillars for peaceful conflict resolution. Indian government’s policy has been constantly to unite parliamentary political parties with the monarchy so that they could

15. Indian Government’s official position presented by Foreign Secretary Shyam Saran on the press conference in New Delhi on 10 September 2004, on the eve of Prime Minister Sher Bahadur Deuba’s visit to India.
face the challenge created by Maoist insurgency. It thinks that the Maoist insurgency will be strengthened, if monarchy and parliamentary political parties confront each other, which is exactly happening at the moment.

The major drawback of the Indian policy is that it does not tally with the historical ground reality of Nepal. It also does not respect the democratic norms and theory of national and popular sovereignty in principle and practice.

If we review the modern history of Nepal, parliamentary political parties of Nepal have always aspired and attempted to establish the constitutional monarchy under the parliamentary democracy. In the last 54 years parliamentary political parties have made an agreement with the monarchy three times on the basis of parliamentary democracy and constitutional monarchy. But every time the pillar of parliamentary democracy has been demolished by the monarchy, first in 1953, then in 1960, the most recently on 4 October 2002 and 1 February 2005. The essence of the demands of all agitating political parties is to establish a constitutional monarchy with fully sovereign parliamentary democracy without any political and discretionary power to the king. However, it is the monarchy, which wants to go beyond the constitution, not abiding by the principles of constitutional monarchy. It is always aspiring for political power. It clearly shows that the historical ground reality of Nepal is quite different from what India is propounding.

As Indian government has tightened its grip on Maoists in India, the Maoist leadership in Nepal has also reacted inimically and seriously. Now it has declared to fight with “Indian expansionism” in case it enters Nepal militarily. It has decided to enter into the phase-wise preparation of ‘mine warfare’ and arming of the whole people by introducing military formation in the militia. Maoists have already started to attack Indian vehicles entering Nepal and Indian schools in Nepal.
Possibility of Indian Military Intervention
India alone is less likely to intervene in Nepal militarily. The bitter lesson of Sri Lanka and Bangladesh has taught it very well that military intervention in a sovereign nation has become more counterproductive than advantageous. The lesson of the US led intervention in Iraq has also clearly shown that whatever may be the pretext, the military intervention in a sovereign nation in 21st century for the vested interest may be a suicidal quagmire for superpowers, too. Moreover, the presence of China will play a decisive role to deter India from intervening Nepal militarily. However, it is more likely that if other powerful nations intervene Nepal militarily in whatever pretext, especially the US, UK; India might not remain a passive spectator. It is most likely to come with them. Otherwise, a highly dependent Nepal is most suitable for the basic interests of India rather than a defeated Nepal with powerful China in its northern frontier.

Third Party Involvement in the Peace Process of Nepal
As the Maoist insurgency in Nepal is intensifying, the conflict of Nepal has indeed become a topic of global reflection. The major power of the world such as the US, UK, EU, China and India have publicised their policies and opinions on it. The international institutions such as the UN, EU and others have shown keen interest to be involved in the peace process of Nepal as mediators or facilitators. The countries like Norway and Switzerland also have come forward to lend their hands in it.

However, the process of third party involvement in the Nepalese peace process began only in 2001, after a huge Maoist attack on Dunai, the headquarters of Dailekh District, on 25 September 2000. After the incident, the government showed eagerness to begin the peace process with the Maoists. The peace talk was facilitated by
Padmaratna Tuladhar, a human rights activist and The Center for Humanitarian Dialogue (CHD), Geneva based international organisation on conflict-resolution.\textsuperscript{16} It was the first time that any international institution was involved in the peace process of Nepal. On 27 October 2000, one–on–one contact between government and Maoist was established as the then Deputy Prime Minister Ramchandra Poudel met Kathmandu In-charge of CPN-M, Rabindra Shrestha. The process was soon disrupted because of the controversial release of two Maoist leaders from detention\textsuperscript{17}. However, CHD continued its involvement in peace process later on, albeit covertly. As it was not publicised, there was no Indian reaction or comment against the third party involvement in the peace process.

The first peace talk was held during July-November 2001. The second peace talk took place in January-August 2003. Both of these talks were facilitated by local people and there was no third party involvement. However, both of the peace talks collapsed mainly due to the disagreement on the question of Constituent Assembly, the major demand of the rebel, and the deepening crisis of trust created by the absence of confidence building measures and effective mechanism to monitor the ceasefire and implementation of the common agreement including the code of conduct. So the need of involvement of third party as a mediator/facilitator was seriously felt during the second peace talk.

It was only after the breakdown of the second rounds of talks in August 2003, the UN Secretary General Kofi Annan proposed for the UN involvement in the peace process of Nepal for the first time.

\textsuperscript{16} Interview with Padmaratna Tuladhar and Andrew Masshall, the negotiator from CHD

\textsuperscript{17} The government pressured two Maoist working class leaders in detention to sign a controversial statement of capitulation against the agreement between the Deputy PM and Maoist leader Rabindra Shrestha
on 17 September 2003. The Maoists, all the major political parties and civil society of Nepal welcomed the UN proposal immediately.

But the reaction of Indian government was quite negative. “Indian government believes Nepalese themselves can settle their problem,” said Shyam Shran, the Indian Ambassador to Nepal. “And it is fully up to the Nepalese people to decide if they want outside mediation.”

Indian government’s policy and perspective was that it did not want to let any major power or international institution to play dominant role in the politics and peace process of Nepal. Rather, India should play the dominant role itself, if someone has to play the role in Nepal, whether in war, peace and politics. It was actually a regional superpower mindset through which India tried to see the question of third party mediation in Nepalese peace process.

It seems that India has no objection if countries like Switzerland or Norway mediate or facilitate the peace process of Nepal as Norway has done in Sri Lanka. It is because they can not play a dominant role in Nepalese or South Asian politics, even if they are involved in the peace process of Nepal. They can not supersede India from being dominant in South Asia. However, if the US, EU, UK, China or even the UN, come to the forefront, India feels threatened that its dominant role in Nepal and South Asia may erode someway sometime. With the UN mediation, the US may come in camouflage, as they did in Iraq and many other places or the world-this fear seems to preoccupy the Indian government.

The fear of India consists also in the distant probability that if other powerful countries or the UN is allowed to be involved in Nepalese peace process, they may claim to be involved in Indian peace process, too, whether in Kashmir dispute or in north-eastern states. However, India never wants the third party involvement in its

internal as well as in conflict with Pakistan.

More interestingly, the US government has also opposed the UN involvement in the peace process of Nepal as a mediator. But it has no objection if the UN is involved as a facilitator.19 The European Union has not opposed the concept of third party involvement. The European Parliament decided on 24 October 2002 to call “on the European Council to appoint a special representative for Nepal in order to offer mediation between the conflicting parties.”20

Possibly, under the Indian government’s pressure, the Nepalese Government opposed the UN involvement in the mediation and did not say anything clearly on the EU’s proposal. “We are capable of resolving our problem on our own, so we don’t need third party mediation to restore peace,” said the then Prime Minister of Nepal Sher Bahadur Deuba on September 12, 2004, when he returned from a goodwill visit to Delhi.21

China, the northern neighbour of Nepal, as it seems, has no interest to be involved in the peace process of Nepal, nor does it support or oppose the UN or the third party involvement. China has indirectly stated that it “supports all the efforts conducive to restoring peace and stability in Nepal, and…. will continue to provide assistance to Nepal on the premise of not interfering with Nepal’s internal affairs.”22

However, Nepal should determine itself whether the UN or third party involvement in the peace process of Nepal is actually essential and beneficial or not. We should review the experiences of the past peace processes and come to the conclusion independently.

Indian’s Possible Role in the Future Peace Process of Nepal

Rationale behind the Role
We have already mentioned that India has some vital national interest vis-à-vis Nepal. It has some very serious fears and concerns in relation to the Nepalese Maoist insurgency. Consequently, Indian government has recently defined Maoist insurgency in Nepal as a “common security threat for both countries.” It is therefore most likely that it will now tend to be involved in the peace process of Nepal very closely and significantly. It will have very keen eyes, interest and concern on how, when and in what way armed conflict of Nepal would be addressed and resolved.

It has already been discussed in the previous chapters that India has four basic national interests vis-a-vis Nepal: Its national security, Nepal’s rich water resources, cheaper and braver human resources from Nepal and market for Indian products. With the intensification of armed conflict in Nepal, India’s security interest is in peril. However due to the same reason it has also got an opportunity to fulfil other three basic interests from Nepal, when the later is facing the gravest internal crisis and political instability with a divisive political forces and a weaker government. So it is quite possible that Indian government will have contradictory policies and approaches and double-dealing in relation to Maoist insurgency. Simultaneously, for its own security interest, it will be interested in the resolution of armed conflict, too; it will endeavour to take maximum gain and serve its national interests from the increased conflict and political instability of Nepal, too. And, for this, it might contribute to escalate or continue the conflict and political instability in Nepal too.

If we review the past 54 years’ Indo-Nepal relationship, India is always motivated for serving its own national interests more than
anything else. Restoration of democracy and peace in the neighbouring countries has never been a priority for them. It may be true in the present context, too.

However, because of its own national security interests, India might be motivated to contribute in the peace process of Nepal this time. We have already discussed that India has now felt threatened by the growing linkages of Nepalese Maoists with Indian left-wing insurgents creating a huge insurgency corridor. It has also been fearful of the relationship of the Nepalese Maoists with the north-eastern insurgents and of the expanding organisational strongholds among 8 million Nepalese-speaking people of India. Now, Indian government’s top security priority has been to sever the relationship between them, and to address the challenges created by these insurgencies. This security interest and concern of India may lead it to play some constructive and important role in the peace process of Nepal.

Resolution of the armed conflict in Nepal through a peaceful negotiated settlement is in basic security interest of India. If Nepalese Maoists agree to enter into the common political stream through the negotiated settlement, linkage between the armed insurgency in Nepal and India will automatically be severed. And that will be the biggest security relief for Indian government. Moreover, the Indian Maoist insurgents will also be encouraged to follow the same path, if Nepalese peace process brings some concrete fruitful results. It may contribute to address the Indian insurgency at its root through a negotiated settlement. It is because of this Indian national security interest that Indian government might be interested to play some constructive role in the future peace process of Nepal.

Roles that India Can and Cannot Play
India might be able to play very important role in the peace process of Nepal by pressurising or persuading either party, mainly the government, to declare cease-fire, to come to the negotiating table, and
India’s Possible Role in the Future Peace Process of Nepal

India’s Possible Role in the Future Peace Process of Nepal

India is a major supplier of arms and ammunition in Nepal. It is also providing a large bulk of anti-insurgency training to the Nepalese army and police. Indian military has very good and intimate relationship with Royal Nepalese Army (RNA). It might use all of these valuable trump cards for persuading and pressurising the government and RNA for peace-talks and cease-fire. If persuasion does not work, it might go up to the extent of arms embargo in coordination with other countries like the US and UK. It was the international arms embargo upon the South African government in 1989, which compelled it to agree on the peaceful negotiated settlement. This experience may be very useful in the case of Nepal, too. India might also be able to pressurise the rebel to some extent, as it has been a safe heaven for them.

Neutrality, independence and efficacy are three major criteria, which are essential for monitoring the cease-fire. As India does not have a neutral image among most of the Nepalese people, and it has some vital national interests in relation to Nepal, India might not be able to monitor the cease-fire independently in isolation. It is also notable that cease-fire sometime needs the presence of a neutral army and cease-fire extends to observing the free and fairness of national election. It will be quite inappropriate to engage Indian army for fulfilling these tasks.

In the same way, it will be a blunder, if we involve India as a mediator in the peace process of Nepal. In the peace-talks, many vital decisions have to be taken regarding the fate of a nation. The entire polity of the country will have to be decided on the negotiating table. And the mediator has a role to put forward the alternatives on those fundamental questions, if the conflicting parties do not find a meeting point. India as an immediate powerful neighbour, with its own national interests, might be prone to fulfilling those interests on the negotiation table. It might not be able to play a neutral and independent role that a mediator or facilitator ought to play.
When we think of the role of India in the peace process of Nepal, we only think of the government over there. It is an erroneous thinking. Peace-loving people of India might have very positive role in the peace process of Nepal. They can persuade, influence or pressurise their government for negotiated settlement and effective arms embargo, if necessary. The communist parties of India and other democratic parties might play very influential role in pressurising the UPA government, because without their support, UPA government can not remain in power. The most important thing is that we should be able to maintain regular people-to-people contacts and interaction with them to convey our problems and concerns and to create a favourable public opinion in India. Writing articles in the Indian newspapers and magazines, interactions with Indian communist and democratic parties, intellectuals, civil society and opinion makers, opening website for this purpose might be very useful strategy.

For the mediation, it is best to involve a national institution, which has neutrality, independence and necessary knowledge, experience and skills for doing this. Integrated civil society in Nepal might be such an institution. In the last three years, such an institution has already emerged and developed in Nepal. Human rights community, business community, religious community, professors, teachers, lawyers, journalists, different peace committees, ethnic organisations, eminent personalities of the civil society, all have come together to form an umbrella alliance for peace initiatives- Civic Solidarity for Peace (CSP). The core of this alliance has the valuable experiences of facilitating the last two peace negotiations in Nepal. They have gained the experiences, knowledge and skills of the successful peace processes of the world, too. A resource and research centre has also been already developed which can provide national and international knowledge, experiences and research-based materials for the peace initiatives. Friends for Peace (FFP) is doing that
work now. In essence, Nepal has been developing its own national institutional mechanism for the mediation or facilitation of the peace process. It will be most appropriate to involve such a national mechanism for mediation in the future peace processes of Nepal.

We have already mentioned that national mediation, very good understanding and communication channel with India and China and the UN presence will be able to lead the Nepalese peace process to the summit of success.

It will also be appropriate to involve India in the rehabilitation and reconstruction. Since India has housed hundreds of thousands of displaced people of Nepal as a result of armed insurgency, rehabilitation is an immediate concern of India in the peace process. As successful peace process in Nepal will benefit India directly in its own insurgency problem, it may be willing to contribute in the reconstruction of war ravaged Nepal.

As India always claims of having ‘special relationship’ with Nepal, based on 1950 Treaty of Peace and Friendship (TOPF), and its special security provisions, which give India certain privileges, India is less likely to join multi-party mediation team in the peace process of Nepal, in general circumstances. India has an attitude of not sharing its ‘privileges’ with others and objecting if any other power attempts to enter into the security arena of Nepal. That is why India’s tendency is more likely to mediate itself or it will not allow any other power to mediate, including the UN, in the peace process. However, after 9/11 incident in the USA, India has ‘strategic partnership’ with the US and UK in relation with the Maoist insurgency in India and Nepal. Consequently, it is probable that Indian government may be willing to join multi party facilitating team for the same purpose with the same countries with which it has ‘strategic partnership.’

However, it will not be beneficial for Nepal to have such a facilitating team comprising the US, UK and India only. If these three powers join together to make a facilitating team, it will virtu-
ally turn to be a de facto mediating team, with a tendency of dictating everything on the negotiating table. If a multi-member facilitating team has to be formed, it should comprise the EU, China, the SAARC countries and Switzerland, too, in order to counter-balance them. Diplomatic relationship between India and China is growing better in recent years. Therefore India is less likely to be reluctant to join hands with China for a facilitating team.

Conclusions
India has the tendency of interfering in the internal politics of Nepal by misusing the unequal TOPF of 1950 and Nepal’s excessive economic and military dependence on India. Nothing has been more important for India than the realisation of its own national interest. Indian has an attitude of confining its small neighbour within its security perimeter and has a history of reacting vehemently whenever Nepal tries to come out of it and manifests to be less dependent on it economically, politically and militarily. Rulers and regimes have been changing in India, but not their neo-colonial character and mindset.

Whenever the tiny neighbour is in the midst of severe political crisis and political instability, India has an attitude of procuring maximum gain and fulfilling its own national interest by imposing avaricious treaties to the weaker crisis-ridden government at the cost of its national sovereignty. India did so in 1950 and 1965, it made an unsuccessful attempt to do so in 1989. It cares very little about democratic ideals and values whenever the question of self-interest comes at the forefront. It has the history of making adjustments or agreements with even the most autocratic regimes for fulfilling its interest.

Keeping all these attitudes, tendencies and history in mind, it will be utterly unwise to involve India as a mediator in the Nepalese peace process. India should not be brought so close to the negotiat-
ing table that it would be in a position to decide the fate and political system for us and be able to ‘fish in the troubled water’. It should not be kept at a distance either or else it would spoil our peace process and negotiated settlement in vengeance and retaliation. A policy of balancing between the two extremes will be wise and better in the peace process of Nepal.

A line of constant communication with the Indian government and the people should always be maintained to develop trust and understanding among them that its legitimate fears and concerns are being properly addressed on the negotiation table. We should be deft enough in positive diplomacy to persuade the government and the Indian people that success of Nepalese peace process serves the basic national security interest of India, too. The success of negotiated settlement in Nepal will automatically minimise, if not eliminate, India’s gravest security threat in its root. India’s major security strategy to sever the insurgency linkages will be better addressed by the successful peace process in Nepal than by the deployment of thousands of SSB along the border.

However, civil society mediation, the UN presence/facilitation and the cooperation of India, China, the US, UK and EU will be the best alternative for the successful negotiated settlement in Nepal. The UN might play a better role in monitoring the cease-fire and human rights situation, observing the national election, facilitating the laying down of arms and reintegration of armies. India might cooperate in all of those processes by being a significant part of a cooperation team comprised to the US, UK, the EU, China and the SAARC countries and by playing a leading role in coordinating this team. In this way India could play an important role in the peace process of Nepal, without being a mediator and without imposing its hegemony on the negotiated settlement.

Most importantly of all, Nepal should develop its own national unity and broad national consensus on the basic questions
of resolving the armed conflict. If the nation is divided, neither the conflict could be resolved progressively and in a sustainable way, nor our national sovereignty and interests could be preserved during the peace process. A divided nation always invites foreign intervention and hegemony. The armed conflict of Nepal should be resolved basically by the Nepalese people themselves. The role of India or any other country could be and should be complimentary only. Only on the condition that the nation is united and India’s role in the peace process would be conducive without harming any of our national interest.

There should be broad national consensus that, this time, our national polity and fate will be decided by ourselves on our negotiating table and not in the halls of Delhi, not by others as was done in 1950. However, there are many areas in which our national interests and Indian national interests intersect each other. On those areas we can work together for the mutual benefit.
India's Possible Role in the Future Peace Process of Nepal

References


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The previous chapters have indicated that Indian influence is an unavoidable component in Nepal’s political development, and as such, it cannot be ignored when resolving the Maoist conflict in Nepal. There are four specific reasons that make India’s role indispensable regardless of Nepal’s disinclination for Indian involvement in the peace process. The first reason is Nepal’s geographical location as a landlocked country and the presence of India on three major accessible sides of the Nepalese border. This situation is compounded by the fact that Nepal’s border with China is very inaccessible due to high mountainous terrain. Juxtaposed between China and India, Nepal acts as an international security buffer zone between these two Asian powers.

The second reason for India’s involvement in Nepalese affairs is based on historical antecedents. Nepal’s political relations with India started as early as the formation of modern Nepal in 1768. From this time onwards, Nepalese rulers from the Rana regime to the autocratic Panchayat system tended to depend on India for some form of political support and thus set a precedent for a degree of

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1. I am thankful to Dr Natalie Hicks, Senior Programme Officer, International Alert for her effort in editing this paper.
Indian interference in internal affairs. In recent years this practise has continued with senior Nepalese political leaders visiting Indian leaders with the objective of garnering special support. Such dependence has given India an opportunity to play with the political crisis in Nepal and generate some long term national benefits.

The third reason relates to security matters. India wants to bring Nepal under its security umbrella, precluding Nepal from developing security relations with other countries. Further, the growing Maoist’s insurgency in Nepal and the Maoists’ role in reuniting and resurrecting left-wing extremism in South Asia, especially in India, have emerged as a growing threat to the internal security and national integrity of India. There are also suspected relations between the Nepalese Maoists and the insurgents in North-East India in terms of buying weapons and illicit use of ‘chicken-neck corridor’ of Siliguri for shelter and trafficking purposes.2

Another security-related matter for India is the bitter relations with its Islamic neighbour Pakistan. India blames Nepal for becoming the new base for subversive activities conducted by Pakistan’s Inter-Services Intelligence (ISI) across the open border (Manchanda 2001). The Union Home Ministry of India has accused the Pakistani Embassy in Kathmandu of being the fulcrum of ISI subversive activities in the South Asian region. India alleges that the Pakistani Embassy in Kathmandu had been working against India for the past several years by encouraging members of terrorist groups operating in Jammu and Kashmir, Punjab and North East India. It was also claimed that Maoist rebels, active in both India and Nepal, were being provided with

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2. The ‘chicken-neck corridor’ of Siliguri is located between eastern Nepal and Bangladesh which is just 27 kilometres in width. This linkage has troubled Indian government because the geographical linkage of North-East with the mainland India is very fragile and the region is socio-culturally very different from the entire mainland.
funds, arms, ammunition and explosives through this source (The Daily Excelsior 9 January 2002). Indian accusations have gained veracity with the hijack of the Delhi bound Indian Airlines Flight IC 814 from Kathmandu in December 1999 by members of Pakistan based terrorist group *Jaish-e-Mohammed*. During this incident, the hijacker demanded the release of the Islamic terrorist, Maulana Masood Azhar, and his friends who had been detained in India since 1994 on charges of terrorism. The plane finally landed in the Afghan city of Kandahar after a long route from Kathmandu via Lahore and Dubai. After a few days, India relented to the terrorists’ demands and released the leader in Kandahar (SAPRA India, Article 27 December 1999). Similarly, there have also been a few instances where some Pakistani Embassy officials in Kathmandu were caught dealing in counterfeit Indian currency and storing RDX in Kathmandu, which India claims the Pakistani Embassy is using to equip anti-Indian activities by ISI agents and other terrorists in India (The Daily Excelsior 9 January 2002). The aforementioned accusations and cases have even prompted India to violate Nepal’s sovereignty. The 1998 Delhi police raid in Kathmandu, similar police intrusion in Nepalgunj and Jhapa, the 1995 invasion of Nepalese skies by Indian Air Force helicopters (Mehta 2001), and recent intrusion into Nepalese territory in Susta by Indian nationals are some examples of Indian excesses towards Nepal.

The fourth and final reason for Indian involvement in Nepalese affairs relates to resource and economic issues. Chapter Four highlighted the importance that India has attached to gaining access to Nepal’s water resources and ensuring ‘India-friendly’ water sharing treaties. India has also been able to gain privileged access to Nepal’s forest lumber. India has a specific economic interest in Nepal’s markets to supply manufactured products to Nepal and draw cheap raw materials (especially forest and herbal re-
sources) back to the industrial sector in India. The traditional economic influence and the small market in Nepal have also helped India to maintain a near-monopoly on foreign investment in Nepal. However, the birth of the Maoist insurgency has generated serious negative impacts on the already turbulent trade relations. Many trucks with Indian number plates are being attacked and burnt by the Nepalese insurgents and some major Indian joint venture industrial enterprises are being closed down as a result of attacks or threats issued by the Maoists. Some joint venture establishments in Nepal have been relocated to Indian cities closer to Nepal. The relocation of Colgate Palmolive Plant from Hetauda (Nepal) to Shimla (Himanchal Pradesh) is a latest example. Similarly, the closure of the Nepal Unilever Company, the bomb blast in the Nepal Bottlers Company, and other acts of industrial sabotage have deterred potential foreign investors in Nepal. This situation has provoked India to blame Nepal for not providing enough security to its people and their socioeconomic activities in Nepal.

There are a number of key themes related to Nepal-India relations that need to be discussed in order to explicate the influence of India on the Nepalese Maoists and India’s possible role in the future peace process in Nepal.

The first issue is the open border shared by Nepal and India. This constitutes the single most important factor for the realisation of social, cultural, economic and political relations between these two nations. An uncontrolled and unregulated open border constitutes a safe haven for anti-social, criminal and illegal activities which have marred the cordial and friendly relationship between these two countries from time to time (Kansakar 1997). As previously discussed, the 1751 kilometres long open border has been one of the major concerns and sources of difficulty for the Nepalese security forces, especially after the birth of the Maoist insurgency. There is no way that the security forces can
guard and monitor the crossing of this extensive border. This situation was exacerbated in the wake of the failure of the first round of the peace talks, when in response to heightened Maoists attacks, border police stations were relocated to district headquarters and other larger cities. As a result, some border areas have become a haven for organised criminals and Maoists to conduct illicit cross-border exchanges. The issue of the free flow of illegal small arms and light weapons (SALW) from different parts of the South and South East Asia via India has been one of the major causes of the success of the Maoist rebellion in Nepal.

Nepal and India are officially committed to restricting the illegal movement of people, especially that of aliens other than Nepalese and Indian citizens, through the porous border. However, in practice, both countries are faced with the conundrum of allowing a reasonably free flow of people across the border while, at the same time, devising a mechanism to stop the illegal movement of unwanted actors, especially from other countries who have similar ethnographic characteristics with Nepalese and Indians. The need to control and regulate the Nepal-India border has become urgent for the benefit of both countries. The recent cooperation and networking between Nepalese Maoists and various communist factions, as well as the north-east insurgents of India, has made the resolution of this problem especially compelling. In view of this, the Indian government has heightened its alertness on the border with an increased presence of security forces. Now is the apposite time for Nepal and India to regulate the open border by introducing a legally accepted identity card check at border posts. For this to be effective, the governments of both countries should take the decision of identifying and specifying enough entry and exit points throughout the borderline that can be sufficiently regulated. The rest of the border area should be fenced so that arbi-
trary and illegal movement of people and goods across the border can be better controlled.³

The issue of the proliferation of SALW is closely associated with the Nepal-India open border. Transborder trade of SALW is particularly prolific between Nepal and the neighbouring Indian states of Uttar Pradesh and Bihar. These two states account for a large number of illegal arms manufacturers. According to a research estimate in 1987, there were 1,500 illegal gun manufacturing units in Bihar (Ajay Darshan Behera 1987 as cited in Gautam 2004). Other factors relating to Nepal's geographic location have also influenced the trade in SALW. The Himalayan insurgency corridor (see map below) from Myanmar to Afghanistan has contributed to the illegal transfer of arms and ammunition required for the Maoist insurgents. Source countries for this trade include Cambodia, Myanmar and Bangladesh. In the last two dec-

³. This argument was also reinforced by the people interviewed along the border areas in Nepal and India.
The Maoist Insurgency and Nepal-India Relations

It has been observed that mountainous regions, not only the Himalayas but also elsewhere, have become ‘reigns of terror.’ It is reported that 27 of the 32 conflicts bedevilling humanity today occur in the mountains of the world (Phuyal 2003 as cited in Mishra 2003). The harrowing happenings in Afghanistan, Kashmir, Nepal, Assam, North-East and North-West (Kashmir and Punjab) India indicate that the Himalayas are among the top of this list (Mishra 2003).

Nepal is also close to the Golden Triangle, the borderline between Laos, Myanmar and Thailand, and the Golden Crescent, the mountainous peripheries of Iran, Pakistan and Afghanistan, which are the world’s two major narcotic drug manufacturing regions (Sangraula and Shah 2003). The smuggling of narcotics is associated with the smuggling of arms, counterfeit currencies and gold. In this regard, the Maoist rebels of Nepal, through their networking with Indian ultra-left groups, Indian north-east insurgents, the LTTE of Sri Lanka, Karen rebels of Myanmar, the Moro Islamic Liberation Front (MILF) and National People's Army (NPA) of the Republic of the Philippines as well as some arms dealers from Cambodia, are trading in arms and ammunition. Hence, the proliferation of small arms is associated with the entire Himalayan corridor including South Asia and some South East Asian countries. The problem cannot be addressed unless joint strategy and action are initiated among the countries and regions belonging to the Himalayan insurgency corridor. Even if Nepal is not the origin and destination of international terrorism activities, news reports often state that Nepal is being used as a transit point for such activity because of the lax security situation at the only international airport and through the open border.

It is important that Nepal should honour its commitment to prevent illegal activities being perpetrated on Nepalese soil against its neighbours, especially India (Shrestha 2003). All the countries...
working against the proliferation of arms also need to cooperate with each other on information sharing and police patrols across borders by formulating a SAARC police force (SAARC-POL) to regulate the clandestine arms trade as well as other illegal trading. Such cooperation should also be expanded beyond the SAARC region and include other countries in the Himalayan insurgency corridor and adjacent to it. It has become urgently necessary for all the countries in the region to give up the inclination to ‘fish in the troubled water’ of other countries for short term benefit and provide shelter to international criminals. Such criminals might become a security threat to their host or benefactor country in the long run. A case in point may be the US’s grooming of Taliban and Osama Bin Laden in Afghanistan (to fight USSR occupation) and of Saddam Hussein in Iraq (to fight Iran), both of whom turned out to be some of the so-called ‘most serious security threats’ to the USA and its citizens in recent years.

In order to tackle the problems relating to SALW, Nepal must abide by all the UN decisions and action plans adopted to control the proliferation of SALW. All the countries in the region, including the Government of Nepal, should actively come forward to endorse and bring into force the UN Convention on the Illicit Trade in Small Arms and Light Weapons by 2006. It is not unnatural to have close linkage between international terrorism and illegal arms trafficking. So, the protocol against international terrorism signed by Nepal with the UN and SAARC should be put into effect as soon as possible. Without such means, deterrence of proliferation of illicit small arms and light weapons is impossible. The criminalisation of politics, especially after the political change of 1990, and use of arms in elections and other activities have to be curtailed by introducing stricter laws and regulations regarding the possessing and carrying of firearms by political party leaders and their cadres. The posses-
sion of firearms by any individual should be closely monitored by the local level police and administration. Furthermore, the relocation of police posts from border areas and far flung villages has encouraged cross border criminals to accelerate their criminal activities without any deterrent.

While discussing the future of Nepal-India relations, the issue of sharing water resources cannot be ignored. Nepal, in spite of being the second largest owner of water resources in the world, has never been able to fully utilise this resource for the socioeconomic development of the country. From early on, Nepal has been dependent on India because it was restricted to establish bilateral relations with any other countries without prior consent of India. This convention was based on the provision of Sugauli Treaty signed between the British East India Company and the Nepalese government after Nepal lost the war of 1814-16 with the British. In theory, Nepal was open to the rest of the world after the collapse of British India but it could not shake off Indian domination dictated by the provisions of the 1950 Treaty of Peace and Friendship. Nepal is still suffering from the consequences of that treaty in all aspects of socioeconomic development and in defining Nepal's foreign policy for the progress of the country and generating optimum benefit to its citizens. Due to these constricting treaties, nearly every Nepalese government has inherited a feeling that Nepal can only develop its water resources by initiating joint projects with India and that Nepal could become rich by selling water and electricity only to India. In the past five decades of water resources sharing with India, there is not one single project that can be claimed as a success as far as Nepal’s share of benefit is concerned (Chintan 2001).

One leitmotif in the history of water resources development in

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4. Currently there is little opportunity of selling the electricity to China.
Nepal is that it always followed India's (self-interested) advice about projects in Nepal and went to implement huge projects that benefited India tremendously at the cost of huge socioeconomic and environmental loss in Nepal. The general focus of water resource development projects appears to be exclusively on generating energy (Dixit 1994). However, projects in the near future should be designed to address local unemployment and generate equitable access at a micro level without disturbing the human settlements that had evolved generations ago. In the past, many villages have been submerged as a result of water resource projects and large numbers of people have been displaced from the river basin. Development planners and policy makers never looked at the possibility of developing small scale hydropower schemes which could support small and medium scale industries and help to generate rural incomes. In recent years some of the private sector has initiated small scale hydropower projects benefiting the people and minimising the cost of production. With the success of these projects, many water resources experts are advocating that "the first priority for consuming Nepal’s electricity should be given to the Nepalese people” (Dixit 2004).

Dixit (2004) suggests that public dialogue, controversy and political debate have contributed to developing a new conceptual paradigm in Nepal's water resources development during the democratic era of the 1990s. He points out that:

- There is enough probability of producing electricity with comparatively low production costs;
- Nepalese technicians are equally competent and capable of planning, designing and constructing small and medium scale

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5. Laxmanpur, Mahalisagar, Khurdalotan, Sarlahi and Rautahat settlements are some of the examples of the problems of submerging communities as part of the construction of dams by India in the border areas (Thapa 2004).
hydropower projects;

- Nepalese investors are already attracted towards investing in small scale power production;

- Electricity distribution management systems could be successfully handed over to the community, as in the case of irrigation, forest and drinking water;

- There is enough probability that electricity leakages can be minimised substantially once the urban electricity distribution management system is partially separated from the rural system;

- Nepal has been able to develop a practical framework of pluralistic hydropower development in 10 years – a relatively short period of time.

All these arguments indicate that water resource development in Nepal could be handled independently without depending on India and its need to exploit Nepal's water resources for its own population.

Chapter Four explored the serious consequences that water-sharing projects can have on the internal politics of Nepal. The ITDMR project generated serious debate and caused major political turmoil in Nepalese politics. However, it also helped to educate and awaken Nepalese people to the on-going problem. It helped to propagate the value of Article 126 of the 1990 Constitution of the Kingdom of Nepal, which is a valuable provision to guarantee the sovereign rights of Nepalese people in the development and sharing of natural resources and protecting the welfare of the Nepalese people in resource issues. Hence, the sovereign people of Nepal should always be alert to protect and strengthen the provision of Article 126 while restructuring the state apparatus and re-drafting a new constitution in the course of conflict transformation in Nepal. It is ironic that the political parties in Nepal, except the Nepal Workers and Peasants’ Party (NWPP)
have never spoken anything about protecting and strengthening the provision of Article 126. Nepalese people should remain vigilant and pressure political parties and the government to protect the welfare and the ownership of Nepalese natural resources, now and in the future.6

The Maoist rebels of Nepal have a love-hate relationship with India. This relationship is evolving into a bitter one as India increasingly perceives the Nepalese Maoists as an internal security threat, especially after the formation of CCOMPOSA and the unification of the PWG and MCC in India.7 India’s fears have also been heightened by the rumour about the creation of a Compact Revolutionary Zone from Andhra Pradesh to Bihar and the entire Terai region of Nepal. The suspected functional networking of the Nepalese Maoists with the Kamatapur Liberation Organisation (KLO), the United Liberation Front of Assam (ULFA) and many other banned outfits from the North East India has made India even more suspicious towards the Maoist insurgents of Nepal, who, until recently were using Indian territory with impunity to launch their activities.

In this context, it is now an apposite time for Nepal to involve India in the peaceful transformation of the conflict. As India always has a close eye on all the political developments in Nepal, there is little opportunity for Nepal to achieve a peaceful and political solu-

6. There is a strong possibility that the proposed multi-billion dollar water linking project of India could have socioeconomic and environmental implication to Nepal, Bangladesh and Bhutan. In this project, India is including many international rivers without consulting the upper and lower riparian countries such as Nepal, Bhutan and Bangladesh respectively (Gautam 2004).

7. CCOMPOSA – Coordination Committee of Maoist Parties and Organisations of South Asia.
PWG – People’s War Group.
MCC – Maoist Communist Centre.
tion to the conflict without India being involved in some way. However, the 9/11 incident in the USA and subsequent so-called ‘global war against terror’, has helped increase the involvement of the US and the UK and minimised, to some extent, the domination of India in Nepal’s internal security affairs. Under the circumstances, Nepal has been able to purchase weapons from countries other than India in recent years. Thus, this is an opportune time for Nepal to reconsider the implications of balancing India’s influence with receiving assistance from other international actors. It is equally important to seek China’s assertive role in conflict transformation in Nepal, which could also help minimise the excessive domination of India over Nepal’s affairs. Since Indian presence in Nepal could create problems for China, it’s active involvement in Nepal’s peace process could be a power-balancing factor between the northern and southern neighbours.

The role India has played in the past political settlements in Nepal shows that it has an attitude of trying to secure maximum gain and fulfilment of its national interest at the cost of the interests of Nepal and its people. Realpolitik predicts that India cannot be expected to be selfless while dealing with its small neighbours such as Nepal, Bhutan and Bangladesh. Hence, Nepal should avoid depending fully on India in the process of conflict transformation. With this proviso, India could still be of immense help to pressurise the Maoists as well as the government of Nepal to agree for a ceasefire by using its influence over both parties, especially the Nepalese government. India could also use the senior Maoist leaders in Indian jails to pressure the Maoists to make them agree to come to the negotiating table. However, India might use those leaders as a trump card to unilaterally bargain with the Maoists, which could be equally dangerous for the Nepalese nation. During the peace process, Indian involvement should not be written off so that it may be
prompted to act as a ‘spoiler’ in the peace process. Nepal should also recognise that the Maoist insurgency in Nepal is becoming a security concern for India too. This can be observed clearly from the latest Indian media coverage, the annual report of Ministry of Home Affairs (MOHA 2003) and statements given by some of the central level political leaders in India.

India has not been positive about the United Nation’s possible role as a mediator in the peace process of Nepal. As soon as the office of the UN Secretary General announced its willingness to help Nepal in the peace process, the then Indian Ambassador to Nepal reacted by saying that “The Indian government believes that Nepalese people themselves can settle their problem. And it is fully up to the Nepalese people to decide if they want outside mediation.” (Annapurna Post 26 July 2004). As expected, the government of Nepal echoed the Indian sentiment a few days later through the Vice-Chairperson of the Council of Ministers, Kirtinidhi Bista, during his meeting with Lakhdar Brahimi, Special Representative of UN Secretary General Kofi Annan (Kantipur Online 13 July 2005). India has a fear that, if the UN involvement in Nepal contributes to a successful settlement of the conflict, the international community might pressurise India to accept such mediation to settle the conflicts within India as well as with Pakistan, which India does not want.

One positive form of engagement between India and Nepal is in the field of bridging links between civil society in both countries. Indian civil society leaders and the media have launched a campaign in support of peaceful conflict resolution in Nepal with a view to applying pressure on the Indian government to contribute constructively to the peace process. The people of India are always in favour of peaceful transformation of conflict in Nepal. Nepalese political parties and civil society should create ‘broad alliances’ to develop understanding together and
act as a counterweight on the conflicting parties. Nepal’s political parties and civil society should lobby with the Indian media, civil society and political parties to garner wider support for the democratic movement and create public pressure on the Indian Union Government for contributing constructively in enhancing democratic values and facilitating the conflict transformation process in Nepal.

This chapter has sought to highlight the Indian government’s self-interested unilateralism in water resources development, its traditional involvement in Nepal’s domestic politics and the consequent insecurity emanating from this involvement. Therefore it is not easy for the Nepalese political leadership to understand and appreciate the critical relationship that inseparably exists between the country's territorial integrity, water rights and internal sense of security. The CPN-Maoist should also be responsible and people-centred while dealing with the issues of Nepal-India relations in the process of peaceful transformation of the conflict. They should have clear perspectives and achievable demands vis à vis India so that the relationship between Nepal and India remains on an even keel both during the conflict and in a post-conflict situation.

Hence, the issue of the open border, the proliferation of small arms and light weapons, the issues of water resource development and sharing are all directly concerned with the security, political stability and socioeconomic development of both countries. Being the smaller of the two neighbours, Nepal has been a victim of the negative impacts of these issues. The future of Nepal cannot be bright as advocated by the rebels nor can the Nepalese people be prosperous by surrendering their interests to India. Hence, the future generation of Nepalese leadership should do everything possible not to irritate India by committing some imprudent action but at the same time be careful
not to give unnecessary and unjust access for India to Nepalese resources. In order to do this, the political leadership of Nepal should commit itself to a political course that guarantees the fundamental rights of the sovereign people of Nepal without being influenced by outsiders. Nepal should extend the hand of friendship to India to guarantee the well-being of the people of both countries without compromising the needs and welfare of its own people.
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7. Security Sector Reform in Nepal: Challenges and Opportunities (Along with 4 page briefing paper) June 2005


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