

Nepal – State in Danger?

The political situation, security-political implications and perspectives

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The political situation in Nepal is marked by two conflicts, the Maoist insurgency and the decline of the democratic system that had been introduced in 1990. Common causes become comprehensible against the background of the country's historical development and social setup. They make us aware of a third, still more or less latent or suppressed conflict, that is initiated by the excluded and disadvantaged groups of society.

Below, I want to analyse the situation on the basis of those political forces that are responsible for recent developments: the monarchy and the security forces loyal to it, the political parties, and the activists of the CPN (Maoist), henceforth simply called Maoists. Finally, I want to deal with some security-political perspectives.

Monarchy

The Shah dynasty is responsible for the current socio-political look of the country. In cooperation with specific Bahun families who legitimized their royal power on the basis of Hindu-political treatises, the Shah rulers made Nepal a Hindu state with a very sophisticated hierarchical social system. On top of this system were the Bahun and Chhetri castes, and its lower strata were reserved for the numerous ethnic groups and the Dalit castes that had been claimed untouchables. In the course of Nepal's unification process, this meant the expropriation of ethnic land and its assignment to members of the so-called higher Hindu castes who supported the military expansion of the Shah power. At the same time became other population groups less and less participated the deeper they were placed in the social hierarchy. This development was further forced in the times of Rana oligarchy (1846-1951).

A phase of dispute began when Nepal opened to the outside world in 1951. The monarchy was interested in the restoration of its old absolute powers while the young political parties favoured the introduction of a democratic form of government as it existed in many western countries. After a short half-democratic phase in 1959/60, the monarchy reached its goal when King Mahendra introduced his partyless Panchayat system after a royal coup d'état. It took until the democracy movement of 1990 before a democratic multiparty system could be established and late King Birendra agreed with a merely constitutional monarchical role. I think he has played his part more or less well until the day when he was murdered in 2001.

There was an obvious change in the political outlook of monarchy when King Gyanendra ascended the throne. He immediately claimed that he wanted to be an active monarch, in other words, he was not satisfied with the role his brother Birendra had played in the last decade of his life. In October 2002, he used the chaos that had been caused by the endless power games and corruption of the party political leaders to seize executive powers. At the latest since then the people of Nepal have again lost their sovereignty which they had just won twelve years ago.

King Gyanendra claims that all his steps are on the basis of constitution and democracy, but all his behaviour contradicts such statements. For example, if he really wanted to bring back democracy as soon as possible, he would have had

conversations with all the party political leaders, democratic institutions, law and constitutional experts as well as with outstanding persons of civil society almost daily. Instead, he fell back on old forces from times of the absolute royal Panchayat system (1961-90) that today are not even in leading positions within their own party, the Rastriya Prajatantra Party (RPP). The way Gyanendra has himself and Crownprince Paras celebrated in the style of Panchayat times is a further reflection of this attitude. Besides, government owned newspapers like Gorkhapatra and Rising Nepal have returned to the unbearable uncritical celebration of all royal steps and statements as it was typical for these papers during Panchayat times. Another symbol of this bad politics is the misuse of the Raj Parishad¹ as a political instrument since November 2003. As a long-time observer, one gets the impression: the democracy movement of 1990 has never taken place.

The Maoist insurgency is lifethreatening to Nepal's monarchy. The Maoists may have withdrawn their demand for an abolition of monarchy for the time being when they entered into peace negotiations with the state in 2003, but this does not change their final goal. All the numerous left parties that have emerged from the original Nepal Communist Party (NCP, today mostly CPN) stand for a republic according to their respective party statutes. This is even true for the moderate and more or less social-democratic CPN (UML).²

In 1990, the monarchy could save a number of prerogatives, but a new constitution that is written by an elected constitutional assembly, as it is now the main demand of the Maoists, would cut royal power and authority further if not abolish monarchy at all. Because of this was the government last year not allowed to go into the Maoist demands. In other words: the monarchy did not want to discuss a peace that was associated with a loss of royal power.

Security forces

The security forces, i.e. the army and the police, have to be mentioned in one breath together with the monarchy. The constitution of 1990 is equivocal on the command and deployment of the army. According to article 119, the supreme command of the Royal Nepal Army (RNA) is in the hands of the king who also appoints the commander-in-chief. But according to article 118, there is a so-called National Defence Council (NDF) whose recommendations of the operation and use of the RNA the king has to follow. This NDF shall consist of the prime minister, the defence minister and the commander-in-chief.³ From historical point of view, the RNA has always been extremely loyal to the monarchy (apart from the special constellation during the times of Rana oligarchy).⁴

¹ A royal advisory assembly according to article 34 of the constitution that has only functions if the succession on the throne is vague as it was after the royal massacre in June 2001.

² See, for example, their party program that was passed in 1993 and that is valid until today: *People's Multi Party Democracy: The Political Program of Nepalese Revolution*, Adopted by the Fifth National Congress – 1993 of the Communist Party of Nepal (Unified Marxist-Leninist), p. 12.

³ In practice, this three member council has been reduced to two persons ever since the promulgation of the constitution. The reason is that the prime minister always also held the office of defence minister (with the sole exception of the UML minority government under Man Mohan Adhikari, November 1994 – October 1995).

⁴ For example, then Prime Minister Girija Prasad Koirala could not mobilize the army against the Maoists because it was vetoed by late King Birendra. The position of the army during the palace massacre of 2001 remains unclear. The killings have been ascribed to late Crown Prince Dipendra, but many things have never been really cleared up. There had been voices who talked about discontent within the army leadership on Birendra's reservations. It's a matter of fact that the army became involved in the conflict within only five months after the death of Birendra.

In the time of emergency (2001-2), many fundamental rights were repealed, and the army began to see itself outside of law and order. Nepal's security forces had been known for their disregard of human rights already during Panchayat times. Unfortunately, little has changed after 1990. The state of emergency legitimized the army's behaviour. There were hardly any wounded or arrested people in the clashes between army and Maoists. Everyone who was suspected of being a Maoist was killed, often after previous arrest. The great increase of persons that have been killed in context with the Maoist insurgency after November 2001 speaks for itself.

This shall not excuse the Maoist actions. But there are two things that have to be born in mind. First, it is well known that many young people are forced by the Maoists to join and support their militant activities; many young people are afraid of this and have already left their villages in fear of Maoist pressure. This means that many of the persons that have been killed by the security forces were not voluntarily on the Maoist side, i.e. they were in reality not Maoists but the youth and future of the country. The second point I want to mention here is that the security forces in a very special way have to represent the Nepali state and its constitution, i.e. they have to be a shining example for rule of law. Even if the Maoists disregard the constitution and fundamental human rights, and this is an undisputed fact, have the security forces to respect the constitution and laws.

The grave disregard of fundamental human rights by the security forces, especially voluntary arrests, torture and the disappearance of arrested persons has been denounced by the National Human Rights Commission as well as national and international human rights organizations, especially Amnesty International.⁵ Recent evaluations have shown that 90% of all arrests have been illegal; 60% of the arrested persons have been tortured.⁶

The military campaign for the suppression of the Maoist insurgency continues since November 2001. It had been hold on for about seven months for a second half-hearted peace dialogue in early 2003. After that, the confrontation aggravated again. After the declaration of a state of emergency in November 2001, the army has been reinforced by 20.000 persons raising its total strength to 69.000. In November 2003, the defence ministry asked for a further increase by 8.000 soldiers.⁷ This decision can be seen in context with growing American pressure to solve the conflict in Nepal not by dialogue but by military force.⁸

⁵ There is a fundamental report on this problem by Amnesty International: Nepal: Widespread "disappearances" in the context of armed conflict. AI Index: ASA 31/045/2003, dated 16 October 2003, available in the internet under <http://web.amnesty.org/library/index/engasa310452003>. Informations on the numerous urgent actions of Amnesty International may be viewed <http://web.amnesty.org/ai.nsf/countries/nepal?OpenView&Start=1&Count=30&Expandall&ft=S331.htm>

⁶ The Kathmandu Post, 10 January 2004

⁷ These figures have been taken from two articles published in The Kathmandu Post in November 2003: *8000 more to join RNA ranks: Critics say militarisation, Army views otherwise*, by Prem Khanal (22 November 2003). *More troops is not the answer*, by Ameet Dhakal (25 November 2003). The web site of the army (<http://www.rna.mil.np/>) gives no figures on its personnel strength. The number of policemen is 51.326 according to the police web site http://www.nepalpolice.gov.np/about_us/personnel.htm. On 17 January 2004, The Kathmandu Post reported that the cabinet has now agreed to increase the army strength by only 6.400 persons. The additional costs (800 million Rs. for the first year, then 640 million Rs. per year) shall first be financed by the money that originally had been reserved for parliamentary elections. (explanation: such elections cannot take place in the foreseeable future). Until 2012, the RNA shall be reduced to its current strength.

⁸ In view of the difficult territory and the Maoist presence in almost all districts, the former army chief Sachit Shamsher J.B. Rana has claimed that a raise to at least 150.000 soldiers would be necessary to suppress the Maoist insurgency by force. But even the current military budget of 7.18 billion Rs. is unbearable for Nepal. Nevertheless, the army has already asked for further 1.8 billion Rs.

Besides, Nepal has a police force of a little more than 50.000 persons. They have neither the training nor equipment to fight the Maoists successfully, as already proved before the mobilization of the army. This is more or less also true for the so called “armed police force” of about 25.000 persons. In recent times, the royal government has started to mobilize civil units against the Maoists. If this brings anything, then that the civil society is further involved in the conflict.

Political parties

The most important party political groups have their roots in Nepali circles exiled in India in the late 1940s. Politico-historically, the 1950s had been times of dispute between these young parties and the monarchy, which was anxious to restore the sovereignty and absolute power it had lost to the Ranas some 100 years ago. This was achieved with the introduction of the Panchayat system as it is proved by article 20 of the 1962 constitution. Under the Panchayat system, political parties were outlawed. It was only after the democracy movement of 1990 that parties got functional positions as they are known from western democracies.

The foundations and the self-assessment of Nepal’s current party political system are codified in the constitution of 1990. The preamble of the constitution already gives some indications when it claims that this constitution has been “made with the widest possible participation of the Nepali people”. But in fact, the constitution has been the work of an elitist upper class that dominates the leading cadres of all political parties (including the CPN-Maoist). Until today, these party elites identify themselves with this claim of general representation. At the same time are the non-included groups of population restricted to run their own representative political bodies according to article 112 (3). This exclusion of great sections of society is one of the basic problems of Nepal’s multiparty democracy.

In the mid 1990s, the Maoists took advantage of the great discontent over unequal rights and participation in the Nepali system. The much improved general education, the guarantee of fundamental rights by the constitution, especially those on freedom of opinion and expression, but also a more or less free press have helped that the people in Nepal have become responsible citizens. This has, for example, become obvious in all the elections after 1990. The structure of the political parties as well as the power struggle and corruption of their leaders are most responsible that this consciousness has not born greater fruits.⁹

All Nepali parties are very much personality oriented, i.e. they organize themselves around a few outstanding party leaders.¹⁰ They leave their mark on the whole party. They themselves may have been elected by party convents, but they often arrange the selection of the delegates in a way that already anticipates the election result. Once confirmed in their leading position, they have an enormous power that has only little to do with democracy. For example, they to a great extend determine the composition of the most decisive party committees according to their own interests

⁹ In mid 2002, the Commission for the Abuse of Authority (CIAA) has started a number of spectacular actions against prominent party leaders, but so far there has not been a final decision in all these cases.

¹⁰ Many small parties owe their existence only to the fact that such leading personalities were no longer satisfied with their role and influence within the mother party. The bigger parties are not coherent entities, but within these parties there are always camps around different leaders that sometimes lead to a formal split. Examples: Within the Nepali Congress, such camps have repeatedly become oppositions within the party that have threatened the government policy of the party. In the run-up of the 1999 parliamentary elections, an overwhelming victory of the CPN (UML) was prevented by a splitting of the party that could hardly be justified ideologically. Currently, a similar process can be observed within the RPP.

and private responsibilities. As a consequence are the leading circles of the Nepali parties made up of a clientele of the party leaders that remains more or less static. Outsiders have hardly any chance to be admitted. This is especially true for persons from groups and sections of the population that have been traditionally discriminated. Both the problem areas that are under discussion here, Maoist insurgency and decline of democracy, illustrate this negative attitude of the party politicians. The parties are responsible for both developments.¹¹ The masses in Nepal simply want peace, a desire that has absolute priority. But the parties refuse any participation in the peace process as long as democracy, or better their power access, is not restored. Last year, their leaders flatly refused to join the royal government and the Maoists at the negotiation table, because the government is lacking legitimacy. But the insistence of the party leaders on the restoration of a balance of power as it existed before the royal coup has also to do with their very personal interests. The constitution of 1990 meant a compromise with the monarchy as it had especially been endorsed by the Nepali Congress. This compromise also safeguarded the preservation and influence of the traditional party elites. A new constitution that is written by a generally elected constitutional assembly, as it is now demanded by the Maoists, could cut the influence of these traditional elites. Besides, it is a matter of fact that the inclusion of the Maoists into the democratic process would fundamentally change the current party political power relations.¹² To sum this up: The political parties want the restoration of balance of power on the basis of the constitution of 1990, but they have no agenda and willingness for a peaceful solution of the Maoist conflict.

CPN (Maoist)

There is no doubt that the so-called “jana yuddha” of the CPN (Maoist) initiated in February 1996 is Nepal’s most serious political problem. The aim of the Maoists is the overthrow of the government and the establishment of a people’s republic against the background of a socialist society. During the first years of their movement, the Maoists found growing support from those who were extremely disappointed by the corruption and the modest development of the democratic system. The great circles of those frustrated by poverty, corruption and social discrimination were a fertile breeding ground for support of the Maoists.¹³

¹¹ Significantly, the name Sher Bahadur Deuba has to be mentioned with the beginning of both conflicts. In 1996, he had been prime minister, when the Maoists approached the government with their list of 40 demands. The insurgency began after Deuba refused any reaction to these demands. In 2001, Deuba was again prime minister when a state of emergency became imposed and the army was mobilized after the first round of half-hearted peace negotiations. In 2002, Deuba had primarily the preservation of his power in mind when he recommended the dissolution of parliament to the king in May, when he dissolved the local bodies that had been mainly dominated by the CPN (UML) and filled them with government officials in July, and when he approached King Gyanendra in early October asking for a postponement of the parliamentary elections.

¹² Probably, there would no longer be the chance for a single party to win an absolute majority of seats in parliament. And the 1990s have already proved that Nepal’s party politicians are not able to cooperate in coalition governments.

¹³ For example, many jobless youths of the age groups 15-18 turned towards the Maoists. Further, at least one third of the Maoist troops are said to be women. Another recruiting basis are the ethnic groups as well as the so-called untouchable Hindu castes who are lacking any kind of perspectives. According to the census of 2001, they make up more than half of Nepal’s total population; if you include the Madhesi you get a number of about 70% disadvantaged people in Nepal.

There is hardly any reliable data on the strength of the Maoist forces. The figures range from 1.500 to 3.000 persons for the core troops. Besides, there shall be a militia of more than 10.000 fighters.¹⁴

The Maoists may have been weakened during the time of emergency, but this must not have necessarily been the reason why they agreed a second round of peace negotiations in early 2003. Another reason has definitely been the change of public opinion. Maoist slogans are even among discriminated population groups no longer as popular as they were in the late 1990s.

After the breakdown of peace talks, the Maoists first returned to their old tactics of violent politics. This meant especially attacks against institutions of the security forces, the destruction of the infrastructure and of houses of leading politicians, but also the robbery of banks, the forceful collection of money from the business circles, private persons and the tourists, etc. In October 2003, the Maoists leadership announced to stop all attacks against the infrastructure, obviously a reaction on the negative impression this procedure has had on the general public. They also promised to spare the families of the security forces. But the following weeks and months have proved that also among the Maoists word and action have little in common. On the other hand may this also be an indication that the Maoist leadership is losing influence upon their own supporters.

The Kathmandu Post of January 20, 2004, has published a detailed statement by Comrade Prachanda, the chairman of the CPN (Maoist) in which he again summarized the reasons and aims of the so-called "people's war" of the Maoists. Besides, he also gave a suggested solution for the conflict: roundtable conference, interim government, and elections for a constituent assembly. In addition, Prachanda suggested the demobilization of the RNA and the Maoist troops under the supervision of the United Nations and international human rights organizations.

Security-political perspectives

There is an evolving confrontation between supporters of a forceful suppression of the Maoist conflict and those who favour a peaceful solution through dialogue and compromises. As never before, even the diplomatic circles play a public role. The first camp is spearheaded by the USA who have included Nepal's Maoist insurgency into the target area of their anti-terrorist world politics after September 11. Most of the other western countries belong to the other camp.¹⁵

The American pressure for a military solution of the Maoist conflict fits in well with the ideas of the monarchy and its government as well as with the leadership of the army. Christina Rocca, the US Assistant Secretary of State for South Asian Affairs, during a visit to Nepal in mid December 2003 has once again confirmed the unrestricted American support for these forces in their fight against the Maoists.

But this visit has also made clear that the Americans do not or do not want to understand the historical and social background of the conflict. Besides, it seems that they have also not recognized the changes Nepal has faced during the last years. For example has the palace massacre of 2001 fundamentally effected the respect

¹⁴ These figures lose credibility in face of the enormous Maoist influence in most districts of the country even though the government claims to have already killed more than 6.000 Maoists. This fuels the speculation that many of these persons have in reality not been Maoists, as many national and international human rights organizations have repeatedly argued. Independent of this must the number of Maoist fighters be higher than official government data claims.

¹⁵ The United Kingdom has a special position that is anywhere between that of the USA and that of the other European countries.

and the position of monarchy in the minds of many Nepalis. King Gyanendra is not the unifying factor and the symbol of unity as many as monarchist forces and the government owned media try to assure day by day. This role was already changed by the constitution of 1990, when this aspect of monarchy was deleted from the fundamental definitions of the state. Today, it is only mentioned in article 27 (2), i.e. in the part of the constitution that deals with the person of His Majesty. At this place, it more circumscribes aspects the king should fulfil as a constitutional monarch.¹⁶ Never before in Nepali history has the institution of monarchy, and the person of the king in special, been so openly criticized as today. This is not only true for the political parties that demonstrate against the royal seizure of power since October 2002, also voices from general civil society are getting louder.

The student demonstrations against monarchy that began in mid December 2003 should not be underestimated. Almost all student organizations have a direct link to a special political party. It is significant that these parties have lost control over their student organizations in very decisive phases of modern Nepali history.¹⁷ So, the current students' demonstrations could be another important step for political changes. They openly demand the abolition of monarchy and the introduction of a republic. The political parties partly held back but they do not completely rule out such a step; this seems especially to be true for the CPN (UML).¹⁸ King Gyanendra's recent behavioural change can be seen as a reaction on the intensified public agitation.¹⁹

The US assessment of the role of the RNA is also doubtful. The RNA has not originated as a national force that resulted from the fight against a foreign colonial power, since Nepal has never been a colony. Instead, the RNA has always been an instrument of power for authoritarian rulers: first for the early Shah monarchs, then for the Ranas, finally again for the modern Shah monarchy.²⁰ Against this background, the RNA can hardly play an important role towards necessary fundamental social, political and economic changes in Nepal without prior changes in attitude, affiliation and behaviour. It rather explains the army's self-image not to account the general public for its brutal and often fundamental human rights disregarding behaviour. The army accepts orders only directly from the king.²¹

¹⁶ As such it must be seen parallel to article 27 (3) which demands from the king that he preserves and protects the constitution.

¹⁷ One example: Student protest and riots lasting several weeks got King Birendra in 1979 to announce a national referendum on the future of the country's political system; the then outlawed political parties only later jumped on the bandwagon. A consequence of the referendum was the third amendment of the constitution that gave the political parties a chance to undermine the Panchayat system in the 1980s. See also Lok Raj Baral, *Students in Politics*, The Kathmandu Post, December 30, 2003. The foundation of a pro-monarchy students' organization and the brutal procedure of the police against the demonstrators (here I also see parallels to 1979) are further signs of the monarchy's fear of these student politics.

¹⁸ The central committee of the CPN (UML) recently dismissed its original demand for the reinstatement of the dissolved parliament and on January 10, 2004 decided a so-called "roadmap" for future actions: formation of an all-party government, roundtable conference of all political forces including the Maoists, formation of an interim government, holding of parliamentary elections, drafting of a new constitution. The before intensively discussed demand for a republic has been left out.

¹⁹ Since January 6, 2004, King Gyanendra has restarted a dialogue with the leaders of the political parties. In this context, he has propagated a so-called seven point agenda, that again contains woolly and very interpretable terms: guarantee of peace and security, control of corruption, popular administration, improvement of national unity, parliamentary elections, local elections, inauguration of a new parliament.

²⁰ This has excellently been explained by C.K. Lal, *False premises: did Christina Rocca figure out what is really going on in Nepal?*, The Nepali Times, December 26, 2003.

²¹ This was proved in May 2003 when the then royal Prime Minister Lokendra Bahadur Chand during the second round of talks with the Maoists agreed on a drastic restriction of the movement

The close symbiosis of monarchy and army could lead to the worst possible perspective, i.e. that of a military rule under the leadership of the king. This would set back the development of the country in a decisive way. Besides, it would not contribute to the solution of any of the numerous conflicts and problems Nepal is facing today. So, I personally don't believe that King Gyanendra and the leadership of the army would take such a step formally. But everybody knows that the behaviour of political leaders in Nepal is unpredictable. In reality, democracy is already out of function and the country is ruled by the king who is leaning on the army and traditional and feudal forces.

What could be a more positive perspective? The appeals of the United Nations, the EU and most of the western countries mention as the only possible way that of a dialogue that leads to necessary reforms. In this context, one cannot emphasize often enough, that changes just for show will not help. On a long-term basis, the Maoist conflict may only be the prelude to further conflicts if the country is not able to introduce fundamental social, political and economic reforms. If these changes do not take place, the still more or less latent social conflict, which I have mentioned in the beginning, could become fully apparent.²²

The constitution of 1990, whose questioning is one of the core demands of the Maoists, must be in the centre of the initial phase of such reforms. Critically viewed, there is hardly anything left of its fundamentals: The people have lost their sovereignty; parliament is abolished and there is no sign that the king has any intention to hold elections in the near future²³; there is no legitimate government that is responsible to elected representatives of the people; the people don't even have a chance to participation and control on the local level. A return to the constitution of 1990 as if nothing had happened would mean a sanctioning of the misuse of this constitution by politicians and king.

So, Nepal needs a new constitution that prevents such misuse or even infringement in future. At the same time must this future constitution guarantee the adequate and equal inclusion of all those population groups that are disadvantaged so far. In this way could numerous reasons for the current crisis be redressed at their roots. This must not mean that the future constitution has to be totally different from the previous one. The basic idea of a democratic Nepal was not bad irrespective of various shortcomings of the constitution. After all, it was not the democratic structure that has failed, rather have the problems resulted from the use and interpretation of the system.

of the army. The leadership of the army openly resisted this agreement. A few weeks later Chand was forced to resign and he became replaced by Surya Bahadur Thapa.

²² A conference on the inclusion of the numerous disadvantaged groups of society in Nepal, organized by Social Science Baha in late April 2003, has especially made clear where such reforms have to start. Some of the papers presented at this conference are available in the internet through <http://nepalresearch.org/politics/inclusion.htm#background>. The publication of all papers is planned, as far as I know.

²³ Prime Minister Surya Bahadur Thapa has in recent times repeatedly claimed that the government wants to run parliamentary elections soon. But this is disproved by the cabinet's decision to finance the stock-up of the army with the money that had originally been reserved for such elections. Succinct explanation: parliamentary elections cannot be held in the near future.