



# Understanding Civil-Military Relations for better Civilian Control of the Military in Nepal

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## Abstract

Conducive civil-military relations (CMR) is essential for political stability, good governance, and the country's prosperity. However, there has been a misunderstanding or misinterpretation of this concept in some quarters in Nepal. The CMR is the relationship between the government and the military, especially the higher echelon of the officer corps, generally expressed as civilian control of the military. Good CMR is vital for national security and defence, which calls for organizing the military by balancing the societal and functional imperatives. While there are many existing theories in CMR, Nepal must focus on democratic civilian control as the country has embarked on a democratic political system. The features of democratic civilian control include division of authority between the state's organs and the military, parliamentary oversight, subordination of the military to civil society, and maintaining the credibility and accountability of the military. This qualitative study concludes that the MOD is a crossroads where military expertise and civilian legitimacy intersect and establish a power relationship between democratically-elected civilian representatives and the military. The civilians must have authority and capabilities in determining the military's policy issues, where the MOD and the legislatures must play an essential role in controlling and oversight the military. Specifically, the Parliamentary Defence Committee and the empowered Ministry of Defence must decide the military's size, roles, higher-level promotion, budget, procurement, and foreign relations.

**Keywords:** Civil-Military Relations, Ministry of Defence, Nepali Army, military roles, defence budget, defence relations, Parliamentary Defence Committee, democratic civilian control

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## 1. Introduction

Good civil-military relations (CMR) is indispensable for good governance and political stability, which ultimately contribute to the wellbeing and prosperity of the country. The military is the country's last line of defence, the security of which guarantees the conduct of state affairs. Therefore, Nepal must continue developing the Nepali Army (NA) as a capable, dependable, and professional military organization. The NA must always be prepared for national defence in close coordination with the government and other state institutions. However, the military's undue pressure on the government's functioning and reluctance to comply with the civilian order in the name of national security not only undermines democracy but also curtails the rights and aspirations of citizens. Military intervention in state affairs is unconstitutional and is always unacceptable. Nevertheless, even without intervention in governance, the military can hinder the running of the state. Therefore, two critical questions, 'how to make NA capable enough for the security of Nepal and Nepali people' and 'how to keep it under the effective control of the democratic government so that the powerful military does not invade civilian rights,' are conflicting desiderata.

After the promulgation of the new Constitution, Nepal has attained a certain level of political stability. As a result, the general aspiration for economic and social development has skyrocketed. Like other institutions, albeit indirectly, the military's role is vital in addressing the people's desire for economic and social progress and preserving recent political achievements. If the military does not embrace the spirit of the changed political system enshrined in the Constitution or is unenthusiastic in the constitutional provisions, neither the country will sustain political stability nor the desired social and economic growth be fully realized. Therefore, how the army, accustomed to different political environments in the past, will be unconditionally committed to the new political system is another important aspect of Nepal's civil-military relations. The general character of the military is to adhere to the status quo as much as possible and not to change its modus operandi, meaning there would be a reluctance to adapt to the changing political system. Therefore, unless the government and the people's representatives actively formulate laws and mechanisms to bring the military under civilian control, the military might not automatically be subordinated in the new political system.

The military is a chain-of-command organization. When significant political changes happen in the state, a vacuum appears in the upper echelon of the military's chain of command, which should be filled by the new political authority as soon as possible. Politicians should take ownership and stewardship of the military in principle and actual practice. Certainly, parliamentarians interacting and having close relations

with the armed forces is good. Still, the military should be bound by laws, policies, rules, and regulations to ensure the adaptation to the changed situation. If that does not happen, and an attempt is made to move forward based on a personal relationship with senior military leadership, such a CMR may not last long.

The new Constitution has obligated the army to some extent, but that is not enough because the constitutional provisions have a broad connotation. Article 267 of the Constitution alone cannot explain everything the army should do. Therefore, the government must duly bring the army under civilian control through laws, policies, and various mechanisms per the Constitution's spirit. If civilians are conditioned to the narrative that 'the NA has always been loyal to the power and will continue to do so,' might be overconfidence and risk. Despite the abolishment of the monarchy and the Principal Military Secretariat (PMS) that controlled the military, the Ministry of Defence (MOD) has not yet been able to manage the military effectively. Previously exercised by the Royal Palace and the PMS, the military controlling authority has gone to the Army headquarters rather than the defence ministry (Cowan, 2010).<sup>1</sup> Now, because of unlimited authority and fragile civilian control, there is a favourable environment for the military chief to be autonomous. Owing to this 'vacuum' created in the military's upper chain of command, foreigners have tried to establish direct relations with the army by 'bypassing' the government and, sometimes, trying to control the military<sup>2</sup>

Therefore, Nepal should achieve good CMR in every possible way for national security, good governance, economic development, and political stability. For this, the government and the people's representatives must take ownership and stewardship of the national military and actively formulate laws and mechanisms to bring the military under civilian control according to the changed political context. However, the departure point for this endeavour is to understand CMR concepts and the key elements of democratic civilian control so that all the stakeholders are on the same page to enhance good CMR in Nepal further.

## 1.1 Background

The military is an integral part of a sovereign state, yet the size and shape of the armed forces vary from country to country. Although many factors play a role in

- 1 Sam Cowan says, "The Nepali Army must be kept under strong political control. Nepal's official army has never been in so feeble control of a state governing body. Earlier, in June 2063, the authority vested in him at the palace had to be transferred to the Prime Minister's Office or the Minister of Defence.
- 2 The Indian, Chinese, the US military high-ranking officers, and Ambassadors have been directly meeting with the COAS at the army headquarters. The latest episode of SPP and COAS' direct correspondence indicates this trend.

determining the form of the military, the threats (external and internal) and the nation's economic, social, political, and geographical situation affect it the most. According to political scientist Samuel P. Huntington, the elements that determine the shape of the military can be divided into two: functional imperative and societal imperative (Huntington, 1981). Functional imperative directs the nation to focus on facing external and internal security challenges, while societal imperative represents the influence of different classes, ideologies, and groups in society. Proper equilibrium of these two critical aspects is essential when deciding the character of the military in any nation. Achieving the 'right' balance needs a comprehensive, objective study and analysis of society's various classes, parties, ideas, and characters. Without a proper equilibrium, the organized military either cannot fulfil its role correctly or is alienated from society because it has not assimilated the social attributes (Pun, 2010). What kind of balance should these two imperatives have and how much importance should be given depends on the social values and the gravity of external and internal threats to that nation.<sup>3</sup> Social values indicate how the community responds to threats against it. A society with different values takes the danger of the exact nature differently and reacts differently.

The military is an organization formed by society to manage violence within the community. Therefore, the form and capability of the military should be such that it can keep society safe. However, the military should not ignore social values and aspirations and focus only on the security dimension. The two aspects – social values and security – are complementary and sometimes contradictory. The character of the military, built only to counter external and internal security, might not be socially oriented because the armed forces' primary goal in such a situation is to protect society, even at the cost of social values.

The military needs to transform according to time and context. When the military organization deviates from such a transformation, and there is a state of imbalance between the two main imperatives, it results in conflicts and dissatisfaction in society (Pun, 2010). Immediately after the ten-year-long armed conflict in the country, a policy was formulated to include women, Adivasi, Janajati, Madhesi, Dalit, and backward communities in the NA by amending the Military Act and Rules.

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3 According to Maoist leader Barshaman Pun 'Ananata,' "the army is relative to time, social and economic development, political ideology, or power; it cannot be absolute (Pun, 2010)." Pun further says that "the army we will build now is the backbone of the new state power. Therefore, the structure of the army is formed based on the nature of the state, the political characteristics of the state, its economic characteristics, its social characteristics, and other features. In that sense, the new national army is the backbone of a democratic republic."

The new Constitution of Nepal has provisioned that entry of women, Dalits, Adivasi, Adivasi Janajati, Khas Arya, Madhesi, Tharu, Muslim, and backward class citizens in the NA would be ensured by federal law based on the equality and inclusiveness principle (Constitution, 2015). This far-reaching provision of the Constitution helps develop a reflection of society in the army. However, no matter how inclusive the rank and file of the army may be, the lack of proper representation at the decision-making level would not have any real meaning. Therefore, for genuine inclusivity of the NA, prioritization and incorporation of the under-represented social groups such as women, Dalits, and Madhesi into the officer corps without compromising the army's recruitment standards is necessary. Such actions would raise the army's ownership among the Nepalese people, ultimately contributing to national security. However, this is only one aspect determining the characteristics of the army. Another equally important dimension is to make the army capable of withstanding external and internal threats. Hence, modernization and increased professionalism are required in the Nepali Army.

The functional and societal imperatives have indeed not remained the same with the change in Nepal's external and internal security challenges in a decade and a half since the end of the armed conflict. If so, there is a need to reconcile these two requirements. What is the significant security challenge the nation is facing now and in the future? How serious are such challenges? What kind of capability is needed to meet these security challenges? What is the attitude of society toward these challenges? These are the questions whose proper answers guide how to build a balanced army - an army that represents society and also protects it from external and internal threats. These issues of military formation will impact the nature of civil-military relations.

The dimensions of CMR are wide. Therefore, its understanding and interpretation are diverse, and there is no authoritative definition of civil-military relations. However, it can be emphasized that civil-military relations is the interaction between the elected people's representatives (especially the government formed by those representatives) and the National Army (specifically high-ranking military officials). Hence, all kinds of activities related to the army and the defence sector are the subject of civil-military relations. For example, the number of troops, size, shape, composition, division, organization, role, equipment, weapons, ammunition, uniforms, policy, doctrine, act, rules, procedures, budget, appointment, transfer, and promotion in the military are subjects of civil-military relations. In addition, security challenges, national security and defence, National Security Council, National Security Adviser, MOD restructuring, military diplomacy, military intelligence, parliamentary committee hearings, peacekeeping activities, military involvement in infrastructure development, participation in environmental protection, inclusion, military-fiscal governance,

military welfare funds, relations between the army and other security agencies, supply of military equipment and self-reliance, veterans, etc. are all within the purview of civil-military relations. It is not an exhaustive list, however. The crux of the civil-military relationship is that the military must be under the effective control of the elected representatives and the government.

There is no guarantee that the military shall give up its institutional interests and readily obey the wishes of the citizen and the orders of the people's representatives. According to Kul Chandra Gautam, former Assistant Secretary-General of the United Nations and former Deputy Executive Director of UNICEF, the peace agreement with the Maoists party was expected to help speed up Nepal's economic development by 'right sizing' and democratizing Nepal's security forces and creating peace dividends by reducing military spending. However, it did not happen. Stating that the NA troops' level has doubled in a decade of conflict, and the army expenditure increased five times, he questioned whether Nepal needs such a large military and paramilitary force. Based on the regional and international security environment, it would not be appropriate to maintain a big army based on past pride alone. Instead, Nepal's security apparatus needs to be restructured, considering the security challenges that may arise in the next ten, twenty, or thirty years (Gautam, 2021).

While the military is an apolitical organization per se, it must function as a political tool. However, this does not mean engagement in party politics.<sup>4</sup> Despite being a political apparatus needing to understand the evolving politics in the country, the military should never be involved in party or factional politics. Instead, the military should remain a loyal servant of the state, i.e., it must abide by the government and the parliament's orders, and its leadership must remain faithful to the changed state system.

The NA's contribution as one of the oldest institutions in the country has been remarkable. The same long history has pervaded traditional thinking in the institution, and its members sometimes find it challenging to embrace the changes. Undeniably, the army is more conducive and comfortable with continuing past activities and business as usual. However, such a desire cannot address the essence of national interest and political change. Thus, the state must take concrete steps to move the military forward by making it embrace the changed political and constitutional system.

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4 Barshaman Pun 'Ananta' says, "the national army needs to understand the basic politics and policies of the country. This does not mean that it should carry the flag of the UCPN (M), UML, and Congress. Only an army that understands basic politics, the state's economic, social, foreign policy, and goals can carry out national security."

As the Chief of the Army Staff wields enormous lethal military power, personal ambitions might arise unexpectedly and could lead to a tendency to disobey the civilian government. Without legal rein, bringing the armed forces under the control of unarmed people's representatives is challenging. A few times in the past, after significant political changes, conscious efforts were made in Nepal to bring the military under the new state power. However, most of the times, there was no attempt to get the military under legitimate political power after the momentous political changes, and the military did not come under the control of the government or the people's representatives. For example, after a few years of the political transformation of 2007 BS, King Mahendra formulated the Military Act 2016, bringing the entire NA under his grip, including the Bijuli Garad (Elite Guard), and effectively controlled it. Eventually, the army remained under the king's grasp. However, when the elected Prime Minister BP Koirala did not put effort into bringing the military under the democratic government's control, it remained out of civilian rule, and even the two-thirds majority government collapsed (Shah, 2010).<sup>5</sup>

Following the 1990 political change, when the democratic government kept neglecting civilian control for a prolonged period, the military finally came under the control of King Gyanendra. He could orchestrate a 'Royal Coup' with the help of the NA in 2061 BS.<sup>6</sup> Succeeding the Jana Andolan-2, the country entered the new political system, and with the announcement of the Military Act 2063 BS, the military came under the control of the government to some extent. However, after the promulgation of the new Constitution in 2015, there was no solid attempt to control the military through new laws and regulations in the changed political situation. Rather, an effort was made to control the military by establishing a personal link (BBC, 2020, 7, July) or relationship with the high-ranking military officials or by the generosity of the army chief (Onlinekhabar, 2021, 2, February).

No state can safeguard the national interest without adequate military control by the government and parliament. The armed forces' national, organizational, and personal interests are interrelated and intertwined. Sometimes, these three types of interests do confluence, contributing to the achievement of the larger goals of the country. However, in most cases, these interests also conflict with each other. At times, personal

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5 Bibek Kumar Shah says, "Since the then government (BP Koirala's government of 2015) did not consider enacting laws to keep the army as an integral part of it, it seems that in 2017, King Mahendra replaced the people-elected government with the strength and support of the army."

6 BP was of the view that the army should be brought under the control of the whole government. But the Congress government formed in 2048 BS under the leadership of BP Koirala's brother Prime Minister Girija Prasad Koirala did not pay any attention to these issues."

interests may be interpreted as institutional interests or institutional interests as national interests. In that case, national interest may be jeopardized.

Just as the military needs to adapt to the changing circumstances, the political forces need to change how they view and treat the military. Suppose the political parties continue to perceive the military as remnants of a ruling class or dynasty! In that case, it will hinder the establishment of a good CMR necessary for the successful functioning of the state. What wrong the military did in the past or what mistakes the political parties made should not be obstacles to recent state affairs. The NA and military officers should be evaluated based on their actions and intentions.

As one of the four instruments of national power, an army is a reliable tool for ruling politicians. However, it should never be politicians' self-fulfilment means. If a political party or faction resorts to staying in power with undue military support, neither the military nor the political system would be professional, effective, mature, and developed. Such petty or vested interests cannot contribute to achieving political stability and economic and social development as envisaged by the new Constitution.

## **1.2 Objectives, justification, and limitations of the study**

There has been an ongoing discussion on CMR in Nepal, and various individuals, organizations, and circles have their interpretations and understanding of this pertinent subject. Occasionally, wrong comprehensions have also been observed in Nepali society. This misunderstanding or misinterpretation is sometimes intentional, and unintentional other times. The misconception and confusion of the universal concept of CMR give the country a false notion and hinder improving CMR. Equally, there pertains some debate on the kind of CMR Nepal must adopt. The overall objective of the study is, thus, to clarify what is a universally accepted notion of CMR and how Nepal can improve CMR in a new democratic political setup.

Specifically, the study has four objectives (a) To analyze what is CMR and what is not, (b) How the military institutions should be organized for better CMR, (c) What are the major theories in CMR, and (d) How can Nepal improve civilian control of the military in the new democratic system.

This paper does not attempt to investigate the nitty-gritty of the CMR issues in Nepal. The study neither analyzes major CMR cases nor historical matters but relates some



Nepalese CMR issues to elucidate the problems and misconceptions and explain the widely accepted idea.

## 2. Methodology

This research is based on a qualitative analysis of primary and secondary data from various sources, namely books, journal articles, newspaper articles, seminars, and interactions during lectures. Since there is a misunderstanding, misinterpretation, or confusion about the CMR concept in some sections of Nepali intelligentsia, the initial portion of the study highlights and corrects the misconception by explaining the existing principal theories of CMR. The study then further analyzes and explains the elements of good CMR based on the universally accepted CMR concept.

## 3. Understanding CMR

### 3.1 What is CMR and what is not

Despite the discussion of CMR in Nepal for some time, the core concept of civil-military relations still has some misunderstanding and confusion. Amid this misconception, several known and unknown attempts have been made to generalize the relationship. Although these two-way relations have not been debated in Nepal for a long time, the issue has been at the front and centre of politics and governance since World War II in the West, especially in the United States. If the military organized for the security of its people is not under ‘civilian control,’ then there is a strong possibility that it would be a burden and a threat to the community.

After World War II, maintaining the large military created during the war threatened the US’s national economy and liberal society. Consequently, several theories emerged from the study that suggests what should be the nature and form of civil-military relationship to keep the democratic society free from militarism. Hence the starting point of all theories begs the question of how to maintain ‘civilian control over the military’ so that ‘the protector would not be a predator.’ Therefore, when discussing civilian-military relations, going beyond the context of ‘civilian control over the military’ to derive divergent meanings is an attempt to confuse the main issue or ignorance of the subject (Sipahi, 2022).<sup>7</sup> If someone says that the NA went to the community of the people to construct schools, build toilets, or create a good image

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<sup>7</sup> In the special issue of Sepoy fortnightly (Sipahi Pakshik) published on the occasion of the 1000th day of the tenure of the Chief of Army Staff on 23 Jestha 2078, there is a lot of talk about what has been done among the people under civilian control (on page 14) such as press conference, publicity, etc., but nothing has been said about the actual subject of civilian control.

among the people by building roads and therefore the CMR is good in Nepal, that is just a misunderstanding (MOD, 2021).<sup>8</sup>

The relationship between civilians and the military is multifacet. One reason for the multidimensional nature of this relationship is that the word ‘civilian’ refers to various non-military groups in society. Essentially, CMR is a relationship between the government and the military. Still, on a day-to-day basis, directly or indirectly, the military establishes ‘relations’ with various ‘civilian’ groups at multiple levels. The military’s interaction with the public and diverse communities is called ‘civil-military cooperation’ or CIMIC. It is taken in a different sense than civil-military relations. The CIMIC includes activities for the benefit of the public, by the military alone or by the military and the community together at the local level, such as the construction of schools, the building of public housing, running snake bite centres and medical camps, mortuary management, drinking water supply, road construction, and cleaning of public places. It is believed that the military would receive support and cooperation from the people during actual military operations if it mingles with the local population and helps alleviate their day-to-day hardships.

Civil-military cooperation is a strategy to win the hearts and minds of the local population by foreign forces, mainly when operating in a foreign land. Such a concept is also used to get the support of the local people where peacekeepers are deployed. Developed countries do not conduct ‘civil-military cooperation’ in their own country. It is the responsibility of various levels of government to address the needs of the people. CIMIC activities at home by the National Army could be counterproductive to governance by undermining the work of the government and making the state look unworthy or irresponsible to the public. Sometimes, such acts may give the impression of dual power – one civilian and another military. Therefore, civil-military cooperation has significance while operating in a foreign land, which needs to be understood differently than the civil-military relations.

Similarly, another common term describing relations between civilians and the military is ‘civil-military coordination,’ abbreviated as CIMCORD. Civil-military coordination is the coordination between humanitarian agencies and the military to provide prompt and practical help to civilians in humanitarian crises such as natural disasters, armed conflict, and other humanitarian catastrophes. The primary purpose

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8 On page no. 46 of the ‘Annual Program and Progress Booklet’ of MOD in 2078, it is stated that “the Nepali Army has been placing special emphasis on deepening the civil-military relations keeping in view civilian supremacy. Under this, the operation of various public welfare programs has been continued in the areas of health service, local road construction and maintenance, drinking water, and other areas with the help and cooperation of civilians.”

of CIMCORD is to enhance understanding and coordination between the two entities. Humanitarian organizations aim to reduce the loss of life and property by providing humanitarian assistance to victims as soon as possible using the military's unique capabilities, readiness, and resources. Following the 2015 Gorkha earthquake, UNOCHA played a role in establishing a CIMCORD between humanitarian agencies and the NA.

Therefore, Civil-Military Relations need to be understood and analyzed differently than Civil-Military Cooperation and Civil-Military Coordination. Civil-military relations is one of the most talked-about and prominent global issues regarding state affairs. However, our understandings have differed since there is no universal definition of this relationship. In the past, civilian-military relations (CMR) were seen through the prism of 'civilian supremacy,' but today, it is mostly viewed as civilian control.

As mentioned earlier, some military leaders have misunderstood or deliberately misinterpreted civilian-military relations in Nepal. Those officers who reach the top army hierarchy most likely have studied CMR while attending foreign war or national defence colleges. Some of the military officers in the NA who have studied and specialized in civilian-military relations in the United States have repeatedly reminded the military leadership that civilian-military relations is a relationship between a people's elected government and the military. Despite this awareness, defining CMR as the military building public toilets, repairing the roads, cleaning the temples, planting trees, and making the media praise NA is strange. This tendency is wrong and dangerous. Because on the one hand, it promotes misunderstanding of CMR, and on the other, the NA goes to great lengths to win the hearts and minds of the people by preaching that the state CMR is good in Nepal, whereas the efforts should have been directed towards following government's orders sans conditionalities. At times, an unusual assertion comes from the Army headquarters stating that the NA only follows legitimate orders of the government. The NA has no authority to validate what government order is legitimate or what is not. Instead, it must follow every order from the legitimate government without any condition or qualification. If there is a doubt that the order is illegitimate or unconstitutional, the Constitutional Court or the Supreme Court has the authority to interpret or decide post facto.

It is customary for the army to go to the people and build good relations. However, the tendency of the Nepali people to become hostile toward the people's representatives and the government while boosting the army's popularity among the people is wrong. Such cheap populist activities of the army weaken the general perception of the country's politics and governance. Also, the military bypasses the government in

numerous ways when it is eager to go directly to the people and become famous. While the army increases its importance in society, trying to present itself as different and better than the present democratic government, ignoring the elected representatives of the same community, it gives the impression that the top military leadership indirectly sympathizes with the dictatorial regime of the past.

Thus, while the military may seem to gain ground among the masses, it may weaken the legitimacy of the democratic government and political forces. Not that the army's image should not be enhanced or that the popularity of the army and the government should be 'zero-sum.' However, the army's popularity should not be gained at the cost of the government's reputation. If that happens, it undermines democracy and the state system. The military will continue to grow into an autonomous body when such activities are unchecked. As the armed forces become independent, it becomes autocratic; finally, the military will go out of government control.

The essence of 'civilian control' is not 'bureaucratic control' but 'control by elected people's representative.'<sup>9</sup> Civilian control must be understood as the military under the authority of the people or the will of the people. The military is an armed organization that stands ready for the security of society according to society's wishes. If the military, created to protect the community, does not save it or is not under its control, then there is no justification for having that organization.

However, it is difficult to figure out how the public wants the military to run. In a democratic country, democratically elected people's representatives, and the government formed by those elected members, represent the citizen. It connotes that the legitimate government, created by the people's elected representatives, will control the military under the 'civilian control' principle. In other words, civilian-military control in a democracy means the armed forces are under the authority of the people's representatives and democratic government. Indeed, the people's representatives in the parliament cannot regulate and direct the military all the time. Therefore, the government operates and controls the military daily through the parliament, formulating the laws and policies for the government's operation and control of the military. Similarly, as directed by the parliament and various parliamentary committees, the government closely manages the military.

Civilian-military relations need to be viewed not only as a two-sided relationship between the military and the civilians but also as an integral part of the national

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9 Brig Gen Keshar Bahadur Bhandari (Retd.) says, "In Nepal too, it is appropriate and practical to implement the practice of civil supremacy and civil-servant control (Nijamati Niyantaran) that suits the country and the situation." (Bhandari, 2010).

security policy. Of course, national security policy is a broader subject that should not be limited to the dimensions of military security. However, as national defence policy is a substantial part of the overall national security policy, CMR is inherently connected to the national security policy. The nature of the relationship between the MOD and NA shows the status of CMR in Nepal. In this regard, the ‘friction’ between the NA chief and the defence minister in 2021, the expulsion of the defence minister from the Ministry, and the ambiguous stand of the then COAS on the Lipulek incident are some of the most unfortunate incidents in recent Nepali civil-military relations.

### 3.2 Some CMR Theories

Many scholars have studied CMR from different angles, and many theories have evolved. Whatever the theoretical bases we consider, the departure point of CMR is that ‘control of the state by the military is undesirable and civilian control of the military is desirable.’ The nature of Nepal’s CMR should also be based on this fundamental principle. Therefore, when analyzing civilian-military relations, if the army is under the effective control of the parliament and the government, then the relationship is good; otherwise, bad. This concept should not be twisted.

### 3.3 Conventional Theory of Civil-Military Relations

The prominent political scientist Samuel P. Huntington first put forward the theory of CMR and advocated it in his book *The Soldier and the State*, known as the Institutional Theory or Conventional Theory (Huntington, 1981). The notion of civilian control over the military is complex and challenging to practice because individuals and groups with different social backgrounds and political ideologies may differ in their views. In any case, minimizing the military’s political power and maximizing the civilian government’s political power is the key to maintaining civilian control over the military. After establishing this common denominator, the next step is finding answers to the question of ‘how’ and ‘how much’ to maintain such control. The institutional theory set forth by Huntington believes that such control can be achieved by professionalizing the military (especially the officers’ corps), which he calls objective civilian control (Huntington, 1981). In his view, such control cannot be achieved if the military is not professional, and in that situation, only subjective civilian control is possible. Subjective civilian control, as he explains, is the exact opposite of objective control in which the military engages in institutional, class, or party politics.

### 3.3.1 Critics of Institutional Theory

Many scholars have contradicted Huntington's institutional theory for several reasons. His view of the military as an absolute institution has been criticized as one-sided. Because the high-ranking military officer's character, desire, thinking, and ambition can profoundly impact the civil-military relationship, it is believed that this relationship should be analyzed from the personal and sociological level.

Political scientist Samuel E. Finer, in his book, *The Man on Horse Back*, claims that Huntington's predictions about civilian control of the military were not as easy as he had imagined (Finer, 2002). The military is an organization with a centralized command structure, operating in a chain of command, with separate rules and a cohesive manner. Because of these characteristics, the military can easily reject civilian control whenever it wants to. Contrary to Huntington's point of view, he believes that a professional army is more likely to be attracted to politics than stay out of it. Finer expressed frustration with the idea of civilian control, as argued in the Institutional Theory, that the professional army automatically obeys the civilian government.

Similarly, in his book *The Supreme Command*, Eliot Cohen, another political scientist, argues that military professionalism differs from other professions, such as doctors, engineers, and lawyers. Soldiers do not use their skills daily like other professionals. Therefore, Cohen doubts Huntington's basic premise that military officers are professional (Cohen, 2003). In addition, Cohen asserts that a military is a group of people who believe it is more important to obey their commander's orders than to serve the public. So, preserving the people's freedom may not be possible or easy in a country with a large military. Typically, the character of civil society is liberal, whereas the military is conservative. Hence, the main challenge of CMR is how to protect the liberalism of the civil society from military conservatism. Although there is a consensus on protecting freedom by civilian control over the military, there are differing views on how and how much to control it.

### 3.4 The military-civilian convergence

The eminent sociologist and professor Morris Janowitz introduced the convergence theory of CMR in the book, *The Professional Soldier*. He acknowledges the distinct existence of two groups in society, military and civilian, as Huntington puts it, but differs on how to protect the existing liberalism in society from the military. Unlike Huntington, he believes civilian control can be maintained by bridging the gap, not by keeping the gap between civilians and military groups. Janowitz, like Huntington, emphasizes military professionalism but sees the gap between civilian and military

narrowing due to professionalization (Janowitz, 1964) because the contemporary 'professionalism' of the military is similar to civilian professionalism as the military performs the various jobs of civilian professionals.

Since the character and role of the military differ from that of the civilians, some differences remain. According to Janowitz, it is wrong to assume that the armed forces are fully integrated into the state's political structure without a proper mechanism. At the same time, it is a mistake to think that the military organization does not function as a pressure group. He maintains that the army is a special kind of pressure group because of its vast resources and involvement in national security activities. The military amasses considerable power and engages in the political intricacies of society (Janowitz, 1964).

The military has no hesitation in pressuring the government to get a significant share of the budget, but it is cautious about interfering in the political sphere (Janowitz, 1964). The people's representatives need to understand that civilian control over the military does not happen automatically; the mechanisms and procedures must be followed to gain control. Achieving civilian control involves administrative and political challenges, which can be overcome if the executive and the legislature have sufficient information. The political leadership measures the military's effectiveness, but the criteria are determined in consultation with professional military advice.

The future of a military institution depends on its ability to strike a balance between the organization's stability and embracing the rapid political and technological changes that are taking place. According to Janowitz, it would be appropriate to develop the military into a 'constabulary' force to deal with various levels and types of threats constantly appearing in society. The constabulary concept provides a basis for assimilating the military profession, not just as a continuum of past military experience and tradition. He maintains that a military organization becomes a constabulary force when it is ready to operate continuously, is committed to minimal force, and strives for a more conducive international relationship rather than war victory.

### **3.5 The military agent and the civilian principal**

Political scientist Peter D. Feaver in the book, *The Armed Servant*, presents a modern theory of Civil-Military Relations, known as the 'principal-agent model,' and can be used for the day-to-day functioning of the military. Feaver's agency theory is consistent with the 'democratic concern.' He maintains two main goals of the civilian-military relationship: to make the military strong enough to enable it to fulfil its responsibilities efficiently; and to keep the military entirely subordinated to the government so it will

do what it is asked for (Feaver, 2005). The main thrust of the military's civilian control is to develop a mechanism to monitor whether the military acts honestly per the expectations of the people's representatives (civilians). BP Koirala once said, "The Army should be under the control of the House of Representatives. The spirit of being a servant of the people should be awakened in the Army (Koirala, 2010)."

Fever cited the example of the doctor-patient relationship in explaining his agency theory. A doctor can be an incredibly famous, skilled, and experienced surgeon in his field. However, no matter how serious the patient's disease, the surgeon does not have the right to operate against the patient's will. It is the patient's prerogative, not the doctor's authority, to decide whether to operate on them or take any other measures despite the advice of the specialist doctor. The doctor's job, as an expert, is to give advice and to make people aware of the consequences of not following the suggestion. The patient has the right to decide whether to be operated on. In civil-military relations, the military's role should be seen on the doctor's part and the civilians (people's representatives and the government's) role on the patient.

The military is the specialist in the defence matter of the state. However, it is doubtful that the armed forces can constantly accurately assess a threat and determine the appropriate response. On the other hand, the doctrine of democracy confirms that the people's representatives have the right to decide, even if they are less experienced in military matters. The military can recommend a certain quantity of hardware for a particular possibility of defeating the enemy in a battle or a war. Still, it is up to the people's representatives to decide whether to allocate resources for a specific probability of victory (Feaver, 2005). The military can describe the nature of a threat, but only the people's representatives may decide whether to feel the threat. Even when the threat is felt, people's representatives decide whether to respond to the threat or not. The military assesses the danger, but the people's representatives decide whether or not to feel threatened (Feaver, 2005).

### 3.6 Civilian control in a democracy

The COAS-Defence Minister tussle in the middle of 2020 was published and debated on social media and the media. During a periodic review meeting, the defence minister censured the NA's work as a '*lakir ka fakir*' (mundane) due to dissatisfaction. And Army Chief's displeasure with this comment pervaded in media.<sup>10</sup> Biased information sources subsequently confused people about who was right and wrong.

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<sup>10</sup> Working styles like '*Lakirka Fakir*' (mundane working style) could not bring results: Deputy Prime Minister Pokharel, New Magazine 16 Shrawan 2077. <https://nayapatrikadaily.com/news-details/48357/2020-07-31>



That is why it is necessary to examine democratic CMR's established principles before determining right or wrong in this incident. The features of democratic civilian control include division of authority, parliamentary oversight, subordination of the military to civil society, and maintaining the credibility and accountability of the military.

## 4. Role of the MOD in CMR

### 4.1 MOD and Civilian Control

The position of the MOD in the state is vital in maintaining civilian control. However, the presence of the MOD alone does not indicate good CMR in the country. Such ministries are merely facades in some cases, while other MOD works actively; subsequently, CMR and civilian military control become effective. The MOD is the locus of democratic civil-military relations, which is the key to finding a solution to the challenge of civilian control of the military. The Ministry is an intersecting crossroads of the military's expertise and the government's legitimacy.

The MOD of Nepal had been a symbolic ministry in the past, and the PMS exercised its real power at the Royal Palace (Shah, 2010), which formed the bridge between the army and the king. The role of the secretariat was parallel to the MOD, and the military secretary who lived there looked like a commander-in-chief (Sharma, 2010). Military officials viewed the MOD as a post office (Shah, 2010) or 'relay and delay station' by word of mouth from the Army officers.<sup>11</sup> The MOD was a helpless ministry without the authority to look around and just put rubber stamps (seal) on the correspondence. The army's chain of command was divided constitutionally during the constitutional monarchy. So, the ministry changed little, and the PMS continued to enjoy the power of the Defence Ministry (Ghale, 2010).<sup>12</sup> After the second people's movement, the PMS of the Royal Palace was dissolved, and the relationship between the king and the army was finally severed. But the relationship between the Defence Ministry and the army was not maintained at the same level. Consequently, the army resembled an autonomous body (Sharma, 2010). Despite

11 Bibek Kumar Shah says, "As in the Panchayat period, the MOD was kept as a 'post office' between the royal palace and the Army Headquarters."

12 Khim Ghale says, "The Ministry of Defence has the weakest infrastructure and the least manpower. The role of this ministry, which has a total of 38 employees till Aswin 20, 2066 BS, has been like an office for approving the files sent by the Army Headquarters for a long time. It has never been tried to develop and made resourceful to question the military's recommendations and decisions. In the words of Defence Minister Vidya Bhandari, it has not been developed as a Ministry of Defence."

many upheavals in CMR, the MOD has not been reorganized to ensure effective civilian control of the army.

The authority of the MOD exercised by the PMS of the Royal Palace has gone to the Army Headquarters instead of returning to the MOD (Sharma, 2010).<sup>13</sup> Unless a capable and committed workforce is ready in the MOD, this right is not coming to the MOD. If the democratic system brought by the third global wave of democracy is to be institutionalized in Nepal, there is no alternative to getting the army under effective civilian control. Such control is necessary not only to subordinate the military but also to hold the government accountable. The MOD is also the mechanism to hold the rulers responsible for defence and national security matters. During democratic consolidation, essential aspects of civilian control should be reflected in the structure and functions of the MOD. Therefore, unless the MOD is powerful and effective, civilian control over the military cannot be maintained, and the government cannot be held accountable for national security and defence.

Large military operations during war or conflict result in high military spending. In the ensuing peace and order situation, the public raises questions about the number of troops and the defence expenditure (Gautam, 2010),<sup>14</sup> which compels the military to find a new role to justify its size. Such situations were observed across the globe after the First and Second World Wars and following other minor wars and armed conflicts. The NA also went through an analogous situation after the Maoist armed conflict. However, the military's pursuit of a new role for its organizational interests should not be detrimental to the country's security and national interests. Therefore, an objective national security policy should be formulated with the active participation of people's representatives, military experts, and other concerned entities. A national defence policy and military strategy can be formulated only by conducting a comprehensive defence survey (Strategic Defence Review) based on a commonly accepted national security policy. Whether the Three-Plus-One Command concept recently adopted by the NA is in line with the spirit and objectives of the national security policy is questionable (Rawal, 2021). When the MOD does not have expertise in defence and security policy matters, it has no choice but to grudgingly accept the army's proposal, which goes against democratic civil control values.

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13 Sudhir Sharma says, "In the past, the royal court, through its military secretariat, used to curb the unlimited rights and potential political ambitions of the army. After the people's movement, when the secretariat was dissolved and the Ministry of Defence and the Security Council were not effective, all the power went to the army headquarters."

14 Kul Chandra Gautam says, "Currently, the Nepali Army has about 96,000 strengths. Adding the police force and the armed police force adds up to more than 150k. In a poor country like Nepal, such a large security force is too large and unbalanced."

In new democracies, countries just emerged from different perceptions of CMR under dictatorial regimes still carry that legacy. In the Panchayat period, military force was used in the name of nationalism to suppress the democratic parties as ‘*Arastriya Tatwa* (non-national elements)’ to perpetuate the dictatorial regime. For example, the Royal Nepalese Army (RNA) was mobilized in Jhapa, Biratnagar, Janakpur, Okhaldhunga, Ramechhap, Palpa, Surkhet, Salyan, Dailekh, Dang, Kailali, and other districts to suppress the Nepali Congress movement (Bhatta, 2010). Other political parties were also repressed using the military during the Panchayat era. Sometimes, such activities were controlled by military intimidation, while others were suppressed using brute force. Hence, the importance and dominance of the army in dictatorial regimes increase as it is a means of fulfilling the political aspirations of the ruler and prolonging their power.

Like in an authoritarian system, the need and importance of the military increases even in times of conflict, putting the military at the top of the state position, where the power and influence of the military are so enormous that it does not feel the need to coordinate and cooperate with other government agencies. On the contrary, it considers the other institutions of the state insignificant.

The remarks made by the then Chief of the Army Staff, Gen Prajwal Shamsheer Rana, at the Army Command and Staff College in 2058 BS clearly show the position and power of the army in the state system above political power when there is no democratic civilian control. He claimed the political parties were incompetent and posited it for the ongoing conflict. He also questioned, “Is this situation of the country created due to misgovernance, or did the army bring it?”<sup>15</sup> Because of the increasing conflict situations, the army does not feel the need to coordinate its activities with other governing bodies and does not care about the need to economize resources. The lack of accountability to the people in a non-democratic system and the issues of coordination, economy, and efficiency become secondary. No initiative was taken to restructure the MOD when Prime Minister Pushpa Kamal Dahal ‘Prachanda’ was in power (Sharma, 2010).<sup>16</sup> His government confronted the military rather than restructuring the MOD, and the CMR plunged to the lowest level ever. The then-Defence Minister Ram Bahadur Thapa ‘Badal’ tried to run the NA according to the wishes of the Maoist party, and the personal ambitions of the then Chief of the

15 Chief of the Army Staff address to the Convocation Ceremony of Serial Number 9 Command and Staff Course, Chaitra 29, 2058, p.4.

16 Sudhir Sharma says, “The Ministry of Defence has not been empowered to play an important role in controlling the army. From 2047 to 2061, when King Gyanendra came to power, only three of them got the responsibility of defence minister.”

Army Staff Rukmangad Katawal prevented cooperating with the changed political situation, causing a severe crisis in the CMR.

#### 4.2 MOD and Civilian Control

Even after the CMR crisis, no significant efforts were made to avoid such an undesirable situation in the future. When the MOD was reorganized in 2068 BS, changes were made in the structure (4 divisions and eleven branches were created), and the number of posts (increased from 31 to 98) (Sitaula, 2020). Nonetheless, the structure was neither designed to control the NA democratically nor to guide it for policy, strategy, and military diplomacy. The capacity of the MOD further weakened after the number of posts was reduced to 83 in 2076 BS. It demonstrates no meaningful changes in the MOD, except for the practice of having a separate ministry for the military. Even a decade after the restructuring, there is no impetus for the professional development of civil servants in the MOD. Erstwhile officiating Secretary of Defence Devendra Prasad Sitaula opined, “It can be understood that even after the restructuring of 2068 BS, the MOD has not been able to fill the vacancies of the civil servants (Sitaula, 2020).” It is necessary to underscore this reality and create an attraction to be transferred and to stay in the MOD.

Since the character and nature of the military differ from the civil servants, the civil servants are uncomfortable bringing retired and serving military officers into the MOD. According to Sitaula, “Although at that time, the task force recommended a separate coordination division to be created in the MOD comprising one gazetted first-class officer and other staff from the NA, the government of Nepal, however, decided to have four divisions headed by the joint secretary of the civil service (Sitaula, 2020).” This discomfort, doubt, and fear are primarily caused by a lack of strategic culture and understanding of each other. The MOD will not only be unbalanced because of the absence of a military workforce but, as mentioned above, it cannot be a meeting place of military expertise and political legitimacy. Without jointness, neither the MOD can have civilian control over the military, nor the MOD shall have such capacity. Therefore, the right balance of civil and military officials is needed in the MOD to use their knowledge and experience for national security.

The MOD cannot function effectively just by appointing an able minister of defence or a secretary; the entire ministry and staff must be competent. For the usefulness of the army to be maintained by the people’s taxes, it is essential to have civilian control. However, the military’s efficiency and effectiveness cannot be achieved without a capable MOD. Thomas C. Bruneau and Richard B Goetz, in the book *Who Guards*

*the Guardian and How*, uphold that the armed forces seldom admit the budget allocated for equipment, military workforce, maintenance, or training suffices to conduct the task entrusted to them by the civilian political leadership. If the military is set free, they may continue to exaggerate their role and needs to maximize their benefits from military service. The lack of accountability increases costs, and there is no incentive to improve efficiency. This problem is seen in most new democracies, where efforts are being made to reduce military expenditures and increase efficiency (Bruneau & Goetz, 2006).’ The MOD is the most appropriate institution to deal with military effectiveness, efficiency, and accountability.

### 4.3 The primary purpose of the MOD

The MOD has four objectives in addressing issues of CMR. The first is establishing a power relationship between democratically-elected civilian representatives and the military. Second, defining and sharing responsibilities between military and civil servants. The third is increasing the effectiveness of the use of force. The fourth is to ensure effective and efficient use of resources, e.g., budget, workforce, and military equipment (Bruneau & Goetz, 2006).

In today’s age of globalization and democratization, the need and importance of transparency are growing. A democratically elected government must address the citizens’ demands; as a result, the state cannot provide the military with abundant resources. The political leadership must mobilize resources for the socio-economic development stated in the Constitution (building an egalitarian society based on the principles of proportional inclusion and participation and building a prosperous nation committed to socialism based on democratic values and norms). Donor countries and institutions also monitor and question the government’s overspending on defence. Except for a few powerful nations that play a decisive role in global politics or the international system, the pressure to be frugal and efficient is mounting in most countries, and many governments continue to cut defence spending. The MOD is the conduit for efficiently channelling and utilizing such resources. At the MOD, the civilian leadership maintains budget transparency, eliminates duplication, acts as a mediator, manages the accumulated unused assets, and negotiates the quality-of-service providers or vendors. Legal experts, accountants, and planners at the MOD can work out inexpensive, dependable, and effective services, goods, and plans through in-depth discussions and deliberations on these issues. Therefore, it is crucial not only to have a MOD in the country but also to have resources, means, workforce, and capacity in the ministry to be effective and efficient.

## 4.4 The efficiency of the MOD

The MOD needs to have specific competencies to achieve the objectives. These capabilities include determining the military's budget, workforce, role, and mission and acquiring military equipment in which the MOD must be proficient. If the MOD lacks the capacity and authority in these matters, then its existence is naught. It may sound uncomfortable, but control over the military budget is the most critical aspect of civilian control because *money talks*. Unless the MOD prepares the budget, allocates resources, and supervises, civilian-military control shall be weakened. Like the budget, in a democracy, elected representatives have the clincher in determining the strategy and role of the military. The foreign policy objectives of enhancing the country's soft power have not been achieved due to civilians' lack of active involvement in peacekeeping planning activities (Rawal, 2022). As a result, Nepal's peacekeeping participation has not as effectively contributed to Nepal's foreign policy goals. Likewise, the lack of capacity and expertise in the MOD to debate the three-plus-one command implemented by the NA seems to have a one-sided influence on the MOD.

## 5. Role of Legislative in CMR

### 5.1 Legislature and defence matters

Legislature has a vital role to play in defence matters. Its tasks include civilian military control, defence budgets, formulation of policies and laws, and supervision and oversight during implementation.

The central question posed is ways of role fulfilment effectively and striking a balance between the powers and duties of the legislature and the executive. As the legislature is a representative of the broader civil society elected by the people, their control over military policy matters has a special meaning. The legislature looks at the policy and long-term issues of the military and plays a role in the civilian control of the military. If the legislature has the interest and knowledge of the military and defence matters, the executive cannot mobilize the military at the whim of any party or faction.

In a parliamentary system, the democratic control of the military must be understood as the military under the control of the parliament. As parliament and parliamentarians are directly accountable to the people, they are also responsible for defence policy and military and civilian control. They are endowed with the constitutional right to decide. In nascent democracies, the lack of defence expertise and interest among parliamentarians is widespread. However, despite the lack of knowledge, some democratic countries' parliamentarians have performed this vital task remarkably well because of their commitment.

## **5.2 The rights of the legislature in defence matters**

The legislature's role is becoming increasingly important as the military is expected to be controlled by the representatives of democratically elected civilians. The legislature can engage in two main stages of the policy process - during budgets, laws, and policy formulation and the second in monitoring its implementation (Giraldo, 2010). One of the features of democracy is separation and balance of power, which also applies to military and defence matters. The job of the legislature is to ensure accountability, legitimacy, and transparency in policymaking and, in doing so, to maintain effective democratic good governance in the defence sector by check-and-balance the powers of the executive. It is believed that a country cannot be democratic unless the legislature maintains its influence in the defence sector (Giraldo, 2010). Despite it, some countries' executive and military have tried to prevent the legislature from having such an impact on defence. The lack of knowledge of parliamentarians should not be an excuse to weaken the legislature's influence over military matters; instead, the state should emphasize democratic civilian control of the military by giving the legislature access to information on defence and enhancing their expertise.

## **5.3 Parliamentary Defence Committee**

While engaging in defence matters, the legislature is responsible for discussing and concluding the bill and overseeing defence-related policies and budgets. However, the executive and the military hold information from the legislature; when it is provided, it is just to a small extent. Thus, parliamentary committees are formed in the old or developed parliamentary system to fill this gap. Although such committees are constitutional in many countries, they are also formed using parliamentary or administrative procedures. Sometimes a temporary committee or sub-committee is created for work that needs to be done immediately. For example, a subcommittee is set up to investigate significant policy abuses or unlawful activities. Such committees can study the executive proposal more closely than the entire parliament, and its small size makes it easier to reach policy consensus among different views and political parties. The members of such committees are encouraged to acquire expertise in their field and the reputation gained due to their ability to influence policy matters after gaining knowledge and experience. Expert committees or sub-committees are the engines to make the parliamentary system effective. The more active or influential the committee becomes, the more effective the democratic system and civilian control of the military will become. The Parliamentary Defence Committee controls policy matters of the military and facilitates many military issues that could be otherwise ignored. The biggest challenge for the parliament in exercising its powers is to face the

dominance of the executive because the executive has immense information and expertise, but the legislature does not.

The effectiveness of the parliamentary committee depends to a substantial extent on the parliamentary staff and research services. Regrettably, there is a shortage of experts on national security and strategic issues in countries like Nepal that have recently entered the democratic system from autocracy. Most ex-servicemen are loyal to their former military organization, irrespective of its performance. Very few veterans are independent thinkers. Identifying some of the existing independent experts and benefiting from them can significantly help.

The military tends to hide information citing national security and secrecy needs. The situation could be different if a parliamentary committee existed which could uncover the facts. However, the parliamentary defence committee must balance informing the public and focusing on national security. Since the members and staff of the parliamentary committee are allowed access to confidential information (with security clearance), the practice of keeping national security issues confidential based on necessity and justification should be developed. Parliamentary committees can hold closed-door hearings on matters that must be kept secret. The secret hearings are against the spirit and essence of democracy, and such activities should be discouraged as far as possible.

The members of the parliamentary committee represent different political parties. Most of them are selected from their party, or some come to the committee because of their interest. The most important aspect is that the Defence Committee needs a workforce or a research centre that can provide immediate information to the committee members if they need to know anything about defence. Otherwise, the purpose for which the committee is formed would be defeated.

## **6. Some Critical Defence Issues Controlled by the Executive and Legislative**

### **6.1 Defining military roles**

Defining military roles is the first step in determining the military's size, shape, capabilities, and nature. Globally, the General Staff Branch of the Army resists defining the role and responsibilities of the military because a clear definition tends to decrease the power of the military than increase it (Bruneau & Goetz, 2006). Therefore, the executive and legislative branches should take the initiative in determining military roles per current realities. It is also necessary to avoid unnecessary gaps and overlap of roles of the military vis-à-vis other security agencies.



There is a need for clarity on ‘military operations to support the civil administration’ that the military intends to conduct as per its doctrine, such as crowd and riot control, back up the police force, and counterterrorism. These law enforcement operations are sensitive and require clear guidance based on the legal provisions so that the military does not increase its power and influence in conducting such activities. Thus, the MOD must decide when and where to conduct such operations, not just leave it for the military initiative.

## 6.2 Size of the military

Determining the number of troops is the crucial defence sector role of the executive and legislative. Confirming the size of the military will not be possible unless the country’s security is reviewed comprehensively. When the country’s internal and external threats are not assessed objectively, there is a possibility of exaggeration or preoccupation with security challenges. Although the military is primarily responsible for the security and defence of the country at the implementation level, the people’s representatives and the government possess the right to decide on the country’s overall security situation and how the state should address it. The military should make suggestions based on its expertise, not decide on its own. Therefore, it is necessary to form a committee or task force comprising all the relevant entities to determine the number of troops by conducting a Strategic Defence Review or equivalent study.

Before the promulgation of the new Constitution, a report submitted by the then Minister of Defence Vidyadevi Bhandari to the parliament on behalf of the MOD states, “It seems practical and in the national interest to restructure the NA only considering the existing security environment, national security policy, and the economic situation of the country by the government to be formed after the general election per the new constitution.”<sup>17</sup> Many believe that the military prepared this statement to protect organizational interests rather than motivated by national security. Sudhir Sharma insists, “What should the NA look like in a republican structure? It is necessary first to conclude some basic issues to answer this question. In particular, the debate should start with the need and justification of the NA (Sharma, 2010).” The military thinks it will face all kinds of security challenges in the country. In contrast, most security challenges must be met through diplomacy or other non-military means.

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17 Report on the Ministry of Defence and the Nepali Army presented at the meeting of the State Affairs Committee of the Legislature-Parliament on Aswin 7, 2008. Ministry of Defence, p. 4-5.

### 6.3 Procurement and Construction

Another critical defence issue is the MOD's ability to procure defence equipment. Buying military equipment is a complex, costly, and time-consuming process. The potential for corruption remains high as large sums of money are spent. Therefore, transparency and strict procedure should be followed in procuring military equipment. Similarly, a tremendous amount of money is spent on constructing various buildings and structures, including barracks for the military. There is a possibility of widespread corruption in the construction process. The MOD is the best apparatus for such appropriations and expenditures to prevent the military's temptations and misuse of government funds (Bruneau & Goetz, 2006).

### 6.4 Promotion of high-ranking military officers

The role of both the executive and the legislature will be crucial in the civilian control of the military. However, it is essential to be clear about the distinctive functioning of these organs on defence issues. Bruneau and Goetz uphold that the authority of the executive and the legislature must be explicit in two crucial tasks (1) determination of the institutional role of the military and (2) promotion at higher levels. For the top military level selection, the executive should nominate, and the legislature should approve (Bruneau & Goetz, 2006). The fact that the MOD has a role in selecting senior military officers makes sense. If the MOD has a significant role in such nominations, then the democratic culture may enter the functioning of the senior military officers, and the tendency to think for the greater national interest, rather than just personal interest, is likely to increase.

Recently, controversial issues about the extension of the term of high-ranking generals of the NA have come up in the media. One journalist stated, "It is normal to give some authority to the commander-in-chief as a strict chain of command binds him. The law has given full authority to the military chief in transfer and promotion but also paved the way for arbitrary steps by the military chief. Ironically, the generals of the democratic era have abused such power. All the army chiefs after 1963 have not failed to abuse this right (Basnet, 2022)". It is also asserted that the Chief of the Army Staff of the NA has exercised his right in his interest and as a weapon of revenge and self-promotion (Pokharel, 2022).

Because of such incidents, the NA seems not to be within the democratic control of the MOD. The management of the military by the executive (the president or prime minister, or the cabinet) is not only about the nomination, promotion, and dismissal of high-ranking military officials. Of course, having these authorities is necessary for civilian control of the military. But even more important is the proper management

of the workforce in the overall military organization from the executive, in which the task of raising the best officers to a higher level is also involved.

### **6.5 Internal and external relations**

For the country's security and civilian control of the military perspective, the MOD and its minister must be robust and close to the power centre of the government. But such happenings are lacking most of the time in Nepal. When they are not powerful, it is possible that either the military is highly autonomous or someone else is taking the reins of the military. Sudhir Sharma pointing out the Katawal scandal, maintains, "Does the President have the final control over the military? A concrete answer to this question is possible only after reviewing future developments. One clear thing is that even the closest neighbour, India, which has the most influence on Nepal's internal affairs, believes that the president should have more influence or control over the military than the government (Sharma, 2010)." Until Nepal's political situation remains volatile, foreigners will try to manipulate Nepal's security apparatus. In such a situation, those countries may try to win over the NA in numerous ways to achieve their goals. No matter what is said outside, the purpose of foreign aid to the NA is mostly to influence or garner sympathy from it. For this reason, it is crucial to understand that the NA should not seek foreign assistance until it is indispensable and that the government should meet the legitimate needs of the army.

The MOD should establish good relations with international organizations, donors, friendly countries, and affiliates to enhance defence, national security, military affairs, and civil-military relations. Such interactions could be with ministries of defence of friendly foreign governments, high-level visiting teams, delegations from the United Nations, teams of regional or international organizations related to defence or security affairs, humanitarian search and rescue, international military training, and educational programs. If the MOD plays a leading role while the military interacts with such entities, that indicates the military is under civilian control. Whereas, if the military takes the initiative in these activities and the work of the MOD is only to approve the army's decision, then the military is not under civilian control. When the state cannot play an influential role in controlling the military, there is a possibility that the army will become autonomous and, sometimes, be guided by foreigners. Sudhir Sharma posits, "With the fall of the monarchy, the Indian stream became more influential in the military as in other parts of the Nepali state. Therefore, the military seems to follow what India wants in the case of Jana Andolan-2, the declaration of the republic" (Sharma, 2010).

Presently, the NA must be vigilant to avoid being used by foreigners who dare to interfere in Nepal in many ways. It is essential to understand that even if the army is not in favour of any foreign interference, outsiders may try to play in Nepal's politics by indirectly pretending that the NA is on their side. The NA must fully respect and support any decisions from the Nepali people and their representatives in political parties. The army does not participate in politics but must fulfil its responsibility while remaining apolitical to improve the country's politics. Not only that, but to keep the NA free from foreign influence and pressure, the MOD must scrutinize every issue that involves external relations. If the MOD takes the initiative in the external affairs of the military, all the resources under the MOD, such as finance, workforce, and equipment, can be used in a coordinated and effective manner to make the military's engagements fruitful. Since international assistance and cooperation is also necessary for national defence and security, the MOD must take an active role in legitimizing and sustaining such activities through the MOFA. However, this does not mean that the MOD would act independently without consulting the military. Such actions are determined by the coordinated efforts of the Army and the MOD, which combine the army's expertise and the MOD's legitimacy.

## **6.6 Defence budget**

Money is power and is a reliable tool for civilians to control the military. With effective control over the defence budget, the military is likely to listen to the government and the legislature. The government and the legislature need to exercise restraint in the defence budget, not only for civilian military control but also for maximizing the country's limited resources. Excessive military spending hinders achieving social and economic goals and makes it difficult to achieve good governance. Nowadays, emphasis is placed on the democratic civilian control of the military to curb excessive defence budget spending and for the transparency and accountability of such expenditure.

At the onset of the Maoist insurgency, after receiving the mobilization of national resources and international assistance, the military resumed the organizational strengthening campaign in 2059 BS that was stopped after 2046 BS. The number of troops reached around 54,000, outstretching 93,000 in four years. In the fiscal year 2047-48, the budget of the NA was only Rs 1.10 billion. Five billion five hundred million was allocated for the army in 2058-59, which doubled in 2062-63, i.e., 10.25 billion (Sharma, 2010). Currently, the army's budget share is even more significant,

about Fifty-one billion rupees for the FY 2078/79.<sup>18</sup> Apart from this chunk, separate budgets have also been allocated for various ministries, departments, and entities for the use of the military organization. The public opinion in the post-conflict peace period is that the massive army spending increased during the armed conflict should be cut down and spent on other critical social sectors as a ‘Peace Dividend’ (Gautam, 2021). However, deciding the right amount for the defence budget is not simple. Just as an excessive defence budget negatively impacts the socio-economic sector and affects the country’s overall development, less than the required defence budget also affects the country’s security.

In the past, preventing the military from *orchestrating a coup d’état* was understood as the goal of civilian-military control. However, now managing the armed forces’ expectations is one facet of civilian control. The MOD, like other ministries, should be able to endorse the defence budget based on necessity and justification. When all the ministries compete for the budget, the basis of the budget should be the state’s priority and responsibilities allocated by the Constitution and not go in different directions.

There should be a system in place among the MOD, the Ministry of Finance and the National Planning Commission to scrutinize and allocate the military budget rather than the army directly approaching to the Ministry of Finance. The army should be able to explain the need and justification of the budget to its line ministry. Then the defence ministry should be able to confirm why a certain amount is needed for the army from the country’s overall budget. The MOD needs to be empowered for that purpose; unfortunately, Nepal’s defence sector reform has been overlooked, and such neglect may jeopardize political achievement (Bhatta, 2010).<sup>19</sup>

## 7. Conclusions and Recommendations

The NA is formed as an integral part of sovereign Nepal to protect the nation and the national interest. The Army has been fulfilling its duty for almost two and half centuries and has experienced many economic, social, and political upheavals in the country. Recently, Nepal embraced republicanism for the first time. The new Constitution proclaims that the military must be committed to the Constitution and

18 Ministry of Finance, ‘Details of Expenditure Estimates (including Expenditure Title and Source) Fiscal Year 2078/79,’ Page no. 372 [https://www.mof.gov.np/uploads/document/file/Redbook%20Press%20\(Final\)\\_20210530065617.pdf](https://www.mof.gov.np/uploads/document/file/Redbook%20Press%20(Final)_20210530065617.pdf)

19 Deepak Prakash Bhatt says, “If the army is made ladder to reaching or staying in power, it will not be long-lasting from any point of view, but it will be accidental. Democracy cannot exist if it is long-lasting.”

that the country's sovereignty is vested in the Nepali people. The NA is an apolitical organization that does not support partisan, factional, or personal political aspirations. While the NA should remain neutral in partisan politics, it must constantly study every political development.

In a country that has just emerged from autocracy, the military will have grown up with the mentality of disregarding democratic values. Although this kind of military operates autonomously within the defence domain, it also increases unnecessary interest and access to non-defence sectors and politics. In such a situation, the army that has entered the democratic environment should be brought under democratic civilian control by formulating various policies, rules, and laws. When parliamentarians do not know about defence, the legislature cannot perform essential things like passing defence bills and policies rationally. There has been widespread debate about the benefits of the legislature's involvement in defence matters. Undeniably, the legislature's involvement will play a vital role in effective defence and good governance.

As the legislature enhances transparency, legitimacy, stability, effectiveness, and efficiency in the defence sector, it contributes significantly to the democratic civilian control of the military, albeit the legislature's priorities are separate from those of the executive. Therefore, Nepal should form a Parliamentary Defence Committee for better democratic civilian military control and enhance national security. Despite the disagreement between the executive and legislative, in some cases, the legislature has been directly or indirectly supporting the civilian control of the executive branch. For instance, when more than one power centre within the executive (such as the President and the Prime Minister) tries to maintain its dominance over the military, the army may take advantage of the situation and move beyond civilian control. Nepal had this experience during the first prime ministership of Prachanda. In such a condition, the Parliamentary Defence Committee can stop the military from going out of civilian control.

Moreover, the MOD is the central hub of democratic civilian control. The success or failure of the MOD depends on the capacity and authority within the MOD and the efforts and support of the government. For that reason, Nepal must take a few essential steps to empower the MOD. The government should restructure the MOD and formulate new policies, rules, and regulations and tailor its work procedure accordingly to achieve the military's civilian control, and enhance national security. The MOD should be staffed with knowledgeable people about national security, defence, and military operations. The government should create an environment to incorporate the expertise and knowledge of Army veterans and retirees into the MOD. The vital to reforming the MOD is having competent and professional human

resources. Hence, suitable professional development should be arranged for the workforce in the MOD. There should be an environment for the employees coming to the MOD to be proud of their profession and contribute to the development of national security.

When the military adheres to the Constitution and civilian control, democracy in the country is strengthened, and stability is achieved. The NA should always strive to balance the societal and functional imperatives and make its character as per the changed socio-political context. The army also should follow the true spirit of CMR and civilian control without straying away from it. Nepal has always been amid a challenging geo-political situation, and lately, the regional and international political dynamics have also become tricky. To counter any existential threat or fulfil the national interest in the changing context, NA should adhere to the opinion of the Nepalese people and their representatives, from which it draws legitimacy and moral power. In a democracy, there should be a concerted effort by various actors within the country for civilian control of the military. Not only the government, the MOD, or the people's representatives, but also the larger civil society, including the media, is responsible for making sure civilian control of the military. While the entire state apparatus and society participate in overall democratic control, the Parliamentary Defence Committee and the empowered Ministry of Defence, in close collaboration, must decide the military's roles, size, promotion, budget, and foreign relations. Thus, to make the NA a capable, professional, and dependable force for the country's future, democracy, and the Nepali people, it is indispensable to have a clear understanding of CMR and democratic civilian control of the military and put them into practice.

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