37

Autumn-Winter 2010

EBHR

EUROPEAN BULLETIN OF HIMALAYAN RESEARCH

European Bulletin of Himalayan Research

The *European Bulletin of Himalayan Research* (EBHR) was founded by the late Richard Burghart in 1991. It is the result of a partnership between France (CNRS), Germany (South Asia Institute, University of Heidelberg) and the United Kingdom (School of Oriental and African Studies [SOAS]). From 2010 to 2014, the Editorial Board is based in the UK and comprises Michael Hutt (SOAS, Managing Editor), Ben Campbell (University of Durham), Ian Harper (University of Edinburgh), Sondra Hausner (University of Oxford), Sara Shneiderman (University of Cambridge) and Mark Turin (University of Cambridge, book reviews editor).

EBHR 37 Autumn-Winter 2010

EDITORIAL

With this issue the *EBHR* returns to the UK for the next phase of its nomadic existence. We are very grateful indeed to our colleagues in France for their stewardship of the journal over the past four years. They have set very high standards for us to follow and we will endeavour to match them.

'Himalayan Studies' tends to be rather dominated by work on Nepali topics, and this is often reflected in the content of the *EBHR*. This is not surprising, given not only Nepal's geographical location and dimensions but also its accessibility and the potential it offers for research in a wide range of disciplinary fields. None the less, we would like to include as many articles as possible in each issue that spring from research conducted in other parts of the Himalaya.

It is therefore very good to be able to publish Arik Moran's fascinating article on the history of the Sutlej valley in this issue. Also, Gérard Toffin's essay ends with very cogent points about citizenship in Nepal, but arrives at its destination via discussions of citizenship in France and India. On Nepal we have three very strong contributions, from Mara Malagodi, Sam Cowan and Ian Martin. Malagodi's article discusses a crucial aspect of the drafting of the 1990 Constitution that has a direct bearing on current debates, while Cowan's and Martin's articles feed straight into ongoing political discussions in Nepal, and we hope they will be read by the main players there.

—Michael Hutt

NOTES ON CONTRIBUTORS

Arik Moran recently completed a D.Phil in History at the University of Oxford. His research concerns the formation of communal identities in the West Himalayas in the 18-19th centuries, changes in social and political culture among Rajput elites against the backdrop of British expansion and oral epic traditions. He is currently working on a project on social memory in oral traditions in Himachal Pradesh

Gérard Toffin is Senior Research Fellow (Directeur de recherche) at CNRS, Paris. He has specialized in the anthropology of Nepal since 1970, after studying at the Sorbonne and at the École des Hautes Études en Sciences Sociales (EHESS) in Paris. His work on Nepal has particularly focused on two groups: the Newars of the Kathmandu Valley, and the Tamangs in the west of the country. He has authored a dozen books and many articles on material culture, kinship, politics, economy, religion, theatre, and the writing of social anthropology, among other topics. He was the director of the Centre d'Etudes Himalayennes from 1985 to 1994.

Mara Malagodi is a Postdoctoral Associate in the South Asia Department and a Teaching Fellow in the School of Law at SOAS, University of London. Her research concentrates on Nepali law and politics with a comparative South Asian perspective.

Sam Cowan is a retired British general who knows Nepal well through his Gurkha connection and extensive trekking across the country over many years.

Ian Martin served in Nepal as Representative of the UN High Commissioner for Human Rights (May 2005-August 2006), Personal Representative of the Secretary-General for support to Nepal's peace process (August 2006-February 2007) and Special Representative of the UN Secretary-General in Nepal and head of the UN Mission in Nepal (February 2007-February 2009).

Crossing the Sutlej River: An examination of early British rule in the West Himalayas

Arik Moran

The challenges entailed in establishing political authority over the mountainous terrain of the Himalayas became particularly pronounced in the modern era, as large-scale centralized states (e.g. British India, Gorkha Nepal) extended their rule over remote parts of the mountain chain. In this novel political setting, the encounters of the representatives of greater powers with their counterparts from subordinate polities were often fraught with clashes, misunderstandings and manipulations that stemmed from the discrepancy between local notions of governance and those imposed from above. This was especially apparent along British India's imperial frontier, where strategic considerations dictated a cautious approach towards subject states so as to minimize friction with neighbouring superpowers across the border. As a result, the headmen inhabiting frontier zones enjoyed a conspicuous advantage in dealing with their superiors insofar as 'deliberate misrepresentations and manipulation[s]' of local practices allowed them to further their aims while retaining the benefits of protection by a robust imperial structure (O'Hanlon 1988: 217). This paper offers a detailed illustration of the complications provoked by these conditions by examining the embroilment of a British East India Company official in a feud between the West Himalayan kingdoms of Bashahr and Kullu (in today's Himachal Pradesh, India) during the first half of the nineteenth century.

After ousting the Gorkha armies from the hills in 1815, Company authorities pursued a policy of minimal interference in the internal affairs of the mountain (*pahāṛ*) kingdoms between the Yamuna and Sutlej Rivers, whose rulers were granted an autonomous status under the supervision of a political agent. In his capacity as the supreme representative of British authority, the agent played a central role in managing relations between the states under his jurisdiction, as evinced in the correspondence concerning a dispute between Bashahr and Kullu over a certain Peyaru Ram that are

presented below.[1] Like most Pahari polities, the two kingdoms shared a long interconnected history that predated the establishment of the Sutlej River as the boundary between the Sikh and British empires, which lay to the north and south of the waterway respectively. The immediate outcome of this shift in geopolitics was to render Kullu subject to Lahore and make Bashahr a dependancy of Calcutta. However, the separation between these divergent spheres of influence was far from hermetic: for the frontiersmen still entrenched in anterior political practices, this setting afforded altogether new opportunities to pursue their goals through a careful exploitation of the different notions of sovereignty and governance that prevailed on either side of the Sutlej.

Confronted with the multi-layered politics of local rulers on the one hand and the strategic exigencies of their superiors on the other, British administrators on the fringes of empire found their role exceedingly difficult. As seemingly straightforward cases, such as that of Peyaru Ram, came to involve myriad factors pertaining to local, regional and sub-continental concerns, the imperial representatives' capacity to adjudicate and effectively implement policies was significantly hampered and ultimately made a mockery of their claims to power. In order to understand how such intricate dynamics along a remote mountain border could evolve into a conundrum of mammoth proportions, it is necessary to look to the shadowy figures that crossed the turbulent current of the Sutlej River some two centuries ago.

A landholder between two kingdoms

Shortly prior to the rainy season of 1835, Peyaru and Munth Ram, two brothers from the southern dependency of Seraj in the kingdom of Kullu, crossed the Sutlej River to settle in Nerth, a village situated in the mountain kingdom of Bashahr (see map). Having quit their homeland with minimal belongings, the brothers soon ran out of grain and consequently proceeded some ten kilometres down the river to replenish their supplies in the nearby market town of Shangri. Although situated on the southern bank of the Sutlej and thus within British territory, Shangri and its surrounding tracts

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1   The sources for this affair are found in the archival records of the East India Company's Board of Control, which are preserved in the Oriental and Indian Office Collections at the British Library, London. For ease of reference, these are labelled 'IOR_A' (for IOR F/4/1795/73789) and 'IOR_B' (for IOR F/4/1829/75544).

Sketch map of key places mentioned in the Peyaru affair. Not to scale.

comprised part of Kullu, then an independent state subject to the Empire of Lahore.[2] Shortly after their arrival, the visitors were recognized by the villagers, who proceeded to seize Peyaru on the orders of Kapuru Singh, the wazir of Kullu. Peyaru was then carried across the river and incarcerated in

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2   The small tract was conquered during the reign of Man Singh (r. 1688-1719) and remained part of Kullu under British sanction after the Anglo-Gorkha War of 1814-16 (Hutchison & Vogel 1999: 464).

Dheol Fort, while his brother was spared and returned to Nerth.

Two years later, word reached Nerth that the captive had been mutilated. Munth Ram swiftly arrived at his new overlord's court (*kacaharī*) in Rampur to lodge a complaint against Kullu on his brother's behalf. Wazir Mansukh Das of Bashahr subsequently submitted a formal complaint to the British authorities through his representative (*vakīl*) at the seat of British administration in Subathu, adjacent to the then developing township of Shimla. His claim was straightforward: Kapuru was wazir of Kullu and thus had 'no authority to tyrannize or oppress my master's subjects', all the more since 'such things are not permitted under the rule of the British' (IOR_A: Amul Ram to Tapp, 11 August 1837, fo. 14-5).[3] The political agent, Colonel H. Tapp, began his enquiry by dispatching Kullu's resident vakil to procure an explanatory statement from his master. Whatever hopes he may have harboured for a quick resolution of the crisis dissipated with the receipt of Raja Ajit Singh's (b. 1810, r. 1816-41) response, which revealed important facts concerning the background to Peyaru's mutilation.

> What answer can be given? Had the robber belonged to the district of Bussahir it would have been of no consequence... but the thief being my subject and having committed a robbery, I cut his leg and nose off. It is a custom in the country whenever a thief is apprehended he is killed without doubt... Whenever I caught a thief in my own territory and punished him, if I had taken his life there was nothing to dread. If I do not punish, how am I to retain the country in my possession? (IOR_A: Ajit Singh to Tapp, received 25 September 1837, fo. 17-8).

As far as the Kullu raja was concerned, he was simply exercising his authority over a villainous subject who happened to reside in Bashahr. Ajit Singh was thus clearly in the right in punishing the culprit as befitting an independent ruler. The raja then shifted the debate to the crucial point of the matter: the question of Peyaru's legal status at the time of his arrest. This was, after all, 'his subject', and the political agent was cordially advised to investigate the matter so as to 'ascertain *when* the brother of the thief

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3   British officials claimed to have 'entirely abolished' the practice of mutilation in the preceding decade (cf. Kennedy to Murray, 20 November 1824, *Records of the Delhi Residency and Agency*: 311).

complained to the Rajah of Bussahir' (ibid., fo. 17, emphasis added). Caught between their former Kullu master and Bashahr, Peyaru and Munth Ram would continue to tax Tapp's energies as their case unfolded in a series of protracted exchanges between the agent and the kingdoms' representatives in the years that followed.

Two months later, Raja Mahindra Singh (b. ~1810, r. 1811-50) of Bashahr responded to Kullu's allegations by arguing that the two brothers were actually his own subjects, a fact that could be corroborated by the testimonies of neighbouring rulers.[4] The raja further explained that Munth Ram had since been persuaded by the Kullu wazir to return to the capital of Sultanpur so as to plead his case before Ajit Singh while his family remained in Nerth, where 'they have also sown a crop'. For the raja of Bashahr, this proved beyond doubt that the brothers were indeed his subjects and that 'the statement made by the Raja of Kooloo that Munth Ram is residing in Kooloo with his family is wholly untrue, because Munth Ram's family is living at the place Nerth ... [whereas Munth] Ram only is in Kooloo' (IOR_A: Mahindra Singh to Tapp, received 20 November 1837, fo. 19-20).

While Tapp was mulling over Bashahr's representation of the affair, the Kullu vakil at Subathu furnished the officer with further clarifications concerning the dark history of the Ram brothers:

> Peyaroo and Munth, Zemindars of Trans Sutlej district Kooloo, [which] is my master's jurisdiction, have been living for a year and a half in the village of Nerth in the Bussaher Territory, and used to commit robberies within my master's jurisdiction. Having committed several robberies, at [the] last and the third time Koopooroo Wuzeer apprehended Peyaroo in the act. The thief was punished agreeably to the customs of the country, his nose and leg were amputated. Both those brothers some time ago waited on my master, the Rajah of Kooloo, and represented that they were worthy of [as] much punishment as their crimes deserved, but that their homes and property might be untouched. The Raja, my master, agreeably to their solicitations, restored to them their houses, goats, sheep etc., and set them up. With respect to the wife and

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4   These were the ranas of 'Kotguru' (*Koṭgaṛh*) and Kumharsain, who shared a border with Shangri. Their status as tributaries of Bashahr prior to the establishment of British rule in 1815 most likely influenced their testimonies in the latter's favour (*Gazetteer of the Simla Hill States 1910: Bashahr* 1995: 8).

son and daughter of Peyaroo, who [are] living in the village of Nerth. Moonsukh Doss, Wuzeer of Bussaher, enticed these three individuals and took them into the Bussaher district and prevents their return. I have consequently preferred this petition in expectation that the three individuals: the woman, boy, and girl, subjects of my master's, may be restored from the Bussaher district where they have been allured by Moonsookh Doss Wuzeer. I have stated what was just (IOR_A: Boodhoo vakil to Tapp, 19 November 1837, fo. 20-1).

The counter-allegations presented in the statement from Kullu completely overturned the Bashahri argument. The perpetrators, it explained, were prominent landholders (*zamīṁdār*s) in Kullu, who were justly punished for attempting to profit at their ruler's expense. Having admitted their guilt, they had since been pardoned and their confiscated property restored. Now, however, they became separated from their families, who were persuaded to stay in Bashahr through the wily machinations of Mansukh Das. Seeking to make sense of these contradictory statements, Tapp deemed it high time that the brothers appeared in court for a comprehensive enquiry into their case and an order (*parvānā*) to that effect was soon dispatched to Kullu, the response to which would invoke frictions far beyond the limited confines of the quarrelling mountain kingdoms.

The limitations of imperial rule
Later that winter Tapp received a letter from the Kullu wazir in reply to his summons with a detailed response to Bashahr's allegations. Kapuru declared that the Ram brothers would not be coming to Subathu and proceeded to teach Tapp the limits of British rule beyond the Sutlej:

What necessity can exist that your slave should send a case of Kooloo to Simla? Order the individual who complained and he will produce Muthoo [Ram] to you. The Rajah of Bussaher forcibly and cruelly seized a woman, wife of Peyaroo, and a child who were going on the other side of the river for some business, conveyed them to Rampoor and placed a guard over them. They now threaten them and drive them to complain against ... Kooloo (IOR_A: Kupuru Singh to Tapp, received 8 December 1837, fo. 22-3).

In essence, the wazir simply restated his master's conviction that the affairs of Kullu lay beyond the jurisdiction of the British government. Well aware that Munth Ram is in Kullu, Kapuru mockingly invites the raja of Bashahr to procure the presence of his supposed subject. Yet he goes further, arguing that the allegations brought against his raja are moot to begin with since they rest on coercive measures adopted by Mahindra Singh, a ruler under British protection. Indeed, 'if any person forcibly seized another and compelled them to write... can that be a [legitimate] complaint, which a person is compelled to make by another through fear?' (ibid., fo. 23).

Having established the fallacy of Bashahr's complaints, Kapuru went on to expound upon Kullu's perception of the affair. According to the wazir, after his family was forcibly taken to Bashahr, Peyaru sent his men to inquire about their fate. The Kullu authorities similarly sent an envoy to learn what crime they were accused of committing and demand their release. The raja of Bashahr replied that 'these individuals are indebted to him in a sum of money' and were therefore imprisoned. Kapuru explained that the 'sum of money'—60 rupees, to be precise—was actually a debt owed by merchants (*mahājans*) based on the Bashahri side of the Sutlej. As Peyaru had crossed the river and 'took the money from the Mahajans in the broad light of day', his actions constituted a collection of debt on the part of the Kullu raja and he had therefore 'committed no theft and was not guilty of highway robbery' (ibid.). Indeed, as a servant of the Kullu Court (*darbār*), Peyaru was merely upholding his government's commitment to its own traders, since 'the Mahajans of this [i.e. Kullu] side [of the Sutlej River] have thousands of rupees to recover from those on the other, and what have those to receive from us?' (ibid., fo. 23-4). In conclusion, the wazir restated his master's grievances against the evasive tactics of Bashahr: Mahindra Singh's complaints against Kullu were false since they had been obtained through the forceful detention of Peyaru's family beyond the Sutlej, an act compounded by the Bashahr raja's sanction of his traders' unlawful withholding of debts owed to their counterparts in Kullu.

Once again, the wazir cleverly changed the arguments' focus. Instead of Peyaru's kidnapping and mutilation—he was, after all, pardoned by Ajit Singh and back in state service—it is the Bashahr regime's cynical abduction of his family that is at stake. As far as the Sultanpur Court was concerned, the complaints were merely a ploy intended to mask the Bashahri regime's true aim of profiting from British protection by advancing fictitious

claims against Kullu that would obscure the illegal activity of its traders. Kapuru's fiery rhetoric, however, failed to convince the political agent, who forwarded a copy of the letter to his superiors in Delhi the very same day along with an admonishing reply to the wazir:

> If you are again [to] submit any disrespectful petition you will be punished. Your Vakeel has been for this reason dismissed from this Kutchery and until you apologize for the insolent tone of your Petition, no individual sent by you will be permitted to be in attendance in the Kutchery (IOR_A: Tapp to Kupuru Singh, 8 December 1837, fo. 25).

Kapuru's assertion of independence was thus repaid with the banishment of his kingdom's representative from the British outpost. This was no mean punishment, for the proximity of Subathu to Bashahr and Kullu rendered it far more significant a political centre than its Sikh counterpart in Kangra, to which Kullu was officially subordinate. The vakil's dismissal deprived Kullu of direct contact with the British, in whose territory they had interests (e.g. Shangri, traders), thereby substantially weakening its position in relation to its political neighbours and rivals, while strengthening the already favourable status of Bashahr.[5]

Ten days later, Bashahr's vakil in Subathu presented Tapp with his master's version of the events. After restating the facts of Kapuru's narrative while tactfully omitting the issue of cross-river debts, the petition reverted to the root of the matter: namely, that 'without fault or crime, he [i.e., Kapuru] has cut the nose and leg of Peyaroo.' Playing upon Tapp's displeasure with Kullu, the vakil highlighted the 'ferocities' of justice administration north of the Sutlej so as to undermine Kullu's initial arguments regarding the inextricability of the right to punish from the right to rule.[6] As for the

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[5]   Bashahr enjoyed a privileged status in British circles during the first half of the nineteenth century due to its trade contacts with West Tibet via its eastern territory of Kinnaur. The court at Rampur thus played a central part in negotiating a relaxation of restrictions on pashm wool trade on behalf of Calcutta, a move that was intended to undermine Lahore's lucrative shawl-weaving industry, which relied on the product. Such attempts, however, were rarely successful (Datta 1973: 188-91). The favourable bias of Company officials towards Bashahr is further evinced in the preceding political agent's description of wazir Mansukh Das as 'the greatest of mountain ministers' (Jacquemont 1933: 233-4).

[6]   The vakil further noted that 'even had he [i.e., Peyaru] been a thief, was it right to have put such an injury on his body? Hundreds of thieves are apprehended under the rule of

alleged incarceration of Peyaru's family, the vakil suggested Tapp

> kindly investigate this case and ascertain Koopooroo Wuzeer's truth a
> falsehood; sometimes he writes one thing and at others another. What
> does it concern Munsookh Doss whether they go [to Kullu] or not?
> However, these three individuals do not go through dread of their lives.
> They are aware that their father's fate awaits them (IOR_A: Anut Ram to
> Tapp, 18 December 1837, fo. 27).

Lost in a thicket of layered and conflicting accusations, Tapp soon
despaired of concluding the case. As the Company's ultimate authority in
the hills between the Yamuna and Sutlej Rivers, the agent's agenda was
already crammed with urgent tasks that necessitated a great deal of travel
and attention. A shortage of staff and the feverish preparations for the
Governor-General's impending visit to Shimla added to the habitual strains
of his post, while the Dogra invasion of Ladakh under the sanction of Lahore
and its advance towards West Tibet (1834-42) further delayed treatment of
the Peyaru affair. In his capacity as commander of Gorkha Battalion (the
Company's regional executive force charged with maintaining security),
Tapp became deeply invested in monitoring developments on the Dogra
front, entering into communications with the exiled rulers of Ladakh upon
their arrival in Spiti.[7] The officer's mounting duties quickly superseded the
local dispute between Bashahr and Kullu, which was deferred for the time
being.

Settling the Peyaru affair
It took Tapp more than six months to furnish a report on the Peyaru
affair, and when it was finally submitted the political agent professed his
inability to arrive at a clear conclusion.[8] Nonetheless, 'judging from the

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the Hon'ble Company [and yet] they are kept in Jail as prisoners and receive a ration from
the Hon'ble Company' (IOR_A: Anut Ram to Tapp, 18 December 1837, fo. 26).

7   The Dogra menace in West Tibet strengthened the strategic partnership between Bashahr
     and the Company, especially after Ranjit Singh threatened to have the Dogra soldiers
     annex portions of the kingdom in the mountainous interior that were situated north of
     the Sutlej bordering West Tibet (Datta 1973: 157-8). For more on the Dogra conquest and
     its regional implications see Datta (1973).

8   An initial report to the Resident at Delhi was sent in August 1837, followed by a full report
     with enclosed correspondences in May 1838.

relative conduct of characters of the two Rajahs,' he was inclined to accept Bashahr's account as true and placed 'no confidence' in that of Kullu. In support of his assessment, Tapp enclosed copies of Kapuru's letters in Persian, as 'the English translation scarcely gives the full face of some of the disrespectful expressions used throughout by him' (IOR_A: Tapp to Metcalfe, 4 May 1838, p. 12). The texts were perceived as a blatant challenge to Company authority, and Tapp's superiors in Delhi and Calcutta agreed that Kapuru's 'highly unbecoming language' needed to be addressed, with the Resident at Delhi going as far as to recommend that Raja Ajit Singh himself be summoned to Subathu to apologize on behalf of his wazir (IOR_A: Metcalfe to Macnaughten, 12 May 1838, fo. 10). For the authorities in Calcutta, however, the most disturbing aspect of the affair was in the threat it posed for peace along the empire's border with Lahore, which had been carefully guarded since its establishment along the Sutlej River in 1809.[9] It was this strategic consideration that prompted them to admonish Tapp for the tardy handling of the affair when he finally submitted his report, his superiors demanding he resolve the dispute as soon as possible.[10]

The Governor-General's alarm over Tapp's failure to resolve the case led to an increase in political activity by Company officials throughout the region. The political agent in Ludhiana, who was charged with communications with Lahore on matters beyond the Sutlej, contacted the Sikh authorities to request their intervention with their subsidiary state of Kullu.[11] The effect was instantaneous, as soon afterwards both Kapuru Singh and Munth Ram personally arrived in Subathu. Thus at the close of 1838, some three years after Peyaru and his brother had first traversed the Sutlej to settle in Nerth, the representatives of all the concerned parties

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9 As recently noted by Ben Hopkins (2008: 34-60), contemporary sources indicate that the British were more concerned about a Sikh threat than about any possible invasion by France or Russia, which provided the original impetus for the Company's alliance with Lahore.

10 The agent's listing of the numerous chores of his post as an excuse for his delayed reporting was deemed 'far from satisfactory' by his superiors (IOR_A: Torens to Tapp, 19 May 1838, fo. 35). Three months later, the political agent was still attracting recriminations from officers in Calcutta (IOR_B: Narrative of the Political Department for 1839, fo. 1).

11 The Agency at Ludhiana, situated in the plains along the Sutlej River, was the primary node for contact between Calcutta and Lahore. During the 1830s the institution gained immense prestige, with Company authorities reporting directly to the Governor-General's office (instead of Delhi) and playing a decisive role in informing British policy towards the Sikhs (Yapp 1980: 190-1).

finally convened at the British outpost, where Tapp sought to conclude the case.[12]

Although the agent 'examined the witnesses on both sides on oath, permitting each party to examine and cross-examine as he pleased,' he still found it impossible to reach a verdict, as statements were changed and witnesses backtracked (IOR_B: Tapp to Maddock, 17 April 1839, fo. 9). Munth Ram, in particular, while openly admitting the criminal status he shared with his brother in Kullu, now denied ever lodging a complaint with the Rampur Durbar in glaring contradiction of written evidence. Under these circumstances, Tapp was forced to rely exclusively on the kingdoms' official representations as conveyed by the wazirs' statements, from which three points were established with complete certainty: (1) the Ram brothers were engaged in criminal activity in Kullu prior to their settlement in Bashahr. According to Kapuru, this pattern persisted after they had moved to Nerth, when Peyaru 'was in the habit of crossing over into Kooloo and carrying off the property of the inhabitants' (IOR_B: Tapp to Maddock, 17 April 1839, p. 10).[13] The wazir could not, however, produce the letters supposedly exchanged with the Bashahr authorities regarding the persistence of Peyaru's 'habit'. Representing Bashahr, Mansukh Das denied the occurrence of additional raids, save for one instance when Peyaru 'brought over some bullocks in liquidation of a debt, which the Rajah of Bussahir, on representation from the Wuzeer of Kooloo, instantly compelled Peyaroo to give up' (IOR_B: Tapp to Maddock, 17 April 1839, fo. 11). (2) Peyaru was forcibly seized south of the Sutlej in Kullu's tract of Shangri and transported north of the river, where he was imprisoned and mutilated.[14] (3) Peyaru had resided in Nerth 'for about two years' (ibid., fo.

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12 It is impossible to pinpoint the precise date of the investigation from the records, save that by mid-April 1839 'upwards of four months' had passed since the hearings (IOR_B: Tapp to Maddock, 17 April 1839, fo. 11).

13 This was corroborated by Munth Ram's initial statement at the Bashahr court, which detailed the reasons for the brothers' quitting Kullu. These were 'first, because Garoo Vuzeer [of the Ram brothers' home tract of Seraj and thus subordinate to Kapuru] made us pay without cause a demand of 60 Rs. Secondly, because Koopooroo Wuzeer deprived us of all that was within our house—viz. 500 tons of grain, 72 goats and sheep and 32 bullocks and cows. Having no remedy we came and lived in your district [of Bashahr]' (IOR_A: Statement made in the Kutchery of Rampoor by Munth Ram, Kanath [Kanet] Zamindar of village Nerth, 3 August 1837, fo. 15-6).

14 Munth Ram alleged his brother 'was imprisoned in the fort of Bhord for stealing levies belonging to the Rajah [of Kullu] and that he escaped from there by making a hole in

10). The significance of this point for determining the legality of the parties'
actions escaped the agent (more on this below), who noted it as little more
than a trivial piece of information that did little to advance the enquiry.

While Tapp's investigation helped clarify the course of events and the
nature of power relations between the parties, it remained utterly marginal
to the Company's imperial concerns. In his subsequent handling of the case,
the agent exhibited a sobering realignment with Calcutta's policy, which
was decidedly focused on maintaining the peace along its frontier rather
than eliciting apologies for its representative's hurt pride. In an apparent
reversal of his earlier stance, Tapp now plainly conceded that there were no
grounds for interfering in an independent sovereign's rule and concentrated
on the fragmented holdings of the Kullu raja and his wazir within British
territory south of the Sutlej instead. Unable to act directly against Kullu,
Tapp was consumed by a fundamental question regarding British policy:
what were the legitimate means of coercion available to Company officers
when dealing with an independent ruler who is subservient to a foreign
(Sikh) power, but who also owns lands in areas under British protection
(Shangri)?

This dilemma was, in fact, a reflection of the officer's own unease with
his increasing lack of control over the chiefs under his jurisdiction. Kapuru
Singh is a case in point. As the manager of Kullu state, the wazir was an
independent agent. However, Kapuru also held lands in the British tract
of Kotgarh south of the Sutlej (much like his master in respect of Shangri),
which rendered him directly subservient to Tapp. While previous political
agents 'were in the habit of requiring the most uncompromising obedience
from all parties,' Tapp intimated that the assiduous pursuit of a reform
in land ownership regulations by the serving Governor-General, William
Bentinck, placed significant restraints on his scope for action (IOR_A:
Tapp to Metcalfe, 4 May 1838, fo. 13).[15] Although they barely impacted
net revenue collections, the reforms did much to divorce the all-binding
sentiments of tenants towards the Company that had hitherto been
exploited by the agent's predecessors. Thus, for Tapp, the 'sanctification'
of Kapuru's landholding rights south of the Sutlej deprived him of the

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the wall.' His denial of earlier statements, however, was found to 'seriously affect' his
credibility as a witness (ibid., fo. 11-2).

15   For the reforms in land revenue and their effects on Indian administration see Stokes
(1969: 81-139).

means to exert pressure on the wazir, giving rise to the latter's ubiquitous insolence.[16] Baffled by his inability to counter Kapuru's fierce assertions of independence, the agent implored his superiors to provide some legal device through which the wazir might be pressured into compliance. By this stage, however, all attempts to contain the unruly wazir were sidelined by the overriding interests of empire.

Nearly eighteen months after Tapp's botched investigation in Subathu, British authorities decided to bring the case to the personal attention of the Kullu raja's Sikh overlord. The political agent in Ludhiana was instructed to 'take a suitable opportunity in his visit to Lahore to notice the unjustifiable conduct of Kooloo Authorities on the occasion, with a view to the adoption of measures to prevent any similar infringement of the boundary jurisdiction' (IOR_B: Proceedings for May-June 1839, fo. 1). Two months later Ranjit Singh issued 'positive orders on the subject,' which were personally communicated to Ajit Singh to the great relief of officials in Calcutta. The empire's Sikh border was once more secure.

Echoes of the Peyaru affair in the hills

The quelling of imperial anxieties hardly affected the situation in Subathu, where the political agent was continually confronted with the defiance of Kullu's representatives. The kingdom's interests south of the Sutlej (e.g. Shangri, Kapuru's landholdings in Kotgarh) nonetheless dictated that some semblance of correct working relations with the Agency be maintained, which was to be achieved through carefully worded diplomacy so long as the case of Peyaru Ram remained unresolved. Thus, two years after the banishment of his vakil from Subathu, Kapuru was still sending letters to Tapp expressing his 'horror' at being dubbed 'insolent'. The agent, however, stood his ground and would not reply until the requested apology materialized.

In his letters, Kapuru conveys a consistent sense of dignity as befitting the principal functionary of an independent kingdom. He simply saw no need to apologize. It was, after all, Tapp's own employer, the British East Indian Company, which had introduced the political arrangements upon

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16   Tapp's entitlement to 'uncompromising obedience' was similarly 'questioned with a careless regard of consequences' by other zamindars in the region (IOR_A: Tapp to Metcalfe, 4 May 1838, fo. 13).

which he based his logic. Consider the following extract from Kapuru's letter to Tapp, in which he offers an explanation for his alleged insolence:

> I certainly did represent that this side of the river was under the jurisdiction of his highness maharaja Runjeet Singh and all cases appertaining to this side were in the first instance settled on this side. That the other side of the River was within the Hon'ble Company's Jurisdiction and cases belonging to that side were arranged at that side, this has ever been the custom. You are also acquainted with this circumstance therefore I have not in my opinion been guilty of disrespect (IOR_A: Kupuru Wazir to Tapp, 5 Poo samvat 1894 [~ early August 1837], fo. 28).

It was undoubtedly the dry factual statement of the limits of his own power that enraged Tapp. Faithful to this line of argument, Kapuru continued to aggravate the agent while remaining sensible to the limits of his legal rights:

> You dismissed the Vaqueel from the Kutchery. I also was about to withdraw him. His stay at Simla unemployed incurred an expense on me equal to that of four individuals. I have had a few cases pending on which account I appointed a Vaqueel. You did not investigate them and what reason had I for a Vuqueel? I am not at all concerned at your dismissing him. I never had a Vuqueel before at Simla or Subathoo and whenever the Hon'ble Company had any business to transact, a Chuprassee [caprāsī, i.e. an official messenger] was sent to the Rajah, and where the Rajah had occasion to transmit any matter, a Vuqeel was sent by him to Subathoo or Simla. This shall be the system for the future. Continue to honour me with your orders and you will not find your slave wanting (ibid., fo. 28-9).

The wazir's letter goes a long way towards explaining Tapp's motives for dismissing the vakil. Deprived of the right to hamper Kullu landholdings under his jurisdiction, the agent (ab)used his political powers to suspend the kingdom's legal cases in Subathu as a form of punishment. This move too, however, failed to procure an apology from the indignant wazir. It would require the workings of greater forces to induce a change in Kapuru's

attitude towards the regional representative of British authority; such pressures made a timely appearance soon afterwards.

Three weeks later, Kapuru's letters changed their tone. The death of Ranjit Singh at Lahore plunged the Sikh empire into disarray and the leaders of its tributary states warily eyed the ensuing power struggles at its court. These developments were closely followed in Kullu, where fears of augmented tribute demands or worse stirred considerable unrest. The threat of a belligerent Sikh leadership prompted a reconsideration of Sultanpur's relations with the Company, and the subsequent communications on record reveal a dramatic change of position on the part of the wazir. A now humbled Kapuru continued to proclaim ignorance of the 'insolent language' he was accused of using, but nonetheless requested the agent, 'point it out to me, and I shall never again make use of it' (IOR_A: Kupuru to Tapp, 24 Poo, Samvat 1894 [~ late August 1837], fo. 29-30). The fiery exclamations concerning the vakil's presence in Subathu were also toned down; although banished, the wazir intimated that should Tapp 'require him to be in attendance at Court, he will be present at all time' (ibid.).

Simultaneously, Kapuru took direct measures to resolve the root of the problem by enabling the remaining members of Peyaru's family to safely re-enter Kullu. He then proceeded to contact the raja of Bashahr by way of 'a confidential servant' (a certain 'Suntum Brahmun') who informed Mahindra Singh that 'it was not proper to bring our affairs before the Adawlat [i.e. the British Court], [and] that it would be better was [sic] amity to subsist between us' (IOR_A: Mahindra Singh to Tapp, received 24 January 1839, fo. 31-3). Clearly, the Kullu authorities were bent on ameliorating relations with both the Subathu Agency and the neighbouring kingdom of Bashahr. While the archival records on the affair stop at this stage, we may safely assume that Mahindra Singh's forwarding of the secret messenger's letter to Tapp and the (possibly forced) return of Peyaru's family to Kullu did little to salvage the kingdom's status in Subathu. Colonel Tapp's persistent policy, which labelled Bashahr as a valuable ally and Kullu a problematic kingdom at best, was thus finally vindicated.

A few months later, Kapuru fell out of favour with Ajit Singh and proceeded to stage a popular revolt (*dūm*) in Seraj.[17] Having turned against

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17   While local tradition (cf. Howell 1917) traces the roots of the conflict to a longstanding competition between 'Kapuni' (i.e., Kapuru) and another court official, it is probable that

his master, the wazir invited Sikh troops to invade Kullu; a miscalculation that resulted in the flight of both raja and former minister to seek refuge in British territory south of the Sutlej.[18] Tapp must have viewed these events with some satisfaction, the political turbulence contributing to his conviction that British rule was a precondition for peace in the troubled Himalayas. Faithfully reflecting the ideology permeating mid-nineteenth century British administration in India, the agent's approach reached its teleological conclusion less than a decade later with the conquest of Kullu in the wake of the First Anglo-Sikh War in 1846.

Reflections on the Peyaru affair

Looking back at the Peyaru affair, several points concerning the political reality of the West Himalayas and its interplay with colonial rule seem to merit special attention. First, the root causes of the case are strictly local. Originating in a conflict over 60 Rupees between a small-scale landholder and his immediate superior ('Garoo Vuzeer' of Seraj), Peyaru Ram and his brother gradually earn the resentment of higher echelons in the Kullu government. By the time of their settlement in Nerth, the brothers had become notorious for subverting the raja's authority as renegade zamindars who steal from their erstwhile monarch.

Criminality, as we have seen, is a relative matter. Once Peyaru reverts to Ajit Singh's favour, his thieving receives the court's sanction and the villain is rebranded as a state agent.[19] The affair thus follows the typical course of power struggles in pre-colonial India and would probably never

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the wazir's mishandling of the Peyaru affair further distanced him from his raja.

18   Once in Kullu, the Sikh guards placed over Ajit Singh constantly humiliated the raja—most conspicuously by holding him upside down by his moustache—inducing a change of heart on the part of the wazir, who orchestrated a successful rescue mission that culminated in the raja's release and resettlement in Shangri. Ajit Singh died soon afterwards and was succeeded by his one year-old son, Ranbir Singh, with Kapuru serving as wazir. Meanwhile, the Sikhs placed another member of the royal family on the throne in Kullu. Kapuru then set off to Lahore in order to plead Ranbir Singh's case before the Sikh court, but was arrested upon entering the neighbouring kingdom of Mandi, where he died shortly afterwards (Singh 1885: 97). For a review of Ajit Singh's reign consult Hutchison & Vogel (1999: 469-73).

19   The invasion of Spiti by two Kullu wazirs in 1818 to seize withheld tribute (in the form of cattle) recalls Peyaru's debt collections, and both can be seen as a form of Kullu governance in action. Note that neither of these cases involved bloodshed (Jacquemont 1933: 287).

have been brought to our attention were it not for its geopolitical setting. It is Peyaru's attempts to draw fortunes on the border between two mutually untrusting empires that inevitably attract the attention of higher levels of government. The adventurer-zamindar's astuteness, however, must not be underestimated: his choice of stealing from Kullu while residing in a village under British protection (through the medium of Bashahr) reflects an awareness of the advantages Company rule could afford him, should he be caught.

Second, the same considerations that may have prompted Peyaru to reside in a British protectorate account for Kapuru's powerful position in relation to Tapp. It is the East India Company's policy in the age of reform that prevents the political agent from exacting pressure on the wazir in his capacity as a landholder under Tapp's jurisdiction. Secured by favourable land revenue regulations, Kapuru's status as the wazir of an independent state allows him to freely mutilate offenders with his raja's consent without fearing for his property in British territory. Familiarity with colonial policy allows for further manipulations, as seen in the myriad allegations advanced against Bashahr, whose wazir is accused of procuring confessions through violence in ostensible infringement of Company norms.

Bashahr, too, exploits the colonial regime's sensibilities to advance its aims. Condemnation of the 'barbaric' practice of justice in Kullu serves not only to win favour in relation to the Peyaru case, but also to increase Tapp's confidence in Mahindra Singh's rule in general, so as to substantiate Bashahr's regional prestige. The ability of local rulers on both banks of the Sutlej to manipulate their standing with British authorities provides a vivid illustration of the Company officer's predicament on the Indian frontier. On display here are the contradictions inherent in British colonial rule, which called for a continual reconciliation of imperial ideologies with the discrepancies resulting from their practical implementation (Metcalfe 1994). These are further complicated by the enmeshment of anterior configurations of power and political practice with the particular requirements of the Company's highly bureaucratized mode of governance. It is in the space created between the two that local rulers manipulate the imperial state machine to advance their particular goals.

Finally, by following the gradual incorporation of higher levels of government in the Peyaru affair and the internal contradictions deriving from the Company's multi-levelled administrative structure, we come to

see how the colonial state incurred considerable difficulty in maintaining coherent and durable policies. While Tapp is primarily preoccupied with his inability to punish the refractory wazir, the government's concern with peace on its borders ultimately overrides his attempts to redress the continual affronts to his pride. Indeed, the case could have been swiftly settled had Tapp ascertained Peyaru's legal status in accordance with Sikh Law from the start. The latter held that a subject of Lahore (or its dependencies) remained liable to the Khalsa for a period of up to two years after his departure from Sikh (or Sikh-dependent) territory. This provision explains the contradictory statements of Bashahr and Kullu regarding Peyaru's period of residence in Nerth (2.5 and 1.5 years respectively), the embattled sides' awareness of these niceties standing in stark opposition to Tapp's failure to pursue the point (IOR_B: Political Letter to India, 19 February 1840, fo. 3-4). Instead, the agent quickly gets entangled in a web of lies and manipulations intended to draw him farther from the truth and closer to each of the quarrelling sides. Swept up by Kapuru's rhetoric, Tapp is bent on exercising his pseudo-royal rights by illegally threatening the wazir in the Company's name.[20]

As such, the political agent's conduct betrays an all too familiar pitfall of the colonial encounter, whereby the foreign administrator's self-perceived righteousness results in the overriding of his original mandate and undermines the legality of his actions. In Tapp's defence, it may be argued that his position was bound to exceed its limitations: although officially entrusted with a 'political' post, the officer also functioned as a military commander and civil administrator in a little known and sensitively situated part of British India. The fluctuation between spheres of authority is accentuated on the frontier, where the external relations of imperial policy come to the fore, creating an altogether new hybrid post.[21]

In the final analysis, the Peyaru affair is representative of the complexities entailed in British administration in the West Himalayas during the first

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20   The illegality of Tapp's action was observed by a later commentator, who remarked that he 'cannot think that under any circumstances Col. Tapp could be justified in threatening with punishment the minister of an independent province' (IOR_A: note on the margin of Tapp to Kupuru Singh, 8 December 1837, fo. 24-5).

21   It is indeed Tapp who communicated with the exiled prince of Ladakh and ultimately provided him with land (*jāgīr*) in Kotgarh, thereby incidentally making him a neighbour of the Kullu wazir.

half of the nineteenth century; the persistent vitality of indigenous power configurations and norms of governance expose the tenuousness of the Company official's hold over his jurisdiction. Tapp's lonesome attempts at instating Company rule along the Himalayan border are repeatedly muffled by the local rulers' political manoeuvrings, the agent ultimately emerging as a marginalized figure too heavily encumbered by his superiors' directives (e.g. adherence to administrative reforms, imperial policy) to live up to his role as the source of political authority. In the end, it is Tapp's profound inability to come to terms with the political culture surrounding him that best characterizes his position, a situation that according to one observer was the reason why the Englishmen in the Himalayas 'remain so completely alien to the people they rule' (Jacquemont 1841: 514).

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How to Combine Citizenship and Diversity? France, India and Nepal

Gérard Toffin

> *The French Revolution acted, with regard to things of this world, precisely as religious revolutions have acted with regard to things of the other. It dealt with the citizen in the abstract, independent of particular social organization, just as religions deal with mankind in general, independent of time and place.*
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> — Alexis de Tocqueville, 1856, *The Old Regime and the Revolution*, 1, 3 (translated by John Bonner), New York: Harper and Brothers.

Introduction

Over the past two or three decades the work of the anthropologist has undergone considerable changes.[1] Increasingly, the field worker studies complex societies whose local segments are encapsulated in wider regional or state structures. These structures affect people's lives in a very direct and profound manner. Even in the remotest villages of South Asia, state institutions and NGOs have established a permanent presence, with results including changes in the quality of life, new social values, and new sources of income. The informants and families with whom the researcher has chosen to spend a period of his or her life are gradually more mobile. Some of them may spend years overseas, perhaps in Europe or in one of the Gulf states, to sustain the lives of their relatives. In other words, globalization and transnational activities are greatly challenging the anthropologist's old habits and practices. They have transformed the nature of his or her work. He or she has to swing between local studies on the one hand and macro-level approaches on the other to a greater extent than before. Similarly, the sociologist and the political scientist can no longer ignore the cultural traditions that are specific to each country or civilization. Political

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and societal models circulate throughout the world: they are accepted, accommodated and transformed in an ever more flexible manner. To handle these intricate new situations, perspectives that cut across disciplines have to be carried forward.

Towards an extended theory of citizenship

In this respect, one of the topics that has been given wider consideration is the matter of citizenship. The importance of this issue has grown due to the effects of migration, population displacement, issues related to minority rights, and the emergence of increasingly plural societies. The concept was at first an occidental one, and it referred to an abstract individual who was not bound to any ascribed or hierarchically arranged group. It was initially used by social scientists working on Western and developed countries and was seen as a political concept that was suited to countries that had a strong nation-state tradition and supra-local identities. But through a period of intense globalization, transnationalism and the associated mass movement of people and goods, references to citizenship have extended to non-Western states. The question of who should be allowed to become a citizen and under what conditions has become ubiquitous in modern political arrangements. The concept of citizenship and questions concerning citizenship are therefore increasingly utilized by social scientists studying non-Western and less-developed societies, even if the local terms used to translate the concept are in most cases new and borrowed from foreign languages. There is a growing literature (especially in Anglo-American countries) on, for instance, inclusion/ exclusion, education, migration and human rights. In the West itself, the increasing cultural diversity of American and European soceties has given new momentum to the debate about the relationship between citizenship and identity.

In this respect it is clear that the West and the East can no longer be considered in isolation from each other. What is urgently needed at the present time are detailed analyses, both in comparative and historical terms, that take each country's different cultural traditions and past fully into account. Context, in particular the social and religious context, is of great importance. It plays a significant role in defining social actors' various loci of belongingness and identity. Citizenship is informed by culture in a number of different ways, which thus engender different models. My proposition therefore is that we should extend the scope of our discussion of

citizenship and build a general theory that is based on an interdisciplinary study (mainly sociological, political and anthropological) of different patterns of citizenship across the world. Such a theory would emphasise the interplay between the cosmopolitan and the vernacular, individualization and belonging; it would consider citizens at the intersection of State and Society, i.e. between the thick identity of social roles and the thin legal basis of the State. The State-civil society relationships in particular call for careful examination. From this perspective, ethnographic studies and empirical observations are especially important in order to contextualise specific features and consider the issue beyond the exclusive viewpoint of legal rights. They can offer a more complete understanding of citizenship and complement other disciplinary approaches. New avenues for research and new conceptual tools can be suggested. [2]

Interestingly, the currency of this notion in the field of sociology is a recent phenomenon. If one looks to the past, the concept of citizenship was of little concern to the main founders of classical sociology. Max Weber did not employ this notion, except in a few passages of *The City*. There is practically nothing about it in Emile Durkheim's works. By contrast, political scientists consider this notion to be a central one, beginning with Alexis de Tocqueville, the French intellectual and sociologist who analysed democracy in the Western world. The lack of interest the first sociologists showed in this matter is rather surprising, even if we take into account the period during which they were writing: citizenship concerns not only democracy, a word belonging chiefly to the political vocabulary, but also pre-democratic forms of government. In addition, it involves some basic sociological themes, in particular the relationships between the individual and the group. However, it must be recognised that the concept of citizenship is more in keeping with contemporary sociological and anthropological issues such as nationalism and ethnicity. Similarly, the notion of citizenship concerns the role of culture as a form of political agency, an issue which took on fundamental importance in the last decades of the twentieth century. In other words, today the investigation of the concept of citizenship is a rewarding path to explore when carrying out a comparative study of the social ties between different societies.

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2   The bibliography at the end of this article includes certain entries which have not been cited in the text or notes but which have contributed to the making of its argument.

As is well known, the word *citizen* (from the Latin *civitas*, 'city') first designated a member of a city. It is only since the eighteenth century that it has referred to a member of a State. At present, citizenship can be broadly defined as the different modes of *membership* within a political community. In ancient states and civilisations, the notion of a citizen was in most cases limited to only a portion of the population. A number of non-citizens (women, slaves, resident foreigners) were deprived of any rights. In pre-colonial India and pre-democratic Nepal, there was no citizenship as such, just *raja*s, kings, and the *praja*, the subjects. The rights of individuals were subordinated to their bonds with the king. By contrast, modern democratic countries aim at granting citizenship to most of the people living within a specific territory. Following the British sociologist T. H. Marshall (1977), this notion can be studied in contemporary societies from three different angles: (1) *civil:* individual rights to think, to believe, to have access to justice; (2) *political:* the right to vote, to participate in the political debate; (3) *social:* the right to enjoy social privileges, such as pensions, health care subsidies, minimum salary, free and equal access to education, social insurance, etc. These three forms of citizenship, Marshall argues, developed historically in this order. The cumulative effects of these three levels ensure in principle fully fledged citizenship for all members of the community, each individual being equal in rights and obligations. But there are different ways of achieving this result.

Although this opposition has often been criticized as an over-simplification, it is still useful to distinguish between two conceptions of citizenship. The first, chiefly civic and political, corresponds to the universalistic values dominant in Western countries. It is built politically around the individual. It is based on a free, voluntary, political association of citizens with a specific nation. The second conception, which is primarily collective or ethnic, is mainly associated with developing countries in which tradition is still extremely important, as well as with countries in the post-communist Eastern European bloc. It emphasises a common cultural community and relies on a strong collective ethos. In the first type of society, citizenship is defined as an unmediated relationship between the individual and the State. Other forms of attachment are thought to be secondary and subordinate to the main civic and political values. Religion itself is subordinate to political and secular values. In the second conception, the State is often characterized by weakness and the

simultaneous multiplicity of an individual's attachments. Belonging to one's ethnic group, caste, family and religion plays a crucial role, sometimes even more important than one's links to the national State. There exists a wide range of intermediate regimes between these two opposing types of citizenship. Obviously, there are as many conceptions of citizenship as there are political histories and cultures (Neveu 2005b: 200).

The purpose of this article is to explore the relationship between citizenship and diversity, i.e. between equality and difference, in the light of these two extreme conceptions. The key question is whether it is feasible for religious minorities, indigenous people and disadvantaged groups to be members of a common society on equal terms with others. How does a particular state accommodate a diversity of cultures without contradicting its own equalitarian values? My main concern therefore is whether it is possible for citizenship to recognize differences. The question of the links between citizenship and nationality (a person may be recognized as a national without being a citizen[3]) will not be addressed here, or if so, only casually. These two notions are mutually dependent, but they are not necessarily congruent and they deserve a separate study. Here I will mainly question the common idea according to which the unified nation-state is the central site of democracy and the ideal form of citizenship. In my opinion, cultural differences are not automatically the greatest danger to a country's internal cohesion. Is it necessary for citizenship to rely on a homogeneous culture? Is this the only possible model? Participatory pluralism, rather than a homogenising ideology, can better serve democracy and an inclusive citizenship regime. Yet, from a different standpoint, and a very important one indeed, the dangers of communalism should not be underestimated. Similarly, the creation of a discriminatory system which favours disadvantaged categories of people leads to difficulties in exercising citizenship which need to be fully examined, because this challenges the foundational principles of citizenship.

This article, which is comparative and cross-national in perspective, is organised into three sections. In the first I present an outline of the

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3   The links between nationality and citizenship are extremely complex and deserve, as far as Nepal and India are concerned, a separate study (in relation to France, see Culas (2004)). The anthropologist C. Neveu (2005a: 37) proposes to dissociate citizenship, which involves one's participation and inscription within a political community, from the issues of nationality and 'nation-ness' (the sense of belonging to a national collectivity).

fundamental principles of the French Republican system which appeared at the end of the eighteenth century, as well as the reactions it provoked. I have chosen the French case for practical reasons: I know it better than any other. But the West does not constitute a single bloc: patterns of citizenship differ greatly from one country to another. Germany, Italy, the USA and the United Kingdom would, of course, also be worth considering. Sections two and three will successively analyze forms of citizenship in the more multicultural context of South Asia, first of all in India, then in Nepal, where I have been working for the last four decades. I will focus mainly on issues related to the legal code, secularism, minority demands and the reservation system—four interrelated, indeed overlapping themes. My conclusion touches upon the interactions between the universalistic model and the more holistic models, namely Europe and South Asia, mainly in the contemporary period. The main objective is to present different options within the same democratic political fabric, theoretically rooted in shared ideals of equality and freedom. My aim is to document different regimes of citizenship at work in the West as in the East. I argue that comparativism is a way of guarding the researcher from ethnocentrism and of making him or her aware of other civilisations. Needless to say, the following is a sociological analysis devoid of any prescriptive intentions.

The French Republican system

France can be considered to offer a paradigmatic form of the first civic, universalistic model of citizenship. Historically, the French Republican model originated at the end of the eighteenth century under revolutionary pressure from the people. The downfall of royalty and the upheaval caused by the French Revolution in 1789 are still today vibrant references of democratic political order. Admittedly, the Terror period (1793-94), during which time at least 16,000 priests, aristocrats, liberals and so called counter-revolutionaries (including peasants) were summarily put to death in the name of the Republic and the popular sovereignty of the nation, is being increasingly questioned by historians. For instance, François Furet (Furet 1995, Furet & Ozouf 1988) has rightly rejected the earlier explanation (put forward mainly in left circles and among communist historians) according to which this time of civil war and state terrorism was a response to an aristocratic plot against the Revolution. On the contrary, he pointed out continuities with the former monarchical period and even with the spirit of

the 1789 Revolution. Yet the *Declaration of the Rights of Man and Citizen* dated August 1789 still constitutes a major legacy of the French Revolution. It proclaimed basic civic rights such as equality before the law, freedom from arbitrary arrest, and freedom of speech. French society is no longer divided into 'orders' (Clergy, Aristocracy, 'Tiers Etat'). It is composed of individuals. The notion of citizenship[4] that is deeply rooted in the text postulates the principles of a substantial identity among the different members of the Republic, who are granted the same inalienable rights. Every individual has an equal claim to autonomy and respect. Interestingly, these ideas are close to the conception of a nation as described much later by Marcel Mauss, the French sociologist: 'The nation is an entity characterised by the allegiance which it receives from each of its individual constituent units, as a moral integration in which no other elements come between the nation and the individual' (1969: 588). As pointed out by Louis Dumont in his magisterial (though questionable) study of the caste system, there is indeed a close parallel between the idea of the nation and the idea of the individual: 'The nation is the political group conceived as a collection of individuals and, at the same time, in relation to other nations, the political individual' (1980: 317).

Over the following years, at the very end of the eighteenth century, a totally new political system was established, marked by universalistic values (valid for the whole of Europe and beyond), national citizenship, and state centralism. It sought to obviate the differences—of birth, wealth, gender, and faith—that the *ancien régime* had deployed to structure life-worlds. Liberalism argued that such differences were secondary to a universal humanity which afforded rights to life-chances to all. The linguistic and cultural diversity of the regions that made up France in pre-revolutionary times was assimilated to the 'Old Regime', that is to an outdated, hierarchical, feudal, oppressive system, a symbol of monarchical tyranny and submission to aristocratic privileges and to the upper strata of the Catholic clergy. Old customs were abolished and the deep-rooted 'non-rational' beliefs of the peasant classes and backward regions were rejected as 'superstitions'. A new centralist division of the country into *départements* emerged. French was imposed as the national language to the detriment of

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4   The word *citoyen*, 'citizen', became current in France during the 1750s (Fumarolli 2006: 391).

other local or regional languages. Yet this policy was only fully enforced after World War 1.

The French Revolution was overtly hostile towards religion. In striking contrast with what happened in the United States of America, it opposed priests and religious institutions which, it was felt, maintained people in a state of backwardness and obscurantism. Religion was tolerated only if confined to one's private life. Following the spirit of Enlightenment of the 18th century, the French revolutionary leaders claimed that reason should guide all human affairs. Christianity became synonymous with irrationalism and exploitation, in stark contradiction to the necessary self-emancipation of humankind. As stated in the epigraph quoted at the beginning of this article, the republican State itself was granted an almost transcendental value, which competed with the old religion. Therefore, the Church and the State incarnated two exclusive, hostile institutions, each having its own imagery and culture.

Interestingly, revolutionaries attempted to institute a civic religion, instead of the former one, with its own calendar and republican rituals. They founded a Festival of the Federation in 1790 to mark the anniversary of the fall of the Bastille, and another in honour of the Supreme Being in 1794. However, this endeavour proved a failure: these ceremonies rapidly came to an end and are now only subjects of academic research. Yet, in spite of this aggressively anti-clerical attitude, freedom of faith was endorsed and declared to be fully entitled to State protection. In the 1791 Constitution, the main religious minorities (Protestants and Jews) were granted civic rights, on the condition that they swore the civic oath of allegiance instituted by the revolutionaries. Such a secularist policy gradually led to the separation of the Church from the State in 1905. Today, even practising Catholics admit the legitimacy of this division and no longer contest the Republic's non-religious stance (*laïcité*) .

The universalistic model was contested by the far right political wing over a long period of time. During the first half of the twentieth century, *Action Française,* the influential French anti-republican and counter-revolutionary group whose principal ideologist was Charles Maurras, who supported the restoration of the monarchy, defended an ethnicist and religious point of view. The movement advocated decentralization and the reinstatement of the pre-revolutionary liberties of the ancient provinces of France. It rejected all democratic principles, which Maurras judged

contrary to 'natural inequality', and championed the transformation of Catholicism into a state religion to reinforce solidarity within the country and restore the 'grandeur' the country had enjoyed before the Revolution. *Action Française* was a proponent of a right wing integral nationalism. It developed a xenophobic approach towards immigrants and foreigners, exalting the culture of the soil and the French people's genius. For its activists, the Republic was a 'Talmudic' invention, a Jewish and Protestant plot against the country's own Catholic traditions. The founders of French sociology, such as Durkheim and Lévy-Bruhl, were themselves fiercely attacked and blamed for the dechristianization and disorganisation of the country (Birnbaum 1993: 72-74). By and large, the movement represented a form of holism (Dumont 1970). It defended differentiation and hierarchy, and supported an organicist view of society, as opposed to the process of individualization of society fostered by capitalism and the rise of a bourgeois society. The present ultra-right political movements on the French political landscape, in particular the *Front National* of Jean-Marie Le Pen, are the legacy of this group and its journal (*National-Hebdo,* replaced in 2008 by *Au Front).*

The present Constitution (promulgated in October 1958) ensures the legal equality of all citizens irrespective of their origin, race or religion. The French model of democracy thus emphasises individual rights and theoretically rejects all group-based rights. It is firmly committed to the notion of the unique individual: the person exists as a separate, unique, entity. With a typical utopian outlook, this belief system is based on the ability of autonomous, free-willed, and self-determining individuals to pursue their own plans and purposes. It focuses on the citizen's individual emancipation from all ascribed groups and community pressures, and from familial, ethnic, religious, social, or geographical links. The locus of this process is the secular (laïque) school, open to all. For Jules Ferry (1832-1893), an important politician during the Third Republic, it is the place where the country's unity is achieved (Déloye 1994). Education is therefore a key element in the whole system. State schools have the huge responsibility of separating individuals from their original milieu and of freeing them from all their pre-conceived ideas or social constraints. The state school is conceptualized as the place where the future citizen is formed and becomes dedicated to reason and critical thinking.

In this context, it is constitutionally forbidden to set up any positive

provisions for a group of persons on the basis of their ethnic or geographical origins. On 9 May 1991, the Constitutional Council rejected a law proposed by the government in favour of the inhabitants of the French island of Corsica. It was rejected because the text of the proposal used the expression 'the Corsican people'.[5] The French people, according to the statement of the Constitutional Council, are one and indivisible, with no distinction of religion, race or region. Similarly, any job advertisement specifically aimed at an immigrant who has recently migrated to France is forbidden by law. Such measures, it is said, are themselves discriminatory. They contradict the universality of judicial laws. In March 2003, the Constitution was exceptionally revised to authorize the adoption of measures favouring job opportunities and the protection of private land for the inhabitants of overseas *départements* and territories (DOM-TOMs, former French colonies). These measures were enforced for all persons working in the DOM-TOMs. It was a subtle way of assisting the local, decolonised populations, using a form of affirmative action.

This centralistic and universalistic model also applies to questions of language. In 1992, France refused to ratify the European Charter for Regional or Minority Languages, on the grounds that the recognition of minority groups and their languages might be detrimental to the unity of the nation-state (Craith 2005: 212). According to the legacy of the French Revolution, the language of a free people should be one and the same for all. French, it is said, is the language of French citizens. More than 56 propositions to recognize minority languages in France have failed to date.

The predicaments of Indian democracy and citizenship
Since its independence in 1947, India has embraced a more multicultural model of democracy. By and large, India deals with diversity and difference in a much more comprehensive manner than the somewhat Jacobin and centralistic French State. Its federal structure, which grants substantial power to the country's various states, its reservation system, which dates back to colonial times and relates to a wide range of groups, and its language policy, which recognises the plurality of languages in the Union, are devices that have been used to enforce a decentralised and unique

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5   Corsica has a separatist movement, but this does not have a clear political ideology or widespread support from the native population of the island.

political system. Culturally or socially marginalised groups are granted rights in a much more direct manner than in France. More importantly, in India the State has not been given the same transcendental, religious value as it has in a country like France. India's long pre-independence experience of handling conflicts in a pragmatic manner through negotiation is of particular significance here.

The Indian culture of communitarian rights should be seen as an adaptation of democratic values to a society where the liberal language of individual rights and equality has hardly ever been used. Sociologically, it is based on a social structure where the notion of the unique individual is not a primary value in social life. A person is often encompassed by holistic principles that are embedded in the hierarchical orderings of group-based life. As revealed by most anthropological and sociological studies, India has traditionally been much more a society of castes and communities than of individuals. The paradox therefore lies in the following: the institutions of representative democracy have become deeply entrenched in India, to the extent that some commentators even speak of a Tocquevillian revolution in that country. Post-independence leaders succeeded in establishing a modern State at the core of Indian society. Yet this democracy is based on social realities different from those of Europe. The familial, caste and religious groups still play a crucial role in all fields of politics and social life, even if they alone cannot explain every election result. Indians have not been transformed into liberal political subjects. Primordial identities have so far not been dissolved.

Politically, tension arose between different and opposing schools of thought during the Constituent Assembly debates about the definition of the Indian State. Before World War II, Gandhi, a scathing critic of the Western system of democracy, wanted the religious (Hindu and Muslim) communities to be officially acknowledged. He saw the Indian nation as a collection of religious communities that should each be placed on an equal footing. By contrast, the modern intelligentsia and personalities such as Jawaharlal Nehru and Bhimrao Ambedkar (the principal author of the 1950 Constitution) were more inclined to identify the individual as the basis of the nation. Born into an untouchable caste, Dr. Ambedkar's main objective was to get rid of the caste hierarchy, which was rooted in group-based rights and duties, and empower the downtrodden who were oppressed by civil society. In Nehru's eyes, factories and dams were India's temples (Madan

2006: 88). For him, as for the French revolutionaries of 1789, religiosity was a sign of social backwardness. The death of Mahatma Gandhi in January 1948 contributed to a compromise between the two currents, to the clear advantage of Nehru. Militant Hindu nationalists from the Rashtriya Swayamsewak Sangh (RSS), for their part, were mostly worried at the time about the political influence of the religious (Muslim and Christian) minorities. They therefore backed Congress efforts to limit communalism and lay emphasis on national unity, to the detriment of cultural diversity (Jaffrelot 1996: 189-190).

To take just one example, it was through a consensus of this kind that the question of the Muslim electorate was resolved. During the colonial period, the Muslims obtained from the British a system of separate seats which allowed them to appoint their own delegates in the provincial assemblies. This system of double electorates, which gave the Muslims much greater importance than their actual number, was rejected by independent India and the 1950 Constitution with the support of most Hindu traditionalists, including those from the Congress party. By and large, the new arrangements were more favourable to the modern, universalistic group, whose moderate forms of multiculturalism eventually prevailed. It must be noted, however, that the RSS and the Hindu *Maha Sabha* indirectly supported Jinnah's thesis of two nations, against the Congress pretence of representing both Hindus and Muslims (Vora & Palshikar 2004: 21).

In the course of the following decades, the RSS and the other groups inspired by the Sangh Pariwar's Hindu nationalism increasingly defended what can be called an ethnicist view that was marked by chauvinism and attached to communitarian rights, especially on religious issues. In their view, Hinduism is not only a religion, but also the majority culture of India. The nation must consequently be founded according to Hindu rules and values. Religious differences are conceptualised in immutable civilizational terms: Hinduism and Islam are projected as two separate ways of life that differ from a fundamental perspective as well as in the details of everyday life. According to these radical activists, Muslims are not full Indian citizens: they remain alien, culturally and politically. This view is shared by a large number of Hindu religious people.

One of the most vexed issues therefore concerns the position of Muslims within the Indian Republic. The question of a possible uniform civil code and of the special rights that Muslims obtained from the government in

1950 in domestic affairs, mainly for tactical reasons, may be taken as an illustration. So far, Muslims, like other religious minorities, have enjoyed a separate set of laws as their 'personal law' in respect of divorce, marriage, parentage, inheritance, succession, religious and charitable endowments, and so forth, in accordance with the Shariat (though this is contested by Indian Muslim women activists: see Vatuk (2008)). Since the very beginning, Hindu nationalists have opposed this concession and argued for a more unified view on such matters. Hindus, they argue, have accepted a reform of their own old code of laws, whereas the Muslims have obtained the privilege of preserving their own. What can be considered an anachronism from the secular republican point of view of the Constitution is repeatedly the object of interreligious controversies.

A well-known example is the Shah Bano case, the case of a seventy-year-old Muslim woman who was repudiated by her husband. In 1986, the Madhya Pradesh High Court tribunal refused at first to give her any compensation, basing its judgement on Muslim 'personal law'. The Supreme Court denounced this decision and decided to grant Shah Bano 'maintenance'. This judgement became a national controversy, with strong protests from many communities. Finally, Rajiv Gandhi's government rushed the Muslim Women Act through Parliament to nullify the Supreme Court's verdict, and as a concession to the conservative Muslim lobby. In fact, Muslims consider the constitutional right of religious freedom given to all citizens under the secular sate as guaranteeing all religious communities the right to follow their 'traditional' law, sanctioned by religion. It is on this basis that the Muslim authorities defending their family laws opposed the Supreme Court's judgment in the Shah Bano case and still continue to oppose the idea of a uniform civil code which will entail modifications to their religiously sanctioned Shariat law (Larson 2001).

In recent decades both fundamentalist Muslims and radical Hindu formations such as the *Rastriya Swayamsevak Sangh* and the *Vishva Hindu Parishad* have tried to define the cultural boundaries of religion more sharply than before. These organisations have manipulated religious identities to a great extent, putting old syncretistic traditions and bi-cultural identities under severe pressure. The dramatic partition of the subcontinent on the basis of religious differences in 1947 (two countries for two religions), the rise of the Sangh Pariwar and the nationalist liturgies of the Hindu nationalists obviously challenge the viability of

the secularist model adopted in 1950. These events and phenomena run counter to the alternative traditions of cosmopolitism and plurality which existed in pre-modern India. For instance, the former *jajmani* system of the exchange of goods and labour, which was widespread in rural areas, not only included Hindus, but members of all faiths in India. It provided a powerful countervailing force to the forces of communalism (Nandy 1999: 159). Creating a secular state in a religious society where the great majority of people are active followers of one religious faith or another is one of the predicaments the Republic of India is facing. Despite Nehruvian secularist ideas, national identity is so far not only based on the secular criterion of common nationhood. The State's constitutional secularism lacks a popular ideological basis. Some left-wing and Marxist intellectuals view communalism as an earlier stage of social development and expect that it will die out as the forces of secular individualism gain ground. Yet recent expressions of religiosity and ethnicity contradict this prediction. Indeed, contemporary adjustments to society and religion can be seen as deviations from this national, secular, universalistically informed statecraft and type of citizenship.

Another problem with present-day Indian democracy and with its special exercise of citizenship relates to the concessions the State has made to different groups and so-called indigenous populations (*adivasi*). The reservation system in favour of Scheduled Castes (SCs) and Scheduled Tribes (STs) has undoubtedly succeeded in promoting low-status groups and undermining the monopoly of high caste people in certain areas of employment. Yet this procedure has produced new, more competitive models of citizens and citizenry. It has created preferential rights for some categories of people to the detriment of others. The issue has become particularly contentious with the extension of these benefits to OBCs ('Other Backward Classes'), a wide range of groups which in some states amount to more than 70 per cent of the local population. Such a classification is questionable and poses several difficulties. First, it relies on the 1931 Census of India, which hardly reflects the present situation. Second, it does not recognise how fuzzy and fluid the boundaries are between OBCs and lower castes, especially in urban areas. Third, this classification is based on primordial social ties, on groups and castes, and therefore perpetuates the hierarchical system in a pernicious manner. As noted by A.M. Shah in a recent article (2007: 115-116), it is rarely realised that anyone who supports

caste-based reservations is also supporting the restriction of freedom of choice in marriage, by which caste boundaries are maintained. In other words, as paradoxical as it may seem, the affirmative action policy validates and perpetuates caste endogamy and hierarchical inequalities within society.

Moreover, the Scheduled Tribe status of some dominant groups has transformed densely tribal areas into ethnically-defined autonomous regions where only the so-called 'native' ST people are entitled to public employment or trade licences. In Meghalaya, for instance, nearly 85 per cent of public employment is 'reserved' (Baruah 2005: 183). This situation is very delicate in North-East India, which is made up of seven (or eight if Sikkim is included) fully-fledged states with plural societies and highly interwoven populations. According to Baruah (*idem*), the status of the non-tribals in these states is best described as that of *denizens*, an old term which denoted a person admitted to residence in a foreign country with only limited rights of citizenship. In all these areas, the rights to land ownership and exchange, and to business and trade licences, are restricted. Even the vast majority of seats in the legislatures of these mini-states are reserved for candidates belonging to the STs. This particular configuration of protective discrimination has led to extremely divisive politics between insiders and outsiders. Nepali immigrants, for instance, are turned into outsiders, even though their migration to the area may date back two or three generations. The introduction of similarly anachronistic ideas of exclusive homelands in demographically mixed situations has produced comparable conflicts in other parts of India. Such a balkanisation of whole areas in a mosaic of sacrosanct ethnic communities characterised by holistic traits undermines the very idea of civic equality. As far as these limited but well-documented cases are concerned, the achievement of India's peculiar form of democracy relies on systems of dual or variegated citizenship, i.e. citizenship with differentiated rights.

Transforming Nepal: new demands and experiments

The debate about citizenship in Nepal, as in India and in Europe, cannot be understood properly without a knowledge of the historical background. From this perspective, it is important to bear in mind that the construction of Nepal as a nation-state dates only from the end of the eighteenth and the beginning of the nineteenth century. It is the result of the conquests of

one man, Prithvi Narayan Shah, a Thakuri king of a tiny kingdom, Gorkha, located in the hills of central Nepal. This king proved to be a brilliant warrior and an excellent warfare tactician. He succeeded in conquering the Kathmandu Valley, as well as most of the small Hindu hill kingdoms and tribal chiefdoms to the west and to the east, over a relatively short period. He (and his immediate successors) unified the country which we know today as Nepal, and also conquered parts of Garhwal and Sikkim, which were retroceded not long afterwards to the East India Company which at that time dominated the subcontinent. Nepal became a Hindu kingdom, ruled by the Shah Hindu dynasty and some allied Parbatiya (Hindus from the hills speaking Nepali as their mother tongue) Kshatriya (or Chetri) families. The structure of power was extremely authoritarian and society was based on the hierarchical rules of the caste system. All power became rapidly concentrated within the hands of some upper Hindu caste families, such as the Ranas, who kept the country practically isolated from the rest of the world and intermarried routinely with the Shah dynasty. The great majority of people, in particular the ethnic groups from the hills, were excluded from positions of power and responsibility, except for a few, such as the Magars, who had assisted the Parbatiyas in conquering the country.[6] The Ranas established a predatory socio-economic regime, exploiting the peasants' work and the country's resources exclusively for their own benefit. This autocratic patrimonial regime was overthrown in 1950 by Nepali democratic forces. It is only from these years onward that the country has opened its doors to the outside world.

From this brief historical outline, it follows that the Nepali kingdom was never colonised by the British. It retained most of its power independently from British India, though the British were happy enough to recruit soldiers in the Nepali hills and benefit from the help of Gorkha armies on occasion to repress revolts and various forms of resistance to their colonial rule. In other words, Nepal did not experience a nationalist movement such as the one that opposed the British in India and which was crucial to the making of the Indian nation after independence. The Nepali democratic movement was led by political parties which were banned in Nepal and loosely set up, at least in the beginning, in India. This movement succeeded

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6   According to the 2001 Census, Nepal has 92 languages and is made up of 97 populations or ethnic groups (44 of them being 'Indo-Mongoloid') .

in overthrowing the Rana dynasty in 1950 with the direct and indirect assistance of the Indian government. The revolutionary process can in no way be compared with the Indian nationalist movement. Admittedly, the political elite was often disconnected from the country's social realities and badly prepared to cope with the exercise of power. This explains, at least partly, the difficulties the democratic forces faced in transforming the country and in building a substantive democracy.

As a matter of fact, in spite of some reforms and the abolition of the caste system in 1964, the predatory character of the Nepali State did not change very much throughout the post-Rana period. Political and economic reforms were introduced, but power remained concentrated among the two high Parbatiya castes of Bahun and Chetri, belonging to the two higher Hindu *varna* of Brahman and Kshatriya. These two groups, which represent 31 per cent of the population, hold two-thirds of elite positions (Lawoti 2005: 103). Along with the Newars (the original inhabitants of Kathmandu Valley and the old commercial and intellectual elite of the country, who represent 5.5 percent of the population) they control most key positions in political assemblies, ministries, political parties, judiciary bodies, universities, the senior civil service, and so forth. During the partyless Panchayat period (1960-1990) and the first years of multiparty democracy,[7] Bahuns and Chetris were able to maintain a 60 per cent presence in the legislature, and Newars just under 10 percent (Bennett 2006: 31). Bahuns in particular dominate entire sectors of government, economic and intellectual life and lead all major political parties. Such a concentration of economic, social and political power in the hands of a minority is a factor that limits democracy and a normal citizenship regime (Gurung 2006).[8] One major deficiency of the Nepali political system as a whole is directly linked to this situation.

In matters of social inclusion, the Nepali State still lags far behind its southern neighbour. The 1990 Constitution states that all citizens are equal irrespective of their religion, race, gender, caste, tribe and ideology.

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7 To translate the word 'democracy', the Nepali language uses three different terms: *prajatantra* (used during the king-led Panchayat period), *janatantra* and *ganatantra* (the last is widely employed in India, with the meaning in Hindi of 'republic'). However, *loktantra*, 'democracy for/by the people', is now the standard translation in Nepal. *Prajatantra* means 'rule of the people', but the word used for 'people' (*praja*) also means 'subjects [of the king]'.

8 'Citizen' is translated in Nepali and Hindi by *nagarik*, a word derived from the Sanskrit *nagara*, 'city'.

Nevertheless, the traditional caste hierarchy is still pervasive and all-encompassing—much more so than in India as far as inter-caste relations are concerned. It still relies very heavily on vertical links, unlike in modern India where castes have progressively undergone a separation from each other, and are more aligned along horizontal links. In Nepal, the shift from low and subordinated castes to assertive and independent communities demanding equal rights vis-à-vis other caste groups is still in its initial phase (Toffin 2007). Caste continues to be an important marker of social, economic and political life. Up to the present day, it has been an obvious source of segregation.

The result of this situation is that to a large extent the country's unity has not yet been achieved, or has only been achieved superficially, under the force of arms. The unification of the country in the eighteenth and nineteenth centuries, attained by force, never turned Nepal into a wholly centralised state. There is still a great deal of resentment on the part of certain sections of the population against the dominant Parbatiya castes who captured the tribal zones and confiscated power from former rulers or local chiefs. Until the declaration dated 18th May 2006 proclaiming Nepal as a secular state, the encompassing framework was that of a Hindu state (*hindu rastra*) in which Hinduism is the state religion. In official propaganda, the idea of 'the last Hindu kingdom in the world' has been used by the authorities to impose a specific identity on the country. In spite of this centralistic ideology, very different from the Indian republican and pluralist model, the power of the State remains limited. Until very recently, the Nepali authorities had not effectively reached beyond district and sub-district centre level and the government was weak and distant (Macfarlane 2007: 148). As witnessed by most anthropologists who conducted fieldwork in areas far from the capital during the 1970s and 1980s, two worlds have long existed side by side (and still exist, to a large extent): one belongs to the Kathmandu Valley and the administrative headquarters in the hills, another to the rest of the country, which is mostly rural. This allowed the Nepali Maoists to operate freely in rural areas where there were no State agencies to resist them during the People's War (*jan yuddha*),1996-2006.

The fall of the monarchy and the establishment of the Democratic and Federal Republic of Nepal in May 2008 are still too recent for their impact upon the overall situation to be taken into consideration. At the time this

article was written, the new Constitution of the country had not yet been finalised and the new institutions were not yet in place. An anarchical situation prevails in most sectors of social and political life, and the Maoist radical communists (who ran the country from August 2008 till June 2009) have not yet wholly dismantled their separate administration. Besides, in matters of statecraft and citizenship, it is unlikely that such a change of political system will radically transform society within such a short period of time. The old political culture subsists in many ways within the new Republic. Alexis de Tocqueville, the aforementioned historian of the French revolution, stressed (contrary to popular views and preconceived ideas) the continuity of the monarchical regime and the post-revolutionary period in many areas of nineteenth century France. A similar statement could be made in relation to Nepal, at least in some sectors of socio-political life (religious-based hierarchies, strength of familial ties in public life, factional politics within the parties, elusive presence of local authorities in remote districts, prevalence of religion in a large number of issues, etc.). From a democratic viewpoint, one of the main concerns that Nepali leaders face today is to respond to the demands of the different sectors, whether geographical and ethnic, of society, and to transform a country based on strong hierarchical ties into a more equalitarian society.[9] How can one achieve a substantive democracy beyond mere procedural and electoral procedures? How does one turn subjects into citizens?

Against this backdrop, it must be recalled that ethnic minorities comprise 37.2 percent of the Nepali population, including tribal groups from the southern plains. The figure is much higher than in India (roughly 8 percent of the population) and constitutes a specific feature of the Nepali social fabric. In 1990, a national organisation, the *Nepal Janajati Mahasangh*, or 'Nepal Federation of Nationalities', was founded, with 59 officially recognized communities each representing a *janajati* group with a separate collective identity and a distinctive traditional language. In 2003, this association became *NEFIN,* the 'Nepal Federation of Indigenous Nationalities' (*Nepal Adivasi Janajati Mahasangh*) (Onta, 2006: 308-325). One of the *adivasi/ janajati* activists' main demands is for an appropriate reservation policy in favour of non-caste ethnic groups, similar to the compensatory positive

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9   Equality is widely translated in Nepali by the word *samanta* (or *barabari)*.

discrimination that exists in India.[10] They are asking for the establishment of quotas at local and central level (education, public employment, seats on representatives bodies) to redistribute power between the various segments of the country's population. The system would guarantee the *janajati* 'indigenous nationalities' a fixed number of seats in Parliament and in other bodies a level of representation that is in proportion to their percentage of the population. So far, these aspirations have been either ignored, rejected or delayed. The presence of some representatives from the marginalized and most disadvantaged *janajati* groups in the Nepali Parliament might constitute a step towards the settlement of ethnic demands. However, there are three problematic issues. First, the question of the representativeness of the tribal elite has not been fully resolved: the Indian experience shows that the reservation system is of greater benefit to the tribal elites than to the Scheduled Tribes themselves. Second, the list of the *janajati* ethnic groups includes groups of very different economic levels: some are rich and advanced, others backward, disadvantaged, and endangered.[11] Third, the number of seats to be reserved and the list of the beneficiaries will have to be severely restricted, so that these measures do not contradict the individualistic premises of the 1990 (and Interim 2007) Constitutions and do not transform ethnic communities into mere pressure groups. The ethnicisation of politics may otherwise cause the political system to regress. It is not a question of rejecting the possibility of affirmative action, but of creating a system that best serves the interests of the marginalised communities themselves (Middletown & Schneiderman 2008: 39).

Janajati Mahasangh activists, conjointly with Maoist and other political parties, also present federalist demands (Toffin 2009). The reorganization of Nepal's State along federal lines is widely and passionately debated in the media and in political assemblies. There exists a wide range of proposals regarding these matters, which often contradict each other. It is not yet clear what will emerge in the near future and whether the chosen system will be a weak centre with powerful states, or vice versa. When the *janajatis* suggest dividing the country into twelve provinces or republics, with

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10   Similar measures of affirmative action are demanded by Nepali Dalits.
11   Recently, NEFIN produced a classification of the 59 *janajati* groups based on their socio-economic status.

divisions based on ethnic and linguistic affiliations, they make claims to a specific territory over which they hope to exert political power, and which when appropriated will provide them with their distinct identity. Such a demand is widely contested. For instance, it is asked on what ethnic basis these provinces will be constituted: on the basis of the hypothetically indigenous people inhabiting the region, on the 'traditional homelands' of the different groups, or on the actual composition of the population? This question is crucial because the current profile of the population in the various districts of Nepal is mostly heterogeneous. With few exceptions, the hill and Tarai districts are populated by a large intermingling of castes and non-caste ethnic groups. The restructuring of the State along these lines and the formation of such mono-ethnic regions would therefore not be consistent with the present situation. It would generate either massive displacements of population, at heavy human and economic cost, or the emergence of new minorities. There is also the danger of intensifying the impulse to draw ethnic borders and of exacerbating feelings of resentment. In fact, in some activists' minds, the creation of twelve autonomous regions is obviously a means of ousting Hindus from power and of replacing them with leaders from registered *janajati* associations.

The advocates of ethnic rights argue emphatically that classical liberalism is not enough to protect the freedom and equality of different sociocultural groups in multicultural societies. For them, the 'inclusion of marginalised groups is a primary definition of democracy' (Lawoti 2005: 121). Besides, 'Members of different groups cannot become equal if groups are treated unequally by the State' (ibid: 121). Similarly, Maoist leaders dismiss parliamentary democracy as a façade which cannot solve the country's problems. They strongly support the ethnic demands of their 'ethnic liberation fronts' (*mukti morcha*) and strongly oppose what they call 'ethnic oppression'. The bone of contention lies in the fact that democracy[12] in Nepal will not work if it does not explicitly address the country's important ethnic cleavages and social inequalities by means of a radical ethnic policy. Yet regrettably, the two proposed methods of governance examined here— reservation and federalism— both of which have been designed to promote a more inclusive and pluralist policy, are not wholly

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12 The Nepali communists' main objective is to establish a people's government, which they call a 'new democracy' *(naulo janabad)*.

conclusive. A federal model constructed along ethnic and linguistic lines, in particular, would surely give rise to more problems than it would solve (Thapa 2007).

In addition, tension between the hills and the plains is a crucial issue in this Himalayan region. The Madhesi plain-dwellers, around 30 per cent of the Nepali population,[13] are not integrated in the Nepali State and are not represented in proportion to their economic importance (the Tarai generates about two-thirds of Nepal's wealth). Their position is a very particular one. They often share deep cultural, linguistic, family and religious ties with people across the border in Bihar and Uttar Pradesh. They speak Indic plains languages (Awadhi, Bhojpuri, Maithili etc.) rather than Nepali as their mother tongues, and Hindi is widely used as the link language between the different Tarai communities. The border between India and Nepal itself is not impermeable but remains rather fluid. Both Nepalis and Indians may move and work across it without let or hindrance. Many Nepali Madhesis take their wives from India, and marry their daughters there in return (Gaige 1975: 22). As a matter of fact, the Kathmandu hill-centric political establishment does not consider Madhesis as entirely Nepali. For many years the Nepali Congress has treated the Tarai as a vote bank without offering any proportionate leadership positions to its native inhabitants. Progress has been made in some fields since 2008: the President of the new Democratic and Federal Republic of Nepal, Ram Baran Yadav, is himself a Madhesi, as well as the Vice-President, Parmananda Jha, who is a Maithili speaker. Yet there is still considerable suspicion. The fact that the afore-mentioned Vice-President took his oath of office in Hindi during the swearing-in ceremony (23 July 2008) provoked an animated debate and a writ petition has been filed in the Supreme Court.[14] The Tarai issue, especially in eastern districts, is currently a source of bitter conflict between the Parbatiyas or Pahade (hill-dweller) immigrants and the Madhesi plains-dwellers. The grievances accumulated over the decades can suddenly erupt at any moment. In January-February 2007, in an unprecedented Madhesi movement about 40 people were killed, most of them by the police. One of the issues was and still is the question of the

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13   The Tarai as a whole actually contains more than 50 per cent of Nepal's population, many of whom come from the hills.

14   The Supreme Court nullified the oath on 23 August, 2009, stating that the 2007 Interim Constitution requires this to be taken in Nepali.

issuing of citizenship certificates: traditionally, the people of the Tarai have more difficulty in getting such a certificate from state agencies than people from the hills.[15] However, the Madhesis are now claiming more than inclusive political citizenship in Nepal. They are seeking full recognition of their role as well as the right to be different. New Tarai political parties are calling for political autonomy: they want 'one Madhesh, one Pradesh', an autonomous region extending from the eastern to the western border. Other Nepali parties and groups do not accept such a proposal because they believe it would undermine the very unity and integrity of the country. Today, the political landscape in these plains is therefore characterized by uncertainty and a confrontational mood.[16] In this sector too, the fall of the monarchy has opened a Pandora's box with all the signs of dissension and division.

Is the Indian model, with its strong Union government and its weaker federative states, of any help to Nepal as it debates these federal issues? After all, India has accommodated its extreme cultural and geographical diversity by creating a number of linguistic and regional states. However, giving relevance to such a federalist structure in Nepal presents some difficulties. One of them is that most of the proposed Nepali regions do not have the long and rich cultural heritage which characterises the Indian regions. Besides, the Sanskrit-based common legacy which binds together the different regions of India is lacking in Nepal (Sharma 2008: 161). Likewise, the Western parliamentary system, whether it be French or British, is obviously not sufficient in such a multiethnic and deeply-rooted hierarchical society to correct the flaws of the previous discriminatory nature of the State. A new model of citizenship has to be invented.

Conclusion

As stated at the very beginning of this discussion, definitions of citizenship oscillate between an Enlightenment impulse towards universal *anthropos* and a particularistic (or holistic) impulse towards a relative *ethnos*. In practice, no pure, unmixed system of any sort is to be found at present on the planet; only hybrid regimes prevail. Consequently, conceptions of citizenship are

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15   It is estimated that about 4.2 million Nepalis do not hold a citizenship certificate (personal communication, Deepak Thapa, August 2010). My thanks also to Gunaraj Luitel for information on the subject.

16   On the contemporary Tarai situation, see Jha (2007), Thapa (2007) and Gellner (2007).

today marked in most countries by manifold tensions and interactions between the two models mentioned above. A South Asian country such as India defends universalistic declarations in its Constitution (legal equality of all citizens irrespective of their origin, religion, caste) while at the same time it guarantees private laws for religious communities, for instance Muslims and Christians, in some private familial affairs. Furthermore, the Republic of India establishes various forms of constitutionally-approved positive discrimination in favour of disadvantaged groups, and protective measures for cultural pluralities. It has gone very far in the federal direction to accommodate internal diversity. Nepal, which until very recently was marked by a much more Hindu-dominated universalistic model, is today tempted to follow the way taken by India sixty years ago. Interestingly, Maoist and Marxist-Leninist Nepali leaders support ethnic federalist demands which oppose the ideal universalism of the Communist Revolution (defined initially in the West) as being free of nationalities and cultures. Adjustments to contemporary realities also need to be underlined in this case.

Similarly, in Europe as in North America, contemporary governments have adopted measures in favour of ethnic or religious minorities. These endeavours have met with unquestionable success, although some European Community countries such as the Netherlands have felt compelled to revise their multiculturalist policy due to perceptions that its effects have been pernicious and disruptive. Even France, whose archetypal Revolution model is said to be blind to difference and minority cultures, is gradually starting to consider some forms of affirmative action. The recent widespread riots (2005) in the suburbs of major French cities clearly show the shortcomings of the former centralist policy. Solutions are being experimented with all over the world which attempt to combine citizenship and diversity. Each country is trying to accommodate differences through measures such as decentralization, local autonomy, federalist structures, liberal language policies, and so forth. The result is a series of complex, even contradictory, arrangements and forms of citizenship that are peculiar to each state. A noteworthy dissimilarity is that national boundaries are being reinforced throughout South Asia, unlike in Europe, where a post-national policy is being conducted. The European Community is attempting to engender a sense of collective identity by developing symbols typically associated with a modern

nation-state (flag, harmonised passports, etc.), though admittedly with only limited success.

The multiculturalist model has its limitations, however. Contemporary expressions of cultural and religious identities pose a challenge to the very principles of civil equality and individual liberty. Countries which have defined their internal boundaries along holistic lines have obviously encountered problems. Forces of disruption and division, riots and communal conflicts are on the rise everywhere in South Asia and ethnic absolutism is clearly a danger to democracy. In Nepal, for instance, the bipolar configuration constructed by ethnic associations which present the Parbatiya Hindu castes and the ethnic *janajati* as two exclusive and antagonistic communities is divisive. Furthermore, it simplifies a much more complex situation if viewed from a historical viewpoint (Toffin 2009). The notion of universally valid citizenship beyond cultural differences seems more like an ideal than a feasible objective. Theoretically, the universalistic model beyond essentialist cultures and parochial identities safeguards individuals' rights to hold cultural conceptions of the good which may be conflicting and incommensurable. Wherever it is accepted, the primacy of citizenship over culture and of universalism over specificity has to be reaffirmed. It is, after all, the only way of preserving the rights of the individual and of ensuring equality for all. However, it must be admitted that these ideas are less and less accepted by minorities all over the world. In some cases, membership of a specific cultural nation may even be denied. In many others, criticism of cultural hegemony is a key element in recasting the substance of citizenship today.

To conclude, I would like to quote some lines from a recent contribution written by two British anthropologists and published in a special issue on citizenship of the *Journal of Social Anthropology*:

> Citizenship demands ethnographic investigation. What is salient to people in respect of their rights in a given civil society? How do people make use of the idea of citizenship, if at all? What does it mean to them? What practices and/or obligations do they think it entails? Do some people take citizenship for granted and, if so, who are they and how do they conceive of their relation to the state? (...). For us anthropologists, the issue is not what model of citizenship we should endorse but rather what ethnography can do to analyze how these key categories—

> citizenship and culture—are being constituted anew in the practices
> of their everyday lives by particular people(s) in particular times
> and places. The challenge of contemporary ethnography is to render
> analytical the categories people use to talk about themselves, their lives
> and their ideas of the world (Ourrossof & Toren, 2005: 208-209).

Although these ideas lack a sociological perspective, they constitute a valuable and meaningful programme for ethnographic study. They point convincingly to the large variety of citizenship procedures throughout the world and to the necessity to go beyond legal rights for a better understanding of local situations. All in all, there is a need to expand the political vision and put the concept of citizenship in context. The anthropologist, who knows how to view things from below, through micro-local enquiries, is in a position to pay attention to the point of view of 'the governed'. He is apt to approach the process of citizen-making in empirical terms and deal with such subjects as the work of NGOs and political organisations, the effects of corruption, the persistence of caste bonds in the political world, the relationships between gender and politics, models of governance, degrees of empowerment, and the like. All of these themes reveal imperfect modes of being citizens and complex modes of negotiation between individuals and groups. They bring to light citizenship in the making, and could contribute to a renewed reflection on contemporary forms of politics (Neveu, 2008: 298). Such an anthropology gives substance to political studies and is of more significance than studies of modes of election to assemblies or types of alliance between various political parties. Certainly, citizenship—which concerns the very functioning of societies—is a relevant subject for social anthropologists.

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Minority Rights and Constitutional Borrowings in the Drafting of Nepal's 1990 Constitution

Mara Malagodi

This article aims to investigate the reasons for and modalities of the rejection of the minority approach in Nepal's 1990 Constitution-making experience.[1] The analysis is conducted in light of the country's post-Panchayat process of re-democratisation and vis-à-vis the high degree of socio-cultural diversity of the Nepali polity in which no group amounts to a numerical majority.[2] The 1990 Constitution-making process was articulated in two phases: (a) the drafting of the document by the nine-member Constitution Recommendation Commission (CRC) between 31 May and 10 September 1990, and (b) the finalisation of the draft by a three-member Cabinet Committee, leading to the promulgation of the document on 9 November 1990.[3]

The expression 'minority approach' is employed here to indicate the specific array of choices made by Constitution-makers in designing state institutions reflective of a country's socio-cultural diversity and giving

2   The 2001 Census identified 92 languages spoken as mother tongues in Nepal, with only 48.61% of the total population naming Nepali as its mother tongue—although Nepali is constitutionally both the national and official language of the country. In terms of caste/ethnicity the Census recorded 102 groups, of which only six constitute more than 5% of the total population (Nepal Central Bureau of Statistics 2002). The two largest groups, the Chetri (15.8%) and Hill Brahmins (12.74%), together constitute the Parbatiya group, i.e. the dominant Hindu high castes of the Pahari (hilly) region of the country, to which the royal family and the majority of the country's elites belong. Ten religions are identified as practised on Nepal's territory. Hinduism has the largeest following, with 81% of the total population. The Census has, however, been contested by many as a governmental attempt at downsizing the non-Parbatiya and non-Hindu population (UNDP/CASU 2008a: iii).
3   See Ellingson (1991), Hutt (1993), Hachhethu (1994), and Regmi (2061 b.s.) for accounts of the drafting of the 1990 Constitution of Nepal.

expression to such diversity, i.e. a federal state structure, reserved electoral seats, group rights, consociational institutions and positive discrimination measures. I adopt Jackson Preece's definition of minority groups in nation-states as political outsiders who do not possess the characteristics constitutive of the national identity (Jackson Preece 2005: 9-10). This definition highlights the criteria of membership of a political community on the basis of belonging rather than size. Minorities are identified as the non-dominant groups 'because their religion, race, language or ethnicity differs from that of the official public identity'; conversely this definition sets aside questions of gender, sexual orientation, physical disability and non-citizenship as separate categories with their own normative basis (ibid.: 10-11).

Significantly, the 'problem of minorities' framed in the context of political membership addresses the question of what constitutes the appropriate relationship between the legitimate authority of political power and a definition of 'the people'. As Hanna Lerner elucidates, constitutions do not only establish a frame of government and a bill of rights, they are also powerful instruments to inscribe a particular version of 'We, the People'; more specifically 'the "We" issue is particularly problematic in the context of deeply divided societies, which are grappling with the very definition of their unity' (Lerner 2004: 2). Therefore, Nepal's 1990 Constitution-making experience illustrates well the dilemma of Constitution-makers as to whether to promote a sense of national unity—a cogent idea of 'We, the People'—or to embrace the country's socio-cultural diversity, not just in the 'symbolic' aspects of the Constitution like the definition of the state and the nation, but also in the manner in which the chosen interplay between the unity and diversity of the nation is translated into the various state institutions.

The MIDEA (The (Micro) Politics of Democratisation: European-South Asian Exchanges on Governance, Conflict and Civil Action) workshop held in Kathmandu in 2007 addressed many of the issues that Nepal is currently facing in devising constitutional arrangements capable of safeguarding democracy, promoting inclusion and meeting the aspirations of the different segments of Nepali society. These issues are reflected in the ongoing debates within the Constituent Assembly elected in April 2008; in fact, much emphasis is now placed on the manner in which the country's ethno-linguistic, religious, regional, cultural and gender diversity ought to

be accommodated into the new constitutional framework in order to build a more inclusive and just system. As Joanna Pfaff-Czarnecka highlighted in the workshop's opening presentation, the quest for democracy with a specific focus on social justice, social inclusion and human rights is an ongoing process that began back in 1990. Thus, a reflection on the previous 1990 constitutional experience—which ended on 15 January 2007 with the promulgation of the current Interim Constitution—and on its ideological principles is critical to understanding the current debate on constitutional change in the country. This is significant because the 1990 Constitution became an embattled document due to the discontent of Nepal's marginalised groups (Janajati, Madhesi, Dalit, women, sexual minorities, etc.) with it as a 'source of exclusion' (Lawoti 2005: 115-6), and the Maoists' core demand for the abrogation of the document and the election of a Constituent Assembly in order to end hostilities and inaugurate a mainstream political process.

The paper adopts a neo-institutionalist approach to investigate the choices made by the Constitution-drafters in 1990 with regard to the structure of the state, the electoral system, the regulation of the party system, the preference given to individual rights over group rights and the absence of positive discrimination measures. As an approach, New Institutionalism concentrates on the role of institutions as autonomous political actors in shaping political behaviour (March and Olsen 1984: 747). According to Lowndes, six features define New Institutionalism: it focuses on institutions as 'rules of the game' rather than simply organisations; it grants equal importance to formal and informal rules; it adopts a view of institutions as dynamic processes subject to change; it regards institutions as the embodiment of specific values, interests and identities; it focuses on component institutions of political life rather than whole systems of government; it emphasises the context in which institutions have developed and the way in which they are embedded (Lowndes 2002: 97).

As a result, it is argued that the institutional choices in terms of 'borrowing' made by Nepali Constitution-makers in 1990 with regard to the treatment of socio-cultural diversity need to be read in light of the end goal that the new constitutional text was devised to achieve: democracy. In this regard, the post-Cold War world situation strongly influenced the Nepali process: with the dissolution of the Soviet block, the idea of constitutional democracy was revisited and given primacy, in the first place, as the most suitable political system to enable and ignite capitalist

economic development and modernisation, hence the renewed interest in constitutional design and export of institutional structures in the early 1990s (Franklin and Baun 1995: 1). Second, liberal democracy came to be regarded as the ideal political framework within which human rights could be effectively guaranteed and for human development to unfold to its full potential. Significantly, in 1990 the United Nations Development Program (UNDP) released its first annual *Human Development Report*, expanding the notion of development beyond mere economic achievements by enlarging people's choices to comprise 'a long and healthy life, to be educated and to enjoy a decent standard of living. Additional choices include political freedom, guaranteed human rights and self-respect—what Adam Smith called the ability to mix with others without being ashamed to appear in public' (UNDP 1990: 10). In Nepal, the imperative of *bikās* (development), made persuasive by three decades of the Panchayat regime together with the powerful discourse of the development industry, made 'modernisation' an essential component of democracy in 1990 Nepal (Pigg 1992 and Leichty 2003). In fact, Nepali society expected the new Constitution to lead the country into a new democratic era. As the CRC member Daman Nath Dhungana made clear during an interview, for ordinary Nepalis democracy meant food, medical care, clean water, roads, education, and generally higher living standards.[4]

This paper focuses on the constitutional treatment of the population's diversity vis-à-vis the formulation of a Nepali national identity in 1990. My aim is to explain the institutional choices of the Constitution-makers regarding Nepal's internal diversity in relation to the influences of foreign institutional models which were adopted and adapted in framing the 1990 Constitution. In this context, it seems plausible to argue that the 1990 approach to Nepal's internal diversity is well illustrated by the formulation of the Article guaranteeing the right to equality and the Articles defining the three elements at the core of state-constructed Nepali identity: the Shah monarchy, Hinduism, and the Nepali language. My aim is to discuss the implications and modalities of the phenomenon of institutional 'borrowing' and the aspirations that the adopted institutions purported to fulfil in the context of the 1990 constitutional process. In essence, this article endeavours to go beyond an analysis of solely institutional models

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4   Interview with Daman Nath Dhungana, Kathmandu, 09/04/2007.

and formulae, to unpack such concepts, and emphasise the ideological underpinnings and values informing the Constitution-making process.

Methodology

The present analysis relies on interviews conducted in Kathmandu in 2006 and 2007 with the main actors involved in the 1990 constitutional process as well as the proceedings of the CRC held in the National Archives.[5] Tables 1 and 2 below provide a complete list of the names, political affiliation and caste/ethnic identity of the CRC and Cabinet Committee.

Table 1—Composition of the 1990 CRC[6]

NAME	TASK	AFFILIATION	CASTE
1. Bishwa Nath Upadhyaya	Chairman	King's nominee	Bahun
2. Ramananda Prasad Singh	Member	King's nominee	Tharu +
3. Pradyumna Lal Raj Bhandari	Member	King's nominee	Newar +
4. Daman Nath Dhungana	Member	Nepali Congress	Bahun
5. Laxman Prasad Aryal	Member	Nepali Congress	Bahun
6. Mukunda Regmi	Member	Nepali Congress	Bahun
7. Bharat Mohan Adhikari	Member	United Left Front	Bahun
8. Madhav Kumar Nepal	Member	United Left Front	Bahun
9. Nirmal Lama	Member	United Left Front	Tamang +
10. Surya Nath Upadhyaya	Secretary	Nominee	Bahun

Names in bold indicate the people whom I managed to interview. I should highlight that all my informants were Bahun, with the exception of one Chetri male. For this reason, during my fieldwork, I was told by a well-known ethnic activist that my data were unreliable as I had only interviewed high-caste Hindus. My choice of informants, however, was not based on their caste affiliation but rather on those who were still alive in 2007 and had been intimately involved in the 1990 Constitution-making process. Since the criticism levelled at me was based on the assumption

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5   For the purposes of this article I used the debates of the CRC transcribed and published by Mukunda Regmi (Regmi 2061 b.s.) In spring 2007 I checked them page by page against the microfilm held at the National Archives in Kathmandu, and noted only minor variations.

6   The symbol + indicates the CRC members who had already passed away at the time of my doctoral fieldwork (2006-7) in Nepal. As of 2010, Mukunda Regmi and Laxman Aryal have also passed away.

that 'real democracy' should be inclusive, I should also point out that all of the CRC members were male. I emphasise this point because, at the time of writing, the political discourse about inclusion revolved around categories of ethnicity, language and region, far more than around the category of gender.

Table 2—Composition of the Three-Minister Cabinet Committee

NAME	TASK	AFFILIATION	CASTE
1. Yog Prasad Upadhyaya	Home Minister	Nepali Congress	Bahun
2. Nilamber Acharya	Labour Minister	United Left Front	Bahun
3. Keshar Jung Rayamajhi	Education Minister	King's nominee	Chetri

Because I will also discuss the implications of the phenomenon of institutional borrowing in the 1990 Constitution-making process, this analysis requires broader reflection on the modalities of the political transformation that occurred in Nepal over time and the influence of external legal and political concepts. Historically, imported models have been gradually absorbed into autochthonous juridical-political structures; the interaction of different systems has generated a kind of legal pluralism in the country, a hybrid outcome with an essentially Nepali flavour. The 1990 constitutional experience of Nepal seems to be best understood within the framework of legal pluralism, which Chiba defines as

> The working whole structure of law of a people, constituted not of a single system of state law, but rather a complex of various systems of law called customary, religious, local, primitive, tribal or whatever, on the one hand; and many ideational factors specifically relevant to the function of the law, such as ideas, values, beliefs, philosophies, attitudes and so forth, on the other (Chiba 1989: 172).

Thus, my analysis takes into account the process of the reception of the aforementioned elements in Nepal's 1990 constitutional arrangements, with particular reference to the treatment of minorities. Second, I reflect on the manner in which exogenous juridical and political structures were renegotiated and adapted into a context far from their birthplace. More specifically, the very concepts of 'Constitution' and 'nation-state' are rooted in Western modernity and carry a historical specificity that

should not be overlooked when attempting to assess how such concepts travel outside their homeland.[7] It seems appropriate to consider carefully the epistemology behind such institutions in order to fully appreciate the implications of their adoption in light of the aspirations that they carried in Nepal's 1990 Constitution-making experience.

Constitutional borrowing has been described as a phenomenon that 'embraces constitutional influences of various kinds that cross jurisdictional borders' (Friedman and Saunders 2003: 177). Here I will concentrate on the specific instance of institutional borrowing in Nepal's Constitution-making activities in the post-Cold War world situation. However, it will be critical to bear in mind that

> borrowing is inevitable because there are a limited number of general constitutional ideas and mechanisms, and they have been in the air for some time [...] No one begins writing a Constitution from scratch. In addition, there exist strong interests that promote borrowing [...] On the other hand, [...] there are [often] important departures by which the drafters manifest the unique identities of their countries (Osiatynski 2003: 244-245).

Thus, this paper analyses the 1990 Constitution-drafting process together with its instances of institutional borrowing as the particular product of the Nepali context in the given historical moment of the post-Panchayat transition.

The CRC drafting process
In early 1990, most of Nepal's banned political parties united in a pro-democracy alliance[8] and launched a *Jan Āndolan* (People's Movement) to seek the restoration of multi-party democracy in the country.[9] Pro-democracy protests, strikes and mass demonstrations succeeded in putting pressure on the palace and, on 15 April, King Birendra dissolved the government and the National Assembly: it was the end of three decades of the Panchayat regime. On 18 April, the monarch allowed the

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7   See Anderson (1983), Gellner (1983), Breuilly (1993), and Malagodi (2008).

8   On 15 January 1990, seven Communist parties united under the United Left Front (ULF) and formed a tactical alliance with the Nepali Congress against the Panchayat regime.

9   For an account of the democracy movement see Hoftun and Raeper (1992).

creation of an Interim Government under the Premiership of Krishna Prasad Bhattarai, General Secretary of the Nepali Congress. The Cabinet included other Congress members, delegates of the United Left Front (ULF), independents and royal nominees. The democratic opening engendered a passionate debate about the drafting procedures and features of a new Constitution to establish a functioning democracy in the country.

The process of drafting the new democratic Constitution of Nepal sheds light on the political dynamics within Nepal at the time. It also helps us to appreciate the nature of the 1990 document as a compromise between the dominant political forces of the country over the institutional set-up of the democratising Nepali state. In this regard, it is essential to highlight that the task of drafting the new Constitution was—once again—not carried out by an elected Constituent Assembly, but by a small Commission hand-picked by the country's political elites. This essentially unrepresentative drafting procedure for the new Constitution undermined—at least to a certain extent—the legitimacy of the new document from its very inception. In fact, some of the more radical Communist parties that had remained outside the ULF, such as the CPN (Masal) and CPN (Mashal),[10] were demanding the immediate promulgation of an Interim Constitution to pave the way for elections to a Constituent Assembly. However, these groups had little political leverage. Their views were either ignored or actively opposed both by the palace and the Congress party. Congress had adopted a policy of 'national reconciliation' with the Shah monarchy and was not willing to jeopardise the achievements of the movement. The palace was concerned that a Constituent Assembly could take a republican turn.

The palace attempted to hijack the constitutional process and maintain its primacy in Nepal's political arena. On 11 May, King Birendra nominated a Constitutional Reform Recommendation Commission without consulting the Council of Ministers led by Bhattarai. The Commission was composed of seven members, of which only two were representatives of the political parties.[11] The public outcry forced the King to dissolve the Commission. On

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10 The CPN (Masal) seceded in 1983 from the CPN (4th Convention) and the CPN (Mashal) separated in 1985 from CPN (Masal). The leader of the Mashal faction was 'Prachanda' ('the fierce one', a.k.a. Pushpa Kamal Dahal), the future supreme leader of the CPN (Maoist).

11 See Regmi (2061 b.s.: 135).

31 May 1990, King Birendra, this time on the recommendation of the Council of Ministers, formed a new nine-member Constitution Recommendation Commission, again under the Chairmanship of Chief Justice Bishwa Nath Upadhyaya. The Secretary of the CRC, Surya Nath Upadhyaya, was the tenth member of the Commission but was not granted voting powers. The Commission was given the task of drafting a new Constitution in three months, explicitly within the mandate of constitutional monarchy and parliamentary democracy.[12] Although the Royal Communiqué did not specify the political affiliations of the Commission members, it was understood that the palace, the Nepali Congress and the ULF had three delegates each in the Commission. The formation of the CRC nonetheless excluded many other political actors operating in Nepal as well as segments of society which had become active and come into public view through the democratic opening. In fact, ethno-linguistic groups, regional communities, religious minorities and women had no direct representation in the Commission.

The choice of Commission members reflected the strategies of the various political forces involved in the constitutional process. As recounted by my informants, only the three ULF representatives were well coordinated. Nirmal Lama, Bharat Mohan Adhikari and Madhav Kumar Nepal were political leaders and understood well the importance and effectiveness of collective action. Other members of the Commission were well-respected and well-known professionals in the legal field and civil service and tended to act in their professional capacities rather than with an exclusively political rationale.[13] Chairman Upadhyaya faced the task of managing many eminent personalities with very different political backgrounds, ideologies and objectives. He therefore suggested that the Commission members worked under Committees composed of two members each. Each Committee was assigned a different topic and was requested to prepare a report to be discussed by all members of the Commission.

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12   The Royal Palace Communiqué issued by the Palace Chief Secretariat on 31 May 1990 [16 Jeth 2047] formed the Constitution Recommendation Commission (CRC) under the Chairmanship of Supreme Court Chief Justice Bishwa Nath Upadhyaya. The other eight members were: Pradyumna Lal Raj Bhandari, Ram Nanda Singh, Laxman Prasad Aryal, Mukunda Regmi, Daman Nath Dhungana, Nirmal Lama, Bharat Mohan Adhikari and Madhav Kumar Nepal. Surya Nath Upadhyaya was the Secretary of the Commission, but he did not enjoy voting powers (Regmi 2061 b.s.: 134).

13   Interview with Surya Nath Upadhyaya, Kathmandu, 22/03/2007.

Table 3—Commission Subcommittees [14]

No	MEMBERS	TOPIC
1	Bishwa Nath Upadhyaya Laxman Prasad Aryal	Judiciary, Attorney General, Citizenship, Political Organisation
2	Pradyumna Lal Raj Bhandari	Auditor General, Public Service Commission, Commission for the Investigation of Abuse of Authority, Election Commission
3	Ramananda Prasad Singh Bharat Mohan Adhikari	Fundamental Rights, Directive Principles and Policies of the State
4	Mukunda Regmi Madhav Kumar Nepal	State of Emergency, Transitional Period, Amendment Procedure, Miscellaneous
5	Daman Nath Dhungana Nirmal Lama	Parliament Form, Constitution, and Conduct of Business, Legislative Procedure

Secretary Surya Nath Upadhyaya set up a Secretariat to aid the Commission with legal research and the preparation of drafts. Each article was then discussed by the Commission and if agreement was not reached, a majority vote would take place. Once a decision had been taken, the discussion could not be reopened.[15]

Constitutional models

The Secretariat of the CRC had collected more than 150 constitutions from all over the world to ensure input and positive influences in the new document. The Commission based the formal structure of the new draft Constitution on Nepal's previous constitutional documents, especially the 1962 Panchayat Constitution. From the point of view of its contents, the CRC draft relied heavily on the 1959 Constitution of Nepal which was perceived as the institutionalisation of the achievements of the 1950-51 revolution and the beginning of the democratic era in the country. The 1959 document was drafted by a Commission nominated by King Mahendra who invited the British constitutional expert Sir Ivor Jennings to provide the Constitution-makers with guidance. Jennings was convinced that a modified Westminster model would be easy to transplant in Nepal (Dhungel *et al.* 1998: 25).

In 1990, the intention of most members of the CRC was to improve the 1959 document, particularly regarding the institutional boundaries

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14   See Regmi (2004/2061: 152).
15   Interview with Daman Nath Dhungana, Kathmandu, 09/04/2007.

of and limitations to the powers of the king. The Westminster model represented, once again, the institutional framework and primary point of reference for the drafting process. The Constitution of India also greatly influenced the 1990 document. Many of the CRC members explained during their interviews that Nepal had a long exposure to the British model of government, institutions and common law system as renegotiated in the Indian context. Most of the leaders of Nepal's democracy movement had also been politically formed in the context of India's anti-colonial struggle, and the Anglo-Indian model of government was the institutional framework with which they were most comfortable and familiar. Moreover, the CRC mandate explicitly provided for the establishment of a constitutional monarchy, and the British model was considered to be the archetype and most successful instance of such a form of government.

Chairman Bishwa Nath Upadhyaya recounted an interesting incident during my interview with him.[16] When King Birendra contacted him to ask him to chair the Commission, the Chief Justice told him that he could only draft a liberal Constitution following in the footsteps of the Westminster model. The king replied: 'That is why I called you!' The British-style system of constitutional monarchy was the point of compromise between the three main political forces involved in the 1990 Constitution-making experience. If Nepal was to be a constitutional monarchy working under a parliamentary democracy, the Westminster model appeared to be the obvious institutional point of reference at that time. The fact that the Westminster model has been used as the institutional mould for so many constitutions around the globe is certainly more due to historical reasons, including the unmatched colonial hegemony exercised by the United Kingdom until the end of World War II rather than its suitability for export. As Sartori points out, 'the United Kingdom has a difficult and *sui generis* Constitution, deriving from a tortuous sedimentation of common law, acts and conventional usage, partly legal and partly extra-legal, and despite the fact that, when one reads the British constitutional lawyers, one is often reminded of what was said in a review of Stirling's book, *The Secret of Hegel*: "never has a secret been better kept"' (Sartori 1962: 853).

Notwithstanding the limited success enjoyed by copycat Westminster-based constitutional arrangements around the globe and the short-

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16   Interview with Bishwa Nath Upadhyaya, Kathmandu, 16/05/2007.

lived 1959 Constitution in Nepal, in 1990 the Nepali Constitution-makers expressed their intention to once again follow the steps of the British system of government because of the constitutional monarchical system of the UK. The peculiarity of the British constitutional arrangement is exemplified by the fact that many of the monarch's discretionary powers in the British Constitution are regulated by constitutional conventions that are the source of the Constitution's non-legal rules (Leyland 2008: 25). Harding also highlights that constitutions based on the exported Westminster model suffer from instability and uncertainty in the legal areas regulated by conventions which are essentially a form of customary law (Harding 2004: 155-6). This phenomenon has been particularly evident in post-1990 Nepal in governmental appointments, dismissal of governments and political floor-crossing. Harding presents an analysis of Westminster-style constitutional arrangements overseas in which he distinguishes the British autochthonous 'classical model' from the 'export model' devised to fit the specificities of recipient polities. These considerations raise two problematic questions: first, why did Nepali Constitution-makers opt again for British-style constitutional arrangements in 1990? Second, how did they renegotiate the imported institutional model with local realities? It seems that the Westminster model—in its normative and formal institutional dimension—was synonymous with political modernity. It was regarded as an essential prerequisite for socio-economic development, the ultimate goal of the 1990 movement.

For the first time in Nepali history, the CRC draft[17] vested state sovereignty exclusively in the people of Nepal[18] with the ultimate aim of establishing a constitutional monarchy. It set up a bicameral legislature and a Cabinet of Ministers responsible to Parliament under the Premiership of the leader of the party holding the majority in the lower house. The document also established an independent judiciary and the Supreme Court was granted extraordinary jurisdiction to enforce the Fundamental Rights entrenched in the Constitution. The Supreme Court was also given the power of judicial review of legislation, of settling legal questions in issues of public concern (PIL) and of issuing the necessary orders to enforce such rights.[19] The

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17   For the CRC draft, see Regmi (2004/2061: 1771-1846).
18   Article 3 of the Constitution of the Kingdom of Nepal, 1990.
19   Article 88 of the Constitution of the Kingdom of Nepal, 1990.

extensive powers of Nepal's Supreme Court under the 1990 Constitution represented, in reality, a significant departure from the Westminster model and an effective limitation of the doctrine of parliamentary sovereignty as it had evolved in independent India through judicial practice.[20]

Minority demands and the Right to Equality

The efforts of the CRC members, however, were also directed towards devising an institutional framework that was suitable to their own country and maintained an essentially Nepali flavour. To achieve this, eight of the CRC members travelled around Nepal to collect suggestions from the general public. Suggestions were also sent directly to the Commission in Kathmandu in the form of letters and proposals. The success of the People's Movement had raised great expectations from different parts of Nepali society. Ethno-linguistic and religious minorities had become increasingly vocal about their demands and were active in the public sphere.

In 1990, various ethno-linguistic groups united under the umbrella organisation of the Nepal Janajati Mahasangh (Nepal Federation of Indigenous Nationalities) (Fisher 1993). These groups were pressing for a constitutionally established secular state and for full recognition of their cultural and religious rights. Interestingly, most of the suggestions received by the Commission were concerned with such issues (Hutt 1993: 35-36). As Padma Ratna Tuladhar explained, 'During the drafting of the Constitution, there were great expectations from the minorities because the Constitution was supposed to reflect the aspirations of the people, those aspirations raised by People's Movement. […] People expected that with the democratic change, secularism was going to be a given, they were convinced that it would have been guaranteed in the Constitution'.[21] For the janajatis, democracy ultimately meant a radical break from the top-down nationalistic rhetoric of the Panchayat system, anchored in the culture and values of the Parbatiya high-caste Hindus, and the establishment of a fairer

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20   The Indian concept of judicial review evolved in constitutional practice through the tensions between Parliament and the Supreme Court over property rights and the Congress government's programme of land redistribution (See: *Golakh Nath v. State of Punjab* AIR 1967 SC 1643). Judicial review in India resulted in a *de facto* limitation of the doctrine of parliamentary sovereignty, especially with the establishment of the basic structure doctrine in the *Kesavananda Bharati* case (AIR 1973 SC 1461).

21   Interview with Padma Ratna Tuladhar, Kathmandu, 12/04/2007.

system.[22] The only question was whether the Nepali political leaders were prepared to do away with the ideological narratives established by thirty years of Panchayat rule.

The CRC draft also included an extensive section on Fundamental Rights with much emphasis on the right to equality and non-discrimination on grounds of religion, race, sex, caste, tribe or ideological conviction.[23] The CRC members' awareness of the disadvantaged socio-economic position of many ethnic minorities, lower castes and women was reflected in the Article pertaining to the right to equality. In the section referring to non-discrimination on the part of the state, the following sub-clause was added:

> Provided that special provisions may be made by law for the protection and advancement of women, children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially or educationally backward.[24]

This formulation was devised to allow for future enactments of special legislation for the advancement of the underprivileged segments of Nepali society. It is very similar to Article 15(4) of the Indian Constitution introduced by the First Amendment, even if in Nepal there are no Scheduled Castes and Tribes. The aforementioned provision of the CRC draft opened the door for some form of future positive discrimination, to be defined by the legislator. The CRC members rejected the 'minority approach' and refused to include in the draft any provision for an Indian-style reservation system. Nirmal Lama, although himself a member of a Janajati group, forcefully condemned the minority approach as a path leading to communal tension (Dhungel *et al.* 1998: 39). The Indian experience of communal violence and the findings of the Mandal Commission Report, which was made public at the time of the CRC's work, greatly influenced the Nepali Constitution-making process with regard to minorities' affirmative action. Moreover, a few Indian lawyers travelled to Nepal to provide advice and assistance to the CRC work. In regard to the reservation system they are said to have

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22   For discussions of ethnic identity, issues and demands in Nepal, see Gellner (ed.) (2001); Lecomte-Tilouine and Dollfus (eds.) (2003).
23   Article 11 of the Constitution of the Kingdom of Nepal, 1990.
24   Article 11 (3) of the Constitution of the Kingdom of Nepal, 1990.

urged: 'Don't commit the same mistakes we made!'[25] In her analysis of the politics of achieving Scheduled Tribe status among the Nepali population of the Indian district of Darjeeling, Sara Shneiderman clearly shows the impact of the reservation system on the area's identity politics. Her ethnographic research reveals that the mid-1990 reorganisation of ethnic groups in Darjeeling reinforced ethnic boundaries, encouraged ethnic un-mixing and fostered mutual antagonism (Shneiderman 2007). These preoccupations were also in the minds of the 1990 Nepali Constitution-makers I interviewed.

State structure and political organisation

The formal recognition in the 1990 Constitution of the internal plurality of Nepali society was not translated into the country's institutional framework. In 1990 there was no discussion of federalism or the inclusiveness of state structures.[26] In the course of the debates on the constitutional establishment, the preoccupation with strengthening national unity prevailed. Nepal's internal diversity was perceived as a potential weakness and divisive factor in the small Himalayan kingdom.

A mixture of security concerns and a Kathmandu-centric approach to politics led to the adoption of a highly centralised unitary state structure and a British-style first-past-the-post majoritarian electoral system.[27] Moreover, the desire to strengthen national unity translated into a constitutional provision banning any political party and organisation formed on the basis of religion, community, caste, tribe or region.[28] The Constitution drafters feared that political organisations centred on 'communal' identities could lead to centrifugal separatist movements and sectarian violence; and at the same time, they believed that a functioning democratic establishment based on liberal values would overcome and eventually solve all of Nepal's social imbalances and inequalities.

As highlighted by most of the CRC members I interviewed, at that time there was great anxiety about the security and independence of Nepal, especially vis-à-vis India. Due to the general political international instability in the wake of the fall of the Berlin wall, India was gravely

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25   Interview with Laxman Prasad Aryal, Kathmandu, 09/04/2007.
26   Interview with Daman Nath Dhungana, Kathmandu, 09/04/2007.
27   Article 45 of the Constitution of the Kingdom of Nepal, 1990.
28   Article 112 (3) of the Constitution of the Kingdom of Nepal, 1990.

concerned about its own defences and wanted to ensure that its border security was constituted by the Himalayan range. In this vision, Nepal was of paramount strategic importance.[29] Thus, on 31 March 1990, the New Delhi government sent an extremely unfair new treaty proposal to King Birendra to sign in exchange for Indian support for his regime against the agitating political parties (Shah 2004: 203-204). The king refused to comply and handed over power to the parties. A small country syndrome has affected Nepal since Prithvi Narayan Shah's famous definition of the position of the Himalayan kingdom between India and China as that of 'a yam between two rocks' (Stiller 1968). The Commission draft provided that all treaties and agreements with foreign countries pertaining to peace and friendship, strategic and security matters, boundaries and natural resources had to be ratified by Parliament with a two-thirds qualified majority Hachhethu (1994: 102-103). These concerns were raised especially in relation to the many agreements concluded between Nepal and India.[30]

Nepali identity in the 1990 Constitution

In terms of the Nepali identity promoted by the new Constitution, the CRC members wanted to include the recognition of Nepal's internal diversity in the constitutional text, but at the same time wished to reinforce the unity of the Nepali people. The three pillars of the Panchayat-era nationalism, namely Hinduism, the Nepali language and the Shah monarchy, remained virtually unchanged in the new constitutional document.

The draft made it clear that the king had to be Hindu, but the Commission could not agree whether the state should also be declared Hindu. For the first time in Nepali history, however, the state was declared 'multiethnic and multilingual', but the term 'multireligious' was omitted.[31] Moreover, the national anthem, the national colour and the national flag all reflected Hindu symbolism (ICG 2005: 13-14). Bharat Mohan Adhikari recounted an interesting story.[32] When the Commission discussed the issue of secularism vis-à-vis the persisting definition of Nepal as Hindu, the ULF members managed to secure a pro-secularism majority vote with the support of the Nepali Congress delegate Daman Nath Dhungana and the royal nominee

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29   Interview with Surya Nath Upadhyaya, Kathmandu, 22/03/2007.
30   For a detailed analysis of Indo-Nepal relations from a legal perspective, see Subedi (2005).
31   Article 4 of the Constitution of the Kingdom of Nepal, 1990.
32   Interview with Bharat Mohan Adhikari, Kathmandu, 18/05/2007.

Ramananda Prasad Singh. When news of this reached the palace and certain conservative segments of Nepali society, there was an outcry and Chairman Upadhyaya exerted pressure on the Commission to reopen the decision, against the working procedure adopted by the Commission earlier on. It was then decided to leave the Constitution silent on this issue.

In the Constitution, the right to religion was again limited to 'religion as handed down from ancient times and having due regards to traditional practices', and the ban on conversion was also reiterated.[33] It has been argued that the objective of the restrictive formulation of the right to religion in the 1990 Constitution was 'to discourage forceful conversion and to protect the nation from religious invaders' (Dhungel *et al.* 1998: 181). During the CRC debate on the right to religion, the position of Laxman Aryal shed light on the purpose of Article 19.

> It is not appropriate to include secularism in the Fundamental Rights, securing the right to profess any religion. We have to ponder this issue. It is important to protect the existence of our country, social peace, social unity, feelings of fraternity and nationality. Our country is small. So much for believing in secularism, since 24 Caitra 2046 24,000 people have been made Christian. Like this, conversion to another religion was made. There will be a situation where the Nepali ethnicity *(jāti)* will disappear, there will be no Hinduism and everyone will be made Christian; we call someone who comes from the outside an immigrant, but there will be a situation in which we will all be immigrants in our own country. This is what will happen to our national culture. Our 'Nepali-ness' will be destroyed. Therefore, no-one can convert from one religion to another (54th meeting of the 1990 Constitution Recommendation Commission, 10 Bhadra 2047, from Regmi 2061 b.s.: 1658 (my translation)).

Two points need to be made: first, the concepts of 'Nepali-ness' and Hinduism seem inextricably intertwined; second, it is frequently argued that Nepal's 'social peace' is best protected by upholding the *status quo* of the Hindu mode of secularism which maintains the primacy of Hinduism, but guarantees the freedom to profess any of the 'ancient religions'.

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33   Article 19 of the Constitution of the Kingdom of Nepal, 1990.

Nepali was again declared both the language of the nation *(rāstra bhāsā)* and the official language, while the other mother tongues were defined as national languages *(rāstriya bhāsā).*[34] In the Fundamental Rights, an Article was included to guarantee cultural and educational rights, allowing the various communities of Nepal to promote their languages and cultures and to run their schools up to primary level in their own languages.[35] Most of my informants claimed that there was little debate about the position of the Nepali language amongst the Commission members. The position of Nepali as the lingua franca and official language of the country remained unchallenged, although it was agreed that the country's other languages deserved the space to flourish.[36]

In the Commission, there was passionate debate regarding the position of the monarchy and the extent of its powers. The principle of 'king in parliament' was adopted, executive powers were vested in the king and in the Council of Ministers, no issue concerning any action of the monarch could be raised in any court nor discussed in Parliament, the king's name was included in the name of most constitutional bodies, and he was again declared Supreme Commander of the Army.[37] Although the ULF members professed a republican ideology, at that time it was not possible to do away with the monarchy and they had to compromise. However, the Communists aimed to considerably reduce the powers of the king. Madhav Nepal had in mind the framework of the Spanish Constitution which inspired him to adopt what he defined as a 'republican monarchy' system with the king as a mere figurehead.[38] The Nepali Congress and the palace delegates managed to impose a 'constitutional monarchy with higher status and privileges' through a majority vote (Hachhethu 1994: 103).

In the new Constitution, the monarchy was defined in Nepali as *rājtantra.* This term was directly connected to the type of democracy the 1990 Constitution establishes: *prajātantra.* The term *prajā* (people) conveys a sense of subject-hood: there can not be a *prajā* unless there is a *rājā.* The leftist political parties have usually preferred the term *ganatantra* because a *gana* can be defined as a community characterised by internal equality

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34   Article 6 of the Constitution of the Kingdom of Nepal, 1990.
35   Article 18 of the Constitution of the Kingdom of Nepal, 1990.
36   Interview with Surya Nath Upadhyaya, Kathmandu, 22/03/2007.
37   Article 119 of the Constitution of the Kingdom of Nepal, 1990.
38   Interview with Madhav Kumar Nepal, Kathmandu, 10/04/2007.

on any given issue. The 1990 Constitution, while establishing Fundamental Rights for all Nepali citizens, implicitly still designated them as the king's subjects. This is reflected in the provisions relating to His Majesty. While Article 27 (2) makes the king 'the symbol of Nepalese nationality and the unity of Nepalese people', Article 27 (1) makes it clear that His Majesty must be 'a descendant of the Great Prithvi Narayan Shah and an adherent of Aryan culture and Hindu religion'. By making reference to the model of Hindu kingship, this Article aimed at providing religious and historical legitimacy to the Shah monarchy.

Ultimately, all the CRC members came to an agreement and signed the Constitution draft, but the ULF members submitted a Six Points of Dissent document in which they accepted the draft but with some reservations.[39]

The work of the Cabinet Committee

On 10 September 1990, Chairman Bishwa Nath Upadhyaya submitted the draft prepared by the Commission to the king who handed it over to PM Bhattarai for finalisation. The Prime Minister established a three-Minister Cabinet Committee under the coordination of the moderate ULF Minister Nilamber Acharya to perform this task. The other two members of the Committee were the Congress Home Minister Yog Prasad Upadhyaya and the royal nominee Dr. Keshar Jung Rayamajhi, the Minister of Education. The three Ministers left Kathmandu and worked for eight days in Godavari to finalise the document.[40]

The Committee made three significant changes to the CRC draft. First, it settled the debate about secularism vis-à-vis the Hindu state. The CRC draft formulated the provision in a manner that made being Hindu only a prerequisite for the monarch. The Cabinet Committee inserted a comma in the Article specifically defining the state as Hindu. In my interview with him, Yog Prasad Upadhyaya, the former Home Minister, looked back at the notorious 'incident of the comma' and said that he was still not sure whether the insertion of the comma was a stroke of genius or a childish gesture. He maintained that the character of the 1990 document was undeniably secular. In his view, the definition of Nepal as a Hindu state was merely

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39   The main thrust of the ULF dissatisfaction with the draft related to the position of the monarchy.

40   Interview with Keshar Jung Rayamajhi, Kathmandu, 15/04/2007.

symbolic and the majority of Nepalis were in favour of retaining the Hindu kingdom. When asked how the idea of a democracy could be reconciled with the idea of a Hindu state, he said: 'The Queen is the Head of the Church of England, but who could say that the UK is not secular?'[41]

Second, according to the draft, every provision was amendable by Parliament with a two-thirds majority. The Ministers introduced a limitation and allowed for amendments which 'do not prejudice the spirit of the Preamble'.[42] The introduction of the Indian-derived 'basic structure doctrine' in Nepal's Constitution was advocated both by Congress, aiming to safeguard democracy, and by the palace for its own self-preservation. Finally, the Cabinet modified the provision regarding treaty ratification and specified that treaties of an ordinary nature concerning peace and friendship and natural resources could be ratified by a simple majority.[43]

The Committee also received a list of approximately eighteen points to be revised in the CRC draft from Reabatti Raman Khanal, the Palace Chief Secretary, mostly concerning the position of the monarchy.[44] The palace's dissatisfaction with the draft Constitution manifested itself openly on 22 October 1990 when the *Gorkhapatra*, the Government-owned daily newspaper, published an article stating that the palace had prepared a separate draft. There was a public outcry and the king came under heavy criticism. The following day, the palace issued a statement claiming that the draft had been prepared in consultation with Prime Minister Bhattarai. The Prime Minister, however, denied any knowledge of the separate royal draft and put pressure on the king to promulgate the CRC draft as revised by the Cabinet.[45] Thus, the new Constitution was promulgated by King Birendra shortly afterwards, on 9 November 1990.

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41 Interview with Yog Prasad Upadhyaya, Kathmandu, 11/04/2007. The former Minister refers to the fact that by inserting a comma in Article 4(1) the Committee specifically defined the state as Hindu, and not just the Shah monarchy.

42 Article 116 of the Constitution of the Kingdom of Nepal, 1990.

43 Article 126 of the Constitution of the Kingdom of Nepal, 1990.

44 Interview with Nilamber Acharya, Kathmandu, 12/04/2007.

45 Bharat Mohan Adhikari told me that he had himself leaked the information about the separate palace draft of the Constitution to the press (interview with Bharat Mohan Adhikari, Kathmandu, 18/05/2007). This was probably—as Hachhethu (1994: 110-11) argues—upon the suggestion of the Prime Minister himself. Interestingly, it was Bharat Mohan Adhikari who gave me the aforementioned press clipping from the *Gorkhāpatra* of 22 October 1990, as that particular issue of the paper is actually missing from the archives of the *Gorkhāpatra* in Kathmandu.

Conclusion

The 1990 Constitution of the Kingdom of Nepal was devised to transform the Nepali polity into a functioning democracy. The document formally recognised the plural and diverse nature of the country's social fabric, but concretely put most emphasis on individual rights, in line with the liberal tradition embraced by the constitution- makers. The establishment of democracy was considered sufficient to guarantee every citizen's fundamental rights, irrespective of their ethnic, religious and regional affiliation. To a certain extent, the institution of a democratic order was also considered to be the prerequisite for modernisation and development, although the adoption of Panchayat-style nationalist narratives contradicted this very principle.

In his paper at the MIDEA workshop in 2007, Yash Ghai presented different ways in which states in multiethnic societies are organised. He categorised Nepal during the 1990 constitutional experience as a state with a political recognition of diversity but within the framework of a hegemonic model, because ethnicity was recognised, but only in unequal ways. The 1990 Constitution provided a homogenising vision of how Nepalis ought to be: Hindu, Nepali-speaking, and loyal subjects of a Hindu king who was a descendant of the father of the nation. Such narratives were firmly rooted in the cultural dominance of the Parbatiyas and their inclusion in the 1990 constitutional text helped to reinforce the hegemony of high-caste Hindu Paharis and—to a certain extent—the Newars.[46] Thirty years of Panchayat state-constructed nationalist discourse had long-standing effects on the Nepali psyche in defining the scope of what being Nepali could be. During the 1990 Constitution-making process, ethno-linguistic, religious, and regional diversity was perceived as contributing to the richness of the Nepali heritage, but—at the same time—as a disaggregating factor, a potential danger, and a structural weakness, especially regarding India. To a certain extent, such diversity was considered to be a traditional relic obstructing the modernising process envisioned by the Constitution-drafters. Surprisingly, at the same time, the Constitution-makers chose to rely on the same Panchayat-era narratives to define the essential

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46 Yash Ghai, 'Accommodating Diversity in Nepal: Constitutional Perspectives', paper presented at the MIDEA workshop on *Constitutionalism and Diversity*, Kathmandu, 22-24 August 2007.

coordinates of 'Nepaliness' as being the unifying factors of the Nepali polity. For the palace, maintaining the Panchayat-era narratives in the new constitutional arrangements was instrumental to an enduring legitimation of the institution of the monarchy *per se.*

The political parties perceived the inclusion of such narratives in the 1990 Constitution as a merely symbolic gesture, because any constitutional document is to a certain degree expected to define who the people inhabiting the state's territory are. Moreover, they were ready to relent and compromise on issues like the state being Hindu, the national anthem, the national colour, the national animal and so on, because they perceived them as mere formalities with little bearing on the establishment of a functioning democracy. However, a Constitution is a legal document; hence every word in it casts a long shadow within which the process of interpretation will take place once it is promulgated.[47] Symbolic provisions have important consequences for the actualisation of a Constitution. For instance, this is exemplified by the manipulation of the 'Hindu kingdom' clause in post-1990 Supreme Court decisions.[48]

The Indian experience of increased communal violence since the 1980s contributed to the decision by the Nepali Constitution-makers to discard the minority approach. Historically, the modernising tool of legal uniformity was introduced in Nepal by Jang Bahadur Rana with the promulgation of the Muluki Ain in 1854. This Code was employed by the Rana ruler as a nation-building device: a modern nation required a certain degree of internal homogeneity.[49] The new 1963 Muluki Ain stayed in line with the old Code and rejected the idea of Indian-style personal laws.[50] The 1990 Constitution also followed in the footsteps of the country's legal tradition by attempting to exert an even stronger central control to reinforce and consolidate state sovereignty. In this context, the 1990 Constitution-makers again adopted the Westminster model for Nepal because they considered it to be the most successful institutional form in which a monarch could

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47   Michael Halton Cheadle, Personal Communication, Kathmandu, 08/06/2007.

48   See *Dr. Canda Bajracharya v. Secretariat of Parliament*, NKP, 2053/1996, Vol. 38, N. 7, p. 537, in which the Supreme Court refused to exercise its powers of judicial review of legislation to strike down inheritance legislation discriminatory to women in view of the need to preserve social stability.

49   For a detailed discussion of the Muluki Ain, see Höfer (1979).

50   Interview with Bishwa Nath Upadhyaya, Kathmandu, 16/05/2007.

coexist with democratic forces. However, as Brendan O'Leary pointed out during his presentation at the MIDEA workshop, a historically-informed analysis of constitutional arrangements around the globe reveals that the Westminster model is a catastrophe for deeply divided societies like Nepal's, and the expectation that parliamentary systems ought to work like the British one is misguided.

This raises the question of why Nepal's Constitution-makers again opted for a British-style constitutional arrangement in 1990. For my informants, the Westminster model was synonymous with political modernity, an essential prerequisite for socio-economic development and democratisation, which were the ultimate goals of the 1990 regime change itself. Thus, I maintain that Nepal's 1990 Constitution-making was the product of both the processes of *aspirational* and *aversive constitutionalism* identified by Scheppele. *Aspirational constitutionalism* is defined as 'a process of Constitution building in which constitutional decision makers understand what they are doing in terms of goals that they want to achieve and aspirations that they want to live to' (which in 1990 Nepal translated into the adoption of nominally Westminster-style unitary institutions) (Scheppele 2003: 299). *Aversive constitutionalism*, however, is described as '[a process that] calls attention to the *negative models* that are prominent in Constitution builders' minds. Constitution-builders may have only the vaguest sense of where they are going and how they should get there; more often, they have a clearer sense of what it is that they want to avoid' (which in 1990 Nepal translated into a rejection of the Indian-style constitutional approach to socio-cultural diversity) (ibid.: 300).

To conclude, the process of institutional borrowing carried out during the 1990 Constitution-making experience sheds light on the aspirations of the drafters for a democratic and more equitable Nepal. However, the dismissal of the 1990 Constitution in early 2007 proves that the institutionalisation of democracy and the effective inclusion of disadvantaged groups require more than carbon-copying foreign models. In more general terms, we should reflect on the epistemology and historicity of institutional arrangements, especially when considering their adoption: 'it is trite but true that the constitutional institutions and principles of any country should be understood in context in order to be useful as a model for others' (Friedman and Saunders 2003: 180). This seems to be the main

lesson that should be taken away from the 1990 Constitution-making process for the successful foundation of a New Nepal; in fact, as Scheppele (2003: 298) sagaciously reminds us, 'Constitution-builders *guess* about the future and what will most successfully guide them through it. They *know* about the past and the present and what they want to avoid'.

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Inside the People's Liberation Army: A military perspective

Sam Cowan

Introduction

Much has been written about the Maoist conflict in Nepal, which lasted from 1996 to 2006,[1] but little that gives objective insight into the basis of the military effectiveness of the armed wing of the Maoists, the People's Liberation Army (PLA).[2]

This analysis is based mainly on a study of six Maoist-produced videos which cover an ambush that went badly wrong at Ganeshpur on 28 February 2005 and two significant battles that took place at Khara (on 7 April 2005) and Pili (on 4 August 2005). Ganeshpur is notable for the loss of an elite group of PLA fighters, including a particularly popular PLA commander, in a botched military action, and the consequent impact on morale. The Khara and Pili battles are notable for their significant political consequences, as well as for the fact that the two commanders-in-chief were personally involved in the instigation of deeply flawed plans that led to humiliating disaster and significant loss of life. Both sides, therefore, have a continuing strong vested interest in drawing a veil over what happened in these battles and why. The period covers the culmination of the feud between the top two Maoists, Prachanda, the party chairman, and Baburam Bhattarai, his recognised number two, which came close to splitting the party. It also covers their subsequent reconciliation and the start of 'the Delhi process'

which led to the first formal political deal between the Maoists and the political parties. All these developments are seen impacting on the military actions covered by the videos. The analysis is also based on discussions with senior military sources from both sides which confirm and in some cases amplify what is seen and heard on the videos.[3] I have also applied my own experience as a professional soldier for forty years and a knowledge of Nepal gained over many visits and extensive trekking since 1965.

The videos I have studied first became available to selected journalists in late 2006. They were shot by Maoist journalists attached to the PLA's western division, using small hand-held cameras. It would appear, not least from the candour of what is said in them, that initially they were intended primarily for internal use for analysing military actions, and very possibly also for recording for posterity the contribution of the PLA to the Maoist struggle.

The videos provide a singular insight into the military capability and internal dynamics of the PLA. No commentary is provided: the people seen on the videos, from senior commanders down to the most junior ranks, speak for themselves, often in the most candid and critical terms. A feature of them is the use of revolutionary songs as background music. These songs are an important part of Maoist culture, recorded on cassettes, written in song sheets and distributed widely: the melodies are based on the evocative folk songs of Nepal and have an immediate appeal.[4] Some are lyrical ballads and some, as on these videos, are much more martial.

Two particular songs are frequently used. The first is 'Lamo Bato' ('Long Road'). The chorus refrain is 'A long track of a thousand miles begins with a single step' and typical verses are:

> He who loves the people wins,
> He who loots the people loses.
>
> He who can win over death drives the world,
> He who can enjoy gunpowder can exist in every fierce battle.

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3   I am very grateful to Hikmat Khadka for translating what is spoken in the extracts of the videos referred to in this analysis. The sound is of variable quality so there is room for doubt on some minor detail, but I am confident that the general sense of what is spoken is accurately conveyed.

4   See Stirr (forthcoming), de Sales (2003), Lecomte-Tilouine (2006), Mottin (2010).

Bodies fall before the bullets, but confidence never does,
Physical remains degrade after death, but ideology never does.

The second song is 'Hami Rato Manche' ('We the Red People'). The constantly repeated chorus is 'We the red people, the people of People's Liberation' and typical verses are:

We can swallow fire, we can dry the ocean,
We are the people who were created from the martyrs' blood,
We are the people who go on destroying the enemies' forts.

We are the people who go on hunting for the people's enemies,
Making earth and sky tremble, causing wind and storm to blow,
Chewing up the hearts of feudalists and imperialists

These brief extracts illustrate a strong ideological drive centred on notions of sacrifice, violence and contempt for death. I leave the interpretation of such songs within a Hindu cultural context to anthropologists, but it is my contention that what is seen and heard on the videos show that the PLA combatants were not simply blinded by ideology or driven by it. As with soldiers everywhere, they were vulnerable to demoralisation, appreciated the practical and tactical importance of sound plans and knew that success in combat depended ultimately on martial qualities such as strong discipline and brave leadership.

In sum, the action on the videos provides a reasonable means for assessing the PLA's fighting effectiveness: its strengths and weaknesses; the state of its training; and the quality of its people, particularly at the crucial leadership level of company, battalion and brigade, which has seldom been publicly exposed. Although there are few images of actual fighting, not least because most attacks took place at night and the obvious danger to the journalists, the videos also provide an opportunity to judge the quality of the PLA's battle procedures, a military term of art covering all the complex processes necessary to launch a force into action in good order at the right time and place. These range from the giving of orders, to logistic support, to the movement, usually over many days, to (using conventional military parlance) an Assembly Area near the objective, and the subsequent insertion and correct positioning of assault formations in a

Forming Up Point (FUP) prior to crossing the Start Line at H Hour, the time given for an attack to begin.

The strategic context and Maoist strategy

The PLA and its opponents, the Royal Nepal Army (RNA), fought two very different wars. Essentially the RNA fought a conventional war of attrition in which the emphasis was on the control of key territory such as urban centres and district headquarters, and on inflicting casualties through military engagements with the aim of weakening the Maoist will to fight, through a gradual exhaustion of physical and moral resistance. The PLA fought the war guided by a fundamentally different concept of conflict, as set down in the writings of Mao Zedong which in turn reflect many of the ideas of Sun Tzu who, 2500 years ago, drew on an existing corpus of Chinese ideas and practices in formalising his theory of war. Sun Tzu focuses on the need to manipulate the enemy to create the opportunities for easy victories and on lulling the enemy into untenable positions with prospects of gain, then attacking when they are exhausted. He stresses that avoiding a strong force is not cowardice but indicates wisdom because it is self-defeating to fight when and where it is not advantageous (see Keegan (1993: 202) and Sawyer (1993: 155)). This emphasis is reflected in a number of Mao's best-known military maxims: the enemy advances, we retreat; the enemy camps, we harass; the enemy tires, we attack; the enemy retreats, we pursue.[5]

At the strategic level, Mao's concept of 'protracted people's war' is his most enduring legacy. He stressed that at all times the revolutionary army must stay unified with the people among which it fights. The people can thus supply the recruits, supplies and information that the army needs, and can be politicised at the same time. In this way, the cultural and political

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[5] Mao's prolific writings are summarised in various compilations of what is generally known as 'the little red book'. His ideas, including the link with Sun Tzu, are well analysed in Griffith (1961), which includes a translation of Mao's 1937 essay *Yu Chin Chan* ('Guerrilla Warfare'). Griffith writes: 'Guerrilla tactical doctrine may be summarised in four Chinese characters 'Sheng Tung, Chi Hsi' which mean 'Uproar (in the] East; Strike (in the] West'. Here we find expressed the all-important principles of distraction on the one hand and concentration on the other; to fix the enemy's attention and to strike where and when he least anticipates the blow. Guerrillas are masters of simulation and dissimulation; they create pretenses and simultaneously disguise or conceal their true semblance. Their tactical concepts, dynamic and flexible, are not cut to any particular pattern. But Mao's first law of war, to preserve oneself and destroy the enemy, is always governing' (Griffith 1961: 26).

structure of society can be transformed step-by-step with military success. Revolution thus comes about not after and as a result of victory, but through the process of war itself. Hence, Mao's best known slogan: 'Power flows out of the barrel of a gun (Keegan and Wheatcroft 1976: 209). Intrinsic to Mao's ideas about protracted war is the need to establish base areas and liberated zones and also the need to move through the stages of strategic defence, strategic equilibrium and strategic offence.

So in Mao's terms where had the conflict in Nepal progressed to in early 2005? The period of Strategic Defence in the People's War was deemed to have ended with the completion of the Sixth Plan in February 2001. In a document presented to the Central Committee in February 2004, Prachanda claimed that the stage of Strategic Balance or Equilibrium was reached with the attack on the RNA base at Ghorahi in Dang in November 2001. The Maoists announced the launch of their Strategic Offensive on 31 August 2004 but declared a preliminary sub-phase of Strategic Counter Offensive (see Ogura 2008).

A framework for an assessment of fighting effectiveness

The above sets the context for analysing the performance of the PLA in the three military operations selected but, before doing so, it is useful to have a framework for assessing the effectiveness of any military force. British military doctrine[6] usefully defines 'fighting power' or 'military effectiveness' as having three distinctive but related components: the physical, the moral and the conceptual:

a. The physical component is the means to fight. This requires that people be recruited and trained; and that weapons be acquired and distributed for them to fight with.

b. The moral component concerns the ability to get people to fight. Those recruited have to be infused with the warrior spirit and mentally prepared for fighting through discipline and by convincing them of the merit of the cause for which they are being asked to risk their lives. Getting people to fight also involves the key area of motivation. This follows from high morale, but also depends crucially on maintaining

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6   *Design for Military Operations- British Military Doctrine* Chapter 4 Military Effectiveness. http://nssc.ge/cms/site_images/British_Military_Doctrine.pdf

a strong sense of purpose, a key task of commanders at all levels. A vital element of the moral component is leadership—the projection of personality and character to get soldiers to do what is required of them, whatever the difficulty and danger. Skill in the techniques of leadership is the foremost quality in the art of command and contributes very largely to success at all levels of war.

c. The conceptual component can be described at one level as the thought process behind the ability to fight. It is often based on 'military doctrine', not in the sense of providing rigid rules to follow but in establishing a common understanding of the approach to war that can be followed by all commanders from top to bottom. In short: this is how we fight. This component also emphasises the importance of effective command and the centrality of psychological factors in war, whatever its level of intensity, reflecting Clausewitz's view that 'all military action is intertwined with psychological forces and effects' (von Clausewitz 1984: 136).[7] In other words, war in all its manifestations is as much a mental as a physical struggle, and is fought as much with brains as with force. This struggle of opposing minds lies at the heart of strategy, the art of which is not to apply force on force but to employ strength against weakness; what Sun Tzu memorably described as achieving a situation where one is 'throwing rocks at eggs' (Sawyer 1984: 187). To achieve the concentration and surprise necessary to do this, a successful commander must read his opponent's mind while disguising his own intentions. He must also minimise the potentially destructive effects of Friction, a term Clausewitz used to describe the host of factors that work against the successful implementation of any military plan. In this specific context, Clausewitz said, 'everything in war is very simple but the simplest thing is difficult' (von Clausewitz 1984: 119). Size is a critical factor: the larger the force the more difficult it is to control, particularly when things go wrong. Hence the importance of experienced, strong willed commanders, a well-practised chain of command, the proper delegation of authority and responsibility, and reliable channels of communications.

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7   See also, of many examples, on page 137—'Military action is never directed against material force alone: it is always aimed simultaneously at the moral forces which give it life, and the two cannot be separated.'

In assessing the military strength and effectiveness of any force, full weight must be given to all these factors.

Ganeshpur

In late February 2005, the PLA's western division was deployed in the Tarai to carry out an attack on Gulariya, the district headquarters of Bardiya district, about three miles from the Indian border. This plan was aborted because of fears that it had been compromised but, rather than withdrawing immediately to the relative security of the hills, a decision was made to mount an ambush in the Ganeshpur area on the main road connecting Gulariya with Nepalganj, the headquarters of Banke District, about 25 miles to the west. The ambush was carried out on 28 February 2005. While withdrawing, the ambushing force was surrounded by forces of the RNA and suffered heavy losses. The 37 PLA fighters killed in this action included Jit, the Brigade Commander of Second Brigade, an elite PLA formation designated as 'the mobile brigade'. A further sixteen PLA people in a blocking position were also killed.

'Jit' was Prembahadur Roka from Dhyar village, near Ragda in Jajarkot. He was a legendary fighter of renowned bravery who had taken part in many Maoist attacks since the start of the People's War, including the major assaults at Dunai in September 2000, Holeri in July 2001 and Mangalsen in February 2002. He was also a key commander in the successful attack on a RNA Ranger battalion in the forest area of Pandaun in Kailali in December 2004. Just two weeks before his death he had led the attack on the prison at Dhangadi in Kailali which had released 150 prisoners, over half of them Maoists.

The statement issued after the action by Prabhakar, the commander of the Western Division, pulled no punches. It showed in stark terms how scarred the Maoists were by the mauling they received:

> We consider this incident very serious. The human and logistical losses have seriously affected the Western Division..... having given serious thought to our shortcomings in our analysis and synthesis of the comprehensive situation of that particular battle, we have to embrace the fact that we must advance through many sacrifices to turn the negative to positive.[8]

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8   'Indian Army Intervenes Against The Nepal People's War' by Li Onesto, 30 Jan 2005 (Countercurrents.org).

As divisional commander, Prabhakar must have authorised Second Brigade to carry out the ambush but Vividh, the vice divisional commander, was jointly responsible with Jit for the ill-conceived and badly executed plan which had such disastrous consequences.

Video Clip 1 is a short extract of a starkly realistic and insightful appraisal of what went wrong from a wounded combatant. In essence, he says that they were committed to the plan, and had the spirit to carry it out, but failed to understand that the enemy could discover what they were going to do. They also failed to observe his movements. They were still on the last plan. The plan was weak by being over-focused on attack. There was no plan for all-round defence when the enemy attacked them. Later in the video he says that the loss of their group leader left them devastated and that even when they broke clear there was no one to direct them.

Given all he has been through, his stoical and very articulate comments are impressive, and reflect well on his training as a PLA fighter. He concludes his analysis by saying:

> Although we may be wounded or suffering due to physical pain, we hold a spirit to give all our blood and sacrifice our lives for the Party. In that spirit of sacrifice, we are proud of the (wounded) situation we are in.

However, the body language of those around him indicates a degree of demoralisation, and this is more manifest in Video Clip 2. What is seen and heard vividly demonstrates that, whatever might be claimed in Maoist poems and songs, the PLA, like other military forces, was not immune from the fact that casualties can hit morale hard, particularly the loss of popular and well respected leaders, and particularly their loss in ill-considered and badly executed actions. It is the job of commanders to deal with the consequential damage to morale.

On the videos Vividh is shown addressing two different groups of clearly demoralised fighters. To the first group, shown on the clip, he says that only Jit has been lost and that the party has many more commanders. He appeals to those listening to come forward bravely and aspire to be commanders. His acknowledgement of the impact of Jit's death, and his effort to use his reputation and sacrifice to inspire those he is addressing,

are common features of both talks. To the second group, not shown in the video extract, he says;

> Together we must move forward, and we must become Jit. The common goal of every member, commander and commissar of this brigade has to be: 'I want to become Jit.' How to become Jit? This is the main issue. This is a beautiful and selfless goal, one that is filled with courage and wisdom. You and I must fulfil that goal.

Aside from ideological references, most military commanders would be very satisfied to give talks of such quality to soldiers who are in the state we see them in. The body language of many of those listening is not very responsive or encouraging but, given the searing experience they have been through, that is what one would expect. They all know the commitment expected of them when they became soldiers in the PLA: in Vividh's words, at that point they signed their own death certificates.

Despite the imagery, it is a moot point how much this obligation, with its stress on the merits and value of sacrifice, differs from that of professional soldiers down through the ages. One distinguished soldier and academic memorably described the obligation as 'an unwritten contract with unlimited liability' (Hackett 1983), and the universality of remembrance rituals and the names and tributes on war memorials in every town and village in the western world attest to the near universal recognition of the value and honour placed on sacrifice.

At the practical level, Vividh assures his listeners that 'a careful and detailed analysis' of the action will be carried out. This echoes Prabhakar's reference to 'an analysis and synthesis' to identify 'shortcomings'. Nothing is known of the extent of this investigation or if anyone was held personally to account for the disaster. What is known is that just 39 days after the Ganeshpur action, despite Prabhakar stating that 'the human and logistical losses have seriously affected the Western Division', the division was part of a large force that attacked the RNA base at Khara, on the border between Rukum and Rolpa. Some elements of the division did not take part in this attack, including Vividh, the vice divisional commander. The reason for his absence, with others, can only be speculated on, but the setback at Ganeshpur must have had some impact on the morale of those from the western division, particularly

from Second Brigade, who did take part in the Khara attack.

Assessment of the Ganeshpur action

The action shows the massive advantage the RNA had in tactical mobility over the PLA in the flat lands and good roads of the Tarai, and the effective use it could make of these. It also showed the tactical and operational naivety of senior PLA commanders, amounting to recklessness, in not appreciating the dangerous position their force was in, and not just because of much inferior tactical mobility. The RNA knew exactly what the Maoists were going to do, yet all too obviously the Maoist commanders had no awareness of RNA movement and positions. The inevitable result of this massive disparity in mobility and intelligence was the human and logistical losses referred to by Prabhakar in his statement. Jit and other key fighters were among the human losses, but equally significant would have been the psychological damage to confidence and morale which are key ingredients of effectiveness in any fighting force.

Background to Khara

The PLA first attacked the RNA base at Khara in May 2002. It was repulsed, with over 150 Maoists killed. It is hard to understand why the Maoist high command thought that it could succeed with another attack just two years later, knowing that the RNA had greatly strengthened the Khara fortifications. The video footage (Video Clip 3) shows the base to be well sited on high ground, thus requiring any attacking force to fight uphill through minefields and elaborate barbed-wire obstacles, all capable of being covered by machine-gun fire. The fortifications also included a layout of well-prepared trenches and bunkers. One infantry company and one engineer company, about 250 men, occupied the base.

A conventional military assessment would have indicated that an attacking force would need a strong opening bombardment of artillery and mortars, perhaps supported by air strikes, to weaken the defences before assault forces could be launched with any chance of success. Even with such preparation, however, the attacking force itself would still need strong superiority of firepower to succeed. The Maoists enjoyed none of these advantages, and the lessons of previous failed attacks should have been clear to them. In November 2002, they had failed to overcome the strongly prepared RNA positions at Khalanga in Jumla District, a setback that the

Maoists subsequently acknowledged to have been a turning point in the war, and one that required a serious downscaling in their aspirations for overall military victory (see Ananta 2008). In March 2004, the PLA likewise failed to overrun the RNA defences at Beni in west Nepal, and Khara was a much tougher objective.

Information on Khara is very difficult to come by. The battle has now been written out of Maoist history, and no member of the party is prepared to talk about it to anyone. So why did this attack go ahead? Why the sensitivity and the collective amnesia about it? The answers are rooted in the bitter dispute between Prachanda and Bhattarai, which came close to splitting the CPN (Maoist) in late 2004 and early 2005. Much is known about this feud because, as part of the reconciliation deal, all their acrimonious exchanges were published at the time on the Maoist website.

The dispute came to a head in January 2005, when a politburo meeting demoted Bhattarai, his wife Hisila Yami, herself a prominent Maoist activist, and a few other key supporters, to the level of ordinary party membership. They also had restraints placed on their movement and outside communications. This dispute had a long history and many facets, but from early 2004 one key issue had begun to dominate. For some time the Maoist leadership had known that there was no solely military way forward towards seizing state power. As indicated by Ananta (2008) this truth had most likely dawned on some leaders as early as the setback at Khalanga in Jumla two years earlier. All eventually came to agree that an alliance was needed, but the two sides remained divided over whether it was to be with Nepal's political parties, facilitated by India, or with then King Gyanendra and his army. Baburam Bhattarai crystallised the division starkly when he characterised his opponents as 'those who consider feudal despotism as more progressive than capitalistic democracy.'[9]

We now know that in late 2004 Prachanda was involved in direct talks with personal representatives of Gyanendra. There was the prospect of an imminent meeting between the two and it is alleged that the carrot being dangled before Prachanda was the prime ministership. Then came the body blow of 1 February 2005, when Gyanendra launched his coup and seized absolute power. Journalist Bharat Dahal, in an August 2007 article in *Nepal*

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9   Letter from Baburam Bhattarai dated 23 November 2004, published in *Samay* magazine on 6 January 2005.

magazine (Dahal 2007) asserted that this action led directly to the decision to launch the Khara attack:

> The timing of action against Baburam coincided with the time when Gyanendra seized power. To Prachanda, all the doors to the palace, India and Baburam were closed. He prepared a draft of the attack on Khara in order to prove his 'brilliance'. The Party's huge armed forces were mobilised for the attack, but the plan failed miserably.

This allegation could hardly be more damning—that Prachanda chose to attack the strongly held Khara position to show that, despite what Baburam Bhattarai and his supporters were saying and the hard lessons from past battles against well defended positions, there was a military way forward to seizing state power. The evidence from the videos shows the allegation to be soundly based.

The Khara battle: the start of conventional warfare
Prachanda committed both the PLA's western and central divisions to the Khara attack. Video Clip 4 shows some of the PLA crossing the Bheri river and marching through the hills on the way to the assembly area for the attack. The considerable logistic challenge of moving and feeding thousands of people across long distances in the terrain shown is not dwelt on in the videos. The two songs used as background on this clip are 'Lamo Bato' and 'Hami Rato Manche'.

In a briefing to troops on the march, Prabhakar, the commander of the Western Division, links the need for the battle directly to Gyanendra's seizure of power, and spells out its extraordinarily ambitious aim, which is to open the door to final victory (Video Clip 5). He also gives a clear exposition of the reasons for moving from combatant warfare, and from the stage of strategic balance, to one of strategic counter attack: the alternative was 'to allow our base areas to be demolished and all the people there to be massacred and destroyed'. He says that revolutionary transformation of the party was needed to escalate the war and that the party is now moving forward by being integrated and centralised—a reference, surely, to Baburam Bhattarai's demotion.

All brigade commanders and commissars interviewed before the battle make it clear that this battle marks the move away from mobile/

combatant/guerrilla warfare to *morchabaddha yuddha* or conventional warfare; in sum, a test of strength between Prachanda's and Gyanendra's armies. All are fully confident about victory in the battle, and about its aftermath. All echo the theme of *digbijaya abhiyan*—a campaign of conquest.

The first question asked of Jiwan, the Third Brigade commander, (Video Clip 6) is very significant in pointing to Prachanda's direct and personal involvement in making the plan and defining its aim: 'In the words of Chairman Prachanda, you are in a campaign which leads up to the campaign of conquest. How have you taken this moment?' His reply is a clear confirmation of the assumption in the question. He is in no doubt either about the expected domino effect that will follow success. He says that now: 'We will launch attack after attack. We will achieve success after success. We will destroy the enemies' forts, and now we will probably advance by sweeping away the enemy.'

The same optimism radiates from Bikalpa (Video Clip 7), the Eighth Brigade vice commander, and this answer again points to Prachanda as the prime mover behind the plan to attack Khara: 'Our Chairman has a dream, which is very much linked to reality. That dream relates to victory, we have a dream to advance through Digbijaya Abhiyan.....We have an aspiration to open that door to conquest.'

Confidence in the plan and the chances of victory are vital prerequisites to success in war. One can only speculate about how it was that battle-hardened Maoist military commanders got themselves into such a delusional state of mind, but it is clear that Prachanda personally convinced them of the need for the battle, that it could and must be won, and that success would open the way to final victory.

The final orders for the attack were given round a large model built to represent Khara's features and defences. Impressive as it is, it is one-dimensional and the earlier video views of the actual Khara position show how inadequately the model represents the difficulties of attacking it. Pasang, the Central Division commander, was given overall command for the operation. His orders start with a ritual-like greeting to those present, reminding them that they have taken 'an oath of your own deaths'. He goes on in more matter-of-fact language to echo imagery from the writings of Mao about becoming 'a real new person in history'. In Video Clip 8 he produces further evidence about the provenance of the imagery of 'opening

the door to conquest' and the higher purpose of the decision to attack Khara:'Let us take our revolution to that level, and let us really open the door to revolution, or in the words of the Chairman, let us 'open the door to conquest'. It is with that commitment that we have fixed this target'. The clip also shows Pasang moving on to use the model to point out ground of tactical significance. His remarks sound more like general exhortation than detailed orders, though clearly the video gives only a short version of what he must have covered.

In the video, Pasang and Prabhakar are shown sitting side by side. The body language between the two is not good, particularly that of Prabhakar when Pasang is speaking. Prabhakar's own contribution (Video Clip 9) is muted, to say the least. He opens with a rather off hand remark and gesture towards Pasang: 'We also took some help. Comrade Pasang even attended a class and returned with some training' before making some vague remarks about the history of the conflict up to this point. A later interview with Bikalpa hints strongly at major differences of opinion between the two divisions over the plan for the attack: differences that were apparently never resolved. To preserve the vital principle of unity of command, general military custom would have required the brigades of Prabhakar's division to be put under Pasang's command, with Prabhakar having no place in the command chain. In military operations, there must never be any doubt about exactly who is in charge; there can only be one overall commander and one aim, in order to ensure absolute unity and focus of effort. Any other arrangement risks confusion and disaster, which is exactly what happened to the Maoists at Khara.

Video Clip 10 shows elements of the lead assault groups moving from the Assembly Area towards the FUP on the afternoon prior to the attack. What is striking is the scarcity of rifles. In conventional military terms, those shown would be classed as engineer assault troops who will lead the attack to cut through the wire or to dig under it. Shots from this and other videos suggest that quite a few women were employed for this most hazardous of military tasks. Those seen with back packs will be carrying the ubiquitous Maoist socket bombs and others will be carrying pliers for wire cutting. The clip is also interesting for the confirmation it gives of how the PLA conducted such attacks. One survivor of a successful Maoist attack on a fortified Armed Police Force and RNA camp at Gam in Rolpa district in March 2002 describes it clearly and accurately:

> We were sleeping peacefully. We were in a very small number and
> proved no match against thousands of Maoists, most carrying grenades
> and armed to the teeth. They were Terai-based people, Tharus and
> Kham Magars. These terrorists came in three groups. At first, there
> were those who hurled grenades and at their back, there were those
> who held guns in their hands. And after those gunmen, there were
> those who were trained in carrying the dead and the wounded. Among
> them were also groups of medics (Ghale and Dangi 2002).

The evidence from the videos confirms this description. No actual fighting
is shown but there is a short sequence (Video Clip 11), which conveys the
message that the attack started in darkness. An M-17 helicopter gunship
is shown hovering over the position and there is a short sequence which
shows some PLA dead and wounded near the objective itself, with one of
the latter being treated for a serious wound. The clip is enough to convey
just a little of the harsh reality of a battle of this intensity.

The PLA did well to achieve total surprise. During the previous three
days the RNA had received reports of large columns of Maoist forces moving
across Rolpa and Pyuthan, but the exact location of the attack was known
only after it began. The attack was intense and came from all directions.
The reserve water tank of the position, which was raised above ground, was
hit at the start of the attack, draining away all the drinking water. The M-17
helicopters giving fire support to the defenders during the night gave a big
boost to the morale of the defenders. Although the attackers were able to
close up to the wire perimeter and dig in round the position in places, by
dawn only one section of about ten people had managed to fight their way
inside the camp perimeter; but only to a distance of 15 metres, and all of
them were killed on the spot. No further penetration was achieved.

The RNA claimed that in follow-up operations it captured documents that
showed that Pasang's plan covered the contingency of renewing the attack
the following night from the PLA's dug-in positions around the perimeter,
and there is evidence in the video that this was the case. The attack did
pause at dawn and there was a subsequent loss of momentum. During the
morning an M-17 helicopter can be seen landing about twenty men from
a Ranger battalion as reinforcements (Video Clip 12). Their arrival gave a
great boost to the morale of the surrounded defenders. Clearly it would
have had the reverse effect on the morale of the attackers who had fought

all night at such a high cost to achieve so little. It is significant that the video shows the time of this event as the point when the attack was called off. Some fifty PLA bodies were recovered from around the perimeter, but casualties must have been much higher. Some reports speak of over 200 PLA killed, with many others seriously wounded.

The attackers fought long and bravely against determined RNA resistance, but they lacked the firepower to achieve success against such a strongly entrenched and defended position. Other significant factors also worked against success. After the battle, two separate interviews with Bikalpa point to deep-rooted weaknesses within the PLA's chain of command that prevented all possibility of victory.

In the first of these (Video Clip 13) Bikalpa indicates the depth of the difference between the two divisions over the plan for the attack. He says that at a meeting Prachanda 'had made the spirit of the plan very clear to all comrades' but that there was 'a huge debate, a very long debate' between the two divisions over the tactics to be used in this first battle of conventional warfare. He alleges that Pasang's division did want the battle to be conducted over two nights, as the RNA claim the captured documents show, but that Prabhakar's division argued that the battle should start in mid-afternoon, and that they should fight through the night and take the position by noon of the next day.

Irrespective of the merits of these two plans, Bikalpa's second after-battle interview, given to some Maoist journalists, (Video Clip 14) points to even starker reasons why the attack was doomed to fail; namely, glaring weaknesses in the PLA's command and control arrangements during the battle, and confusion over the respective roles of the two divisions. He says that the western division's main role was 'to provide support'. He complains that the battle ended before some of the people under his command had been committed to the attack, generating real anger and even the threat of disobedience. This suggests that a large part of the western division were never committed to the battle. But his main criticism is more noteworthy:

> There were many problems when we went to the battle. There were many weaknesses. As we analyse things, we had to bear consequences because of certain shortcomings. Things did not happen the way we had imagined they would because there was mischief and betrayal. Many things ended up deceiving us. Whose weakness was it the most?

In clear and straightforward terms, it was the commander's weakness.
It was the main commander's weakness and also ours.'

An assessment of Khara

Bikalpa's criticism of Pasang is unfair and misplaced. The fact that it comes from a brigade commander in Prabhakar's division, and was filmed by a journalist attached to that division, simply confirms the suspicions expressed earlier, regarding rivalries and lack of unity of command. Pasang would seem to have done well to finish the attack when he did: throwing in more troops would simply have added to the casualties. This analysis shows that as well as lacking the firepower necessary to be successful at Khara, the PLA's senior commanders lacked the training, experience and the means of communication to ensure that up to 4000 people spread across six brigades and two divisions could be used in a properly coordinated way that made certain that their combined potential was applied effectively to the point of attack. In sum, it was not simply a case that the plan was weak, or that any of the commanders or combatants were weak. The fundamental weakness stemmed from the assessment that the PLA was in a fit state, in terms of training, equipment, experience and command arrangements, to move from mobile or guerrilla warfare to conventional warfare, and carry out a complex deliberate attack on a position as strongly defended as Khara. The responsibility for this flawed judgement ultimately has to rest with Prachanda, the PLA's Commander in Chief.

The final verdict on Khara is the simple, stark assessment of Ramesh Koirala, the Eighth Brigade Vice Commissar (Video Clip 15) 'the truth is: we lost. In the words of our Chairman, we weren't able to open the door of victory. It remains closed and padlocked. We couldn't unlock that padlock.'

For Prachanda, the defeat must have come as a crushing personal blow. His much-proclaimed dream of 'conquest' was shattered. There was only one direction in which he could now turn. Within four weeks of the Khara attack, Baburam Bhattarai, still reduced to a position of ordinary party member, was in Delhi with one of Prachanda's right-hand men, K B Mahara, to start the process that ultimately led to the agreement with the Nepal political parties in November 2005.

The Khara defeat left the Maoists' military reputation bruised and battered but within a few months, 'the feudal autocrat' in Kathmandu would order a deployment of his army that would give the PLA the chance

to regain its lost prestige and to acquire over 200 modern weapons and large amounts of ammunition and explosives.

The background to Pili

On 24 July 2005, a mix of pioneer and combat engineers, supported by an infantry company, began to deploy to build a camp on the steep-sided banks of the Tila River, a major tributary of the Karnali in the mid-western Kalikot District. The purpose was to establish a base from which to resume the building of the Surkhet to Jumla road. The decision was taken at the direct behest of Gyanendra. By this time his credibility as an effective ruler was sinking by the day as the Maoist insurgency spread and strengthened, and as most development activities stalled. To boost his public reputation, he decided that decisive action was needed and in early July 2005, at the height of the monsoon, he ordered his army chief immediately to resume the building of the Jumla road.

The likely consequences of obeying this command should have been spelled out to Gyanendra. Instead, the order was merely passed on, and the soldiers were dispatched to build a camp in what the RNA official spokesman, Brigadier General Deepak Gurung, later described with excessive candour as 'a strategically unfavourable place'.[10] A second report quoted him as saying that 'the temporary security base at Pili was not an ideal location. The decision to set up the base there was a technical one, not a tactical one. We didn't expect our workforce to bear such an attack.'[11] It was a massive dereliction of duty not to have done so, not least in its disregard of one of the most important dictums of war: never underestimate your enemy. Grainy, long range video footage of the camp (Video Clip 16) shows that the camp was built into the side of the hill with the dominating ground on the ridge above left unoccupied, leaving it hopelessly vulnerable to any attack which came from that direction.

The Maoists heard about the RNA deployment on 2 August, ten days after the first soldiers arrived at Pili. Prabhakar was with the Second Brigade at Dashera village in Jajarkot, 70 km southeast of Pili. Vividh, the vice-divisional commander, was with the Third and Eighth Brigades in

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10   'Defective weapons blamed for Pili disaster Kalikot debacle: a Post report'. *The Kathmandu Post,* 13 August 2005.

11   'Video footage shows gory images of slain soldiers, 'Maoists violated int'l humanitarian law': RNA' (nepalnews.com report 12 August 2005.]

Turmakhand village in Accham District, 70 km directly west of Pili but on the other side of the Karnali river, preparing to carry out an attack on Martadi, the headquarters of Bajura District. As soon as the PLA commanders heard about the Pili camp they decided that it would be an easy target and should be attacked as soon as possible.

Initially, Prachanda was reluctant to give his approval. At the time, CPN (Maoist) representatives were already in Delhi in consultation with the political parties, and a ceasefire was imminent. Prachanda clearly could not risk going into these negotiations on the back of a reversal on the scale of the failed Khara attack. His commanders assured him that success was guaranteed. The key commanders involved agreed that their forces should set off immediately with the aim of concentrating the division's three brigades at Raut hamlet, near Pakha village, just one hour east of Pili, during the early afternoon of 7 August.

PLA preparations

Before each major attack, the PLA held a 'coaching' day (the English term is used) to finalise preparations and to enable commanders to brief subordinates. Video Clip 17 shows such a briefing of company and battalion commanders of Second Brigade by Prakanda, the Regional Bureau-in-Charge. Prabhakar has spoken before him, telling those assembled that they have good intelligence about the Pili camp, that it is still being constructed, and that the fortifications are 'not something which had been constructed after years of hard work' and that 'the bunkers are made of wet mud, not cement.' He stresses that, since the work is still going on, they have no clear idea of the defensive layout they will find when they get there; flexibility and improvisation will therefore be needed. Prakanda's essential message is right on the mark: 'In war, whichever side makes mistakes faces defeat. Our enemy has just made a big mistake, and we must move quickly to take advantage of it.'

Over 150 kms away on the same day, Vividh held his coaching day for the commanders of Third and Eighth Brigades in Badi Malika secondary school in Raskot Siuna village in Kalikot district. In his 20-minute speech he, like Prabhakar, stresses the uncertainty surrounding the defensive layout they will find when they get to the objective but expresses confidence that its incomplete state gives the PLA an excellent chance of victory. He gives no orders but discusses general tactics that might be used in the attack.

He also gives clear indications that the party leadership is nervous about the attack, ordering them, 'you are to return if you are not confident of success in what you are aiming'. Vividh says that the PLA has gone to attack too many places recently and has returned without fighting for various reasons, including nervousness among the top party leadership that 'we must not lose on any account'. His main message is that this time 'we must fight and win, whatever the difficulties'.

In Video Clip 18 Vividh makes a highly practical point on sacrifice which is perhaps not sufficiently stressed by academic commentators on Nepal's Maoists:

> The main thing is that we go forward at once. And although sacrifice is the main thing when we do this, we must not take the issues of arms, technology and the modalities of attack lightly. The history of the proletariat group has been such that it has captured the world through sacrifice of life. So if our sacrifice is in accordance with the right modalities, rules and procedures, such a sacrifice can be accepted more easily. But if there are flaws in our styles, procedures and processes, the sacrifice occurring under such pretext becomes a difficult one to accept.

This shows not a thoughtless and blind ideological approach to sacrifice but a highly practical consideration of what is required to make death in combat both worthy and acceptable.

Perhaps the most interesting parts of the Pili videos are the contributions that Vividh invites from the floor. Eleven unnamed commanders speak, probably of battalion and company level. These are the people at the heart of Maoist military success. It is a safe bet that they would not be in this room unless they had proved themselves in many actions, leading from the front in the style required by all successful military organisations. It is impossible to over-stress the importance of such leadership in war. None of the speakers dwell on ideology. All are clearly highly experienced battlefield commanders. They speak incisively, candidly and critically, often about lessons from past battles that have not been learnt or put into practice. Video Clip 19 shows just four of them.

The first speaker essentially says that attacks are failing because of a gap between the understanding of the plan beforehand and its practical

application during implementation. Only by closing this gap will success come, he stresses. The second speaker makes this point even more starkly. He refers to Khara to highlight that if everyone has a different understanding of the plan beforehand, there will never be consistency in implementation. He underlines his case by asking a highly pertinent rhetorical question: before Khara everyone got the same coaching so why was there such variation in implementation? What is decided before the battle is not being implemented, he says.

The third speaker is emboldened enough to cast doubt over the move to *morchabaddha yuddha* or conventional warfare. He does not mention the phrase but his line is clear enough. After moving to the unique stage of strategic counter attack the desired results are not being achieved: 'Therefore, let's accept that we have not won. So if we are to return from this point, I would say that the party centre must reconsider the war-graph of the force's counter-attack strategy. They should look back and trace any mistakes.'

The fourth speaker's contribution is typical of many in highlighting practical lessons gleaned from previous attacks. His main point is that the PLA has limited arms technology so it is important to make the best use of what they do have. He highlights weaknesses such as wasting ammunition and throwing grenades to land outside wire perimeters rather than inside, and advocates the use of picking up and using discarded enemy arms and grenades as they fight through positions.

The approach march and battle
Getting to the objective on time required the three brigades to do a five-day forced march with little food or rest on two different routes. The videos show that both routes were very tough going at the height of the monsoon, and with a series of 4000-metre ridges to be traversed. Second Brigade travelled in an almost straight line from Jajarkot. Third and Eighth Brigades first had to head northeast in order to cross the Karnali at the Jharkot bridge in Ramkot, well to the north of Manma, the district headquarters. They then came south over Chuli Himalaya to meet up with the Second Brigade at Raut village.

Video Clip 20 shows: the nature of the terrain over which Prabahakar and Second Brigade marched from Jajarkot; a short briefing which took place at midday on the day of the attack, in which speed and urgency is

stressed; and the descent to cross the Tila river and the approach march to the objective along the north bank of the river. A helicopter is seen landing 300 metres outside the perimeter of the RNA camp just as the Maoists are moving into position to start the attack. There are also some long distance views of the camp.

The quality of the video drops dramatically at the start of the attack because of fading light and loss of lens focus, but the very short Video Clip 21 is worth particular mention because of what it conveys in such a short time. Shot just after the helicopter landed, it shows elements of Eighth Brigade preparing to take their place in the assault. At the beginning, the light of battle can be seen in the eyes of the two young women being loaded up with the packs carrying the socket bombs. The scene then shifts to show very young and thin people on the trail waiting their turn to be committed, wearing little so that they do not get their clothes caught on the wire as they dig under it or cut it. At the end, two young girls are seen with wire cutters, with two lads behind them holding digging tools to burrow under the wire. This clip again indicates that quite a few women were employed for this most hazardous of military tasks: breaching defences. As fighters, they would probably have had the highest casualty rate of all. In most armies many of them would have their chests covered in medals, including those for the most conspicuous bravery.

Prabhakar and Vividh met as arranged at 1 pm at Raut hamlet near Pakha village and agreed that H hour should be 6pm that evening. The PLA plan was basic in the extreme. Each brigade was simply given an arc of responsibility so as to encircle the camp and ordered to breach the fence perimeter and make the best progress it could into the RNA camp. Attacking from all directions was a sure recipe for a fair measure of chaos and confusion, as well as increasing the risk of inflicting casualties on one's own forces. The very loose nature of the plan and the other factors mentioned would have put a very strong premium on dash, initiative, bravery and strong leadership at platoon and company level.

The attack achieved total surprise: this in itself is a massive indictment of the RNA's security precautions. The landing of the helicopter distracted the defenders as they went to unload it. The Maoist commanders decided to take advantage of this opportunity, and the attack began at 5:45 pm, though probably by fire only at this stage since the main attack formations were not yet in a position to physically attack the perimeter of the camp itself.

The video shows that Second Brigade was about an hour behind the other brigades in getting into position.

The Maoists quickly captured a number of unarmed RNA soldiers who had been unloading the helicopter, including, they claim, the commanding officer of the battalion, who had come to the helipad. The commander managed to escape during the subsequent confusion, and turned up two days later at Manma, along with 114 other men from the battalion who had also somehow managed to escape from the camp. Some evidence of their rapid exit and bedraggled state comes from an article by Tularam Pandey, the first journalist to arrive in the camp, just six days after the attack. He describes a scene of utter devastation. Along the trail from Manma to Pili, he records, 'there were torn pieces of uniform, abandoned boots, caps and cartridges of bullets'. He also quoted villagers as recalling how the soldiers who escaped were 'hungry and naked', and that they gave the soldiers 'food, clothes, shoes'.[12]

The RNA later announced that 227 soldiers had been in the camp at the time of the attack. There were probably a few more, since we know that 58 were killed, 60 were taken prisoner and 115 turned up at Manma. This means that about 120 soldiers stood their ground to resist the Maoists. The RNA drew a veil over who bravely stood and fought, and who did not. Bad weather prevented any air support from MI-17 helicopters. More than 3000 Maoists took part in the attack, so it was not surprising that RNA resistance effectively ceased after about two hours of actual fighting. The outnumbered RNA men, taken by surprise in a badly sited and unprepared camp, did well to hold out for so long. The turning point in the battle came when a seven-man section, which was part of the force that attacked from the unoccupied higher ground, overran the one General Purpose Machine Gun (GPMG) and killed its crew. This had kept the Maoists pinned down for some time. Five of the section were killed and the other two seriously wounded. After that it became, in military parlance, a case of mopping-up other isolated elements, no doubt in an environment of considerable chaos, which probably accounts for different claims for the length of the battle.

The Maoists were ravenous and totally exhausted, so their first action

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12 'Reporter's diary from Pili' by Tularam Pandey, *Kantipur*, 22 August 2005, as reproduced in Nepali Times no. 262, 26 August 2005.

after the battle was to cook a meal from captured RNA rations. Most slept near the camp, though some remained busy destroying and salvaging RNA kit and equipment during the night, an activity that might again have misled some villagers about the actual duration of the attack. The first Maoists began withdrawing at six the next morning. By midday they had all left, having stripped the camp of all that was useful to them, and taking along sixty RNA prisoners. Over 70,000 rounds of ammunition of different calibre were captured, and among the Maoist weapon haul were: one 81mm mortar with 150 bombs, one GPMG, twenty Light Machine Guns, seventy INSAS rifles, and eighty SLR rifles. Video Clip 22 shows the weapons on display at a western division gathering that took place at Bhadam in Jajarkot five weeks later. The first RNA troops arrived at Pili from Manma at 11:00 am on 9 August, a full day after the Maoist withdrawal. Twenty-six Maoists were killed in the attack. The RNA prisoners were released to the Red Cross on 14 September.

The RNA at the time, and later, claim that the defenders held out for longer than is described here, but just 26 PLA killed in an attack of this scale does not indicate prolonged and over-resolute resistance from what was a very well armed force. Maoist journalists writing for *Janadesh*, the Maoist news outlet, with memories of Khara to expunge, also had an obvious interest in exaggerating the length of RNA resistance and the strength of the defences. They wrote what I believe to be elaborate, largely fictitious descriptions of the attack, including claiming that the PLA had to endure attacks from MI-17 helicopters. However, given the direct personal connection of Gyanendra and his army chief, General Pyar Jung Thapa, to the debacle, it was the RNA who had the greater interest in distracting people from asking questions about who was responsible. It quickly became apparent that there was to be no question of acknowledging mistakes or of paying proper tribute to the soldiers who fought bravely under such disadvantageous conditions. Instead, their sacrifice was derided and disparaged in an attempt to cover up for gross incompetence and grave dereliction of duty on the part of the top brass. Not even the dead bodies of the soldiers were to be exempt from being put on display in a public relations exercise designed to achieve this nefarious purpose.[13]

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13   See nepalnews.com report referred to at Footnote 11. Also Cowan (2008).

An assessment of Pili

What cannot be disputed is that Pili was a total rout and a serious humiliation for the RNA. It was an object lesson in the disastrous consequences of underestimating one's enemy. The outcome was a major boost to the prestige of the PLA and its military prowess, at a politically critical time for the Maoists. The PLA commanders and their soldiers deserve great credit for concentrating so quickly to carry out this attack despite the arduous terrain and difficult conditions they had to overcome. Their dash and skill achieved a situation of advantage akin to Sun Tzu's ideal of applying strength against weakness, in contrast to what had been attempted at Khara. The weakness that was exploited stemmed partly from poor tactical decisions by local commanders in how they laid out the camp, but mainly from the incompetence and appallingly bad judgement of senior RNA commanders who allowed their soldiers to be deployed in such an exposed position without adequate protection.

The video covering the action amply demonstrates the particular strengths of the PLA. The combatants are shown to have levels of toughness, resilience and commitment that one looks for in the best of military organisations. Most striking are the personal qualities shown by the company and battalion commanders who spoke at Vividh's coaching. Very few people from this group have ever uttered a word in public but their quality as soldiers and leaders shines through, as does their clear aptitude and very obvious enthusiasm for soldiering. As explained, the nature of the Pili battle would have put a premium on brave and innovative leadership at platoon and company level, and it is clear that those seen on the video measured up fully to what was required.

Overall assessment

So what is the overall assessment of the PLA when measured against the three components of fighting power listed earlier? On the physical component, the videos confirm that although the PLA was not short of manpower and could improvise logistic support to enable large numbers of combatants to move quickly across long distances in tough terrain, it was woefully weak in firepower. Large numbers of combatants did not have rifles, and machine guns and mortars were in scarce supply. Socket bombs and other home-made explosive devices could only compensate for this deficiency to some limited degree. This was one prime reason for the

defeat at Khara, and would have been a lasting impediment to a successful escalation of their military effort to the level of conventional warfare.

The PLA also shows up moderately in the area of the conceptual component. Senior commanders were highly motivated and committed, and many of them had years of experience of fighting at company level, but understandably they lacked training and experience to command and manoeuvre brigades in a large contact battle. The communication means at their disposal was also inadequate for this purpose and Khara showed the inevitable outcome when unity of command is lacking and when there are no properly understood and well-practised procedures for the delegation of authority and responsibility. The escalation to *morchabaddha yuddha* ruthlessly exposed these weaknesses and was a grave error, as the young commander in the schoolroom pointed out.

On the moral component, the videos clearly show that the PLA scores impressively high against all the criteria listed: mentally prepared for fighting; belief in a cause; highly motivated; a strong sense of purpose; brave and talented leadership; and a willingness to put one's life on the line, whatever the danger. These very great strengths helped to compensate for many of the other weakness identified. However, Ganeshpur showed that the PLA was not immune from the fact that severe setbacks and casualties can hit morale hard, particularly when those concerned can see that their commanders failed them. The crushing defeat at Khara also showed the grievous error of elevating this component as being supreme above all other considerations. Before World War I, the French and British generals committed the same mistake but, like the PLA at Khara, they learned the hard way, and at great human cost, that offensive spirit and high morale can only carry an attack so far when faced with the physical realities of barbed wire, well-prepared entrenchments, machine-gun fire and determined defenders.

On balance, as a guerrilla army using the tactics and strategy of the form of warfare set down by Mao, the PLA performed highly effectively. It lacked the capacity to move successfully to the level of conventional war, but there can be little doubt about the significance of its central achievement in fighting an army armed to the teeth by India and the US to a strategic stalemate (see Cowan 2006). In doing so it played a pivotal role in ushering in the momentous political changes seen in Nepal over the last 4 years.

Nearly four years after the signing of the Comprehensive Peace

Agreement that brought the conflict to a close, the PLA combatants who achieved this impressive feat of arms still languish in UN supervised cantonments despite the agreement providing for a special committee to supervise, rehabilitate and integrate them. Would they make good soldiers in a conventional army? There was a clear ideological dimension to their training and culture but, on the evidence of the videos, the PLA knew that, at root, military success is fundamentally based on the unquantifiable but eternal martial qualities of leadership, discipline, courage, tenacity, willingness to endure hardship and danger, and ultimately to risk and if necessary sacrifice one's life.

Bringing the combatants together with elements of the present Nepal Army to form a new army in Nepal would take time and considerable effort but with the right military and political will, and with the right investment in suitable confidence building measures, and as part of a total reform of the Nepal Security Sector, I am certain that it could be done, following patterns adopted in other parts of the world. All the provisos listed are important but the process will remain stalled until some political will emerges to make it happen. This seems further away than ever, as therefore does the prospect of consolidating peace and democracy in anything that remotely could be described as a New Nepal.

Appendix: extracts from video clips cited

Video Clip 1 [Wounded combatant] 00.55
'Comrades, on the question of the implementation of our plan in particular, our spirit was at its own height. For our part, we were committed to implementing the plan made by the Party. We had the kind of spirit that would have been necessary in order to implement that plan and to attack the enemy, in one way or another, as a tiger would do. And we maintained that spirit. However, we did not realise that the enemy could possibly discover our plan, or (let us say that) we failed to understand the enemy. We observed the enemy's movement only from one side; and, like our Party, we failed to observe their all-round movement. Neither could we make the Party's plan an objective one accordingly. We did not watch the movement from the Gulariya side but followed the (same/previous) plan. While we even chased the enemy coming from the Gulariya side, we failed to look in all directions. Let us say that there was a planner's weakness in this. Anyway, such a situation arose.'

Video Clip 2 [Vividh to demoralised combatants] 01.10
'Comrades, at times of loss, incompleteness and inadequacy, we must find adequateness and wholeness. Only then can we go forward. We must bear this in mind. Therefore, we must not forget this, and we are together in this. Only Jeetji has been knocked down. Our Party still has many more commanders. Those who cannot become commanders shall not become commanders now. The coming steps shall determine this. Please be prepared. We shall recruit people from here itself. Come forward bravely, and together we shall proceed. We shall sit with all comrades for a careful and detailed analysis.'

Video Clip 3 [Scenes of Khara objective] 00.18

Video Clip 4 [PLA approach march: crossing Bheri; through the hills] 00.51

Video Clip 5 [Prabhakar's orders on march] 01.59
'Gyanendra Shahi's (sic) coup is not his success; it is the success of the People's War. This dramatic change in circumstances has posed a question for us. Should we let the battle we have fought so far collapse? Should we

return to combatant warfare? Or should we move forward? Should we demolish our base areas and let all the people there be massacred and destroyed, or should two to four hundred of us die in order to open the door of final victory? The question lies here.

From the point of class struggle, we have entered the plan of counterattack. From the subjective and two-line point of view, we have arrived at a new height of the Party's rectification. These two things—counterattack and rectification—the question of strategic counterattack and revolutionary transformation is linked to the entire life of the People's War.

Revolutionary transformation was necessary in order for us to enter the stage of strategic counterattack. A leap was necessary. Our styles, our organization, our mobilisation, our interim operation, all these had to be developed in a new manner. For our counterattack, it was necessary to redefine in a new way our political and military mobilisation. The Central Committee of the Party did so. We are in a situation where the Party is moving forward by still being integrated and centralised.'

Video Clip 6 [Third Brigade Commander Jiwan interview] 01.27
Question: Comrade Jiwan, you are the Commander of the PLA's Lisne Gam Third Brigade. In the words of Chairman Prachanda, you are in a campaign which leads up to the campaign for Digbijaya (conquering). How have you taken this moment?

Jiwan: The Party Headquarters has ordered the move to conventional warfare to begin the Digbijaya Abhiyan (campaign of conquest). To transform our phase of strategic counterattack and mobile warfare into conventional warfare. I have taken this opportunity to be part of the PLA, fighting, clashing and winning, as a good opportunity. It may be that history will give us several other opportunities. We feel that this is an important opportunity for us to fight for the liberation of the country and its people, or our proletarian class.

Question: In one word, what would you say about the differences there will be between the last battle and this one?

Jiwan: In one word, I would say that during the last battle, after launching

one attack we took plenty of rest (as we could afford it). Now, what order we will receive after the attack is not rigid. We will launch attacks after attacks. We will achieve success after success. We will destroy the enemies' forts, and now we will probably advance by sweeping away the enemy.

Video Clip 7 [Eight Brigade Vice-Commander Bikalpa interview] 00.58
Question: Comrade, what are your thoughts? How do you think this conventional warfare battle will go? What do you hope?

Bikalpa: Our Chairman has a dream, which is very much linked to reality. And that dream relates to conquest. We have a dream to advance through the *digbijaya abhiyan* (campaign of conquest), as the first morning after the success of our preliminary battle of conventional warfare dawns. We have an aspiration to open that door to conquest. At the moment, I am dreaming that I am with many people, many red combatants; together, we are marching to our victory campaign, firing our machine guns, chasing the enemies, capturing them; we are advancing and they are running away.

Video Clip 8 [Pasang's orders] 00.39
'We should become that new person, and we should make a commitment to become that person. It is necessary for us to make a promise and a commitment from a certain height so that we can prove ourselves a new person in history. Let us take our revolution to that level, and let us really open the door to revolution, or in the words of the Chairman, let us open the door to conquering. It is with that commitment that we have *fixed this target.*

This portion has been cleared (left empty) because if the enemy escapes from here, let them. We will ambush here to give them an exit from here, in one place.'

Video Clip 9 [Prabhakar's orders] 00.30
'We began to implement... In the first phase, we obviously used whatever strength and capabilities we had. We also took some help. Comrade Pasang even attended a class and returned with (some) training. And we did those exercises. We obviously had slogans relating to raising the development of the combatant warfare to a new height.'

Video Clip 10 [Move to the Forming Up Point for attack] 01.08

Video Clip 11 [Night scene] 00.52

Video Clip 12 [Helicopter arrival] 00.36

Video Clip 13 [Bikalpa second interview] 01.31
'Since there weren't many plans, we thought of going to one main point. The plan was thought out but stopped. Like we stopped at Bhalubang and came here. When that happened, it affected us to an extent. Then we had a meeting. Our Chairman Comrade made the spirit of our plan clear to all comrades.

    We all had an opportunity to put forward our views, and we focused on what kind of plan to make. All the comrades from our Division suggested that we must plan things from a new angle. This was about the preparation of a long war through conventional battles. In the plan they submitted, it was proposed that the war should both begin and end at night. They were proposing to move the force to the day shift and fight for two days but only during night time. But we were emphasising that the battle should start during the day instead of at night and that we should also capture during the day. We would begin by at least 3 or 4, and by 12 on the next day, we would capture. That's how a plan to fight a long battle was being formed. There was also a huge debate on that topic. A very long one ... (speech incomplete)'

Video Clip 14 [Bikalpa third interview] 01.59
'There had been an agreement on how we were going to advance and what tactics were to be used. As this was the first battle of conventional warfare, it was a transitional plan. Therefore, we should not call it an absolute conventional battle. Let's say that there was a firm coordination that we would rise above a dynamic combatant battle.

    There were many problems when we went to the battle. There were many weaknesses. As we analyse things, we had to bear consequences because of certain shortcomings. Things didn't happen the way we'd imagined they would because there was mischief and betrayal. Many things ended up deceiving us. Whose weakness was it the most? Our main role here was to provide assistance. As we've mentioned before, this is not

the weakness of the combatants. In clear and straight-forward terms, it was the commander's weakness. It was the main commander's weakness and also ours.

The combatants were raising their fists and shedding tears, refusing to withdraw. Yet they had to. Those combatants do not have any weakness. This is what we'd stated, and this is also the truth. We are not exaggerating, for this is the reality and the science.

The entire force was ready to fight. But they did not have an opportunity. Our Company 21 did not get to fight. In fact, our Division's Company 21 was left untouched. But they withdrew. Why did they withdraw? Because they were withdrawn by the commander! The plan was withdrawn. Whose fault is it? It is the commander's. Again, there were certainly little weaknesses on our part, in the process of withdrawing.'

Video Clip 15 [Eight Brigade Commissar Ramesh Koirala] 00.17
'Having said that, the truth is we have lost. In the words of our Chairman, we weren't able to open the door of victory. It remains closed and padlocked. We couldn't unlock that padlock.'

Video Clip 16 [View of Pili camp] 00.34

Video Clip 17 [Prakanda's briefing] 00.51
'A discussion also took place between us. How do you think defeat happens? Whichever army makes a mistake faces defeat. Whoever makes mistakes or wherever mistakes occur, that leads to defeat. If you look at it closely, our enemy has made a grave mistake. However, there is also a military plan in there. They have an alternative plan, and a political plan is also in place. They have made a mistake. How quickly will our commander comrades and our army be able to spot this mistake and the position of the enemy? If we can go forward and do something by immediately taking an initiative and converting it into a scientific plan we can certainly take control...'

Video Clip 18 [Vividh Briefing extract] 00.56
'The main thing is that we go forward at once. And although sacrifice is the main thing when we do this, we must not take the issues of arms, technology and the modalities of attack lightly. The history of the proletariat group has been such that it has captured the world through sacrifice of life. So if our

sacrifice is in accordance with the right modalities, rules and procedures, such a sacrifice can be accepted more easily. But if there are flaws in our styles, procedures and processes, the sacrifice occurring under such pretext becomes a difficult one to accept.'

Video Clip 19 [Four combatants speak at briefing] 28.1 MB 03.01
Speaker 1: 'The problem until now is the consistency in our understanding. Consistency in understanding means consistency in implementation. When there is consistency in implementation, or in understanding, we can win, as that guarantees our victory. We are attempting to focus our entire Division here at this point in time, and this is necessary, too. If the total force of our Division, especially ranging from the command force to other ranks, can maintain consistency in executing and understanding the plan, we can win there.'

Speaker 2: 'If every member has an incorrect understanding of every organisational plan, there is no question of consistency in implementation. There will obviously be variation in that case. We see a similar situation in Khara now. We believe everyone received coaching together at the same place. Why was there a variation? Commanders, commissars and VC comrades received coaching from the company VC. When we are at the implementation stage, the technique is put to test. The force technique on which we decided prior to the war is not being implemented.'

Speaker 3: 'It is certain that we have not been able to achieve the desired success after entering this unique stage of strategic counter-attack and conducting various activities. I think we are faced with challenges at the moment. The revolutionary party and the revolutionary people's power as well as communities are giving us a challenge. And we have not been able to fulfil our objectives. Therefore, let's accept that we have not won. So if we are to return from this point, I would say that the party centre must reconsider the war-graph of the force's counter-attack strategy. They should look back and trace any mistakes.'

Speaker 4: 'Therefore, in order to make every unit offensive (as in original use), we must keep them fresh and clear from every angle. On the other hand, our arms technology is limited. Therefore, we must pay attention to

the issue of defeating the enemy and the proper use of the arms we have. We have a problem with our arms. We have been carelessly firing more bullets and haven't been able to save them as necessary. If we look at what happened in the Kusum attack, when we entered their inner bunker and fortification, we threw away a lot of their ammunition. We succeeded in throwing them out of the barbed wire. We threw several M-36s and hand grenades out of the barbed wire. But there is no blade in our pockets and our guns are empty. We have run out of grenades, so we will order those from outside. What went wrong? Maybe we were not able to use our discretion. We could not use their arms, although we certainly used them at Gam. If we remain alert and use their weapons to attack them, get in close and at high speed, we can surely win this battle. For this to happen, we must move forward with seriousness, and if we do that I feel that we could win and that victory will be ours.'

Video Clip 20 [Second Brigade approach march to Pili, briefing before attack, march along Tila river, helicopter landing] 02.15

Video Clip 21 [Preparations for attack] 00.23

Video Clip 22 [The Pili weapons haul] 00.43

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Opportunities Lost on the Path to Army Integration in Nepal

Ian Martin[1]

It was during the third week of November 2005 that I first heard from the lips of Maoist Chairman Prachanda, in the presence of Baburam Bhattarai and then Party spokesperson K.B.Mahara, his explanation of the new Party strategy and how they had come to it. The Chunbang Central Committee meeting had taken place the previous month; the 12-Point Understanding with the Seven-Party Alliance had been negotiated and was about to be made public.

His party, Prachanda said, had never intended a long war: the issues were to be solved politically. Classical insurrection was not possible; Nepal's Maoists now understood the world in a new way in the twenty-first century, free of old dogma. Multi-party democracy was necessary; they had made many mistakes, including so many undesired killings, but had now engaged in rigorous self-criticism. They had called a unilateral ceasefire (at the beginning of September) because they wanted to stop and have discussion and training within the party. If continuing killings of their cadres by the Royal Nepalese Army (RNA) forced them to end the ceasefire, they would attack only the security forces. They were against terrorism, but not the right of the masses to rebel.

Mitigating the conflict

The Nepal Office of the United Nations High Commissioner for Human Rights had been established in May 2005, with the dual objective of addressing the violations of international humanitarian law being committed on both sides of the armed conflict and the infringements of democratic rights intensified by King Gyanendra's state of emergency. While the king's government was facing condemnation at the UN Commission on Human Rights, the Maoist leadership, as well as leaders of the main parliamentary parties, was persuaded by civil society activists to support publicly the

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call for international human rights monitoring. The Maoist leaders had long been in favour of UN involvement in Nepal; they had watched closely statements by Secretary-General Kofi Annan calling for inclusive dialogue to end the conflict, and had responded positively to the low-profile good offices carried out since 2003 by the UN's Department of Political Affairs. Now the agreement signed by High Commissioner for Human Rights Louise Arbour and the king's Foreign Minister entitled her office to 'engage all relevant actors, including non-state actors, for ensuring the observance of relevant international human rights and humanitarian law'. My first communication to Prachanda was met with a letter of welcome: 'On the course of the armed struggle based on the clear ideological and political purpose under the leadership of our party, we are aware to eliminate the irrational violence as possible. But we have self-criticized publicly on the innate and partial errors on the course of war and have been rectifying them too. I would like to let you know that our party is ready to assist you fully for the true and fair investigation of any incidents of human rights abuses.'

Only once in my ensuing dialogue with the Maoist leadership was the battle at Khara (which preceded our arrival) referred to, with a denial that it represented a defeat, as propagated in Kathmandu. But the battle at Pili was one of OHCHR-Nepal's first major challenges. Our appeals that the captured RNA soldiers should be treated fully in accordance with international humanitarian law evoked public and private assurances of their well-being, and in common with past practice, the International Committee of the Red Cross arranged their handover. The RNA, however, alleged that of the 40 of their men they initially said had been killed, the majority had been shot after having surrendered, and that an officer had been mutilated. OHCHR staff trekked to meet the released soldiers, who were returning from the hills with ICRC delegates, in order to interview them before their accounts could be affected by that of the RNA public relations department. We also ensured that autopsies were carried out by Nepali forensic specialists who had shown their competence and integrity in previous high profile cases, although not before the dead bodies had been put on display in the public relations exercise condemned by Sam Cowan (see Cowan, this issue). The autopsies did not confirm torture or mutilation, and could not determine conclusively whether some had been killed after being captured, although they recorded a high proportion of firearm wounds to the head.

Objective human rights investigation can limit the propaganda on both sides of armed conflict, but it is more important to prevent the actual commission of abuses. The UN had significant leverage with both sides. The RNA was proud of its long-standing role in UN peacekeeping, which brought great financial benefits to the institution and its officers. Visiting Nepal in early 2005, High Commissioner Arbour had warned publicly that the Army's widespread involvement in extrajudicial executions, disappearances and torture could threaten its peacekeeping participation. With the arrival of OHCHR-Nepal, disappearances became rare, and eventually all those who had been detained in military barracks were transferred to civilian prisons. On the other side of the war, the Maoists were courting international respectability and an alliance with the parliamentary parties, requiring respect for human rights. Their unilateral ceasefire brought a sharp fall in conflict-related abuses, but the king rebuffed international and domestic appeals to reciprocate. When the PLA resumed hostilities, although serious humanitarian law violations on both sides continued, the behaviour of both armies in the field seemed to be mitigated by awareness of OHCHR's monitoring.[2]

Armies at peace: opportunities lost

The OHCHR presence at the demonstrations which climaxed in the *Jan Andolan* of April 2006 was a factor in mitigating the excessive use of force against them, and in the reluctance of the RNA to further tarnish its reputation in bloody confrontation, leading to its eventual advice to the king to yield power. The UN was then quick off the mark in opening discussions on its possible future role, especially the commitment in the 12-Point Understanding that while elections to a constituent assembly were held, the two armies would be kept under the supervision of the UN or a reliable international body. By mid-May, UN political, military and human rights officials had discussed this in Kathmandu and with Maoist leaders, who were still in Delhi. A first formal request to the UN from the Seven-

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2   See *Report of the United Nations High Commissioner for Human Rights on the situation of human rights and the activities of her Office, including technical cooperation, in Nepal* (E/CN.4/2006/107, 16 February 2006); and United Nations Office of the High Commissioner for Human Rights, Nepal, *Investigations into violations of international humanitarian law in the context of attacks and clashes between the Communist Party of Nepal (Maoist) and Government Security Forces, January-March 2006*.

Party Alliance government provoked strong protest from the Maoists by referring to 'decommissioning' their arms, to which they had made no commitment in the 12-Point Understanding or since. But eventually agreement was reached, in the Comprehensive Peace Agreement (CPA) and the detailed Agreement on Monitoring the Management of Arms and Armies (AMMAA)—the latter facilitated by the UN—on modalities for monitoring the two armies, restricted to barracks and cantonments, as well as Maoist weapons (and a symbolically equal number of weapons of the Nepalese Army) stored under UN surveillance.

There is no more crucial issue at the end of any internal armed conflict than the future of those on both sides who have fought it. At the root of the difficulties in Nepal's peace process which are still unresolved four years later is the failure fully to negotiate this difficult issue at the time of the CPA. The CPA provided for the future interim government, which was to include the Maoists, to establish a special committee to 'integrate and rehabilitate' Maoist combatants, integration being understood by the negotiators on both sides, notwithstanding later interpretations, to mean integration into the security forces, including the (no longer royal) Nepalese Army. The interim government was also to draw up an action plan for the 'democratization' of the Nepalese Army, the CPA envisaging the need to 'determine the appropriate number' of the army—i.e. to downsize it to peacetime requirements and affordability—as well as to develop its 'national and inclusive character'—a reference to the need to recruit from under-represented groups.

In the Joint Monitoring Coordination Committee established to oversee the AMMAA, thanks to skilful chairmanship by the Chief Arms Monitor of the UN Mission in Nepal (UNMIN), Brigadier-General Jan Erik Wilhelmsen, the hostility between the two armies which political leaders had had to contain during the negotiation of the Agreement soon thawed into wary cooperation. But despite rhetorical reminders that those who had fought on opposite sides were all Nepalis—many (below the officer ranks) of similar backgrounds—opportunities to bring the armies closer together were lost. UNMIN's wish to use tripartite joint monitoring teams was constrained by the Nepalese Army chief's refusal to allow People's Liberation Army (PLA) representatives to share in monitoring Nepalese Army barracks. Joint monitoring teams were eventually trained and deployed, and proved the ability of members of the two armies to work together well

under UN auspices, but could only be used for confidence-building and investigations of alleged violations of the AMMAA away from the barracks and cantonments. Combatants from the cantonments and soldiers of the Nepalese Army could have worked side by side to reconstruct what had been destroyed in the conflict—PLA commanders repeatedly told us that they wanted to work for the state payments they received. The specialized medical facilities of the Nepalese Army could have been applied to treat PLA war injuries. Much more could have been done to provide access to education and training that would enhance the future of ex-combatants.

The immediate focus in implementing the AMMAA was on getting the weapons stored. The PLA presented a total of 3,475 weapons to UNMIN, and when this figure was made public it was widely asserted that this was far short of the likely total, especially when it was contrasted with 31,000 claimed combatants. The Nepalese Army had already argued in the negotiations that only a Maoist combatant who produced a weapon should be eligible for registration. This bore no relation to reality, as Sam Cowan's observations regarding an army 'woefully weak in firepower' and the scarcity of rifles available for even the most major PLA operation confirm (see Cowan, this issue). It was perfectly well known that the PLA had fought the war with weapons which were greatly limited in their number and sophistication: most were captured from the security forces and others were home-made. The Nepalese Army had provided UNMIN with a list, by type, of 3,430 weapons 'looted' by the Maoists from the Army, Armed Police Force and Nepal Police, 781 of which were not identified among those registered; some losses were of course to be expected. It is unlikely that any insurgent force has ever revealed its full weaponry at the immediate end of a conflict, but the inevitable controversy in Nepal reflected exaggerated suspicions, and caches of hidden Maoist weapons have yet to emerge. The heavy reliance on socket bombs noted by Sam Cowan was reflected in the collection and UN-assisted disposal of over 50,000 explosive items at the cantonment sites.

The Maoists' credibility was shattered—and UNMIN's responsibility for registering and verifying Maoist combatants greatly complicated—by the fact that the number of persons they brought into the cantonments was hugely in excess of any reasonable estimate of the real strength of the PLA. Such estimates, including that of the RNA, placed it towards 10,000 by mid-2005. It was well known that, in addition, the CPN(M) had tens of

thousands of locally-based militia, some of whom had been mobilized to support the PLA in major attacks. In October 2005, the CPN(M) decided to expand the PLA from three to seven divisions, bringing in some of the militia and political cadres. These would become eligible for registration at the cantonments and eventual integration or rehabilitation when the 25 May 2006 signature of the Ceasefire Code of Conduct, which prohibited further recruitment by either army, was agreed to be the cut-off date for eligibility to be regarded as a Maoist combatant.

As the cantonments were being established in late 2006, it was widely reported that the Maoists, in violation of the agreements, were increasing their numbers by bringing in young people, attracted by promises of salary payments and future recruitment into the security forces. Finally, over 31,000 people presented themselves for registration at the cantonments. UNMIN's 'verification' would reduce this number to 19,602, initially accepted as eligible combatants by both sides, but later to become the subject of major controversy. In May 2009, a video was released of a January 2008 address by Prachanda to members of the PLA, in which he appeared to boast that the Maoists had hoodwinked UNMIN into verifying a vastly inflated number of combatants, when the true strength of the PLA had been between 7,000 and 8,000. The widespread assumption in the Kathmandu media that this declared strength was to be set against the 19,602 verified by UNMIN took no account, however, of the expansion of the PLA between mid-2005 and the ceasefire.[3]

Meanwhile, the Maoists announced the re-establishment of their Young Communist League. It became clear that the Maoists had kept some key PLA commanders out of the cantonments to provide leadership to the YCL, which was the new home for other former militia and younger cadres. Privately, Maoist leaders justified this by the need to maintain discipline over cadres who would otherwise cause problems, and pointed out that only the PLA, and not the Maoist militia, had had their future addressed in the negotiations, while the different components of the Maoist movement had in fact been fluid. Maintaining discipline was, however, only part of the motivation, as would become clear from the strong-arm role of the YCL, especially during the constituent assembly elections.

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3   For a careful analysis of PLA numbers and contextualization of the video, see International
     Crisis Group, *Nepal's Future: In Whose Hands?* Asia Report No.173, 13 August 2009, pp.9-11.

The future postponed

The cantonment of the Maoist combatants and corresponding restrictions on the Nepalese Army were initially envisaged as arrangements for a short period during which an early constituent assembly election would be held and the future of both armies decided by an interim government that would include the Maoists. But the CPA had only papered over fundamental disagreements between the Maoists on the one hand and other political parties, the Nepalese Army and India on the other. The UN, for whom decisions on the future of the armies were needed for its own exit strategy, pressed the parties to commence the processes they themselves had agreed: the formation of the special committee to supervise, integrate and rehabilitate the combatants of the Maoist army, and the formulation of the action plan for the democratization of the Nepalese Army. The special committee was established by the Council of Ministers in mid-2007, but it was still-born, meeting only once before the election. The Maoists seemed at times to want to press ahead with the special committee, especially when they were reflecting the frustration of those in the cantonments about the uncertainty of their future. But ultimately their leaders preferred hard decisions to be left until after the election: the continued existence of their army strengthened their hand while the election was being held and beyond, while settling its future was bound to be a difficult issue inside the party and the PLA. The other parties assumed that their position would be strengthened and that of the Maoists weakened after the election, when the issue of the armies would be easier to solve on their chosen terms. This view seems to have been shared by India, but proved a fundamental miscalculation.

By the time the special committee was re-established by the Maoist-led government after the election, the determination of the Nepalese Army to assert itself and resist change had become the major factor which would contribute to the downfall of Prachanda as prime minister and the ensuing political stalemate. At the same time as its Chief lobbied publicly and privately against the integration of PLA combatants, the Army insisted on undertaking new recruitment to fill vacancies, in violation of the agreements, in order to maintain its authorized strength, which had more than doubled after it had entered the war and stood at nearly 96,000. Prime Minister Girija Prasad Koirala had wanted a UN presence not only as an influence on the Maoists, but also because of his mistrust of

the king's army. But as holder of the defence portfolio, he shared India's strong view that the army should be preserved as a bulwark that might yet be needed against the Maoists. The army declared that its acceptance of the peaceful transition to a republic was evidence of its democratization, when in fact the end of palace control of the army left it more autonomous and unaccountable than ever. When Prachanda succeeded to the head of government, India again warned that the preservation of the army was for them a red line. The Maoists failed to advance proposals which could persuade other parties that they had a common interest in democratic control of the army; instead, their attempt to replace the army chief, whom they regarded as an insubordinate political actor, with his more amenable deputy played into fears of 'state capture' and led to India's determination to exclude the Maoists from government. With the largest party—and one side of the peace process—excluded from power-sharing, the prospects further receded of the cooperation among parties necessary for the integration and rehabilitation of the Maoist combatants, or indeed the promulgation of a new constitution. Emboldened by its victory and by the support it could rely on from the new government, the Nepalese Army felt free to lobby openly to be removed from the obligations of the AMMAA.

Thus, in late 2010, Sam Cowan's conviction (see Cowan, this issue) that bringing PLA combatants together with elements of the present Nepalese Army to form a new army in Nepal could be achieved with the right military and political will, seems far from current possibilities. Efforts to offer experience from other parts of the world, which he rightly says could assist, have foundered on political divisions and Nepalese Army resistance. India believes that its own experience displays other models for integrating former rebels, outside the state army. Rather than suitable confidence-building, all involved have made generous contributions to the growth of mistrust which belies the *Jan Andolan*'s promise of a New Nepal.

REPORTS

7th BNAC Nepal Study Day, 2009

The Britain Nepal Academic Council (BNAC) held its seventh study day on 30th March 2009 at the University of Edinburgh, Scotland. Coinciding with the British Association of South Asian Studies conference, over fifty attendees enjoyed a packed schedule of varied presentations. In keeping with the tradition of the event, the call for papers was open and encouraged presentations of unpublished ongoing research and the work of graduate students. Thus the day embodied the diversity and richness of current research interests both in and about Nepal in the UK, with presentations including those from the fields of political science, development, public health, nursing studies, anthropology, and botany. It was particularly gratifying that nearly half the presentations made were by current students from the Universities of Leeds, Aberdeen and Edinburgh.

Book-ended between stimulating reflections on the current socio-political situation in the Tarai by the *Nepali Times* journalist Prashant Jha, and the most recent film of the anthropologist Ben Campbell, 'A Transhimalayan Road and the People of the Border', papers were arranged around themes and research clusters. Presentations outlining broad research agendas included: The Royal Botanic Garden, Edinburgh's the Flora of Nepal Project (http://www.rbge.org.uk/science/major-floras/flora-of-nepal); six presentations showcasing the Aberdeen Public Health Research agenda, (including work on HIV and sexual health, Maoist health workers, and women's health issues) and the work of the Centre for Nepal Studies (UK) (http://www.cnsuk.org.uk/). Other presentations incorporated a focus on socio-political transformations (the demise of the Monarchy, the question of Nepal as a 'failed state', and local perceptions on conflict), health worker migration from Nepal to the UK, development related issues (communications technology and community forestry), and public health. The popularity of the event, and the opportunity to share the work of others normally disciplinarily distant, means that a more systematic conference will be planned by BNAC for the future.

To see the full timetable of presentations and presenters for the day visit: http://www.digitalhimalaya.com/bnac/study_days.html

Ian Harper

8th BNAC Nepal Study Day, 2010

The eighth Nepal Study Day in the UK was held April 19th 2010 at Durham University in the northeast of England. Durham has had a long history of research in the Himalayas. In 1976 a Durham University Himalayan expedition collected significant regional data in central Nepal and produced the Langtang National Park management plan the following year. The department of anthropology has had strong Nepal research interests with Catherine Panter-Brick, Andrew Russell, Tamara Kohn and Ben Campbell having been based there. Holding the study day at Durham drew superb talks about Nepal-based research from other departments too: from Geography's Katie Ovens, and Archaeology's Robin Coningham (whose other avatar is pro-vice chancellor).

As is normal, there was no single theme to the study day, since the meeting is always an informal gathering of scholars to share a diverse range of work in progress and compare notes on current events. Catching up, mutual introductions and social networking expanded to fill gaps in technical hitches at the start of the day, and an introduction for the occasion was delivered by Professor Surya Subedi, who is retiring as chairperson of the Britain Nepal Academic Council after ten years. The abstracts for papers organised themselves straightforwardly into four sections.

Politics
Ruth Marsden, (University of Edinburgh): *Critical moments in the politics of human rights in Nepal*
Krishna Prasad Upadhyaya (SOAS): *Maoist Movement and Tharu Politics for Land in Dang, Nepal*

Media
Michael Hutt (SOAS): *Nepal's new national anthem*
Mark Turin (Cambridge): *The Digital Himalaya Project and the rewards of collaborative research*

Cultural heritage
Robin Coningham (Durham): *Protecting and Preserving the Natal Landscape of the Buddha in the Nepal Terai*

Kalyan Bhandari (University of Glasgow): *Tourism in Nepal: Post-Monarchy Challenges*

Mona Chettri (SOAS): *The Politics of Cultural Revivalism in the Eastern Himalayas*

Ben Campbell (Durham): *The Deer Hunters: scenes from a Tamang drama of life, death and shamanism*

Environment

Katie Oven (Durham): *Courting catastrophe? Risk and wellbeing in the Nepal Himalaya*

Navin Khadka (BBC): *Double Whammy: Political and climatic instabilities in Nepal*

Economy

Mallika Shakya (QEH Oxford): *In search of pragmatism within politics: Capitalism, ethnopolitics and the rising wave of communism in Nepal*

Youba R. Luintel (Newcastle University): *Market and social change in Mahesh Khola: Locating capitalist development in Nepal's underdevelopment*

Radha Adhikari (University of Edinburgh): *How to set up a nursing college in Nepal: Exploring the relationship between business and regulation.*

Ben Campbell

Conflict, Transition and Possibilities for Peace in Nepal: challenges to engagement, practice and scholarship

On 3-4th July 2010, Martin Chautari and Social Science Baha jointly hosted an international conference entitled 'Conflict, Transition and Possibilities for Peace in Nepal and South Asia: challenges to engagement, practice and scholarship' at the Nepal Tourism Board, Kathmandu. The event, which received some financial support from International Alert, was the first to bring together researchers working on various aspects of Nepal's post-conflict transition and offer them the opportunity to feed back and discuss their findings with representatives of international organisations. The conference sought to stimulate public and academic debate on the role, relevance and effect of policies and approaches mobilised to steer Nepal's 'transition', as well as encourage more productive engagement between academic researchers and practitioners working around these issues.

Presentations addressed a wide range of issues, including the following: policy approaches to 'child soldiers'; I/NGOs and widows' voices in Nepal; Victims' mobilization; Limitations of human rights and transitional justice discourses; the Ritualisation of peace-building among donor agencies; Ethnic Classification and Affirmative Action in Nepal's Post-Conflict Period; transformations of the Maoist movement post-2006 (including a reflection of UNMIN's role in this process).

Several of the papers developed critiques of dominant approaches to peace building. They drew attention to the overshadowing of individual agency of conflict victims and young former combatants by institutions designing programmes to address their needs. Several also highlighted the lack of attention to the local meanings of key terms used within the 'peace building community' ('post-conflict', 'reconciliation','peace'), how these terms are gendered and ethnicised and the consequences for peacebuilding efforts of the use of such terminology by national and international actors.

The organisers were heartened to find that the conference was attended by persons such as the head of OHCHR in Nepal, DfID, ICRC and representatives from DANIDA and UNMIN, among others, and that many returned on the second day. Nepali scholars, activists and students made up the reset of the audience. Overall, it appears that the event was well received, and the possibility for further such conferences or follow up workshops in the years ahead is already being discussed.

Celayne Heaton-Shrestha

BOOK REVIEWS

Culture and the Environment in the Himalaya
edited by Arjun Guneratne
London, New York: Routledge, 2010, 238 pages, ISBN 978-04-1577-883-1

Reviewed by Ulrike Müller-Böker

For decades, the Himalayas have been a hotspot for vivid environmental debates. Over a long period, the Himalayan Environmental Degradation Theory—with its small and large-scale scenarios, vicious circles and predicted catastrophes in the context of the Himalaya-Ganges problem—has dominated academic and development work. Subsequently, reservations against such catastrophic scenarios have been voiced and uncertainties disclosed in a number of published contributions. The idea was originally promoted so that inhabitants of Himalayan regions would no longer be viewed as causing environmental degradation, but rather as experts of their own environment; well grounded in the complex environmental knowledge that might represent the basis for new notions of sustainable use of environments that are ecologically fragile. These ideas—enhanced by concepts of participation—influenced the participatory forest and conservation management schemes that have emerged in the Himalayas. Based on social scientific methodologies, a number of critical studies about new resource management policies have now been produced. However, little theoretical work has been undertaken to relate the vast literature on identity, ritual and symbolism to environmental questions in the Himalayan region. Environmental issues are currently particularly prominent in discussions on global climate change, and the processes of human adaptation, coping and mitigation to the changes that are predicted or already occurring in climate conditions and incremental natural hazards are of interest.

The volume, edited by Arjun Guneratne, aims to contribute to a 'new thinking' in environmental anthropology and geography, interrogating contemporary theory and helping to close the theory gap that exists on relations between humans and their environments. The volume focuses on the humans who live and work in the Himalayan region and sheds light on how they understand and conceptualize their environment, and how these concepts vary across social lines and experiences. Furthermore,

the collection sets out to show the implications that such models of the environment can have for policy-making and development work. The implicit critique is that bureaucrats and development workers pay little or no attention to cultural concerns in their analysis of the relationship between humans and their environment. The contributors to this reader are anthropologists and geographers who examine and contextualise various concepts of the environment within Nepal, India and Sikkim.

Some contributors explicitly address the relationship between scientific discourses of the environment and local knowledge. John. J. Metz re-visits and analyses the roots and discourse surrounding the persisting crisis narrative of the Himalayan Environmental Degradation Theory. While this is an interesting reflection on the crisis, it is a shame that he did not include a climatic change perspective in his analysis. Andrew Russell reviews the differing perceptions of what a forest is, by contrasting Himalayan Degradation Theories and postmodern ideas that romanticize the relationship to the environment alongside local oral history and practices. He vividly shows that forest perceptions among the Yakkha of East Nepal are formed and informed by a range of shifting biological, socio-political, economic and spiritual influences. Andrea Nightingale examines how people relate to forests by analysing the history of community forestry in Nepal with reference to Mugu through using a relational (actor-network inspired) perspective with the aim of explaining processes that produce the forest—materially, symbolically and politically. By analysing different stories of the forest and its management, she demonstrates that the forest is not simply a collection of trees, or as the scientific perspective suggests, a well-established and defined concept. Rather, Nightingale demonstrates that a forest is a confluence of trees, resources, management principles and harvesting practices. The meanings of a forest relate to the relations that people have with each other and how these differ along caste and gender lines. However, Nightingale notes that 'boundaries, qualities and meaning shift with each method used to explore it and from different perspectives, requiring one to question the existence of *a* forest' (p. 98). Using the example of Ayurveda—understood as the distillation of generations of practical knowledge of the environment—Mary Cameron locates local knowledge in the context of progress belief, equated with scientific rationality and power relations, with the result that the traditional practitioners of Ayurveda become marginalized.

Jana Fortier examines contrasting worldviews of forest-dwellers and foragers like the Raute, as well as the views of farmers and state bureaucrats. Although she uses a rather classical approach, Fortier offers impressive insights into the life and world of a little-known ethnic group. Similarly, Tanka B. Subba paints a broad portrait of Limbu life and the role the environment has played in shaping Limbu identity. In contrast to Fortier, Subba emphasizes that an understanding of the environment as a category does exist, although this varies across gender lines. In addition, Subba argues that this understanding is subject to transformation from the effects of the external socio-economic environment.

Anne M. Rademacher and Emma Mawdsley examine how activists use ecological ideas to foster critiques of society and polity. Both Rademacher and Mawdsley examine rivers that have symbolic meaning: Rademacher focuses on one prominent activist to show how the pollution and degradation of the Bagmati river became a metaphor for cultural and political degradation and was used to legitimize the forced eviction of squatters living along this river. By invoking identity, a specific interpretation of history (the idea of a Bagmati civilization) along with the reproduction of specific rituals was created. Mawdsley demonstrates how movements can actively mobilise religious values and beliefs in pursuit of various environmental goals. Using the example of the intervention of the Vishva Hindu Parishad in the politics of the Tehri Dam, she sheds light on the abuse of religion and ecology through the mobilisation of green issues in ways that are intended to promote chauvinist Hindu nationalist agendas and provoke anti-Muslim action.

Safia Aggarwal illustrates how in rural Kumaun, religious beliefs and notions of the sacred influence human relations with the natural environment. She focuses on the sacred forests that are idealized in India's environmental history. Aggarwal examines temple forests, which 'belong' to a deity, and communally owned panchayat forests that have been placed under the protection of a deity for a limited time. Her chapter indicates that an association with religion may be helpful for conservation, but also that it has limits. For example, the efficacy of the strategy of placing forests under the protection of a deity depends on the availability of alternative resources in the neighbourhood to which people can turn, with the result that the problem of degradation is shifted to other forests.

In the final chapter of this volume, Ben Campbell provides a sound

overview of different research perspectives and promising new research questions that go 'beyond cultural models of the environment.' He warns that it would be a mistake to return to ethnically circumscribed worldviews for understanding environmental relations, and he critiques the over-determined idea of culture, and the assumption that evenly distributed cultural knowledge exists, a statement supported not just by his own but also by Subba's case study. He proposes 'to investigate through ethnography the various claims made by social theorists, biodiversity scientists and conservation institutions regarding human-environmental relations and to evaluate critically the adequacy of our tools for understanding processes of environmental change, and the effects of representations concerning theses processes on attempts to intervene in them' (p. 187). He also points out that distinctive subject positions acting in environmental matters need to be better understood. The approach that he adopts towards an environmental ethnography of the Tamang recognises the environment (as a 'synthetic manoeuvre for perceiving diverse processes and relationships') as a historical product of human consciousness.

The book under review offers exciting ideas on how research can connect with the practices, knowledge and perceptions that people have in relation to aspects of their environment, and also how people make use of ecological ideas to further their political interests. The volume provides food for thought, producing a 'new thinking' in environmental anthropology and geography, and also shows how this 'new thinking' can be translated into empirical work. However, the recurrent critique that, in their human-environment analysis, bureaucrats and development workers pay little or no attention to the beliefs of the people who live and work in a specific environment, calls not only for a deeper analysis of the interface where expert systems meet the local arena, but also for a conversion of these insights into a dialogue with policy-makers and development workers.

Essentials of Tibetan Traditional Medicine
by Thinley Gyatso and Chris Hakim
Berkeley: North Atlantic Books, 2010, 398 pages, ISBN 978-15-5643-867-7

Reviewed by Sienna R. Craig

Within the past decade, scholarship and publications on Tibetan medicine have grown exponentially, across a range of disciplines, from history and medical anthropology to public health, religious studies, ethnobotany, development studies, and complementary and alternative medicine. *Essentials of Tibetan Traditional Medicine* by Thinley Gyatso and Chris Hakim adds to this growing bibliography. This book is a collaborative effort between a Tibetan physician living and working in the Pacific Northwest and an American trained in Chinese medicine and, in recent years, Tibetan medicine. The authors describe this book as a 'commentary of sorts' drawn primarily from the *Oral Instruction Treatise* (*sman ngag rgyud*) of the *Fourfold Treatise,* or what is often translated as the *Four Tantras.*

Part I provides an overview of concepts fundamental to the study of Tibetan medicine. This includes precepts on 'being a worthy student,' a discussion of the body in a state of health, and strategies for discerning illness through pulse diagnosis, urinalysis and questioning the patient. Part II is titled 'The Humors.' It explores the relationship between the three *nyes pa* (often translated as 'humors') of *rlung* or wind, *mkhris pa* or bile, and *bad kan* or phlegm. Part III is entitled 'Therapeutics.' The majority of this part is an exegesis on *materia medica* and Tibetan medical formulations. Individual medicinal ingredients are presented here, followed by a section on the principles of compounding and a list of commonly used herbal formulas. Additional information on therapeutic strategies, lifestyle and diet are also presented.

The authors' stated goal with this book is not to present a 'scholarly translation' of the *Oral Instruction Tantra* but rather to provide 'medical insight' for people who are already assumed to possess some knowledge of Tibetan medical principles. While this is a laudable goal, the book falls short of this goal because of its lack of clarity with regard to audience and due to related problems of language and terminology, epistemology and reasoning. Questions also arise as to the books' relevance for contemporary

Tibetan medical practice. The authors claim at the outset that their work is intended to be an 'intermediate' textbook. Yet many parts of the book strike me as elementary and at the same time decontextualized, as if the authors had a difficult time balancing their desire to be true to the *Fourfold Treatise* and to be relevant to contemporary audiences, particularly those who are non-Tibetan speakers and who presumably reside and practice medicine in the West. The authors' rationale for including some material and excluding others is unclear. We do not get a sense why there is such detailed material on different types of fevers in Part II, but a discussion of smallpox and influenza is jettisoned. Why do we learn about bloodletting when this is so rarely practiced in contemporary Tibetan medical clinics, and we hear little about Tibetan forms of massage, medicinal bath use, or types of acupuncture that are routinely used in Tibetan medical practice in both Asia and the West?

In other areas in the text, chasms of clinical experience and theoretical understanding are glossed over through the 'commonsensical' approximation of a Tibetan term with a biomedical equivalent. For example, on p. 105, the authors write of 'epidemic fever affecting the brain' and that 'this disease pattern probably corresponds to meningitis.' Such comments can be found throughout the book. This is a problem at two levels. First, the reader is jarred here into realizing that this is clearly *not* a translation from the *Oral Instruction Treatise*, but an inserted contemporary notation. While the insertion itself is understandable, the lack of differentiation—even in typeface—is confusing and raises issues about how or in what ways other passages from the Tibetan original have been rendered. Second, such comments presume an equivalency between biomedical and Tibetan medical concepts and etiologies. There is a growing scholarly literature on the ways medical concepts are translated across the cultural and scientific terrain that distinguishes Tibetan medicine from biomedicine, but the authors seem unaware of, or inattentive to, these issues.

The authors do not include any Tibetan language in the text *except* in the third section on *materia medica* and therapeutics. To me, an 'intermediate' level of Tibetan medical study requires some fluency with Tibetan language and asks that one access core Tibetan medical concepts without having to rely on an English approximation. While the Tibetan medicinal plant, mineral and animal ingredients are all rendered appropriately in Wylie transliteration, crucial concepts such as taste *(ro)* and potency *(nus pa)*

are mentioned—but only in English—and their precise meanings are not explored. Yet a detailed understanding of these concepts remains essential to make sense of the descriptions of individual *materia medica* and compounds. This work of defining terms could have been undertaken in the beginning of this section or even in Part 1. Also, it would have been useful to link discussions of particular compounds to a sense of how and why these are used in contemporary Tibetan medical practice.

Given the organization of Part III, the reader could emerge with an erroneous presumption that Tibetan *materia medica* can or should be viewed as *individual* ingredients, when really the brilliance of Tibetan therapeutics has to do with how and why different ingredients are mixed together. No single Tibetan herb or other ingredient is used in isolation. I am also not clear why the authors chose to represent this section with the term 'herbs' when *materia medica* would have been a more accurate term. 'Herbs' gives the wrong impression, since Tibetan medicines rely heavily on minerals, animal products, semi-precious and precious stones, and also metals. Also, the bibliographic information in this section is uneven and there seems to be slippage in many places between specific ingredients' indications or according to Chinese medical sources, Ayurveda and Tibetan medicine. While each of these Asian medical systems do have points of connection to the others, it would be wrong to assume that an ingredient's use in one medical system is the same as that in another Asian medical system, or to named biomedical / biochemical properties either. The comparisons are interesting, but are not ends in themselves.

Finally, although I have no doubt that Dr. Thinley Gyatso has put a great deal of work into this book, his experience as a clinician and as the interpretive source for much of what is presented in English, are largely absent and silent. I wonder about this. A short prologue or afterword in which he comments on his own path to becoming a doctor, the relationship between medicine and Buddhism, or even his contemporary use of Tibetan medicines, for example, would have been welcome. As it is, the present-day experience of this Tibetan physician seems absent from the text, except for what is communicated through the meta-structure of the text itself. These shortcomings aside, the authors clearly have a deep respect for Tibetan scientific and cultural knowledge. I found the book useful, if primarily as a means of reflecting on how Tibetan medicine is rendered cross-culturally.

Naga Identities: Changing Local Cultures in the Northeast of India

edited by Michael Oppitz, Thomas Kaiser, Alban von Stockhausen and Marion Wettstein

Gent: Snoeck Publishers, 2008, 464 pages, 376 illustrations, bibliography, index, ISBN: 978-90-5349-680-0

Reviewed by Stéphane Gros

In his Preface, Michael Oppitz talks of the 'weight of the losses' that overwhelm the helpless ethnographer as he witnesses the 'signs of decline.' This note of melancholy and nostalgia about a declining culture, with which the book opens, is nevertheless counterbalanced by the particular attention given to contemporary voices and the perpetual redefinition and restructuring of cultural forms. Hence the title given to this dense and extremely interesting volume: *Naga Identities*, which addresses the 'polyphony' of Naga self-image and identity within the flow of past and present threats or challenges from diverse and complementary perspectives.

Despite its size, one should not expect this book to be an encyclopaedia: it does not aim to cover all aspects of Naga history and culture, past and present, which would surely be a failed attempt from the start. Instead, this volume covers a wide range of issues and succeeds brilliantly in combining the results of work conducted in the field, on archives or on museum collections, and in showing the often subtle interactions between collective conceptualisations, material concretisations and identity, and how they change over the course of time.

Once feared head-hunters, the Naga people of the south-eastern foothills of the Himalayas have undergone tremendous transformations since the middle of the nineteenth century. With British colonial rule came the indelible mark left by Baptist missionaries, while the later integration of the Naga tribes in the new post-1947 Indian State resulted in a war of independence that raged for fifty years. A ceasefire has been in place since 1997 and now that the region has reopened to foreign visitors and researchers, it is the subject of increasing attention, as this book—among others—goes to show.

This volume is a richly illustrated collection of in-depth analytical studies (ranging from ethnology, to archaeology and linguistics), alternating with pictorial essays (glimpses of past and present life styles and artefacts), as well as excerpts from interviews with people from Nagaland. Each contribution sheds light on the elements, material or immaterial, which help to forge a link between past and present and to foster 'Naga' identity, the main concern of the book.

Given that the book originates from an exhibition[1] built around a collection of Naga artefacts from European museums, most of which were collected during colonial times, it is not surprising that the focus of the volume is on the objects and photographs representing the past grandeur of Naga culture. By the end of the nineteenth and the first third of the twentieth century, the first ethnographers of the period of British rule (Mills, Hutton and von Fürer-Haimendorf being the most important) were already documenting the demise of local cultures. Head-hunting, for which the Naga had become known, was then already a dwindling tradition, the subject of great ethnographic interest on the one hand, and colonial and evangelical repression on the other (even if paradoxically, it could be argued that colonial occupation actually fostered head-hunting by provoking rivalry between groups). Nevertheless, head-hunting does not define Naganess; much emphasis was given to the display of wealth and fertility associated with *mithun* (local semi-domesticated cattle) sacrifices during 'feasts of merit.' Such sacrifices were forbidden during colonial times, together with the *morung* system (men's ceremonial houses and dormitories, centres of collective life and repositories for head trophies) as well as tattooing. Several pictorial essays in the volume manage to evoke times gone by and the artistic expressions linked to these lost practices. However, the book is not an exhibition catalogue. The authors, some from Nagaland themselves, have done a sterling job of presenting today's Nagas and deconstructing their exotic image.

So, who are the Naga? Naga identity is certainly to be understood as an awakening to world politics, and to past and current nationalism (Abraham

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Lhota, Dolly Kikon), along with a need for political unity in their struggle for independence since the early twentieth century. This struggle has led to the recognition of the Federal State of Nagaland by the Indian government (1963), but has not, however, put an end to the armed resistance and conflict between opposing factions. The historical context of colonial rule and the spread of Christian missions also gave birth to the instrumentalisation of the supra-tribal ethnonym 'Naga.' Today, however, Naga identity goes beyond the expression of tribalism rooted in the colonial urge to control and categorise everything, or the rhetoric of evangelical Christianity. New expressions of identity and a search for meaning outside Nagaland are now emerging among the young generation, even if this implies the rejection of traditional culture (Alban von Stockhausen).

The nostalgia for disappearing traditions evoked by Oppitz in the Preface, and the 'tragedy' of the loss of linguistic and cultural diversity expressed by Macfarlane and Turin, justifies the need for compilation, recording and collecting. This situation of great cultural loss increasingly raises the issue of the relationship between the anthropologist and the host community, and the shared responsibility for rendering the results accessible, and for 'returning the culture' to the people from whom it originally came, as in the example of the 'Naga videodisc' (Macfarlane and Turin).

Given the important internal socio-cultural diversity—or even linguistic diversity, since the Naga languages do not represent a single coherent branch of the Tibeto-Burman family (George van Driem)—the process of selecting common features is bound to be an ongoing process, from both outside and within. Fortunately, this volume goes far beyond this and avoids providing even a tentative definition of Naga identity. Instead of sustaining the representation of a monolithic and exoticised Other, the book constitutes an exemplary attempt at restoring some nuance and fuzziness in the multiple manifestations of Naga identity. In so doing, it also avoids an all too easy opposition between tradition and modernity.

Material culture and artefacts are a strong focus of the book which nevertheless seeks to grasp both intangible and tangible manifestations of identity. Various contributors shed light on fundamental layers of meaning encapsulated in handicrafts (Marion Wettstein, Iris Odyuo), or new fashion trends (Moalasa Jamir). Others point out the cultural value of ancient stone monuments and monoliths (Stuart Blackburn) or of barely

surviving log drums (Michael Oppitz) and their intimate link with oral traditions and spiritual meanings. They remind us of the importance of different means of communication and the threat looming over oral traditions, story-telling or rarely studied song traditions (Thomas Kaiser). They also reveal the still lively traditional musical heritage (Wolfgang Marschall), or how nationalist feelings express themselves today through new songs and stories, and how political claims make use of origin and migration stories (Dolly Kikon).

Local religious traditions and practices are altogether a tougher field of inquiry, mainly due to the high dominance of Christianity (more than 90% of Nagas are now Christian). Hence, only one chapter on soul concepts and links between tigers and humans (Rebekka Sutter) refers to a layer of animistic beliefs, while other contributions focus on the local Baptist tradition (interview with Reverend Noklen Longkumer), on syncretic aspects of healing practices (Vibha Joshi), or on the more exceptional influence of Hinduism (Arkotong Longkumer).

The theme of social and cultural change runs through the whole book. It is sometimes dealt with somewhat too simplistically regarding changes affecting the family (Kevilhuninuo Nagi). One also comes to wonder what the 'enduring' heritage really is, so that Abraham Lotha's depiction of the 'core' of Naga identity seems either a little anachronistic or too politically oriented. In fact, aspects of how Naga societies have become transformed permeate most of the essays, but emerge with even greater force in the short interviews with Naga people that punctuate the volume. These nine interviews open other windows onto their past and present life and nicely complete the analytical essays by enriching the 'polyphony' that makes up the volume and by providing an insider's analysis and perception of the contemporary Naga social and cultural context (such as HIV, rock music, politics and religion). Maybe some biographical information about these 'representatives', or some further contextualisation, would have helped the purpose of letting these people have their say.

In one of the interviews, 'a young Naga woman' tells the reader how members of the older generation very often react negatively to inquiries about the past: 'Let us all be happy and move on. Why do you want to learn about the past?' Yet at the same time the younger generation faces the injunction: 'Regain your culture!', though left with little sense of what this culture *really* is. The young are therefore bound to recreate a culture,

'a new one', while giving up on the past to which they are not granted access.

Nevertheless, as this volume shows, there are some aspects of continuity: the strong stability in activities such as basketry which survived the arrival of modern goods (Iris Odyuo); prophecies in church circles which may parallel the traditional role of the tiger-man/shaman; the expression of deep-rooted cultural values through handicrafts such as shawl-making, even though reformulated and standardised, with an interesting shift from individual (status oriented) to collective identity, as demonstrated by Wettstein. Nonetheless, even if *mithun* sacrifices and headhunting, no longer practised but such an important component of male identity, 'are kept in iconic form in the design' on shawls, Wettstein is right in depicting the important repositioning of gender roles and the fate of these 'defeated warriors.' This echoes a similar comment, once highlighted by Ramirez (1987), made by a Naga man: 'They have made helpless females of us [...] they have forbidden us to take heads and thus deprived us of our way of proving our manly bravery' (cited from Ganguli, 1984: 192). Does the fundamental and positive role of social violence in Naga culture still express itself today through other means? Obviously, Christianity provides new cultural reference points and is a factor in instilling a sense of unity and identity; but it has also made a profound contribution to the disintegration of the internal mechanisms that organized Naga society in the past. The Hornbill Festival promoted by the State of Nagaland is a re-enactment of a shared Naga culture that never existed in this form, a form of invented tradition, as several authors point out. It serves an increasingly international public with a commercialised culture, and it seems impossible to revive anything that would contradict Christian precepts.

The episode told by Alban von Stockhausen of an incident during the 2005 Hornbill Festival is eloquent: that year, one of the invited troupes organized a traditional game that consisted of fighting over a live dog which in the course of the game was torn apart limb by limb. Shortly afterwards, this act was highly criticized and vilified as barbarian and as a form of gratuitous violence. Such an event can be understood as a sign of an ongoing search for meaning, through which the reader ultimately comes to share a deep sense of uncertainty concerning the future of the Naga culture. The future will no doubt involve re-establishing memories, attributing new

meanings to old, and developing a politics of heritage that could provide a 'technology of healing.'[2] It is perhaps this kind of palimpsest that S. Ayim Longkumer, a craftsman and healer from Nagaland, is calling for when he says: 'The key with which the English people have locked the Nagas in is still deposited somewhere in England. So please come and open, set us free.'

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2   See De Jong and Rowlands, 2008.

Bards and Mediums: History, Culture and Politics in the Central Himalayan Kingdoms

edited by Marie Lecomte-Tilouine
Almora: Almora Book Depot, 2009. 395 pages, including supplementary
DVD-Rom, ISBN 978-81-900086-9-3

Reviewed by Arik Moran

This richly documented and extensively researched volume, the product
of a three year-research project (2000-2003) funded by the French National
Agency for Research (ANR), is a timely addition to the growing body of
scholarship on the Himalayas. Ostensibly limited to an investigation of
'oracular religion and bardic tradition' in the 'Khas cultural area' (p. 12)—the
region between West Nepal and Kashmir where the indigenous population
of Khas (alternately, Kanet) is dominant—the articles and supplementary
audio, video and photographic data featured in the interactive DVD that
accompanies the publication are, in fact, the most complete and updated
source of information on this long neglected part of the Himalayas available
today. Moreover, in bringing together a host of international specialists
from different backgrounds, *Bards & Mediums* offers an interdisciplinary
investigation into theoretical issues related to possession and oral
traditions that extend beyond the confines of Himalayan societies. Finally,
many of the materials presented in the volume are new or otherwise
translated from sources in local languages that are not readily accessible
to external readers, rendering it particularly valuable as a centralized
source of information on this otherwise sparsely documented region. As it
is impossible to do justice to the complex analyses and breadth of subjects
covered in *Bards & Mediums* in the space of a review article, in what follows
I shall limit myself to outlining the work's content and central aims, and
complement these with examples from those articles most pertinent to the
publication's overall goal: the exploration of Khas history and culture in
light of mediumship and bardic traditions.[1]

The volume's twelve chapters are divided into two parts, 'Religion'
and 'History', which broadly (although not exclusively) relate to

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[1]   For a full list of the chapters and their authors see: http://bit.ly/bardsmediums

anthropological and historical topics regarding mediumship and bardic traditions, respectively. Each part is preceded by an editorial essay that sets out the theoretical framework for the articles that follow by highlighting the key issues under consideration and their relation to the contributors' works. The emphasis in the introductory essay to the first half of the book ('Religion') is placed on the social dimension of Khas mediumship, which the editor perceives as the distinct quality that sets the area apart from other Himalayan regions where oracular practices prevail.[2] Taking due note of the political, social and ritual implications of the institution, the fundamental significance of Khas mediumship is summarily explained in its affording 'a potential for reaction or innovation' to the social order while simultaneously reinforcing the power structures and norms that sustain it (p. 54). The tensions between the communal aspect of mediumship and accepted social practice underlie the different case studies that follow. For example, Satya Shrestha-Schipper's detailed exposition of socio-religious structures in Jumla (Nepal) shows how *dhāmī* oracles can improve the social standing of their home communities by serving as the mouthpiece of powerful regional deities. This allows for social mobility among later settlers in the region, such as the Indo-Nepali Matwali Kshatris, who can overcome their apparent disadvantage (expressed in the relative position of their lineage deities) by having a member of their community chosen as the oracle of a distinguished regional deity (pp. 74-75).

The centrality of mediumship to political life is further elaborated in Daniela Berti's article on conflicts between deities and their followers during the 2001 Kullu Dasara, which is accompanied by a useful audio-video commentary on the DVD. Tracing the convoluted relations of politicians, mediums and the former raja of Kullu (a politician in his own right), Berti points to the continued influence of oracular religion on political life. Thus, while the raja's centrality to the ritual celebrations helps sustain his popularity, it also renders him open to criticism on the part of participating deities (through their respective mediums), leading to the establishment of new institutions to regulate relations between the various gods so that he may preserve his political clout without sacrificing ritual privileges.

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2   The shamanism of East and Central Nepal is a case in point. There relations with the divine are the unique prerogative of shamans to the exclusion of their clients in the community (pp. 30-35).

The case for Khas mediumship as a form of resistance that simultaneously affirms and legitimates the social order is forcefully made in Marie Lecomte-Tilouine's account of a communal ritual in the former kingdom of Askot in eastern Kumaon. Unlike the overtly political, week-long, annual Dasara of Kullu, the 'Dhuni Jagar' at Askot is held every two or three years for a single night, during which the 'gods of the forest' manifest, enact scenes from their local mythology and offer members of the community an opportunity to seek their help in confronting various wrongs and grievances (p. 85). As illustrated in her paper and patently visible in the corresponding sections of the DVD, possession in this restricted setting is an open-ended affair. Thus locals other than the deities' designated mediums may come under the influence of divine forces (not without being contested) and thereby bring communal disputes into the public space in order for them to be resolved through the gods' arbitration. These mundane conflicts are played out with varying degrees of violence on the backdrop of sequences from the local gods' mythological tales, which are enacted by different members of the community in affirmation of their hierarchical positions in society. The last two chapters in this section offer a comparative examination of mediumship by expanding the analysis to sub-regions in the Tibetan cultural zone (Spiti and Zanskar) that borders Khas territory.

The second part of the book, 'History', uses oral traditions and epigraphic evidence to trace the evolution of the Khas Malla Empire (12-14th centuries) and the polities that followed its dissolution in Uttarkhand (Kumaon, Garhwal) and West Nepal (Dullu, Daleikh, etc.). In her introductory essay and two further chapters (7 and 9), Marie Lecomte-Tilouine dispels the prevailing perception of the Khas Empire as centred at Jumla and proposes shifting the site to Dullu instead. The latter's political significance is shown to be intertwined with its position as the ritual centre of a vast tantric empire, where Death (*yama*) itself used to preside over the 'territory of the flames', locally known as the *pañcakośī.* Marked by a series of sites where gaseous flames emit from the mountains and under which a huge subterranean snake is believed to have circled, and to whom sacrifices were habitually offered, the spatial and ritual arrangement of the *pañcakośī* and its related myths are outlined in a unique chapter (9) that can be fruitfully explored in a detailed interactive section of the DVD.[3] In another chapter

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3   It is worth noting that the editor also benefited from access to (written and photographic)

(7), Lecomte-Tilouine reconstructs the genealogical roll of the Raskoti dynasty of Dullu from several written and oral sources. Resuming an anthropological perspective, she points to the significance of the social context in which the latter are recited by specialist *huḍke* bards in face of Kshatriya (either 'real' or 'aspiring') patrons. The roles, mechanisms and devices employed by *huḍke* bards are further elaborated in Rémi Bordes's investigation of heroic poems *(bhārat)* from Doti in West Nepal.

The remaining three chapters, written by accomplished scholars from the Himalayan region, abandon oral sources altogether to concentrate on written and epigraphic evidence, providing complementary, and at times contradictory, accounts of the region's history. Tek Bahadur Shrestha reconstructs the history of the neighbouring principalities of Dullu and Daleikh from the decline of the Malla Empire to the rise of the Gorkhas, highlighting their distinct trajectories as evidence of their constituting two distinctly independent polities. Mahes Raj Pant presents a selection of epigraphic material from his ongoing work on Khas inscriptions (numbering nearly 150 at the time of publication), which are fully transliterated and translated. He raises questions concerning their provenance, addresses earlier evaluations by other scholars and advances new interpretations. Discarding the Malla-centric point of view in favour of a regional one, Maheshwar Prasad Joshi argues for the formation of independent polities in Garhwal and Kumaon parallel to the rise (and fall) of the Khas Empire. He supports these claims with a selection of 50 transliterated and translated inscriptions from Uttarkhand dating to the 12-15th centuries that are accompanied by an extensive glossary of contemporary terms. The juxtaposition of these informative articles and their divergent interpretations point to the considerable advances made in the study of Khas history and the need for further work, discussion and elaboration of the topic that will hopefully follow. This is equally true for the rest of the volume: as the first attempt at a comprehensive introduction to Khas society and history, *Bards & Mediums* will be of immense value to both the general and specialist reader, as well as those seeking to deepen their understanding of mediumship, possession and bardic traditions through their particular regional manifestations.

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data collected by Marc Gaborieau in the late 1960s, which further enriches this section.

The Old Tibetan Annals: An Annotated Translation of Tibet's First History, With an Annotated Cartographical Documentation by Guntram Hazod

by Brandon Dotson

Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 2010, 276 pages, ISBN 978-3-7001-6102-8

Reviewed by Sam van Schaik

Before the opening of the sealed cave library in Dunhuang at the beginning of the twentieth century, there were no contemporary Tibetan sources for the Tibetan imperial period (from the early seventh to mid-ninth centuries). Those attempting to reconstruct the history of early Tibet had to make do with the Chinese royal annals and later Tibetan religious histories. Thus the discovery that the manuscripts found in the cave library included the royal annals of the Tibetan imperium entailed a paradigm shift in the study of Tibet.

The importance of what have come to be known as the *Old Tibetan Annals*, along with other sources like the *Old Tibetan Chronicle* (a rather less reliable narrative drawing on traditional songs and tales) was soon realized. The *Annals* were the contemporary records of the Tibetan imperial court, taken year by year. The annual records begin in the year 641-2 with the arrival of arrival of the Chinese princess bride Kong-co and end in the year 763-4 with the Tibetan conquest of the Chinese capital city Chang'an. There is a lacuna of seven years between 748 and 755 that happens to coincide with a period when the Tibetan court was shaken by a rebellion that nearly ended the line of the Tibetan emperors. The Tibetan court continued to keep annual records after the year 763-4, but unfortunately these are no longer extant.

The manuscripts comprising the *Old Tibetan Annals* were acquired by the British Museum and India Office Library in London (now incorporated into the British Library) and the Bibliothèque Nationale de France in Paris. The first edition and translation (in both French and English) of the text appeared in 1940.[1] Though groundbreaking in its time, seven decades

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1   Bacot, Jacques, F.W. Thomas and Charles Toussaint. 1940. *Documents de Touen-Houang relatifs à l'histoire du Tibet* (Annales du Musée Guimet 51). Paris: Librairie Orientaliste Paul

later this publication leaves much to be desired. Thus the appearance of Brandon Dotson's new edition and English translation of the *Annals* is an exciting event for those interested in Tibet's early history. It is immediately clear that this is a significant advance on what has come before. Dotson's translation (Part II of the book) is elegant and clear, and extensively annotated. The text of the *Annals* is often terse, and Dotson has largely let this stand in his translation, while adding some elided name elements and other clarifications in brackets. Difficult passages, and parallels with contemporary Chinese historical sources are discussed in footnotes with reference to previous studies by the likes of Geza Uray, Christopher Beckwith, Tsuguhito Takeuchi and Rong Xinjiang.

The extensive introduction (in Part I) is almost as valuable as the translation. Here Dotson argues convincingly that the *Annals* were a product of the Tibetan emperors' court. While this may seem self-evident from their content, there is a school of thought that holds that none of the imperial-period Tibetan material recovered from Central Asia should be used to reconstruct the events of Central Tibet because of its geographical distance from the centre. Or as Dotson puts it, 'What happens in Dunhuang, stays in Dunhuang.' In the case of the *Annals*, this is clearly false. Although the surviving manuscripts of the *Annals* were certainly copied at or near Dunhuang, the original documents are primarily records of the movements and activities of the emperor's court. On the other hand, as Dotson also points out, it is clear that the redactors of the royal annals could be selective. Of the two extant (and fragmentary) versions of the *Annals*, Version I (found in the manuscripts Pelliot tibétain 1288 and IOL Tib J 750) is focused primarily on civil and administrative matters, and has been dubbed the 'civil version'. On the other hand, Version II (found in the manuscript Or.8212/187) is concerned primarily with military matters, and Dotson accordingly refers to it as the 'military version'.

Following this introduction to the manuscripts themselves, Dotson presents a series of brief essays on various social, political, administrative, geographical and historical issues that are raised and sometimes clarified by the text of the *Annals*. The issues discussed include the succession and marriage in the Tibetan royal line, the structure and extent of the Tibetan

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Geuthner. Here Version I of the Annals is translated into French, and Version II into English. The book also includes a French translation of the *Old Tibetan Chronicle*.

empire, the administration of Tibet, and the hierarchies of social class and rank. Here Dotson draws together previous scholarship, as well as his own work on these materials, into a coherent and thoughtful discussion. The essays make this volume now the best single historical survey of the Tibetan imperial period. Added to this we have the Appendices, which include the royal succession, with the names and dates of the historically attested Tibetan emperors; the succession of ministers, and the names of ministers recorded in three imperial edicts; and a useful collection of Tibetan sources on the Tibetan conquest of the Chinese capital Chang'an in 763.

Finally, Part III of the book contains what is essentially a brief monograph by Guntram Hazod on the key sites and administrative subdivisions of the Tibetan Empire. Hazod is well known to Tibetologists from the recent volumes he has written in collaboration with Per Sørenson and Tsering Gyalbo, and his work here is in the same vein. This section is based on a series of maps with explanatory essays, which are truly groundbreaking in mapping the terrain of the Tibetan empire. The boundaries of the districts at the centre of the empire, the 'four horns' (dbu-ru, g.yos-ru, g.yas-ru and ru-lag) are described. Hazod also lists the 'thousand districts' and other administrative subdivisions within the four horns. Later additions to the empire, including the horns of Zhang-zhung and Sum-pa in the west, and Mdo-smad, Mdo-khams and Bde-khams in the east, are also described.

Hazod also maps the minor principalities (rgyal-phran) that are mentioned in a number of Dunhuang manuscripts and may represent, as he suggests, local polities that were absorbed into the Tibetan Empire, emerging again as centres of power in the post-imperial period. This discussion is enhanced by archaeological evidence of tomb sites associated with minor dynasties in Central Tibet. Aerial and on-site photographs accompany an extensive analysis of these tombs. Finally, Hazod provides several maps of the place-names mentioned in the *Annals* themselves. This whole cartographical section of the book draws upon a wide variety of sources apart from the *Annals* themselves, including other Dunhuang manuscripts and later Tibetan Buddhist histories. The only drawback of this approach is that this section lacks the rest of the book's focus on sources that are demonstrably from the imperial period.

The book concludes with a very useful glossary, and indices of place and personal names. Both refer to the year entries in the *Annals*, rather than page numbers in the book, and while this helps in the consultation

of the *Annals*, it seems a pity that we have no index to Dotson's excellent introduction or Hazod's geographical discussions. In any case, the publication of this volume is a landmark in the study of Tibetan history. It is an elegant summation of previous scholarship, a significant step forward in the analysis of the *Annals*, and a basis, one hopes, for a wider appreciation of the role played by the Tibetan Empire in the history of Asia.

The Indicted Healthpost

by Shrawan Mukarung

During the conflict
The landowners who had entered the city
Returned to the village
And donated land.

The youths who had gone to Arab
Opened institutes
And sent economic aid.

Stones, soil, wood and water
The village gathered,
The villagers
Gave their labour.

An NGO
Added a roof of shining tin.

Through a sense of duty,
Dr Suryanath returned from Europe,
For love of the village, Sister Chandrakumari
Returned from the city.

Unable to be defeated,
By request the faith healer Tarabahadur
Became a health assistant.

With the school,
The PCO
And the police post
It stood—the indicted healthpost.

With joy
They wept—the old people,
They leapt—the young people,
They danced—the children.
But in the district town
He became angry—the CDO,
They became speechless—the VDC secretaries,
They became enraged—the old contractors
And the fraternal organisations of the main party.

Is that village a different country?
Does that village not need a government?

At the centre
There is tension between two assembly members,
Because
The constitution still has to be made,
Socialism still has to be interpreted,
Communism has yet to arrive.

[This poem appeared in *Himal Khabarpatrika* 2 October-1 November 2010.
Translation by Michael Hutt]

INFORMATION FOR AUTHORS

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References should be given as follows:

Monographs
Bennett, L. 1983. *Dangerous Wives and Sacred Sisters: Social and symbolic roles of high-caste women in Nepal.* New York: Columbia University Press.

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EBHR 37

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Autumn-Winter 2010