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Parliamentary Oversight of Defense in Nepal: Mandates and Challenges

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Abstract

The Constitution of Nepal mandates parliamentary scrutiny of defense budgets, procurement, policy formulation, and accountability mechanisms, significant challenges persist, including weak political will, institutional fragmentation, historical legacies, and capacity gaps. This article examines the evolving role of parliamentary oversight of defense in Nepal following the 2006 democratic transition, which established civilian control over the military under the Constitution of Nepal in 2015. The legislative framework, such as the Nepali Army Act, 2006, emphasizes democratic accountability but lacks effective implementation due to gaps in inter-institutional coordination and a lack of expertise. Parliamentary committees, including the State Affairs and Public Accounts Committees, play critical roles in oversight but face limitations in accessing sensitive military information and enforcing transparency. The study underscores the need for capacity-building programs for legislators, enhanced institutional memory, and a coherent national security policy to strengthen civilian oversight while respecting military professionalism and operational autonomy. By addressing these gaps, Nepal can advance democratic governance in its defense sector, ensuring alignment with constitutional principles and international humanitarian standards.

Keywords: defense, national security, Nepali Army, oversight, parliament

Introduction

The Nepali Army is one of the oldest security organizations with a unique historical background. The peaceful transition of power in 2006 ended the 238-year-old monarchy, leading Nepal to become a Federal Democratic Republic. For a long time in Nepal's history, the monarch had direct control over the defense mechanism, particularly the Nepali Army, through the Principal Military Secretary (PMS) (Upreti, 2021). The Constitution of Nepal in 2015 brought all defense mechanisms under civilian control. Parliament plays an important role in overseeing all types of defense/security (national security) activities (budgets, defense procurement, mobilization, the drafting of national security policies, etc.) and holding the government to account (Bhatta, 2010). Simply put, parliamentary oversight focuses on resource and organizational management, professional expertise, and the establishment of a security community within civil

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society. Oversight means that civilians keep track of what the armed forces or other security forces do, ensuring they are, in fact, following the direction and guidance they receive (Bruneau, 2006). A security sector that eschews democratic accountability will not function effectively.

Security policy is a comprehensive document that provides the framework for protecting its citizens and the state. The state defines and defends its vital interests. The concept of democratic oversight has never been implemented in Nepal due to a lack of political will, financial constraints, inadequate inter-institutional coordination and communication, and the absence of necessary expertise (Dahal, 2008). Civilian-military relations refer to the relationship between a people's elected government and the military. Any issues related to security, military, and strategic affairs have turned Nepal into a hub of geopolitical rivalry and competition. It is believed that a country cannot be democratic unless the legislature maintains its influence in the defense sector (Giraldo, 2006). The Ministry of Defense (MOD), as a principal component of civilian oversight, needs to be professional and competent as a guardian of national defense agencies. Nepal needs a consistent, stable, and coherent national security architecture as envisioned in the Constitution. Considering this, the study aims to assess the institutional challenges in oversight practices and the role of Parliamentary Committees in the defense sector in Nepal. Furthermore, it seeks to analyze the constitutional and legislative frameworks governing parliamentary oversight in the defense mechanisms of Nepal.

Conceptual Framework

The Constitution of Nepal outlines a comprehensive National Security framework. Democratic accountability must adhere to several fundamental principles: transparency, legality, responsibility, accountability, participation, and responsiveness to the people (EUROPEAN Parliament, 2013). To take a Canadian example, the Security and Intelligence Review Committee (SIRC) is an independent, external review body that reports to the Parliament of Canada on the operations of the Canadian Security Intelligence Service (CSIS), while the House of Commons Sub-Committee on National Defence and Veterans' Affairs is a parliamentary committee that provides parliamentary oversight of Canada's defense sector (CIRC, 2019). A parliamentary system is characterized by a fusion of powers and interests between the cabinet and its party groups in the legislature, as well as strong party discipline (Cheibub, 2014). However, the debate between Parliamentary Supremacy and Constitutional Supremacy is never-ending. The people are the ultimate owners of all institutions.

Constitutional Framework

From the Interim Government of Nepal Act, 1951, to the Constitution of the Kingdom of Nepal 1990, the monarch retained the privilege of being the Supreme Commander of the Nepali Army (the then Royal Nepalese Army) as stipulated in those four

Constitutions. Although Constitutional arrangements were made in the Constitution of the Kingdom of Nepal 1990 to assert civilian supremacy over the armed forces through the provisions of the National Defence Council (Article 118) and parliamentary committee systems (Article 64), these had little practical impact (Kumar, 2009). During this time, parliamentarians had no role in controlling defense/military affairs. Both the right to ‘operate and use force’ (Article 118[2]) and the right to appoint the Chief of Army Staff (COAS) (Article 119[2]), constitutionally bestowed on the King as the Supreme Commander-in-Chief of the Royal Nepalese Army (Article 119[1]), rendered the executive authority of the Prime Minister entirely symbolic (Government of Nepal, 1991). As mentioned in Article 267 of the Constitution of Nepal, relating to the Nepali Army: (1) There shall be an organization of the Nepali Army in Nepal, which is inclusive and committed to this Constitution, for the safeguarding of the independence, sovereignty, territorial integrity, and national unity of Nepal. The President is the Supreme Commander of the Nepali Army, and the government of Nepal (Council of Ministers) exercises operational autonomy (Government of Nepal, 1991; Government of Nepal, 2015). This indicates that the Nepali Army shall conduct its affairs in accordance with constitutional parameters.

Revitalizing the National Security Council and its Secretariat

The National Security Council (NSC) and its secretariat have been underutilized since their inception. As per Article 266(1) of the Constitution, there shall be a National Security Council for making recommendations to the Government of Nepal and the Council of Ministers on the formulation of a policy on the overall national interest, security, and defense of Nepal, and for the mobilization or control of the Nepali Army (Government of Nepal, 2015). A strong NSC architecture as an oversight agency for policy implementation in the defense and security sector in Nepal is vital. To revamp this architecture, Nepal should rework its NSC into a strategic, proactive, cross-ministerial body that can advise the Council of Ministers on the full range of security issues (Khanal, 2025). The advisory role of NSC on defense policy and army mobilization should be strengthened and should be backed by adequate research.

Legislative Framework

Parliament can serve as the key link between the government and the people and can determine the mandate of security sector bodies by scrutinizing their activities (Bhatta, 2010). The preamble of the Nepali Army Act, 2006, highlights that the current act is enacted for the establishment, arrangement, control, use, and mobilization of the Nepali Army to make it accountable to the people of Nepal. The bill relating to the functions, duties, and rights of the NSC is an important legislative document that is pending parliamentary approval. The chain of command is the sanctity of a security force, which is non-negotiable and shall always remain under the leadership of the security force. Democratization and inclusion should go hand in hand, as envisioned

in the Constitution, and should be addressed at the policy level. As per Section 10 of the Nepali Army Act, the COAS shall submit the annual report to the Government of Nepal regarding the management of the Nepali Army within the Nepali month of Baisakh (around April-May), and the State Affairs Committee shall discuss such reports (Parliament Secretariat, 2006). Discussions on such research should not only be a ritualistic practice.

The Power of the Purse

Proper mechanisms should be formulated to investigate parliamentary oversight of defense expenditures, including budget authorization, procurement scrutiny, and post-expenditure audits, as mandated by the Nepali Army Act 2006 and financial laws and regulations. The Nepali Army should explain the need and justification for the budget to its line ministry to function smoothly. The most important instrument of civilian control and supremacy is parliamentary control over defense expenditure, which was rarely exercised by the political class (Kumar, 2009). The MOD should then confirm why a certain amount is needed for the army from the country's overall budget. The MOD is the most appropriate institution to address military effectiveness, efficiency, and accountability. An adequate budget and strong logistical arrangements keep the security force fit for purpose. The defense sector should be resourceful for effective operation.

Role of Parliamentary Committees

Parliamentary Committees are mini-parliaments and play a vital role in enhancing oversight in the defense sector. The evaluation capacity of the committees (e.g., State Affairs, International Relations) to monitor human rights compliance, strategic decisions (e.g., participation in international military exercises), and adherence to democratic norms should be strengthened. The Nepali Army's engagement with foreign entities should be conducted through the MOD and the Ministry of Foreign Affairs (MOFA). The major parliamentary committees directly or indirectly responsible for overseeing the defense sector are as follows:

- i) State Affairs and Good Governance Committee
- ii) International Relations and Tourism Committee
- iii) Public Account Committee
- iv) Infrastructure Development Committee

Similarly, the State Affairs and Good Governance Committee plays an important role in the parliamentary system. It is not within parliamentary practice and tradition to invite the COAS to a committee meeting where media representatives are also present and ask him/her serious questions on various national security issues, including strategic secrets. Such a practice does not exist in any country in the world. The military does not and should not attend committee meetings to debate issues of security and national importance (Onlinekhabar, 2024). The military/defense diplomacy of the Nepali Army should be well-coordinated with the MOD and MOFA.

As the Nepali Army plays a crucial role in peacekeeping, parliamentary committees and ministries should provide effective support and facilitation, such as defense procurement. The Infrastructure Development Committee of the parliament should properly oversee and support the development activities carried out by the Nepali Army. The MOD should adequately address any issues relating to the Nepali Army in the parliamentary committees. Any responsibility assigned to the Nepali Army should be thoroughly consulted/discussed in advance among different stakeholders, including parliamentarians. Regular briefings and information sharing should be conducted by the Nepali Army to the representatives of political parties and parliamentary committees to ensure transparency and accountability. Parliamentary committees should be backed by sufficient technical experts who can support deep policy analysis on defense.

Accountability Mechanisms

Accountability mechanisms ensure the effectiveness and efficiency of policies and scrutinize government policy and actions through investigative powers.

i) Reporting Obligations

ii) Right to Information and Transparency

The Constitution of Nepal guarantees the entry of women, Dalits, Adivasi, Adivasi Janajati, Khas Arya, Madhesi, Tharu, Muslim, and backward-class citizens into the Nepali Army. It shall be ensured by federal law based on the principles of equality and inclusiveness (Government of Nepal, 2015). Late Prime Minister B. P. Koirala once said, “The army should be under the control of the House of Representatives. The spirit of being a servant of the people should be awakened in the army” Important documents like the National Defense Policy and Military Strategy should be formulated through proper consultation with relevant stakeholders, security experts, military strategists, and adequate defense surveys and research should be conducted. The report of the NSC that is submitted to the president should be well researched and properly discussed at the concerned parliamentary committees.

The MOD was reorganized in 2011. Changes were made to its structure (four divisions and eleven subdivisions were created), and the number of posts was increased from 31 to 98 (KC, 2022). Adequate expertise and training should be provided to the officials of the MOD. There is a lack of any functional coordination mechanism between the MOD and parliamentary committees (Rawal, 2022). Judicial intervention should be a last resort and should contribute to strengthening the military.

The Executive-Legislative Debate

In one case, a letter signed by the then COAS on October 27, 2015, requesting the establishment of the National Guard State Partnership Program (SPP) became a matter of great concern among Nepali media and public intellectuals. The US Embassy in Kathmandu later clarified that such a request was made twice, in 2015 and 2017. After controversy erupted over the SPP, the House committee summoned the Foreign Minister,

COAS, and secretaries from the foreign and defense ministries, among others (The Kathmandu Post, 2022). What was surprising was that the letter was a diplomatic note sent directly by the Nepali Army to the US Embassy in Kathmandu, with copies sent to the MOFA and the MOD. Important stakeholders such as the Office of the Prime Minister and Council of Ministers, the MOD, and the MOFA did not officially comment on this situation. Proper coordination among the concerned stakeholders is vital before any diplomatic correspondence. All diplomatic communications/correspondences, courtesy calls, meeting requests by foreign envoys, and peacekeeping matters should be channeled through MOFA.

Security matters are sensitive and vital to any nation. Under the democratic structure, there should be discussions in parliament about the size, role, responsibility, and budget of the Nepali Army (The Kathmandu Post, 2023). However, such discussions should not guide or interfere with the professionalism and integrity of the Nepali Army. Although parliament is the appropriate forum for discussion of important defense agendas, such discussions should not undermine national security. On March 6, 2020, the Parliamentary Committee on State Affairs called the COAS and Defense Minister, but neither appeared, and the meeting was postponed. Only the Defense Secretary and senior army generals attended the meeting. The Committee had called both to discuss complaints regarding irregularities and corruption in the army (Annapurna Post, 2020).

For the first-ever Field Training Military Exercise (MILEX-18) of BIMSTEC countries, Nepal had initially agreed to participate fully and send its COAS for the final ceremony, but withdrew just before the commencement of the exercise (Sen, 2018). Lawmakers sought clarification on the government's consent to participate in the joint military exercise. In the future, such issues should be resolved by the government through discussions with parliamentarians before assigning responsibility to the Nepali Army. The annual report of the NSC is not discussed properly in the parliament. The national security apparatus should pay sufficient attention to the reports and regular submissions from the secretariat of the NSC

Summons/Hearings

Hearings have always been a matter of great controversy in the Nepali parliament. Whether a formal right or an informal practice, it is standard for parliaments to summon ministers, senior officials, and experts to testify before them (European Parliament, 2013). Parliament may also summon the defense minister and COAS, if necessary. However, parliament should also respect the confidentiality, integrity, and secrecy of any organization. Sensitive issues related to national security and strategies should not be a matter of public discussion. Such discussions can be held behind closed doors.

Conclusion

The Nepali Army has a glorious history as a disciplined and professional force. To date, it has always abided by democratic norms and values and carried out its functions as mandated by the Constitution and law. Despite several regime changes, constitutional

amendments, conflicts, and transitions, it has adapted to the situation and respected the will of the people. Research and innovation are vital for the growth of any organization. Capacity-building programs for parliamentarians to fulfill their oversight duties and responsibilities need to be institutionalized in Nepal. Operational autonomy and the chain of command should not be disrupted under any circumstances. The policy-making functions of parliamentarians should be improved. Strong institutional memory, along with adequate policy, strategic planning, coordination, defense diplomacy, military diplomacy, and peacekeeping participation, is required. The guardianship role of the MOD should be strengthened with a high level of trust and confidence. There is also an immediate need for a separate parliamentary committee dealing with security and defense issues in Nepal. A cabinet committee on defense-related issues should be established to handle sensitive matters. A code of conduct should be formulated regarding the disclosure of information on critical national security issues for both parliamentarians and bureaucrats.

Security challenges should be addressed effectively while upholding transparency and accountability. The military is a professional and apolitical body, and a balance should be maintained when inviting the COAS to parliamentary committee meetings. There are limits to accountability and transparency, and parliamentary committees should not expect the COAS to provide answers on military command structures, operational authority, and sensitive national security information. The report of the NSC submitted to parliament should be properly discussed and not treated merely as a ritualistic practice. To date, the appointment of senior officials of the Nepali Army has been based on meritocracy, and this should continue. Compliance with the rule of law is always important, especially for security forces. To conduct inquiries in parliament, sufficient staff, expertise, and resourceful parliamentarians are the pillars of parliamentary supremacy. Regular information-sharing mechanisms, consultations, and access to information are vital for better defense control. There is an urgent need for enhanced inter-agency coordination and codified procedures for summoning defense officials. A balance should be struck between military professionalism and democratic accountability. There is a need for a permanent structure and procedure that coordinates between the executive, the legislative, and the Nepali Army.

References

- Annapurna Post. (2020, March 13). Sansadiya samitima aenan rakxamantri r senapati [Defense Minister and Army Chief did not appear before the parliamentary committee. Kathmandu: Annapurna Post.
- Bhatta, D. P. (2010). In S. Sharma (Ed.), *Loktantrik Niyantranka Mukhya Chunauti*. Kathmandu: Martin Chautari.
- Bhatta, D. P. (2010). *Loktantrik Niyantranka Mukhya Chunauti [The main challenge of democratic control]. Nepali Sena Niyantran, Rupantaran Ra Chunauti*. (S. Sharma, Ed.) Kathmandu : Martin Chautari.
- Bruneau, T. C. (2006). *Democratizing the security sector: Institutionalizing civilian control, effectiveness, and efficiency*. Naval Postgraduate School.

- Cheibub, J. A. (2014). Beyond Presidentialism and Parliamentarism. *British Journal of Political Science*, 515-544.
- CIRC. (2019). *Canadian Security Intelligence Service*. CA: Security Intelligence Review Committee (CIRC).
- Dahal, D. R. (2008). National Security: Security Sector Reforms and Civil Security Relations in Nepal . Kathmandu: Nepal Ex-Policemen Organisation and Friedrich-Ebert-Stiftung.
- EUROPEAN Parliament. (2013). *Parliamentary oversight of the security sector*. Office for Promotion of Parliamentary Democracy.
- Giraldo, J. (2006). *Defense budgets, democratic civilian control, and effective governance*. ResearchGate.
- Government of Nepal. (1991). The Constitution of the Kingdom of Nepal 1990. Kathmandu: Baudhik Sansar Monthly.
- Government of Nepal. (2015). Constitution of Nepal. Kathmandu: Government of Nepal.
- KC, Y. (2022, September 23). Parliamentary committees in Nepal: Scope and constraints. Samriddhi Foundation.
- Khanal, B. (2025). Revitalizing Nepal's National Security Council and its Secretariat in a Changing Geo-Political Context. *Unity Journal*, 297-312.
- Kumar, D. (2009, April 13). Democratic security control. The Himalayan Times.
- Onlinekhabar. (2024, May 6). Samsadiya samititma senapti bolaune ki rakxmantri? [Whom to invite in the parliament—COAS or Minister for Defense?]. Kathmandu: Onlinekhabar.com. Retrieved from <https://www.onlinekhabar.com/2024/05/1482593/will-the-parliamentary-committee-call-the-general-or-the-defens>
- Parliament Secretariat. (2006). Pratinidhu Sabhako Baithakma Pesh Bhayeko Nepali Sena Sambandhi Kanoonma Sanshodhan ra Ekikaranko Byabyashtha garna Baneko Bidheyak [The Military Act Bill]. Kathmandu: Parliament Secretariat.
- Rawal, S. S. (2022). Understanding Civil-Military Relations for better Civilian Control of the Military in Nepal. 113–146. Nepal Public Policy Review. doi:<https://doi.org/10.3126/nppr.v2i1.48399>
- Sen, G. (2018, September 19). Implications of Nepal's withdrawal from BIMSTEC military exercise in India. Vivekananda International Foundation.
- The Kathmandu Post. (2022, June 17). House committee quizzes foreign minister, Army chief over SPP. Kathmandu: The Kathmandu Post.
- The Kathmandu Post. (2023, July 21). Numerical strength of Nepal Army comes into focus, once again. Kathmandu: The Kathmandu Post.
- Upreti, B. R. (2021). Nepal: The Role of the Military in Politics, 1990–2020. doi:<https://doi.org/10.1093/acrefore/9780190228637.013.1839>,