

**Transcript
of
Britain Nepal Academic Council's
Public Forum on Nepal: 'Royal Rule, One Year On'
Friday 10th February, 2006
School of Oriental and African Studies, London**

Introduction by Dr Judy Pettigrew (University of Central Lancashire), who chaired the forum

I would like to welcome you to the Britain Nepal Academic Council's public forum: 'Royal Rule, One Year On'. The aim of the event, which is a follow-up to our forum of a year ago, held in the immediate aftermath of the royal takeover, is to review the last year and discuss the present situation in Nepal. The forum also aims to discuss possible solutions for solving the political crisis in Nepal and we invite you to address this question in the open discussion. We have brought together seven speakers to provide short presentations on a range of issues. After the last speaker Professor Michael Hutt will make some concluding remarks and this will be followed by the discussion. The forum is being taped to assist us prepare the transcript which will be electronically disseminated following the event. We request that you do not tape the proceedings

Panel Presentations

**Dr Rod Chalmers (International Crisis Group)
'Update from Nepal'**

I have been given the title: 'Update from Nepal' but I have to admit, I have not been in Nepal for the last ten days. In fact, I have been on a global tour of what would be the international power centers. I have been in Delhi, then in New York and Washington and from yesterday London. So I think it would be useful, if I spent thirty seconds on my take on the update on Nepal and then have a quick look at what the world at large has done and could do, to help the situation out.

To give a summary of what royal rule has done is pretty easy. It has been a failure on almost every front, except that King Gyanendra has had enough stubbornness and willingness to disregard opposition, both domestic and external, to press on regardless. So it is not true to say that he himself and the people around him have yet recognized failure. But if we talk purely in terms of the conflict: He promised peace and we do not have peace. He promised to deal with the Maoists and he has not dealt with the Maoists in any way, not by tackling them militarily nor by dealing with them more productively by talking. Nor have his hopes that the Maoists would simply collapse and withdraw into nothing, transpired.

What I am more interested in is, whether or not this failure may have been in some way productive. And, at the risk of sounding out of character and out of step, I think maybe there are some silver linings in the clouds: I think there remained a sizeable proportion of Nepali public opinion and certainly international opinion before February of last year and perhaps for some time afterwards, that there was a Royal magic bullet option to the situation in Nepal. So, give the King and the army a free hand, get out of the way the carping critiques, the human rights wallahs, the political parties and everyone else and they could fix things up - the King would see things through. That view was there in certain parts of the diplomatic community and perhaps domestically, maybe more as wishful thinking.

We have now seen very clearly that that has been given a fairly free run and has not worked. This may well have helped those who had this wishful thinking to realize that they have to look elsewhere if they wish to end this conflict. So that might put the international community onto a better footing. It also removed the scales from the eyes of some of the more wishful thinking members of not just the Nepali general public but perhaps the mainstream Nepali political parties who imagined they could yet salvage something workable from a compromise with the palace after February the first.

On the domestic front, I think, the most productive outcome has been in the first place, the Maoist ceasefire. Which was certainly partially a tactical exercise, but never the less provided an opening and a demonstration of a capacity to consider other options, which might lead to a peace process and beyond that. The agreement between the mainstream parties and the Maoists that was concluded in Delhi in November of last year... We (the International Crisis Group) have written about that and all reports are available from the website (www.crisisgroup.org).

We are far from starry-eyed about the possibilities of this agreement to bring peace - it has various difficulties - it raises certain risks, that leave many key issues as yet undecided, but for the first time on the domestic political front, it shaped a plausible road map, which might build compromise between two of the three corners in this struggle - the mainstream parties and the Maoists. And to that extent I think it was a very worthwhile exercise, one in which India's tacit role is probably laudable and one which almost certainly will provide the basis for whatever next steps there are.

On the question of what happens on other fronts, well clearly the palace (we may as well be blunt and say 'the King' as the institution is characterized as the incumbent on the throne) does not appear to be ready to compromise and to take any of the opportunities presented. The King does not appear to be particularly interested in entering into negotiations in which, seeing as he has it all (for the time being), he would have to give certain things up.

It is pretty obvious that the international community as such has failed so far. It has not been nearly as united as it has pretended to be - it has not managed to be as firm and unambiguous in its messages as it has imagined itself to be. And it has not really used its

leverage on behalf of the people of Nepal. I think we have here a crucial distinction that those who seek to devise policy on Nepal should bear in mind: the interests of the state of Nepal are not necessarily synonymous with those of the people. That is a hurdle that some of the governments still have to get over. Can something be salvaged? Yes, I think it can and in two simple ways which are interrelated, and especially since Japan has explicitly stated and China has hinted at a measure of agreement with India and the rest. There is now a possibility for the mayor players to line up more effectively to form themselves into a loose alliance. This brings on board the United Nations which is effectively the only credible international institution that can perform certain functions in a peace process.

What can be done? The first thing is to send a clear and unambiguous last chance message and offer to the King (which is not to insist that he be ousted or even that he would have to face an undignified retreat from power) but to put it to him that there is no longer unconditional support for the constitutional monarchy. In other words that what the King has taken as a guarantee, that he can get away with whatever behaviour he chooses because the major international powers will always line up behind the institution at the end of the day, is no longer there. The international community should be committed to democracy, peace and fundamental human rights, those are the principles on which the UN, the EU, and others work. The monarchy could be there, if it goes along with them and could not be there if it does not. I think the international community can and should be clear on that and it would send a qualitatively different message to the King which might yet bring compromise.

The practical configuration of forces in Nepal and the events of the last year mean that a ceasefire (a mutual, bilateral ceasefire preferably an indefinite one and certainly a professionally negotiated and arranged one) is the only realistic entry point to a conflict resolution process. What comes after that is a little trickier but there will probably be some form of revisiting of the constitution and probably some form of revising or rewriting it. The first step can and should be a ceasefire. We were almost there in December - plenty of royalists even thought until the King returned from his African tour on 2nd December that he might well use that opportunity to reciprocate the Maoist truce and that this would have provided a graceful exit and a way of showing statesmanship. Such a situation could be arrived at again and a ceasefire would not necessarily deliver talks, but it would deliver a concrete environment where you could try and build the degree of confidence and develop the environment. Failing that, the Maoists will continue their campaign; they proved that they have not been weakened in the least by the events of the last year. I suspect that pragmatism and a good degree of political cunning is the order of the day on their front. I think they would love to win but they are quite clear they cannot win a hundred per cent immediately. If anything they would like to win without seeming to win and there is a strong incentive on their side for a sensible and reasonable compromise.

A year of royal rule has been nasty and brutish enough already. I suspect if the King carries on along the current lines he will find that his rule will be a lot shorter than he

suspects.

Clare Castillejo (Amnesty International)
‘The Human Rights Situation’

I was going to talk about a wide range of human rights situations but as there is not much time, I will focus mainly on our concerns regarding the recent crackdown.

Up until the King’s takeover, Amnesty International's core concerns were mainly around the very grave violations taking place in the context of clashes and anti-insurgency operations involving the security forces. We have seen massive numbers of disappearances over the last few years; we have seen a lot of unlawful killings by the security forces and also some by the Maoists. We have seen abductions and some child recruitment by the Maoists. Following the takeover there has been some reduction in reports of these kinds of conflict related abuses. This is partly because there is very little reporting coming out of the districts, but it may also be because there has been some improvement in the Royal Nepalese Army's behaviour.

Our main concern now is the crackdown on civil liberties, and particularly the attack on freedom of expression and freedom of association. We have seen in the last few months more than one and a half thousand people arrested in political demonstrations. People are being arbitrarily detained and some of them are reportedly being tortured or held without access to medical treatment. There has also been a disproportionate use of force in terms of policing at demonstrations. On Wednesday a political activist was shot and killed returning from a demonstration and we have also received reports that another person was shot at a demonstration.

We have been very concerned since last February about what is been happening with the media. Even after the state of emergency lapsed, censorship of the media remained in place. In October there was a worrying development when a media ordinance was promulgated which places very severe restrictions on what the media can publish and broadcast. Throughout the year we have been receiving regular reports of journalists being harassed or arrested. Some radio stations had their equipment seized and so on. These constitute serious violations of the freedom of expression. Having said that, the Nepali media does still write some robust criticism of what is going on and has managed to continue to publish relatively freely.

One of our main concerns has been what has been happening to the human rights community in Nepal. Their role is really critical. Given the severity of the human rights situation, we need human rights defenders to be able to go out into the districts to monitor and to report on what is happening. But there has been a real crackdown on human rights defenders. There was an initial crackdown following the King’s takeover last year, with thousands of human rights defenders arrested. Then in the last few months’s human rights activists - most of whom had been taking part in demonstrations – have again been arrested and detained.

Throughout the last year we have seen attempts, particularly in the districts, to intimidate human rights defenders and prevent them from carrying out their work. This is really feeding into a climate of impunity. There are not enough reports coming out of the districts and the security forces are able to operate without scrutiny as those people who could provide scrutiny are not able to function effectively.

One of the factors feeding into the obstruction of human rights defenders work is a proposed code of conduct for NGOs (although there is currently a stay order on it which has been issued by the Supreme Court). Under this code of conduct NGOs would be restricted in the way they can operate, in the way they can receive funding, in the kind of activities they can take part in, and in the people who can work in them. We think that if this code of conduct goes ahead, it will severely restrict what human rights organizations, NGOs and others are able to do and will further restrict the scrutiny that is so desperately needed in the current environment. Amnesty International believes that this code of conduct constitutes a violation of the freedom of expression and association.

One other concern is that the rule of law is being undermined. This is something we have been worried about for some time. The security forces operate a lot outside the law and we see regular illegal arrests and illegal detentions. A particular concern at the moment is that people who are being released by the courts because their detention is not valid are being immediately rearrested. This is something we have seen in terms of protesters over the last couple of weeks, who have been arrested, released and immediately rearrested. We have actually heard reports of demonstrators who have hidden in the Nepal Bar Association offices, which have then been surrounded by security forces, who have told them that 'if you don't come out we will shoot you'. When they came out they were rearrested. It is this kind of action that over time undermines the courts and undermines the rule of law as well as it prevents people from accessing justice. The other thing undermining the rule of law is the appointments of judges who are not necessarily very partial and who are very close to the palace. This again is making it difficult for people to access justice.

A further core concern of ours is the legislative environment which allows people to be held for long periods without access to judicial remedy. There are demonstrators being held under the Public Security Act which means that they can be held in preventive detention for ninety days. But people who have been arrested under terrorist legislation can be held for up to one year in preventive detention. This is a key factor which allows human rights violations to take place, particularly torture in custody.

Finally, I'll come to the international response. Following the King's takeover there was a relatively good international response from some areas. We had quite a strong response from governments around the world and what we are now looking for is for this pressure to be stepped up, particularly around issues such as the supplies of military assistance to Nepal. We want countries that have suspended military assistance to keep it suspended and to push other countries to also suspend. In addition Nepal contributes to UN peace keeping operations. This is a real pressure point and it is one that the Nepal government

is very sensitive about. So we want to keep pushing this point - if the Royal Nepalese Army is not able to meet human rights standards - should it really be participating in UN peace keeping operations?

Rabindra Mishra (BBC Nepali Service)

‘Royal Rule, One Year On: Journalism versus Activism’

In the past one year of royal rule Nepali society has been polarised at a scale never seen before. An overwhelming majority of people are in the two extremes: either they are supporting the King or they are opposing the King. Those who tread the middle ground risk being labelled as ‘opportunists without principles’. This tendency has directly affected Nepali journalism.

While it would be alright for politicians, as politics is in a way based on biases and prejudices, it appears inappropriate for journalists. Journalism should be based on the principles of accuracy, balance and credibility. The question is: if this difficult phase in the country’s life is a testing time for the King, for politicians and for people in other areas, is it not the same with journalists?

In this brief presentation I will focus on the attitude of the state towards journalism and the justified, and what I see as some of the unjustified, reasons for journalists to veer towards activism.

After the restoration of democracy in 1990 one of the most advanced areas in Nepal has been the press and the media. We have several broadsheet dailies of very good standard, several FM stations -Nepal was one of the first countries to de-regulate FM stations – and we have community radios as well and half a dozen TV channels. However, many in the King’s government see the freedom of the media as responsible for the deterioration of the situation in Nepal. But then many feel that the media has really helped to develop the social consciousness in the country. But the King’s government has a very negative view of the media and as a result has come down very heavily on it after the royal coup. There have been arrests, raids and journalists have been intimidated. There was a ban on FM news broadcast and there was the promulgation of the media ordinance which bans criticism of the King and the entire royal family. It also bans the Nepali media from publishing any views from the Maoists who are regarded as terrorists.

If there was no pressure on the government from within Nepal and outside Nepal, the King would have been very happy to probably close down all the media houses and just keep the state owned Rising Nepal, Gorkhapatra, Nepal Television and Radio Nepal. But that has not been possible. So it is clear that Nepali journalists are functioning under very difficult circumstances at the moment.

The activism seen in Nepali journalism is in a way a reaction to the pressure they are facing from the government and the state. However, we also have to see the other side. There is every reason to believe that even if the media had not come under pressure after

the royal coup last year; Nepali journalism would still have seen the activism we see now in the mainstream Nepali press. The reason I am saying this is that in the last year despite all the arrests, all the intimidation and the promulgation of the media ordinance, we can still see very critical and hard-hitting articles against the King and against the members of the royal family as well. If we check the media ordinance the press is not supposed to publish such material. But we have never seen in the past years the type of critical articles that we have seen in the Nepali press at the moment.

Similarly, the media ordinance bars the press from publishing any material that promotes what the government sees as terrorism, this means that statements from Maoists and their interviews are considered as material promoting terrorism. Back in November I did an interview with Prachanda and when that was aired Sagarmatha FM was raided and journalists were arrested as well. For many days the BBC Nepali service website was banned. However, more recently Kantipur and Kathmandu Post both published a very extensive interview with Prachanda, with his photograph, and the government has not done anything. Journalists have faced difficulties lots of time, they have been arrested and all these things have happened, but most of the time you find articles and analyses published in mainstream Nepali newspapers which leave no doubt, that Nepal probably enjoys absolute press freedom. Most of the readers of the Nepali Times will have seen that freedom gauge on the right hand side on its website, which always shows the hand of the meter on the bottom side, but if you read the newspaper, the articles from people like Kanak Dixit and CK Lal will leave you in no doubt that there is not any censorship or any lack of press freedom in Nepal. The same applies to Kantipur and Kathmandu Post as well. There have been difficult times, they are under threat, but the articles that are coming out are really, really hard hitting.

A journalist as a person may not like the system, the King and the King's government; but is it reasonable for a journalist to reflect that dislike in his newspaper or in his publication? Obviously the answer should be no – but one might say there is no absolute neutrality, however, there is something called relative neutrality and that is what we used to see in the Nepali press prior to the February royal coup last year. But that has become less obvious and we can not see relative neutrality in the Nepali press at the moment.

Just a few days ago I met Charles Haviland (BBC correspondent in Nepal) who asked which journalist he could talk to if he wanted some neutral view on a current issue (*implying that it is no longer easy to find someone to fit this description*). So that is the situation in Nepal at the moment. At an individual level every journalist has the right to oppose or support what they believe in, however, as far as possible journalists should not use their forum to pursue their individual or collective mission.

Dr Pratyoush Onta (Martin Chautari, Kathmandu)
'Reflections on Other 10th Anniversaries: Professional Lives under the Ongoing Conflict in Nepal'

By putting my title this way I want to bring some attention to an issue that has been concerning me for quite a while. Those of us who led a rather long, nomad student life and returned to Nepal in the mid '90s at a time when there was much optimism and anybody felt like you could do just about everything in a new Nepal that had said goodbye to the Panchayat years in which we had grown up. We had professional and personal desires and hopes about what we wanted to do in the new Nepal. And the first part of my title is a reminder to myself and to others in the room, that 2006 might be the 10th anniversary of the Maoist insurgency or the peoples war. But it is also the 10th anniversary of many aspirations and many wishes of people like me and many others, who have achieved pretty interesting and important things in Nepali society in parallel to the ongoing conflict. So the first part of the presentation is just trying to catch your attention to the fact that even when there has been this ongoing war for 10 years, Nepali society has achieved something. Given the long history of autocracy, given the long history of illiteracy and others, it is important to note that in 10 years, along with the war, there have been important achievements. And I will list a few of them very briefly in a few minutes.

Second reason why I have given this title for my presentation is that for all the wrong reasons Nepal has emerged in the international radar of people who otherwise have nothing to do with Nepal. This will be students studying in London, academics in the US or journalists parachuting around the world and so forth, for all of whom suddenly Nepal has become an area in which you can use the conflict template and sell your expertise or get your day's salary. Now I say this in this particular way because along with a few other hotspots in South Asia namely the Kashmir, the Indian North East and Sri Lanka, Nepal has now emerged as a conflict area where anybody who has some expertise or some previous reporting experience or something to do with conflict is dabbling in and saying things that advance their professional careers, gives them a salary and so forth. I do not want to be a cynic. In many peoples work under this template there is an earnest desire to help solve the crisis in Nepal and I respect that. But for Nepali professionals living in Nepal I think that that earnestness has to be tied to a reflection on ones own social position, ones own professional lives under the conflict in Nepal.

Let me now give you some concrete examples of what I in fact am thinking about. In mid 2004 I was a participant in an overnight discussion in a place just outside of Kathmandu. If you remember before February 2005 the most hotly debated topic in Nepal was restructuring the state: the agenda of social inclusion, how to deal with a federal structure and so forth. That was the main discussion agenda among Nepal's independent academics and intellectuals. So in a room full of Tribhuvan University (TU) based academics I raised the following issue: 'is restructuring Tribhuvan University easier than restructuring Nepal?' And I raised that half jokingly because I could anticipate the answer but many of my senior colleagues in that discussion said 'restructuring the TU can only be done when we have restructured Nepal'. And for very good reasons for TU is

publicly financed with 90% of its budget coming from the government. That is one incident.

Around the same time Ratna Park was a very busy area in Kathmandu. It was the location, where those intellectuals and academics who wanted to be counted in Kathmandu had to show up to participate in the ongoing anti-King Gyanendra protest at that time. I once got a phone call from a colleague who works in the health sector in Nepal, who is an academic like me, and he said: 'I was being invited to a poetry recital protest event in Kirtipur'. This individual's personal integrity is not to be questioned. However, from my point of view, in the 10 or so years he has worked, he has not done enough in his own field to now be organizing a poetry recital against the King.

I am not sure whether my examples are making my point clear, but the question I have been struggling with in my mind is this: How do you work for the public good under the present conflict environment in Nepal if you are a professional? Now as Rabindra Mishra pointed out, in the last one year professional lives have been polarized around the question whether one is for the King or against the King. As I have repeatedly pointed out, this either for the King or against the King position has to be thought in terms of whether one's own professional work contributes to the production of public good under conditions of conflict.

Now let me give you one example about how this 'are you for the King or are you against the King' does not grasp the complicated nature of some of the things that Nepali society is trying to come to terms with. Take for example the issue of the media ordinance mentioned by both of the previous speakers. When the King's government issued a media ordinance that actually tried to tackle the problem of controlling the independent press and the radio at the same time, the Federation of Nepalese Journalists (FNJ) had a dilemma because there were some elements in that media ordinance that FNJ had been advocating for a long time. What do I have in mind? Issues like cross media ownership, which has been an issue that the FNJ has campaigned against for a long time, holding the position that no one individual or organization should own more than two media outlets. The King comes with his ordinance and suddenly that element is in it! Now do you oppose the King's ordinance, or if you are a part of the FNJ do you say 'since that is an element that we have long advocated for', we support it. I hope I have given you a flavor of the difficulty that this template of 'are you for the King or against the King' actually has brought to professional lives in Nepal.

Now, what should be the professional response in sectors that have achieved significant progress in the last 10 years? I have in mind some sectors within the academia, media in general, and NGO entities that are made fun of in the Nepali press all the time but have to be credited with initiating and sustaining many of the critical debates in Nepali society in the last 10 years. There has been much progress in some social movements. In the private sector there has been some progress in some sectors.

The kinds of professional dilemmas or the challenges to sustain some of these achievements can not be encompassed in templates that now say 'are you for the King or

against the King’. So the professional response should be very simple: We have to rigorously continue to do and champion the causes that concerned us before 01 February 2005 despite the fact that we might still have to appear in an anti-King mode in some domains of our lives. If reforming parties was part of what you advocated for before that date, I think it is the right time to continue to do that. Some Nepali intellectual and academics have been saying that this is not the time to talk about reforming parties. When there was an attempt to reform NGOs through a civil society kind of initiative through media investigations, it was claimed by some NGO leaders that this is not the time to talk about NGO reforms, because they said ‘we have to all coalesce to form an alliance against the King.’ I think that is the wrong attitude. If reforming NGOs is an agenda in our professional lives we have to continue to do that now. And it goes on and on for all the sectors and all the themes.

In brief what I am trying to say is that for professional credibility or for flaunting ones anti-King credentials in public, Nepali professionals have to first commit ourselves to producing the kind of public goods that we were trying to produce in each of our sectors prior to 01 February 2005 or prior to 04 October 2002 or in 1996. Our wishes, desires and commitments – our 10th anniversaries – must be the ground in which we build an oppositional force to autocracy in Nepal.

General Sir Sam Cowan ‘Nepal – The Two Wars’

What is war? The answer has changed inexorably over time and the process continues. In Nepal the combatants are fighting two very different wars in which even such basic concepts as military strength, weakness and success are at variance. On one side, the RNA is fighting a conventional, attritional war in which the stress is on the control of key territory and the engagement of the enemy to inflict casualties and thereby weaken his will to resist. The Maoists are guided by a fundamentally different concept of conflict, generally attributed to Mao Tse-tung. Mao’s basic ideas about tactics are well known:

‘Ours are guerrilla tactics. Divide our forces to arouse the masses, concentrate our forces to deal with the enemy. The enemy advances, we retreat; the enemy camps, we harass; the enemy tires, we attack; the enemy retreats, we pursue’

At the strategic level, Mao’s concept of ‘protracted war’ is his most enduring legacy. He stressed that at all times the revolutionary army must stay unified with the people among whom 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 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, with its very distinct but often misunderstood meaning, ‘Power flows out of the barrel of a gun’.

This is the strategy that has brought the Maoists, for such a poorly armed force,

remarkable success. At one level, protracting the war should be to their advantage but other pressures have, I believe, persuaded them that military victory is not achievable. The vast superiority the RNA enjoy in weapons and equipment have forced the Maoists to acknowledge publicly that they cannot seize *and hold anything* against RNA reaction: not even a District Headquarters, which puts alarmist claims of them taking Kathmandu by force into perspective. At the most basic level, however strong their will and motivation, the Maoists are very short of the physical means to fight; and they know it.

So assessed in conventional military terms the Maoist are a pathetic armed force but looked at non-conventionally, they are by no means weak. They have a proven strategy, favourable terrain, immense dedication, and an absolute willingness to sacrifice their lives for the cause; and all of this gives them the capacity to make large areas of Nepal ungovernable in any meaningful sense for many years.

It also makes the task of disarming them by force, the current stated aim of the RNA, unachievable. Military textbooks state that the key to success in counter-insurgency operations is gaining the support of the people and the way to do this is to treat them with respect, give them security, *and* integrate military efforts with development projects, social programmes and reforms aimed at tackling the underlying sources of discontent. In this battle for heart and minds, the RNA's task is the greater because, ultimately, the Maoists do not need the support of the people to stop effective governance in rural areas that would enable the root causes of the problem to be tackled. All they need is for the people not actively to support the State. More than the insurgents, it is the State that needs the people's support, and numerous intelligence failures, manifest in the number of times the RNA have been surprised by large-scale Maoist attacks indicate a deficiency in this key area.

There are various factors that contribute to this. For example, apart from the moral and legal imperatives, there is a Human Rights link to military effectiveness. Invariably the most committed Maoists, those seething with resentment against the State, can relate stories of family members killed in cold blood by the army and police. Intimidation from the Maoists is also a factor as is the RNA's inability to provide continuous security to villagers. And even a doubling to, say, 200,000 would not enable it to provide a permanent presence across countryside that is ideal for guerrilla warfare, and such wide deployment would open up another range of targets for Maoist attacks.

In this conflict of 'two wars' there is no possibility of a solution by arms. Each side can demonstrate that it is making progress according to its own criteria of success but, by the same logic, notwithstanding tactical gains, neither will be able to deliver a decisive strategic result that will end in the capitulation of the other. Thus, there is strategic stalemate, in both the general and literal meanings of the term. Claims about the Maoists that 'their back is broken' are both misleading and meaningless. War is not metaphor. War is death, destruction, ruined lives, communities torn apart, children orphaned, women widowed and much, much more. All decisions and discussions about its utility should be guided solely by awareness of these harsh consequences, not by mind-sets insulated from reality by soft words and platitudes.

The history of the last 50 years of counter insurgency operations is littered with optimistic predictions about imminent victory which in the event have proved consistently and hopelessly illusory. Before the end of the last ceasefire there were claims from influential people saying that ‘the RNA can finish them off in 6 months’. We are now into the fifth or sixth such ‘six month’ period and, while the Maoists have been weakened, they are a very long way from being finished.

My conclusion is that unless there is a ceasefire and the start of a peace process to which both sides are genuinely committed, not just to the cessation of hostilities, but to finding, through negotiations and compromise, a political solution, Nepal faces the prospect of war without end. The key lesson from other conflicts is that the start of such a process, and indeed the precondition for any hope of success, is when both sides come to the conclusion, and publicly acknowledge, that they cannot achieve their aims by military means. The Maoists have done so but recent statements by Ministers indicate that the government is still firmly committed to seeking a solution by force.

Finally, and most obviously, both of Nepal’s wars are having a devastating impact on the lives of rural people. Caught in the no-man’s land of a nasty and brutish conflict, they yearn desperately for peace. This can only be achieved by following the well established pattern of people sitting round a table and negotiating a political way out. In Nepal, as elsewhere, all will have to compromise. The only questions are; when, and how many young Nepalis will die in the interim? And far too many have died already.

**Liz Philipson, (London School of Economics)
‘Donors, Diplomats and UK Policy’**

Rod Chalmers covered a lot of my ground but I want to revisit it - because I have a slightly different take on some of it and I think it is useful to look at some aspects in more detail.

First of all the title of ‘donors and diplomats’ is my take on the international community because I believe the international community is neither international nor a community. Every country has its own interests. This does not mean that these interests are necessarily bad but they are different. I think if one looks at donors and diplomats in relation to Nepal Asian responses of late are perhaps the most interesting. The Japanese and Chinese responses one year on are different to the responses one year ago. We had a recent statement from China which talked about great concern with what is happening in Nepal. China has previously maintained the stand that what happened in Nepal was absolutely internal to Nepal, it was no business to anybody else and it would not comment on it. There is a high level visit from China to Nepal coming up which the palace are very pleased about because they have consistently claimed they could ‘play a China card’. But the statement from the Chinese combined with the discussions that they are having with the political party leaders privately, suggests something different. It may not be any more than expressing some concern, but in terms of China doing this, it is a lot

of movement. Japan also traditionally does not make political statements of the nature of its recent statement. Japan is a country which concentrates on its aid programme and operates through its aid programme in a fairly traditional sort of a way. So their statement is also significant. A year ago we had very good statements from India, the UK and the US. The UK and the US said that they supported democracy and would follow India's lead. India has indeed taken the lead over the last year. But this change from two other Asian powers may make a difference to the palace and it may curb their propaganda of the Chinese card. I think that is important. India, the US and the UK are traditionally talked about as 'the big three'. The movements of China and Japan starts to make it look like there are potentially other 'big players'. I don't think they will be active but the fact that they make statements is in itself significant.

Despite the fact that it can be argued that more should be done, the UK, the US and India have maintained their isolation of the monarchy in Nepal over the last year. This is in fact more than I expected. On 1st February 2005, although I welcomed these statements, I thought that the pressure to normalize relations would result in the pressure on the King slowly slackening. I don't think this has been the case - they have maintained the initial pressure. One of the things holding India back, India being the only country that can really squeeze the monarchy, is the reality that for India, the UK and the US the preferred option remains the Indian 'two pillar' policy. India still wishes to see a constitutional monarch *and* multiparty democracy in Nepal. I think it is largely the preferred option of the international community and there is a problem with that. They have no candidate for a constitutional monarchy. The current King of Nepal appears to have consistently ruled himself out of being a ceremonial monarch. I think this opens up a great chasm both for people in Nepal and for the international community as to where they one go from here.

Britain, in its statements, has begun to say: 'a constitutional monarchy, if the people of Nepal wish it' - which is absolutely right in democratic terms. It should be the people of Nepal who make this decision. However, in terms of stability in the region: if there really is no candidate for constitutional monarchy then one is left with either autocracy or republicanism. Neither of those are at present acceptable to the international community. This opens up a huge dilemma for the leadership of democratic parties in Nepal because there is a gap in the future and there is a huge chasm over which they have to jump.

This brings me to the second part of what I want to say. One of the differences within the international community concerns external assistance with negotiations - mediation or facilitation. India has consistently opposed this because of her regional dominance which she wishes to maintain. It is my view that it is not possible for Nepal to have successful negotiations without assistance. I think had this happened the negotiations of 2001 and 2003 would have not gone the way they did. And I think if we are looking at any agenda in which there is not a monarch leading, then the political parties are going to need international endorsement to take the leadership role in the country. There are a lot of political issues there. Rod Chalmers mentioned the United Nations who are clearly well placed to do mediation and also ceasefire monitoring. The whole question of negotiation needs to encompass the issues of the conflict, not merely a quick deal between the conflicting parties - the time is long gone for that in Nepal. Some of the issues that other

panelists have covered about ethnicity and equality within the country are going to have to be part of the negotiations. How are these things going to be addressed? It cannot just be a cutting of the power cake in Kathmandu. That is insufficient to meet the needs of a future Nepal given the complete turning over of some of the rural power structures in the course of this conflict.

A ceasefire cannot just happen - there has to be a whole set of agreements - there needs to be assistance for that and for ceasefire monitoring. The peace process itself needs to be complex, looking at consultative levels and decisive levels and various negotiation tables, there is going to be a need for assistance for that. Obviously Nepalis have to make the political decisions and whatever design the peace process takes must insure that. But there is a need for third party assistance. Divisions between the international community regarding this need to be addressed

Professor Surya Subedi (University of Leeds)

‘The Way Forward for Resolving the Political Crisis in Nepal: Legal and Constitutional Perspectives’

Prior to outlining my views as to the way forward I would like to give a brief background to the current political crisis. Nepal embarked on the road to democracy in 1990 and adopted the present constitution, which is, by and large, a democratic one, but it left two things intact: the monarchy and the control of the army by the King. Therefore, it was not, strictly speaking, a constitutional monarchy comparable to the one in the UK or in some other European and Asian countries. Many people have said that the constitutional monarchy envisaged under the constitution was some sort of 70-80% constitutional monarchy, the rest being a traditional monarchy.

However, in a situation like that it would have been possible gradually to establish a truly constitutional monarchy if parliament was able to assert more powers. But in Nepal during the 1990s parliament was the weakest link in the governance of the country. Compared to the other branches of the state, parliament could not assert its powers. Even when the constitution provided that a National Defence Council headed by the prime minister could control the army or adapt laws and regulations to govern the army, the Defence Council was, by and large, ineffective. It could not do anything to control the army or to bring the army under parliamentary control. That is why we are in this situation today.

The situation that we see today in Nepal is what I have described as a situation of legal and constitutional anarchy. The King has ruled by decree like a medieval autocratic monarch by using a short article (Article 127) in the constitution which basically provides a way out for a problem of an ad-hoc and technical nature. Its purpose is to remove such difficulties in order to make the system envisaged under the constitution function well rather than enable the King to undermine the spirit of the fundamental law of the land. This article has been used, or rather abused, to issue decrees randomly governing a range of matters including those designed to curtail press freedom and civil liberties. Therefore, an example of a system of government which is making a mockery of democracy and the rule of law can be seen in Nepal under the direct rule

of the King today. The King has been reported to have said that 'The foreigners will keep saying what they would have to say, but I will keep doing what I have to do'. Well, it would have been good if he had been able to do what the country expected him to do. But even on that count he has failed miserably. I do not think that he has been able to enhance the long term national interest of the country nor the future of the monarchy itself. He has behaved like a feudal lord lacking in any vision and wisdom needed to rule the country in the 21st century.

What then is the way forward for the country? The seven-party alliance has done something of quite far reaching significance by persuading the Maoists to accept plurality and the multiparty system of government. That is the significance of the 12-point agreement. The interviews given to the various media by Prachanda, the Maoist leader, in the recent past show some statesmanship and political maturity on his part. He is coming around to accepting that it is not a winnable war they are fighting and they too would be prepared for political accommodation.

There are five different options that different sections of the population of Nepal prefer as a way out of the present political problem in Nepal. The first is an outright revolution to overthrow the monarchy and to tame the feudal class. The power in Nepal is now controlled by the feudal class which is backward in its thinking and still lives in a 18th and 19th century mindset. It is this backward class that is keeping the country underdeveloped for so long and it is this class that is resisting modernization and democracy in Nepal. There is a significant size of the population, especially the young, who would not compromise on anything less than an outright overthrow of the monarchy. The hardcore of the enlightened young population, especially students and people below 30-35 years of age, see the monarchy as an obstacle to nation building. But the country does not seem ready for an outright revolution and this option may mean much blood-shedding with uncertain outcomes.

Option number two is to revive the old parliament. Now nearly 6/7 years have gone past since the last parliamentary elections were held and one of the main political parties within the country, Nepali Congress, is still taking the position, at least in public, that the revival of the old parliament would pave the way out of the political crisis in the country. This option may be a sensible temporary way out but it would not necessarily address the Maoist problem. We have been here before. It will bring back to power those very people who could not resolve the problems of the country when they were in power. The third option championed by the Maoists and supported mainly by another main political party, the UML (United Marxist Leninist), and a large section of the intellectual community in Nepal is holding elections for a constituent assembly to write a new constitution. But if one were to accept the principle of peaceful coexistence of all political forces within the country, and take into account the ground realities in existence today, the constitution that may be written by the constituent assembly may not be very different from the present constitution. This is because people representing all political spectrums, including the monarchy, may get elected and if the majority were to write a constitution in complete disregard for others it would create more problems. The constituent assembly may very well open up a Pandora's Box in the country and create even ethnic and religious tensions of protracted nature in such a precariously balanced diverse society.

The fourth option that the Maoists and some left-leaning intellectuals have talked about is forming some sort of a parallel government, which would unite the Maoists and the seven-

political parties to challenge the King head on. It is an interesting and attractive idea to challenge the autocratic regime through legal and peaceful means. But it too is fraught with its own legal and political problems and it may further compound the problems of the country. Under international law, it would be difficult to recognize a parallel government which does not exercise a meaningful and effective control of a territory within the country and that is not the situation in Nepal at present. The Maoists are basically employing the tactics of 'hit and run' to create terror; they do not exercise any meaningful control of any sizeable part of the country. Those who support the idea of a parallel government hope that if the international community believes that what the King has been doing is unconstitutional and anti-democratic than the international community will come round to supporting this parallel government. But it is difficult to see how the U.S. and UK governments would recognize such a parallel government backed or led by the Maoists in Nepal under the current situation.

The fifth option, which I personally have advanced, is amending the present constitution in order to complete the unfinished job of the people's movement of 1990. In other words, the amendments should be made to accept the notion of parliamentary sovereignty so that the army could be brought under parliamentary control and parliament would have the power to abolish the monarchy by, say, two-thirds or 75% majority in both houses of parliament.

My view is that in order to implement the fifth option, the country has to go to general elections but there are four preconditions that have to be met prior to holding general election: Number one would be the formation of an all-party caretaker government, if possible. If not, than a caretaker government headed by a neutral figure, perhaps from the legal or judicial sector, who can command respect within the country. That is what happened in Bangladesh when the country was going through a crisis some years ago. A senior figure from the judiciary was appointed as the head of the caretaker government to hold free and fair elections. Number two would be the withdrawal or cancellation of all the ordinances issued by the King since 1st February 2005 which curtail press freedom and other civil liberties. The third precondition would be to invite the United Nations to monitor and perhaps supervise the elections. The UN is more acceptable and more neutral and has the credibility and perhaps the experience in managing crisis of a similar nature elsewhere. The fourth precondition is some sort of a political compromise or understanding among all political forces within the country that the newly elected parliament would have all the powers of a modern parliament in a democracy, including the powers to abolish the monarchy itself by, say, a two-thirds or 75% majority in both houses of parliament and to bring the army under civilian or parliamentary control. Such a new parliament should be given powers to revisit the constitution and make any amendments necessary to implement the notion of parliamentary sovereignty. Such a parliament would have the mandate to address the issues that the country is facing today. This option would, in my view, give some sort of space to the King and the Maoists if we are interested in seeing a peaceful and political resolution of the current problems in Nepal.

To conclude, some sort of a political way out is, in my opinion, possible under the present constitutional structure of the country and that is what I have argued in various writings published in the recent past.

**Professor Michael Hutt (School of Oriental and African Studies)
Concluding Remarks**

We need not to think only about Nepal's current problems at the elite and leadership level but also to keep in mind the kind of society envisaged by each of the key players. Those who knew Nepal during the Panchayat period would have a fair idea of the kind of society the King has in mind. There was perhaps a glimpse of a genuinely multi party democracy and constitutional monarchy in the very early 90s before it all began to go wrong. We also have to remember what it was that first sparked and fuelled the Maoist insurgency and convinced rural people that it would resolve their problems. Even if there is a political settlement at the top, what kind of conditions in the villages and the hinterland would make that a stable peace? My feeling is that things can't remain as they are, Nepal is in a downward spiral and has been in it some time. I think it unlikely that the whole scene will stay exactly as it is for the next two years

Following the presentations the chair thanked the panel and invited comments from the floor. The discussion, which was not taped, covered the following topics:

Possible options if the King was ousted

Grievances which contributed to the conflict

The financial impact of the conflict

Messages that can be taken from this forum to rural villagers living in fear

Who has the right to speak for Nepal?