



NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

**DEMOCRATIZATION OF CIVIL-MILITARY
RELATIONS IN NEPAL AND EL SALVADOR**

by

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March 2023

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REPORT DOCUMENTATION PAGE			<i>Form Approved OMB No. 0704-0188</i>	
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington, DC, 20503.				
1. AGENCY USE ONLY (Leave blank)		2. REPORT DATE March 2023	3. REPORT TYPE AND DATES COVERED Master's thesis	
4. TITLE AND SUBTITLE DEMOCRATIZATION OF CIVIL-MILITARY RELATIONS IN NEPAL AND EL SALVADOR			5. FUNDING NUMBERS	
6. AUTHOR(S) Subash Khadka				
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Naval Postgraduate School Monterey, CA 93943-5000			8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES) N/A			10. SPONSORING / MONITORING AGENCY REPORT NUMBER	
11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government.				
12a. DISTRIBUTION / AVAILABILITY STATEMENT Approved for public release. Distribution is unlimited.			12b. DISTRIBUTION CODE A	
13. ABSTRACT (maximum 200 words) This comparative case-study analysis of reform in democratization of civil-military relations (CMR) in post conflict Nepal after 2006 and El Salvador after 1992 focuses on the transitional democratic phase in which progress in democratization of CMR is instrumental in achieving the overall democratic transition. The reform is assessed by the application of a six-dimensional framework for reform in democratization of CMR proposed by Pion-Berlin and Martinez, which consists of power, legal framework, institutions, knowledge, convergence, and performance/effectiveness as six vital dimensions that need to be examined under various components and sub-components. The analysis suggests that the progress achieved for all dimensions is mixed, ranging from minimal to substantial. Both the countries have achieved moderate reforms in most of the examined components under all dimensions, however. Based on the analysis, this thesis concludes that each of the countries is in the transitioning democratic phase. Progress is gradual, yet on the right path toward eventual consolidation of democracy by first reforming the democratization of the CMR. Overall, the study of Nepal showcases a better outcome so far than El Salvador.				
14. SUBJECT TERMS Nepal, Nepalese Army, civil-military relations, CMR, democratization, El Salvador, military reform			15. NUMBER OF PAGES 117	
			16. PRICE CODE	
17. SECURITY CLASSIFICATION OF REPORT Unclassified	18. SECURITY CLASSIFICATION OF THIS PAGE Unclassified	19. SECURITY CLASSIFICATION OF ABSTRACT Unclassified	20. LIMITATION OF ABSTRACT UU	

NSN 7540-01-280-5500

Standard Form 298 (Rev. 2-89)
Prescribed by ANSI Std. Z39-18

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**DEMOCRATIZATION OF CIVIL-MILITARY RELATIONS
IN NEPAL AND EL SALVADOR**

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Submitted in partial fulfillment of the
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES
(CIVIL-MILITARY RELATIONS)**

from the

**NAVAL POSTGRADUATE SCHOOL
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ABSTRACT

This comparative case-study analysis of reform in democratization of civil-military relations (CMR) in post conflict Nepal after 2006 and El Salvador after 1992 focuses on the transitional democratic phase in which progress in democratization of CMR is instrumental in achieving the overall democratic transition.

The reform is assessed by the application of a six-dimensional framework for reform in democratization of CMR proposed by Pion-Berlin and Martinez, which consists of power, legal framework, institutions, knowledge, convergence, and performance/effectiveness as six vital dimensions that need to be examined under various components and sub-components. The analysis suggests that the progress achieved for all dimensions is mixed, ranging from minimal to substantial. Both the countries have achieved moderate reforms in most of the examined components under all dimensions, however. Based on the analysis, this thesis concludes that each of the countries is in the transitioning democratic phase. Progress is gradual, yet on the right path toward eventual consolidation of democracy by first reforming the democratization of the CMR. Overall, the study of Nepal showcases a better outcome so far than El Salvador.

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LIST OF ACRONYMS AND ABBREVIATIONS

CA	Constituent Assembly
CMR	Civil-Military Relations
COAS	Chief of the Army Staff
COM	Cabinet of Ministers
CPA	Comprehensive Peace Agreement
CPAC	Chapúltepec Peace Accords
CPN-M	Communist Party of Nepal (Maoist)
FAES	Fuerzas Armadas de El Salvador (Armed Forces of El Salvador)
FMLN	Frente Farabundo Martí para la Liberación Nacional (Farabundo Martí National Liberation Front)
GON	Government of Nepal
MOD	Ministry of Defense
MOHA	Ministry of Home Affairs
NA	Nepalese Army
NHRC	National Human Rights Commission
NP	Nepal Police
NSC	National Security Council
PMS	Principal Military Secretariat
PNC	Policía Nacional Civil de El Salvador (National Civil Police)
WOLA	Washington Office on Latin America

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ACKNOWLEDGMENTS

I am indeed indebted to the Nepali (Nepalese) Army for providing me the opportunity to undergo this world-class master's degree program at the renowned Naval Postgraduate School amid picturesque and heavenly Monterey, California.

First and foremost, my appreciation goes to NPS and its entire academic staff and administrative personnel for availing me with superb academic experiences and support.

I truly extend my sincere gratitude and appreciation to my thesis advisors, Dr. Florina (Cris) Matei and Dr. Carolyn Halladay, for their invaluable advice and consistent mentoring throughout the writing of this paper.

Thanks to Alison Scharmota and Lauren Callihan, my writing coaches; their assistance was pivotal to my work.

Finally, my special gratitude goes to my wife, Archana Pandey Khadka, and my daughter, Suwashini Khadka, for bearing me with their patient, unconditional support and high spirits throughout this academic endeavor.

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I. INTRODUCTION

The aim of this thesis is to review post-conflict civil-military reforms in Nepal, particularly in light of the requirements of the Comprehensive Peace Agreement of November 2006, signed between the government of Nepal and the Communist Party of Nepal–Maoist (CPN-M), put an end to a decade-long insurgency in Nepal; Article 4.7 of the CPA deems “democratization of Nepali Army (NA) as an important task for the success of this democratic transition.”¹

To this end, the analysis employs a comparative case study of Nepal and El Salvador, where the Chapultepec Peace Accords, signed in January 1992 between the *Frente Farabundo Martí para la Liberación Nacional* (Farabundo Martí National Liberation Front, or FMLN) and the *Fuerzas Armadas de El Salvador* (Armed Forces of El Salvador, or FAES) put an end to a grueling civil war in El Salvador that started in 1979.² Chapter I of this accord envisioned the FAES to be an obedient, professional, apolitical, and non-deliberative institution with strict adherence to human rights, democratic values, and subordination to the constitutional authorities. These values would be inculcated via reforms in the education system of the armed forces, meaning that a benchmark for reforms in CMR for the democratic transition of the FAES in El Salvador was set to be worked out through this accord.

The present thesis finds that both the countries have attained moderate reform in the democratization of CMR. Both the case studies are analyzed under the framework for reform in the democratization of CMR proposed by Pion-Berlin and Martinez, which is applied as a control framework and an effectiveness framework. The control framework incorporates balance of power, legal frameworks, and defense components whereas

¹ *Comprehensive Peace Accord Signed between Nepal Government and the Communist Party of Nepal (Maoist)* (New York: UN Peacemaker, 2006), 6, https://peacemaker.un.org/sites/peacemaker.un.org/files/NP_061122.

² Lise Howard, “Michael Doyle and Nicholas Sambanis, Making War and Building Peace: United Nations Peace Operations,” *Review of International Organizations* 1, no. 4 (December 2006): 206, <https://doi.org/10.1007/s11558-006-0365-9>.

the effectiveness framework consists of knowledge, convergence, and effectiveness/performance components.

A. AN OVERVIEW OF NEPAL AFTER 2006

Nepal, a multi-party democracy with a constitutional monarchy since 1990, underwent political upheaval in 2006 after a decade-long communist insurgency, which abolished the monarchy and paved way for Nepal to become a federal republic. Several key events after 2006 played a crucial role in advancing Nepal's political transition toward democratic consolidation and gradual reforms in the democratization of civil-military relations (CMR); namely, the signing of the Comprehensive Peace Accord (CPA), followed by the 2007 Interim Constitution of Nepal; the constituent assembly (CA) election of 2008; and the promulgation of the 2015 Constitution of Nepal.³

First, the interim constitution proved fundamental in drawing a roadmap for democratizing CMR reforms after the 2006 signing of the CPA between the interim government and the rebel Maoists to end Nepal's decade-long insurgency and restructure the state system.⁴ Only a year earlier, in 2005, Nepalese political parties formed a coalition called the Seven Party Alliance (SPA) to oppose King Gyanendra's direct rule under which he suspended all political parties and formed his own cabinet to run the country. As a result, the SPA and the rebel Maoist Party signed the Twelve Points Agreement denouncing King Gyanendra's direct rule, which forced the king to reinstate the parliament in April 2006. Saujanya Rana mentions that "the Twelve Point Agreement, signed between the political parties and the Maoists in India in November 2005, became the turning point for the demise of the 1990 constitution."⁵ Consequently, the interim SPA government integrated the Maoist Party into the mainstream politics and signed the CPA in November 2006. This

³ "History of Nepal," Ministry of Foreign Affairs. Government of Nepal, accessed February 6, 2023, <https://mofa.gov.np/about-nepal/history-of-nepal/>.

⁴ International Institute for Democracy and Electoral Assistance, *National Survey on Nepal's Constitution Building Process* (Stockholm: International Institute for Democracy and Electoral Assistance, 2015), <https://constitutionnet.org/vl/item/national-survey-nepals-constitution-building-process>.

⁵ Saujanya S. Rana, "Circumventing Coups: Power Transitions and the Civil-Military Relations of Nepal Since the 1950s" (master's thesis, Naval Postgraduate School, 2020), <https://hdl.handle.net/10945/66708>.

allotted them 88 seats out of a total 330 seats in the reinstated interim parliament, which halted Nepal's brutal war and subsequently abolished the monarchy.⁶ Rana highlights that "while the legality and minimal national consensus of the process is highly controversial, the Interim Constitution of 2007, through a series of amendments, scrapped the monarchy, declared Nepal a federal democratic republic, and got rid of the Hindu status of the country."⁷ As a result, the politicians were quick to sever ties between the supreme commander of the army and the Nepalese Army (NA) by dissolving the principle military secretariat (PMS) which functioned as the Ministry of Defense (MOD) earlier and renamed the Royal Nepalese Army (RNA) as the NA.

According to Bhuwan P. Satyal loyalty to the king had been the core mantra of the RNA since its inception; however, the interim government's Military Act of 2006 provisioned the president as "the supreme commander of the Nepal Army" and replaced the king, which transformed Nepal's CMR.⁸ In 2008, a Bertelsmann Transformation Index (BTI) report highlighted-that "a first step towards putting the RNA under the democratic control was undertaken on 18 May 2006, when parliament approved a resolution that strips the king of his command of the army."⁹ Although there were skeptics who suspected the NA's loyalty to its new political masters, the NA adjusted to the new political setting and accepted the people's aspiration for a change. Rana highlights that "while King Gyanendra left the palace, many anticipated a possible stand from the NA against the government's move, but the NA showed no signs of loyalty to the king. The groundwork to dismember the king's political influence of any form or shape had been laid."¹⁰ The all-party interim government removed the king while the NA merely observed and accepted all the political

⁶ Bobby Chand, "Foreign Assistance and Its Impact on Civil-Military Relations: A Case Study of Federal Democratic Republic of Nepal" (master's thesis, Naval Postgraduate School, 2014), 2, <http://hdl.handle.net/10945/41357>.

⁷ Rana, "Circumventing Coups."

⁸ Bhuwan Purna Satyal, "The Role of Civil Society in Shaping Democratic Civil-Military Relations during Political Transition in Nepal" (master's thesis, Naval Postgraduate School, 2015), 29, <http://hdl.handle.net/10945/45251>.

⁹ Bertelsmann Stiftung, *BTI 2008—Nepal Country Report* (Gütersloh, Germany: Bertelsmann Stiftung, 2007), https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2008_NPL.pdf.

¹⁰ Rana, "Circumventing Coups."

changes. For example, the Chief of Army Staff (COAS) was no longer a member of the National Security Council (NSC) in the interim constitution. Bobby Chand asserts that it was indeed a significant decision to bring the NA “under the democratic civilian control” by the interim government.¹¹ The government was poised to conduct Nepal’s first constituent assembly (CA) election as its next task envisioned in the interim constitution.

The successful conduct of the first CA election, which was to promulgate Nepal’s first federal republican constitution, was another important step in Nepal’s democratic transition after 2006. Although it was the national army, the NA supported creating an environment conducive for the CA election by confining itself to its barracks as per the norms of the CPA. Meanwhile, the rebel Maoist combatants were managed in temporary camps under the UN’s supervision. Rana asserts that “the NA welcomed the decision and complied without resistance. With the preconditions for constituent assembly elections achieved, a nationwide election was held on 10 April 2008.”¹² Likewise, the NA also advised the government to integrate the ex-combatants into the NA for the larger interest of peace in the country. Had the NA not supported the peace process, the process would have been derailed. As Kul Chandra Gautam notes:

It has been a mark of Nepal Army’s professionalism and sensitivity to the winds of political change that, although accused of being “royalist,” it did not attempt to intervene in Nepal’s dramatic political transition in the past four years, that led to the abolition of monarchy and coming to power, through elections, of CPN-Maoists against which it had previously fought a bitter war. It is worth noting that in similar circumstances, elsewhere in the world, it is not uncommon to see a restless military staging mutiny, bloodshed, and acrimony, if not outright coups d’état.¹³

As it was then, the NA’s support remains instrumental in Nepal’s overall peace process and its commitment to reform the country’s CMR. Ultimately, the second CA election promulgated Nepal’s first federal republican constitution.

¹¹ Chand, “Foreign Assistance and Its Impact on Civil-Military Relations,” 7.

¹² Rana, “Circumventing Coups,” 35.

¹³ Kul Chandra Gautam, “Restructuring Nepali Army,” *Kathmandu Post*, November 21, 2021, <https://kathmandupost.com/columns/2021/11/21/restructuring-nepali-army>.

Third, the promulgation of the Constitution of Nepal in 2015 delivered a clear legal framework for the NA, defining its role, chain of command, and important defense institutions like the NSC, which was imperative for the reform in the democratization of CMR in Nepal. The CPA, the Interim Constitution of 2007, the CA election in 2008, and the Constitution of Nepal in 2015 aimed to reform the NA gradually and restructure the state for democratization, among other important tasks.

B. AN OVERVIEW OF EL SALVADOR AFTER 1992

It is necessary to consider four important dates in El Salvador's history in the last 100 years to examine CMR in that country. First, beginning in the 1930s, the political elites utilized the armed forces to dominate the country and its economically downtrodden farmers, and this practice continued for the next 50 to 60 years. Second, a group of junior military officers launched a coup in 1979, fearing a domino effect of communist rule from neighboring Nicaragua to El Salvador.¹⁴ Third, the Farabundo Martí National Liberation Front (FMLN), a coalition of leftist parties, started an insurgency in January 1981 against the El Salvadoran government which was dominated by the military. In all, 75,000 lives were lost in roughly 12 years of civil war. Finally, the Chapultepec Peace Accords (CPAC), signed between the government and the FMLF in February 1992, was instrumental in bringing a disastrous civil war to an end, paving way for democratic transition, and devising a momentous prospect for altering CMR in El Salvador by massively curtailing the military's grip on the country's political and social arena.¹⁵ FAES autonomy over the state mechanisms during the civil war period in El Salvadore is evident from what is highlighted by Knut Walter and Philip J. Williams as:

Besides administering key state institutions, the military retained an array of prerogatives throughout the 1980s. It maintained control of the security forces and intelligence agencies; the military court system continued to cover large areas of civil society, and the domain where military personnel could be tried in civil courts remained very narrow; the executive exercised

¹⁴ Tricia Juhn, *Negotiating Peace in El Salvador: Civil-Military Relations and the Conspiracy to End the War* (New York: Palgrave Macmillan, 2016), 1.

¹⁵ Zoltan Barany, *The Soldier and the Changing State: Building Democratic Armies in Africa, Asia, Europe, and the Americas* (Princeton, NJ: Princeton University Press, 2012), 79–80, <http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=967434>.

little control over military promotions or the military budget; legislative oversight was non-existent since the military seldom provided the legislature with detailed information regarding the budget or other defense matters; and the military played a leading role in conducting the war, again with little executive oversight.¹⁶

C. SIGNIFICANCE OF THE RESEARCH QUESTION

The United Nations (UN) was involved in both peace processes and conflict did not relapse in either of the two countries studied. A salient difference between them lies in the fact that Nepal opted for integration of Maoist ex-combatants into the NA and the El Salvadoran government integrated the rebels into their police force but not the army. However, democratic reform of the militaries in Nepal and El Salvador was one of the prime transitional objectives of their respective peace processes. Today, both the CPN-M and the FMLN are prominent political parties in their respective countries, and these parties have at times also had chances to lead their governments.

This study aims to explore the changed institutional and structural processes that both countries have undertaken since their respective peace agreements were implemented and assess how they have changed the overall outlook on CMR relative to democratic reforms in Nepal and El Salvador. The thesis seeks to contribute to the existing literature on CMR in post-conflict developing democracies from Asia and Latin America by providing insights into the relationship between the civilian rulers and the military, which will provide insights about their applicability to young transitional democracies worldwide. Further, the thesis also finds that the duration of the transitional period has no direct bearing on reform in the democratization of CMR in post-conflict societies. Moreover, the analysis of the six dimensions reveals that two, legal frameworks and institutional structures, are fundamental for guaranteeing the most important dimension (i.e., power to the civilians), but only if they are practically manifested rather than limited to writing.

¹⁶ Knut Walter and Philip J. Williams, "The Military and Democratization in El Salvador," *Journal of Interamerican Studies and World Affairs* 35, no. 1 (1993): 56, <https://doi.org/10.2307/166102>.

D. LITERATURE REVIEW

This literature review is divided into two broad sections. The first section explores the notions of democracy, transition, and consolidation, which are important for the realization of democratic reforms in CMR. The second section on democratic reform in CMR constitutes civilian control and effectiveness. It analyzes relevant scholarship on achieving democratic civilian control through institutionalization and effectiveness.

1. Democratic Transition and Consolidation

Scholars define democracy as a system incorporated by an elected government to legitimize its exercise of authority constitutionally for achieving its objectives. As Samuel P. Huntington claims, “as a form of government, democracy has been defined in terms of sources of authority for government, purposes served by government, and procedures for constitution [al] government.”¹⁷ Similarly, Philippe C. Schmitter and Terry Lynn Karl concur with Huntington by explaining that democracy is a “system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their elected representatives.”¹⁸ These authors highlight that democratic institutions are country specific and molded by a state’s “socioeconomic conditions as well as its entrenched state structures and policy practices.”¹⁹ Hence, these definitions conclude that democracy confers legal authority on and assigns accountability to the government as common characteristics.

Although the foundational characteristics of democracy like freedom and rule of law remain universally the same, there may be some differences between matured and transitional democracies. Transitional democracies may face a rigorous path to consolidation as the process is time consuming and the priorities differ. First, political transition demands a state to grasp new ideas and inculcate them as new practices, which

¹⁷ Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman, OK: University of Oklahoma Press, 1991), 6.

¹⁸ Philippe C Schmitter and Terry Lynn Karl, “What Democracy Is... and Is Not,” *Journal of Democracy* 2, no. 3 (1991): 76, <https://doi.org/10.1353/jod.1991.0033>.

¹⁹ Schmitter and Karl, 76.

is a lengthy process. As Dankwart A. Rustow argues, “one generation is probably the minimum period of transition” because the transition process demands a wider convergence and “attitudes on the part of politician and of the common citizen.”²⁰ The aspirations of the people and those of the politicians in the new environment may differ, leading to a lengthy road to consolidation. Second, policy preference also delays the process. Therefore, Schmitter and Karl assert that democracy incorporates a wide array of situations and that “democracy does not include a single unique set of institutions” and “their diverse practices produce a similarly varied set of effects.”²¹

David Pion-Berlin and Rafael Martinez highlight that a democratic process goes through three phases: “transition, consolidating, and consolidation,”²² when transitioning from a non-democratic to a democratic political system. According to David Beetham, the end of the democratic transition to consolidation is marked by the formation of a freshly elected government through a free and fair election.²³ And consolidation, as Larry Diamond explains, is the “deep, unquestioned, routinized commitment to democracy and its procedures at the elite and mass levels,” implying that the citizens will “routinely, instinctively conform to the written (and unwritten) rules of the game, even when they conflict and compete intensely.”²⁴ Additionally, a sense of mutual confidence amongst the politicians, democratic institutions, and the people is mandatory for a democratic consolidation.²⁵ Juan J. Linz and Alfred Stepan’s five arenas explain the significance of democratic consolidation: “a free and lively civil society, a political society, a rule of law,

²⁰ Dankwart A. Rustow, “Transitions to Democracy: Toward a Dynamic Model,” *Comparative Politics* 2, no. 3 (1970): 347, <https://doi.org/10.2307/421307>; David Beetham, “Conditions for Democratic Consolidation,” *Review of African Political Economy* 21, no. 60 (June 1994): 360, <https://doi.org/10.1080/03056249408704053>.

²¹ Schmitter and Karl, “What Democracy Is,” 76.

²² David Pion-Berlin and Rafael Martínez, *Soldiers, Politicians, and Civilians: Reforming Civil-Military Relations in Democratic Latin America* (Cambridge, UK: Cambridge University Press, 2017), 16.

²³ Beetham, “Conditions for Democratic Consolidation,” 159.

²⁴ Larry Diamond, *Developing Democracy: Toward Consolidation* (Baltimore, MD: Johns Hopkins University Press, 1999), 65.

²⁵ Diamond, 75.

an usable bureaucracy, and an economic society.”²⁶ As Saroj Adhikari asserts, a breakdown in any one of these arenas “could lead the nation to conflict.”²⁷ Consolidation can thus be defined, as Pion-Berlin and Martínez maintain, as a period “in which successive legislative, structural, and cultural changes make the political system ever more democratic.”²⁸ However, they caution, consolidation is not easy to attain or sustain, because “the risk of backsliding remains.”²⁹

Hence, it can be summed up that as the transition to democracy is time-consuming, and complex, so is its consolidation. Likewise, political institutionalization covers a wide area and requires democratic deepening in all walks of society for democracy to consolidate. A reform in an isolated sector will not deliver democratic consolidation. But some key state assets—for example, the military—require major efforts for democratic consolidation if democracy is to survive. As such, David Mares and Rafael Martínez opine that the “democratic consolidation of the armed forces is their conversion into a military administration at the service of a democratically elected government.”³⁰ The military must serve the interest of the state and not otherwise. Most importantly, it must not be forgotten, as Narcís Serra highlights, that the military reform process entails three fronts; the government and the democratic institutions, the armed forces, and the society on three different sides.³¹ Therefore, democratic reform of CMR during transition is a must if democratic consolidation is to be achieved.

²⁶ Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore, MD: Johns Hopkins University Press, 1996), 8, <https://cle.nps.edu/access/content/group/f588641a-6d58-49f5-83ba-35c83989b773/NS3025%20WEEKLY%20READINGS%20AND%20VIDEOS/Week%205/SCANNED%20LINZ%20AND%20STEPAN%20PART%201.pdf>.

²⁷ Saroj K. Adhikari, “The Maoist Movement and Its Impact on the Democratic Transition of Nepal” (master’s thesis, Naval Postgraduate School, 2015), 9, <https://hdl.handle.net/10945/45154>.

²⁸ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 16.

²⁹ Pion-Berlin and Martínez, 16.

³⁰ David R. Mares and Rafael Martínez, *Debating Civil-Military Relations in Latin America* (Liverpool, UK: Liverpool University Press, 2022), 23, ProQuest Ebook Central.

³¹ Narcís Serra, *The Military Transition: Democratic Reform of the Armed Forces* (Cambridge, UK: Cambridge University Press, 2010), 41.

2. Democratic Reform of CMR

A body of literature conceptualizes the democratic reform of CMR. Thomas Bruneau, Florina Cristiana Matei, and Carolyn Halladay argue that civil-military relations in democracies involve a combination of “democratic civilian control of the security forces” and the “effectiveness of the security forces in fulfilling their assigned roles.”³² Similarly, Pion-Berlin and Martínez assert that getting military reform right means getting CMR right.³³ Both of them propose a holistic framework with six dimensions; namely, “power, law, institutions, knowledge, values, and performance” as the most crucial parameters of democratization to gauge reform in CMR.³⁴ Serra concurs that democratic consolidation requires military consolidation, and it is achieved in two stages.³⁵ The first stage comprises transition, where the military is excluded from the political process and it does not actively subvert the government. The second stage constitutes consolidation, in which the military affirms the primacy of civilian control through the establishment of various institutions. Serra recommends three reforms in terms of reducing conflict with the military, control of military or its autonomy, and enhancing professionalism.³⁶ This group of scholars agrees that both control and effectiveness are cardinal in achieving democratic civil-military relations.

Pion-Berlin and Martinez highlight that the essence of CMR lies in the “triangular relation between the soldiers, politicians, and civilians within society” and is all about instituting the supreme civilian authority over the armed forces.³⁷ Richard H. Kohn asserts that the state of civilian control is attained when “all decisions of the government, including national security, are to be made or approved by officials outside the professional armed

³² Florina Cristiana Matei, Carolyn Halladay, and Thomas C. Bruneau, “Introduction: Democratic Civil-Military Relations in the Twenty-First Century,” in *The Routledge Handbook of Civil-Military Relations*, ed. Florina Cristiana Matei, Carolyn Halladay, and Thomas C. Bruneau, 2nd ed. (London: Routledge, 2021), 4, <https://doi.org/10.4324/9781003084228>.

³³ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 28.

³⁴ Pion-Berlin and Martínez, 28.

³⁵ Serra, *The Military Transition*, 4.

³⁶ Serra, 41.

³⁷ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 14.

forces.”³⁸ As per Kohn, wresting civilian authority over the military is imperative for solidifying democracy, because “while a country may have civilian control of the military without democracy, it cannot have democracy without civilian control.”³⁹

Many scholars opine that the military’s duty is simply to obey the decisions made by the elected representatives on behalf of the people, because “civilians have a right to be wrong,” as highlighted by Peter D. Feaver.⁴⁰ It means that even though military expertise on defense issues may make them more knowledgeable than the civilians, the military must abide by the elected civilians’ decisions on the military issues. Likewise, Jeanne Kinney Giraldo argues that the elected civilians in the legislature, who are responsible for preparing policies on defense, finance, and oversight, maintain a balance between the armed forces and the society.⁴¹ Furthermore, Giraldo and Harold Trinkunas concur that these legislative activities on defense issues “enhance the accountability, quality, transparency, and legitimacy” vital for civilian control of the military via an institutionalized “check and balance mechanism that warrants protection of the society by and from the military.”⁴²

In this regard, several scholars agree that the ‘constitutional legal framework and institutional mechanisms’ established for oversight of the military helps to boost civilian control by ensuring, as Pion-Berlin and Martínez put it, “defense activities [are] confined to legal boundaries and transparent.”⁴³ Feaver opines that the military has more to gain from transparent civilian subordination in the era of democratic civilian control.⁴⁴

³⁸ Richard H. Kohn, “How Democracies Control the Military,” *Journal of Democracy* 8, no. 4 (1997): 142, <https://doi.org/10.1353/jod.1997.0060>.

³⁹ Kohn, 142.

⁴⁰ Peter D. Feaver, “The Civil-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control,” *Armed Forces & Society* 23, no. 2 (January 1, 1996): 154, <https://doi.org/10.1177/0095327X9602300203>.

⁴¹ Jeanne Kinney Giraldo, “Legislatures and National Defense: Global Comparisons,” in *Who Guards the Guardians and How: Democratic Civil-Military Relations*, ed. Thomas C. Bruneau and Scott D. Tollefson (Austin, TX: University of Texas Press, 2006), 35.

⁴² Giraldo, 35; Harold A. Trinkunas, *Crafting Civilian Control of the Military in Venezuela: A Comparative Perspective* (Chapel Hill, NC: University of North Carolina Press, 2011), 151–52.

⁴³ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 29–31; Peter D. Feaver, “Civil-Military Relations,” *Annual Review of Political Science* 2, no. 1 (1999): 229, <https://doi.org/10.1146/annurev.polisci.2.1.211>.

⁴⁴ Feaver, “Civil-Military Relations,” 229.

Likewise, concurring with Feaver, Richard H. Kohn states that military professionalism is depicted by unflinching faithfulness to the civilian authority and its apolitical characteristics.⁴⁵ All scholars on CMR agree that the military's unconditional allegiance to civilian authority is what defines a professional military.

There is a vast body of literature that discusses the relevance of institutionalization in the enhancement of democratic civilian control. According to Trinkunas, institutionalization relates to the establishment of a set of rules—for example, the development of successful strategies into institutions—that provide more authority to the civilian politicians to control the armed forces.⁴⁶ He describes institutionalized civilian control in two forms: containment and oversight.⁴⁷ In the former, institutions grant autonomy to the military with civilians having less involvement in military affairs; while in the latter, which he argues is crucial to democratic control, politicians determine policies and direct the activities of the armed forces through an institutionalized defense bureaucracy.⁴⁸ In the same manner, Bruneau, Matei, and Halladay provide a comprehensive framework for democratic civilian control of the armed forces, which involves three sets of mechanisms: “institutional control, oversight, and professional norms.”⁴⁹ Most of the scholars agree on the necessity of these mechanisms to achieve a democratic CMR as it encompasses whole range of control activities.

Several authors submit to the important role of defense bureaucracies in the strengthening of civilian authority over the armed forces. First, executive branch institutions can promote democratic civilian control through rules and procedures associated with the ministries of defense and national security councils. Bruneau and Richard B. Goetze highlight that a ministry of defense (MOD) can control the military through the establishment of effective and efficient defense strategies that clearly define the roles and responsibilities of both the civilian elected authorities and the military

⁴⁵ Kohn, “How Democracies Control the Military,” 146.

⁴⁶ Trinkunas, *Crafting Civilian Control of the Military in Venezuela*, 4.

⁴⁷ Trinkunas, 5–6.

⁴⁸ Trinkunas, 6.

⁴⁹ Matei, Halladay, and Bruneau, “Introduction,” 4.

leadership while ensuring the authority of the civilians.⁵⁰ Therefore, once such civilian authority is achieved, democratic civilian control could be assured and may help to prevent the armed forces from intervening in politics. As Bruneau and Goetze opine, “an effective MOD under an elected civilian leadership can separate direct interaction between the executive and the military, serve as a CMR hub that directs all defense issues, and institutionalize the power nexus and functions between the military and all concerned government stakeholders.”⁵¹ Serra agrees with Bruneau and Goetze and cites the relevance of creating a single ministry to handle defense matters.⁵² Bruneau, Matei, and Sak Sakoda note that the role of the NSC—also in the executive branch—in promoting civilian control is to provide professional information and advice to the executive on national strategic defense matters for informed decision making as well as to serve as a bridge between the legislature and the executive.⁵³

Other scholars highlight the important role of the legislative branch in civilian control. Pion-Berlin and Martínez mention that in a democracy where the separation of powers prevails, the legislature serves as the checks and balances over the executive to counter such excesses as misuse of the military for political advantage; it also limits the potential for military prerogatives, and guides the jurisdiction of the military, which falls within the constitution.⁵⁴ Reducing the powers of the executive over the military may not only avert arbitrary use, but also deter discontent from political opponents as well as promote the society’s wider trust in the military. The consideration of using the military for the right purpose compels lawmakers to be clear in capturing defense matters both in the constitution and the associated national and institutional legal frameworks. As observed

⁵⁰ Thomas C. Bruneau and Richard B. Goetze, Jr., “Who Guards the Guardians: Democratic Civil-Military Relations,” in *Who Guards the Guardians and How: Democratic Civil-Military Relations*, ed. Thomas C. Bruneau and Scott D. Tollefson (Austin, TX: University of Texas Press, 2006), 71–76, ProQuest Ebook Central.

⁵¹ Bruneau and Goetze, Jr., 79.

⁵² Serra, *The Military Transition*, 118.

⁵³ Thomas C. Bruneau, Florina Cristiana Matei, and Sak Sakoda, “National Security Councils: Their Potential Functions in Democratic Civil-Military Relations,” *Defense & Security Analysis* 25, no. 3 (September 2009): 257–58, <https://doi.org/10.1080/14751790903201406>.

⁵⁴ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 125.

by Pion-Berlin and Martínez, the legal frameworks developed by parliament help to regulate the activities of the military, define its chain of authority, and establish the manner and purpose for utilizing the armed forces.⁵⁵ They caution, however, that the success of these legal instruments in limiting the misuse of the military depends on how much the rule of law is respected and upheld. Although Giraldo agrees with other scholars on the role of legislatures in controlling the military, she asserts that every country tackle their legislative role for control over the defense sector differently, and “whatever its role, the legislature should exercise it in an informed and expert manner.”⁵⁶ In conclusion, civilian control devised via executive, legislature, and judiciary tools is an important aspect for reformed CMR; however, it is incomplete if the military cannot execute its assigned roles and missions effectively. Therefore, a complete picture of CMR is difficult to comprehend when only observed through the lens of democratic civilian control.

A group of scholars argues that a democratic civilian control must be complemented by effectiveness in the context of changing roles and missions of the militaries where a clarity in the definition of their job is a prerequisite, followed by preparedness for all or any of the assigned roles and tasks by the state. Eventually, an assessment is a must to evaluate its effectiveness. Therefore, it is important that armed forces are capable of undertaking their roles and missions. First, the term “mission and roles” needs to be clarified, followed by effectiveness. Bruneau writes that “civilian leaders are rediscovering the importance of the armed forces. The issue is, however, whether civilians are able to determine the roles and missions of the armed forces.”⁵⁷ Paul Shemella, in clarifying roles and missions using the Pentagon’s definition, explains that: “a role is a broad and enduring purpose provided by the Congress to each branch of the

⁵⁵ Pion-Berlin and Martínez, 125.

⁵⁶ Giraldo, “Legislatures and National Defense: Global Comparisons,” 34.

⁵⁷ Thomas C. Bruneau, “The Military in Post-Conflict Societies: Lessons from Central America and Prospects for Colombia,” in *Security Sector Reform and Post-Conflict Peacebuilding*, ed. Albrecht Schnabel and Hans-Georg Ehrhart (Tokyo: United Nations University Press, 2005), 228, <https://digitallibrary.un.org/record/565830?ln=en>.

armed services and missions are specific tasks that clearly indicate an action to be taken.”⁵⁸ A clear mission for the armed forces is one of the first tasks when politicians sit to work out an enduring CMR plan during transition. As Serra points out, it is necessary to “redefine the tasks and nature of the armed forces in accordance with the prevailing democratic context of the changed new environment”⁵⁹ and that the missions related to domestic security must be subject to civil legislation and limited only to a short period in support of police.⁶⁰ Matei, Halladay, and Bruneau have outlined 14 main or subsidiary roles and missions of the security forces for effectively accomplishing their assigned tasks.⁶¹ Accomplishment of these tasks implies that the armed forces are effective and this helps gauge the performance status of any armed forces in general.

Next, Bruneau’s trinity model comprising effectiveness, efficiency, and democratic civilian control for CMR states that this trinity “balances democratic oversight and control of military affairs, efficiency in defense spending, and the effectiveness of military forces.”⁶² It is of utmost importance that armed forces during the transition phase must be evaluated to ensure they are performing within the bounds and budget set by the government. Bruneau elucidates that “effectiveness is the ability of the armed forces to implement the roles and missions assigned to it by civilians in charge.”⁶³ Similarly, Matei, Halladay, and Bruneau argue that “effectiveness involves three main requirements: plan, structures and processes, and resources plus professional norms.”⁶⁴ Plan, according to

⁵⁸ Paul Shemella, “The Spectrum of Roles and Missions of the Armed Forces,” in *Who Guards the Guardians and How: Democratic Civil-Military Relations*, ed. Thomas C. Bruneau and Scott D. Tollefson (Austin, TX: University of Texas Press, 2006), 123, ProQuest Ebook Central.

⁵⁹ Serra, *The Military Transition*, 62–63.

⁶⁰ Serra, 86.

⁶¹ Matei, Halladay, and Bruneau, “Introduction,” 4.

⁶² Thomas C. Bruneau and Harold A. Trinkunas, “Global Trends and Their Impact on Civil-Military Relations,” in *Global Politics of Defense Reform*, ed. Thomas C. Bruneau and Harold A. Trinkunas, *Initiatives in Strategic Studies: Issues and Policies* (New York: Palgrave Macmillan U.S., 2008), 4, <https://doi.org/10.1057/9780230611054>.

⁶³ Thomas C. Bruneau, “Civil-Military Relations in Latin America: The Hedgehog and the Fox Revisited,” *Revista Fuerzas Armadas y Sociedad* 19, no. 1–2 (2005): 111–31. See also Bruneau and Trinkunas, “Global Trends and Their Impact on Civil-Military Relations.”

⁶⁴ Matei, Halladay, and Bruneau, “Introduction,” 4.

these authors, paves the way for delivering strategic clarity about roles for the security forces (e.g., plan should channel down from national security or military strategy). Likewise, structures and processes like ministries of defense or interior, the national security council, or a joint coordination center enable plans to be devised and executed. Finally, a country must be able to allocate sufficient resources like political capital, finance, and manpower etc., for security forces to accomplish their allotted roles and missions. Additionally, the authors agree that effectiveness comes through professionalism or military expertise and knowledge that develops the broader professional ethos for enlightening and enhancing democratic civilian control.⁶⁵ In this regard, Pion-Berlin and Trinkunas point out that a stable CMR demands not only the military to broaden its knowledge, but the civilians to enhance their defense knowledge and work on their “attention deficits” in the defense realm.⁶⁶ However, the onus lies on the military to obey the decisions of its civilian authority even if that authority is not knowledgeable on defense issues.

Additionally, Aurel Croissant and David Kuehn argue that in order to evaluate the military’s effectiveness in fulfilling its national defense role and mission, it is necessary to have a plan to take the shape of strategy or doctrine later, structures and processes to create plans and implement them, and the availability of resources of all kinds in the country.⁶⁷ They assert that only if these conditions are met can the military then fulfill its mission and roles effectively. However, for Pion-Berlin and Martínez effectiveness is equally significant to both civilians and the military because people assess their performance at times of crises. Hence, effectiveness entails being more strategic, to align resources and objectives in which strategic options are decided by the government in respect to the needs

⁶⁵ Florina Cristiana Matei and Carolyn Halladay, “The Control-Effectiveness Framework of Civil–Military Relations,” Oxford Research Encyclopedia of Politics, February 23, 2021, <https://doi.org/10.1093/acrefore/9780190228637.013.1874>.

⁶⁶ David Pion-Berlin and Harold A. Trinkunas, “Attention Deficits: Why Politicians Ignore Defense Policy in Latin America,” *Latin American Research Review* 42, no. 3 (2007): 97, <https://doi.org/10.1353/lar.2007.0031>.

⁶⁷ Aurel Croissant and David Kuehn, eds., *Reforming Civil-Military Relations in New Democracies* (Cham, Switzerland: Springer International Publishing, 2017), 5, <https://doi.org/10.1007/978-3-319-53189-2>.

of the society and not by the military.⁶⁸ In addition, they feel the necessity of assessing performance through an accountable mechanism and transparent decision-making tool. Likewise, Serra posits that a close relationship exists between control and effectiveness, in which “the subordination of the military to the wishes and purposes of the political leadership is necessary if the military as a group is to serve the state effectively.”⁶⁹

Croissant highlights that the roles and missions of the armed forces have been evolving from their traditional roles, as evident from the deployment of militaries around the world during the COVID-19 pandemic owing to their emergency capabilities which are superior to those of their civilian state counterparts.⁷⁰ Almost all scholars agree that a universal understanding of civilian control and effectiveness is lacking, but they also concur that effectiveness is the “preparedness and ability of the security institutions to fulfill any or all of the main roles assigned to them by the civilian leaders.” These consist of three components; namely, national security strategy or military doctrine, institutionalized “structures and processes to formulate and implement plan,” and sufficient “resources,” as advocated by Matei, Halladay, and Bruneau.⁷¹ They also concur that effectiveness is difficult to gauge but the “study of CMR in the future will be dominated by the nexus between the democratic control and effectiveness in all forms of regime worldwide.”⁷²

E. POTENTIAL EXPLANATIONS AND HYPOTHESIS

Based on the literature review, three key hypotheses stand out as pertinent to 1) civilian control; 2) military roles and missions; and 3) effectiveness, under Pion-Berlin and Martínez’s six-dimensional framework. The problem underlining the notion of reforms in

⁶⁸ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 31–32.

⁶⁹ Serra, *The Military Transition*, 3.

⁷⁰ Aurel Croissant, “Forward,” in *The Routledge Handbook of Civil-Military Relations*, ed. Florina Cristiana Matei, Carolyn Halladay, and Thomas C. Bruneau, 2nd ed. (London: Routledge, 2021), xxi, <https://doi.org/10.4324/9781003084228>.

⁷¹ Matei, Halladay, and Bruneau, “Introduction,” 4.

⁷² Croissant, “Forward,” xxiv.

CMR pertaining to democratizing the military in the transition phase is vague, partly due to the broad discussions and ever-evolving academic literature in this field and also due to the political and military culture of a specific region or country where reform is being undertaken.

First, I hypothesize that immediate civilian control of the defense sector from the beginning of transitional process forms a backbone for sustained and consolidated reform in CMR. Civilian control from the start will curb military autonomy and gradually make the military subservient to the political masters. Consequently, civilian control assists in formalizing a transition to civilianized democracy once the elected civilian body establishes its power and authority.

Second, I argue that clarity in military roles and missions established through legal instruments renders an enduring CMR. If the roles and missions of the military are not coherent with the national legal framework, then the military is bound to disobey civilians in the long run, thereby producing an unhealthy CMR which undermines consolidation of the democracy. For example, if the military is involved in the internal security functions like aiding civil authority and performing police tasks, it must be in accordance with the law which is sanctioned by legislative authority and only for a short term.

The third hypothesis is that the assessment of military effectiveness will reveal whether a CMR reform initiative has been successful. Military effectiveness entails three basic requirements: plan, structure and processes, and resources supplemented by professional norms, and preparedness and capability are understood as the military's ability to fulfill any or all roles and missions assigned by the state that supplement efforts undertaken through civilian control of the military to complete the democratic reform of CMR.

F. RESEARCH DESIGN

The thesis presents case studies of post-conflict Nepal after 2006 and El Salvador after 1992 and reviews the background of each case for understanding their similarities and differences. The thesis assesses the empirical evidence in both states for each of the six dimensions of the reform framework by Pion-Berlin and Martínez and the components of

effectiveness recommended by Bruneau, Matei, and Halladay. For better assimilation, the reform framework is divided into two broad headings: control mechanism and effectiveness framework. The control mechanism incorporates power, legal framework, and defense components whereas the effectiveness framework consists of the knowledge, convergence, and effectiveness/performance components.

First, the thesis examines how the first dimension of “power,” which is the most important requirement for civil control, was resolved. Everyone tries to maximize their power and altering the balance of power in civilians’ side with reduced military authority on decision making is what is expected in any democracy. As Huntington put it, “the basic problem in defining civilian control is: How can military power be minimized?”⁷³

Second, the legal framework is studied and evaluated to identify how law and legal mechanisms reformed CMR, as the path to democracy starts with the contest for power and its settlement through codified rules via a legal framework that all participants must follow. Thus, legal framework forms a basis for reform in CMR, when all major stakeholders are obliged to abide by the law and adhere to democratic civilian control.

Third, this thesis examines the role of the institutional dimension in CMR reform. Civil-military reform can only solidify if an interactive institutional structure is established for all key stakeholders after the balance of power and legal framework are devised.

Fourth, after examining how institutions shape the interaction and patterns of conduct, the analysis considers the professional knowledge or expertise of defense planners and policymakers as a knowledge base, which forms another vital dimension to complete the reformed CMR profile.

Fifth, the convergence or shifting of the mindset of the society and the military consistent with democratic standards, whereby the values of each side are mutually respected, is examined to determine whether a reformed CMR finally produces a professional military.

⁷³ Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil–Military Relations* (Cambridge, MA: Harvard University Press, 1981), 80.

Sixth, a reformed CMR can be gauged by better results or the “effectiveness” of the defense and security realm in which the military’s transparent and accountable performance is key. In addition, military effectiveness entails three basic requirements; plan, structure and processes, and resources, and preparedness and capability are understood as the military’s ability to fulfill any or all roles and missions assigned to it by the state that supplement efforts undertaken through civilian control of the military to complete democratic reform in CMR. This study assesses whether CMR reforms in El Salvador and Nepal have been effective.

Finally, each component under every dimension is assessed in terms of none, minimal, moderate, and substantial progress made pertaining to CMR in the various phases of democratization (i.e., transition, consolidating, and consolidation). The role of military influence in every component will determine the level of progress. For example, if the military exerts full autonomy over all decisions, then the progress is graded as none. When the military’s autonomy decreases but still holds its control on decision making, then the progress is assessed to be minimal. Likewise, if the military and the civilians share the decision-making loop, but the civilians possess the final decision authority, then the reform is assessed as moderate. Finally, full civilian authority over all military decisions is graded as substantial. It depicts how well CMR is progressing vis-à-vis other components of a broader democratic system during the transition phase. The framework shows that a transitioning phase has its progress assessed from the point of either none, minimal, moderate, or a mixtures of these three levels. Similarly, a consolidating phase is assessed with moderate progress. Finally, a consolidated phase is assessed with substantial progress. When each of these dimensions is assessed according to its components (sub-headings) and sub-components, the state of reform in the democratization of CMR during the transition can be determined.⁷⁴

⁷⁴ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 35–38.

G. THESIS OVERVIEW AND CHAPTER OUTLINE

The thesis has four chapters. Chapter I began with the major research question, elucidated the significance of this thesis, and offered a literature review, with justifications and hypotheses for answering the research question. This chapter has delved into the Pion-Berlin and Martinez theoretical framework for reform in democratization of CMR, which was discussed in terms of six dimensions: power, legal framework, institution, knowledge, convergence, and performance/effectiveness. Each dimension is studied according to the relevant components to see how they affect the reform in democratization of CMR.

Chapter II examines the three dimensions, focusing on the control mechanism; namely, the power, legal framework, and defense institutions of Nepal and El Salvador. Thirteen components are analyzed in terms of the control mechanism. An analysis on Nepal shows that Nepal achieved four substantial and eight moderate reforms whereas one component fell in the non-applicable category. Similarly, El Salvador attained moderate progress in five areas and minimal progress in eight components.

Chapter III examines the other three dimensions covering effectiveness framework; namely, knowledge, convergence, and effectiveness/performance. Out of the twelve components analyzed, the result for Nepal reveals substantial progress in five components, moderate progress in five others, and minimal reform in two areas whereas El Salvador made substantial progress in one, moderate progress in ten, and minimal reform in one component.

Chapter IV concludes the thesis with a comparative analysis of both case studies according to the six dimensions and evaluates the state of democratic reform of CMR, followed by findings and recommendations.

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II. USING CONTROL MECHANISMS FRAMEWORK TO ANALYZE DEMOCRATIZATION OF CMR REFORM

This chapter covers three dimensions—power, legal framework, and defense institutions—central to achieving democratized control over the armed forces during the transition phase in Nepal and El Salvador. In other words, they form the control mechanism over the military. As Pion-Berlin and Martínez highlight, political leaders and policymakers enhance their authority by altering the balance of power in their favor, “ensuring that the armed forces cannot meddle in spheres that do not pertain to them.”⁷⁵ They assert that power is achieved once the elected representatives gain control over defense matters and the military is limited to an advisory role only. In addition, a democratic system requires that the power achieved is then enshrined in rules and laws: constitutional law, laws on security and defense, military organizational law, military justice law, and legal states of exception. Any reform in CMR must be grounded in law. Thus, the legal framework dimension “define [s] powers and responsibilities of those within the civil-military system,” which forms the basis for the success of healthy CMR.⁷⁶ Next, autonomy of power authorized by the law needs to be realized within democratic institutions that shape greater government control informed by military input. Such institutions as a defense ministry, national defense and security councils, joint military staffs, and parliamentary commissions permit “security, defense, and military policies to be debated, crafted, and implemented.”⁷⁷ All these three dimensions are instrumental in establishing a control mechanism that determines “who gets to sit at the decision-making table and who is left out.”⁷⁸

⁷⁵ Pion-Berlin and Martínez, 29.

⁷⁶ Pion-Berlin and Martínez, 30.

⁷⁷ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*.

⁷⁸ Pion-Berlin and Martínez, 31.

A. NEPAL: REFORM IN THE CONTROL MECHANISM

The assessment for Nepal finds that it has attained moderate reforms in the control mechanism vis-à-vis the democratization of CMR. Out of 13 components, Nepal has achieved substantial reform in four, moderate progress in eight, and a non-applicable score for one component.

1. Balance of Power

The balance of power in Nepal has shifted in favor of the civilians during the transition as they have been able to wrest authority from the military and assert democratic norms in leadership selection through free and fair elections and policy making, and have shown improvement in the human rights sphere, internal security, and external defense, in accordance with the constitution.

a. *Public Policymakers and Policy*

The NA has made substantial progress in reform in the dimension of public policymakers and policy as the NA is denied any role in selecting leadership and cabinet posts, and it has never interfered in national elections; civilians make policy, and the NA lacks authority over any profit-generating public enterprises and state firms. To achieve this reform, the government focused on three key areas to retain civilian power after 2006; namely, the civilian role over leadership selection through free and fair elections, policymaking informed by civilian input, and civilian control of the military by curbing the military's financial autonomy and limiting the military's role in profit-generating state firms. First, the political transition in 2006 enabled by the CPA and the Interim Constitution of 2007, envisioned democratization of the NA as one of its important tasks.⁷⁹ These legal documents transferred the authority over the NA from the king to the civilians. Consequently, the civilians decided all defense issues on behalf of the NA, and the NA remained as only an advisor to the civilians. For example, the civilian government decided to reintegrate ex-Maoist combatants in the NA while the NA provided advice on the

⁷⁹ Vijayashri Sripathi, "UN Constitutional Assistance Projects in Comprehensive Peace Missions: An Inventory 1989–2011," *International Peacekeeping* 19, no. 1 (2012): 93–113, <https://doi.org/10.1080/13533312.2012.642169>.

integration model. Rhoderick Chalmers asserts that until 2006 “as an institution the army had enjoyed a relatively comfortable existence”; however, the political transition after 2006 authorized various civilian control apparatuses over the NA to institutionalize and democratize the NA.⁸⁰ For instance, Dhruba Kumar points out, “Article 5 of the Military Act 2007 nevertheless endorsed the constitutional mandate of the Government of Nepal to control, use and mobilize the Nepali Army on the recommendation of the National Security Council (NSC).”⁸¹ The NA had no options but to abide by the new political development.

Second, it is noteworthy that Nepal, between 2006 and today, has successfully conducted four free and fair parliamentary elections: two constituent assembly elections (2008 and 2013) and two legislative parliamentary elections (2017 and 2022).⁸² The NA, along with other security agencies, is mandated for election security duties by the government.⁸³ Most importantly, the NA has never been accused of meddling in any elections. Similarly, there are only elected officials in the cabinet. Hence, Nepalese defense policymakers are civilians, and defense policies have been formulated by the civilians since 2006, implying that the NA is accountable to the elected civilian minister at the MOD. Civilian authorities exert effective authority over the army.⁸⁴

Third, the NA lacks authority over any profit-generating public enterprises and state firms, and it undertakes such activities only after it is authorized to do so by the government of Nepal (GON). The NA never ran any state businesses. The NA, mandated by the GON since 1970s, has been actively involved in opening track for road construction in remote

⁸⁰ Rhoderick Chalmers, “State Power and the Security Sector: Ideologies and Interests,” in *Nepal in Transition: From People’s War to Fragile Peace*, ed. Sebastian Von Einsiedel, David M. Malon, and Suman Pradhan (New York: Cambridge University Press, 2012), 60.

⁸¹ Dhruba Kumar, “Democratic Control of Security Forces,” in *Changing Security Dynamics in Nepal: A Collection in Essays*, ed. Rajan Bhattarai and Rosy Cave (Kathmandu, Nepal: Nepal Institute for Policy Studies, 2009), 147.147.

⁸² Michael Kugelman, “Nepal’s Ruling Coalition Has the Edge in Elections,” *Foreign Policy*, December 1, 2022, <https://foreignpolicy.com/2022/12/01/nepal-elections-ruling-coalition-congress-turnout/>.

⁸³ “President Permits Govt to Mobilise Nepali Army in Elections,” *The Rising Nepal*, September 26, 2022, <https://www.risingnepaldaily.com/news/16470>.

⁸⁴ Department of State, *2020 Country Reports on Human Rights Practices: Nepal* (Washington, DC: Department of State, 2021), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/nepal/>.

mountainous areas of the country. However, of late, it is also involved in mega-budget national infrastructure development projects.⁸⁵ The military has at times voiced its interest in running profit-oriented businesses, but the government, the media, and civic societies have so far been reluctant to support the NA undertaking any corporate endeavors, stressing that such military financial initiatives would detract from the NA's primary constitutional obligations, professionalism, and accountability.⁸⁶ But the NA does run a welfare fund for the welfare activities of its officials and dependent family members in accordance with the Military Act which permits "income generating activities like infrastructure and service-oriented projects, stakes in financial institutions, loan provisions, and investment in institutional shares, etc.," and the NA has an oversight board under the Ministry of Defense⁸⁷ for every financial activity from the road projects to its own welfare activities. The GON asserts oversight and ensure accountability on all the NA's financial activities. Similarly, the GON maintains its financial autonomy over the NA by controlling all aspects of budget allocation and financial management, including procurement procedures over the NA, thereby limiting the army's ability to pursue financial autonomy.

In sum, the progress made by the NA in reform of CMR can be assessed as substantial because the NA is denied any role in leadership selection and cabinet posts, and it has never interfered in national elections; civilians make policy, and the NA lacks autonomous oversight over any profit-generating public enterprises or state firms.

b. Human Rights

The progress made in human rights reform is moderate. The NA has undoubtedly reformed its commitment to the implementation and respect of human rights since 2006. Additionally, civilian-led trials investigate and prosecute past human rights issues, and the NA is cooperating with the civilian court. However, the transitional justice mechanisms are

⁸⁵ Dipesh Pandey, "Construction of Fast Track by Nepali Army," Academia, accessed February 5, 2023, https://www.academia.edu/35846822/construction_of_fastrack_by_nepali_army_nijgad.

⁸⁶ "Why the Nepal Army Wants to Become an Investment Promoter," *The Record*, August 3, 2020, <https://www.recordnepal.com/why-the-nepal-army-wants-to-become-an-investment-promoter>.

⁸⁷ "Welfare in Nepalese Army," Nepali Army, accessed January 27, 2023, <https://www.nepalarmy.mil.np/page/introduction>.

not yet fully functioning. “The Interim Constitution of 2007 and the Constitution of 2015” both provide for a National Human Rights Commission (NHRC) in Nepal to ensure “the respect, protection, promotion of the human rights,” and their effective implementation.⁸⁸ Likewise, the National Security Policy (2016) internalizes the “protection of human rights and freedom of people as paramount matters of national interest.”⁸⁹ As per the constitutional provisions and the government policy, every security agency in Nepal, including the Nepal Police (NP) and Armed Police Force (APF), have a Human Rights Cell (HRC) and the NA has “a human rights directorate (HRD).”⁹⁰ The NA asserts that “it has taken punitive measures against those found guilty of violations of human rights and humanitarian laws and such punitive actions range from imprisonment, prohibition from participating in UN missions, demotions, etc.”⁹¹ The NA HRD and NP HRC have independent investigative powers. Similarly, the NHRC and the Ministry of Home Affairs (MOHA) are authorized to examine and investigate excessive use of force, including killing, by the state. A U.S. Department of State (DOS) report on Nepal’s human rights remarks that “NHRC has the authority to recommend action and to record the name and agency of those who do not comply with its recommendations.”⁹² Similarly, it maintains that the Attorney General has the authority to pursue prosecutions. The human rights violation cases are heard in the civilian court for which the Supreme Court of Nepal delivers its verdict.⁹³ However, the

⁸⁸ Nepal Ministry of Law, Justice & Parliamentary Affairs, *The Constitution of Nepal* (Kathmandu, Nepal: Nepal Ministry of Law, Justice & Parliamentary Affairs, 2016), 173, http://www.moljpa.gov.np/wp-content/uploads/2017/11/Constitution-of-Nepal-English-with-1st-Amendment_2.pdf.

⁸⁹ “Policies,” Government of Nepal—Ministry of Defence, accessed February 15, 2023, <https://mod.gov.np/en/policies/>.

⁹⁰ “Human Rights in Nepali Army,” Nepali Army, accessed January 14, 2023, https://www.nepalarmy.mil.np/page/human_rights.

⁹¹ Nepali Army.

⁹² Department of State, *2020 Country Reports on Human Rights Practices: Nepal*.

⁹³ Ram Kumar Kamat, “SC Rules Its Writ Runs on Military Court,” *Himalayan Times*, January 31, 2019, sec. Nepal, <https://thehimalayantimes.com/nepal/supreme-court-rules-its-writ-runs-on-military-court>.

international community has some concerns on the swift implementation of post-conflict human rights reform in Nepal.⁹⁴

c. Internal Security

The realm of internal security in Nepal has achieved a grade of substantial progress because the internal security agencies have a clear chain of command under the MOHA, and they remain fully demilitarized without any chance for the NA's intervention in law-and-order issues. The Nepalese internal security agencies—the NP, APF, and the National Investigation Department (NID)—function within a clear chain of command under the MOHA to maintain the law and order within the national boundary.

Mika Kerttunen explains that “during the counter-insurgency operations between 1996–2006, all the police forces operated unsuccessfully under the unified command concept, implying that they operated jointly but under the military command system.”⁹⁵ The political transition followed by the Interim Constitution of 2007 and the constitution of Nepal 2015 clearly delineated the role of the MOD for the NA and of the MOHA exclusively for the police forces and the NID. A clear chain of command for the military and the police forces has been established in Nepal, and it is being practically implemented without leaving any chance for the NA to intervene in the internal security affairs run by the MOHA. However, article 267 of the constitution envisions the mobilization of the army for internal security roles in the form of ‘aid to civilian authority,’ in the event of a grave security situation inside the country whereby the situation erupts beyond the control of police forces, as well as during disaster emergencies and for election security.⁹⁶

⁹⁴ Department of State, *2020 Country Reports on Human Rights Practices: Nepal*. “The international community has been pushing the GoN to speed up Nepal’s two transitional justice mechanisms: the Commission of Investigation on Enforced Disappeared Persons (CIEDP) and the Truth and Reconciliation Commission (TRC). Although the NA has informed the government that it is willing to cooperate with both these mechanisms, the major political parties still disagree upon its implementation. Moreover, CIEDP which started its work in 2017 is hindered by a lack of human and capital resources to function smoothly in contrast to the international community’s concern for pacing up its activity.”

⁹⁵ Mika Kerttunen, “A Transformed Insurgency: The Strategy of the Communist Party of Nepal (Maoist) in the Light of Communist Insurgency Theories and a Modified Beaufrean Exterior/Interior Framework,” *Small Wars & Insurgencies* 22, no. 1 (2011): 104, <https://doi.org/10.1080/09592318.2011.546583>.

⁹⁶ Nepal Ministry of Law, Justice & Parliamentary Affairs, *The Constitution of Nepal*, 197–98.

Therefore, the realm of internal security in Nepal has witnessed substantial reform because the internal security agencies have a clear chain of command under the MOHA, and they remain fully demilitarized while the NA is prohibited from intervening in law-and-order issues.

d. External Defense

The area of external defense has undergone moderate reform as Nepal has strong civilian institutional structures in place, backed by the constitution, and the civilian spheres of influence between the NA and those institutions are more evenly dispensed. Civilians prevail over the military by controlling and leading them. Similarly, policies are formulated in accordance with the government's priorities, and the military remains as an advisor to the government on defense matters. Nepal witnessed its first transition to democratization of CMR after the president became the supreme commander of the NA, replacing the king in 2006.⁹⁷ Additionally, the NSC was expanded under the Interim Constitution of 2007; however, the COAS was excluded as one of its members. Inviting the COAS to the NSC remained under the chairperson's discretion, implying that the NA was under the control of the civilians. However, the Constitution of 2015 included COAS as one of the members of the NSC and provisioned the NA to be under the purview of the MOD with a civilian institutional structure in place. Likewise, the minister is an elected civilian at the MOD and along with other civilians, including the prime minister in the NSC, advises the president on mobilization of the NA which, must be ratified by "the House of Representatives within one month" from the date of mobilization.⁹⁸ The NA remains aloof from the divided partisan politics owing to the constitutional provision to remain apolitical. At the same time, however, the MOD maintains that "it has also inhibited the development of cordial relationships, based on trust and mutual interest, between the civilian and military

⁹⁷ Bertelsmann Stiftung, *BTI 2008—Nepal Country Report*.

⁹⁸ Nepal Ministry of Law, Justice & Parliamentary Affairs, *The Constitution of Nepal*, 197.

leadership,”⁹⁹ meaning that the military and civilian spheres of influence remain evenly distributed, but the government makes the policy choices and not the NA.

2. Legal Framework

The swift response from the civilians to devise and deliver legal frameworks for democratization of CMR was instrumental in solidifying political power during the transition. First, the May 2006 Proclamation of the reinstated House of Representatives (HOR) considered to be the Nepalese Magna Carta severed the age-old tie between the monarchy and the military that eventually transformed the erstwhile RNA to the NA.¹⁰⁰ Although legal frameworks are required to be written, this proclamation was enough to drive the NA into the democratization process as the Nepalese people overwhelmingly favored republicanism over the multiparty democratic system with a constitutional monarchy.¹⁰¹ The NA had to abide by the people’s aspirations for the broader security interest of the country.

Second, the politicians were quick to revise the old military act and produce the Military Act of 2006 for the NA, justifying the achievement garnered from the historic political transition of the country in which “the source of sovereign authority in the country was vested in the Nepalese people and for making the NA accountable to the people.”¹⁰²

⁹⁹ “Nepal Ministry of Defense,” Global Security, accessed January 14, 2023, <https://www.globalsecurity.org/military/world/nepal/mod.htm>.

¹⁰⁰ Paul R. Brass, *Routledge Handbook of South Asian Politics: India, Pakistan, Bangladesh, Sri Lanka, and Nepal* (London: Taylor & Francis Group, 2010), ProQuest Ebook Central.

¹⁰¹ Izumi Wakugawa, Prawash Gautam, and Anil Shrestha, eds., “May 18, 2006 Proclamation of the House of Representatives,” in *From Conflict to Peace in Nepal, Peace Agreements 20005-20* (Kathmandu, Nepal: Asian Study Center for Peace & Conflict Transformation, 2011), 8–12, [https://issat.dcaf.ch/download/1943/16667/From%20Conflict%20to%20Peace%20in%20Nepal%20Peace%20Agreements%202055-10%20-%20ASPECT,%20Wakngawa%20\(2011\).pdf](https://issat.dcaf.ch/download/1943/16667/From%20Conflict%20to%20Peace%20in%20Nepal%20Peace%20Agreements%202055-10%20-%20ASPECT,%20Wakngawa%20(2011).pdf). This proclamation sidelined the monarchy, vested the executive powers in the council of ministers, and affirmed that ‘the source of State power of the Kingdom of Nepal is the Nepalese people, and that the sovereign state power of Nepal is inherent in the people of Nepal’ and being “cognizant of the spirit of the ongoing People’s Movement, and to resolve the ongoing violent conflict and other problems being faced by the country, according to the road map of the agitating Seven Party Alliance’, the House of Representatives established through the force of the People’s Movement is acknowledged as being invested with sovereignty.

¹⁰² Nepal Law Commission, *Army Act, 2063 (2006)* (Kathmandu, Nepal: Nepal Law Commission, 2006), <https://www.lawcommission.gov.np/en/wp-content/uploads/2018/10/army-act-2063-2006.pdf>.

This act included provisions regarding the establishment, arrangement, control, use, and mobilization of the NA on the recommendation of the NDC with approval from the Defense Special Committee of the HOR.¹⁰³ Third, the Interim Constitution of 2007 and the Constitution of 2015 incorporated legal frameworks for democratization of the NA. In addition, the NSP of 2016 clearly defines the realm of national security and has distinctly outlined the roles and responsibilities of all security forces in Nepal and provided clarity as to why, how, where, and when these security forces must work together.¹⁰⁴

a. Constitutional Law

The progress in the field of constitutional law in Nepal is assessed to be moderate as both the Interim Constitution of 2007 and the Constitution of 2015 clearly define the NA as a non-deliberative, apolitical institution for the protection of national independence and territorial integrity and where the president is the supreme commander of the NA.

Most importantly, the internal role of the NA for exceptional situations was also enshrined in both constitutions. As the most important legal document of the country, the Interim Constitution of Nepal 2007 was instrumental in defining the fundamental rights of the Nepalese citizens, providing the guiding principles of the nation during the political transition and identifying the institutional structure of a new republican political system in Nepal. A detailed framework on democratizing the NA during the political transition was added in part 20, article 144 of the constitution. It reads:

(1) The president shall be the supreme commander of the NA. (2) The president on the recommendation of the council of ministers (COM) shall control, mobilize, and manage the NA in accordance with the law. The COM shall, with the consent of the political parties and by seeking the advice of the concerned committee of the Legislature-Parliament, formulate an extensive work plan for the democratization of the Nepal Army and implement it. (3) In the case of formulating and implementing the action plan pursuant to clause (2), determination of the appropriate number of the NA, its democratic structure and national and inclusive character shall be developed, and training shall be imparted to the army in accordance with the norms and values of democracy and human

¹⁰³ Nepal Law Commission.

¹⁰⁴ Ministry of Defense, “National Security Policy 2016,” 2016, 49–54.

rights. (4) In order to give the NA a national character and make it inclusive, enlisting of Madhesi, indigenous ethnic groups, Dalits, women, and people from backward regions into the armed forces based on the principles of equality and inclusiveness shall be ensured by law. (5) Other matters pertaining to the Nepal Army shall be as provided for in the law.¹⁰⁵

Similarly, article 145 focused on the NDC. However, the COAS was not included as member of the NDC but was enlisted as an invitee as deemed necessary by the chairperson of the council who was the prime minister. This issue caused much stir between the NA and the then ruling government as it was first time in the history of Nepal that a serving COAS was not a member of the NDC. But from a CMR perspective, it can be considered as an executive prerogative exercised by a political master over its armed forces during the democratization process. Thus, the Military Act of 2006 and the Interim Constitution of 2007 incorporated the chains of command defining its leadership at the apex and the missions for the NA.

On the other hand, the 2015 Constitution of Nepal, which was delivered to the country after almost nine years of republican political set-up and two CA elections, included provisions regarding national security in its part 28, whereby article 266 concerned the NDC, article 267 was on NA, and article 268 deliberated on other security agencies in Nepal for internal security.¹⁰⁶ According to the constitution, the NDC included the COAS as one of its members and “the government of Nepal could, in accordance with federal law, mobilize NA for works relating to development, disaster management and others.”¹⁰⁷ It added further that “the mobilization of the NA shall be declared by the president according to the decision by Council of Ministers, Government of Nepal on recommendation of National Defence Council during wars, on security of any parts, territorial integrity or sovereignty of Nepal, external attacks, armed insurgency, or crisis

¹⁰⁵ Cottrell, Jill, Surya Dhungel, Basant Subba, Kedar Bhattarai, and Dila Datt Pant. “Interim Constitution of Nepal, 2007, as Amended by the First and Sixth Amendments” (Kathmandu, Nepal: UNDP Nepal, 2009), https://himalaya.socanth.cam.ac.uk/collections/rarebooks/downloads/Nepal_Interim_Constitution_2007_first_to_sixth_amendments.pdf.

¹⁰⁶ Kingdom of Nepal, *Nepal’s Constitution of 2015* (Kathmandu, Nepal: Constitutional Assembly Secretariat, 2015), https://www.constituteproject.org/constitution/Nepal_2015.pdf.

¹⁰⁷ Kingdom of Nepal.

arising due to extreme economic breakdown. Decisions on mobilization of the Nepali Army must be approved by the House of Representatives within a month of the declaration.”¹⁰⁸

b. Laws on Security and Defense

Progress in the area of laws on security and defense is assessed to be moderate as the chain of command for the NA is clearly defined, the MOD has the main responsibility for the NA, and there is a clear division of jurisdiction between the MOD and the MOHA. Although the parliament retains effective control over the NA for its actions, it also regulates the NA’s participation in such international operations as United Nations Peace Keeping Operations (UNPKO). In addition, the Local Administrative Act of 2028 also envisions the NA being mobilized within the country to aid in civil authority duties, including security duty for elections and restoring law and order when other security forces cannot control the domestic security situation from deteriorating further and the local administration seeks military aid in written form. Nevertheless, any deployment of the army must be approved by the president with recommendation from the NDC and approval from the legislative parliament within a month. The constitution, in its article 266 on the army and article 267 regarding other security agencies, clearly demarcates the respective realms of external defense and internal defense.¹⁰⁹ Similarly, the NSP of 2016 also clearly defines the roles and missions and the joint activities of all security forces in Nepal.¹¹⁰ Moreover, the defense arena falls under the purview of the MOD whereas internal security is the sole responsibility of and falls under the legal jurisdiction of the MOHA in Nepal. Both ministries are always led by two different elected civilian ministers.

¹⁰⁸ Kingdom of Nepal, 94–95.

¹⁰⁹ Kingdom of Nepal, 94–95.

¹¹⁰ Ministry of Defense, “National Security Policy 2016,” 2016, 49–54.

c. Military Organizational Law

Reform in the domain of military organizational law has been moderate because the law regulates and manages a majority of the administrative aspects of the NA, but it still allows the deployment of the NA internally for exceptional situations.

Pursuant to the article 58 of the 2015 Constitution of Nepal, various “legislative, thematic, and special committees are set to make government responsible to the parliament and provide necessary direction and suggestion to the government after having monitored and assessed its activities.”¹¹¹ The state affairs committee under the thematic committee in Nepal’s parliament has the oversight over the MOD among other ministries. In addition, the security special committee is the one to approve “the decision of the COM, GON to mobilize the NA except in cases where the Nepalese Army has been mobilized for the reason of occurrence of a natural calamity as referred to in Sub-Article (5) of Article 145 of the Constitution.”¹¹² Similarly, the public accounts committee is entrusted with the power of overseeing “the unsettled amounts referred to in the Annual Report of the Auditor General submitted to the legislature-parliament and report to the parliament before submission of the annual estimates.”¹¹³ All these committees may invite the minister of defense and the COAS for any issues that concerns military issues, missions, management, etc.¹¹⁴ Similarly, the Military Act 2007 clearly stipulates and regulates the appointment, retirement, tenure, and roles of the COAS.¹¹⁵ In addition, every issue pertaining to senior military officers, from the rank of colonel and above, on promotion, deputation, and training to retirement and leave must be decided by the COM after the MOD makes recommendations.

¹¹¹ “Chapter 18 Committees of the Legislature-Parliament,” Constituent Assembly (Conduct of Business of Legislature-Parliament) Rules, 2070 (2013), accessed January 15, 2023, <https://lawcommission.gov.np/en/?p=3911>.

¹¹² Nepal Law Commission.

¹¹³ Nepal Law Commission.

¹¹⁴ Binod Ghimire, “House Panel Grills Army Chief, Foreign Minister on SPP,” *Kathmandu Post*, June 18, 2022, <https://kathmandupost.com/national/2022/06/18/house-panel-grills-army-chief-foreign-minister-on-spp>.

¹¹⁵ Nepal Law Commission, *Army Act, 2063 (2006)*.

d. Military Justice Law

Progress in the field of military justice law has been moderate because the principal of jurisdictional unity is respected by the NA as military courts are limited to the jurisdiction of military activities and not common crimes. Additionally, human rights violation cases involving military personnel can be brought in civil courts.

Respect for the principal of jurisdictional unity by the NA, jurisdiction of the military court being limited to the activities in the military, and the trial of human rights violators in civil court are the main benchmarks of military justice law. The post-conflict transitional justice system has gradually been incorporated in the NA, implying that no civilians will ever be tried in the military court. Similarly, the Military Act of 2006 explicitly stresses that “the jurisdiction of military courts” is “limited to offences” listed in the Military Act only and “section 61 (I) of this act permits homicide and rape cases to be tried in civil court.”¹¹⁶ This event was widely circulated in Nepal’s media as verified by *Setopati*, a Nepalese newspaper, which published that “cases of torture and disappearance will now be heard in civil courts instead of the military courts.”¹¹⁷ Likewise, the Supreme Court of Nepal in 2019 gave a landmark verdict citing that “all the courts, including military courts, are under its jurisdiction and military courts’ jurisdiction is limited to offences listed in the Army Act.”¹¹⁸ It further highlighted the United Nations Updated Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, emphasizing, “The jurisdiction of military tribunals must be restricted solely to specific military offences committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international or internalized court.”¹¹⁹ This implies that the public should not perceive members of the military to be

¹¹⁶ Nepal Law Commission.

¹¹⁷ “Powers of Military Court Cut; Civil Courts to Hear Cases of Torture, Disappearance,” *Setopati*, January 1, 2019, <https://en.setopati.com/political/136678/>.

¹¹⁸ Kamat, “SC Rules Its Writ Runs on Military Court.”

¹¹⁹ Kamat.

above the law. The prevalence of rule of law imposed by civilian courts over the military establishment is a healthy sign of democracy in any state.

e. Legal States of Exception

Progress in the realm of legal exceptions has been substantial in Nepal. Both the constitutions of Nepal (2007 and 2015) have provisions for ‘emergency’ or legal states of exception (LSE). Part 30, article 273 envisages imposing a state of emergency if a grave threat to the state arises due to war, external threat, armed revolt, natural calamity, or epidemic outbreak.¹²⁰ Any governments may resort to implementing a whole-of-government approach when such grave situations require that all elements of national power be mobilized. In such a scenario, “the president may, by proclamation or order declare a state of emergency to be enforced in the whole country or any specified part thereof” but only with a two-third majority vote by the members “of both houses of the federal legislature within thirty days from the date of issuance” and such declaration would be effective for three months only.¹²¹ However, the constitution is cautious to extend only a limited timeframe for mobilization of the NA internally. If the duration needs extension, then the process for approval is repeated. Some fundamental rights of the citizens may be suspended during such enforcement. However, citizens have the right to claim compensation for any damages within 90 days from the date of expiry of the declaration, and such a damage claim may be incurred by officials executing the order in violation of the law or declaring a state of emergency in bad faith.

A small measure of progress occurs when there is constitutional regulation but where states of exception are militarized. Similarly, progress is moderate when such a situation is at the government’s discretion, meaning civilian executives not only choose to activate the military and for how long but also decide what the military’s functions will be and which citizen rights will be restricted. Finally, progress is deemed substantial when the legislation itself specifies the scenarios in which the armed forces can be introduced, what they can do, and for how long. Executive discretion is limited to the decision to either

¹²⁰ Kingdom of Nepal, *Nepal’s Constitution of 2015*, 96.

¹²¹ Kingdom of Nepal, 96.

activate the military or not. The NA has shown in all four elections after 2006 and also during “the 2015 Mega Earthquake”¹²² and “the Covid-19 pandemic outbreak”¹²³ that it was mobilized according to the GON’s order, which the parliament ratified, and was back to the barracks once the government ordered it to do so.

3. Defense Institutions

This section focuses on four main organizations that should be reformed and solidified if democratic civilian control and effective policy are to be achieved. These are the defense ministry, the joint military staff, the national defense/security council, and the parliamentary defense commission. The first three organizations are related to the executive branch and the fourth falls under the purview of the legislative branch.

a. The Ministry of Defense

Reform in the MOD has been moderate because it still has a small and weakly trained staff, although it is civilian led, is functionally structured, and formulates defense policies.

A civilian-led, functionally structured MOD with well-trained and knowledgeable civilian staff that formulates policies according to the government’s priorities forms an efficient MOD. The present MOD of Nepal, empowered after 2006, has various functions, including establishing coordination between the government and the NA, managing the NA, and creating an effective working relationship between the civilian leaders and the NA.¹²⁴ In addition, it bears the responsibilities to formulate defense policies and strategies of Nepal and “to effectively operate, manage, monitor, control and direct the Nepal Army in the interest of the country and the people.”¹²⁵ The MOD is the main link for a stable

¹²² Nepali Army, *Nepalese Army—In Service of the People—Earthquake 2012* (Kathmandu, Nepal: Nepali Army, 2015), <https://www.nepalarmy.mil.np/upload/publications/special/centerpage.pdf>.

¹²³ Kul Chandra Gautam, “A COVID Challenge for Nepal Army,” Welcome of the Official website of Kul Chandra Gautam, May 15, 2020, <http://kulgautam.org/a-covid-challenge-for-nepal-army/>.

¹²⁴ “Major Scope of Works,” Government of Nepal—Ministry of Defence, accessed January 18, 2023, <https://mod.gov.np/en/major-scope-of-works/>.

¹²⁵ Government of Nepal—Ministry of Defence.

CMR comprising civilian control and policy effectiveness within the executive branch. An institutional connection is maintained by the MOD that allows elected government officials to convert their policies into military orders.

According to the GON 9th Division of Labor Rules, 2015/16, the MOD is tasked with “responsibilities of national security policy, law, norms, plan implementation and regulation and policy aspects, management, coordination, and facilitation of all issues related to the NA [Nepal Army], including international border security coordination.”¹²⁶ In addition, the ministry is responsible for the effective implementation of the decisions made by the government as well as for proposing policy decisions on the legal, administrative, financial, and provisional management aspects of the current military, inter-ministerial coordination and facilitation, and decisions by the Council of Ministers on the military.”¹²⁷ Besides, the MOD also is responsible for the NSC and security sector reform.¹²⁸

It is worth noting here that every defense minister in Nepal after 2006 has been an elected civilian politician, which is an important requirement for democratization of CMR. However, a competent civilian minister alone is not sufficient to deliver a healthy CMR. Surendra Rawal asserts that the MOD in Nepal is severely understaffed so far. Although the reorganization of the MOD in 2012/13 was able to create four divisions and 11 branches with four civilian joint secretaries and raised the staff strength from just 31 to 98, staff numbers were reduced to 83 in 2019/20.¹²⁹ Similarly, as retired secretary of defense Sitaula states, the Nepalese government did not include “one gazetted first-class officer and other staff from the NA” for “a separate coordination division in the MOD” as the GON was advised to do then.¹³⁰ Filling the civilian vacancies and raising the numbers of competent staff, both civilian and military, is important for the MOD in Nepal; as Rawal

¹²⁶ Government of Nepal—Ministry of Defence.

¹²⁷ Government of Nepal—Ministry of Defence.

¹²⁸ Government of Nepal—Ministry of Defence.

¹²⁹ Surendra Singh Rawal, “Understanding Civil-Military Relations for Better Civilian Control of the Military in Nepal,” *Nepal Public Policy Review* 2 (2022): 132, <https://doi.org/10.3126/nppr.v2i1.48399>.

¹³⁰ Rawal, 132.

asserts, the “MOD is the most appropriate institution to deal with military effectiveness, efficiency, and accountability.”¹³¹

b. The Joint Military Staff

Reform in the joint military staff is non-applicable or appropriate for assessment as per the framework of Pion-Berlin and Martinez. Because Nepal is a landlocked country, it has no navy or air force and has only an infantry-based army organization.

Therefore, the notion of joint military staff may not be applicable for Nepal. However, the NSC is comprised jointly of all the security agencies of Nepal and a Joint Evaluation Committee at the NSC functions in concert on all common aspects of the defense and security fields in the country.¹³² Likewise, the NSP of 2016 clearly defines the roles and missions and the joint activities of all security forces in Nepal.¹³³ Although the notion of a conventional joint military staff is not applicable to Nepal, there are constitutional provisions to bring jointness amongst various security agencies in the country whenever the government feels necessary.

c. The National Defense/Security Council

Reform in the NSC has been substantial as it is a civilian-led advisory body to the president that meets regularly and produces recommendations and reports for the president pertaining to security and defense.

The 2015 Constitution of Nepal in part 28, article 266 on security has a provision for the NSC.¹³⁴ Provisioned for recommending to the president the mobilization of the NA, the NSC has the prime minister as its chairperson, while the ministers of defense, home, foreign, finance, along with the chief secretary of the GON, and the COAS are its members. The only difference in the provision for the NSC in the Interim Constitution of

¹³¹ Rawal, 133.

¹³² “Organization Structure,” Government of Nepal—Ministry of Defence, accessed January 18, 2023, <https://mod.gov.np/en/organization-structure/>.

¹³³ Ministry of Defense, “National Security Policy 2016,” 49–54.

¹³⁴ Kingdom of Nepal, *Nepal’s Constitution of 2015*.

2007 was that the COAS was not considered a member of the NSC but was on the list of invitees whom the chairperson of the NSC [normally the prime minister] could invite as needed. But the Constitution of 2015 included the COAS as one of the members of the NSC. As the 2015 Constitution highlights, “the primary function of the NSC is on the mobilization of the NA which shall be declared by the president according to the decision by Council of Ministers,” upon recommendation of the NDC during wars, grave security concerns in any parts within the country, threats to “territorial integrity or sovereignty of Nepal, external attacks, armed insurgency, or crisis arisen due to extreme economic breakdown.”¹³⁵ The council also bears “an obligation to submit its annual report to the president, which the president presents to the federal legislature through the COM, GON.”¹³⁶

d. The Congressional/Legislative Defense Commission

Progress in reforms in parliamentary commissions has been moderate as the constitution guarantees them permanent status with broad power to exercise oversight over the military and the executive; however, they lack enough civilian staff. Since 2006 Nepal has witnessed an increase in the number of legislature-parliament committees intended to create a check and balance between the executive and the NA. Article 58 of the 2015 Constitution of Nepal has provisioned various legislative, thematic, and special committees in the parliament that function as oversight bodies for the MOD and the NA on behalf of the Nepalese voters by making “the government responsible to the legislature-parliament and provid [ing] necessary direction and suggestions to the government.”¹³⁷ On the other hand, the state affairs committee under the thematic committee in Nepal’s parliament has the oversight authority for the MOD, among other ministries. In addition, the security special committee is the one “to approve the decision of the COM, GON to mobilize the NA “except in cases where the Nepalese Army has been mobilized for the reason of occurrence of a natural calamity as referred to in Sub-Article (5) of Article 145 of the

¹³⁵ Kingdom of Nepal, 94–95.

¹³⁶ Kingdom of Nepal, 94–95.

¹³⁷ Nepal Law Commission, “Chapter 18 Committees of the Legislature-Parliament.”

Constitution.”¹³⁸ Similarly, a provision in the constitution has entrusted the public accounts committee with the power of overseeing the unsettled budget that is “referred to in the Annual Report of the Auditor General submitted to the legislature-parliament and report to the House before submission of the annual estimates.”¹³⁹ All these committees may invite input from the minister of defense and the COAS on any issues that concern military issues, missions, management, etc.¹⁴⁰ However, these commissions possess limited civilian staff. Similarly, even the parliamentarians have been vocal on this point, not only through the defense committees but also individually.¹⁴¹ They have raised concerns in the parliament on topics ranging from corruption in the NA to foreign military assistance, to name a few.¹⁴² Such activities assist in bolstering civilian control over the army and eventually democratizing CMR.

4. Conclusion

Within the dimension of military power, which consists of four components—public policymakers and policy, internal security, human rights, and external defense—Nepal has made moderate progress in two areas and substantial reforms in two others. Likewise, in the legal framework dimension comprising constitutional law, laws on security and defense, organizational military law, military justice law, and legal states of exception, Nepal has made moderate progress in four areas and substantial reforms in two others. Similarly, in the dimension of defense institutions, which consists of four components—defense ministry, parliamentary commission, national security council, and

¹³⁸ Nepal Law Commission.

¹³⁹ Nepal Law Commission.

¹⁴⁰ Ghimire, “House Panel Grills Army Chief, Foreign Minister on SPP.”

¹⁴¹ “Around 200 Soldiers Face Court-Martial in Bribery Scandal,” *Kathmandu Post*, October 27, 2018, <https://kathmandupost.com/national/2018/10/27/around-200-soldiers-face-court-martial-in-bribery-scandal>.

¹⁴² Anil Giri and Tika R. Pradhan, “Government Decides to Stay Away from SPP,” *Kathmandu Post*, June 21, 2022, <https://kathmandupost.com/national/2022/06/21/government-decides-to-stay-away-from-spp>.

joint military staff—Nepal has achieved moderate reform in two areas and minimal in one other, and one area was considered not applicable for assessment.

B. EL SALVADOR: REFORM IN THE CONTROL MECHANISM

The evaluation for El Salvador reveals that the country has achieved only minimal progress according to the control mechanism framework for reform in the democratization of CMR. Out of 13 components analyzed under the control mechanism, eight showed minimal progress and five showed moderate reforms.

1. Balance of Power

The balance of power in El Salvador remains in favor of the FAES over the civilians as assessed in the field of public policymakers and policy making, human rights, internal security, and external defense.

a. Public Policymakers and Policy

The progress made by the FAES in the reform of CMR has been moderate as the FAES has never interfered in national elections although it still exerts influence in some of the government's policies. The CPAC was successful in ending 60 years of FAES political and social domination as the peace agreement placed the military under the control of the elected civilian government.¹⁴³ Zoltan Barany mentions that the CPAC had also “outlined a specific plan for ending the war, demobilizing forces, reintegrating combatants into society, dealing with past human rights abuses, preparing for free and fair elections, and a number of other issues.”¹⁴⁴ The national election of 1994 was the first democratic practice in El Salvador after the peace deal, which was supervised by 863 United Nations Mission in El Salvador (ONUSAL) international observers in addition to 500 others, and was recognized as “acceptable though far from flawless.”¹⁴⁵ The national election was El

¹⁴³ Cynthia J. Arnson, ed., *El Salvador's Democratic Transition Ten Years after the Peace Accord* (Washington, DC: Woodrow Wilson International Center for Scholars, 2003), 7, <https://www.wilsoncenter.org/sites/default/files/media/documents/publication/elsalvador.pdf>.

¹⁴⁴ Barany, *The Soldier and the Changing State*, 83.

¹⁴⁵ Barany, 86.

Salvador's first step to a democratic transition in which the FAES made no public interference during the election, implying that it was under civilian control. Likewise, El Salvador has successfully concluded five more national elections since then until 2019. Similarly, all presidents have been able to exert control over the military. As evident from the tenure of President Armando Calderón Sol, during which he disregarded the army's own standards of promotion by elevating his acquaintances "to the rank of general" in defiance of the military and the civil society.¹⁴⁶ Nevertheless, the military's adherence to the executive's decision demonstrated a high degree of civilian authority over the FAES. Similarly, it has been deployed for internal security since 1994 by president's decree, not driven by its own policy.

Although the FAES has so far been subordinated to government policies, it still manipulates government decisions, for example, the nomination of the defense minister. The military exerts pressure over the president to nominate high-ranking, serving military officers as defense minister, which is evident from the appointments of all Salvadoran defense ministers.¹⁴⁷ However, the Salvadoran economy operates essentially under private rules, and the state, let alone the FAES, has mostly retired from running economic enterprises,¹⁴⁸ implying that the FAES no longer retains the financial autonomy to deviate from civilian control.

In sum, the progress made by the FAES in reforming CMR has been moderate as the FAES has never interfered in national elections although it still exerts influence in some of the government's policies.

¹⁴⁶ Ricardo Guillermo Castaneda et al., "The Nature of the Political Transition: Advances and Setbacks in Democratic Consolidation," in *El Salvador's Democratic Transition Ten Years after the Peace Accord*, ed. Cynthia J. Arnson (Washington, DC: Woodrow Wilson International Center for Scholars, 2003), 8, <https://www.wilsoncenter.org/sites/default/files/media/documents/publication/elsalvador.pdf>.

¹⁴⁷ Barany, *The Soldier and the Changing State*, 95.

¹⁴⁸ "BTI 2022 El Salvador Country Report," BTI Transformation Index, accessed January 22, 2023, <https://bti-project.org/en/reports/country-report?isocode=SLV&cHash=222ecb757f3f0d1af925f8863e700832>.

b. Human Rights

The FAES has undoubtedly upheld its commitment to human rights reform, but it is not extending its full cooperation to civilian trials on wartime human rights violations. This makes the FAES's gain in human rights reform as minimal. Guaranteeing human rights in El Salvador was one of the goals of the CPAC to democratize the country, and respect for human rights improved after the war stopped.¹⁴⁹ The establishment of the National Counsel for the Defense of Human Rights was a significant milestone for the reform of state institutions during the transition. During the political transition in 1992, the FAES was subordinated to the civilian authority and many of its members purged for alleged human rights violations. As arranged in the peace accords, more than 200 officers were accused of human rights violations, including the defense minister, his assistant minister, and senior flag officers who were dismissed through an internal trial. A blanket amnesty law approved in 1993 restricted prosecution of human rights perpetrators from the civil war, but a landmark verdict by Supreme Court in 2016 made the blanket amnesty unconstitutional and ordered the prosecutions to begin. However, the judiciary has been very slow to bring more human rights perpetrators of the civil war to trial as the number of cases is too large to handle. Quoting the Freedom House report of 2005, Seth Jones et al. deduced that the peace accords led to "a modest reduction in human rights violations and foreign assistance in the area of human rights promotion by the U.S. and the UN to internal security forces significantly reduced extrajudicial killings and political imprisonment by the government after CPAC."¹⁵⁰ Most importantly, the CPAC redefined the role of the FAES, requiring it to respect human rights in the country. This requirement can also be illustrated by the FAES doctrine which highlights "the pre-eminence of human dignity and democratic values, respect for human rights, and subordination to the constitutional authorities,"¹⁵¹ as its commitment to respect and abide by human rights norms. This has certainly helped the El Salvadoran balance of power in the favor of the civilian authority.

¹⁴⁹ Castaneda et al., "The Nature of the Political Transition," 1.

¹⁵⁰ Seth G. Jones et al., "El Salvador," in *Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes* (Santa Monica, CA: RAND Corporation, 2006), 43, <https://www.jstor.org/stable/10.7249/mg550osi.11>.

¹⁵¹ Walter and Williams, "The Military and Democratization in El Salvador," 65.

As Ricardo Castaneda et al. point out, “the current situation in El Salvador and what existed 15, 20, even 25 years ago, is striking. Before, torture, disappearance, and summary execution of citizens were more or less the standard practices of the security forces.”¹⁵²

Thus, it can be assessed that the FAES has undoubtedly reformed and strengthened its commitment to human rights, but the FAES is also not extending its full cooperation with civilian trials on wartime human rights violations. This makes the FAES’s gain in protection of human rights minimal.

c. Internal Security

The FAES’s progress on internal security reforms has been minimal because of its continuous deployment internally. Article 168 (17) in the 1983 Constitution of El Salvador, which was amended in 2014, has vested the role of maintaining internal public security in the national civil police or the Policía Nacional Civil de El Salvador (PNC). Jones et al. remark that the PNC was created outside the MOD to be the sole national-level police force after 1992, making it “responsible for maintaining order and protecting citizens, and its doctrine explicitly emphasized human rights and a civilian leadership.”¹⁵³ They add that the parliamentarians could dismiss the police chief for any breach of human rights, and fresh “institutional guarantees to prevent future human rights violations included doctrinal and training reforms in police institutions and the creation of Inspectors General to oversee the state’s security forces.”¹⁵⁴ This showcases that the El Salvadoran government was committed to reforming its police force in the human rights domain.

However, clause 12 in the same article has granted the president the authority to assign internal security roles to the FAES as an exception, besides the other traditional military roles of defending the country’s sovereignty and territorial integrity.¹⁵⁵ Actually, this role was supposed to be for such national emergency scenarios as military search,

¹⁵² Castaneda et al., “The Nature of the Political Transition,” 13.

¹⁵³ Jones et al., “El Salvador.”

¹⁵⁴ Jones et al., 29.

¹⁵⁵ Republic of El Salvador, *El Salvador’s Constitution of 1983 with Amendments through 2014* (Oxford, UK: Oxford University Press, 2014), https://www.constituteproject.org/constitution/El_Salvador_2014.pdf?lang=en.

rescue, and relief operations during a disaster, but today it has become one of the main hurdles for reforming democratization of CMR in El Salvador.¹⁵⁶ When three police organizations were dissolved to establish a new civil police organization (the PNC) in the spirit of the CPAC, an enduring wave of crime and gang wars erupted in El Salvador. Hence, every president from 1994 until today has deployed FAES troops with the PNC under joint task force units in violation of the constitutional provision, stating that the crimes have escalated to “emergency proportions,” and the role of the military is increasing, not in the interests of the FAES but those of the president.¹⁵⁷

A study by the Washington Office on Latin America (WOLA) highlights that:

Between 2014 and 2017, the Salvadoran government used the regulatory powers of the executive branch to design a legal framework to ensure the continued involvement of military personnel in public security. This involvement went beyond conducting joint patrols with the police: the executive orders gave the military the power to plan operations and control the perimeter of prisons and schools. Official data from El Salvador’s Ministry of National Defense (*Ministerio de la Defensa Nacional, MDN*) shows that the number of military personnel assigned to public security tasks rose from 7,900 in 2014 to 13,827 in 2017, a 75% increase from the previous years. Meanwhile, data collected shows that the police force shrank by 7.2% over the same time period.¹⁵⁸

The increasing role of the FAES internally due to the executive’s manipulation and interests can be substantiated further by an incident from February 2020 when President Bukele ordered the military alongside PNC units to surround the National Assembly to intimidate parliamentarians into passing an anti-crime bill, in utter disregard for the apex court verdict to respect constitutional rights and legislative decisions.¹⁵⁹ With extensive

¹⁵⁶ Barany, *The Soldier and the Changing State*, 83.

¹⁵⁷ Barany, 97.

¹⁵⁸ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador: Assessing the Limitation of the Role of the Armed Forces in Public Security Activities* (Washington, DC: Washington Office on Latin America, 2020), 6, <https://www.wola.org/wp-content/uploads/2020/11/FFAA-SV-ENG-11.18.pdf>.

¹⁵⁹ Clare Ribando Seelke, *El Salvador: Authoritarian Actions and U.S. Response*, CRS Report No. IN11658 (Washington, DC: Congressional Research Service, 2021), <https://crsreports.congress.gov/product/pdf/IN/IN11658>.

internal security deployment executed under civilian authority, the FAES's progress on internal security reform can be assessed as minimal.

d. External Defense

The progress on reform in the external defense realm has been minimal because the FAES still exerts influence over cabinet appointments and lacks transparency. Article 212 of the 1983 Constitution of El Salvador tasks the FAES with “ensuring the defense of the sovereignty of the state and territorial integrity, maintaining peace, tranquility and public security, and the execution of the constitution and other active laws.”¹⁶⁰ Similarly, the CPAC has accorded the FAES with the constitutional role limited to external security. Stephen Rittermann mentions that El Salvador fought briefly against Honduras in 1969 as its last conventional war and has no outstanding external threat, except in the form of transnational threats like drug trafficking and international gangs, which fall under the purview of internal security.¹⁶¹ Meanwhile, the FAES has undertaken various other external roles. Since 1995, it has been participating in United Nations peacekeeping operations by contributing its troops and equipment in countries like Western Sahara, Lebanon, Ivory Coast, Haiti, Mali, and South Sudan.¹⁶² Similarly, Stephen Carney remarks that the FAES also participated in Operation Iraqi Freedom from 2003 until 2009, supporting the U.S.-led coalition in Iraq.¹⁶³ Although the FAES has implemented reforms for democratizing its CMR, the progress can be assessed as minimal as Barany reveals that the “FAES continues to influence the executive over appointment of a uniformed defense minister, and the National Defense Committee in the legislative assembly still lacks total

¹⁶⁰ Republic of El Salvador, El Salvador's Constitution of 1983 with Amendments through 2014.

¹⁶¹ Stephen D. Rittermann, “Civil-Military Relations and Militarization in El Salvador” (master's thesis, Naval Postgraduate School, 2015), 40, <https://hdl.handle.net/10945/45243>.

¹⁶² Emily Hample, “With U.S. Support, El Salvador Steps Up for Peacekeeping Mission in Mali,” *DipNote* (blog), May 29, 2018, <https://2017-2021.state.gov/with-u-s-support-el-salvador-steps-up-for-peacekeeping-mission-in-mali/>.

¹⁶³ Stephen A. Carney, *Allied Participation in Operation Iraqi Freedom* (Washington, DC: Center of Military History, 2011), https://history.army.mil/html/books/059/59-3-1/CMH_59-3-1.pdf.

control over military spending.”¹⁶⁴ Hence, it can be assessed that reform in the external defense realm has been minimal.

2. Legal Frameworks

El Salvadore achieved moderate reforms in its constitutional law, military organizational law, military justice law, and legal states of exception to attain reforms in the democratization of the CMR through legal frameworks. However, minimal progress was achieved in the field of laws on the security and defense.

a. Constitutional Law

El Salvador has made moderate progress on implementing reforms in its constitutional law as it clarifies who the armed forces are, what their roles are, and who has command over them, albeit theoretically. The 1983 Constitution of El Salvador provides the legal foundation for the FAES, but its amendment in 2014 has incorporated expanded roles for the country’s entire security apparatus, including the police. According to article 156 of the amended constitution, “the president is the supreme commander of the armed forces who has an authority to declare war, make peace and treaties, mobilize troops for external defense and deploy troops internally for exceptional circumstances with approval from the legislative assembly for a limited period.”¹⁶⁵ In addition, the president is also vested with power to organize, lead, and maintain the national police for maintaining law and order in the country by strictly adhering to the norms of human rights. Similarly, Barany points out that the NSC in El Salvador “functions as advisor to the president on security issues, the legislative assembly has constitutional functions to oversee defense issues throughout its tenure, and the National Defense Committee in the parliament maintains defense oversight.”¹⁶⁶

Besides the constitution, the CPAC, which is an all-party agreement, was instrumental in providing guiding principles and institutional structure for a new political

¹⁶⁴ Barany, *The Soldier and the Changing State*, 97.

¹⁶⁵ Republic of El Salvador, *El Salvador’s Constitution of 1983 with Amendments through 2014*.

¹⁶⁶ Barany, *The Soldier and the Changing State*, 97.

system during the transition. Barany mentions that after the peace agreement to stop civil war in 1992, the legal framework provided legitimacy for the democratic transition in El Salvador, which was significant for the demilitarization of politics and democratization of CMR and its reform. He further mentions that the provisions in the CPAC were enacted swiftly, curtailing the FAES's political power and social autonomy by cutting off its "force strength by half—i.e., down to twenty-eight thousand by 1993, structure, mission (which was reduced to protecting El Salvador's borders), bringing the authority of the military intelligence under the president, and investigation and persecution of the human right violations."¹⁶⁷ However, he argues that the agreement was silent over the appointment of a civilian defense minister and the legislative oversight for military expenditures, leaving a doubt about the full execution of a democratized CMR.

Hence, reform in El Salvador's constitutional provisions has been moderate as the constitution clarifies who the armed forces are, what their roles are, and who has command over them, albeit theoretically.

b. Laws on Security and Defense

Reforms in laws on security and defense show minimal progress because of the excessive deployment of the FAES internally by executive discretion. The constitution of El Salvador assigns the responsibility of external defense to the military and permits internal deployment during an exceptional emergency but only for a limited period until the crisis is over, and the military's internal deployment must be ratified by the legislative assembly. The president of the country, as the supreme commander, presides over the FAES, intelligence (both national and military), and the PNC. Barany asserts that the MOD "executes the conventional defense ministry functions such as the implementation of government policy, the coordination of military activities, and the preparation of the draft defense budget."¹⁶⁸ On the other hand, the PNC is under "the Ministry of Justice and Public Security which is responsible for national security, law and

¹⁶⁷ Barany, 83–84.

¹⁶⁸ Barany, 95.

order, and national criminal police investigations.”¹⁶⁹ However, many reports concur that the FAES is actively involved in internal security in violation of the CPAC as every president since 1994 has mobilized the FAES to curb gang wars in the country. For instance, the WOLA report asserts that since 1994 every president in El Salvador has tended to mobilize the FAES under presidential decree, contrary to the constitutional provision.¹⁷⁰ These are detrimental to reform and democratization of CMR in El Salvador in the long run. Therefore, from the legal states of exception perspective, reform leading to democratization of CMR has been minimal.

c. Military Organizational Law

Reform in military organizational law has been moderate because the FAES has military laws to organize and regulate all of its day-to-day business, but it still retains some influence over the civilian government. Barany maintains that even though the CPAC envisioned demilitarizing the political realm of El Salvador, the FAES still retains a few prerogatives over the MOD. For instance, the minister for defense is not an elected civilian representative, rather “a high-ranking active military officer in uniform as the FAES always exerts pressure over the president to appoint a military officer as defense minister, whose main duties include the execution of government policy, the synchronization of military operations, and the formulation of the draft defense budget.”¹⁷¹ Barany further adds that the defense minister is bestowed with such other routine administrative functions as recommending promotions, appointments, and dismissals to the president after discussion with the armed forces’ joint chiefs of staff. The day-to-day military function is taken care of by the FAES headquarters. Although the MOD regulates retirement, promotions, and other daily business of the FAES, the FAES is still extensively mobilized in internal roles, which means progress on reform and democratization of CMR has been moderate.

¹⁶⁹ “How INTERPOL Supports El Salvador to Tackle International Crime,” INTERPOL, accessed January 23, 2023, <https://www.interpol.int/en/Who-we-are/Member-countries/Americas/EL-SALVADOR>.

¹⁷⁰ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador*, 14.

¹⁷¹ Barany, *The Soldier and the Changing State*, 96.

d. Military Justice Law

Reform in the area of military justice law has been moderate, with the civilian courts taking over military cases, but the FAES and the executive are still not cooperating with the civil courts over conflict era cases. Jones et al. assert that El Salvador started to reform to its military justice law immediately after signing the CPAC by discharging 232 senior military after a trial found them involved in gross human rights violations during the civil war.¹⁷² However, the trial slowed down owing to case management difficulties in handling large numbers of alleged perpetrators. Moreover, as Barany points out, the blanket amnesty law enacted in 1993 was the main reason for the slowdown in trials; however, a landmark verdict by the Supreme Court in 2016 made the blanket amnesty unconstitutional and ordered the prosecutions to restart.¹⁷³ But Human Rights Watch has reported that, “in September 2020, soldiers—with President Bukele’s backing—refused to comply with a court order that allowed a judge to review military records about the massacre. In September 2021, Jorge Guzmán, the judge investigating the massacre, was ousted because he was over 60 years of age. His removal is likely to cause further delays in the trial.”¹⁷⁴ These instances are detrimental to reform and democratization of CMR because El Salvador may not have separate or special military tribunals as in the past, and the civilian court now deals with the human rights violations of the civil war era, but until and unless the executive and the FAES respect verdicts of the civilian courts, progress in democratization of CMR can be assessed as moderate.

e. Legal States of Exception

The progress on reforms in legal states of exception in El Salvador has been moderate because the constitution envisions exceptional situations for deployment of the FAES internally with the authorization by the president and ratification by the legislative parliament, but El Salvadoran presidents have been mobilizing the FAES internally,

¹⁷² Jones et al., “El Salvador,” 33.

¹⁷³ Barany, *The Soldier and the Changing State*, 96.

¹⁷⁴ Kenneth Roth, “El Salvador: Events of 2021,” Human Rights Watch World Report 2022, December 10, 2021, <https://www.hrw.org/world-report/2022/country-chapters/el-salvador>.

violating the law itself. The 2014 amendment to El Salvador's Constitution of 1983 provides in its article 168 (12) that the president bears the executive authority to mobilize the FAES in internal security duties as an exception, "besides the traditional military roles of defending the country's sovereignty and territorial integrity."¹⁷⁵ The president is obliged to seek ratification from the legislative assembly for the FAES' mobilization and also to declare the time frame for its mobilization. In contrary to the constitutional spirit of mobilization of the FAES for national emergency scenarios such as military search, rescue, and relief operations during a disaster, the misuse of executive's discretion to mobilize the FAES internally on regular basis today has become one of the main hurdles for reform and democratization of CMR in El Salvador.¹⁷⁶ With gang violence taking over the country after 1994, every president since then has deployed FAES troops in tandem with the PNC in violation of the constitutional provision, citing grave national emergencies.¹⁷⁷ According the WOLA report the trend of deploying the FAES internally is on the rise: "between 2014 and 2017, the Salvadoran government used the regulatory powers of the executive branch to design a legal framework to ensure the continued involvement of military personnel in public security. This involvement went beyond conducting joint patrols with the police: the executive orders gave the military the power to plan operations and control the perimeter of prisons and schools."¹⁷⁸ Regular executive decision bypassing constitutional provisions to opt for military use first and for an unspecified duration leads to weak CMR, as evident in El Salvador. Hence, the progress on reform of legal states of exception in El Salvador has been moderate because the constitutional law provides for exceptional situations with the president's authorization and with ratification by the legislative parliament. However, the El Salvadoran presidents have been mobilizing the FAES internally, in violation of the constitutional law.

¹⁷⁵ Republic of El Salvador, *El Salvador's Constitution of 1983 with Amendments through 2014*.

¹⁷⁶ Barany, *The Soldier and the Changing State*, 83.

¹⁷⁷ Barany, 97.

¹⁷⁸ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador*, 14.

3. Defense Institutions

Defense institutions like the MOD, NSC, joint military staffs, and parliamentary commissions are crucial for stable CMR, and El Salvador has constitutional arrangements for all these institutions.

a. MOD

The reform in the MOD for democratization of CMR in El Salvador has been minimal because the MOD's leadership and administrative perspectives are still primarily directed by the military and has weaker civilian staff. A civilian-led MOD, which functions as a node between the executive and the armed forces, is the first step for a democratized CMR that helps to create a barrier between the armed forces and the executive. However, as Barany asserts, since the FAES has "influence over the president on appointing the defense minister who is usually an active serving military officer, the core of a stable CMR is missing in El Salvador."¹⁷⁹ He further adds that institutional biases on the part of an actively serving officer as minister will impede the implementation of the government's policy, which is not a good sign for progress on democratized CMR. Second, the El Salvadoran MOD lacks civilian technical experts although it possesses competent military staffs and advisors. Ritterman mentions that a FLACSO (the Latin American Faculty on Social Sciences) report in 2013 stated that "although El Salvador leads Central America in the level of technical competence within the ministry (possessing both a permanent advisory staff and military advisors), there are still no civilian technical experts."¹⁸⁰ Again, lack of civilian expertise in the MOD implies that the ministry will work more on military's policy rather than on government policy. Therefore, the El Salvadoran MOD is mainly limited to such routine tasks as recommending promotions, appointments, or dismissals. The onus of the main military planning—"deployment of troops, infrastructure, doctrine, training, and management of human resources," as Ritterman describes it—is done by the FAES itself, deviating from the essence of CMR.¹⁸¹ Therefore, the reform in MOD for

¹⁷⁹ Barany, *The Soldier and the Changing State*, 96.

¹⁸⁰ Rittermann, "Civil-Military Relations and Militarization in El Salvador," 47.

¹⁸¹ Rittermann, 47.

democratization of CMR in El Salvador has been minimal because the MOD is still led militarily from the leadership and administrative perspectives and has weaker civilian staff.

b. National Security Council

In El Salvador the NSC mainly has an advisory role; however, the military is still influential, which suggests that progress on reform for democratization of CMR has been minimal. The National Security/Defense Council, consisting of a team of high-ranking civilian cabinet officials who serve as advisors to the president on defense and security issues, meets regularly. It also meets during crises demanding an immediate executive response. Hence, it forges a close link between vital government agencies for crucial national response, and the military could be one of the many state tools employed during the response. The institutionalization of the NSC in El Salvador has been a gradual process. It had its National Advisory Council, the *Consejo de Seguridad Nacional* (CSNP), established in 1992, which was accountable to the president and functioned well in the past. According to Barany, the president is advised by the NSC on defense issues.¹⁸² Ritterman mentions that Bruneau and Matei highlighted the need for establishing the El Salvadoran NSC to counter terrorist threats in 2005, but the NSC was not functioning even a year later due to the lack of cooperation from the MOD's strategic planning office under the defense minister, which means that "the president receives direct advice from and formulates defense policy with his active-duty generals."¹⁸³ Details on the El Salvador NSC are limited; however, the NSC, during President Salvadore Sanchez Ceren's tenure between 2014 to 2019, comprised "seven working groups with 70 members in total on various areas: prevention of violence and crime; control and prosecution of criminal offenses; rehabilitation and social reintegration; assistance to victims; institutional strengthening of public security; coordination mechanisms; the mass media."¹⁸⁴ Although El Salvador has

¹⁸² Barany, *The Soldier and the Changing State*, 96.

¹⁸³ Rittermann, "Civil-Military Relations and Militarization in El Salvador," 47.

¹⁸⁴ "America/El Salvador—the National Security Council Begins," Agenzia Fides, November 3, 2014, http://www.fides.org/en/news/36673-AMERICA_EL_SALVADOR_The_National_Security_Council_begins.

an NSC, it is primarily an advisory body while the military is more influential, which suggest that progress on reform for democratization of CMR has been minimal.

c. *Joint Military Staff*

The domination of the army over other services in the FAES, where the army even prevails over the MOD within the FAES, indicated that reform in the joint military staff has been minimal. According to the WOLA report, the army in El Salvador constituted 84% of the total manpower of the FAES from 2014 to 2016, and the navy and the air force comprised only 8% of the total manpower, respectively, which had been the case in the past as well.¹⁸⁵ Despite having a joint military staff system in the FAES, the army's numerical superiority implies its dominance in the overall decision-making cycle of the FAES, including over the MOD. Similarly, the army also dominates the interagency functions.¹⁸⁶ As Ritterman notes, "when considering the low tech nature of the military's very few naval and air force platforms, and that the other services only conduct support operations for the army's mission areas, and the sense of competitive inter-service rivalry is non-existent or the MOD has not been able to generate it."¹⁸⁷ He proposes that the dominance of army within the FAES assigns it more influence over the joint military staff than the MOD. It can thus be assessed that the reform in democratization of CMR in El Salvador has been minimal.

d. *Parliamentary Commission*

The parliamentary commission for defense in El Salvador is sufficiently empowered, but it is ineffectual as the commission is relegated to routine matters, members are ill-informed, and they are not able to exert oversight on the military and the executive, which render reform for democratization of CMR as minimal. Barany asserts that the entire El Salvadoran legislative assembly is constitutionally authorized to be involved in defense

¹⁸⁵ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador*, 10.

¹⁸⁶ Geraldine Cook, "El Salvador Promotes Importance of Interagency Coordination," *Diálogo Américas* (blog), June 18, 2018, <https://dialogo-americas.com/articles/el-salvador-promotes-importance-of-interagency-coordination/>.

¹⁸⁷ Rittermann, "Civil-Military Relations and Militarization in El Salvador," 47.

issues, yet it is not so in reality.¹⁸⁸ He adds that the National Defense Committee in the legislative assembly exerts no control over military finances. Additionally, he contends that “when activist legislators manage to force the defense minister to present the defense budget to them, they merely score pyrrhic victories because they lack the information to ask anything but the most perfunctory questions.”¹⁸⁹ This indicates that the parliamentary commission is ineffective for maintaining substantive oversight and control over the FAES. However, the commission is proactive in making the FAES accountable to the legislative assembly for their actions. For example, the defense minister was reportedly made to testify before the political commission and the special commissions of the legislative assembly about the February 2020 incident in the legislative assembly where FAES and PNC personnel were ordered to surround the legislative building by President Bukele, in violation of the court’s order, forcing the legislative security to leave the venue while the FAES and PNC personnel intimidated the parliamentarians from voting on an anti-corruption bill. Such oversight, testimony, and inquiries by the legislative commissions provide checks and balances and strengthen CMR. Although the parliamentary commissions for defense in El Salvador are sufficiently empowered, they are ineffectual as they are relegated to routine matters, members are ill-informed, and they are not able to exert oversight on the military and the executive, which renders reform for democratization of CMR as minimal.

4. Conclusion

Overall, El Salvador has achieved minimal progress on reform for the democratization of CMR. Out of 13 components analyzed under the control mechanism framework, the country scored eight minimal reforms and five moderate ones. In the dimension of military power with four components—public policymakers and policy, human rights, internal security, and external defense—El Salvador has achieved one moderate and three minimal reforms, respectively. In the legal framework dimension’s five components—constitutional law, organizational military law, military justice law, legal

¹⁸⁸ Barany, *The Soldier and the Changing State*, 95.

¹⁸⁹ Barany, 95.

states of exception, and laws on security and defense—El Salvador has achieved one minimal and four moderate reforms, respectively. Finally, in the dimension of defense institutions with four components—defense ministry, national security council, joint military staff, and parliamentary commission—El Salvador is assessed to have achieved minimal reform across all the components.

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III. USING THE EFFECTIVENESS FRAMEWORK TO ANALYZE THE DEMOCRATIZATION OF CMR REFORM

This chapter covers three dimensions, knowledge, convergence, and effectiveness, which are pivotal to applying the performance/effectiveness framework that gauges progress on reform in the democratization of CMR in Nepal and El Salvador. In the dimension of knowledge, a country seeks to enhance education and career tracks for civilians vying for defense services and to revamp the traditional military education system to become a more open civilian learning environment that harnesses greater workplace connectivity between the military and the civilians. Next, in the dimension of convergence, the government attempts to remove the obstacles “that separate the military from the larger society.”¹⁹⁰ In other words, as Pion-Berlin and Martin emphasize, “the armed forces meanwhile need to be disabused of the notion that they are somehow superior to politicians and civilians alike.”¹⁹¹ Likewise, the other dimension of effectiveness calls for assessing CMR by what the armed forces achieve after accomplishing a government-authorized mission executed with the allocated resources in a transparent and accountable fashion. As Pion-Berlin and Martinez assert, “to be more effective in the realm of defense and security also means to be more strategic, to align resources, means, and objectives.”¹⁹²

A. NEPAL: REFORM IN THE EFFECTIVENESS MECHANISMS

Nepal has achieved mixed results, between moderate and substantial reform. Out of the 12 components analyzed against the effectiveness framework, Nepal has achieved moderate reform in five areas and substantial reforms in five others, as well as minimal reform in two.

¹⁹⁰ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 31.

¹⁹¹ Pion-Berlin and Martínez, 32.

¹⁹² Pion-Berlin and Martínez, 32.

1. Knowledge

Generating knowledge for democratizing CMR can be discussed under two headings: military knowledge and civilian expertise. Nepal demonstrates that it has achieved moderate progress in accomplishing reforms in military knowledge and minimal progress in improving civilian expertise.

a. *Military Knowledge*

The progress in the area of military knowledge has been moderate with the gradual decrease of the military's autonomy and increase in civilian partnership with the MOD directing military education and with the national university's expanded curriculum that includes evaluation and accreditation. The 2007 Interim Constitution of Nepal was fundamental in defining the need for the democratization of the NA through knowledge in the post-conflict scenario after 2006. Part 20, Article 144 of the constitution directed the COM with advice and approval from the concerned committee of the Legislature-Parliament to "formulate an extensive work plan for the democratization of the Nepal Army and implement it."¹⁹³ It further directed the government to execute the plan by emphasizing military training with a focus on "norms and values of democracy and human rights."¹⁹⁴

For some time, the NA has been emphasizing that its members are exposed to professional military education besides professional military training. Since 1995, the Nepal Military Academy has been conducting a graduate course for officer cadets, which is run by the Office of the Dean, faculty of Humanities and Social Sciences, Tribhuvan University (TU) in Nepal.¹⁹⁵ Similarly, the Army Command and Staff College (ACSC) conducts a master's in strategic studies (MSS) program for select mid-career officers. The MSS is a two year-four semester degree program run by the same faculty from the TU and

¹⁹³ Jill Cottrell et al., *The Interim Constitution of Nepal, 2063* (2007) as Amended by the First to Sixth Amendments, 228.

¹⁹⁴ Cottrell et al., 228.

¹⁹⁵ "Academic Program," Nepali Military Academy, accessed January 18, 2023, https://nma.nepalarmy.mil.np/page/academic_program.

aims at educating graduates seeking to build a career as professional strategists, along with inculcating knowledge on the military and law, media management, journalism, and political science.¹⁹⁶ Both these institutions have their programs accredited and regularly evaluated by the TU.

Furthermore, the plan to establish and run the NA's own National Defense University (NDU) by 2025/26 has received full support from the GON, and the construction of the plan is going on in full swing. Once the NDU starts running classes, the NA will have educational institutions for all three levels of officers at the tactical, operational, and strategic level, and it is also likely to fulfill the integrated higher defense gap. The NDU will undoubtedly strengthen the democratization of CMR in Nepal.¹⁹⁷ In addition to the formal civilian education being accorded to military officers institutionally, the serving officers are allowed to join civil college degree programs both officially and privately.

b. Civilian Expertise

It is assessed reforms in the realm of civilian expertise has been minimal because of the limited opportunities for advancement for civilians at the MOD in the defense career track and also for enhancing their defense knowledge. Civilian expertise in the MOD cannot be generated under such conditions. A “defense wisdom deficit” among the civilians in the defense orbit has been felt in Nepal.¹⁹⁸ Rawal has highlighted that the MOD lacks the impetus to energize the professional development of the civilian staff at the MOD, even after a decade of its restructuring; he quotes erstwhile officiating Secretary of Defense Devendra Prasad Sitaula as admitting, “it can be understood that even after the restructuring of [2012/13], the MOD has not been able to fill the vacancies of the civil

¹⁹⁶ “Master’s in Strategic Studies (MSS),” Army Command and Staff College, accessed January 18, 2023, https://acsc.nepalarmy.mil.np/page/mss_degree.

¹⁹⁷ Mahesh SJB Rana, “National Defense University: An Integrated Higher Defense Educational Institute for Democratization of Civil-Military Relations in Nepal” (master’s thesis, Naval Postgraduate School, 2018), <https://hdl.handle.net/10945/58354>.

¹⁹⁸ David S. Pion-Berlin, “Political Management of the Military in Latin America,” *Military Review* 85, no. 1 (February 2005): 19–31.

servants.”¹⁹⁹ Rawal further explains that an impetus is required to realize this deficit and attract civil servants to the MOD. There are few civilians who are knowledgeable about military organizations, defense policy, strategy, formulation, and its execution. Although the political transition of the country calls for democratization of CMR by increasing the competent civilian staff in the MOD, very little has been achieved so far.²⁰⁰ Generating civilian interest in defense-related studies is challenging and still largely affected by the ‘peaceful geographical location of Nepal between two large neighbors: China and India.’²⁰¹ In addition, career-oriented civil servants prefer serving in more lucrative development-oriented ministries rather than the defense ministry, and no formal career track exists for civilian staff at the MOD.²⁰²

Nonetheless, civilians have gradually started to acquire defense-related knowledge by attending joint defense related seminars and courses. For example, with the formulation of the NSP of 2016, the MOD has been conducting a three-week long Advanced Course on National Security every year for senior bureaucrats at the MOD along with security-related stakeholders from other concerned ministries and civilian sectors in Nepal.²⁰³ This seminar is graced by the prime minister who is also the chairman of the NSC and by the minister for defense.

2. Convergence

To assess progress on reforms in the democratization of CMR in Nepal since 2006, four components of convergence are analyzed: societal view of the military, movement toward an occupational model for the military, nontraditional recruitment, and exclusive privileges enjoyed solely by the military).

¹⁹⁹ Rawal, “Understanding Civil-Military Relations.”

²⁰⁰ Rawal.

²⁰¹ Rana, “National Defense University.”

²⁰² Rawal, “Understanding Civil-Military Relations.”

²⁰³ Nepali Army, “Advanced Course on National Security,” Army Command and Staff College, accessed February 15, 2023, <https://acsc.nepalarmy.mil.np/page/atsn#>.

a. Societal View of the Military

Progress in reforming societal views of the military in Nepal has been substantial. This assessment is driven by the reduced probability of a coup d'état in Nepal. Its apolitical character is evidenced by the NA's lack of involvement in politics, making it a trusted institution valued by the public, and by the NA's gradually expanding roles and capabilities. Every political transition after 1968 in Nepal has been an acid test for the NA as the military had always been loyal to the king as the king was enshrined as the supreme commander constitutionally, and consequently, the political parties feared the military. It was a similar case in 2006 even after the monarchy was abolished. Contrary to the general perception, the NA valued, accepted, and respected the shared democratic vision of the people and opted for being democratized. In addition, an enhanced closeness developed between the open civilian world and traditionally closed and aloof military world in Nepal, with the democratized military gradually understanding the significance of civilian norms in the broader security sphere. The recent examples set by the NA as having sided with the people's aspiration in every political change, its involvement in disaster rescue and management in the aftermath of the 2015 Mega Earthquake in Nepal, its deployment under the GON's order during Covid-19 pandemic, and the NA's participation in peace keeping operations under the auspices of the UN globally have not only brought it closer to the people, but it has also helped to reduce the likelihood of a coup d'état in Nepal.²⁰⁴ Similarly, as the military does not want involvement in politics, it is also valued by the public as a trusted institution, and its roles and capabilities have gradually broadened as well.²⁰⁵ As highlighted by Rana, "the NA had plenty of opportunities and possible disposition to intervene. Nonetheless, the trend continued, and the NA defied the theories of military intervention in politics."²⁰⁶ Similarly, K.C. Gautam notes:

²⁰⁴ UN Peacekeeping, "Nepali Peacekeepers Awarded UN Medals for Efforts in CAR Stability," United Nations Peacekeeping, February 21, 2020, <https://peacekeeping.un.org/en/nepali-peacekeepers-awarded-un-medals-efforts-car-stability>.

²⁰⁵ Nepali Army, *The Nepalese Army in the Aftermath of the Gorkha Earthquake of 2015* (Kathmandu, Nepal: Nepali Army HQ, 2015), 46, https://www.nepalarmy.mil.np/upload/publications/special/english_part4.pdf.

²⁰⁶ Rana, "Circumventing Coups," 36.

Currently, when the public trust and respect for most of our political and governmental institutions have hit rock bottom, opinion polls indicate that the NA continues to enjoy a relatively favourable reputation. It generally respected the constitutionally established civilian authority and did not overtly interfere or intervene in times of multiple political transitions, which is a credit to the NA's professionalism.²⁰⁷

This implies that the NA's professionalism can be gauged by the popular trust it enjoys, as well as its respect for civilian authority and support to various political changes in the country.

b. Movement toward the Occupational Model

Progress in moving toward an occupational model for the military has been moderate. An army must move from an institutional model to an occupational one if it is to make progress in democratization of CMR. The NA, which was traditionally an institutional army, is gradually transforming into an occupational model. Although the Nepalese society has high respect for members and families of the NA, the trend is slowly changing as the notion of improving one's social position by becoming a soldier is not easy, given the fact that economic incentives are still not generous. Enlistment is no longer a strictly family affair, as youths do not follow in the footsteps of their military elders to the degree they once did. However, the aspiration of many youths vying to join the recruitment process every year in the NA showcases that the army will retain both of its institutional and occupational models in the future. It also suggests that as the NA's occupational model increases over time, its institutional character will never be entirely displaced. It is assessed that progress in moving toward an occupational model is moderate.

c. Nontraditional Recruitment

Progress made in nontraditional recruitment has been moderate owing to the NA's inclusive policy and the female-friendly organizational environment, now that women are incorporated in all its services. Today's military requires a non-discriminatory recruitment system if it is to advance. The NA has always strived to maintain a national character of

²⁰⁷ Gautam, "Restructuring Nepali Army."

diversity by adopting inclusiveness for all castes, ethnic communities, genders, regions, and religions in its organization. The Army Act of 2007 was amended to incorporate the constitutional provision for a reserve system for excluded groups in its recruitment. According to this provision, the army allocates 45% of the total recruitment quota for reserved positions, indicating that “20% is reserved for women, 32% for Janajati” (ethnic groups), “28% for the Madhesi” (people from southern plain areas), “15% for the Dalits” (secluded castes), and “5% for remote regions.”²⁰⁸ Similarly, the NA has recruited women since 1961 in its technical service, but it opened its doors for women soldiers in combat-related duties (general service) in 2004 and women officer cadets in 2005. A total of 6,632 women soldiers served in the NA as of August 2022, with seven technical brigadier generals serving as the highest-ranking women officers.²⁰⁹ Further, the NA established a women’s division at the military secretary branch in 2010 for the management of women in the NA. Thus far, the progress made in nontraditional recruitment has been moderate.

d. Exclusive Privileges

Progress in reforming the practice of providing discriminatory comforts (privileges reserved for the military) has been moderate. The NA is not privileged and does not enjoy special benefits or advantages. The most notable discriminatory comfort that the political transition of 2006 has taken away from the NA was that the military courts have ceded considerable jurisdiction to civilian courts.²¹⁰ Owing to the economy of the country, the NA has never been able to extract state perks and privileges that are extended to militaries in rich countries. Instead, the NA uses a portion of the fund reimbursed from the United Nations to the soldiers as a welfare fund to plan its welfare activities for the soldiers and their dependents. Such welfare programs include army school, hospitals, etc., which are open to all members of the NA and their families.

²⁰⁸ “Inclusiveness in the Nepali Army,” Nepali Army, accessed January 18, 2023, <https://www.nepalarmy.mil.np/page/inclusiveness>.

²⁰⁹ “Women in Nepali Army,” Nepali Army, accessed January 19, 2023, https://www.nepalarmy.mil.np/page/women_in_army.

²¹⁰ Kamat, “SC Rules Its Writ Runs on Military Court.”

3. Performance/Effectiveness

The components assessed in the dimension of effectiveness are strategy development and assessment, transparency and accountability, size of expenditure, mission, recruitment system opting for a volunteer army rather than a conscripted model.

a. Strategy Development and Assessment

Progress in this realm has been moderate as the government develops strategies and determines the roles and missions for the NA after assessment by the MOD. The NSP of 2016 envisions strategic planning guidelines for the NA to improve its effectiveness, which is vital for reform and the democratization of CMR. Since the 2006 political transition in Nepal, expansive improvement has been achieved in the democratization of CMR which is reflected in the effectiveness of the NA. The three requirements for the armed forces to be effective, as advocated by Bruneau and Matei, are: “plan, structure and processes, and resources,”²¹¹ which have been amply discussed earlier. The notion of strategy development and assessment falls under the category of plan, which in the case of the NA, has been attained by the NSP of 2016 that incorporates all four phases for any strategic plan identified by Pion-Berlin and Martinez.²¹²

b. Transparency and Accountability

Progress in the realm of transparency and accountability has been moderate as parliamentary commissions oversee military activities, defense accounts are audited by an independent constitutional body, and this information is publicized but some skeptics question the independent body’s transparency as well. One major democratic yardstick used to assess progress in the democratization of CMR is accountability and transparency. The NA was considered to be an undemocratic organization without transparency and accountability in its conduct before 2006 because all military affairs fell under the purview

²¹¹ Florina Cristiana Matei, “A New Conceptualization of Civil-Military Relations,” in *The Routledge Handbook of Civil-Military Relations*, ed. Thomas C. Bruneau and Florina Cristiana Matei (London: Routledge, 2013), 33, <https://doi.org/10.4324/9781003084228>.

²¹² Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 301.

of the king and his intimate courtiers.²¹³ However, the political transition of 2006 brought with it various constitutional reforms not only in the military's name but also in its democratic conduct that subsequently helped the NA in enhancing its performance legitimately, by requiring it to operate under such legal frameworks as the Army Act of 2007, Interim Constitution of 2007, Constitution of Nepal of 2015, and the NSP of 2016. This assisted the NA in opening up its conduct to the society through the people's representatives in the parliament. Similarly, all budgetary issues are audited and accounted for by the public account commission and is reported to the legislature. These actions of transparency and accountability have helped the NA to become effective by legally binding it to keep all its actions under the rule of law and to eliminate malpractice in its behavior. Similarly, the minister for defense and the COAS are regularly grilled by various parliamentary commissions and state oversight committees on any questions pertaining to the NA.²¹⁴ However, some parliamentarians opine from the partisan view that not everything the NA does is transparent, and they allege that such actions are being undertaken on the pretext of national security.

c. Optimization of Budget and Expenditure

Progress in reforming the number of expenditures has been substantial. The NA has been making the most of what it has been allotted, even though its annual budget is less than that of the other security agencies. Although Nepal's military budget has been ever on the rise since 2006, it has never crossed the threshold of above 2% of the country's gross domestic product (GDP). From 2006 to 2020, the NA's budget was highest in the year 2006 when it constituted 1.96% of Nepal's GDP.²¹⁵ Similarly, the defense sector in Nepal has been able to utilize the resources allocated by the government although the defense

²¹³ Satyal, "The Role of Civil Society."

²¹⁴ Ghimire, "House Panel Grills Army Chief, Foreign Minister on SPP."

²¹⁵ "Nepal Military Spending/Defense Budget 1970–2023," Macrotrends, accessed January 19, 2023, <https://www.macrotrends.net/countries/NPL/nepal/military-spending-defense-budget>.

sector always receives the smallest budget among all other ministries related to security, including the MOHA.²¹⁶

d. Optimization of Military Size

Minimal progress has been made in reducing the NA's size due to security concerns and functional logic. The NA has not reduced its total strength as envisioned in the various transitional documents. Although the Interim Constitution of 2007 had directed the COM GON to adjust the strength of the NA appropriately, the subsequent governments maintained the same troop levels, which were doubled during the insurgency between 1996 and 2006. The main reasons for this indecisive act on part of the GON was the deteriorating security situation in southern plains of Terai with the rise of many violent armed groups, as echoed in then defense minister V. Bhandari's ministerial report to the parliament in 2008, stating that the total strength of the NA remained intact.²¹⁷ Similarly, the Nepalese Army mentions in its website that "Nepal is committed to provide ten thousand peacekeepers for United Nations peacekeeping operations, should the UN request [them]."²¹⁸ Therefore, the reduction of NA's size will generate a manpower shortage, should a situation rise demanding its soldiers.

e. Missions

The broad deployment of the NA besides its primary missions mandated by the constitution under the civil control has been substantial, with missions being successfully executed both inside Nepal and abroad. The modern-day military missions ought to be diversified beyond the traditional roles but must be mandated constitutionally and under the civilian control. According to the NA website, "the NA has been undertaking mixed roles as approved by the government that range from protecting nation's independence and territorial integrity, national development, nature conservation duty, disaster management,

²¹⁶ "Budget Speech 2021/22 Annex 1, 5," Government of Nepal—Ministry of Finance, July 29, 2021, <https://www.mof.gov.np/site/publication-detail/3064>.

²¹⁷ Rawal, "Understanding Civil-Military Relations."

²¹⁸ "The Nepali Army in UN Peace Support Operations," Nepali Army, accessed January 2, 2023, https://www.nepalarmy.mil.np/page/na_in_un.

and aid to civil authority to international PKO.”²¹⁹ Although it is preferred to task the military only with the traditional roles of external defense and war in accordance with democratic norms, the global deployment of the military following the Covid-19 pandemic outbreak can be an example of where the military can be legally deployed for a stipulated duration when situations deteriorate beyond any government’s resources and capacity, and when it does not hamper the democratization of CMR but rather supplements it.

f. Movement from Conscripted to Volunteer Army

The absence of conscription in the NA marks the progress in this field as substantial. The NA has always maintained the characteristics of a volunteer army and continues to do so even after the political transition of 2006, because it is well established fact that an effective military is always a volunteer military. Conscription was never used in Nepal, before or after 2006.

4. Conclusion

Nepal has thus achieved mixed results in democratization, ranging from moderate and substantial reforms. The knowledge dimension for Nepal resulted in moderate reform in one area (military education) and minimal reform in another (civilian expertise). Next, in the dimension of convergence, which has four components—societal views of military, movement toward an occupational model, nontraditional recruitment, and eliminating special benefits for the military for the military—Nepal achieved substantial progress in one component and moderate reform in three other components. And, for the six components within the effectiveness dimension—strategy and assessment, optimized military size, transparency and accountability, missions, optimized expenditures, and movement from a conscripted to a volunteer army—Nepal has made moderate reforms in two components, minimal in another, and substantial reforms in three.

²¹⁹ “Nepali Army beyond Primary Duties: Nation Development,” Nepali Army, accessed January 29, 2023, <https://www.nepalarmy.mil.np/page/bpd>.

B. EL SALVADOR: REFORM IN THE EFFECTIVENESS MECHANISMS

Using the effectiveness framework, the assessment of El Salvador showcases that it has achieved moderate reform overall. Out of the 12 components assessed, El Salvador has attained substantial reform in one, moderate progress in ten others, and only minimal reform in one.

1. Knowledge

Expanding knowledge in the military for democratizing CMR can be discussed under two headings: military knowledge and civilian expertise. El Salvador demonstrates that it has achieved moderate progress in expanding military knowledge and minimal progress in promoting civilian expertise.

a. Military Knowledge

Progress in expanding military knowledge has been moderate due to the FAES's former authority over military training, which is now being shared with the civilians as both the civilians and the military professors educate the FAES and the curriculum has expanded with foreign assistance. The CPAC acknowledged the importance of the military education system for democratic transition in El Salvador and called for re-vamping the FAES's educational system by "incorporating into its training programs [for] the new constitutional mission and doctrine and a new academic council for the military school, made up of civilians and military, that will be charged with overseeing curriculum, admission procedures, and faculty appointment."²²⁰ This reform was initiated in 1994 by opening up a dialogue with civilians for determining the FAES's future role. According to the Bertelsmann Transformation Index (BTI) country report, "conferences were organized on civil-military relations, military officers lectured at civilian universities, and a new School of High Strategic Studies was established in 1993 that serves the educational needs of not just military officers but civilians as well. The school, along with a number of emerging NGOs, began to provide society with independent civilian experts on defense issues, which were initiated to enhance military education for reform

²²⁰ Walter and Williams, "The Military and Democratization in El Salvador," 65.

and the democratization of CMR.²²¹ It is noteworthy that President Sanchez Ceren's government consulted civil society to devise policy and to legitimize government's efforts, as did the national commissions on education and public safety.²²²

Similarly, foreign assistance to security sectors, especially from the United States after the CPAC, helped in enhancing the FAES's professional knowledge, as Jones et al. highlight:

U.S. military advisers trained, advised, and assisted with restructuring. They helped develop a new training and doctrine command and provided technical advice on the reorganization of El Salvador's Military College. Virtually all U.S. training for Salvadoran military and other security forces had a human rights component. For example, all graduates of the Salvadoran Military Academy attended the Salvadoran Cadet Preparation Course, where they received some training in human rights. In addition, the U.S. 7th Special Forces Group incorporated human rights training in the technical and tactical training it provided.²²³

Overall, the progress in expanding military knowledge has been moderate due to the oversight for the FAES's military training now being shared with the civilians as both civilian and military professors educate the FAES and the curriculum has been expanded with foreign assistance.

b. Civilian Expertise

Minimal progress has been made in this area because there has been a lack of effort in enhancing civilian expertise for the FAES and the MOD. Civilian expertise is necessary for a well-functioning MOD if stable CMR is to be achieved. The El Salvadoran MOD still lacks civilian expertise and is predominantly staffed by FAES advisors and officers, as asserted by Rittermann.²²⁴ Lack of civilian expertise is a serious concern for reform in the democratization of CMR because the absence of civilian staff in the decision-making loop at the MOD enables the FAES to formulate and pursue its own policy as it wishes rather

²²¹ Barany, *The Soldier and the Changing State*, 96.

²²² Bertelsmann Stiftung, "BTI 2022 El Salvador Country Report."

²²³ Jones et al., "El Salvador," 32.

²²⁴ Rittermann, "Civil-Military Relations and Militarization in El Salvador," 47.

than implementing government policy. A deficit in this regard will result in soldiers losing confidence in the civilians overseeing them, erode the chain of command, and eventually develop a less cooperative military. Thus, progress in enhancing civilian expertise for the FAES has been minimal.

2. Convergence

The FAES, which dominated the El Salvadoran politics and society for almost 60 years, has been transforming gradually toward achieving convergence with its society. The multi-party spirit of the CPAC that outlined military reforms by redefining the FAES's structure, roles and missions, adherence to civilian authority, and respect for human rights was accepted by the FAES immediately after the CPAC came into effect. This reflects that the FAES was committed to comprehending, valuing, and respecting the shared vision of the democratic country during the transition to democracy.

a. Societal View of the Military

Convergence in El Salvador can be assessed as moderate under four parameters: there have been no significant challenges to electoral results since 1992 or the chances of a coup d'état are very slim; the military is highly involved in the defense and security realm but still retains legal access to other developmental ministries; the El Salvadoran trust and approval rate for the FAES, though inconsistent, remains above average; and the politicians have been deploying the FAES for internal duties as the police remain inadequate to handle the law and order situation. According to Castaneda, the FAES's commitment to the CPAC is highlighted by the findings from a survey within few months after the CPAC was signed which revealed that:

Nearly 70 percent of citizens believed that some things in the country or the situation overall were changing for the better. With certain exceptions, the accords were very well received by the majority of citizens and the commitments contained in the accords had a high degree of legitimacy. For example, over 53 percent favored the reduction and purging of the armed forces; 64 percent supported the dissolution of the security forces; and

nearly 75 percent supported replacing them with a new National Civilian Police.²²⁵

In fact, these public concerns were fully respected by the FAES, which as Barany remarks, had had its strength reduced to 28,000 by 1993, a year earlier than stipulated in the CPAC.²²⁶ He adds that serious human rights violators, including high ranking officers, were prosecuted and a new civil police organization was established after all police agencies were dissolved as per the CPAC. The FAES also commands a more favorable approval rate from the public than the electoral system, legislature, and political parties in the country. According to a BTI report which cites public opinion surveys conducted by the University Institute for Public Opinion, “public perception of the military is generally quite favorable and registers higher confidence than the police force. Between 2014 and 2016, some 44.4 percent to 45.9 percent of Salvadorans surveyed reported having some or a lot of confidence in the Armed Forces. However, in 2017, public confidence reduced by approximately 5 percentage points.”²²⁷

Even with controversies surrounding the most recent FAES activities under President Bukele, the FAES is considered to be under civilian control as it did not initiate those activities.²²⁸ In sum, convergence in El Salvador has achieved moderate reform under four parameters: there have been no “significant challenges to electoral results since 1992” or the chances of a coup d’état are very slim; the military is highly involved in the defense and security realm but still “retains legal access to other developmental ministries”;²²⁹ the El Salvadoran trust in and approval rating for the FAES, though is inconsistent, remains above average; and the politicians have been deploying the FAES for internal duties as the police remain inadequate to handle the law and order situation.

²²⁵ Arnson, *El Salvador’s Democratic Transition*, 17–19.

²²⁶ Barany, *The Soldier and the Changing State*, 83.

²²⁷ Bertelsmann Stiftung, “BTI 2022 El Salvador Country Report.”

²²⁸ Bertelsmann Stiftung.

²²⁹ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador*, 8.

b. *Movement toward an Occupational Model for the Military*

The FAES's shift from a traditional to professional military, its deployment in UNPKO, and also its broad deployment internally indicate that the military has achieved moderate reform. Since the 1930s, the FAES dominated the social and political life of El Salvador, utilizing state violence to achieve its aim, and this continued until 1992 when the CPAC brought the civil war to an end. According to Paul P. Cale, with the arrival of military advisors in 1981 to assist the FAES in fighting the FMLN guerillas, the FAES started professionalizing gradually. As he further mentions, "the FAES of 1979 could be characterized as a force of 11,000 without a mission and sought enjoyment by abusing civilians. Challenging such traditions of military superiority and dominance over the populace required an immense effort. The leadership within the Salvadoran armed forces held dear the prerogatives and privileges that they came to expect with rank and status."²³⁰ He adds further that, "the first and most important task of creating a professional military in El Salvador, [was making the military] one that respected human rights and the concept of civilian control over the military."²³¹ The CPAC transformed the traditional military into a professional military, albeit gradually, which is evident from its successful participation in UN peacekeeping operations abroad, in addition to its constitutional obligations at home.²³² Hence, the improvement in this area is assessed as moderate.

c. *Nontraditional Recruitment*

The reform in recruitment has been moderate, with the FAES's adoption of a voluntary recruitment system and the inclusion of nontraditional recruits. The FAES has both a conscription and a volunteer recruitment system. When the civil war was at its peak in 1980, the FAES compulsorily recruited "12,000 youths a year, mostly from poor and rural families [while] youths from wealthy areas were never forcibly recruited."²³³

²³⁰ Paul P. Cale, "The United States Military Advisory Group in El Salvador, 1979–1992," 1996, 20, accessed January 24, 2023, <https://smallwarsjournal.com/documents/cale.pdf>.

²³¹ Cale, "The United States Military Advisory Group in El Salvador, 1979–1992."

²³² Hample, "With U.S. Support, El Salvador Steps Up for Peacekeeping Mission in Mali."

²³³ Richard A. Haggerty, *El Salvador: A Country Study*, 2nd ed., DA Pam 550–150 (Washington, DC: Federal Research Division, Library of Congress, 1990), 211.

However, that is no longer the case today. In the area of gender balance, although the FAES had its first female military nurse in 1969, it had only two female combat platoons in the early 1980s.²³⁴ In 2006, it commissioned its first batch of military officers from the military academy. Today, there are female soldiers in all three of its military services, in both managerial and operative posts, including combat pilots.²³⁵ According to the 2023 CIA Factbook, “women made up about 6% of FAES’s active-duty military in 2016.”²³⁶ El Salvador has therefore made progress on gender equality in its armed forces. There are “FAES female peacekeepers in Mali including female helicopter pilots.”²³⁷ As the convergence of a democratic army necessitates the integration of women in the military, El Salvador is on the gradual road of identifying gender inclusive policies and promoting them in the FAES.²³⁸ Overall, progress in nontraditional recruitment has been moderate.

d. Exclusive Privileges

Progress in addressing discriminatory comforts (exclusive privileges for the military) has been moderate. All the special privileges that the FAES enjoyed before 1992 are now non-existent, and even the PNC has better benefits than the FAES in terms of bonus pay. The FAES soldiers, before the signing of the CPAC, enjoyed many special privileges and benefits by comparison to civilian standards. Accommodations, food, medical benefits, and pay, including special allowances, were far better than those afforded to an average citizen.²³⁹ However, those privileges were subject to revision and reduction after the CPAC came into effect, and few such generous military benefits now exist. Nelson Zablah mentions that the FAES soldiers patrolling the streets against the gangs are

²³⁴ Haggerty, 211.

²³⁵ Lorena Baires, “Salvadoran Armed Force Makes Progress on Gender Equality,” *Diálogo Américas* (blog), March 6, 2020, <https://dialogo-americas.com/articles/salvadoran-armed-force-makes-progress-on-gender-equality/>.

²³⁶ Central Intelligence Agency, “El Salvador,” World Factbook, January 18, 2023, <https://www.cia.gov/the-world-factbook/countries/el-salvador/>.

²³⁷ Hample, “With U.S. Support, El Salvador Steps Up for Peacekeeping Mission in Mali.”

²³⁸ Jonathon Carnell, “571 MSAS Launches Inaugural WPS Seminar in El Salvador,” U.S. Southern Command, September 9, 2021, <https://www.southcom.mil/MEDIA/NEWS-ARTICLES/Article/2788647/571-msas-launches-inaugural-wps-seminar-in-el-salvador/>.

²³⁹ Haggerty, *El Salvador*, 211. 212.

complaining about basic issues like meagre salary with no extra wages for operating in risky areas, insufficient rations, hectic and long working hours, the lack of basic amenities like leave, health care, and proper sleep. He further adds that the police officers unlike the FAES, get a bonus for fighting against the gangs. However, he points out that, “in contrast to the general troops, officials who graduate to high ranks don’t face the resource shortages that their subordinates suffer.”²⁴⁰ Hence, progress in reducing discriminatory comforts has been moderate because all special privileges that the FAES enjoyed before 1992 no longer exist, and in some instances, even the PNC is entitled to better benefits—for example, bonus pay—than the FAES.

3. Performance/Effectiveness

Four components—strategy development and assessment, transparency and accountability, size of expenditure, mission, and movement from a conscripted to a volunteer army—are examined in this dimension.

a. Strategy Development and Assessment

Minimal progress has been made in strategy development and assessment due to the FAES’s continued and long-term internal deployment. The CPAC had assigned a revised force structure and new roles and missions to bring the FAES under civilian control. The constitution invested the FAES with the responsibility of external defense as primary task and internal security as exceptional obligation. Hence, the FAES is operating with “plan, structure and processes, and resources,” as stressed by Bruneau, Matei, and Halladay to fulfill its constitutional duties under civilian control.²⁴¹ According to Rittermann, El Salvador has also “published three defense white papers since 1998” outlining its strategic defense plan.²⁴² Similarly, the constitution has enshrined all necessary institutional

²⁴⁰ Nelson Rauda Zablah, “El Salvador’s Military Wants Compensation for Security Risks,” InSight Crime, October 13, 2015, <https://insightcrime.org/news/analysis/el-salvador-soldiers-want-compensation-security-risks/>.

²⁴¹ Florina Cristiana Matei, Carolyn Halladay, and Thomas C. Bruneau, eds., *The Routledge Handbook of Civil-Military Relations*, 2nd ed. (London: Routledge, 2021), <https://doi.org/10.4324/9781003084228>.

²⁴² Rittermann, “Civil-Military Relations and Militarization in El Salvador,” 47.

structures and processes to formulate and execute defense functions, provide checks and balances, and maintain oversight over defense institutions.²⁴³ Likewise, the WOLA report mentions that “the country has committed financial resources for the FAES in its yearly budget regularly.”²⁴⁴ Although all the requirements seem to be fulfilled in executing the assigned roles and responsibilities for the FAES, its prolonged mobilization for internal security tasks by the executive since 1994 is conflicting with democratic norms of mobilizing the military internally for a prolonged period, which means progress in strategy development and assessment for the military has been minimal.

b. Transparency and Accountability

Progress on improving transparency and accountability in the FAES has been moderate as military accounts and activities are audited by a legislative assembly, but there is no public transparency. The notion of transparency and accountability for FAES expenditures and operational aspects is still murky. Barany asserts that the constitution has provisioned oversight mechanisms in the legislative assembly to control the FAES budget and expenditures, but those mechanisms remain ineffective in asserting oversight on the FAES. Furthermore, he explains that although El Salvador has a strong National Defense Committee in the legislative assembly, it cannot essentially control the FAES budget. He elaborates that even when individual parliamentarians raise questions on defense issues, they achieve nothing due to their limited access to information.²⁴⁵ Even the issue of transparency on part of the defense institutions is questioned here. The WOLA report mentions that the Office of the Prosecutor General of the Republic and the Office of the Public Defender for Human Rights hold the FAES accountable for its actions during internal security activities, particularly in the areas of human rights violations. But he points out that “these offices are under resourced to function efficiently.”²⁴⁶ This leads to

²⁴³ Republic of El Salvador, *El Salvador's Constitution of 1983 with Amendments through 2014*.

²⁴⁴ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador*, 11–13.

²⁴⁵ Barany, *The Soldier and the Changing State*, 96.

²⁴⁶ Washington Office on Latin America, *The Role of the Armed Forces in Public Security in El Salvador*, 31–33.

an assessment that reforms to improve transparency and accountability have been moderate. Although military accounts and expenditures, as well as their activities, are audited by a legislative assembly, there is no public transparency.

c. Optimization of Budget and Expenditure

The FAES has made moderate reform in this area because it has more expenditures than allocated resources. The FAES receives its budget annually after approval from the legislative assembly, and according to the military, expenditures have remained within the allocated budget. It is alleged by some, however, that the reality is different. According to the WOLA report, the FAES budgets remained within 3% of the national budget and under 0.67% of the national GDP between 2014 to 2017. However, it further points out that “from 2014 to 2017, the Armed Forces executed \$49.1 million more than were originally allocated. Budget execution was highest in 2017. This year, the MDN was originally allocated \$141.4 million, but as of the end of the fiscal year it had executed \$164.2 million, or 16.1% more than its initial budget.”²⁴⁷ Therefore, military expenditures exceeding the resources allocated by the country depicts that the military is not effective, and therefore, the FAES can be assessed to have made moderate reform in this field.

d. Optimization of Military Size

El Salvador has made substantial progress in this field as it was able to reduce its troop size drastically, as envisaged in the CPAC. The CPAC outlined that FAES troops be reduced by half and that its three police units be dissolved. Barany mentions that the FAES was reduced to 28,000 by 1993, a year earlier than planned for.²⁴⁸ However, El Salvador was struck by an endemic of gang wars, crime, and violence after the dissolution of the police forces. Consequently, every president after 1994 has mobilized the military for internal security purposes, which is not a good prospect for democratic system. El Salvador’s experience proved contrary to Pion-Berlin and Martinez assertion that a transitioning country from autocratic to democratic system may not require as much troops

²⁴⁷ Washington Office on Latin America, 11–13.

²⁴⁸ Barany, *The Soldier and the Changing State*, 83.

as it was maintained by autocratic repressive regime. Therefore, “military size reductions are a natural response to democratization.”²⁴⁹ In fact, the government of El Salvador “proposed to double its military force level in 2021” due to the rising number of gang wars, but the decision has yet to be implemented.²⁵⁰ In sum, progress in this field has been substantial because El Salvador was able to reduce its troop size drastically, as envisaged in the CPAC.

e. Missions

The FAES has made moderate progress in this area as it has been carrying out its mission as tasked by the government, but there are issues related to its overall conduct, including human rights violations. The FAES has its constitutional roles of defending and protecting its national boundaries as a primary task. In addition, it is also legally assigned internal security roles for exceptional situations. Furthermore, the FAES is active and successful in missions beyond the country’s borders, including in UN peacekeeping missions. Additionally, Pion-Berlin et al. mention that “53% of FAES manpower was mobilized during the Covid-19 pandemic by presidential decrees for internal security.”²⁵¹ All FAES’s missions have been assigned by the elected civilian authority through constitutional provisions, reflecting that FAES is effective in carrying out its missions. In addition, the FAES must be cautious to carry out its internal missions without hampering the democratization of CMR. It can thus be assessed that the FAES has made moderate progress in this field.

f. Movement from Conscripted to Volunteer Army

The FAES has achieved moderate reform as it has opted for a volunteer army now. El Salvador has a mixed system of recruitment, using both conscription and volunteer methods. The CPAC in 1992 did not remove the conscription system which was enshrined

²⁴⁹ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 303.

²⁵⁰ Central Intelligence Agency, “El Salvador.”

²⁵¹ Igor Acacio, Anaís M. Passos, and David Pion-Berlin, “Military Responses to the COVID-19 Pandemic Crisis in Latin America: Military Presence, Autonomy, and Human Rights Violations,” *Armed Forces and Society* 49, no. 2 (2022): 1–23, <https://doi.org/10.1177/0095327X211070035>.

in article 215 of the 1983 constitution. However, this system has not been enforced since 1992 as the public opposed conscription because of massive human rights violations perpetrated while enforcing conscription during the civil war era. Furthermore, the FAES lacks the financial means to enforce it.²⁵² The CPAC adds that voluntary recruitment is successful in obtaining the required strength from newcomers for the FAES. Thus, progress in this field can be assessed as moderate because volunteers are incentivized and conscripts are subsidiary, making volunteers account for the majority of the FAES's total strength.

4. Conclusion

Overall, El Salvador has achieved moderate reforms according to the effectiveness framework. This progress is highlighted first by the knowledge dimension, where moderate reform has been achieved in both of its components: military education and civilian expertise. Likewise, El Salvador has achieved moderate reform in the four components of the dimension of convergence: societal views of military, movement toward an occupational model, nontraditional recruitment, and elimination of discriminatory comforts. Similarly, in the six components of the effectiveness dimension—strategy and assessment, transparency and accountability, missions, optimized expenditures, movement from a conscripted to a volunteer army, and optimized military size—El Salvador has achieved minimal reform in one, moderate reform in four, and substantial reform in one other component.

²⁵² “Country Report and Updates:” War Resisters’ International, accessed January 28, 2023, https://wri-irg.org/en/programmes/world_survey/country_report/en/El%20Salvador.

IV. CONCLUSION: COMPARATIVE ANALYSIS, FINDINGS, AND RECOMMENDATIONS

Nepal and El Salvador have attained moderate reform in the democratization of CMR, but Nepal has achieved more substantial reforms than El Salvador although Nepal started its transition 14 years after El Salvador. Hence, Nepal is in better standing in terms of reform and democratization of CMR as compared to El Salvador. The progress attained by Nepal can be attributed mainly to the reforms made in the arena of control mechanisms during the initial days of transition. This chapter provides a comparative analysis of the case studies, followed by findings and recommendations for reforms in democratization of CMR during transition.

A. COMPARATIVE ANALYSIS

The analysis of the two case studies reveals that reforms in the democratization of CMR can be broadly observed through the lens of control mechanisms and effectiveness during the political transition when commonalities and differences occur and have a direct impact on the state of the reforms. A total of 25 components were analyzed; 13 components under the control mechanisms and 12 components under the effectiveness framework. Analysis of the reforms in CMR in Nepal highlighted that Nepal has made moderate progress in control mechanism. Out of 13 components analyzed, four showed substantial reforms and eight components had moderate reforms. One component fell into the non-applicable category. On the other hand, out of 12 components analyzed using the effectiveness framework, five showed moderate progress and five achieved substantial gains. Two other components had minimal reform. Broadly, the reform in democratization of CMR in Nepal after 2006 has achieved moderate reform as out of the 25 components examined under the six dimensions, eight components attained substantial reform, 13 attained moderate reform, and one showed minimal reform, while one component fell in the not applicable category (Table 1).

Table 1. Evaluation of Reform in Civil-Military Relations, Dimensions, and Components in Nepal

Dimension	Component	Subcomponent	None	Minimal	Moderate	Substantial	Not Applicable
1. Military Power	Public Policymakers and Policy	Leadership Selection Policy Selection Public Defense Enterprises Military Role				√	
	Human Rights				√		
	Internal Security					√	
	External defense				√		
2. Legal Framework	Constitutional Law				√		
	Laws on Security and Defense				√		
	Organizational Military Laws				√		
	Military Justice Law				√		
	Legal States of Exception					√	
3. Defense Institutions	Defense Ministry				√		
	Security/ Defense Council					√	
	Joint Military Staff						√
	Parliamentary Commission				√		
4. Knowledge	Civilian Expertise			√			

Dimension	Component	Subcomponent	None	Minimal	Moderate	Substantial	Not Applicable
	Military Education				√		
5. Convergence	Societal Views of Military					√	
	Movement toward Occupational Model				√		
	Nontraditional Recruitment				√		
	Elimination of Exclusive Privileges				√		
6. Effectiveness	Strategy and Assessment				√		
	Transparency and Accountability				√		
	Missions					√	
	Optimize Expenditures					√	
	Optimize Military Size			√			
	Movement from Conscripted to Volunteer Army					√	

On the other hand, El Salvador has accomplished minimal reform in control mechanisms. Out of 13 components analyzed, it had minimal progress in eight and moderate reform in five others. Analyzed against the effectiveness framework, it has achieved moderate reform. Out of 12 components assessed, El Salvador has attained substantial reform in one, moderate progress in ten, and minimal reform in another. Analyzing both control mechanisms and effectiveness framework jointly, the reform in

democratization of CMR in El Salvador after 1992 can be assessed to have been moderate as out of the total 25 components examined under all six dimensions, 15 are assessed to have attained moderate reform, nine show minimal reform, and one achieved substantial progress (Table 2). However, El Salvador clearly lacks reform in the area of control mechanisms.

Table 2. Evaluation of Reform in Civil-Military Relations, Dimensions, and Components in El Salvador

Dimension	Components	Subcomponent	None	Minimal	Moderate	Substantial	Not Applicable
1. Military Power	Public Policymakers and Policy	Leadership Selection Policy Selection Public Defense Enterprises Military Role			√		
	Human Rights			√			
	Internal Security			√			
	External defense			√			
2. Legal Framework	Constitutional Law				√		
	Laws on Security and Defense			√			
	Organizational Military Laws				√		
	Military Justice Law				√		
	Legal States of Exception				√		
3. Defense Institutions	Defense Ministry			√			
	Security/Defense Council			√			

Dimension	Components	Subcomponent	None	Minimal	Moderate	Substantial	Not Applicable
	Joint Military Staff			√			
	Parliamentary Commission			√			
4. Knowledge	Civilian Expertise			√			
	Military Education				√		
5. Convergence	Societal Views of Military				√		
	Movement toward Occupational Model				√		
	Nontraditional Recruitment				√		
	Elimination of Exclusive Privileges				√		
6. Effectiveness	Strategy and Assessment			√			
	Transparency and Accountability				√		
	Missions				√		
	Optimize Expenditures				√		
	Optimize Military Size					√	
	Movement from Conscripted to Volunteer Army				√		

In all, the two case studies reveal that attaining CMR reforms encompasses numerous dimensions and components, requiring the military, politicians, and society to work together to fix what is lacking in the system.

B. COMMON TRENDS AND DIFFERENCES

The control mechanism factor consisted of three dimensions: military power, legal frameworks, and defense institutions. The analysis finds that the legal framework dimension showed common trends in all its components except for the legal state of exception. However, there were differences in the other two dimensions of military power and defense institutions. Notable differences in the realm of military power and defense institutions, which are instrumental for attaining reform in CMR, accounted for the biggest difference between the two countries. Nepalese politicians were quick to achieve autonomous control over the military during the initial days of the transition to democracy by swiftly institutionalizing and maintaining their authority over the military power. Quick civilian autonomy was bolstered by legal frameworks and defense institutions. Similarly, effectiveness was assessed according to three dimensions: knowledge, convergence, and effectiveness/performance. Common trends were observed throughout all three dimensions, except for the optimized military size component in the effectiveness/performance dimension.

Overall, the main difference in whether reform of CMR was achieved emerged from the successful institutionalization of the control mechanisms. The quicker the control mechanisms are institutionalized, the swifter the progress in the reform of CMR is as highlighted by Nepal. Thus, it can be deduced from the analysis that the state of the reform in the democratization of CMR in Nepal is moderate. Further, it can be deduced that Nepal is in the ‘transitioning’ period of democratization, owing to the high number of components in which moderate progress has been achieved, followed by those that have witnessed substantial and minimal reform. Although one component fell under the not applicable category, none of the dimensions and their components fell under the ‘none’ progress category, which means that Nepal is in the transitioning phase of democratization as evident by the progress in various dimensions and components necessary for the reform in democratization of CMR.

C. FINDINGS

Nepal and El Salvador have attained moderate reform in the democratization of CMR, and it is still in the transitioning phase. As Pion-Berlin and Martínez assert, “moderate progress still does not get the country beyond the state of transition, substantial advances realize a consolidating state, but full consolidation is an unattainable prospect.”²⁵³ This implies that the road to substantial progress in each country still necessitates a long-term healthy intermingling of military, politicians, and society.

Although the state of reform in CMR in Nepal is assessed by comparing it to a case study of El Salvador, both nations bear their own unique socio-political characteristics. Hence, comparing these two countries under the same CMR framework but in different scenarios implies that the reform in CMR is occurring in two different environments and the rate of reform will obviously vary between the two.

The thesis finds that the duration of the transition does not play any significant role for achieving reforms in the democratization of CMR, which is evident as El Salvador has achieved fewer substantial reforms than Nepal although El Salvador has been in the transition period since 1992 while Nepal has been in the transition period only since 2006. Therefore, the study reveals that a longer democratic transition does not bear any relation on the speed of reforms in CMR.

The thesis highlights that establishing control mechanisms is imperative for the reform of democratization of CMR during political transition. Among the three dimensions discussed in the control mechanisms, the transformation of the first dimension (i.e., military power) is important and more difficult to achieve than other dimensions. It is here that the political leadership will try to maximize their power while the military tries to retain its prerogative as much as it can. Once the notion of power is regained, legal frameworks establish the code for military activities under civilian control. After ascertaining the balance of power and legal framework, the civilian leaders need functioning institutions and structures to channel the democratic chain of command

²⁵³ Pion-Berlin and Martínez, *Soldiers, Politicians, and Civilians*, 36.

between the executive, legislative, and the military. Both case studies show that in the earlier periods of democratization, almost simultaneous with transition, the essential reforms have to center on reducing military power and devising laws (the first two dimensions). This alters the balance of power in favor of the civilians over the military. Nepalese politicians were apt to realize these dimensions and quickly gained authority over the NA in the initial days. However, El Salvadoran politicians were troubled by the FAES's retention of influence over some defense policies and military organizational law—for example, the appointment of a uniformed defense minister—which would, of course, lengthen the transition.²⁵⁴

Consequently, the absence of reform in these two dimensions is sure to generate two more problems: first, the further transformation of CMR would be stalled, as happened in El Salvador with the appointment of a uniformed officer as the minister of defense, and hence, policy choices are made by the army rather than by the elected civilians. Second, without the first step, the overall progress in democratization itself will suffer. Therefore, the civilian leaders must try to advance their power by making best use of their political resources—electoral mandates, political capital in the form of the people's aspiration for a democratic change, and international support. As showcased by Nepalese politicians, immediately after signing the CPA, they severed the connection between the king and the NA by dissolving the PMS, which allowed them to gain authority over the military in the absence of the king.

Meanwhile, the effectiveness framework comprising knowledge, convergence, and performance takes longer time to show progress as these components can start functioning only after the control mechanisms are established. Empowering the defense component will pave the way for institutionalizing the knowledge component, which will produce knowledgeable civilians in the defense sector. It is evident from both the case studies that although Nepal and El Salvador made moderate reforms in the defense dimension, they achieved minimal reform in the knowledge dimension as both countries still lack civilian expertise in their respective defense services. Consequently, the lack of skilled civilians in

²⁵⁴ Barany, *The Soldier and the Changing State*, 97.

the policymaking arena negatively impacts the effectiveness of the armed forces. Both countries' experience reveals that producing skilled civilian expertise is both time and resource consuming. Among all the dimensions, reform in the convergence dimension, which seeks to change the values of the military and society, is the most challenging. It entails a very slow process. For example, some segment of the Nepalese senior population may still be sympathetic to the monarchy although the country is already a federal republic while the younger generation born after 2006 may differ with the senior citizens on this point. Similarly, senior citizens in El Salvador may still be haunted by the civil war era human rights issues whereas the younger generation may want to move forward and forget the past. Hence, convergence may require more than a generation to bring reform in the democratization of CMR as the reform in CMR is an important element among various other vital elements of democratization.

The case studies depict that the CMR dimensions and components do not develop at the same rhythm, the result being that some emerge more prominently in earlier phases of democratization and others in later phases. It depends on the intensity with which political leaders direct their energies toward reforming aspects of CMR, and this differs from time to time.

D. RECOMMENDATIONS

It is recommended that reform in the democratization of CMR should begin swiftly with a focus on control mechanisms; namely, power, legal frameworks, and defense. Time is of paramount importance if the control mechanisms are to be effective. First, it is important to realize that the sooner civilian leaders establish sole authority over the military, the sooner reform in CMR will occur. Second, civilian authority ought to be augmented by enshrining all rules and regulations in the country's legal frameworks. Third, once the legal framework is codified, democratic defense institutions and structures must be created. Fourth, defense institutions and structures require knowledgeable civilian staff members who can craft the government's policy priorities. Although building a knowledgeable civilian staff is a gradual and resource consuming process, it is pivotal to establishing democratic civilian control. Fifth, reform in the convergence dimension takes

longer to mature and draw a detached military and society together. Nevertheless, there are other components in the convergence dimension that can be prioritized and worked on. Ultimately, reform in CMR can be accomplished by tirelessly working on all its complex dimensions, which helps in understanding and achieving the much-needed, healthy military-political-societal relationship for democracy to flourish and prevail.

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