

**Cook or Curzon: a comparison of British and Indian
human rights diplomacy towards Nepal**

by

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Abstract

This paper analyses the behaviour of India and the UK towards the human rights crisis in Nepal, in order to explain how and why the human rights policies of two democracies can differ. It is argued that two factors – political ideology and the foreign policy-making process – are the most critical determinants of the importance of human rights in the foreign policies of India and the UK. Economic and social development and geopolitics are seen as constraints on human rights diplomacy. This study supports Christopher Brewin's thesis that international obligations are, in part, a reflection of national self-image. Significant domestic developments in India and the UK from the mid- to late 1990s have been echoed in foreign policy. Attempts to make British foreign policy-making more transparent have ensured that the British Government considers the fundamental rights of people abroad, under the scrutiny of Parliament, NGOs and the wider public. Despite a self-perception of democratic values, India's foreign policy-making receives much less public scrutiny and is therefore less constrained by human rights concerns. This study argues that Nepal's proximity to India prioritises traditional Indian security concerns, preventing a more hard-line approach to Nepalese human rights abuses. Two worldviews are analysed: Robin Cook's "ethical" foreign policy, with human rights at its heart; and Lord Curzon's view of India as the "natural" seat of Asian power.

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Abbreviations

DFID	(British) Department for International Development
DTI	(British) Department of Trade and Industry
ECHR	European Convention on Human Rights
FCO	(British) Foreign and Commonwealth Office
GCPP	Global Conflict Prevention Pool
HRW	Human Rights Watch
ICG	International Crisis Group
MEA	(Indian) Ministry of External Affairs
MoD	(British) Ministry of Defence
MoU	Memorandum of Understanding
OHCHR	Office of the High Commissioner for Human Rights
RNA	Royal Nepalese Army
SAAG	South Asia Analysis Group
SAARC	South Asian Association for Regional Cooperation
UDHR	Universal Declaration of Human Rights
UNCHR	United Nations Commission for Human Rights
UNSC	United Nations Security Council

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Cook or Curzon: a comparison of British and Indian human rights diplomacy towards Nepal

If we are serious about human rights, we should not be exporting arms to those who abuse them.
[Sir Menzies Campbell]¹

Our only concern is that Nepal should approach the new era of modernization with a strong commitment to the twin pillars of Nepal's nationhood, namely constitutional monarchy and multi-party democracy. [Manmohan Singh]²

Introduction

This paper will explore the reactions of the British and Indian Governments towards Nepal's current human rights crisis, in order to gain insight into how and why their human rights policies differ. Nepal, as an unstable neighbour to India and an underdeveloped state with historic and commercial ties to Britain, presents an interesting case for analysing the priorities of Indian and British foreign policies. The paper begins with an overview of approaches to foreign policy analysis and a discussion of human rights conceptions. Chapter 2 contains a sketch of the human rights crisis in Nepal, followed by an overview of recent developments in Indian and British foreign policies, incorporating relations with Nepal. The focus will be approximately the last decade, looking closely at the changes in policy starting with the premierships of Tony Blair and I.K. Gujral. This will be followed by analysis of both governments' reactions to recent events in Nepal.

This paper contends that two factors – the decision-making process and political ideology – are the most critical determinants of the degree to which human rights influence the foreign policies of India and the UK. As established democracies, they share a basic commitment to democratic values, which, in theory, influences how policy

¹ Campbell, Menzies. 2005.

² Singh, Manmohan. 2005b.

is formulated. The greater transparency of the British system has led to a more consistent and active human rights diplomacy, in part because of its clearer representation of national self-image. The Indian system is both more opaque – reducing public scrutiny and demand for a rights-based approach – and more concerned with traditional security concerns. Christopher Brewin’s theory – a link between domestic welfare obligations and a state’s international obligations – is applied and supported by analysis of British and Indian policies.³ Two constraining factors are analysed and considered to be important in qualifying the effects of the first two factors: economic and social development and geopolitical stability. These four factors, largely taken from Michael Smith’s analytical framework, are seen to affect national self-image – a key ideational factor in foreign policy – and the worldview or aspirations of the political elites.⁴

When Robin Cook, as Britain’s newly-appointed foreign secretary in 1997, declared that British foreign policy must have “an ethical dimension”, it appeared that the Labour Government was committing itself to putting human rights to the fore in policy-making and therefore setting itself apart from the narrowly-defined national self-interest of its predecessors.⁵ In recognition of the importance of the British arms industry, the Government announced strict guidelines for the granting of export licences in an attempt to punish abusive regimes and to avoid prolonging ongoing conflicts.⁶ This explicit commitment to promote human rights abroad was part of the new government’s desire to ensure British conformity to emerging international human rights norms, as evinced by

³ Brewin, Christopher. 1991. 198.

⁴ Smith, Michael. 1981. 56-61.

⁵ Cook, Robin. 1997a.

⁶ The EU Code of Conduct on Arms Exports (1998) and the Consolidated EU and National Arms Export Licensing Criteria (2000).

the 1998 Human Rights Act, which incorporated the European Convention on Human Rights (ECHR) into domestic law.

Democracy and equality in diversity are core components of India's self-image, yet Indian governments have been at best tentative in promoting democratisation and human rights abroad. On occasion, even key foreign policy commitments, such as support for decolonisation and non-alignment, have been subordinated to perceived security priorities. Indira Gandhi viewed relations with the Soviet Union to be important enough not to condemn the Soviet invasion of Afghanistan in 1979. It has been argued frequently that India has shrunk from human rights discourse on the international stage for fear of criticism of its treatment of individuals and groups in separatist areas, notably in Jammu and Kashmir and in the Northeast.⁷ However, Indian involvement in human rights crises abroad is not insignificant: the invasion of East Pakistan in 1971, leading to the establishment of Bangladesh; its intervention in Sri Lanka in 1987; and the Indian Army's contribution to UN peacekeeping missions. Although all of these examples can be explained as humanitarian responses to crises, critics have equally exposed more traditionally realist motivations, such as a desire to see Pakistan fail, assertion of regional hegemony and financial incentives.

For both the UK and India, self-image plays an important role in their foreign policies. Indian democracy – the world's largest and perhaps most surprising success – is, for its leaders, part-justification for seeking a larger role in international affairs and has underpinned Indian involvement in the affairs of its neighbours. British leaders, particularly since Margaret Thatcher, have striven to recast Britain's role in the

⁷ Raja Mohan, C. 2003. 65. Human Rights Watch. 2005. 6. Human Rights Watch argues that India has tried to avoid a multilateral peace conference on Nepal, fearing calls for a similar process to resolve the Kashmir issue.

international community, from imperial policeman to a “pivotal” power, connecting communities and acting for the oppressed.⁸ Although India and Britain share key democratic values and a belief in their own importance internationally, their foreign policies demonstrate distinct mentalities. Whereas the present British government uses a moral lexicon to define its international role, Indian leaders have tended to talk of India’s “destiny” of great power status and its “right” to influence world affairs.

A comparison of Britain and India inevitably encounters major differences in two key areas: development and geopolitics. India’s youth as an independent and integral state, combined with its poverty and factionalism, has resulted in a broad range of internal and external security issues, which impinge on the set of options available in foreign policy-making. Whereas insurgency in the UK is confined to one area and issue – though Northern Ireland’s unsettled problems have affected other parts of the country – and there is no credible external support for the insurgents, India suffers from separatist and insurgent conflict in approximately half of its states, mainly concentrated in the north and east of the country. Poverty and corruption are contributing factors but so are ethnic boundaries and political alienation. The importance of geopolitics is twofold: India is situated in a volatile region; evidence and suspicion of external interference in domestic insurgencies creates distrust between neighbouring states and sustains realist preoccupations with traditional security. Defence Minister (and former foreign minister) Pranab Mukherjee, in a recent speech, talked of India’s situation in a “dangerous neighbourhood... located at the centre of an arc of fundamentalist activism, terrorism and

⁸ Blair described the UK as a “pivotal” power in a speech at the Lord Mayor of London’s Banquet in November 1997. Blair, Tony. 1997.

political instability”.⁹

Lord Curzon, viceroy of India from 1899-1905, suggested that India was the natural seat of power over Asia and the Indian Ocean region. Although Curzon was writing from an imperialist perspective, some modern Indian politicians have warmed to his worldview, such as J.N. Dixit, a former foreign secretary, and Jaswant Singh, external affairs minister from 1998-2002.¹⁰ What the “Curzonian school” represents is a popular line of thought that stresses India’s “natural” role as regional hegemon; a role, though not incompatible with human rights diplomacy, that is most suited to power enhancement vis-à-vis the “natural” competitor, China.

⁹ Mukherjee, Pranab. 2005. 6.

¹⁰ Raja Mohan, C. 2003. 204-05.

Chapter 1: Human rights diplomacy and the comparison of foreign policies

Human rights diplomacy can be described as the prioritisation of human rights in dealings with an external body. Rein Müllerson has observed that virtually all states must now engage in some form of human rights diplomacy, whether this be rights advocacy or defending the state's prerogative to treat human rights as a domestic issue.¹¹ Thomas Buergenthal makes the crucial distinction that, despite ongoing human rights violations by governments, states increasingly feel the necessity to justify their actions – or at least respond to the international community.¹² This could be extended to include large transnational corporations, which also operate under the surveillance of human rights organisations and rights-minded governments. However, the term “human rights diplomacy” will be used in a narrower sense in this paper, to denote attention to human rights as part of a state's foreign policy.

R.J. Vincent wrote in 1986 that, on face value, there is no obvious connection between human rights and foreign policy, on the grounds that rights are associated with individuals (or sometimes non-state groups) whereas foreign policy is conducted by states, which pursue interests, not rights.¹³ Yet, as Vincent points out, even a strictly realist view of human rights in international relations appreciates the necessity of addressing human rights abroad and not just in Müllerson's sense of defensive rights diplomacy. For example, the abuse of human rights in a foreign country can adversely affect the interests of one's own state, whether by a flow of refugees or by regional instability interrupting trade and overseas investments. In addition, Ashutosh Kumar argues that the liberal-democratic conception of human rights has entrenched the

¹¹ Müllerson, Rein. 1997. 5-6.

¹² Buergenthal, Thomas. 1997. 704.

¹³ Vincent, R.J. 1986. 1.

connection with the state; the defence of the rights of the individual is, now, primarily against state abuses.¹⁴

Why some states should pursue more active human rights diplomacy than others has been the subject of intense scholarship and has been approached from a variety of angles. For example, Kim Nossal argues that “middle powers”, such as Canada and Australia, can be defined by their perceived foreign policy styles – they are seen to be less “selfish” than great powers, more responsible than small states and more likely to pursue policies that benefit international society.¹⁵ This perception of middle powers is related to another approach: a state’s conception of human rights as a foreign policy tool. Some states view non-domestic human rights not simply as a moral obligation – implicit in the perception of the middle power agenda – but as an effective form of “preventative medicine” against instability.¹⁶ Christopher Hill approaches this question in terms of a desire to proselytise. He notes that China “has never felt the need to proselytize, despite its own conviction of superiority”.¹⁷ Although Hill is referring to forms of government rather than, specifically, attitudes towards human rights, he notes that different societies “produce different sorts of domestic input into foreign policy, including conceptions of a desirable world”; an important component of the international human rights agenda.

From these and other approaches, several types of human rights diplomacy emerge. Human rights diplomacy can be a self-justifying tool towards playing a larger role on the international stage. It can also be a response to domestic, even public, concerns, including charitable instincts and economic interests. Human rights diplomacy

¹⁴ Kumar, Ashutosh. 1996. 70.

¹⁵ Cited in Keal, Paul. 1992. 10.

¹⁶ Baehr, Peter, and Monique Castermans-Holleman. 2004. 47.

¹⁷ Hill, Christopher. 2003. 18.

is executed through a variety of channels, such as financial and humanitarian aid, diplomatic dialogue, trade policy and military intervention. There has been significant resistance, especially in the name of sovereignty, to human rights interventionism. However, as Evan Luard has pointed out, concern for the rights of individuals under the jurisdiction of other governments is not a wholly new or revolutionary concept, as can be seen in the international agitation against the slave trade.¹⁸ Indeed, intervention on behalf of moral standards has increasingly become part of the language of “national interests”.¹⁹

A central problem of foreign policy analysis is the concept of the national interest. Just as security and human rights are not antithetical, national interest and international morality are not necessarily conflicting aims. James Rosenau summed up the limitations of the national interest as an analytical tool: its alternative and often contradictory use as an “instrument of political action”; its “value-laden” subjectivity; and the opaque nature of the “nation”, which it represents.²⁰ As an instrument of political action, it is prone to manipulation and abuse, especially in terms of representing the people. An openly realist interpretation, which focuses on the retention or increase of power in relation to other states, has become less politically acceptable in the liberal-democratic world. Mirroring this decline, in academia and politics, is the growth of the constructivist school, which emphasises the power of ideational factors and norms in the conceptualisation of national interests. Nevertheless, an assessment of the foreign policies of two democratic states must take into account that today’s policy-makers are unlikely to frame foreign policy

¹⁸ Luard, Evan. 1981. 2.

¹⁹ Cook, Robin. 1997a. “Britain also has a national interest in the promotion of our values and confidence in our identity.”

²⁰ Rosenau, James. 1971. 241-43.

without a sense of national “egoism” – or striving to “win a better deal” for the nation – despite the strong evidence for the growing influence of international norms.²¹

A comparison of the behaviour of two states requires an assessment of the degree of commonality between the subjects, making the comparison more broadly useful. Assuming that India and the UK share certain key characteristics, comparing their responses to a third actor (or event) can shed light on why policies are adopted and the effects of their implementation. Understanding why and how states react can help to achieve certain goals, such as the lobbying aims of activist groups. In addition, it helps states formulate policies that better serve their citizens and interests. The aim of this paper is not prescriptive but the conclusions and the language of a descriptive and analytical comparison will inevitably include a value-based critique.

Michael Smith has approached the comparison of foreign policies by identifying shared circumstances, under which unique (foreign policy) systems behave differently.²² He suggests a set of six factors that influence how each system will behave: size, status and involvement; economic and social development; internal political order; ideological orientations and affinities; organisational engagement; and international change and challenge. These factors dictate the ability and inclination of states to react to international situations. Identifying where India and the UK share common ground in these factors will underline significant factors that explain their differences in policy.

Despite their significant dissimilarity in economic and social development, India and Britain share a key characteristic: established and stable democracy. Whether both

²¹ Brown, Chris. 2002. 180. Brown argues that a degree of national “egoism” is widely accepted in foreign policy, though “within a framework of legality and in the context of wider norms and values of international society.” 186.

²² Smith, Michael. 1981. 56-61.

can be described as liberal states is questionable. India's poverty has prevented it from creating a modern welfare system commonly associated with liberal states and its history of state socialism imposed illiberal barriers to trade and enterprise, a number of which remain. However, Indian politics are certainly liberal; as is the state's overall approach to minorities. It has frequently been argued that liberal democracies and authoritarian regimes tend to pursue distinct foreign policy goals.²³ What is more puzzling is why states with similar characteristics and ideology so frequently react differently to international conditions.

The relationship between foreign and domestic policy depends, to a great extent, on how they are formulated, in addition to broader issues such as ideology and national identity. In most states, foreign policy-making receives considerably less public scrutiny than domestic issue processes. In Britain, foreign policy has been generally the preserve of the government, with little parliamentary input.²⁴ This can be said of India as well, where it is dominated by a small, professional elite, with minimal impact on national politics.²⁵ Comparing levels of transparency and contribution – i.e. the range and number of contributors to decision-making – sheds light on both why policies are selected and who is selecting them. As Brian White has pointed out, understanding the collective behaviour of a *broad* political process raises doubts about treating governments as “unitary, monolithic foreign policy actors”.²⁶ In a system where decision-making is confined to a small, closed-doors group, its foreign policy might tell more about the

²³ Leblang, David, and Steve Chan. 2003. 385.

²⁴ White, Brian. 2002. 38. White explains that foreign policy was the last area of government to be surrendered by the monarch and was passed down directly to prime minister and the cabinet.

²⁵ Ghosh, Partha. 1994. 814.

²⁶ White, Brian. 1981. 10.

aspirations or beliefs of the government of the day or an entrenched establishment, as opposed to reflecting the opinions of wider society.

Christopher Brewin presents a theory of ideology, arguing that foreign policy mirrors domestic policy in liberal states – specifically domestic policy on welfare obligations.²⁷ The theory proposes that the degree to which welfare is provided for a state's citizens affects its policies towards the welfare of foreigners. Brewin presents two extremes of the liberal state model: Sweden, in the "Gladstonian tradition", "where one's own interests are constrained by other's rights"; and "Bismarkian" Switzerland, which rejects international "obligations" and undertakes humanitarian policies through choice not duty. In essence, the two extremes represent the liberal belief in a right to redistribution of wealth versus conservatism's moral duty of charity.²⁸ Brewin also proposes how a state settles on its international obligations: in addition to obligations based on reciprocity (i.e. by treaty and convention), a state's conception of its own identity creates the responsibilities it assumes.²⁹ This self-perception has been likened to the martial sense of defending the nation's "honour" by "[living] up to its own professed principles", whether called to by international agreements or not.³⁰ A link between a state's perceived obligations to its own people and its obligations (or lack of) to foreigners helps to identify the primary influences on human rights diplomacy, especially in democracies.

Michael Smith's set of factors provides a useful framework for comparing foreign policies. Yet a comparison of Britain and India's policies towards Nepal suggests that the

²⁷ Brewin, Christopher. 1991. 198.

²⁸ Dworkin, Ronald. 1978. 138.

²⁹ Brewin, Christopher. 1991. 207.

³⁰ Clinton, David. 1993. 303.

inclusion of human rights is particularly dependent on four factors, the first three of which are covered by Smith: political ideology; economic and social development; the policy-making process; and geopolitical situation. Two of these factors – political ideology and the policy-making process – can be described as dynamic, in part because they are more easily changed but also because they affect more immediately the people who formulate foreign policy. The other two, development and geopolitics, appear to act as constraining factors rather than positive influences on the formulation of policy.

The first two factors are extremely broad. They are grouped together in this paper because they can both be viewed through the lens of Brewin's theories, although the development disparities of India and Britain need to be taken into account. The state's attitude towards its own citizens influences how it reacts to the suffering of people abroad. In other words, political ideology determines the state's conception of human rights and therefore how influential rights are in that state's foreign policy. Smith primarily focuses on the comparison of democratic and authoritarian states; Brewin's theory of the liberal state is a tool for comparing differences between democracies. However, he limited this theory to advanced liberal democracies that could afford a welfare state, on which his comparison is based. Nevertheless, the connection between domestic welfare obligations and international approaches is still useful in a comparison of two states at very different stages of development. Development is a factor that determines the scope – lower levels of development will constrain policy-makers from pursuing human rights to the same degree as other ideologically similar yet more developed states.

Ideology is addressed in this paper in terms of a conception of human rights, international agreements and the relationship between domestic and international obligations. Running through all these elements is national self-image. For example, it is commonly perceived that British self-image in the wake of the Second World War – an outdated commitment to great power policies – severely hindered its involvement in Western European regime-building and integration. Self-image is presented in terms of a worldview and what role is deemed suitable for the state. A state's human rights diplomacy is, to some extent, influenced by how important it views its contribution to world affairs. Aspirations for regional hegemony are bound to affect policies towards a state's neighbours.

Smith explores the importance of bureaucratic politics and organisational influences but does not explicitly address transparency of the policy-making process as a key factor. The process is extremely important in light of the traditional secrecy that shrouds foreign policy-making. It is likely that a more open or transparent system will result in a more positive form of human rights diplomacy; in other words, states with a professed interest in international human rights will be more likely to act on those interests if the policy-making process is open to public scrutiny. Christopher Hill raises the question of autonomous policy-making in a more open system:

As the concepts of state sovereignty and independence have come under attack in recent decades, so the idea that a government might have a discrete set of actions (let alone strategies) for dealing with the outside world has come to seem anachronistic, even naïve.³¹

Hill is emphasising the effects of a globalised system. However, globalisation's linkages are mirrored in domestic society; dichotomising foreign and domestic policies is arguably more difficult in a world of interdependence and transnational activity. A more

³¹ Hill, Christopher. 2003. 1.

transparent system constrains governmental action and puts pressure on decision-makers and institutions to conform to declared standards and ideology.

Finally, geopolitics are a limiting factor – only states situated in peaceful and stable regions can afford to be consistent human rights advocates. This is not to deny the link between human rights protection and political stability. However, short- and long-term aims produce different responses to crisis. Democratically elected governments tend to prioritise short-term stability even if long-term solutions are pursued. Müllerson raises the important relationship between human rights, international stability and territorial integrity. Whereas oppression of a minority may provoke condemnation abroad, support for the self-determination of insurgent groups is rarely given for fear of the knock-on effects of instability and potential rights abuses.³² This fear of opening “Pandora’s box” is particularly influential where the human rights abuses are in close proximity. Although most liberal states would wish to avoid provoking (international) instability with an aggressive human rights policy, the instinct is bound to be sharper in the state’s own neighbourhood.

The remaining components of Smith’s foreign policy circumstances – size, status and involvement; internal political order; and international change and challenge – are not unimportant in the formulation of international human rights policy but can be seen as subsidiary, with the exception of internal political order. The size of a state appears considerably less important than ideology or self-image. Strategic partners in human rights diplomacy, such as Canada and Norway, frequently differ in size. Status is certainly influential, if only for the limitations it places on a state’s capacity to instigate change. However, status and involvement in world affairs are closely dependent on, and

³² Müllerson, Rein. 1997. 39.

restrained by, economic development; more so than the self-aggrandising efforts of national egoism. "International change and challenge" is too vague and broad a factor to be of much analytical utility. Gradual change, such as norm or regime development, indirectly affects policy-making in that it influences a state's political ideology. Smith refers to sudden change as requiring urgent responses. Although many states, especially the UK, have been criticised for the overly reactive nature of their foreign policies, underlying principles and strategic interests are not normally abandoned in the eventuality of international challenges.³³

Internal political order, or disorder, is certainly a constraining factor on governmental action. However, in terms of human rights diplomacy, it is most helpfully considered in geopolitical terms and in relation to the state's ideology. Domestic unrest, unless an imminent threat to the state, will constrain the government's human rights diplomacy if it is directly related to the region or state to which the policies are directed. The ideological factor concerns the state's attitude to domestic rights. A government that deems political repression and human rights violations necessary to quell domestic disorder is likely to implement a defensive human rights diplomacy; one that rejects international involvement or intervention. Internal political order, as a factor in human rights diplomacy, is largely dependent on the ideology of the state.

Foreign policy's close connections to national self-image give insight into the dominant political mentality of a state, in an arguably more coherent fashion than domestic policies can.³⁴ Foreign policies can also reflect a purer distillation of a

³³ Dickie, John. 2004. 17. Dickie refers to the FCO's internal *Foresight Report*, which criticized, first and foremost, the FCO's long-term strategy planning.

³⁴ Forsythe, David. 2000. 2-5. Forsythe argues that self-image is often projected through a state's foreign policies, notably in its attitudes to human rights and intervention.

democratic government's aspirations than their domestic policies, which are frequently restrained by vested interests and legislative opposition. Whereas the details of domestic policies are dictated by the findings of focus groups, foreign policy can provide a governing party with a sense "purpose, mission and political clarity", reflecting deep-seated ideology that is more encumbered in the domestic sphere.³⁵ The relationship between foreign policy and a government's overall "mission" can be fruitfully analysed in the case the UK and India. The early and mid-1990s were unsettled times for domestic politics in both countries. The end of the decade brought stronger and more purposeful governments for both countries; a development reflected in their foreign policies.

Analysis of the relationship between human rights and foreign policy requires that two related concepts are addressed: international law and international norms or regimes. The language of human rights has become common currency in international relations, yet the incidence of rights violations remains high. The scope of fundamental "rights" has been greatly expanded since the Second World War, as demonstrated by the Universal Declaration of Human Rights (UDHR) and the UN Covenants, even as the concept of universal rights has come under fire, especially in Asia and, to a lesser extent, in Africa. Not only is there a disconnect between West and non-West; the lack of guidelines and normative procedures in human rights diplomacy has led to serious disagreement in foreign policy implementation, even between states adhering to a shared international regime.

This lack of clarity is highlighted by Peter Baehr and Monique Castermans-Holleman, who claimed that humanitarian intervention "is in the process of becoming part of international customary law", implying only partial international acceptance. In

³⁵ Chandler, David. 2003. 303.

analysing the Kosovo human rights crisis, they conclude that intervention was “legally questionable” yet politically sound; in effect, states can “do the right thing”, even without legal sanction.³⁶ The divisions within NATO over intervention in Iraq in 2003 were at least partly the result of disagreements over this question – whether action can be justified on non-legal grounds such as morality, international norms, or the greater good. The willingness of a state, such as the UK, to adopt a legally questionable position implies that it deems a broader range of foreign policy tools acceptable than a state that abides to the letter of international law. In the case of humanitarian intervention, a more “flexible” state is likely to place less importance on traditional respect for state sovereignty.

Foreign policy and conceptions of human rights

There are several key problems in assessing the link between human rights and foreign policy. First, different conceptions of human rights will influence both the content and the style of rights diplomacy. Second, a narrowly realist approach struggles to explain the massive expenditure and organisational infrastructure that has been dedicated to international human rights in the last 60 years.³⁷ Third, there is the issue of effectiveness and practicality. Finally, the need for balance between a government’s commitment to human rights in foreign policy and traditional imperatives, such as the protection of nationals (and their interests) abroad, is likely to preclude concrete policy strategies.

The UDHR, adopted by the UN in 1948, appealed to a common, universal humanity and declared a wide range of practices and beliefs to be fundamental rights for all. Although states from many traditions and civilisations contributed to its drafting, it is

³⁶ Baehr, Peter and Monique Castermans-Holleman. 2004. 83-86.

³⁷ Keal, Paul. 1992. 5.

essentially a product of Western political thought – a pedigree that has been used to abuse the concept of “universal” human rights.³⁸ Amartya Sen has underlined one of the greatest weaknesses of the cultural relativist argument: it ignores the existence of dissenting opinion.³⁹ Although liberal democracy has triumphed in Western political thought and political systems, authoritarian and patrimonial systems can find bounteous supporting material in mainstream Western thinkers. This debate is of importance when comparing foreign policies; even within a shared tradition, variation in conceptions of human rights could produce different policies.

Jack Donnelly argues that non-Western societies have traditionally dealt with what are seen as human rights issues “almost entirely in terms of duties that are neither derivative from nor correlative to rights” – a confusion of human rights and human dignity.⁴⁰ Donnelly’s principle concern is that a lack of rights, and a consequent reliance on theories of dignity, is vulnerable to disregard on the part of the state; in other words, where human dignity is deemed the product of individuals’ duties to each other, the state cannot be morally constrained from interfering with an individual’s freedom of choice. This has implications for foreign policy; if a state does not feel morally constrained from interfering with the rights of its own citizens, it is less likely to pursue a foreign policy designed to protect the rights of foreigners.

India and the UK have comparable human rights guarantees under law, at least in the political and civil sense. For example, both states have legal provisions for multiparty democracy, voting rights, free speech, movement and assembly, and recourse to the law

³⁸ Kumar, Ashutosh. 1996. 72. Kumar quotes Asmarom Legesse: “If Africans had drafted the UDHR, it might have ranked rights of communities above those of individuals.”

³⁹ Sen, Amartya. 1999. 177.

⁴⁰ Donnelly, Jack. 1982. 306.

and a fair trial. The UK, which in practice has a confident record of freedom, has been criticised for a lack of formal legal protections of fundamental political rights supposedly guaranteed by international covenants.⁴¹ However, the present government has remedied some of these omissions, most notably by the incorporation of the ECHR into domestic law in 2000. India's constitution of 1950 enshrined a commitment to a set of Fundamental Rights, closely modelled on the US Bill of Rights and the UDHR. The Constitution was a revolutionary document, abolishing the caste system, which had maintained rigid social stratification for centuries. However, it has also been heavily criticised for its reliance on a purely Western political theory tradition. P.V. Kane condemned it as "a complete break with our traditional values", mainly because of its near total leap from the language of duties to the language of rights.⁴² This disconnect has been described as dangerous – in that it leaves rights vulnerable – by several scholars because moral obligations, though still commonly perceived in Indian society, have no direct bearing on the rights enshrined in law.⁴³ Carman points out that "[w]hat can be created by legislative fiat can be altered or abrogated in the same way" – Indira Gandhi's declaration of a national emergency in 1975 is frequently cited as an example of the state's capacity to override these "fundamental" rights for purely political reasons.

This gulf between traditional concepts and the Constitution's rights is partly the result of differing attitudes towards the mainstream of Indian thought: Hinduism. The Constitution was mainly the work of one man, Bhimrao Ramji Ambedkar, the radical Dalit ("untouchable") activist, who believed that the caste system was too embedded in

⁴¹ Klug, Francesca, Keir Starmer and Stuart Weir. 1996. 304.

⁴² Kane, P.V. 1968. 1664-65.

⁴³ Carman, John. 1988. 120. Carman points out that the Constitution's Fundamental Rights are not "grounded" in human nature, the community or even the divine.

Hinduism for the latter to serve as a philosophical foundation of modern Indian freedoms. Ambedkar, among others, criticised Mahatma Gandhi for being half-hearted about reforming institutional Hinduism.⁴⁴ Despite historical disagreements, recent Indian governments have been explicit in their support for a rights-based system of freedoms; one which recognises that rights are inherent in people and not conferred on them.⁴⁵

India's domestic human rights record is mainly criticised in its numerous insurgencies. Brutal suppression of militants and civilians by the armed forces is well documented and compounded by the government's prevention of security personnel accountability.⁴⁶ India's treatment of domestic insurgencies has greatly influenced its foreign policy, especially towards conflict areas in South Asia. Successive Indian governments have wanted to avoid criticism of their own records, especially in multilateral fora, which have been seen as potential areas for Pakistani exploitation.

British and Indian foreign policy compliance with international human rights norms and regimes differs in part because of situational differences. The UK, both independently and as a member of the EU, is bound to a much tighter set of rules and obligations than India. The European human rights regime is the most extensive international rights regime in the world. Its rules and procedures include the ECHR, the European Social Charter, the EU Charter of Fundamental Rights and the guidelines agreed by the Organization for Security and Cooperation in Europe (OSCE). Nevertheless, Britain and other members of the European human rights regime have, on several occasions, broken the rules of the regime in the name of efficacy and have justified their actions in terms of ends rather than means. Although international regimes

⁴⁴ Ibid. 127.

⁴⁵ Sarnaik, Ajaya Kumar. 1998.

⁴⁶ Human Rights Watch. 2005. 1.

and norms are influential on human rights diplomacy, weaknesses in enforcement the flexibility of rules allow their adherents to choose alternative policies with relative impunity.⁴⁷

⁴⁷ Chayes, Abram, and Antonia Handler Chayes. 1993. 176-77. Chayes and Chayes argue that a state's cost-benefit analysis will include its reputation for honouring contractual obligations. However, a treaty regime does not necessarily require *strict* compliance but only an "acceptable" level, in light of national interests.

Chapter 2: Nepal, Britain and India

a) The Crisis in Nepal

Nepal is suffering from a human rights crisis on several levels. Many political and civil rights, largely dating from the 1990 “people’s movement”, have been suspended by the king, who has taken the reins of government into his own hands. However, the February 2005 “royal coup” should be seen as an explicit statement of de facto royal rule rather than as a wholly new development. Manjushree Thapa, in an article in the *Kathmandu Post* in December 2004, stated ironically that “the word on the street is that he took over on 4 October 2002, and will soon quit pretending otherwise”.⁴⁸ The king’s removal of Prime Minister Sher Bahadur Deuba in 2002 saw the reassertion of royal power over the constitutional powers of the elected government.

In a more pressing sense, Nepalese citizens are suffering from violations of the most basic, personal rights, including the right to live and to provide food for themselves, because of the depredations of a violent guerrilla force and the forces of the state – the police and the Royal Nepalese Army (RNA). As the conflict has escalated in recent years, so have the number and severity of abuse claims, including rape, abduction, torture, extortion and extra-judicial execution. These abuses are intimately linked with the lack of social, cultural and economic rights commonly associated with poverty and fledgling democracy.

The current crisis in Nepal is the result of three intertwined factors: an autocratic monarchy; a violent insurrection; and very low levels of economic, social and political development. Democracy was restored reluctantly in 1990 by King Birendra but the political climate remained volatile on account of fractious parties, extremism, corruption

⁴⁸ Cited in ICG. 2005b. 7. “The word on the streets” *Kathmandu Post*. 10 December 2004.

and royal interference. Popular opinion towards democracy has been ambivalent; the survival of religious and traditional devotion to the monarchy is widespread, encouraged by the venality of politicians. Corruption and the rigging of elections, especially in rural areas, exacerbated the distrustful atmosphere of national and local politics.⁴⁹ Much of the blame has been heaped on the 1990 Constitution, which replaced the Panchayat system of local representation, established in 1962 by King Mahendra.⁵⁰ The Constitution was hastily compiled in the wake of popular unrest by a Drafting Commission.⁵¹ Although there was an effort to engage wider interest through public consultations, many groups, including the Maoist rebels, felt that the closed nature of the process – a commission, not an elected constituent assembly – ensured both a conservative and unrepresentative document and have demanded a new constitution, drawn up by a representative, independent assembly.⁵²

Factionalism and personality politics are rife in the Nepalese system and have undermined popular support for multiparty democracy. The Nepali Congress Party (Congress) has been torn between the camps of Sher Bahadur Deuba (prime minister 1995-97; 2001-02; and 2004 until the royal coup) and G.P. Koirala (prime minister 1991-94; 1998-99; and 2000-01).⁵³ Congress won an outright majority in the Pratinidhi Sabha (House of Representatives) in the 1999 elections but the failure of successive Congress governments to end the Maoist violence has caused great frustration. Nevertheless, the opposition parties have presented neither consensus nor a viable alternative programme.

⁴⁹ Whelpton, John. 2005. 201-02.

⁵⁰ The Panchayat system was a form of “guided democracy” that involved the election of village or town councils, which formed electoral colleges for district and national representation.

⁵¹ Whelpton, John. 2005. 116.

⁵² ICG. 2005b. 4.

⁵³ Baxter, Craig, Yogendra Malik, Charles Kennedy and Robert Oberst. 2002. 398.

Lok Raj Baral concluded in 2001 that “[t]he absence of credible alternatives has increased the people’s loss of faith in the overall roles of political parties.”⁵⁴

Popular cynicism towards the political parties has certainly grown since the initial “euphoric phase” post-1990.⁵⁵ However, this does not equate with disillusionment with democracy and democratic rights. Gareth Price has pointed to the high turnout in the 1999 elections, despite the threat of Maoist violence, as evidence of a strengthened civil society.⁵⁶ On the other hand, some sections of society, in business, the intelligentsia and politics, have supported the king’s takeover. Traditional supporters of royal power, especially from the Panchayat era, and those who have no confidence in the political parties’ abilities to negotiate with the Maoists, have given the king at least the appearance of some domestic political support.⁵⁷

Popular opinion is always difficult to gauge in a country where freedom of expression has been severely curtailed or suspended. The most reliable recent survey, *The State of Democracy in Nepal*, was taken in August and September 2004 before the king’s takeover, sampling a broad cross-section of Nepalese society, in terms of geography, sex, literacy and the rural/urban divide.⁵⁸ Its conclusions on Nepalese perceptions of democracy are ambivalent. The public is clearly unhappy with the turbulence and inefficiency of Nepal’s governments since 1990: 95% of those polled agreed that “political leaders [are] involved in personal and party interest rather than national interest”; and 56% agreed that there had been an increase in corruption under democracy. 55% also claimed that their localities had become less safe in the “past few years” – this

⁵⁴ Baral, Lok Raj. 2001. 140.

⁵⁵ Hachhethu, Krishna. 2002. 137.

⁵⁶ Price, Gareth. 2005. 25.

⁵⁷ Rajan, K.V. 2005.

⁵⁸ Hachhethu, Krishna. 2005. This is an extract of his Survey, *The State of Democracy in Nepal* (2004).

is hardly surprising considering the spread of Maoist activity in recent years. However, when quizzed on their preferences in terms of regimes, 62% agreed that “democracy is better in all circumstances”, while only 10% conceded that “in some situations dictatorship is preferable”. Krishna Hachhethu points out that this last question has produced similar responses in established democracies such as India, thus suggesting that most Nepalese do not view their country as uniquely unsuited to “Western” democracy.

The catalyst for a recent increase in foreign attention was the dismissal of the Deuba Government by King Gyanendra and his assumption of executive powers on 1 February 2005. The king declared a state of emergency on the grounds that the cabinet was failing to deal with the Maoist rebellion.⁵⁹ The king’s actions in 2005 were far more serious than the removal of Deuba in 2002 because of the wholesale suspension of fundamental rights, including freedoms of association and travel and the right to property, and a clampdown on media and political (even governmental) activity.⁶⁰ The ICG attested to restrictions placed on the National Human Rights Commission, preventing its commissioners from investigating rights abuse claims outside the capital.

Many lives have been lost since the coup – the Institute for Conflict Management put the number at 1,168 from 1 February to 25 June, including 872 Maoists, 140 security force personnel and 156 civilians.⁶¹ A large number of senior politicians were arrested or placed under house arrest in order to avoid the mobilisation of mass protests. Although many were later released, Deuba’s re-arrest on 27 April has been widely attacked for dashing any chances of reconciliation in the near future between the parties and the

⁵⁹ BBC News. “Nepal gripped by political crisis”. 1 February 2005. Available from http://news.bbc.co.uk/1/hi/world/south_asia/4227517.stm; accessed on 10 June 2005.

⁶⁰ ICG. 2005a. 9.

⁶¹ Rajamohan, P.G. 2005.

palace.⁶² Deuba and five colleagues, including the former physical planning and works minister, Prakash Man Singh, were convicted in July by the controversial Royal Corruption Control Commission, which jailed them for two years and fined them US\$1.3m. each for corruption. Their convictions sparked angry protests in Kathmandu, suggesting that popular opinion could turn further against the king.⁶³

This emergency has been seen as more worrying because of the evidence of systematic attacks on non-royalist elements. Despite the suspension of rights of free expression and association, supporters of the king have been allowed, and probably encouraged, to rally in support of the royal takeover.⁶⁴ The Asian Human Rights Commission has claimed that the RNA has been arming royalist civilian groups to facilitate the harassment of human rights and democracy activists, alienating many moderates and thus reducing the chances of a peaceful coalition against the Maoists.

The Maoist insurrection, declared as a "People's War" in 1996, has developed from a provincial expression of violent frustration to a serious threat to the integrity of the state. The strength of the Communist Party of Nepal (Maoist) is difficult to assess; official figures estimated 5,500 combatants, 8,000 militia and around 200,000 "sympathisers" in 2003.⁶⁵ The Maoists originally found support in the mid-western hill districts of Pyuthan, Rolpa and Rukum, especially among the Kham Magars, a non-Hinduised ethnic group whose alienation from the mainstream of Nepalese society was

⁶² BBC News. "Nepal ex-prime minister arrested". 27 April 2005. Available http://news.bbc.co.uk/1/hi/world/south_asia/4488193.stm; accessed on 5 August 2005.

⁶³ BBC News. "Ex-Nepal PM's supporters protest". 4 August 2005. Available at http://news.bbc.co.uk/1/hi/world/south_asia/4744375.stm; accessed on 5 August 2005.

⁶⁴ House of Commons Foreign Affairs Committee. 2005. 101. Supplementary written evidence submitted by the Asian Human Rights Commission of Hong Kong.

⁶⁵ South Asia Terrorism Portal. 2003.

exploited for political gain.⁶⁶ The various Communist factions were divided over the necessity of violent insurrection; it was the faction led by Pushpa Kumar Dahal (known as Prachanda) that launched the People's War. The Maoists gained support at first from the least developed areas of Nepal that had little infrastructure or institutional contact with the state.

The toll on civilians has been high. Amnesty International has estimated that over 12,000 Nepalese, including civilians, Maoists and security personnel, have died between 1996 and 2005.⁶⁷ Support for the Maoists has arguably been diminished in recent years, in part because of their increasing brutality. Their political war has targeted civilians such as journalists, teachers and local political workers – anyone of significance who has refused to cooperate with their agenda.⁶⁸

Nepal's security forces have responded with little regard for the rights of non-combatant civilians. Evidence of police and RNA atrocities has been convincing enough to warrant sanctions from some of Nepal's major trading partners. As with many civil wars, civilian casualties and human rights violations often occur in the "crossfire" between rebels and state forces. Nepal's Maoists, like many rebel groups, were dependent on the local population for material support and provisions. This "cooperation" has been used to justify the RNA's attacks on non-combatants. In her study of the Maoist presence among the Kham Magars, Anne de Sales argues that the Maoists' "reputation" among the local population has sustained their support:

The villages are harassed at night by Maoists who have to be fed and during the day by policemen looking for suspects. But very quickly, and whatever their political inclinations, my informants admit that they prefer the Maoists... [who] inform the villagers about their activities during programmes that they hold, usually at night. They have the reputation of never harming poor

⁶⁶ Whelpton, John. 2005. 203.

⁶⁷ Amnesty International. 2005. 4.

⁶⁸ ICG. 2005a. 2.

people, whereas the police, no doubt themselves often under pressure, consider any peasant they met on the path to be guilty and often beat them without any further investigation.⁶⁹

This reputation is perhaps dated or peculiar to that area. As the insurgency has become more violent, elements of the Maoists' code of conduct have been jettisoned, such as the commitment not to disturb education. For example, four schools were bombed or attacked in five days in April 2005, severely injuring three students.⁷⁰ The death of 38 civilians on a bus, which hit a landmine, in Chitwan district on 7 June 2005 was the single bloodiest attack by the Maoists.⁷¹ It seriously eroded public support for their cause and precipitated a declaration from Prachanda ending all attacks on civilians. In 2005 there were several cases of villagers turning against Maoists in their localities, often in retaliation for Maoist abuses.⁷²

Since the RNA launched full-scale operations against the Maoists during the emergency of November 2001, the problems of accountability and impunity have exacerbated the human rights situation. Human Rights Watch has emphasised the failings of Nepalese legislation in this area, specifically the Terrorist and Disruptive Activities Ordinance (TADO), dating to the 2001 emergency, and its October 2004 revisions, that allows security forces to imprison suspects for a year without trial and reinforces their virtual immunity from prosecution.⁷³ The crucial weakness lies in civil-military relations; the RNA and the political parties share very little common ground and have little

⁶⁹ de Sales, Anne. 2002. 350.

⁷⁰ South Asia Analysis Group (SAAG). "Incidents", Appendix to Update 67 on Nepal. 27 April 2005. Available at www.saag.org/notes3/note261.html; accessed on 6 July 2005.

⁷¹ BBC News. "'Dozens die' in Nepal bus blast". http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south_asia/4612633.stm; accessed on 1 August 2005.

⁷² BBC News. "Villagers kill Maoist insurgents". 14 August 2005. Available at http://news.bbc.co.uk/go/pr/fr/-/2/hi/south_asia/4151278.stm; accessed on 15 August 2005.

⁷³ HRW. 2005b. 5.

appreciation of each other's business.⁷⁴ Prakash Nepali and Phanindra Subba suggest that this is in part because of caste divides; the political elite is drawn primarily from the Brahmin caste, whereas the military leadership is composed mainly of Ranas, Thakuris, Chhetris and hill ethnic groups.

International attention to the Nepalese human rights crisis grew after the declaration of emergency in November 2001. The US administration approached the insurgency as part of its "War on Terror" and initially promised the Nepalese government full support in its military campaign.⁷⁵ However, along with the UK and India, the US has modified its approach since the extent of RNA abuses has been made public. US legislation enacted in December 2004 – the Consolidated Appropriations Act – requires the Nepalese Government, in exchange for continued military assistance, to cooperate with its National Human Rights Commission and to prosecute security forces members who commit gross human rights violations.⁷⁶ International mediation has been problematic, especially concerning the potential role of the UN. The Nepalese Government has resisted UN involvement, principally because of the legitimising effect it could have on a Maoist delegation.⁷⁷

b) Developments in British foreign policy

The election of a Labour government in 1997 was a watershed in British foreign policy. Controversy still reigns over the claims of the present government, yet several developments are crucial to this study. The Government has brought with it important

⁷⁴ Nepali, Prakash, and Phanindra Subba. 2005.88-89.

⁷⁵ Muni, S.D. 2003. 49.

⁷⁶ HRW. 2005b. 6.

⁷⁷ Pradhan, Suman. 2005b.

changes in both political ideology and in policy-making. Labour's "Third Way" has been variously defined as a path struck between corporatism and neo-liberalism, between the European and American models, and between the old left and the new right.⁷⁸ In essence, it is an attempt to provide a just redistribution of wealth and protection for the needy, without unduly interfering with the efficiency of the free market. The Third Way was almost exclusively applied to domestic policies in the 1997 manifesto – foreign policy received very little attention – yet Labour's foreign policy has mirrored its domestic ideology, at least in presentation. Cook, Blair's first foreign secretary, represented the left-wing of the Cabinet and showed a greater propensity towards "old Labour" radical socialism than the prime minister or Jack Straw, his successor as foreign secretary.⁷⁹ However, Straw continued most of Cook's work at the FCO, demonstrating shared ideological goals and perceptions of national identity.

Perhaps the most significant development was the Government's commitment to greater transparency in policy-making, as part of its plan for an "ethical dimension" to foreign policy. Central among Cook's promises in his mission statement was an annual report on the promotion of human rights, which he hoped would serve as a "checklist... to judge our performance".⁸⁰ A tangible commitment to transparency was demonstrated by the review of weapons export licensing and the subsequent declaratory reports. Other key reforms included the creation of the Department for International Development (DFID) and a radical shake-up of the FCO itself.

⁷⁸ Wickham-Jones, Mark. 2000. 14.

⁷⁹ The Economist. 2005c. 75. "He burned to establish a new centre-left agenda based on 'fairness' and 'equality', and mourned the loss of 'social cohesion' in Britain." Cook further demonstrated his commitment to decision-making reform as leader of the Commons from 2001-03.

⁸⁰ Cook, Robin. 1997b. Section 11.

Several qualifications need to be made in order to rectify both the Government's "spin" and the British press' mixed bag of hyperbole and cynicism. This was not the first time the FCO had laid out its policies and long-term goals, despite Cook's innovative packaging – the corporate-style "mission statement".⁸¹ The FCO's *British Policy towards the United Nations*, published in 1978, and two editions of *Human Rights in Foreign Policy* (1991 and 1996), had all addressed British policy towards human rights abroad.⁸² However, Cook's statement did bind the Government to several human rights-related measures, including incorporation of the ECHR into domestic law (passed in November 1998, it came into effect in January 2000), promotion of the Ottawa Convention on landmines (ratified in July 1998) and support for the creation of the International Criminal Court. Cook's successor, Jack Straw, has continued to commit the UK to international obligations. In March 2005 he proposed an international treaty to control the sale of all conventional arms, including small weapons.⁸³

The *Financial Times* summed up the dilemma facing the Government: "From now on, every time the Foreign Office agrees to look the other way... Mr Cook will be in the hypocrite's dock".⁸⁴ A serious stumbling-block in efforts to implement "ethical foreign policy" – though Cook himself disowned the phrase – is the practice of selectivity. Consistency has been an explicit aim of the FCO for decades, as demonstrated by its 1978 statement of policy towards the UN: "We should have a general and consistent posture on human rights throughout the world".⁸⁵ Yet, the policy document

⁸¹ Cook's original "mission statement" was a short speech to FCO staff on 12 May 1997, laying out the main benefits of such a statement and its principle aims. Cook expanded on this in a speech to the House of Commons and a further speech to the FCO in July (Cook, 1997b).

⁸² FCO. 1978. FCO. 1996.

⁸³ *The Guardian*. "Straw to call for arms control treaty". 15 March 2005.

⁸⁴ Wickham-Jones, Mark. 2000. 5.

⁸⁵ FCO. 1978. 17.

qualifies this by claiming that “[i]t would be quixotic for our foreign policy towards a country to be determined exclusively by attempts to apply general rules about human rights.” This raises questions about the fundamentals of diplomacy; that diplomatic operations are not necessarily best served with public and absolutist moral positions. Apologists for what appears to be foreign policy selectivity cite the efficiency of “silent diplomacy”, where issues such as human rights are tackled in a less confrontational and more cooperative manner.⁸⁶ Engagement and cooperation are frequently cited as measures more effective than coercion and condemnation.⁸⁷ This does, however, make the presentation of a comprehensive ethical foreign policy very difficult.

Associated with the problems of selectivity are the ethical dilemmas of ends and means. The Labour government has increasingly turned to justifying its actions by demonstrating the ethical – “moral” being Blair’s preferred word – nature of foreign policy successes, even in cases where the actions taken to achieve these successes – the means – have been legally unsound or contrary to international standards. British intervention in Sierra Leone from 1997 involved secretly supplying a South African private military company, Sandline, with weaponry – later described as “logistical support” – despite an international arms embargo on Sierra Leone’s warring parties, signed by the UK.⁸⁸ Yet this scandal, known as the “Arms-to-Africa Affair”, was seen as justified on account of the reinstatement of democratic government, under President Ahmad Tejan Kabbah. Thus it can be argued that the British Government was complying with European norms (support for democracy and human rights), even if it showed that

⁸⁶ Baehr, Peter and Monique Castermans-Holleman. 2004. 64.

⁸⁷ Chandler, David. 2003. 304. He remarks on the tendency among NGOs, especially during the Cold War, to state their claims against repressive regimes in stark, black-and-white terms, feeling that explaining the causes of repression would weaken sympathy for the victims and prevent effective international action.

⁸⁸ Harris, Robin. 2001. 27.

support by breaking or twisting agreements designed to protect civilians from rights abuses.

Arms controls have arguably been the most controversial component of the Government's commitment to human rights. The previous Conservative governments, under Prime Ministers Margaret Thatcher and John Major, had been beset with arms (and sexual) scandals, including the Iraqi "supergun", "Arms to Iraq" and the al-Masari controversy.⁸⁹ One of the most shocking revelations was the approval of the sale of military hardware to Iraq after the 1988 Halabja massacre.⁹⁰ Mark Curtis, in his polemic on "deceitful" British foreign policy, quotes William Waldegrave, an FCO minister, in October 1989: "I doubt if there is any future market of such a scale anywhere where the UK is potentially so well-placed" as Iraq. This statement came nine months after the British government conceded that evidence of chemical weapons use in Halabja was "convincing".⁹¹ Neil Cooper argues that Labour's foreign policy was presented as part of a larger "clean government" package, which had been a significant factor in Labour's landslide election victory over the "sleazy" Conservatives.⁹² Blair also made several attacks on his Conservative predecessors for failing to act against gross human rights violations; in particular, Blair criticised the lethargic reaction to the atrocities in Bosnia-Herzegovina in 1994-95.

Labour's arms controls, in part a response to the damning Scott Report, were welcomed by NGOs but with serious reservations.⁹³ Amnesty International highlighted

⁸⁹ Cooper, Neil. 2000. 147.

⁹⁰ Curtis, Mark. 2003. 36.

⁹¹ Curtis, Mark. 2003. 37.

⁹² Cooper, Neil. 2000. 147.

⁹³ The Scott Report investigated claims that ministers conspired to sell arms to Iraq, in contravention of government guidelines. Although the Report cleared the ministers in question, it raised serious constitutional issues concerning the convention of ministerial accountability and about the transparency of

the limitations of an annual report: “[a] decision taken six months ago to grant an export licence may not be the same decision that is made now, and yet licences are valid for up to three years.”⁹⁴ Amnesty also criticised the absence of explanatory text, especially in cases where licence applications had been refused but also for the broad categories under which licences are approved.⁹⁵ The third major area for concern were the associated problems of transshipment and brokering; Amnesty felt that the Government was not doing enough to ensure that arms did not get to human rights violators through a third party, or that British companies did not sell to them through off-shore companies.⁹⁶

The forum for such criticism is telling of Labour’s commitment to transparency; Amnesty, with other interested parties, had been invited to submit an assessment of the Government’s annual report in front of a new “quadripartite” parliamentary committee, the Committees on Strategic Export Controls, bringing together the defence, foreign affairs, international development and trade and industry committees. The efficacy of the committee and the inclusion of NGOs in the scrutinising process is perhaps partially proven by the Government’s response, such as the adoption of quarterly reports in 2004 to supplement the annual report on strategic export controls. The scope of licence controls has also been enlarged: under the Export Control Act of 2004, arms brokering and trafficking that takes place at least in part in the UK now require licenses.⁹⁷ Although NGOs such as Amnesty will continue to press for further disclosure and fewer licences, these measures are tangible improvements in decision-making transparency. Tighter

defence sales. See Foster, Christopher. 1996. “Reflections of the true Significance of the Scott Report for Government Accountability” *Public Administration* 74 (Winter).

⁹⁴ Amnesty International. 1998. Section 1.2.

⁹⁵ Amnesty International. 1998. Section 1.3.

⁹⁶ Amnesty International. 1998. Section 1.3; 1.8.

⁹⁷ FCO. Foreword to *Strategic Export Controls Report 2003*. Published on 7 June 2004. Available at www.fco.gov.uk/servlet/front?pagename=openmarket/xcelerate/showpage&c=page&cid=1085327340991; accessed on 6 August 2005.

controls and more transparency are difficult to reconcile with allegations of an arms-industry bias in government.

Consistency in foreign policy can be measured in terms of unity of the government's message. Although Cook vociferously championed an ethical dimension in the formulation of FCO policy, other departments concerned with foreign relations have shown divergent priorities and approaches. The Department of Trade and Industry (DTI) has impeded the strengthening of arms sales regulation, on account of its priorities towards British industry, thus thwarting a more ethical and consistent approach and preventing the Government from responding in full to the complaints made by NGOs such as Amnesty.⁹⁸ However, the internal reform of the FCO under Cook did involve efforts to coordinate better with other departments, for the sake of efficiency and consistency. The Foresight Report of January 2000, produced by young reformers in the FCO, led to the recruitment and secondment of staff from other Whitehall departments and also from NGOs in an effort to broaden skills and perspectives.⁹⁹

Blair's desire for a more coordinated and strategic foreign policy led inevitably to tensions between departments (permanent bureaucrats and their temporary political masters) that have been referred to as "turf wars" by some commentators.¹⁰⁰ Some of the most trumpeted schemes have suffered from inter-departmental disagreements, such as the Global Conflict Prevention Pool (GCPP), designed to coordinate policy between the MoD, the FCO and DFID.¹⁰¹ This is perhaps indicative of the problems associated with widening the input for policy-making. Increased tensions have been attributed in part to

⁹⁸ Vickers. 2000. 44.

⁹⁹ Dickie, John. 2004. 9.

¹⁰⁰ Williams, Paul. 2004. 916. Dickie, John. 2004. 197. Dickie illustrates his point with a disagreement between DFID and the MoD over the price of helicopters for a relief operation to Mozambique in 2000.

¹⁰¹ FCO/DFID/MoD. 2003.

the creation of the Department for International Development (DFID), led by the forthright Clare Short until 2003, when she resigned in protest to the invasion of Iraq. DFID is the reincarnation of the Ministry of Overseas Development (1964-70 and 1974-79), created by the Labour government of Harold Wilson and twice dissolved by Conservative governments, which returned its responsibilities to the FCO.¹⁰² The present government has followed Labour's tradition of increasing the visibility of Britain's international (and post-colonial) aid and British attention to the rights associated with development. This appears to conform with Labour's greater interest in human rights initiatives; most major initiatives since the Second World War have been instigated by Labour governments.¹⁰³ As Sally Morphet points out, the language of rights "comes more naturally to Labour supporters than Conservatives."

The place of NGOs in British foreign policy-making has grown in importance under the present government. Although Cook increased contact with certain organisations while foreign secretary, it has been his successor, Jack Straw, who has institutionalised relations through regular meetings and a declared "open-door" policy.¹⁰⁴ Increased contact with NGOs has other benefits, beyond a more "ethical" and transparent foreign policy. Advances in information and communication technologies have opened up international affairs and lobbying to a wider group, reducing governments' ability to control information.¹⁰⁵ As John Dickie has pointed out, prior consultation with NGOs can avoid public embarrassment or damaging criticism, or at least allow the government to

¹⁰² DFID. "Historical background". Available at www.dfid.gov.uk/aboutdfid/history.asp; accessed on 6 August 2005.

¹⁰³ Morphet, Sally. 2000. 97. Morphet does point out that Conservative governments have subsequently accepted those initiatives.

¹⁰⁴ Dickie, John. 2004. 159.

¹⁰⁵ Vickers, Rhiannon. 2004. 185.

formulate an effective response to criticisms it cannot or will not meet.¹⁰⁶ Paul Williams emphasises the Blair Government's concern with "selling" foreign policy, both to the electorate and in multilateral fora abroad.¹⁰⁷ Greater contact with NGOs provides a double function: a vast pool of information and opinion from which to make policy; and a useful exercise in public relations. By openly consulting NGOs, especially high-profile charities such as Amnesty, Oxfam and the WWF, the Government is seen to be "listening" to civil society and experts whether they are or not. A less cynical interpretation would link this process of public consultation to the Government's promise of greater transparency, information and accountability. It is extremely difficult, if not impossible, to argue that this openness is purely a publicity stunt. However, certain notable examples, such as the Weapons of Mass Destruction (WMD) dossier as justification for the invasion of Iraq, suggest that the Government is prepared to follow its own convictions, even in cases where professional and public opinion show half-hearted support or even opposition.

Britain and Nepal

Nepal and Britain have shared historic and generally cordial relations. The British, as rulers of India, imposed a de facto protectorate on Nepal in 1816 that lasted until 1923, when Nepalese full sovereignty was recognised. The British in India maintained influence over Nepal's foreign policy, though this was limited by the inward-looking Rana regime of hereditary prime ministers. British impact on Nepal reduced dramatically with India's independence in 1947. However, the UK became a major aid donor in the

¹⁰⁶ Dickie. John. 2004. 159.

¹⁰⁷ Williams, Paul. 2004. 928.

post-Second World War period, along with the US, China and the USSR, who were engaged in a proxy ideological struggle to win influence in much of Asia.¹⁰⁸

One of the most significant linkages between Britain and Nepal has been the Gurkhas.¹⁰⁹ Nepalese soldiers served in British regiments in India and Burma, supplied in part by the Nepalese government. Their contribution in the First World War and their government's cooperation were contributing factors to the 1923 treaty of independence. Whelpton argues that the British government was hoping to prevent anti-British association between Indian and Nepalese troops – by keeping Nepal separate from India they could ensure the loyalty of the much-needed Gurkha troops.¹¹⁰ This separation has been described as a *cordon sanitaire* to prevent “Indianisation” of the “martial tribes” of Nepal.¹¹¹ India's independence left the British Government with only a rump of their Gurkha regiments, which were transplanted to Malaya. Mary des Chene has argued that the Gurkhas served an important symbolic function for Imperial Britain, being deployed to guard the remaining borders of the Empire, such as Hong Kong in the 1990s.¹¹² Des Chene, writing in 1991, highlighted the uncertainties surrounding their fate, once Hong Kong's return to China had been settled. However, their move to England indicated that their usefulness had not been exhausted.

c) Developments in India

Indian foreign policy was initially directed to a remarkable degree by one man, Jawaharlal Nehru, who greatly influenced the language, though not the substance, of his

¹⁰⁸ Khadka, Narayan. 1997. 1046-47.

¹⁰⁹ “Gurkha” is a British misspelling of “Ghoraka”, an ancient kingdom of Nepal and ethnic group.

¹¹⁰ Whelpton, John. 2005. 64-65.

¹¹¹ Khanduri, Chandra. 2001. 100.

¹¹² de Chene, Mary. 1991. 207-08.

successors' policies. India's first prime minister, who also served as foreign minister, committed his country to ideological non-alignment and attempted to position India as the primus inter pares of the new post-colonial states. Although he was much admired for his support for decolonisation in Asia and Africa, Nehru was also criticised for pursuing an aspirational foreign policy far beyond the capabilities of India at Independence.¹¹³ With the exception of conflict with Pakistan and the Kashmir issue, Nehru's most prominent miscalculation was relations with China, despite actively seeking friendship with China's Communist leadership, especially with Premier Zhou Enlai.¹¹⁴ Relations rapidly deteriorated after the 1955 Bandung Conference, ostensibly over border disputes inherited from British India's borders with Tibet. However, many analysts have described the 1962 Sino-Indian war as inevitable, on account of the conflicting hegemonic aspirations of the two states.¹¹⁵

Western commentators have tended to focus primarily on Kashmir and Indo-Pakistani relations as India's biggest security threat. However, Indian commentators have demonstrated a preoccupation with China that consumes foreign policy analysis at least as much as relations with Pakistan. For example, India's "rediscovery" of Southeast Asia, especially the "Look East" policy of the 1990s, has frequently been depicted as an attempt to balance Chinese influence in Asia.¹¹⁶ The same has also been claimed for India's treatment of its neighbours. The controversial 1950 Treaty of Peace and Friendship between Nepal and India was, for India, first and foremost a device to ensure

¹¹³ Nayar, Baldev Raj, and T.V. Paul. 2003. 251.

¹¹⁴ For Nehru's wooing of Zhou, see Deshingkar. 1999. 177.

¹¹⁵ Sidhu, Waheguru Pal Singh, and Yuan Jing-dong. 2003. 11. Sidhu and Yuan point out that the war was seen as a personal failure of Nehru, who had hoped the Bandung Conference would prevent conflict with China.

¹¹⁶ Sridharan. 1996. 12.

Nepalese cooperation in maintaining the Himalayas as a security barrier against China.¹¹⁷

After the loss of Tibet as a buffer state in 1950, Nepal came to be regarded as a much more significant part of the Indian security equation.

Attitudes towards foreign policy within India's political elite since Independence have not been uniform, especially concerning India's approach to regional politics. However, two myths of Indian foreign policy continue to influence policy-making and analysis: consensus and continuity. Both were direct influences on Prime Minister Manmohan Singh's speech in May 2005:

[L]et me express my deep satisfaction over the continuing and strong consensus that characterises the conduct of our Foreign Policy.

[L]et me pledge that while we remain faithful to the abiding principles of foreign policy laid down by Jawaharlal Nehru and followed consistently by our country since then during the past half a century and more, we are, nevertheless, alert to the compulsions imposed upon us by a rapidly transforming world order and we have the capacity, capability as a nation to respond successfully to the newly emerging challenges that confront us.¹¹⁸

The second remark is indicative of a rhetorical commitment to anti-imperialist ideology. That an Indian prime minister in 2005 can claim that his predecessors had "followed consistently" Nehru's policies seems absurd. Indira Gandhi's relationship with the USSR and her attitude to the security problems of India's neighbours betrayed a pragmatism unsuited to the straight-jacket of her father's ideological foreign policy. Although subsequent Indian governments continued to pursue "Thirdworldism" through the Non-Aligned Movement and the G-77, the close relationship with the Soviets undermined claims of ideological continuity in foreign policy.

Consensus on foreign policy is less easily dismissed, yet it is based more on common fears and distrust rather than on positive aspirations. C. Raja Mohan argues that

¹¹⁷ Dabhade, Manish, and Harsh V. Pant. 2004. 159-60.

¹¹⁸ Singh, Manmohan. 2005b.

India's anti-American consensus of the 1970s was the product of two distinct attitudes: "the Left was burdened by the logic of anti-imperialism, the Right was saddled with the [sic] nativism and antipathy towards Western values."¹¹⁹ The collapse of the Soviet Union in 1991 ended a supportive relationship for India, forcing a re-evaluation of foreign policy.

Indian attitudes towards the US have been a defining factor in India's worldview. Despite shared political values – most notably democracy – many Indians have been distrustful of US power, labelling it "imperialist", and resentful of US relations with China and Pakistan. This resentment is certainly still significant. Tinaz Pavri wrote, in 2002: "For many Indians, the United States continues to represent Western imperialism that Indian has always decried".¹²⁰ Although Pavri qualifies this by admitting the moderating influence of globalisation on Indian foreign policy, she does not address which Indians still wish to avoid close ties to the US. A recent report, cited by *The Economist*, shows a groundswell of pro-American opinion in India, especially since 2002; the opposite has been true in many countries.¹²¹ However, policy-making has been restrained at two points: the diplomatic bureaucracy and the political left wing.

Indian foreign policy-making has not experienced the strictures of transparency imposed in recent decades on the FCO. A simple comparison of FCO and MEA (India's Ministry of External Affairs) publications (in print and electronic format) and reports suggests how little public scrutiny and involvement occurs in Indian foreign policy. Anil Bhattarai, in discussing Indo-Nepalese relations, highlights the ossification of the Indian

¹¹⁹ Raja Mohan, C. 2003. 37.

¹²⁰ Pavri, Tinaz. 2002. 175.

¹²¹ *The Economist*. 2005a. 35. The report, published by the Pew Global Attitudes Project, placed Indians highest in the world (after Americans) in favourable opinions of America.

foreign policy-making machine and the exclusivity of the circle involved: “[f]or the political class in Nepal, engaging with India so far has largely meant engaging with the deadbeat foreign policy bureaucracy of the Indian Embassy and South Block.”¹²²

Although the role of the cabinet, especially the Political Affairs Committee (PAC), in foreign policy-making has expanded at the expense of the prime minister, policy-making is still confined to an extremely narrow group.¹²³ Parliament, though constitutionally responsible for ratification of international treaties and scrutiny of foreign policy, has traditionally shown very little interest, allowing governments not to submit minor treaties for ratification.¹²⁴ The parliamentary committee for foreign affairs appears to do little more than approve the MEA’s budget. There is little evidence of public concern about the opacity of foreign policy-making. Those within the foreign policy community – a group that contains major and peripheral influences on decision-making – appears equally unconcerned. S.D. Muni, a previous ambassador to Laos, has even attributed the lack of focus in contemporary policy-making to an over-broad set of influences: “[t]here are too many cooks and diverse social and political interests in India’s Nepal policy making process to let a sincere and dispassionate re-assessment take place”.¹²⁵ This is perhaps a reflection of the problems of Indian coalition government, where decision-making is impeded by an extremely wide range of interests within the government.

¹²² Bhattarai, Anil. 2005. “South Block” is the part of the Indian Secretariat Building on Raisina Hill, New Delhi, that houses the MEA, the Prime Minister’s Office and the Ministry of Defence.

¹²³ Ganguly, Sumit. 2003. 102-05.

¹²⁴ Ganguly, Sumit. 2003. 103. He cites Bandopadhyaya, Jayantanuja. 1991. *The Making of India’s Foreign Policy: Determinants, Institutions, Processes and Personalities*. New Delhi: Allied.

¹²⁵ Muni, S.D. 2003. 66.

The Left, in politics, academia and the media, has provided considerable ideological opposition to closer relations with the US, reflecting its opposition in the domestic sphere to economic liberalisation. Atal Bihari Vajpayee, India's prime minister from 1998-2004 was roundly attacked by the Left for offering full military cooperation to the US administration in the wake of the 11th September 2001 terrorist attacks.¹²⁶ His successor, Manmohan Singh, has similarly been criticised for pursuing explicitly close ties with the US, despite winning a much-sought nuclear energy technology agreement in July 2005.¹²⁷ Many scholars have made the link between an inward-looking economic policy and an apathetic or superficial attitude towards foreign relations.¹²⁸ The Left's opposition has become a crucial factor since 1989, when no party was able to win a majority in the Lok Sabha (lower house). The current Congress-led government relies on the support of left-wing parties; their influence has been demonstrated by their ability to prevent Manmohan Singh, a proven economic liberaliser, from pursuing policies that might damage labour relations and welfare provisions.

Since the end of the Cold War, Indian foreign policy has been transformed, in part because of economic liberalisation policies but also because of a sense in the foreign policy community that India's relations with her neighbours were as unproductive as her relations with great powers. Recognition that India had fallen behind Southeast Asia in economic development highlighted the poverty of intra-regional cooperation in South Asia and India's failure to overcome distrust between South Asian capitals.¹²⁹ Raja

¹²⁶ Raja Mohan, C. 2003. xi.

¹²⁷ The Economist. 2005b. 37-38. The agreement came in the wake of a ten-year defence agreement between India and the US, covering procurement, co-production and technology collaboration. See BBC News. "India and US sign defence accord". 29 June 2005; available from <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south-asia/4632635.stm>; accessed 31 July 2005.

¹²⁸ Ghosh, Partha. 1994. 814-15.

¹²⁹ Yahya, Faizal. 2003. 80.

Mohan has identified a shift from the “Monroe Doctrine” of Indira Gandhi – the “muscular ways”, such as the interventions in East Pakistan and the Maldives – to the “Gujral Doctrine” of I.K. Gujral, who served as foreign minister (1996-98) and prime minister (1997-98) in a period of acute domestic political instability.¹³⁰ Gujral advocated a conciliatory and enthusiastic approach to resolving ongoing regional disputes and conflicts and rejected the necessity of reciprocity in dealings with India’s smaller and weaker neighbours. For example, Gujral’s government agreed to an extremely generous settlement on the contentious issue of water sharing with Bangladesh.¹³¹ His aims can be seen as threefold: to reduce external influence in South Asia; to unshackle India’s international profile from regional conflicts, thus allowing greater involvement in world affairs; and to pursue economic development through a regional trade bloc. On the whole, these aims and methods continued to play a part in foreign policy under the leadership of Vajpayee and Manmohan Singh.

Security, however, has remained a major concern of foreign policy-makers. Regional and domestic conflict and perceived threats from further afield have restricted both the aspirations of Indian leaders and the range of approaches to India’s external relations. The sense that India needs to break free from constraints on its foreign policy is a common theme; Pavri has noted that the literature is consumed with the idea of India’s “potential”.¹³² Some see these constraints as not purely practical issues such as military conflict and poverty but also philosophical approaches. A.Z. Hilali, among others, has argued that India had no tradition of independent strategic thinking: “India’s regional

¹³⁰ Raja Mohan, C. 2003. 239-42.

¹³¹ Ganguly, Sumit. 2003. 106.

¹³² Pavri, Tinaz. 2002. 171.

doctrine was formulated as a reaction to local developments, not as a conceptual precaution outlining a security perspective for the future.”¹³³

In recent years, security has not been solely a preoccupation of foreign policy-makers; there is a healthy and expanding market for security analysis, both professional and for public consumption. Jaideep Singh argues that the national security debate has moved “beyond the elite circles of New Delhi and Calcutta, especially following India’s 1998 nuclear tests.”¹³⁴ Publications such as *Force*, a national security magazine, and greater defence and military coverage in the press, have brought security issues into the public sphere. Yet Jaideep Singh emphasises that “[m]ore analysis... doesn’t always translate into better analysis: The Indian media persists in its myopic perception of every Pakistani gain as an Indian loss.”¹³⁵ Attitudes towards China also remain traditional and cautious. Steven Hoffman, in his study of perceptions of China in India’s “strategic community”, states that one of the “core perceptions has been that China does not constitute a clear-cut, military threat to India in the near term, but that the longer term is uncertain” – China must still be viewed as a potential threat, despite warmer relations in recent years.¹³⁶

The post-Independence government inherited certain agreements and organisational structures from the British colonial government. Some Indians also assumed a similar attitude to India’s place in the Subcontinent and in Asia. Raja Mohan argues that there has developed a significant Curzonian school, within foreign policy circles, that resents India’s “loss of importance” and sees India’s rightful role as that of

¹³³ Hilali, A.Z. 2001. 738; 744.

¹³⁴ Singh, Jaideep. 2005. 89.

¹³⁵ Singh, Jaideep. 2005. 90.

¹³⁶ Hoffman, Steven. 2004. 39-40.

regional hegemon.¹³⁷ This approach is now married to broader aspirations, such as attaining a permanent seat on the UNSC (a goal that the US has refused to back, despite excellent relations with the current Indian government). Support within the Indian foreign policy community for a more confident and assertive India on the world stage has been consistent since Independence; there is less consensus for how India should approach that goal. Gujral's conciliatory policies do not demonstrate a rejection of a Curzonian worldview but rather a different approach to achieving India's "rightful" place in Asia.

India and Nepal

Although Nepal and India experienced very different forms of imperialism, they share deep historical roots and culture. Hinduism has dominated both countries – Nepal is the only Hindu state in the world – and ethnic and linguistic ties are close. However, Nepal's relationship with post-Independence India has been tense and often unproductive; the achievement of a *modus vivendi* with Nepal's massive neighbour has proved difficult. This is partly due to India's inheritance of British power and security concerns in South Asia, especially after China's takeover of Tibet in 1950.

The 1950 Treaty of Peace and Friendship has been frequently blamed for the difficult security relations between India and Nepal. The Treaty was, in essence, a reaffirmation of Nepal's treaty with Britain in 1923; India recognised Nepalese sovereignty on the condition of agreeing to the Himalayas as a common security perimeter and thus joint patrols of the border with Chinese Tibet.¹³⁸ Despite the broad and generous economic provisions promised by India, such as the free transportation of

¹³⁷ Raja Mohan, C. 2003. 204-06.

¹³⁸ Rajan, K.V. 2003. 104.

goods and weapons across Indian territory, many Nepalese, including King Mahendra (acceded to the throne in 1955), resented India's demands.¹³⁹ Mahendra, at first discreetly, opened relations with China to counterbalance Indian influence. His agreement to a Chinese plan for a Lhasa-Kathmandu highway alienated Nehru, who saw it as a security threat to India and a contravention of the 1950 treaty. India's fear of Chinese expansion grew after the humiliation of defeat in 1962's Sino-Indian War. These fears were demonstrated by a determined campaign of wooing Nepal; India became Nepal's chief donor in the mid-1960s, until Japan took over the role in the 1970s.¹⁴⁰ India's closer ties with the Soviet Union, from 1971, led to a decrease in Soviet aid to Nepal – a move that can be interpreted as recognition of India's sphere of interest.

Military relations between India and Nepal have been close, though also not without strains. A referendum of Gurkha troops in 1947 saw approximately 70,000 Gurkhas sign up to the Indian Army (under 5,000 continued serving the British Army).¹⁴¹ Khanduri argues that this "spontaneous show by the Gorkhas of their trust in India" helped cement military and political relations – the Indian Government felt them particularly useful during Partition, as their "third-party" status facilitated dealing with Muslim refugees and Muslim citizens in Jammu and Kashmir. Further, formal relations exist between the Indian Army and the RNA; the 1965 Arms Assistance Agreement pledged Indian assistance in the RNA's modernisation programme.¹⁴² A culture of

¹³⁹ Dabhade, Manish, and Harsh Pant. 2004. 164.

¹⁴⁰ Khadka, Narayan. 1997. 1048.

¹⁴¹ Khanduri, Chandra. 2001. 101-02.

¹⁴² Madhavan, Geeta. 2005.

goodwill between the two forces has been a source of pride, such as the tradition of army chiefs holding honorary positions in each other's armies.¹⁴³

Violent insurgency has plagued Indian security since Independence, especially in the North, from Kashmir to Nagaland. The Kashmir issue dominates the literature and continues to endanger internal security and relations with Pakistan. However, in recent years attention has turned to the Maoist insurgencies that have spread from West Bengal across much of the North and East of the country. The Government tends to refer to the rebels as "Naxalites" – after the West Bengali village of Naxalbari where a communist-supported peasant uprising began in 1967 – in order to emphasise the domestic nature of the insurgency. It has also been suggested that the term "Maoist" has been resisted for fear of creating negative perceptions of China in the public consciousness, at a time when the Indian Government is attempting a border settlement.¹⁴⁴

The Government's language can be interpreted as an implicit rejection of concerns about a similar fate as that suffered by Nepal. As recently as 2001, the Indian Government rejected proposals to act against Maoists along the open Nepal-India border, deeming it a purely domestic issue for Nepal.¹⁴⁵ However, recent evidence suggests that Indian Naxalites are influenced by the Nepalese Maoists and have established contact with their rebel counterparts; a "Compact Revolutionary Zone", covering Nepal and certain Indian states, has been declared by the newly united Communist Part of India (Maoist).¹⁴⁶ The changing patterns of recent Naxalite attacks support this declaration. Those states that saw an increase in violence from 2003 to 2004 – Bihar, Jharkhand,

¹⁴³ Mukharji, Deb. 2005.

¹⁴⁴ Raman, B. 2005.

¹⁴⁵ Muni, S.D. 2003. 58.

¹⁴⁶ Madhavan, Geeta. 2005.

Chattisgarh, Uttar Pradesh and West Bengal – all lie within the Zone and are either adjacent or close to the Nepalese border.¹⁴⁷ A change in Indian perceptions was made clear by Manmohan Singh in March 2005, when he recognised cross-border rebel linkages in an address to the Rajya Sabha (upper house).¹⁴⁸

¹⁴⁷ Raman, B. 2005.

¹⁴⁸ Singh, Manmohan. 2005a.

Chapter 3: British and Indian reactions to the Nepalese crisis

a) British reaction to the crisis

The British Government's initial reaction to the February 2005 royal coup was vocal condemnation, in unison with other concerned parties, including India and the US. Foreign Secretary Jack Straw voiced "profound concerns" in a joint statement with his Indian counterpart, Natwar Singh.¹⁴⁹ Straw declared: "[w]e are very keen to see the restoration of representative government and of democratic freedoms as essential steps towards a sustainable peace process. We do not believe there is any future from the current situation." A meeting between Keith Bloomfield, the British ambassador to Kathmandu, and the king on 8 February, in which he explained "strong concern about the damage of [the king's] actions", was followed by the temporary recall of the British ambassador on 14 February.¹⁵⁰ This public and symbolic move indicated that the British Government saw the coup as a major development – one that should not be dealt with exclusively behind the scenes. Straw's declaration also showed that he was viewing the king's actions against the larger backdrop of conflict resolution, a major concern for the British Government. Key support agreements with the Nepalese Government were suspended, including all arms aid and trade and support for government services such as the police, the prime minister's office and the prison service.¹⁵¹ Suspended agreements included a US\$2.5m. non-lethal aid package of flying equipment, bomb disposal equipment and utility vehicles.

¹⁴⁹ Joint Press Conference by British Foreign Secretary Mr. Jack Straw and External Affairs Minister Mr. Natwar Singh, Hyderabad House, New Delhi. 18 February 2005. Available at <http://meaindia.nic.in/pressbriefing/2005/02/18mi01.htm>; accessed on 5 July 2005.

¹⁵⁰ FCO. 2005. 70.

¹⁵¹ Department for International Development (DFID) Press Release, 17 March 2005. Available at <http://www.dfid.gov.uk/news/files/pressreleases/nepal-support-suspended.pdf>; accessed on 5 July 2005.

The coup sparked a flurry of NGO reports, many of which reviewed the UK's relations with the Nepalese Government since the emergency of 2001. Amnesty International's June 2005 report strongly criticised the British Government for its arms policies towards Nepal, despite the "non-lethal" nature of sales and aid. Amnesty claimed that the items gifted "could facilitate violations of humanitarian law and human rights violations."¹⁵² The report makes particular note of the potential abuse of "non-lethal" arms such as helicopters: "[RNA] operations from the air appear to have often disregarded the basic requirement under international humanitarian law to take every precaution to distinguish between civilian persons and objects, and military objectives".¹⁵³ The FCO, which part-funds these military gifts through the Global Conflict Prevention Pool (GCPP) along with DFID and the Ministry of Defence (MoD), responded to the report by stressing its continued funding of human rights organisations and its programmes of human rights training for foreign militaries. The FCO also stressed the selectivity of the aid given since 2000; although the non-lethal package had been suspended after the coup, a limited consignment of bomb disposal equipment would still be sent on humanitarian grounds.¹⁵⁴

The International Crisis Group (ICG) has criticised Nepal's donors, including Britain, of being "soft on government human rights abuses because they felt the government was at least a lesser evil than the Maoists."¹⁵⁵ The British Government was also criticised in Parliament, especially by the Liberal Democrats, whose foreign affairs

¹⁵² Amnesty International. 2005. 8.

¹⁵³ Amnesty International. 2005. 14.

¹⁵⁴ FCO statement, 15 June 2005. Available at

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391638&a=KArticle&aid=1115147394166>; accessed on 19 July 2005.

¹⁵⁵ ICG. 2005a. 7.

spokesman, Sir Menzies Campbell, accused the Government of selling military equipment to Nepal “in contravention of its own arms exports rules”.¹⁵⁶ Campbell quoted the Consolidated EU and National Arms Export Licensing Criteria, which states that licences should not be provided where exports would “prolong armed conflict or aggravate existing tension”.

Although it has not been explicitly stated, it is clear that the Government has wrestled with these two interlinked problems: how much criticism should be levelled at governments fighting violent insurgencies; and where to draw a line in export licences. In the case of Nepal, the British Government stated plainly in 2003 that human rights abuses had been committed by both sides and that assistance for the RNA was necessary to provide “human rights training” and to monitor improvements in behaviour.¹⁵⁷ The provision of two transport helicopters was allowed, according to the GCPP report, with strict conditions agreed by the Nepalese Government, which pledged that they would only be used for “logistical, medical or humanitarian purposes”. How compliance was meant to be assessed is unclear, besides the “gentlemen’s agreement” between the British ambassador and the commander of the RNA.¹⁵⁸ Nevertheless, the transparency of such details is testament to the Government’s willingness to display its human rights credentials; it is also difficult to make a case of ignoring human rights violations on the basis of two helicopters.

As discussed earlier, the Government’s commitment to transparency includes annual, and more recently quarterly, reports on strategic export controls. Its 2004 report showed that 34% of applications for licences had been refused; for the first quarter of

¹⁵⁶ Campbell, Menzies. 2005.

¹⁵⁷ FCO/DFID/MoD. 2003. 26.

¹⁵⁸ Amnesty International. 2005. 21.

2005, none.¹⁵⁹ In 2004, one Open Individual Trade Control Licence (OITCL) was granted – bomb disposal suits and military helmets from South Africa – whereas four non-specific applications were refused, for items from Bulgaria, Croatia, Pakistan and Serbia and Montenegro.¹⁶⁰ The FCO justifies the non-disclosure of specific information for refused OITCLs (and limited details for granted licences) on the grounds that “the release of further information at this stage may have an adverse commercial effect on some of the activities being undertaken”.¹⁶¹ This shows a different, though not necessarily contradictory, policy stream: the continuing attention to commercial priorities. It also highlights the difficulties of balancing public scrutiny, an ethical approach to foreign policy and the interests of British companies.

It is clear that, even within the British Government, there are several actors influencing British foreign policy towards Nepal. The increasing role of development and trade, alongside defence, can be seen in the FCO’s joint operations with DFID, the DTI and the MoD, such as the Global Conflict Prevention Pool (GCPP). The British Government has portrayed its response to Nepal’s crisis and other human rights crises as part of its ongoing “joined-up government” initiative – the coordination of conflict management, development aid, defence, economic policy and diplomacy. In the case of the GCPP, three of the four departments most concerned with external affairs (excluding the DTI) have been seen to be coordinating their responses to international crises and their policies towards domestic and international actors involved in those crises. The joint

¹⁵⁹ “Information on refusal Percentages and Standard Individual Export Licence Application Processing Times by Destination”. Available at www.fco.gov.uk/Files/kfile/refusalprocessingjanmar2005.pdf; accessed 3 August 2005.

¹⁶⁰ Available at www.fco.gov.uk/Files/kfile/Iraq-Nepal.pdf; accessed on 3 August 2005.

¹⁶¹ *Strategic Export Controls Quarterly report: January – March 2005*. Available at www.fco.gov.uk/Files/kfile/strategicexportcontrolsreportjanmar2005.pdf; accessed on 3 August 2005.

response is presented, first and foremost, as “peacebuilding”. Indeed, the Government has pursued negotiation avenues, sometimes without the approval of the Nepalese Government. Blair appointed a special representative, Sir Jeffrey James, in early 2003 to encourage peace talks between the king and the Maoists.¹⁶² It appears that the Government’s “joined-up” approach is designed to address long-term failings and injustices abroad rather than simply responding to crisis – the FCO’s characteristic and much criticised approach.

The FCO presents current British efforts to protect human rights in Nepal as being “diplomatic representation, by funding projects and making public statements”. There is certainly evidence of activity on the international stage, especially through the UN’s agencies and commissions. At the UN Commission for Human Rights (UNCHR), the FCO claims that Britain “helped secure a Chairman’s statement, which called for improved human rights in Nepal” with the cooperation of the Nepalese delegation.¹⁶³ Although there was little evidence of progress after the agreement, the FCO has implied that a Memorandum of Understanding (MoU), agreed by Nepal in April 2005, was the result of Nepalese fears of increased international activism at the UN. The MoU binds the Nepalese Government to a range of concrete human rights improvements, including a permanent Kathmandu mission for the Office for the High Commissioner for Human Rights (the UN’s OHCHR) and the deployment of international monitors throughout the country.

The effectiveness of “public statements” lies at the heart of the human rights diplomacy debate. The Labour Government has been savaged by the British media for its

¹⁶² Muni, S.D. 2003. 52-53.

¹⁶³ FCO. 2005. 71.

use of “spin” – manipulation of the truth or propaganda – in domestic politics. Yet, it is possible to argue that public statements are received and made differently on the international stage. Whereas press releases and government reports are expected for the vast majority of domestic policies, foreign policy has traditionally been conducted with a great deal less scrutiny and transparency, often relying on back-room negotiations between diplomats, rather than public pronouncements on the actions of other states. Nicholas Wheeler and Tim Dunne have argued that “[t]he constitutive role that language plays in international relations can be seen from the fact that other governments take seriously what is said to them and about them.”¹⁶⁴ Therefore, using public statements as a major policy tool suggests that the Government believes, at least in the case of Nepal, private negotiation has its limitations. Rhoderick Chalmers attests to the frustration felt by ambassadors in Kathmandu, who complain that the king does not listen to their advice.¹⁶⁵ The orchestrated withdrawal of the ambassadors of India, the UK and the US in February 2005 appears to be part of a coordinated policy of public condemnation and international scrutiny.

The involvement of NGOs is striking. Government reports and press releases frequently quote organisations such as Amnesty and HRW, particularly as the crisis has intensified. For example, estimates of human rights violations and numbers of casualties in Nepal used by the British Government are often explicitly referenced to these NGOs – compare the GCPP’s 2003 (unreferenced) estimate of “over 5,000 people dead” and the FCO’s Human Rights Report 2005, which states that “Amnesty International estimates

¹⁶⁴ Quoted in Cooper, Neil. 2000. 148.

¹⁶⁵ Chalmers, Rhoderick. 2005.

that the conflict has cost over 12,000 lives".¹⁶⁶ This suggests more than a particularly bloody couple of years and more than a reassessment; NGOs are becoming more regular sources of information and perhaps advice for the British Government, recognising their greater ability to research in the field.

British NGOs in the development sphere have been very active in Nepal, notably in education, health and child welfare. 16 (12%) of the 121 INGOs registered with Nepal's Social Welfare Council in 2003 were British.¹⁶⁷ The British Government funds and assists various NGOs, Nepalese and international, on specific schemes, such as providing drugs and equipment for health facilities in districts affected by the insurgency – the GCPP funds John Snow International to carry out the initiative.¹⁶⁸ It is likely that the Government's use of NGOs is both expedient and motivated by transparency commitments. Private specialised NGOs have an excellent record in Nepal and, in addition, represent a broad cross-section of society, including religious, peace, health, education and rights activism.

b) India's reaction to the crisis

In the wake of the royal coup, the Indian Government worked in concert with the UK and other donor countries in suspending military aid to the RNA. Manmohan Singh and representatives of the MEA repeatedly reiterated their government's commitment to "the twin pillars of Nepal's nationhood, namely constitutional monarchy and multi-party

¹⁶⁶ FCO/DFID/MoD. 2003. 25. And FCO. 2005. 70.

¹⁶⁷ Social Welfare Council of Nepal. "Information on INGOs working in Nepal". 23 December 2003.

Available at http://www.npc.gov.np/events/event_files/INGOs_Information.doc; accessed on 29 July 2005.

¹⁶⁸ FCO/DFID/MoD. 2003. 26.

democracy”.¹⁶⁹ India initially opted for a “wait-and-watch” policy, though Nepalese obstruction of foreign diplomatic activity – several diplomats were prevented from meeting Nepalese politicians, many of whom were placed under house arrest – has strained relations with Kathmandu.¹⁷⁰ The Indian Government with the US was seen as influential in persuading the World Bank to suspend its US\$70m. financial assistance package to Nepal.¹⁷¹

India’s condemnation of the coup marked an important shift in tactics. Having nurtured close relations with Gyanendra, in the hope of influencing his approach to the insurgency, condemning his action risked provoking the king to play the “China card”, in the manner of his predecessors, especially Mahendra. India’s withdrawal from the SAARC conference in February 2005 was seen by the Asian Human Rights Commission as a “significant political gesture”; it implied that Gyanendra’s actions would have ramifications for the entire region, not just for Nepal’s security.¹⁷² Cutting off relations with, and trade to, the RNA risked upsetting years of work and cooperation. In 2003 India’s MEA had obtained an institutionalised bilateral forum for defence dialogue with Nepal, the Bilateral Consultative Group, in return for rendering assistance in security matters.¹⁷³ Jeopardising this arrangement threatens to undermine India’s security goals, indicating that India values other goals – perhaps even democracy and human rights – above this traditional priority.

The suspension of arms sales and assistance should be analysed not just as a human rights issue but also in light of India’s attitude to foreign interference in South

¹⁶⁹ Singh, Manmohan. 2005b. See also Singh, Manmohan. 2005a.

¹⁷⁰ Grover, Anju. 2005.

¹⁷¹ Kumar, Shankar. 2005.

¹⁷² House of Commons Foreign Affairs Committee. 2005. 102.

¹⁷³ Ministry of Defence (India). 2004. 191.

Asia. S.D. Muni, an Indian academic and ex-diplomat, suggests that India's cooperation with the UK and US over arms suspensions should be viewed, to some degree, as an attempt to stem the growing influence of Western powers in India's neighbourhood.¹⁷⁴ This is certainly not an interpretation that the MEA would condone. Foreign Secretary Kanwal Sibal, in a speech in Paris in 2002, warned against excessive military assistance, lest there be an "increase in the lethality of internal conflict and leakage of arms to the Maoists".¹⁷⁵ Muni is voicing Cold War-era doubts that survive in the foreign policy community, despite much warmer relations with the West. However, these doubts concerning Western "imperialist" intentions no longer dominate policy, as can be seen by Vajpayee's unconditional support for US intervention in Afghanistan.

India's decision to resume military aid – tentatively announced after Manmohan Singh's meeting with Gyanendra at the Bandung Summit on 23 April – has been the subject of intense discussion in the media. After the February coup, the South Asia Analysis Group (SAAG) took a common line with many Indian analytical organisations: "India has painted itself into a corner with no available exit policy".¹⁷⁶ SAAG's S. Chandrasekharan claims that "[a]rms had to be revived and we had no doubts about it"; in effect, India's condemnation was noble but rash, given that the Government knew it would, in all probability, have to rescind the suspension. The Indian security establishment – closer than ever to the RNA – were well aware of the RNA's ammunition stocks, which were unlikely to last six months without fresh supplies.¹⁷⁷ The concept of leaving the RNA without bullets makes no real sense for India, already sensitive to anti-

¹⁷⁴ Muni, S.D. 2003. 58-59.

¹⁷⁵ Speech to the French Institute of International Relations, Paris, on 17 December 2002. Cited in Muni, S.D. 2003. 59.

¹⁷⁶ Chandrasekharan, S. 2005.

¹⁷⁷ Rajamohan, P.G. 2005.

Indian sentiment in Nepal. It could have also provided Gyanendra with vital propaganda material.

Gareth Price, writing in March 2005, summed up the central dilemma of India's policy towards Nepal: "India's position is hardest. Its hands are tied by the fact that overt criticism of the king may, paradoxically, strengthen his dominant position."¹⁷⁸ Popular opinion among the Nepalese towards India is notoriously volatile, as evinced by the not infrequent anti-Indian riots and demonstrations in Kathmandu. Although much of Nepal's political class appreciated the stance taken by India in February, distrust of India's hegemonic tendencies is deeply ingrained; too strong a line taken against the monarchy could give Gyanendra a rallying cry, further entrenching his autocratic rule. Leaving the RNA defenceless against Maoist attacks by denying it basic supplies would be a double blow for the Indian Government: it would stoke up anti-Indian fervour and give the Maoists a dangerous opportunity to bring the regime to its knees.

Manmohan Singh's influence in Kathmandu is extremely difficult to estimate, in light of his decision to restore military aid. Although he pledged an end to the suspension on 23 April, no shipments took place until 6 July.¹⁷⁹ The delay, perhaps partly a logistical issue, was undoubtedly connected to Gyanendra's provocative crackdown on the political elite at the end of April, including the arrest of Deuba, his former prime minister, on charges laid down by the Royal Corruption Control Commission.¹⁸⁰ Despite causing Singh embarrassment after his reconciliatory gesture – an external affairs spokesman described the arrests as "contrary to the assurances conveyed to us" – the Indian

¹⁷⁸ Price, Gareth. 2005. 25.

¹⁷⁹ BBC News. "Nepal receives India military aid". http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south_asia/4655071.stm; accessed on 3 August 2005.

¹⁸⁰ Mukharji, Deb. 2005.

Government declined to condemn the arrests, which were quite clearly politically motivated. It is difficult to assess whether this is an example of a continuing tendency to avoid public diplomacy or of a desire to avoid further diplomatic embarrassments. A second ban on military aid could make Indo-Nepalese relations even more volatile and reduce the Indian Government's putative leverage in Kathmandu.

There has been intense debate in the foreign policy community over what should be the proper course for India's Nepal policy. Before the royal takeover, B. Raman, a former bureaucrat in the Cabinet Secretariat, asserted that "India cannot be a silent spectator of the Maoists of Nepal winning in their military confrontation with the Government."¹⁸¹ This sentiment is shared by K.V. Rajan, India's ambassador to Nepal from 1995-2000, who wrote in 2003: "India, too, must accept its share of the responsibility – it has been a passive spectator for far too long, despite the obvious dangers [the Maoist insurgency] poses to its own security." Yet Rajan is not necessarily advocating the condemnation approach; he implored Indian agencies and the media to stop public admonishing of Nepal over anti-Indian activity, such as supposed ISI (Pakistan's secret service, Inter-Services Intelligence) agitation in Kathmandu.¹⁸² Rajan is obviously writing with an improvement of Indo-Nepalese relations in mind, rather than the pressing problems of human rights abuses and the suspension of democracy.

It is useful to compare India's policies since the takeover with its approach to Nepal's ongoing crisis before February. The coup was predicted by many, inside and outside Nepal. Hachhethu argues that Gyanendra's intentions were hardly hidden. Echoing Mahendra's warning before assuming executive power in 1960, Gyanendra

¹⁸¹ Raman, B. 2004. Para 4.

¹⁸² Rajan, K.V. 2003. 101; 117.

made the following statement on ascending the throne in 2001: “[t]he days of monarchy being seen but not heard, watching the people’s difficulties but not addressing them and being a silent spectator to their tearstained faces are over”.¹⁸³ These predictions and warnings beg the question: did the Indian Government know what the king was going to do? Taking into account the close relations between the Indian and Nepalese militaries, Deb Mukharji, a previous Indian ambassador to Nepal, wonders “how the royal coup of February 1, carried out obviously with the collaboration of the RNA, came as a complete surprise to India.”¹⁸⁴ Presuming that the Indian Government was aware of Gyanendra’s plans, or at least open to the possibility of another emergency takeover, it could be argued that India’s much-claimed “leverage” over Nepal is illusory, considering the personal, rather than institutional, nature of Nepalese government.

Security

In comparing British and Indian foreign policies towards Nepal, there is one inescapable difference: proximity. Nepal’s violence and instability cannot affect the UK with the intensity it has and will affect India. A long and extremely porous border is a burden – whether through refugees, insurgents and economic relations – that limits and affects India’s policy options; doubly so, if domestic insurgency is added to the equation. Broadly speaking, Indian analysts appear to be influenced chiefly by one of two perspectives: the plight of human rights in a neighbouring state; and fears concerning the security consequences of a successful and not unfamiliar insurgency in a neighbouring state. These are not mutually incompatible positions but perceiving one as a greater priority than the other is likely to influence one’s assessment of Indian foreign policy.

¹⁸³ Hachhethu, Krishna. 2005.

¹⁸⁴ Mukharji, Deb. 2005.

India's international cooperation concerning the Nepal crisis was not entirely a surprise to Indian commentators, given its cooperation, from mid-2002, with British proposals for a multilateral solution. Raja Mohan argues that the Indian security establishment "appears to have veered around to the view that it is no longer sensible to try and shut the international community out of the crises of the subcontinent."¹⁸⁵ India has also reached out to other parties, crucially towards China. Although China and Russia both declared the royal takeover a domestic affair, thus not open to the chorus of condemnation, Gyanendra's hope of Chinese support has not materialised. That the king was preparing for a cut-off of support from his democratic donors is evinced by key diplomatic moves in the run-up to the coup. The Dalai Lama's office in Kathmandu was closed in late January 2005, probably to please the Chinese.¹⁸⁶ In the wake of the arms suspension in February, Nepal's defence secretary, Bishnu Dutta Uprety, rebuffed threats to suspend military aid by pledging to explore alternative sources.¹⁸⁷ Although he was not specific as to sources, China is the obvious hope, being geographically close, capable of supplying military aid and with an interest in increasing her influence in the region. It appears that improved relations with India in recent years – agreements on disputed border settlement and Tibetan activists – are seen by the Chinese Government as more important than possible inroads into Nepal. The joint statement issued by the Indian and Chinese premiers on 11 April 2005 appears to confirm this.¹⁸⁸

What does seem to come as a surprise to many of India's security analysts are incidents of Sino-Indian cooperation. For example, a common explanation – and a likely

¹⁸⁵ Raja Mohan, C. 2002.

¹⁸⁶ Price, Gareth. 2005. 25.

¹⁸⁷ Roul, Animesh. 2005.

¹⁸⁸ Pradhan, Suman. 2005a.

one – for Gyanendra’s perceived arrogance towards his international donors in February was a firm belief that Beijing would bail him out in exchange for greater penetration of Nepalese society. Shankar Kumar, writing for the Indian political magazine *Hard News*, demonstrates a commonly held scepticism towards Chinese intentions, despite no evidence of significant Chinese support for the king. Kumar suggests that the deterioration of relations between the RNA and the Indian Army constitutes a real threat to Indian security. He illustrates his point by going down a well-trodden path:

There are 28 passes on the Sino-Nepal boundary... There is a possibility that through Nepal’s northern borders, any power (read China) can easily access the Indian mainland, since the Indo-Nepal borders are not separated by any natural barrier.¹⁸⁹

What he does not confront is the likelihood (or, indeed, logic) of a Chinese military invasion of India four decades after the last one. Ex-Ambassador Rajan addressed this fixation with India’s Himalayan security in a 2003 piece. While he accepted that “[b]oth China and Pakistan in the past deliberately stoked Nepal’s yearning to over-assert its nationalism vis-à-vis India”, he noted the significant amelioration of Sino-Indian relations and the possibility for a tacit understanding between the two countries on the security of the Himalayas.¹⁹⁰ Rajan also urged current leaders to build an India that would not fixate on every contact between China and Nepal, implicitly recognising Indian security neuroses stemming from defeat in the 1962 war.

Despite the gains made by Nepal’s Maoists against their government since 2000, the Indian strategic community and Government have been slow to make the connection with their home-grown insurgencies. The establishment of a South Asian Maoists coordination committee in June 2001 was largely ignored by the Indian Government and

¹⁸⁹ Kumar, Shankar. 2005.

¹⁹⁰ Rajan, K.V. 2003. 113-14.

certainly made little impact on policy.¹⁹¹ Perceptions have changed noticeably since the crisis in Nepal. B. Raman, in an article in February assessing the growth of Naxalite violence, declared: “[o]ur politicians should not be under any illusion that India is not Nepal and that this [rebellion] cannot happen here.”¹⁹² Admittedly, Raman’s concern is influenced by the amalgamation of Naxalite forces in September 2004 – the merger of the Maoist Communist Centre of India and the Communist Party of India (Marxist-Leninist- People’s War), now forming the Communist Party of India (Maoist). However, a Naxalite-Nepalese Maoist coalition constitutes a more serious threat and a more likely scenario if the Indian rebel groups are united.

The protection of human rights as a *solution* to the crisis, the insurgency and regional instability is a concept not wholly rejected by the foreign policy community or, indeed, the political elite in general. Muni has criticised the Indian Government for its “two pillar” policy of support for monarchy and democracy; the monarchy’s reluctance and hindrance of democratisation in Nepal, in Muni’s opinion, makes the two pillars incompatible.¹⁹³ Muni has advocated opening channels to the Maoists because, on practical grounds, they are a powerful player and because “they represent support of a large section of [Nepal’s] poor and oppressed masses in the mid-hill regions.”¹⁹⁴ Although a rejection of communication with “terrorists” is a central tenet of Indian policy, Muni is recognising that the Maoists do represent legitimate grievances – the root cause of the insurgency – despite their violence and potential threat to Indian security. The Government’s decision to suspend military aid in February 2005 can only be

¹⁹¹ Muni, S.D. 2003. 58. Muni states that India’s intelligence agencies simply made a “routine note”.

¹⁹² Raman, B. 2005. Para 43.

¹⁹³ Muni, S.D. 2003. 61.

¹⁹⁴ Muni, S.D. 2003. 65.

interpreted as a response to a human rights crisis. As SAAG's Geeta Madhavan has argued, the suspension was designed to "prevent the misuse of arms against the citizens of Nepal seeking to regain their lost rights."¹⁹⁵

However, serious attention has not been paid to human rights as a solution. The urgency of the crisis has provoked a reaction that concentrates on India's security concerns. The increase in domestic Maoist (Naxalite) violence has created an illusion of a nexus of insurgency – if not an illusion, it has been greatly overstated. Although pushed by its international partners into condemning the royal coup, India has reverted to its standard policy – since the 1990s – towards difficult neighbours: quiet diplomacy. The current developments seem to be echoing India's approach towards the Burmese junta after its condemnation of the Burmese democratic crisis of 1989-90.

c) A comparison of British and Indian policies

This paper set out to identify how, why, and to what extent, the foreign policies of India and the UK have differed in terms of human rights advocacy. Two worldviews have been presented: Robin Cook's ethical approach, with human rights at its centre; and the Curzonian worldview, which aspires to regional hegemony and responds primarily to traditional security concerns. To a large extent, these two mindsets can be described as internationalist and realist, or even modern (European) and traditional. More specifically, the former is representative of the development of supra-national goals and regimes – by striving to prioritise human rights in foreign policy, a state is recognising that it may have responsibilities beyond its own borders, to people who are not its citizens. The latter is defined by the "right" of the state (even a birthright) to influence proceedings, and even

¹⁹⁵ Madhavan, Geeta. 2005.

protect people, within its “natural” sphere. It is, therefore, not a whole-heartedly Westphalian model.

The Nepalese crisis is a highly suitable example because of its existence in both “spheres”: a major human rights issue and a (potential) South Asian regional destabiliser. At first glance, British and Indian reactions to Nepal’s current crisis appear similar. In an orchestrated move, both countries condemned Gyanendra’s assumption of executive power, withdrew their ambassadors and suspended military aid, employing forceful and public foreign policy tools. Yet within three months, India had (unofficially) agreed to resume aid and exports, the first shipments of military aid arriving in Nepal in July. Although it is difficult to predict what the British Government will do – its military aid policy is under permanent review – the fact that these Indian and British policies have diverged is significant, considering how extraordinarily coordinated their initial response was.

There are several possible reasons for this divergence. First, differing British and Indian attitudes – even standards - towards human rights may have resulted in divergent interpretations of developments since the coup. For example, Nepal’s Memorandum of Understanding (MoU) with the UNCHR may have been seen by India as a sufficient improvement in human rights commitments to merit the resumption of aid. Second, there may be little disagreement between the governments – the continuing British suspension could be the result of political pressure at home, from Parliament and NGOs, or abroad, from states with more institutionalised human rights agreements with the UK. Third, the Indian Government may be no more assured about Nepal’s human rights situation than it

was in February – security, or strategic, priorities could have trumped human rights concerns.

Of these three options, the first is the least likely. The Indian Government was clearly disturbed and frustrated by what is commonly seen to be political persecution of prominent politicians. Deuba's arrest and conviction by a commission controlled by the king outweighs any potential improvements heralded by the MoU. Democracy activists continued to be attacked by the police and the RNA throughout the summer. Promises to counter the culture of unaccountability in RNA human rights violations produced few tangible results. Even if Indian foreign policy incorporates a different conception of human rights to that envisaged by Cook, the human rights situation in Nepal between February and April (or even up to July) cannot be described as significantly improved.

The second scenario, that of behind-the-scenes agreement, is obviously much more difficult to dismiss. Despite increasing transparency in British foreign policy-making, there remains (and probably always will) an element of secrecy, which is arguably vital to diplomacy and intelligence.¹⁹⁶ However, certain attitudes can be inferred from British action and inaction. The FCO's refusal to break completely its relationship with the RNA – as seen in its defence of "humanitarian" military aid against Amnesty's criticisms – can be interpreted as disinclination towards black-and-white policy, even where the FCO has identified serious abuses of human rights. Perhaps by keeping military aid under review, the British Government feels it has more leverage in Kathmandu.

¹⁹⁶ Williams, Paul. 2004. 919. Williams points out that the intelligence services occupy a particularly important position in British foreign policy, especially in terms of budget.

There is a sense that Britain's historic and much celebrated relations are not to be squandered through a risky policy of all-out condemnation, which is exactly what many NGOs are suggesting. For example, the ICG, in its March report, advocated the following positions: suspension of the RNA from UN peacekeeping duties (and revenues); recourse to the International Criminal Court for "exceptionally serious violations"; and "making human rights protection a condition of military and other assistance".¹⁹⁷ Rhoderick Chalmers, the ICG's senior Nepal analyst, has argued that "'wait and see' is no longer a viable option" and that India, the US and UK should back up their strong advice with a "clear bottom line", including a diplomatic freeze.¹⁹⁸ Amnesty has focused on the military aid question, calling on the international community to suspend all military and security assistance, including "dual-use" equipment until Nepal complies with the UNCHR resolution of 20 April.¹⁹⁹ Human Rights Watch calls on the donor governments to "actively monitor" all equipment gifted or licensed to Nepal and to public condemn human rights abuses, especially enforced disappearances.²⁰⁰ These reports and recommendations have received considerable attention in the British media and in Parliament – they are probably a factor in Britain's vacillation over resuming "non-lethal" military assistance.

The third scenario places much greater importance on India's domestic security concerns. Fears that Nepal's insurgency is exacerbating Indian insurgencies have grown in the past few years and even more so since February. Manmohan Singh's address to the Rajya Sabha in March explicitly raised the problem of Maoist linkages with Naxalite

¹⁹⁷ ICG. 2005a. iii.

¹⁹⁸ Chalmers, Rhoderick. 2005.

¹⁹⁹ Amnesty International. 2005. 25-26.

²⁰⁰ Human Rights Watch. 2005b. 83-84.

extremists. The third interpretation also incorporates broader strategic concerns, such as India's place in South Asia. Although the Gujral doctrine of cooperation and respect for sovereignty has moved Indian foreign policy away from the interventionist tradition of the 1970s and 1980s, foreign policy-makers and analysts are still driven by a sense of India's importance in the region, especially in relation to Chinese or Western influence. Prime Minister Singh's relaxation of the military aid ban was promised at the Bandung Conference, an event redolent with strategic meaning for India.²⁰¹ April also saw a visit from Chinese officials to Kathmandu. It is likely that Singh's decision was more than slightly influenced by traditional fears of Chinese expansion into India's sphere – a development particularly feared and resented in the Himalayan arena. Improvements in relations with China under Vajpayee and Singh have consumed a great deal of effort and political capital. Rather than letting tensions resurface through Sino-Nepalese relations, Singh's decision prevented further deterioration in relations between New Delhi and Kathmandu.

India and Britain are not generally expected to react to international developments with identical policies. Conceptually, they have existed in different worlds for decades, in a political, economic and cultural sense. Yet the institutionalisation of international relations has emphasised common traits, most notably democracy. These two states share a very similar political system – parliamentary democracy and regular and free elections. Since the 1990s they have also shared the vicissitudes of party politics and transfer of government. The demise of India's Congress party as the “natural” and national party of

²⁰¹ The meeting in Bandung, Indonesia, was to celebrate the 50th anniversary of the 1955 Bandung Conference of African and Asian states. Many scholars have argued that the conference marked the beginning of serious Sino-Indian rivalry.

government has opened up Indian politics to a broader range of policy options, domestic and foreign.

Indian and British approaches to human rights also share common ground. Despite academic dissatisfaction with the philosophical crevasse that separates traditional values from the Constitution's modern rights-based approach to humanity, Indian politicians have rarely engaged in the "Asian" debate on universality. As a domestic ideology, human rights are regarded as part of modern, secular and diverse India. The prevalence of human rights abuses in India, though to some degree the responsibility of the state, are often the product of poverty and traditional religious mores; abuse of women, minorities or oppressed classes is not sanctioned by the state and cannot be described as part of the state's ideological stance on human rights.

The major exception to this is the behaviour of the armed forces in dealing with insurgencies. This is intimately linked with another significant difference with Britain – the comparative lack of international human rights obligations. The British Government has become enmeshed in a regional human rights regime that has curtailed its choices in domestic and foreign policies. Legal recourse for British citizens to the European Court of Human Rights has reduced its ability (should it be so inclined) to oppress its citizens with impunity. International obligations – rules, procedures and norms – constrain Britain in other ways; the British Government must prove to its European partners, as well as to its citizens, that its policies conform to the standards agreed by the regime.

India's international obligations are slight in comparison. Its most visible and high profile commitment is to the UDHR, a purely declaratory regime. India has punctiliously avoided involvement in international fora that address domestic rights, partly because it

has feared Pakistani activism and partly because of its own domestic problems of balancing rights protection with anti-insurgency activity. Being less beholden to international obligations gives India more flexibility than Britain in its foreign policy, as can be seen, for example, with India's cosy relations with Burma. Indeed, its resumption of military aid to Nepal was less difficult than a possible resumption of British aid would be. Although the British Government is not restricted by sanctions or a specific regime agreement, international and domestic criticism would arguably have more serious repercussions, in terms of reputation and political capital.

Chapter 4: Conclusions

a) Theoretical and conceptual conclusions

The analytical framework provided by Michael Smith has been concentrated in this paper; political ideology and the policy-making process have been the principal areas of analysis. It is no novel claim that political ideology affects a state's foreign policy. However, careful comparison of the recent developments in Indian and British political ideology suggests some important nuances. There is clearly a significant commonality in thinking shared by India and the UK, especially an association between democratic values and national self-image. Failure to prevent human rights violations in India could be attributed, in part, to the gap between modern constitutional rights and traditional attitudes. Yet poverty and regional instability are strong constraining factors. There is little evidence that traditional (or pre-British influence) Indian values have influenced public policy; implementation is subject to a wider set of factors.

The importance of domestic attitudes and policies is brought out by Brewin's theory. There is strong evidence for a link between domestic obligations and foreign policy. Britain's welfare state (and Tony Blair's "Third Way") involves a sense of obligation to protect the rights of the underprivileged – this is mirrored in recent statements by the Government on foreign policy:

Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.²⁰²

Blair's Third Way appears to hold more to Brewin's Gladstonian model in that social responsibilities are a common theme of the British Government's foreign aid and political

²⁰² Tony Blair, draft communiqué for the Progressive Governance Conference in July 2003. BBC News. http://news.bbc.co.uk/1/hi/uk_politics/3060699.stm; accessed December 2004.

diplomatic policies. India's history of state socialism would suggest a similar mentality towards the rights of others. However, its underdevelopment has implications for its capacity to provide for its own people's needs and the needs of those abroad.

It is clear that India and the UK are at strikingly different stages of development, though India's early and successful political development makes it an interesting comparison with Britain. A theory of "development" affecting foreign policy is likely to be amorphous and extenuated, for the simple reason that development is such a broad phenomenon and affects every element of national politics. For example, India's poverty, social problems, and the corruption of officials in some areas have been blamed for the prevalence of insurgency in the Northeast.²⁰³ Insurgencies limit a government's freedom of action abroad, for financial reasons and fears for security. The fact that India still suffers from widespread insurgency is a major influence on its foreign policy. In the case of Nepal, India is forced to approach the human rights situation mindful of its own security concerns. It is arguable that the Government has taken a more lenient line with Gyanendra than Britain has because it is reluctant to aid indirectly the Maoists, who are seen as a potential threat to the security of India's northern states.

This argument dovetails with the importance of geopolitics. India's human rights advocacy, which emerged to some extent in suspending military aid, is weakened when dealing with states in its own neighbourhood. If an alternative policy avenue presents a greater likelihood of reducing regional instability, India will be inclined to take it, as it has with Burma, with whom a policy of anti-insurgency cooperation has developed, despite Indian distaste for its human rights record. With Nepal, policy options are not so clear, on account of the Nepalese Government's weakness and the Maoists' failure to

²⁰³ Singh, Chandrika. 2004. 245.

make permanent military advances. The British Government's geopolitical situation, in terms of regional stability and distance from the Nepalese crisis, does not restrict its actions in the same way. It can therefore pursue its primary goal towards Nepal – a peaceful settlement of the conflict and an end to human rights abuses – without considering how it will affect British security.

The comparison of policy-making processes suggests that a more open system, as in the UK, will be more responsive to commonly held human rights concerns. The British Government, in its endeavour to make foreign policy a less mystifying and less closeted affair, has forced itself to abide more closely to its human rights commitments. Although many of the criticisms of Amnesty and other organisations concerning flaws in the arms control system are valid, there does seem to have been a genuine attempt to prevent British collusion in human rights abuses abroad, whether for ideological or practical reasons. Public and parliamentary scrutiny of policy-making has never been more intense in Britain and stands as a stark comparison to Indian foreign policy-making, which remains, on the whole, both secretive and of interest to a very narrow section of Indian society. The transparency process has not yet emerged in the Indian system, leaving the Indian Government more room to manoeuvre. This is not to say that Indian foreign policy is necessarily less “ethical” or less interested in human rights *because* of a less transparent policy-making process, though, with a touch of cynicism, it is more likely. What secrecy does allow is a broader range of policy tools to achieve goals that may or may not be ethical. For example, the Indian Government may perceive that the solution to the human rights crisis in Nepal is full cooperation with the king – a military or political

solution; or it may simply fear for the rights of many more individuals, as yet unaffected, if Nepal's government is allowed to crumble in the face of the Maoists.

Cook's vision of British foreign policy with human rights at its core is not entirely illusory. Human rights and the protection of the oppressed has become a crucial part of British self-image and thus a major influence on its increasingly transparent foreign policy. Indian foreign policy has, in many ways, moved away from a Curzonian, hegemonic approach. The influence of Gujral's softer diplomacy can be seen in New Delhi's nuanced, if ultimately flawed, approach to the Nepalese crisis. The previously unthinkable cooperation with foreign powers in Subcontinental affairs demonstrated a pragmatic and conciliatory approach that appears to be paying off. Rather than seeing strong ties to the US as damaging or dependent, better relations are now interpreted as part of India's fated rise to the top table of international politics. However, in the Government's aspirations for UNSC membership can be seen a Curzonian belief in India's importance, both regionally and globally. India may have approached the Nepalese crisis with tact but it still asserted its role as more than just a donor.

These conclusions bring attention to broader problems of comparative foreign policy and foreign policy analysis. Brewin's theory of a link between domestic and international obligations is a crucial factor in explaining why a state pursues a vigorous international human rights policy. By qualifying the argument, to take into account a country's development and geopolitical stability, a more comprehensive theory of human rights diplomacy can be approached.

Transparency in foreign policy-making should be considered as more than just a democratising process. Because of the clear relationship between foreign policy and

national self-image, a more public and democratic input to policy-making would suggest a more representative statement of national identity. This has important implications for understanding conceptions of human rights, especially in a state such as India, where human rights have a less deep-rooted history. Although factors such as development and regional insecurity can help to explain the contradictions between professions of democratic values and the occurrence of human rights abuses, it is likely that a shallow conception of rights plays some part in it. India's foreign policy, as an expression of national self-image, is formulated by a small elite; this must, to some degree, limit the accuracy of how India's citizens are represented.

b) Limitations and further study

The opacity of Indian foreign policy-making has provided unfortunate, though not entirely unproductive, limitations for this study. A comparison of British and Indian foreign policies would ideally analyse each process and development in both countries. Whereas over 50% of FCO documentation is unclassified, a much larger (and unspecified) proportion of MEA material is kept from public scrutiny.²⁰⁴ Greater access to Indian policy documents would undoubtedly provide greater insight into how and why policies are formed and what are the constraints on India's human rights diplomacy. However, the lack of transparency itself is evidence of how the foreign policy community operates and what the parameters of the debate are.

To test the claims of this paper concerning the differences between British and Indian human rights policies, it would be useful to use another case study or a broad

²⁰⁴ Dickie, John. 2004. 15. Dickie states that 55% of "traffic" is "Private Unclassified" and therefore available for public scrutiny.

representative selection. Nepal is a good example, in that it concerns both Britain and India for a variety of reasons, but its proximity to India inevitably affects that country in a different way to the UK. Comparing British and Indian reactions and policies towards a raft of human rights crises, both within and outside their regional spheres, might identify which factors are greater constraints on human rights diplomacy. For example, are Indian policies more overtly rights-driven towards countries where India has only economic and not security concerns?

India is undergoing a fundamental adjustment in its domestic and international economic affairs, most notably its liberalisation agenda. In addition, the prospects for regional stability are improving, especially relations with Pakistan and China. When, or if, these developments come to fruition, it would be interesting to see if Brewin's theory of domestic and international obligations was more or less applicable.

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