

Kathmandu School of Law Review

ISSN 2091-2110

Volume 6

Issue 2

November 2018

FOREWORD BY EDITOR-IN-CHIEF

Prof. (Dr.) Yubaraj Sangroula

FEATURE ARTICLE

A Critical View of Laws and Regulations of Artificial Intelligence in India and China

Prof. (Dr.) Avinash Dadbich

ARTICLES

Paradigm Shifts in Internalization of International Law: A Case Study of Growing Human Rights Jurisprudence in Nepal

Prof. Geeta Pathak

Wartime Violence and Post-conflict Situation: The Nepalese Experience

Dr. Gajendra Aryal

Bangladesh-Myanmar Maritime Boundary Delimitation in the Bay of Bengal: An Analysis on the Development of International Law

Md. Kamrul Hasan Arif

Increasing Status of Criminal Gangs in Post-conflict Nepal: The Case of Kathmandu Valley

Dr. Dipesh Kumar K.C.

Water as Human Right: Impact of Thai Binh 1 Thermal Plant Project on Domestic Water Supply of Riverine People in Chi Thien Village, Vietnam

Dinh Thi Thuy Nga

INTERDISCIPLINARY RESEARCH

Locating Nepalese Mobility: A Historical Reappraisal with Reference to North East India, Burma and Tibet

Gaurab KC & Pranab Kharel

Culture in Nepal: An Exploration of the Legacy and its Way Forward

Mamta Sivakoti & Sanjay Adhikari

Challenges Faced by Communities Moving Away from Chhaupadi in Far-Western Nepal

Fiona Gui Xiang Wong

LEGISLATIVE COMMENT

Bangladesh's Take on Restoring the Parliamentary Control over the Judiciary: New Course through the 16th Amendment to the Constitution

Syed Morshed Rahad Udin

STUDENT ARTICLES

Battered Women Syndrome: Need for Judicial Objectivity

Dibya Shrestha & Nisba Bhandari

Human Rights Violation of Transgender People: A Critical Analysis on Bangladesh Perspective

Puja Mitra

BOOK REVIEWS

South Asia China Geo-Economics

Dr. Atindra Dahal

Right to Have Rights

Arzoo Karki

An Introduction to World Trade Organization

Sagar Baral & Sampurna Basnet



Kathmandu School of Law (KSL)

Suryabinayak-4, Bhaktapur, Nepal, Ph: 6634455, 6634663,

Email: info@ksl.edu.np, www.ksl.edu.np

Increasing Status of Criminal Gangs in Post-conflict Nepal: The Case of Kathmandu Valley

Dr. Dipesh Kumar K.C.*

Abstract

The paper has objectives: to explain the gang phenomenon in Kathmandu Valley, their causes of effectiveness, the politicization of criminal gangs in the post-conflict situation, and the counter-product of governmental intervention. It has discussed the present challenges that the Valley has been facing, and possibilities of future challenges it has to confront. Youths' identity crisis, social opportunities, rapid urbanization and incorrect approaches to gangs' suppression are the key frameworks to find out the causes behind the criminal gangs being increasingly active in Kathmandu Valley. Interestingly, marginalized and suppressed social members feel secure and protected in the gang. The researcher has identified that the criminal gangs are the social fact of the rapidly urbanized society of the Kathmandu Valley where prevention policies have been neglected a lot. As a result, suppression policies have failed, thus, the new forms of gang-related crimes have emerged and expanded far and huge.

Background

Various types of criminal gangs are often found deeply enrooted in the society as a strong institution.¹ They tend to progress and make an increasing mobility during the situation of social change, economic transformation and political transition. Their rapid advancement seems robust in the urban areas such as Kathmandu Valley, besides others, which ostensibly has faced many challenges like uncontrolled migration, unemployment, and inequality, largely cast as the result of the armed conflict. Currently, the situation of Kathmandu valley is as 'the jungle of fear' as many gangsters are active in creating the hubs in the numerous areas.² Interestingly, they are disproportionately associated with the particular regions, castes and ethnic groups. On the other hand, criminal gangs have actively functioned as a powerful institution in the social milieu where other institutions are weak and have evidently failed to play their prescribed roles and responsibilities.

After political change in 1990, numbers of small gangs progressed into organized

* Dr. Dipesh Kumar K.C. completed his Ph.D from Centre for the Study of Social Systems, Jawaharlal Nehru University, India.

¹ Subindra Bogati, 'Towards a Safer City', *The Kathmandu Post*, 11 September 2014 available at <http://kathmandupost.ekantipur.com/printedition/news/2014-09-10/towards-a-safer-city.html>, accessed on 19 July 2016.

² Gopal Dahal, 'Khor ma Gunda [Gunda in Custody]', *Sukrabar*, 14 March 2014, pp. 1-3.

criminal gangs.³ Political transition ensures better environment for the formation and reformation of new gangs. The report of World Bank has demonstrated the increment of criminal gangs' activities in post-conflict Nepal.⁴ These reports are not uniformed about the number of gangs, criminals and non-criminals in Kathmandu Valley; however, several studies accept and attempt to clarify these issues. According to the Nepal Police, there are approximately 300 gangs active in the Kathmandu Valley in terms of illegitimate power and networks; and among them, 16 gangs are of Level 'A', 42 of Level 'B', 47 of Level 'C', and rest are of fringe, respectively.⁵ Twenty-one criminal gangs are active in Kathmandu Valley with total 300 members in 13 big groups, who were diffused from old gangs after the internal conflict.⁶ However, the accurate total number of gangs including small gangs, whether criminals or non-criminals, existing in all the corners of the city are not yet fairly reported. The gangs contain 10 to 30 members with strong connections to the political elite.⁷ The majorities of the members in such groups are the youths and belong to the marginalized community and region.

Criminal gangs have begun to terrorize the Kathmandu Valley in new ways and patterns after the comprehensive peace agreement (CPA⁸) was signed in 2006 between The Government of Nepal and the then The Communist Party of Nepal (Maoist). According to the report of Saferworld, formation and activities of criminal gangs have increased in and around the Kathmandu Valley in the post-conflict area.⁹ Similarly, as per the report of K.C., there is tremendous rise in organized crimes after the peace agreement¹⁰; before that situation, for about a decade, only three organized criminal gangs were allegedly actively involved in the Valley in the vested economic interest with political backing.

There are social, political as well as economic reasons, which are essential to be examined, behind the gang-formation. Only hating the gangs and labeling them as a prime source of crime and insecurity bear not any desired outcome than to contribute in re-generating and multiplying the problems. One cannot and ought not to overlook the social cause of formation of gang, which is a social fact as well as one of the significant characteristics of urbanization and modernization, as that may inject chaos in the society. Governmental bodies, especially Nepal Police including others, have attempted to address the challenges but the result is inadequate and moreover counterproductive, showing increment and strengthening of gangs rather.

³ Dambar Krishna Shrestha, 'Gunda ko Samrajya [Gangsterlands]', *Himal*, 1 August 2011.

⁴ The World Bank, Conflict, Security and Development, *World Development Report 2011*, 2011, p.55.

⁵ Rajesh Bhandari, 'Kathmandu ma Tin Sreni ka Gunda Sakriya, Kun Area ma kun Party ko? (Three Levels of Gundas in Kathmandu)', *Ratopati.com*, 3 November 2017 available at http://ratopati.com/story/20164?utm_campaign=shareabolic&utm_medium=facebook&utm_source=socialnetwork, accessed on 26 January 2018.

⁶ Ibid.

⁷ The World Bank (n 4).

⁸ In 2006, the Comprehensive Peace Agreement was signed between The Government of Nepal and armed Communist Party of Nepal (Maoist) that signified the end of a decade-long armed conflict and Nepal transitioned into the peace process.

⁹ Saferworld, *Perceptions of Public Security and Crime in the Kathmandu Valley*, Saferworld Nepal Programme, Lalitpur, 2012.

¹⁰ Manoj Kumar KC, *Identifying Effective Measures to Combat Organized Crime in Post-Conflict Nepal: A Case Study from Kathmandu*, November 2012.

Theoretical Perspectives

When aspirations are blocked, there are possibilities of greater proliferation of gangs in working-class communities, and, as output, a collective form of delinquency occurs.¹¹ They identify that lower-class youths prefer limited legitimate and more available illegitimate opportunities than middle-class youths do the same. Young people from the poor background cannot compete equally for success but refuse to abide by its norms and conventions, as a result, they organize themselves into sub-cultural units that abet and prod them for criminal behaviors. Social structure creates the precondition for the formation of youths' subculture; and the precise form it takes is shaped by the pattern of already existing criminal networks operating around it.¹² Concisely, established criminal network works as role model for young people.

The geographical characteristics of a specific location can also influence social life as well as situation of crimes. According to the opportunity theory, delinquent subcultures emerge and persist in lower class areas where there are enough youths to band together and support one another against their remoteness and estrangement from the conventional values in pursuit of illegitimate opportunities that exceed the number of legitimate opportunities for success.¹³ They seek to expand companionship or gang delinquency in the lower classes; and the existence of pressures that tend to create delinquency subcultures in terms of the limited opportunity to find legitimate means to goals, and the availability of illegitimate means within modern urban life.

Opportunity theories of crime explain that patterns of criminality and victimization are correlated to the situational factors.¹⁴ Criminal opportunities and criminal motivation are both situational dependent.¹⁵ The environmental-level context that creates an opportunity for crime is tied to the collective, or aggregate, features of people and objects that reflect the concentration of motivated offenders, attractive targets, and capable guardianship. Development of society has the close association with the changes and even to the development of crime pattern. Felson has suggested "as society changes and grows, it can become a more suitable environment for crime."¹⁶ The crime opportunity is a mediating factor between low self-control and crime.¹⁷ Criminal opportunities are not evenly distributed throughout society, indeed, consist of both opportunities to learn then perform skills and lines of activity, and are differentially

¹¹ Richard A. Cloward & Lloyd E. Ohlin, *Delinquency and Opportunity: A Theory of Delinquent Gangs*, The Free Press, Illinois, 1960.

¹² Walter B Miller, 1958 'Lower Class Culture as a Generating Milieu for Gang Delinquency,' vol. 14, *Journal of Social Issues*, 1958, pp. 5-19.

¹³ Ibid.

¹⁴ Jessica R. Dunham, 'Lafree, Gry D and Christopher Birkbeck: Situational Analysis of Crime', in Francis T. Cullen & Pamela Wilcox (eds), *Encyclopedia of Criminological Theory*, Sage, New Delhi, 2010, pp. 538-540.

¹⁵ Richard Wortley, 'A Classification of Techniques for Controlling Situational Precipitators of Crime', vol. 14, *Security Journal*, 2001, pp. 63-82.

¹⁶ Marcus K. Felson, *Crime and Everyday Life*, Pine Forge Press, Thousand Oaks, 1998.

¹⁷ Michael R. Gottfredson & Travis Hirschi, *A General Theory of Crime*, Stanford University Press, Palo Alto, 1990, p. 90.

available according to one's social statuses and the groups or networks in which one's life is embedded.¹⁸ Thus, social variables are determining factors, which likely ensure the opportunities for both motivation to and discouragement on crimes, whereas the available social milieu has interlinks on every single issue of such variables.

Social Aspects of Gang Formation

The gang may be regarded as an interstitial element in the framework of society and the gangland as an interstitial region in the layout of the city.¹⁹ According to Klein, gangs are by-products of their communities as attacks on symptoms alone cannot control them; community structure and capacity also must be targeted.²⁰ Gangs are normally created in the cracks or along the boundaries of society and the gang members are not in the mainstream and do not have the advantages that others do possess.²¹ Furthermore, he explains that gangs are often composed of individuals who are of the lower class, left out, and ignored or isolated from the rest of society.

Age, sex, caste, class, ethnicity, region, and religion repeatedly appear as decisive criteria for gang's membership. One of the compelling factors of crime is the feelings of social alienation so that youths join gangs because they do not feel connected to the existing social institutions.²² The formation of the gang is not abnormal, but rather a normal response to an abnormal situation.²³ Gang members are usually recruited from vulnerable areas, especially youths from the marginalized communities. Gangs form within larger subcultures that may be organized racially, ethnically, politically, religiously, or economically.²⁴

The main reasons that youths opt to involve in gangs are following: gaining power, gaining prestige, gaining protection and surviving in the available environment. The monetary interest may also be hidden in the gangs in their process of development. Although the gang's reputation is notorious and risky, still youngsters join such groups. Job opportunities are available in the criminal gangs for the young and whereas legitimate jobs are much harder to get. As per the report of Bogati, "although approximately 70 percent of the youths in Nepal are educated, unemployment ratio is high; as a result, most of the young people, who enter the labour market every year in Nepal, remain jobless thus get motivated towards the groups engaged in the use of 'muscle power', especially criminal gangs."²⁵

¹⁸ R. A. Cloward, 'Illegitimate means, anomie, and deviant behavior', *American Sociological Review*, vol. 24, 1959, pp. 164-176.

¹⁹ Frederic M. Thrasher, *The Gang: A Study of 1,313 Gangs in Chicago*. University of Chicago Press, Chicago, 1927, p.22.

²⁰ M. W. Klein, *The American Street Gang*, Oxford University Press, New York, 1995, p.147.

²¹ Cloward (n 18), p.22.

²² Ibid.

²³ Irving A. Spergel, 'Youth Gangs: Continuity and Change', vol. 12, *Crime and Justice*, 1990, pp. 171-275.

²⁴ Robert J., Franzese, Herbert C. Covey, & Scott Menard, *Youth Gangs*, 3rd edn, Charles C Thomas Publisher, Springfield, 2006, p.9.

²⁵ Bogati (n 1).

The psychosocial impact on a generation of the youths, who have witnessed or participated in or fled from the armed conflict-related violence, was never adequately addressed.²⁶ Also, government actions have always played significant roles in the transformation (strengthening or weakening) of the gangs. Civil wars and other types of internal instability have contributed to the criminal gangs to flourish further. They fill the vacuum formed due to social disorder and security lapses. Varied forms of criminal activities make post-conflict societies suffer at large. Haiti, where well-organized gangs are strong enough and even hold control on number of ports; and Liberia, where trafficking in weapons, persons, drugs, and natural resources are continued in post-conflict era as former combatants have transformed themselves into organized crime rings; and Afghanistan, where drugs lords are active and strong are some grave and glaring examples.²⁷ Post-conflict problems contribute to gangs' formation in Nepal as well. Violent activities of politically affiliated gangs in the post-conflict era are repeatedly noted.²⁸ Criminal gangs are flourishing in the security vacuum.²⁹ Such gangs are getting privileged in the post-conflict transitional socio-political settings of Nepal.

The historical background of the active gangsters in Kathmandu reads that three of them are talk of the town in different areas such as *Dipak Manange* alias Rajib Gurung in Thamel, tourist area; *Milan Gurung* alias *Chakre* in *Maharajgunj-Chakrapath* area, and *Raju Gorkhali* in *Chababil* area, respectively.³⁰ Meanwhile, there is a division of crimes amongst such gangs as they deal with real estate, lending money to businessmen with extortionist interest rates.³¹ The scenario has been changed that the gangs, whose criminal activities progressed both qualitatively and quantitatively in the valley, are socially described as melting pots. *Manange gang*, lead by Dipak Manange and *Chakre gang*, lead by Milan Chakre are surpassed by other gangs formed in the new social environment as well as the consequence of internal split and divisions in the existing gangs. Internal conflicts between two powerful gangs provide an opportunity to develop others.³² There are formations of new criminal gangs in the post-conflict Nepal.³³ Hence, violent conflicts between the gangs are frequently identified among the members of such gangs.

Urbanization

The Urban setting is viable for the crime as that the youths get opportunities for

²⁶ John G. Cooper (ed), *Youth Gangs: Causes, Violence and Interventions*, Nova Science Publishers, New York, 2009, p.7.

²⁷ Colette Rausch(ed.), *Combating Serious Crimes in Postconflict Societies: A Handbook for Policymakers and Practitioners*, Peacebuilding and the Rule of Law, United States Institute of Peace, 2006, p.3.

²⁸ Jaideep Gupte & Subindra Bogati, 'Key Challenges of Security Provision in Rapidly Urbanising Contexts: Evidence from Kathmandu Valley and Terai Regions of Nepal', *Institute of Development Studies*, England, 2014.

²⁹ Russell S. Sobel & Brian J. Osoba, 'Youth Gangs as Pseudo-Governments: Implications for Violent Crime', vol. 75, *Southern Economic Journal*, 2009, pp. 996-1018.

³⁰ Bhandari (n 5).

³¹ Saferworld (n 9), p.5.

³² Dipesh Kumar KC, *Nepal ma Sangatbit Aparadh [Organized Crime in Nepal]*, Brother Books, Kathmandu, 2013, p.74; Bhandari (n 5).

³³ Saferworld (n 9).

joining gangs. Criminal gangs are relatively rampant in developed and industrialized areas than in less developed and non-industrial areas. Youths' gangs are more prevalent in urban than in rural settings and appear to be more prevalent in more developed and industrialized countries than in less developed cum non-industrial countries.³⁴ A study on the Gangs in Chicago has concluded that the gangs are more evident near the factories and railroads.³⁵ Despite different ethnic and racial groups inhabiting the city and surrounding areas over a time, the highest rates of delinquency are in the zones closer to the center of the city and are noted in declining trend with distance from the center of the city.³⁶ Regarding the gangs in Nepal, they are active in the Kathmandu Valley and other fast growing mid-size cities in Terai, as well.³⁷ Similarly, youths' gangs may be an endemic feature of urban culture that varies over time in its form, social meaning, and antisocial character. Similarly, the criminal gang associated with the majority of youths is the feature of urban crime. It also has outlined the Kathmandu Valley as active in disturbing form and character in the period of the peace process.

The urban milieu is deemed as the fertile place for the formation of criminal gangs. On the other hand, normal gangs may get an appropriate environment for shifting towards criminal activities. As noted by Hagedorn, the permanent status of youths' gangs within the urban setting results from the unsolved and worsening problems of economic segregation and segmentation; thus, opening the door for gangs become more intensely engaged in the profitable criminal drug trading.³⁸ The urban community seems to possess the favorable circumstances, conditions, and opportunities for the continuation of criminal practices, and to attract those partly sophisticated offenders who are interested in pursuing criminal careers.³⁹

The rapid scale of urbanization and modernization of Kathmandu Valley generates further challenges of gang-related crimes.⁴⁰ On the other hand, they argue the coincidence of youths' bond with rapid urbanization, especially in the context of unemployment and poverty. Urban Nepalese society is becoming increasingly criminalized, especially with the proliferation of youths' gangs. The rise in youths' gangsterism in urban Nepal seems to be posing a new social threat to the larger community. Emerging youths' gangs are engaged in extortion, trafficking of illegal goods, murders etc. The youths' gangs involved in the robbery in Kathmandu Valley also have a close interlink with rapid urbanization.⁴¹ Those youths have entered Kathmandu for better jobs and bright

³⁴ P. Friday & L. Stewart, *Youth Crime and Juvenile Justice*, Praeger Publishers, New York, 1997.

³⁵ Frederick M. Thrasher, *The Gang: A Study of 1,313 Gangs in Chicago*, University of Chicago Press, Chicago, 1927.

³⁶ Clifford Shaw & Henry McKay, *Juvenile Delinquency and Urban Areas*, University of Chicago Press, Chicago, 1942.

³⁷ Jaideep Gupte & Subindra Bogati, *Key Challenges of Security Provision in Rapidly Urbanising Contexts: Evidence from Kathmandu Valley and Terai Regions of Nepal*, Institute of Development Studies, Kathmandu, 2014, p.5.

³⁸ J.M. Hagedorn, 'Gangs and the Informal Economy', in C.R. Huff (ed) *Gangs in America*, Sage, Newbury Park, CA, 2002.

³⁹ Walter Reckless, *The Crime Problem*, Appleton Century Crofts, New York, 1967, p.283.

⁴⁰ Rausch (n 27).

⁴¹ K.C. (n 32), p.169.

future; and huge ambition of monetary gain motivates them towards robbery. On the other hand, the gang confrontation becomes violent as that several cases of murders and severe injuries of youths' gang members have been regularly reported.⁴² The prime causes of increasing gangsterism in Kathmandu are fragile transitional phase, the unaccountability of the Police, political interferences on gang-related issues and impunity for the gangs, respectively.⁴³

Society of Criminal Gangs

Several reports have demonstrated that the majority of the gang leaders and members belong to the regions outside the Kathmandu Valley, especially districts close to the valley. The criminal gangs active in the Kathmandu Valley are largely comprised of young men from marginalized communities in Kathmandu's surrounding districts.⁴⁴ Alienated or marginalized youths are more likely to join gangs than those young people who fully participate in school or works.⁴⁵ Yet each of ethnic people is not fully integrated into the mainstream socioeconomic and political system. They are in margin because of discrimination, prejudice and differences in culture. Thus, blocking in social and economic opportunities results in an increasing probability of membership in youths' gangs.⁴⁶ Youths have limited opportunities of job in the competitive market, less choice in the family, less responsibility in the community; thus, their identity remains in crisis from national to local levels. According to Spergel, "The youths' gang is highly adaptive. It provides psychological, social, cultural, economic, and even political benefits when other institutions such as family, school, and employment fail. The individual grows and develops and learns to survive through his/her gang experience."⁴⁷ Joining gang is also associated with the protection and empowerment as that the marginalized youths are enforced to be the gang member. Many members initially join the gang for protection.⁴⁸ In Nepal, ethnic people are not entirely integrated into the mainstream socioeconomic and cultural system; in addition, their marginalization is the consequence of discrimination, prejudice, and differences in culture. Hence, they are vulnerably forced to join the criminal gangs. In some stances, they express their revolt through their gangs. The news report of Sukrabar has noted that gangsters identified themselves as their ethnic or regional identities⁴⁹, such as "Manange" and "Kavreli" group and so on. Manange is the group led by a gangster from a Himalayan District of Nepal, Manang. Meanwhile, Kavreli group is formed by the members from Kavre District, adjoining district to Kathmandu Valley. The magazine report has outlined, "*Kavreli*

⁴² Ibid, pp.186-187.

⁴³ Kathmandu School of Law, 'Research on Situation of Organized Crime in Kathmandu City after April Movement'. vol. 65 *E-Bulletin*, Kathmandu School of Law, Bhaktapur, 2006, available at <http://www.ksl.edu.np/files/large/5855fef683ae03a>, accessed on 19 July 2016.

⁴⁴ Saferworld (n 9), p.7.

⁴⁵ Gupte & Bogati (n 28), p.4.

⁴⁶ Franzese, Covey & Menard (n 24), p.206.

⁴⁷ Spergel (n 23), p.222.

⁴⁸ Sobel & Osaba (n 29).

⁴⁹ 'Kahile Samatinchan Ei (Fugitive Criminals?)', *Sukrabar*, Nepal, 14 March 2014, pp.5-9.

group was formed after the confrontation with *Manange group*. Similarly, Chari led gang was formed after a confrontation with Chakre gang. Kaji Sherpa was a bouncer in a dance-bar, later he joined Manange gang then gained power.⁵⁰

Ethnicity is undeniably linked to the phenomena of gang formation, gang membership, and to the structure and types of youths' gangs.⁵¹ Similarities on social factors optimize probabilities of integration points among the youths. The notorious youth gang, active in the robbery, was from the same village and almost all members belonged to the same ethnic groups, *Magar*, of that village in Ramechhap district, with a distance of 122 km from Kathmandu.⁵² Relatively common class, community, origin place, ethnicity, age and gender similarities among them are advantages to unite for the gang formation.⁵³ Similarly, other gangs are formed and united on the basis of their similarities on socio-economic variables. They also have the trend of establishing their gangs' identity in terms of the region rather than leader's name. In comparison to a decade back's two active criminal gangs, the present circumstances have, by large and far, been changed as that a dozen of organized gangs active in Kathmandu Valley are enlisted. They are actively involved on certain boundaries of the city and their members have similar economic and social background. Hence, the above circumstances show that the gangs are increasing in number; and the possibilities of formation of significant numbers of gangs are higher if the ratio of increment will be continuous. Although certain gangs are formed and even dissolved due to the strict police action, more numbers are reproduced than the eliminated numbers. For example, the active notorious gang, *Black Spider*, active in the mid of last decade of 21st century, got wiped out away after its leader and members are arrested.⁵⁴ However, new gangs are formed in the last decade as well as present decade due to a split of the old gangs or the creation of the situation that brings the certain disgruntled or absconded members together. Youths, involved in the decade-long Maoist insurgency, were also extremely and valuably identified in the formation of criminal gangs after they were denied in to the reintegration and rehabilitation process.

Gangsters in Nepal are handling the parallel reign in the society because they are connected with political parties, police and administration too.⁵⁵ They are progressed and have been gaining the powerful positions in the political parties as well.⁵⁶ Politicization of gangsters is in practice that the gangsters are overtly activated in the politics for the political protection as well as veiling their criminal activities.⁵⁷ Political leaders have misused gangsters for their vested interest to win the election

⁵⁰ Bhandari (n 5).

⁵¹ Franzese, Covey & Menard (n 24), pp.219-220.

⁵² Dipesh Kumar KC, *Causes & Consequences of Dacoity: A Case Study of Kathmandu Valley*, Brother Books, Kathmandu, 2009, p.32.

⁵³ K.C. (n 32), p.26.

⁵⁴ Dipesh Kumar KC, *Crime and Money in Nepal*, Brother Books, Kathmandu, 2013, p.207, p.36.

⁵⁵ Bhandari (n 5).

⁵⁶ K.C. (n 32), pp.147-148.

⁵⁷ Navin Jha, 'Crime and Politics', *Nepali Times*, Lalitpur, 7 April 2016.

and monetary pursuit.⁵⁸ Most of the gangs have political backing and the gang leaders show their pride being the members of the political party and remaining close to the influential leader/s of respective parties. Political support and police's protection have encouraged the gangsters to have a good hold in various business sectors like real estate, manpower agency, nightlife business, construction bidding, sand-mine, parking, restaurant, smuggling, complex and multiplex leasing and subleasing; and have some become high-class constructors as well.⁵⁹ Furthermore, the criminalization of politics entails the difficulties on the separation of political youth groups and the criminal gangs.⁶⁰ On the other hand, the gang formation has a close link with the criminalization of politics and politicization of crime. In several cases, political leaders pressurize to free the gangsters from the custody.⁶¹

Post-conflict Advantages on Gangs

Post-conflict crime is a challenge in post-conflict countries as that unprecedented rise in criminality has been accounted. Benefitting from the instability, political patronage and attraction of money and power, gangsters' bosses have emerged and expanded largely in post-conflict society. The post-conflict environment has set the viable environment to motivate youths towards crime.⁶² After the Maoist insurgency, political parties began to identify gangster as a better means to defend armed and semi-armed Maoist cadres. According to the report of The Carter Center, larger political parties misused criminal gangs to tackle the challenges from their opponent, Maoist's youth force (YCL). Furthermore, the report mentions that their members were criminals and were recruited from criminal groups.⁶³ During the decade-long Maoist insurgency, and its aftermath, gangs got better social, economic and political opportunities to be organized and youths were highly attracted in the robbery, kidnapping, threatening ordinary people as means of easy money. There are over 100 criminal gangs in the country, especially in Kathmandu Valley⁶⁴, and the most powerful are highly organized and active in generating crime types for monetary interest. Gangs indulge in the works such as kidnapping, robbery, gambling, drugs trafficking, smuggling goods etc. They also provide support to the international criminal gangs in the cross-border illegal trade through the country.

In the present political changes, the government has forcefully taken actions against the gangs to result the inactiveness of such gangs. However, the situation may be

⁵⁸ K.C. (n 32), p.37.

⁵⁹ Ibid p.186; Bhandari (n 5).

⁶⁰ Saferworld (n 9).

⁶¹ Bhandari (n 5).

⁶² UNICEF, *Assessment of Child Protection Concerns of Children in Terai Districts*, UNICEF, Kathmandu, 2009.; Matenia P. Sirseloudi, 'Early Detection of Terrorist Campaigns', in Alex P Schmid (ed) *United Nations Office on Drugs and Crime: Forum on Crime and Society*, vol. 4, UN, New York, 2004.

⁶³ The Carter Center, 'Clashes Between Political Party Youth Wings have Decreased but YCL and UML Youth Force Continue to Seek Financial Gain', *NEWS*, The Carter Center, Atlanta, 28 Feb 2011, p.10.

⁶⁴ Bhandari (n 5).

only of silence before the real catastrophe occurs because of the lack of policy on the youths' issues intended to tackle the gang formation. Paradoxically, fleeing away from the institutions was higher in Nepal Army and Nepal Police during the Maoist insurgency period. There are cases that such fled youths also have formed new gangs or joined criminal gangs. A gangster active in Kathmandu Valley was noted as fled from the Nepal army then formed a gang by integrating fled armies and police members.⁶⁵

Governmental Intervention

The question may arise: is crime prevention a national priority? The government focuses on intervention and more in suppression rather than prevention; as a result, attempts to discourage the youths in joining and forming criminal gang are noticeably nominal. The government's response to the gangs' activities was traditionally a zero tolerance approach, as a result, these policies not only further entrenched gangs within Salvadorean society but also increased human rights abuses including extra-judicial killings.⁶⁶ Similarly, extra-judicial killings are also recorded in treating gang-related crimes in Kathmandu Valley. In 2014, a controversial "police encounter" was accounted in Kathmandu that preyed a young gangster to police.⁶⁷ He has further explained that a gangster, Chari, was killed in a movie-styled police encounter.⁶⁸ However, Chari's end does not mean an end to the criminalization of politics and politicization of crime. On the other hand, Police has tracked for the surveillance of gangsters through the global positioning system⁶⁹; however, it was not effective in combating gang-related criminal activities permanently.

The government has a major role in managing youths and solving their problems. Failure in solving problem brings further challenges; and the policy being not appropriate to address the problem turns to be counter-productive. The failure of governmental effort to protect the rights of individuals from violence committed by youths has led to the formation of youths' gangs as protective agencies.⁷⁰ In such social milieu, youths not only go motivated towards criminal gangs but also progress into organized groups or become in touch with them. The cause behind the emergence of the Sicilian mafia area is lack of strong governmental protection of property rights.⁷¹ Certain conditions like a loss of legitimate state power and the presence of illegal markets encourage the formation of mafia.⁷² Social environment fuels the gang formation. Opportunities also are related to viable economic conditions, such as smuggling of goods are primarily

⁶⁵ Sukrabar (n 49), pp.5-9.

⁶⁶ Rausch (n 27), p.25.

⁶⁷ Dipesh Kumar KC, 'Gangsterlands', *Nepali Times*, 15 August 2014.

⁶⁸ Ibid.

⁶⁹ Bhandari (n 5).

⁷⁰ Sobel & Osaba (n 29).

⁷¹ Oriana, Bandiera, 'Land reform, the market for protection, and the origins of the Sicilian mafia: Theory and evidence', vol. 19, *Journal of Law, Economics, and Organization*, 2003, pp. 218-244.

⁷² Annelise, Anderson, 'Organised crime, mafia and governments', in Gianluca Fiorentini & Sam Peltzman (eds), *The Economics of Organised Crime*, Cambridge University Press, Cambridge, UK, 1995, pp. 33-54.

common in border areas. As listed by Skaperdas, certain contributing factors for the birth and growth of gangs and organized crimes are illegal markets along with ethnic and/or social distance from mainstream society.⁷³

Gangs can evolve in the power vacuum. Similarly, gangs' members begin to express a sense of territory and start to control over that territory. On the other hand, development of gangs is enhanced by the state in quest of meeting certain security-related goals. Protection of gangs by the security forces is a strategy of strong countries. It is claimed that underworlds are protected by both India and Pakistan to make security related strategies success. Certain criminal gangs operate throughout Nepal or and even affiliated and linked with organized crimes in other countries such as India, China, Thailand, Pakistan and Dubai.⁷⁴ Youths' gangs tend to develop during times of rapid social change and political instability.⁷⁵ They function as a residual social institution when other institutions fail to provide a certain degree of order and solidarity for their members.

After meeting certain strategic goals, state concludes that gangs are the danger for the society. Security forces take strict actions against such groups in order to weaken or erase them. As mentioned by Duffy, 320 young people between the ages of 13 and 27 were violently killed in Honduras in the year 2000 by security agents as a form of social cleansing.⁷⁶ Fake encounters are noted in cities of India and Nepal too. In August 2014, a controversy that a gangster was encountered was clearly aroused.⁷⁷ Nepal Police has forwarded strict action against criminal gangs by categorizing them into three classes according to their impact factors in the society.⁷⁸ First class gangs are highly organized and motivated for monetary interest, second class gangs are active in the certain areas and guided by first class gangs, and the third one has no connection with first and second as that they are active in their capability rather than any kinds of political and another backing. Organized criminals wield parallel power in countries in the throes of political transition. Youth unemployment and youth involvement in organized crime become two primary concerns of Nepal's urban settings.⁷⁹ Newly formed criminals gangs are identified for committing organized crimes in the Kathmandu Valley.⁸⁰

Politicization of Criminal Gang

Historically, gangs had been tools for entrenched politicians.⁸¹ Politically motivated

⁷³ Stergios Skaperdas, "The political economy of organized crime: Providing protection when the state does not", vol. 2, *Economics of Governance*, 2001, pp. 173-202.

⁷⁴ Saferworld (n 9), p.2.

⁷⁵ Spergel (n 23).

⁷⁶ Marureen P. Duffy & Scott Edward Gillig (eds), *Teen Gangs: A Global View*, Greenwood Press, London, 2004, pp.110-111.

⁷⁷ K.C. (n 67).

⁷⁸ Bhandari (n 5).

⁷⁹ Bogati (n 1).

⁸⁰ Saferworld (n 9), p.7.

⁸¹ Franzese, Covey & Menard (n 24), p.121.

organized crimes are accounted in Nepal where politicians misused the criminal gangs for their vested interest and used them in raising funds for their party, demonstrating street power and serving other political purposes.⁸² Gangsters Dinesh Adhikari alias Chari, Kumar Shrestha alias Ghaite and Manoj Pun, who later fell prey into the “police encounter”, were reported of being affiliated to the powerful politicians of the main political parties.⁸³ Such gangsters are deployed to dominate or forcefully control the rivals, especially at the time of the election. Criminal gangs make affiliations with local political leaders and render services to local political bosses. Also, they exert pressure, through its internal alliance with local political machines, on local police, bureaucrats and other law enforcement agents. It makes a place for gangsters. Both politicians and organized criminal groups use gangsters for their vested interest.

Regarding the case of Bihar, the nexus between crime and politics, thus, began to develop and made an effect of impaling public agencies responsible for law enforcement.⁸⁴ Criminal gangs are linked up with political parties as that their one of identities is close associate with politicians. Gangs in the Kathmandu Valley have interlink with major political parties and their leaders.⁸⁵ Gangsters are protected and promoted by politicians to deteriorate their rival in and outside the parties too. Gradually, gangsters overcome to the active politics by learning the politics based on money and muscles. Criminal gangs use their money to exercise power by influencing bureaucrats and politicians as well. In addition, they use it to develop a network of muscle power, which is also used by politicians for their vested interests.

After a decade-long guerrilla war, Maoist, which attempted to join mainstream politics as a result of democratic process, faced an internal and external crisis thus their party workers were left in trouble. Maoist had dominated the politics by force on the basis of aggressive and armed cadres. In 2006, Maoist formed semi-armed force Young Communist League (YCL) which was a challenge for other rivals parties⁸⁶; in response, such parties attracted gangsters in their sides to face the force based on muscles power. They protected as well as encouraged such groups to achieve their vested interest in the post-conflict era. Politicization of criminal gangs was at its peak as that they influenced the political system in the national level. In turn, political parties attempted to get a support of gangsters to defend the Maoist force. Other rival parties formed youth wings similar to semi-military political wings.⁸⁷ Crime is the source of livelihood, but politics provides criminals with the necessary cover for protection from the law.⁸⁸ Gangsters

⁸² Dipesh Kumar KC, *Social Causes of Indo-Nepal Cross-Border Crime*, Brother Books, Kathmandu, 2013, p. 19.

⁸³ KP Dhungana,, ‘Neta-Gunda Nexus (Leader-Hooligan Nexus)’, *Sukrabar*, 3 May, 2011, p.1.

⁸⁴ B.P.C. Bose & M.V.S. Koteswara Rao, ‘Criminalisation of Politics: Need for Fundamental Reform’, vol. 66, *The Indian Journal of Political Science*, 2005, pp. 733-754.

⁸⁵ Shrestha (n 3).

⁸⁶ The Carter Center, ‘Clashes Between Political Party Youth Wings have Decreased but YCL and UML Youth Force Continue to Seek Financial Gain’, *NEWS*, The Carter Center, Atlanta, 28 Feb 2011, p.35.

⁸⁷ Anjana Luitel, Bishnu Raj Upreti & Ashok Rai, ‘Militarisation of the Youth: Hindering State-Building in Post-Conflict Nepal’, in Bishnu Raj Upreti et al (eds), *The Remake of a State: Post-Conflict Challenges and State Building in Nepal*, Kathmandu University, Kathmandu, 2010, pp. 193-209.

⁸⁸ Bose & Rao (n 84).

are involved in multi-purpose activities such as criminal acts, business and politics too. The gangsters in the guise of contractors turn politicians and have remained active in Terai region of Nepal as well.⁸⁹As reported on Ekantipur, gangsters got powerful rank in the political parties and also became a candidate in the Constituent Assembly election.⁹⁰ They can be a source of money and muscles power in addition of being used for compelling tactics to the electorate. Gangsters have a good hold on construction and mines of the country; in addition, they can influence the transport, hotel, casinos, manpower agencies and nighttime business in the city. Such gangsters misuse youths to run their illegal business smoothly.

Conclusion

Criminal gangs tend to overwhelmingly progress both in numbers and strength in the post-conflict social, economic and political transformation of Nepal, especially in urban setting like Kathmandu Valley. The consequences of conflict associated with increasing migration, unemployment and inequality in Kathmandu Valley contribute to the formation of new gangs. Armed conflict also has a role on it as that fled away individuals from security forces and ex-Maoist too joined gangs. Post-conflict challenges include the formation of new and powerful gangs in Nepal whereas political parties attract gangsters to accomplish their vested interests. Political parties misuse gangs for fund raising and to resist the power of each other. Besides, the step of Maoist Party in the mainstream politics motivates gangsters towards the youth force of the party and its rival parties. Political transition and the instability provide a viable environment for the formation and progress of criminal gangs who recruited youths. It enhances the politicization of criminal gangs and criminalization of politics.

Social similarities of youths with similar problems and aspirations motivate them towards a strong bond; as result, formations of gang in turn shift to criminal gang. Several criminal gangs have their members belonged to the same region, ethnicity and class. Interestingly, ethnicity is linked to phenomena of gang formation in the Kathmandu Valley. Such gangs often identify themselves with their regions and they recruit their young members belonging to their communities and areas. Those gangs do have control on particular areas of Kathmandu Valley with particular illegal/legal activities. Interestingly, new criminal gangs have surpassed the old gangs. In general, gangs are formed after the internal confrontation and their break up whereas the cases of murder as a result of the gang confrontation have been accounted.

The ecological opportunities provide youths' gang formation in Kathmandu Valley. Criminal gangs flourish in the security vacuum as well as the ineffective policy for curbing criminal gangs. Moreover, the rapid scale of urbanization of Kathmandu contributes to the formation of the gang and related crime. The increment of

⁸⁹ Prashant Jha, 'It Looks Like Elections', *Himal South Asia*, April 2008 available at <http://old.himalmag.com/component/content/article/1088-it-looks-like-elections.html> accessed on 24 July 2016.

⁹⁰ Ekantipur, 'Election Round-UP', *Ekantipur.com*, 19 September 2013 available at <http://kathmandupost.ekantipur.com/printedition/news/2013-09-19/election-round-up-253803.html>. accessed on 24 July 2016.

gangsterism has been accounted in the various places of the Valley. The limitation of opportunities for youths in job markets likely enforces youths towards criminal gangs. Youths migrated from nearby districts of the Valley are found to be vulnerable to join the gangs. Youths who enter the Kathmandu valley, being a jungle of concrete, have fewer chances of meeting their aspirations and the problematic situation is likely force them to join gangs. As the result, youths' gangs formed from peripheral areas have sprouted in the Valley. Society's inability to provide adequate services to youths and ensure their identity as well as social protection motivates them towards crime.

Strict actions from police often entail to phenomena of dissolve of old gangs and formation of new gangs. In some stances, gangs dissolve, gangsters are killed and their members join other groups or reform their gangs. Despite the police actions and 'encounter' on gangsters, the problems related to youths' criminal gangs have not been solved. Extra-judicial killings have been recorded in the case of Kathmandu Valley. However, the formation and strengthening of criminal gangs are continuous. On the contrary, criminal gangs are more organized and extend their connection with the organized criminal groups. The governmental effort on policies regarding the criminal gang control seems to be counter-productive.