Myths of the State Fraying at the Edges and Unravelling at the Centre: A Comparison of Two "Communal" Riots in Nepalgunj[1]

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Introduction

At the centre of the bazaar in Nepalgunj, a town in south-western Nepal on the border with India, stands a statue of King Tribhuvan, under whom Nepal experienced its first short-lived period of democratic rule. Tribhuvan, with the underground political parties and Indian government assistance, saw off the Rana autocracy and introduced democracy to Nepal in the 1950s.[2] His son Mahendra reversed this act in 1962, when he introduced the Panchayat system of guided democracy under which political parties were once again declared illegal. The statue has been vandalised. The king's right arm, formerly raised in a salute, was lopped off during the *jan andolan* (people's movement) of spring 2006, which brought down the autocratic regime of king Gyanendra. Audio tape has also been wound round his mouth and a placard reading "Shahid Kamal Madhesi Chowk" (martyr Kamal Madhesi crossroads) attached to his chest. These defacements date back to a later period, to riots which occurred in the town in December 2006, during which a local man named Kamal Giri was shot dead by a police officer. Giri posthumously acquired symbolic status as a martyr for the Madhesi (plains-dweller) movement and the epithet "Kamal Madhesi" –possibly in ironic allusion to the practice of concealing subordinate caste identity under the generic surname "Nepali".[3] If the first act of vandalism can be seen as a symbolic attack on the political power of the monarchy, the second would seem to be attacking the legitimacy of the nation-state and Nepalese national identity itself by making a martyr of a man who was shot by a policeman (a state representative) and asserting his Madhesi (as opposed to

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[1] Friso Hecker, Michael Hutt, Matthew Nelson, Ramesh Parajuli and James Sharrock looked through drafts of this paper and offered useful suggestions. Krishna Pradhan provided linguistic advice on the Nepali language texts that I used.
[2] The extent of the king's involvement in effecting the transition to democracy is disputed (Hoftun *et al.* 1999: 40).
[3] This passage describes what I saw in January 2007. The statue was completely destroyed by the Maoist-affiliated Young Communist League in May 2007.

Nepalese) identity. This is how Prime Minister Girija Prasad Koirala interpreted the riots during which it took place, as indicating that attempts were being made to unsettle the government and "erase the national identity".[4]

This paper looks at how state and societal identities are made (and sometimes unmade) through a comparison of two "communal" riots that occurred in Nepalgunj in 1997 and December 2006. It takes issue with the idea, expressed by Koirala, that this violence is aberrant and has a purely destructive effect, and argues that riots, a particular form of collective violence, are now part of the way identities are constructed and politics is done in Nepal.

The article adopts a "relational" view of collective violence which privileges the role of "interchanges...involving a degree of negotiation and creativity" over interpretations that would foreground "destructive ideas" or personal/genetic proclivities (Tilly 2003: 4). Ideational and behavioural interpretations of such violence dominate popular understandings of it. They were expressed, for instance, by Onta (2001: 14), following the December 2000 "anti-Indian" riots:

Anyone who cared to notice that the rioters in Kathmandu were overwhelmingly young and male would no doubt wonder whether being young and male are significant for an understanding of the violence in Nepal today. They are. High levels of unemployment among semi-educated young people, the unrestrained circulation of pessimism in college campuses, and the macho ways in which personal and societal problems are solved in the universe of Nepali and Hindi films, have given birth to a highly violent masculine imagination in this segment of the population.

These comments of the same nature as those made by the headmaster of a Nepalgunj madrassa in January 2007, who told me that riots that occurred there in December 2006 were all the work of "some brainless boys".

Whilst I agree that "mob violence" can be both "highly organized" and responsive to "repositories of unconscious images" (Das 1992: 28), and do not dismiss "psycho-cultural" analyses (Gellner 2002: 20) out of hand, I will be looking at riots as political events, signifying more than the psychological compulsions of rioters. Partly because all riots have a political dimension, in that they test state authority and legitimacy; and partly because the catalysts for these particular riots were overtly political: in 1997 a municipal election and in 2006 an interim constitution. I will argue that state and society, rather than being monolithic and

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[4] http://www.kantipuronline.com/kolnews.php?&nid=95823 accessed 30/05/2007

binary concepts, mutually constitute one another, and one of the ways they do so is through "communal" riots.

This paper takes its cue from Brass's description of riots as "a grisly form of dramatic production" (Brass 2003: 15) to show how the Nepalgunj riots emerged during moments of heightened self-consciousness, when all sorts of identities were being redefined as a result of democratisation. Hence both riots will be contextualised by the constitutions (1990 and 2006) that reconfigured these identities by redefining them and ushering in more robust forms of democracy than had previously existed. However, I will be approaching constitutions as one of Hansen's politico-social "representations" (Hansen 1999: 19), rather than as cast-iron frameworks for or determinants of state and societal behaviour. Therefore I will be looking at riots both in the context of attempts to order state and societal identities top-down (riots as the shadow side to modern state processes, constitutions and citizenship laws); and as responses to these processes and ways of reconfiguring these identities bottom-up (riots as a form of collective action and electoral canvassing).

This paper emerged from data collected whilst doing fieldwork over the periods June-September 2006 and December–January 2006-07. Much of this time was spent conducting interviews and collecting literature in the Nepalese Tarai. Only a selection of this data is presented in the paper, but all of it contributed to its argument. Being in Nepal during this interim period, when memories of Maoist insurgency and autocratic royal rule were fresh, and all sorts of identities were in flux, underlined the porous nature of the state-society nexus, and links between political transformation and collective violence. Being in an area that defines the limit of the Nepalese nation-state also influenced my thinking about the role played by ethnic and territorial boundaries in these processes. Gaunle's 1997 article on the riots that occurred in Nepalgunj that year is my main source for the first set of riots. News reports also form a significant part of my account of the December 2006 riots, and I have supplemented this information with interviews I conducted with Nepalgunj residents in January 2007 and an NGO report.

The paper begins with background information on the area in which Nepalgunj is located, and then divides into two parts. The first part deals with the 1997 riots, the second with those that occurred in 2006. I have chosen to focus on the Shiv Sena and the Nepal Sadbhavana Party because they were all assigned or accrued responsibility for the riots, and also because they exist at various points along the state-society continuum. The Indian associations of Shiv Sena and Sadbhavana (Indian origins of the former, and the constituency and pro-Hindi policy of the latter) add an extra layer of ambiguity to how they are situated, risks putting them beyond the pale of the Nepalese nation state altogether.
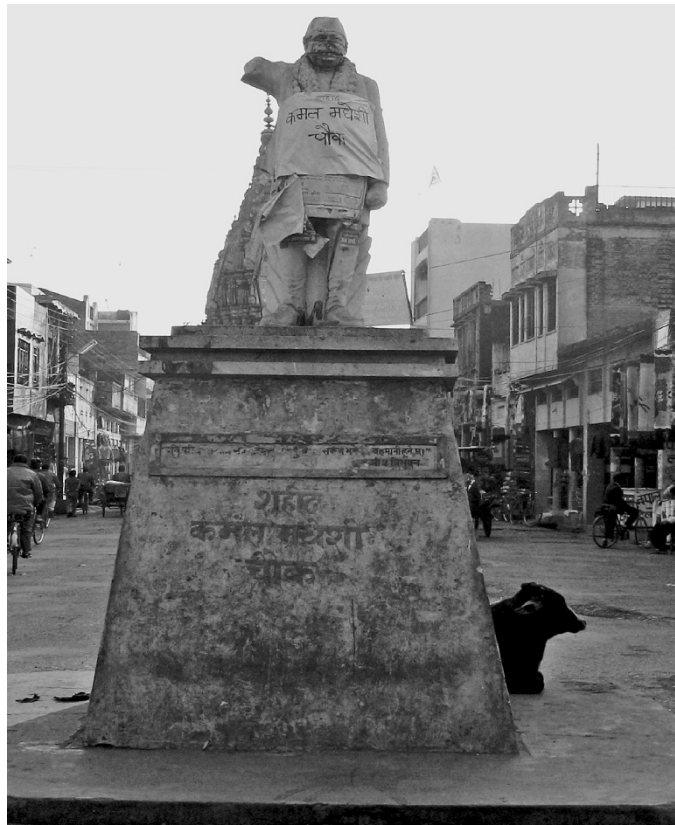
Tribhuvan Chowk, Nepalgunj, 8th Jan 2007. Photo: P. Dhital

Setting the scene

Nepalgunj is located in the Nepal Tarai, an area that has always existed in peripheral and ambiguous relation to the Nepalese central state –viewed as not quite part of it, but essential to its survival as a buffer zone, breadbasket and safety valve for hill migration.[5] This is partly because of its location along the open lndia-Nepal border, an area in which modern state practices that are normally used to police territorial boundaries, such as "continuous

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[5] Stiller, for instance, observed about Nepal in the early nineteenth century: "Nepal could not survive as a unitary state without the Tarai...Without it, Nepal would once more fragment into the mini-states that had been brought together with so much labour to form the modern state of Nepal" (Stiller 1976: 11).

barbed-wire fencing, passports, immigration laws, inspections, currency control and so on" (Mitchell 1991: 94) are absent or barely present.

More specifically, Nepalgunj lies within "naya muluk" (new land), an area which was incorporated relatively late into the Gorkhali empire. Stiller's observation that these "western provinces" have not been "truly assimilated" into "Nepal proper", that for cultural and geographical reasons they have preferred "to face to the south and west" still holds true to some extent today (Stiller 1976: 27). This is particularly the case for the large (according to 2001 census statistics, in Nepalgunj municipality over 27%) population of Muslims, who often have strong cross-border connections through family ties.[6]

According to Gaunle's article on the 1997 Nepalgunj riots, these geographical, historical and demographic facts make the town a tinderbox for communal conflagrations, and democracy has made the situation worse (Gaunle 1997: 8 and 14). Riots are said to have been rare in the Rana and Panchayat era; disputes between Hindus and Muslims would occur from time to time, but they were resolved and sometimes pre-empted by local panchayats (*ibid*: 10). This view ignores violence committed by both state and oppositional groups during the Rana and Panchayat period. Because of easy ingress and egress across the open border between India and Nepal, the Tarai has often been a centre for this activity, some of which has had a communal element.[7] Democracy may have provided new opportunities and incentives for this violence, but it is not a new phenomenon.

I. Fraying at the Edges

On 17th May 1997 a young Muslim man named Kamaluddin Ansari went to a polling station located in ward number 9, a predominately Muslim area, to vote in the municipal elections. He was prevented from doing so by

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[6] According to the 2001 census, Nepalgunj municipality has a total population of 57,535 (His Majesty's Government 2002: 28). In "Table 11: Population by Caste/Ethnic Group", 15,977 (27.8%) of this population are recorded as Muslim (ibid). Whereas in "Table 12: Population by Religion", 15,714 (27.3%) of the population are listed as Muslim (ibid: 106). No aggregate of the two figures is listed, and the criteria for differentiating between Muslims as a caste/ethnic group and Muslims as a religious group are not explained. Many of the Muslims I spoke to in Nepal suggested that the census figures were an underestimate.

[7] Gaige (1975: 48) describes an "unusually gross example of administrative weakness and gang-style looting and terror that occurred in 1971, when four to five hundred bandits rampaged through Rautahat and Bara districts, leaving scores of villagers ravaged and 51 persons killed before retreating across the border"; according to newspaper reports, Hindu-Muslim communalism "was a secondary cause of death and destruction."

representatives of the Shiv Sena-supported candidates, who claimed that he was under-age, provoking a dispute which escalated into violence as Shiv Sena representatives spread rumours that Muslims had taken over a voting booth. During the course of this violence, a bullet fired by Chand Ali injured Kiran Budhathoki. Ali, a Muslim who lived in Lucknow, India, but often came to Nepal to work, was the cousin of Samsuddin Siddiqui (the United Marxist Leninist (UML) party candidate, subsequently appointed for the post of deputy mayor in the Nepalgunj municipal elections) and the older brother of Nizamuddin Siddiqui (the Nepalese Congress candidate for ward number 11). Kiran Budhathoki was mid-western region district commander for Shiv Sena in Nepal.

The shooting is said to have inflamed the situation. The municipal council postponed polling in the wards concerned, and the local administration imposed a curfew on these areas. The curfew was extended until 19th May 1997, but it failed to calm the situation. During the curfew, Phaisal Kabadia, a Muslim man resident in a village close to the border with India, was killed in a knife attack.

According to INSEC (a human rights NGO) no effort was made to identify and take action against the perpetrators, who were suspected of being Hindu youths; Kabadia's death was met with indifference by local media and the political parties, and dealt with tardily and perfunctorily by the administration. Twenty-seven people were also injured in the violence and dozens of businesses and properties looted and set ablaze; 90% of them are said to have belonged to Muslims. On 20th May 1997, 12 people were arrested and sent to jail for one month for violating the curfew, only to be released by the appeal court within two days. (Gaunle 1997: 8–10)

Political context: a municipal election

The riot occurred in connection with the 1997 municipal elections. As previously discussed, although communal violence did occur in periods of non-democratic rule, democracy arguably changed the nature of it by providing new means for political entrepreneurs to gain power and legitimise authority; encouraging greater assertion by hitherto quiescent groups, and a fear of this assertion amongst dominant groups, thereby fostering a sharper sense of difference. I will outline these processes by looking more closely at the provisions of the 1990 constitution, which reintroduced democracy to Nepal, focusing on its attitude towards state religion and identity politics. I will argue that the 1990 constitution and the changes it inscribed were conservative in design and radicalising in effect: conservative with regard to implementation of radical measures, and radicalising in going far enough to release pent-up forces, to encourage reactionary counter-forces, and to shape the direction of both through its

conservatism, through the limited constitutional space which it allowed them, thereby driving them into the margins of mainstream political activity and even to extra-constitutional measures. Instances of violence in the post-1990 period, whether occurring in connection with the Maoist insurgency or taking the form of "communal" riots, far from being aberrant, result from competing drives for reification of a Hindu, monarchical, unitary state and creation of a state that is more representative; drives that were both reflected in and encouraged by the 1990 constitution.

The 1990 Constitutional Framework

Article 4(1) of the 1990 constitution of Nepal defined it as a "multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom." In a welter of adjectives the constitution drafting committee attempted to reconcile traditionalists (bearing in mind the recent provenance of some of these traditions) and those who sought limited monarchy and greater representation for marginalised groups. The demand for a secular state lost out in the balancing act, which surprised many. Hindu religion had long been used to legitimise political (and in particular monarchical) authority in Nepal, but it had only quite recently become an official state designation, in the Panchayat constitution of 1962, flying in the face of Nepal's multi-faith reality and the fuzzy boundaries between the various faiths –in particular between Hinduism and Buddhism (Hodgson 1827). Congress and the Communist parties had allowed a free vote on the issue, and many politicians are said to have been receptive to the idea. However, the politicians who made the decision were predominately upper-caste Hindus (often Brahman), who, classifying Buddhists as a type of Hindu (which was how the Panchayat state designated them), assumed Hinduism to be the national norm. The reportedly 150,000 strong pro-secularism demonstration staged by Buddhists came as a shock to these men. Agitation by non-Hindus is said to have made them more aware of their own Hindu identity as one among and in competition with others, and therefore seek to preserve Nepal's Hindu status, which would privilege the group to which most of them belonged. (Hoftun *et al.* 1999: 312-320 and 333–335). This is how the Hindu victory was interpreted by pro-secular Buddhists -as signalling that proclaimed political allegiances were secondary to ascriptive identity, that the communist leaders who helped make it possible were "Brahmans first and Communists second" (Gellner 1997b: 178).

As a sop to the pro-secular movement, concessions were made to religious minorities (although it should be noted that many Buddhist

activists insisted that they were a religious majority). Christian missionaries imprisoned in Nepalese jails were freed and strictures against proselytising were de facto albeit not de jure lifted (*ibid*: 335). However, the very fact that concessions were made and secularism was even being discussed alarmed some Hindus. These discussions are said to have provoked Arun Subedi into forming the Nepal chapter of Shiv Sena.[8]

Conflicting impulses to reform, limit the impact of reform, and then loosen that limit, can also be discerned in the 1990 constitution's handling of identity politics, with a similar radicalising effect. Political parties were reinstituted but those appealing to particular religious, caste or regional constituencies were banned,[9] and this ban in turn was not strictly enforced. Sadbhavana, a group that promoted the interests of those living in the Tarai, was allowed to register as a political party (the Nepal Sadbhavana Party or NSP) in 1990, and Shiv Sena did the same in the late 1990s.[10] Hoftun *et al.* (1999: 178) argue that some parties managed to avoid the "communalist" label by not making their "regional or ethnic nature too obvious". However, as many writers on nationalism have observed, the boundary between the categories "national" and "ethnic" is not clear cut; Wimmer, for instance, writing that in many new states "the nation" is simply the ethnos of an elite group generalised onto the whole population (Wimmer 2002: 91). In the Nepalese context, this would be the ethnicity of the Parbatiya or Caste Hill Hindu Elite, as Lawoti (2005) designates them, generalised onto the whole nation through emphasis on the Nepali language (formerly known as Parbatiya or Gorkhali language) and state Hinduism (Whelpton 1997: 49).

Legitimation of Sadhavana and Shiv Sena in Nepal also seems to confirm Wimmer's insight, indicating that the point at which a group can be described as national is largely a matter of context and emphasis. Shiv Sena's Hindu communalism could pass itself off as nationalism in officially

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[8] www.nepalitimes.com/issue/214/FromtheNepaliPress/2265 accessed 23/08/2007

[9] Article 112 prohibits imposition of restrictions on political organisations or parties. However, article 113(3) declares that the election collection "shall not register any political organisation or party if any Nepali citizen is discriminated against in becoming a member on the basis of religion, caste, tribe, language or sex or if the name, objectives, insignia or flag is of such a nature that it is religious or communal or tends to fragment the country." Article 112 is further hedged by proviso 3 in article 12(2), which licences restrictions on any act that threatens Nepal's sovereignty, integrity and communal harmony, "which may instigate violence, or which may be contrary to public morality".

[10] www.nepalitimes.com/issue/214/FromtheNepaliPress/2265 accessed 23/08/2007. According to the International Crisis Group, "Shiv Sena Nepal participated in elections in the 1990s but had a negligible vote and failed to win a single seat" (ICG 2007: 11).

Hindu Nepal (I will analyse this manoeuvre in the section dealing with Shiv Sena in Nepal), whilst Sadbhavana was careful to emphasise its nationalist credentials. The Nepal Sadbhavana Party is usually translated into English as the Nepal Goodwill Party, although sadbhavana can also mean harmony; thus by including Nepal and the idea of goodwill/harmony in its name, it would seem to promote a nationalist and quietist stance.

On the other hand, groups such as the Mongol National Organisation, which fit less easily within national orthodoxy (for instance, as self-proclaimed non-Hindus) were not allowed to make the transition to political party status (Hoftun *et al.* 1999: 178), and thereby stigmatised by the state as "communal" and politically marginalised. Some political space was afforded them within mainstream political discourse by the constitution's acknowledgement of their existence (of Nepal as "multiethnic" and "multilingual"), and political parties, notably the UML party's, multicultural rhetoric (Hachhethu 2002: 149). But words did not inevitably translate into deeds, and continued high-caste dominance of party politics made it easy to dismiss these gestures.

It has often been argued that ethnic groups who felt excluded by constitutional arrangements and parliamentary politics made ripe targets for Maoist mobilisation (for instance, in Lawoti 2005). The Maoists were quick to target them with the concept of ethnic federalism, which, if implemented, would end the national "indivisibility" proclaimed in the 1990 constitution that the ban on "communal" parties was designed to preserve. The Maoists were not the only or even the first Nepalese party to propose federalism. The Nepal Sadbhavana Party had done the same in 1990 (Hoftun *et al.* 1999: 332). However, the Maoists did so in a more forceful and comprehensive manner. Both demands for ethnic federalism and secularism were included amongst the 40-point ultimatum they issued to the government in 1996, prior to launching the People's War.[11]

State and Society Actors

The police and local administration

The police and local administration's handling of the situation corroborates all too well observations about how inadequate responses to communal violence that disproportionately affects certain ethnic groups amounts to state endorsement of this violence, and conveys a message

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[11] The demand for secularism was point number 18, whilst number 20 declared, "Where ethnic communities are in the majority, they should be allowed to form their own autonomous governments" (Bhattarai 1996: 191-192).

about the ethnic bias of the state (Das 1992: 23). In this way, communal riots can be seen as unofficial counterparts to citizenship laws: as a way to define who belongs to the nation-state and is therefore worthy of protection.

The authorities were seen as responding inadequately on several counts. Firstly, for allowing Shiv Sena to flout the election code. A police officer is quoted saying: "we repeatedly reminded the canvassers of the code of conduct, but they did not obey", evidently not thinking the police were obliged to enforce it (Gaunle 1997: 12). Secondly, for failing to effectively coordinate between the office of the CDO (Chief District Officer) and the police to take timely action against rioters (*ibid*: 13). Analysts of communal rioting, with divergent understandings of its causes, agree that early intervention is crucial in preventing its escalation (Horowitz 2001: 489; Brass 1996: 28) Thirdly, for failing to maintain the curfew. Gaunle notes that one of the most striking features of the riots was that violence occurred during the curfew. Far from protecting Nepalgunj residents, it seems to have provided an opportunity to commit looting, arson and vandalism with impunity; the police merely looked on as these crimes were committed (Gaunle 1997: 9-10). All of this was compounded by failure to take action against those who broke the curfew and participated in the violence.

The repercussions of these failings were not confined to the victimised group. As Das (1992: 23) observes, police negligence during communal violence, amounting to complicity with those who perpetrate it, not only highlights the precarious position of the neglected group, but also "leads one to seriously question the notion of *legitimate* force", which forms the basis of Weberian conceptions of the state. In the Nepalese context, it also undermines idealisations of the Nepalese (Hindu, monarchical) state as a more effective guarantor of communal harmony (and the security of religious minorities) than the (secular) Indian state: an opinion held across the political spectrum, with varying emphasis on the terms "Hindu", "monarchical" and "secular".[12]

Shiv Sena in Nepal: from political party to NGO, from India to Nepal

Shiv Sena started life in India as a Maharashtrian "sons of the soil" party, evolved into a nation-wide (although still largely Maharashtra-based) Hindu nationalist party, and in Nepal became an NGO, which was then

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[12] This view was expressed by Mohammad Mohsin (interview with Mohsin, 08/09/2006). C.K. Lal (2002: 108-109) has also described how Nepal has been a "safe haven" for Muslims fleeing "the atrocities of the occasional ruthless rulers of north India", from the time of the zamindars of Sursand through to the destruction of the Babri masjid.

transformed into a political party (it is once again an NGO). These acts of shape shifting and translation inevitably changed the character of the organisation, as it adapted to different environments and acquired new significance in changed contexts. One transformation brought about by transplantation to foreign soil was that from a political party to an NGO. Shiv Sena was registered as an NGO in Kathmandu in 1990, but, as its involvement in the 1997 Nepalgunj municipal election confirms, this did not preclude participation in party politics. The ease with which it was able to shift from NGO to party status (and back again), and its interference in electoral politics whilst still an NGO, substantiates claims that the boundaries around civil society, which in liberal theory is meant to stand discrete from and equidistant to political society and the state, are in practice highly porous (Tamang 2003).[13] Shiv Sena's behaviour might have been inconsistent with certain theorisations of civil society and the letter of the Nepalese constitution, but hardly marked it out from its peers in Nepal, where the political affiliations of many civil society organisations are an open secret, and certain ethnic groups are perceived to favour certain parties. Muslims, for instance, are seen as favouring the United Marxist Leninist Party (UML), and Nepal Muslim Ettehad, one of the major Muslim civil society organisations, is viewed as affiliated with the UML.[14]

This atmosphere of scarcely concealed political affiliation on ethnic and organisational lines was conducive for Shiv Sena politicking, of which the riot can be seen as one form. Many writers on Indian communalism have noted the connection between *Votes and Violence* (Wilkinson 2004), the way in which communal riots are encouraged to consolidate electoral support, and Shiv Sena's behaviour during the 1997 municipal election was consistent with this pattern. After the election date had been announced, the Nepalgunj chapter of Shiv Sena published a list of demands that it distributed to the main political parties: Congress, UML, RPP and Sadbhavana. On receiving no response, it decided to back two independent candidates for the seat of mayor and deputy mayor, flouting prohibitions against aggressive campaigning as it did so, by publishing

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[13] A more thorough exposition of the history and various interpretations of the term "civil society" lies beyond the scope of this paper. However, I will note Mitchell's observation that this "defect" of unboundedness is not only a characteristic of new democracies, but can also be discerned in established systems such as in the US (Mitchell 1991: 90). For Mitchell, this is a source of strength rather than weakness, as "producing and maintaining the distinction between state and society is itself a mechanism that generates resources of power." (*ibid.*)

[14] This is denied in the organisation's statute (article 5(2) 1998) and by its current chancellor Taj Mohammad Miya, who is also a UML activist (interview with Taj Mohammad Miya, 14/09/2006.)

colour posters, holding motorcycle rallies, and posting saffron-clad workers at polling booths (Gaunle 1997: 11-12).[15]

In Muslim-dominated areas, where such tactics were unlikely to work, a policy of obstruction seems to have been adopted. According to a government worker posted at the Muslim majority electoral ward where the riot broke out, the dispute regarding the age of Ansari was merely a pretext to block the progress of a ballot that would most likely result in a UML victory (*ibid.*: 9). Therefore Shiv Sena's activities during the election not only highlight the blurred boundaries between civil society and political society, but also links between democratic political transition and violence. Nepalese elections have been relatively peaceful, compared to many that have taken place in other parts of the subcontinent.[16] Nevertheless, as the Nepalgunj riots show, violence does occur, and less blatant instances (i.e. threat of the use of force, such as was deployed by Shiv Sena to intimidate voters and election officials) are commonplace (Hoftun *et al.* 1999: 251).

Shiv Sena in Nepal's turbulent history points to the problematic nature of its position as an Indian-origin Hindu nationalist organisation in a Hindu nation where anti-Indian sentiment is prevalent. Indeed, in a nation where Hinduism has historically been used *against* the influence of (Moghul/British/secular) India, and to demarcate national boundaries. In Nepal, Shiv Sena is situated between pro-Hindu state policy and Nepalese suspicion of India, at the risk of being rendered irrelevant by the former and falling within the purview of the latter, at the same time as gaining legitimacy from both.

Shiv Sena's official objectives, submitted at the time of its registration as an NGO, committed it to maintainance and promotion of the national status quo, i.e. Nepal's status as the only Hindu kingdom in the world. This conservative and nationalistic approach was attuned to the requirements of a particular moment: the need to present Shiv Sena as consistent with Nepal's history and laws whilst it sought state recognition as a legitimate NGO. Changed contexts brought about changes in strategy and emphasis, as Shiv Sena's activities in Nepalgunj around the time of the riots demonstrate. Statements from Shiv Sena's leader, Kiran Budhathoki, quoted in Gaunle's article, create the impression that Shiv Sena in the mid-western Tarai was acting in accordance with an Indian template

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[15] It is noteworthy that one of the candidates it supported was a former member of Congress, and several people I spoke to claimed that Shiv Sena and Nepali Congress enjoyed a close mutual relationship in Nepalgunj. The "independent" candidates would not have been the only ones to benefit from UML losses.

[16] Hoftun *et al.* (1999: 181) note that only 12 people were killed during the 1991 election, which is said to be "a low total by South Asian standards".

rather than a national one. Budhathoki is quoted saying that Nepalese Hindus will no longer tolerate the state policy of making special provisions for Muslims in the name of appeasing minorities (Gaunle 1997: 15). Such statements, when made in India, oppose state concessions to religious minorities, such as separate personal laws and endowment of money and land to support religious institutions. They also obliquely reference a history of centuries of Muslim rule, and, more recently, Partition, in their sense of Hindu victimisation. They consequently seem irrelevant in Nepal, where such concessions have largely not been made, and which has a quite different history.[17]

However, as Horowitz observes, this paranoia is often explained if not justified by the geopolitical context. He refers to India's fear of Pakistan as a factor in anti-Muslim sentiment; citing as an example the 1992 anti-Muslim riots in Bombay, during which search-lights were trained on the Indian Ocean to detect (non-existent) Pakistani battleships (Horowitz 2001: 172). Hence fears of minoritisation, which underlie anti-Muslim paranoia, have even more force in Nepal, as Nepal is considerably less powerful and populous than India. Whilst animus between India and Pakistan is open, relations between Nepal and India are avowedly more friendly and peaceable, and the open border between the two countries declared in the 1950 Indo-Nepal Peace and Friendship Treaty apparently embodies this. However, the two countries' mutual suspicion of one another underlies calls for closer monitoring and even closure of the border, which is seen as facilitating terrorism and cross-border crime. Fears of "Sikkimisation" are also expressed across the Nepalese political spectrum from royalists through to Maoists.[18] These fears are likely to be

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[17] The Kathmandu Valley was invaded by the sultan of Bengal in the middle of the 14th century and under the suzerainty of Delhi in the 15th century (Gaborieau 1977: 31); and large parts of the Tarai did come under Mughal influence, leading Slusser to describe residents of the area, both Muslim and non-Muslim, as "acculturated to Islam", yet their influence at central state level was limited (Slusser 1982: 69). For instance, purificatory rituals were enjoined on travellers returning to the Kathmandu Valley from Mughal territory to form a symbolic boundary around the polity (Burghart 1984: 232).

[18] Royalists view monarchy as a more effective bulwark against Indian encroachment than the political parties. Maoist leader Bhattarai adapted this view in an article he wrote following the 2001 royal massacre. In it, he praises the Shah kings "from Prithvi Narayan Shah to King Birendra" for preserving Nepalese independence from the hands of Indian expansionism (Bhattarai 2001: 21), and describes the new king and the political parties as Indian stooges. India, he claims, chose Gyanendra as "a Jigme Singay [king of Bhutan]" to effect the "Bhutanization of Nepal" and Nepali Congress leader Girija Koirala as their "Lendup Dorje (the Sikkimese leader who collaborated with India during the annexation of Sikkim)" (*ibid*: 20).

particularly acute in border areas such as Nepalgunj where neighbouring India looms larger than the traditionally distant Nepalese state.

Hence an awkward combination of anti-Indian sentiment and sensitivity to Indian communalist rhetoric characterises the Nepalese Hindu nationalists' attitude towards Muslims. In the imaginings of both Indian and Nepalese Hindu nationalists Muslims are anti-national in two contradictory senses. Firstly, their religion is seen as antithetical to nationalism. A Muslim "whichever country he belongs to, is first a Muslim", Indian Shiv Sena leader Bal Thackeray has said, "Nation is of secondary importance to him" (quoted in Mehta 2004: 48). Secondly, they are at the same time viewed as allied to a foreign power: in India, Pakistan; and in Nepal, Pakistan *and* India. "Kashmiri Muslims flee from the country", reads graffiti written on a wall after the 1997 riots (photo in *ibid*: 15). Whilst there is a long-established Kashmiri presence in Kathmandu, Nepalese Muslims are more often associated with "Hindustani ethnicity" (Gaborieau 1998: 375) and are mostly either of Indian origin or indigenous to the area. The xenophobic reference to Kashmiris is an import; it refers to Indian fears about the Nepal Tarai as a haven for Pakistani terrorists, fears not quite so strongly felt within Nepal, and thereby highlights Shiv Sena in Nepal's Indian origins.

These origins lay it open to the very charges of anti-nationalism, which Hindu nationalists have traditionally levelled against Muslims; charges that have indeed been made, notably by Nepalese Muslims, in an interesting reversal of the usual positions. UML MP and minister, Salim Miyah Ansari is said to have angered Shiv Sena activists by accusing the organisation of being anti-national in a speech given at the Banke District, Nepal Muslim Ettehad Conference, held in Nepalgunj in December 1996 (Gaunle 1997: 11). However, Nepalese Shiv Sena members themselves were receptive to this possibility. Gaunle describes how these feelings surfaced during a visit to Nepalgunj by Bal Thackeray. Thackeray had come to donate an ambulance to Shiv Sena in Nepal in memory of his late wife. During the presentation ceremony, one of his representatives described him as "king/emperor of the Hindus", which was perceived by some of those present as a slight to the king of Nepal (as king of Hindu Nepal, the *real* king of the Hindus in their eyes). Many Nepalese members of Shiv Sena are said to have left the organisation following his remarks (*ibid*).

The organisation was to eventually splinter, and one faction of it to implode, under the weight of these contradictions. Tensions came to a head when Arun Subedi, leader of Shiv Sena in Nepal, registered the organisation as a political party in 1998. Following a rift between Subedi and Budhathoki, the organisation split into Nepal Shiv Sena and Shiv Sena Nepal. Thackeray appointed Budhathoki head of the former, and Budhathoki claimed legitimacy for his faction from this fact. Thackeray

"sahib has recognised us as his true representative in Nepal", he reportedly said, "this is why we are the real Shiva Sena".[19] It is unlikely that this toadying to the Indian "sahib" would have endeared him to many Nepalese. The stock of the organisation fell particularly low after Budhathoki claimed Nepal Shiv Sena was responsible for riots that occurred across the country in September 2004, following the murder of 12 Nepalese migrant workers in Iraq.[20] Budhathoki subsequently went underground, and was shot dead in Nepalgunj on 29th December 2004. The Maoists, widely believed to be responsible for his murder, by ending Shiv Sena militancy, in Nepalgunj at least, apparently succeeded where Chand Ali and the Nepalese state had failed.[21] The Shiv Sena office in Nepalgunj now lies derelict, host to a paan stall and snoozing vagrants.

II. Unravelling at the Centre

On Monday 25th December 2006 the Nepal Sadbhavana Party (Anandidevi) called a Madhes bandh (a strike[22] across the Tarai) to protest against the interim constitution, and demand proportionate allocation of electoral constituencies and a federal state.[23] NSP workers are said to have vandalised some 25 vehicles during the strike, including a microbus in Nepalgunj. A scuffle ensued between Madhesis and Pahadis (those of hill

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[19] www.nepalitimes.com/issue/214/FromtheNepaliPress/2265 accessed 23/08/2007

[20] This might not be true; other groups were also implicated (personal communication with Ramesh Parajuli, August 2007). A member of the Nepalese Jama Masjid management committee described these riots as a "wound in the consciousness of Nepalese Muslims", fundamentally undermining their faith in the Nepalese state; during the riots, the Nepalese Jama Masjid was badly vandalised despite being opposite a police station and close to the royal palace (personal communication).

[21] Regarding Maoist involvement in the shooting: this was the belief of Nepalgunj Muslims I spoke to (personal communication, August 2007). The US Bureau of Democracy, Human Rights, and Labor in its International Religious Freedom Report for 2006 also states: "On December 29, 2004, Maoists shot dead Arun Budhathoki [sic], Chief of Shiv Sena Nepal [sic], a Hindu religious organization, in Nepalgunj"www.state.gov/g/drl/rls/irf/2006/71442.htm accessed 01/09/2007, which for all its inaccuracies indicates how widely these rumors had spread.

[22] "Bandh" more properly conveys the sense of a shutdown. Shutdown also more effectively conveys the sense of (forced) cessation of all public activity that occurs during a bandh than "strike" (which in British English means a withdrawal of labour to seek amelioration of working conditions). However I have chosen to describe it as a strike because this is the usual translation in the Nepalese English language press, and the more familiar term.

[23] www.kantipuronline.com/kolnews.php?&nid=95559 accessed 20/05/2007

origin) in that town. The violence escalated, and looting and arson also took place. The following day, transport workers in Nepalgunj demonstrated against the strike. This resulted in more violent clashes. The Chief District Officer, Tilak Raj Sharma, imposed a daytime curfew on the town. However the curfew was widely ignored and the police failed to enforce it. Violence, looting and arson continued, and one person was killed in police firing.[24] Members of the seven main political parties and the Maoists met and decided to stage a peace rally the next day. Maoists guarded Muslim and Madhesi homes and property during the night.[25] On Wednesday, the peace rally initially took place as planned, in defiance of the curfew, but was cancelled after "unruly gangs" infiltrated it. A goodwill rally led by the Madhesi Mukti Morcha (a Maoist organisation), with the participation of leaders of the other main political parties, and all ethnic and religious communities, went around the town.[26] Another Maoist-led rally took place on Thursday 28th December 2006, during which Banke district Maoist leader, Athak, criticised the police for their handling of the situation and claimed that Maoists were working alongside the police to control it.[27] On the same day Prime Minister Girija Koirala gave a speech about the riots. He described them as one of the most unfortunate incidents in the history of the country, and claimed that the violence was a sign that regressive forces had not been completely eradicated and attempts were being made to "erase the national identity".[28]

The government report on the riot has yet to be published (as of August 2007). A report published on 29th January 2007, by a human rights NGO, the People's Level Civil Investigation Committee (hereafter People's Level), claims that one person was killed, 26 injured and 211 houses and shops damaged during the incident. It recommends Kamal Giri be declared a martyr and one million rupees paid to his family in compensation for his death. It also apportions moral responsibility for the riot to the NSP, charges which the party refuted.[29] A Maoist-produced VCD of the riot, showing the police failing to take action against rioters and curfew-breakers, and even apparently participating in the violence, was distributed across the Tarai. It is said to have fuelled violent protests which occurred across the eastern Tarai in January–February 2007; protests that forced the interim government to concede to demands for

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[24] www.kantipuronline.com/kolnews.php?nid=95639 accessed 20/05/2007

[25] Personal communication with Nepalgunj residents, January 2007

[26] www.kantipuronline.com/kolnews.php?&nid=95741 accessed 20/05/2007

[27] www.kantipuronline.com/kolnews.php?&nid=95824 accessed 20/05/2007

[28] www.kantipuronline.com/kolnews.php?&nid=95823 accessed 20/05/2007

[29]www.thehimalayantimes.com/fullstory.asp?filename=aFanata0vfqzpa4a9Ta3pa.a xamal&folder=aHaoamW&Name=Home&dtSiteDate=20070130, access : 20/05/2007

federalism, increased electoral representation and "inclusion of marginalised groups in state bodies on a proportional basis" (International Crisis Group 2007: 12–13).

Political context: an interim constitution and a citizenship law

The immediate context of the riots was publication of an initial draft of the interim constitution on 25th August 2006,[30] an amended version of which was signed by the eight main political parties including the Maoists on 16th December 2006.[31] This act confirmed reintegration of the Maoists into the political mainstream as a political party, the end of autocratic royal rule, and reinstitution of democracy. The guarded optimism with which these developments were met almost served to obscure the violence which had brought the country to this pass: the decade-long Maoist insurgency and the royal massacre of 2001, both of which had undermined notions of Nepal as a peaceful land of communal harmony, with the king guarantor of this harmonious order. It also seemed to encourage de-emphasis of dissensions about and lacunae within this draft. The most publicised objections, initially, were those expressed by the Maoists over its failure to resolve the question of the monarchy.[32]

The riots in Nepalgunj were a reminder of Nepal's disharmonious recent history, and an indication that aspects of it were not yet confined to the past: the collective violence perpetrated by all sides during the Maoist insurgency, with its accompanying erosion of state legitimacy and repertoire of political coercion –strikes and curfews as well as physical violence. Its apparently communal nature also brought to the surface the ethnic politics that the grievance-model interpretation of the insurgency views as a motive force behind it.

The riots are also contextualised by the Nepal Citizenship Bill, which was passed by the House of Representatives on 26th November 2006, under whose provisions individuals could, for the first time in Nepal's history, acquire citizenship by virtue of their mother's nationality. The decision was made with Constituent Assembly elections in mind, and was both popular (especially amongst women and people living in the Tarai) and controversial. The proposed extension of citizenship to an estimated four million people living in the Tarai region alarmed many Nepalese (particularly those of hill origin), upsetting their sense of the boundaries of Nepalese national identity by incorporating people whom they viewed

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[30]http://jurist.law.pitt.edu/paperchase/2006/08/nepal-interim-constitution-panel.php accessed 16/07/2007
[31]www.kantipuronline.com/kolnews.php?&nid=94695 accessed 16/07/2007.
[32]http://jurist.law.pitt.edu/paperchase/2006/08/nepal-interim-constitution-panel.php accessed 16/07/2007

as Indian.33 Therefore fears of Indian encroachment encouraged by a redefinition of Nepalese identity brought about by democratic forms and constitutional change (the impending Constituent Assembly elections) were a feature of these riots, just as they were of those that occurred in 1997.

The 2006 Constitutional framework

Article 4(1) of the 2006 interim constitution declared Nepal to be an "independent, indivisible, sovereign, secular, inclusive and completely democratic state". Here again a kind of balancing act can be discerned, although in abbreviated form from that of the 1990 constitution, and with different constituent elements, reflecting the different constituencies being addressed. The same tension can be perceived between a desire to maintain Nepal's "traditional" identity (as an independent, indivisible and sovereign state, the three elements retained from the 1990 constitution) and pressure for greater representation. However, these two impulses are now reconciled by an emphasis on "inclusion" rather than Hinduism or monarchy. Nepal was declared a secular state soon after the 2006 *jan andolan*, and the constitution confirms this decision. Although partly a response to calls for greater representation by Nepal's non-Hindu population, this was not the only motive behind it. As already discussed, monarchy and state Hinduism have traditionally reinforced each other in Nepal, with Sharma, for instance, suggesting kingship was the only remaining "core Hindu institution" in post-1990 Nepal (Sharma 2002: 22). Conversely, Hinduism can be seen as the main ideological support for monarchy, and the decision to declare Nepal secular as reflecting a desire to curb monarchical power by depriving it of legitimacy, whilst stopping short of the controversial step of declaring Nepal a republic.[34]

The suddenness of the change took many Nepalese by surprise, and was greeted with disapproval by some. Veteran Nepalese politician Mohammad Mohsin, for example, suggested that by sidelining royalists and Hindu nationalists, the new constitution risked unleashing "right-wing extremists" in the same way that the 1990 constitution had inadvertently encouraged "left-wing extremists".[35] As previously discussed, Hindu nationalists had already been provoked by the 1990 constitution's limited concessions to Nepal's multi-faith reality. They received the arrival of secularism with even less good humour, cloaking

[33] www.kantipuronline.com/kolnews.php?&nid=92618 accessed 16/07/2007
[34] This could also be a pre-emptive strike against the Maoists: with the swift introduction of a measure they had long advocated robbing them of the chance of claiming credit for it (personal communication with Friso Hecker, August 2007).
[35] Interview with Mohammad Mohsin, 08/09/2006

their threats about its repercussions in concerns for communal harmony and religiosity. In an interview, Shiv Sena Nepal's chairman Arun Subedi claimed secularism would worsen Hindu relations with religious minorities, ominously adding, "If Nepal is not a Hindu kingdom then there is no Nepal. We are entering into a holy war".[36] Both royalists and Hindu nationalists were implicated in the Nepalgunj riots;[37] their nostalgic "longings for authoritarian order and stability" (Hansen 1999: 24) apparently finding expression in destabilising violence.

The 2006 constitution's handling of identity politics also both adhered to and departed from that of its predecessor to radicalising effect. The 2006 constitution enshrines the right to form political parties in a more robust manner than the 1990 constitution, including it in the section on fundamental rights (article 12(3)), as well as in the section on political organisations, where article 141 prohibits imposition of restrictions on political parties. However, the right to form parties is constrained by the third proviso to article 12(3) of the interim constitution, which licences restrictions on any act that threatens Nepal's sovereignty, integrity and communal harmony in terms almost identical to those of the third proviso to article 12(2) of the 1990 constitution. Article 142(4) of the 2006 constitution also states that the election commission will not register a party if it bars membership on the basis of religion, caste, tribe (jati), language or sex, or if its name, objectives, insignia or flag would disturb the country's religious or communal harmony or promote a party-less or single-party system. The exclusion of opponents of multiparty democracy is new, and communal and religious parties are not barred per se, but otherwise the terms of this restriction closely resemble article 113(3) of the 1990 constitution, which also threatens non-registration of parties with discriminatory membership criteria or if their "name, objectives, insignia or flag is of such a nature that it is religious or communal or tends to fragment the country."

"Fragment" is the keyword here; fears of national fragmentation underlie both constitutions' restrictions on party formation. However, fissiparous forces are defined differently in the two documents, reflecting changed political contexts. The mention of proponents of party-less or one-party systems responds to experiences of royal takeover and insurgency (targets royalists and Maoists). This article's implicit view of monarchy as a potentially divisive force is obviously a departure from the 1990 constitution, and from monarchical myths of the Nepalese nation-

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[36] http://news.bbc.co.uk/2/hi/south_asia/5355816.stm, accessed 15/07/2007.
[37] From personal communication with Nepalgunj residents in January 2007, and also stated in the report of the People's Level Civil Investigation Committee (People's Level 2007: 7).

state, which present the king as a figure for Nepal's heterogeneous population to coalesce around. Fears of fragmentation can also be discerned in the 2006 interim constitution's retention of pre-existing electoral constituencies for the purpose of the Constituent Assembly elections.[38] These constituency boundaries were widely perceived to under-represent Tarai-dwellers, and were one of the catalysts for the Sadbhavana strike. Therefore the 2006 constitution, like its predecessor, can be seen as mixing progressive and conservative elements to radicalising effect: going far enough to antagonise some and not far enough to satisfy others. In addition, memories of the 1990 constitution, its perceived disappointments and failures, added urgency to protests against it and discouraged acceptance of constitutional compromises.

State and society actors

I will now discuss how identities were delimited bottom-up, through the role played by specific actors during the riots, focusing again on interactions with state representatives, parastatal and extrastatal organisations.

The police, the local administration and their counterparts

The catalogue of police errors committed during the 2006 riots recall those committed in 1997. Familiar tropes include discriminatory policing, failure to maintain a curfew and to protect people and property from damage. These failings were captured on a Maoist-produced VCD that shows bored-looking police officers idly watching rioters.[39] Other notable incidents included the CDO standing on the roof of the municipality office looking down at the violence below, and apparently doing nothing to control it, or to take officers to task for failing to do so (People's Level 2007: 7). The systematic nature of police inaction encouraged the impression that orders had been given from above not to restrain Pahadi

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[38] Article 63(3)a states that 205 (out of a total of 425) members of the Constituent Assembly will be elected via the first-past-the-post system from pre-existing constituencies. Article 63(3)b states that 204 will be elected from a countrywide vote using the proportional representation system, in which the whole country will count as one constituency; and article 63(3)c that 16 will be nominated by the Interim Council of Ministers.

[39] The people I spoke to in Nepalgunj (January 2007) told me that this VCD was Maoist produced, and this is also stated in ICG 2007: 12. Parts of this VCD were uploaded onto a pro-Madhesi blog (accessed 01/10/2007) and can be viewed at: http://demrepubnepal.blogspot.com/2007/01/madhesi-alert-nepalgunj-pahadi-attack.html

rioters, i.e. that it was not a simple matter of local-level incompetence.[40] Moreover, the police and local administration not only failed to protect citizens, but also perpetuated violence against them. In the Maoist VCD, a policeman is shown participating in the violence.[41] Whether or not this scene is taken at face value, it remains the case that the single fatality was caused by a police bullet. Kamal Giri's death was said to be an accident (he was caught up in police firing rather than directly shot at), but the fact that police were firing upon predominately Muslim and Madhesi crowds, whilst allowing Pahadi youths to rampage around them, speaks for itself.

The riots therefore undermined the idea of state disinterestedness in the eyes of all its protagonists. Most of the Muslims I spoke to following the riots had seen the Maoist VCD, and all of those who had drew my attention to the scene with the rioting police officer. As already mentioned, Madhesi activists responded to the shooting by declaring Giri a martyr and defacing the statue of king Triubhuvan. Pahadi rioters for their part are captured on the VCD greeting police convoys with the slogan "long live the Nepalese police!" indicating that they too were aware of, indeed confident of, police bias in their favour.

If the riots diminished the stature of the Nepalese state, it helped boost various extrastatal and parastatal bodies, which were able to legitimise their own outfits by stepping into the space created by state failings, illuminating Mitchell's observations about how these organisations exist on the "uncertain boundary between society and the state" in the process. (Less cynically, they could be seen as remedying state derelictions.) The People's Level write in their report that they are acting in anticipation of state negligence: conducting their own investigation into the riots, and producing their own report, because they know any official findings will be put in a drawer and left to be eaten by insects (People's Level 2007: 4).[42] Although the name of this NGO distinguishes it as an "extrastatal" actor, a civil society organisation, working at the "people's level", its pronouncements exceed this role. Its assignment of "moral responsibility" for the riots to Sadbhavana, its demand that the political parties and ethnicities conduct themselves

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[40] Hints as to why that might be so can be found in the People's Level report which mentions that false rumours had been circulated around the time of the riots about the molestation of Pahadi school children and suchlike (People's Level 2007: 5).

[41] The bias of a Maoist-produced VCD is obviously to be borne in mind, as well as the fact that the two scenes in which he appears, back-shots of a man wearing no jacket, but what look like police-issue trousers and boots , only last a few seconds.

[42] This has indeed been the fate of a number of government reports on civil disturbances and official misconduct, from the ill-publicised and patchily implemented Malik commission report on the first jan andolan on (Hoftun *et al.* 1999: 167-169).

better, and that Kamal Giri be declared a martyr, specifying exactly how much compensation his family should receive, indicates that it is seeking to position itself as some sort of arbiter, above the political and communal fray. This is of course how the state is often conceptualised, as standing apart from society and issuing "authoritative *intentions*" (Mitchell 1991: 82).[43]

Whilst extrastatal bodies occupy the moral high-ground vacated by a partisan police force and "irresponsible" political parties, the parastatal Maoists assume another set of state-like characteristics: that of monopolists of legitimate force, a long-term objective of their "people's war". The police having proved to be unwilling/unable to protect Muslims and Madhesis, and other political parties to be ineffectual, the Maoists step into the breach: stand guard over Madhesi and Muslim-owned houses and organise rallies which lead to an eventual "normalization" of the situation. This double manoeuvre can be clearly seen when Maoist leader Athak criticises police handling of the situation at the same time as declaring that the Maoists are working alongside the police to control it. The Maoist intervention was reported in the press "as a stepping stone to their entry into mainstream politics", boosting their standing on a national scale.[44] Capture of state legitimacy by Maoists and civil society point to the obverse of Mitchell's observations about how it is the porosity of the state that gives it its strength –enables it to renew its legitimacy at the level of the everyday. These same blurred boundaries also help legitimise extrastatal and parastatal organisations.

The "ruling" Nepal Sadbhavana Party: from regional NGO to national party

Sadbhavana, like Shiv Sena, is situated between NGO and political party status and in ambiguous relation to defining features of Nepali identity, highlighting both the persistence and fluidity of these boundaries. Moreover, as a "ruling" political party it also blurrs boundaries between political parties and the state.

Sadbhavana, like Shiv Sena in Nepal, has experienced transitions from political party to NGO status and back, whilst acting in ways that underline how porous these categories are. Sadbhavana's origins are said to lie in the Tarai Congress party, which was established in 1958, in the

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[43] It also, although I think to a lesser degree, recalls the role played by panchayats in resolving communal disputes, as described in Gaunle's article. To a lesser degree: because the People's Level, in their report on the riots at least, lay little stress on being local and ethnically representative; they address the interests of all Nepalese people (not just the people of Nepalgunj). Confusion about the source of NGO's authority is of course not confined to Nepal (Hopgood 2006).

[44] www.kantipuronline.com/kolnews.php?&nid=95728 accessed 20/05/2007

first democratic interlude, and revived in the Panchayat era as the Sadbhavana Parishad (Hachhethu 2006: 14). According to Gajendra Narayan Singh, the Parishad's founder, it was provoked into existence by preparations for the 1980 referendum on whether to reintroduce democracy. When the government began to distribute citizenship certificates in the Tarai in 1976, two thirds of its population was deemed ineligible. The resulting dispute is said to have compelled "Gajendra Narayan Singh to leave the [Nepali] Congress Party, which he had been active in for many years and led him to devote all his energy to fighting for the Terai people." (Hoftun *et al.* 1999: 332). He is said to have been successful in his efforts, eventually being voted onto the national Panchayat on this issue (*ibid*). As already discussed, in 1990 the Parishad became the Sadbhavana Party, despite the ban on regional parties. Therefore, as a civil society organisation with an elected presence in government, and a regional political party in a state where regional political parties were banned, it had committed multiple transgressions against normative standards hedging civil society and political party behaviour.

Sadbhavana's status as a "ruling political party" in a multi-party coalition government blurs yet another set of distinctions, those between political parties and the state. According to Varshney, political parties can play a double, political and civil society role in multiparty democracies, but not in one-party systems. In the latter, "political parties become an appendage of the state" and therefore lose "their civic functions" (Varshney 2002: 4). This is based on a view of state and society as binary entities, which underlies Varshney's downplaying of state responsibility for causing and controlling inter-ethnic violence.[45] However, as Hachhethu (2002: 165) has observed, in countries such as Nepal where patronage politics is rife, and political parties are viewed as dispensers of state resources and therefore part of the state, this distinction does not really hold.[46]

The current (as of August 2007) political situation in Nepal further refutes these distinctions. Nepal does not currently qualify as a one-party

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[45] According to Varshney (2002: 289), inter-ethnic civil society associations are better suited to the task of effecting the "integration" which he views as necessary to maintain ethnic peace.

[46] This attitude can be seen in Shiv Sena in Nepalgunj's decision to approach political parties, rather than state officials, with its wish list prior to the 1997 election. Interestingly, Hachhethu (2002: 173) does not see blurred boundaries between parties and the state as necessarily being a bad thing. He suggests that Nepalese parties could play a valuable role in the absence of "other effective intermediary organizations between the state and society." Also, as mentioned earlier, it is questionable whether this distinction really obtains anywhere.

state: its interim government is a temporary and multiparty body, within which there is open dissension. Sadbhavana's ruling party status has also clearly not eliminated its "civic functions". On the contrary, around the time of signing the initial draft of the interim constitution, Sadbhavana can be seen to play a triple role. In its capacity as a member of the interim government, it was a signatory to the constitution. As a political party looking to its own electoral interests (or the interests of its main constituency) it issued a note of objection to provisions that would limit its electoral clout (or under-represent its constituency).[47] In its civic capacity, it organised a strike and street protests against the constitution that it had signed.

Moreover, the principle of separation of powers was violated by this draft of the interim constitution, which allows the prime minister to select the head of the judiciary and thereby makes him head of both state and government.[48] Sadbhavana's behaviour is of a piece with how close to becoming meaningless distinctions between state, government, political parties and civil society were in the interim period. Or, given how fluid they have often been in practice, how difficult it was, in this period when everything was in flux, to make internal distinctions between categories appear like external boundaries, which Mitchell (1991: 78), writing about the elusive state-society boundary, claims is the "distinctive technique of the modern political order".

Whilst indigenous to Nepal, Sadbhavana's pro-Hindi policy and Tarai-centred support base place it in ambiguous relation to defining features of Nepalese national identity: the Nepali language and Pahadi identity,[49] and help to explain its political marginality. Although it has participated in a number of coalition governments and is currently in the Seven-Party

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[47] The NSP issued a note of dissent complaining about the vague wording of provisions for land reforms and retention of a constituency system, which they claimed discriminated against plain-dwellers. www.ft.com/cms/s/0/a1f3bfdc-8def-11db-ae0e-0000779e2340.html accessed 20/05/2007

[48] According to Bhimarjun Acharya, a constitutional lawyer, the constitution is flawed because, "It has the same head of state and head of government which is not what you have in a parliamentary democracy. The prime minister is to appoint the head of the judiciary, which contradicts the notion of separation of power." www.ft.com/cms/s/0/a1f3bfdc-8def-11db-ae0e-0000779e2340.html access: 20/05/2007.

[49] As Gellner (1997a: 8-9) notes, there is a distinction between the terms Parbatiya and Pahadi, although both mean "hill people". The former refers to upper-caste groups and "their associated low-status artisan castes", whilst Pahadi refers to all hill groups. However, as he notes, Tarai dwellers typically decry Pahadi (rather than Parbatiya) domination (*ibid*). From conversations with Nepalgunj Muslims I did not get the impression that they conflated the two terms, that when they spoke of Pahadis they meant Parbatiyas only.

Alliance,[50] Sadbhavana has always occupied a marginal position in Nepalese politics; its marginality linked not only to its limited electoral support, which is localised to what Hachhethu (2006: 39) describes as the "Tarai hinterlands", but also to how this constituency is viewed, as not only peripheral to, but also not quite part of the national mainstream, despite the fact that the majority of Nepal's population now lives there. Therefore Sadbhavana also resembles Shiv Sena in that its constituency is a majority with a minority complex.

One of Sadbhavana's main demands is that Hindi be declared a national language of Nepal, because it acts as a *lingua franca* amongst the people of the Tarai (Hoftun *et al.* 1999: 332). Official use of Hindi was discontinued in the 1950s, as part of the Panchayat-era promotion of what had become known as the Nepali language (*ibid*: 331), and this policy is effectively still in place today. The 1990 constitution liberalised the policy; although Nepali retained its official status (article 6(1)), all languages spoken as a mother tongue in Nepal were acknowledged as national languages (article 6(2)). The 2006 interim constitution modifies this, but keeps the mother tongue proviso that effectively discriminates against Hindi.[51] Although many Nepalese speak or at least understand Hindi, which probably has greater currency now than it did in the 1950s due to dissemination of Indian media (Liechty 2003: 184), for very few is it a mother tongue. Burghart (1984: 259) has explained the geopolitics of exclusion of Hindi: 'The absence of Hindi, the national language of India, from within the kingdom of Nepal has been used by the Nepalese government as a means of affirming its cultural difference from India...the absence of native Hindi speakers in Nepal serves to legitimise Nepal's continuing political autonomy on the South Asian subcontinent.'

Therefore, exclusion of Hindi, like the promotion of state Hinduism, is a means to shut out Indian influence; and just as Shiv Sena's Indian origins risked nullifying its pro-Hindu stance, Sadbhavana's pro-Hindi policy threatens it with the taint of foreignness, despite being indigenous to Nepal.[52]

This taint, of course, more generally threatens its Tarai-dwelling constituency. In an interview, Gajendra Narayan Singh described the

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[50] It participated in five coalition governments between 1994-1999 and one king-nominated government in 2005 (Hachhethu 2006: 67).

[51] Article 5(2) retains Nepali as the official language; article 5(1) declares all languages spoken in Nepal as a mother tongue "national languages" (5(1)), and some provision is made for use of these languages at local level in article 5(3).

[52] This is not the only feature, which associates it with India; its flag is also almost identical to that of the Indian National Congress: a version of the Indian tricolour with an outstretched palm in the centre.

situation in sweeping terms: 'The Terai people...have neither been treated as Hindus nor as Nepalese. We have always been called Madhesis...and treated as second-rate citizens. All the Terai people, whether they are Muslims or Hindus, are treated as Madhesi' (quoted in Hoftun *et al.* 1999: 331).

However, his comments point to internal tensions within Tarai regionalism, which help account for why it has struggled to achieve national prominence. It is obviously not the case that all Tarai-dwellers are identified as Madhesi: large numbers of Pahadis moved to the region following the malaria eradication programmes of the 1950s and 1960s, and Muslims are ambiguously situated in relation to the term (Gellner 2007: 1824-1825): some accept it, others do not.[53] It is not even the case that all of the Tarai is considered to be part of the Madhes. According to the International Crisis Group, the term only really covers the central and eastern Tarai (ICG 2007: 2). The ICG was writing in the wake of civil disturbances that had been concentrated in those areas, and its definition illustrates the way in which identities are demarcated by conflict and violence. Just as the Hindu-Muslim conflict during the 1997 municipal elections helped make those particular identities salient, and for the purposes of the NSP strike the western Tarai did count as part of the Madhes, disturbances in the central and eastern Tarai have apparently encouraged demarcations of the territorial limits of the Madhes which exclude the western regions.

Sadbhavana has traditionally sought to elide internal divisions, as Singh does in his comments, or emphasising that it speaks for all residents of the Tarai, as Sadbhavana politician Sarita Giri did in a recent interview.[54] Whilst this has helped to ensure its continued presence in the political mainstream, it has perhaps hampered its efforts to campaign for its constituency. It has recently been superseded by groups less constrained by the need to be all things to all people, and to publicly abjure violence; by the Maoists and by various Madhesi organisations

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[53] According to Sharma, prior to the 1990s Tarai Muslims were associated with madhesi identity, as the main communal fault-line in the region at that time lay between Madhesis and Pahadis. The Hindu nationalist resurgence in India, and its spill over into Nepal, is said to have changed this (Sharma 1996: 46). The riots that occurred in December 2006, which were presented as a Pahadi-Madhesi conflict, appear to reflect a reversion to the previous state of affairs, although during these riots too Muslims suffered disproportionately (personal communication with Nepalgunj residents, January 2007).

[54] In an interview posted on the web on 08/01/2007, Giri said: Sadbhavana "has never indulged in racial politics. It is our political religion to take care of the betterment of the entire Terai region." www.kantipuronline.com/interview.php?&nid=97006 accessed 16/07/2007

(some of whom were previously affiliated with the Maoists)[55], who have been more effective than Sadbhavana in promoting federalism and bringing Tarai regionalism to the political main stage.

Conclusion

The national implications of "communal" violence, which underlay the 1997 riots, but were obscured by presentations of it as Indian communal backwash, were clearer in those that occurred in 2006, because the stakes were higher: not just the election of local representatives for a period of time, but the drafting of a document which would have a lasting effect on state and societal identities. However, everything was in flux during the transition period in which the December 2006 riots occurred, making it harder than usual to distinguish between state and society, or even to define Nepalese state and society. Relaxation of citizenship laws had loosened the boundaries of Nepalese identity, but, as police inaction during the 2006 riots suggests, citizenship was still a paper right for many, even for those who counted as citizens under the narrower terms of previous legislation. Monarchical myths of the state appeared to be dying out (although not without a struggle), but "modern" ones had yet to convincingly take their place, with violence in the Tarai, from the December 2006 Nepalgunj riots onwards, undermining notions of the state as an arbiter and protector of the people. After a decade of Maoist insurgency, collective violence was by now a standard way to achieve political change and demarcate ethnic and territorial boundaries –as militant Madhesi groups had learned.

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[55] For instance, the Janatantrik Tarai Mukti Morcha, which was set up in 2004 by former Maoist leader Jai Krishna Goit (ICG 2007: 9).

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