

Chapter 2

Factors in Indo-Nepal Relations

As close neighbors, India and Nepal share a special relationship of friendship and cooperation characterized by open borders and deep-rooted people-to-people contacts of relationship and culture. Nepal and India are very close neighbors having unique ties governed by religious, cultural and economic inter dependence. Relations between India and Nepal have been close since ancient times stemming from geographical location and common ethnic, linguistic and cultural identities that overlap the two countries despite some difficulties stemming from problems inherent in big power-small power relations. India-Nepal relations are based on historical, cultural, geographical and economic linkages. Both the countries have periodically acknowledged each other's value and importance, and have also described the relationship as 'special' on various occasions.

Relations between India and Nepal have been close since ancient times stemming from geographical location and common ethnic, linguistic and cultural identities that overlap the two countries despite some difficulties stemming from problems inherent in big power-small power relations. Independent India and Nepal initiated their intertwined relationship with the 1950 Indo Nepal treaty of Peace and Friendship and accompanying letters that defined security relations between the two countries, and an agreement governing both bilateral trade and trade transiting Indian soil. The 1950 treaty and letters stated that "neither government shall tolerate any threat to the security of the other by a foreign aggressor" and obligated both sides "to inform each other of any serious friction or misunderstanding with any neighboring state likely to cause any breach in the friendly relations subsisting between the two governments." These accords cemented a "special relationship" between India and Nepal that granted Nepal preferential economic treatment and provided Nepalese in India the same economic and educational opportunities as Indian citizens. Indo-Nepal border is open; Nepalese and Indians can move freely across the border without passport and visa and live and work in either country.

The relationship between India and Nepal is a characteristic "*Macro- Micro Power*" relationship, one between unequal partners. It has witnessed many ups and downs since its initiation in Indo-Nepal Treaty of Peace and Friendship signed in 1950. The Indo-Nepal relations are strengthened by the common ethnic, linguistic and cultural identities. The minor

strains have been largely attributed to difficulties stemming from geographical location, economics and the problems inherent in big power-small power relations.

Political Setting in Nepal

The modern Nepali state was created between 1743 and 1816, largely by means of conquest. In the post-unification period, Nepali court politics were characterized by weak personal rule and acute political instability. The royals and their upper Hindu caste courtiers engaged in conspiracy, murder and killings, which led to the rise of Jang Bahadur Rana in a bloody massacre in 1846. The subsequent Rana oligarchy lasted for 104 years. The 1854 law code was based on traditional Hindu political thinking, and introduced a hierarchical social setup that made the masses second-or third-class citizens. An armed movement led by the Nepali Congress.¹

(NC) terminated the Rana system after a compromise between the king and the Ranas was reached through the mediation of the Indian government in Delhi. The Delhi compromise guaranteed a multiparty system, fundamental rights and the return of monarchy to its traditional position. The 1950s were a period of democratic experimentation, with numerous governments appointed and dismissed by the king. General parliamentary elections took place in 1959 and were won by the NC. However, this first attempt at parliamentary governance ended with the intervention of the king through a military-backed coup in December 1960. The Panchayat system was introduced in the same year, and featured direct rule by the king himself.²

Nepal has seen rapid political changes during the last two decades. Upto 1990, Nepal was a monarchy under executive control of the King. Faced with a communist movement against absolute monarchy, king Birendra, in 1990, agreed to a large-scale political reform by creating a parliamentary monarchy with the King as the head of state and a Prime Minister as the head of the government.³

Nepal's legislature was bicameral, consisting of a House of Representatives called the Pratinidhi Sabha and a National Council called the Rastriya Sabha. The House of Representatives consisted of 205 members directly elected by the people. The National Council had 60 members: ten nominated by the king, 35 elected by the House of Representatives, and the remaining 15 elected by an electoral college made up of chairs of

villages and towns. The legislature had a five-year term but was dissolvable by the king before its term could end. All Nepali citizens 18 years and older became eligible to vote.

The executive comprised the King and the Council of Ministers. The leader of the coalition or party securing the maximum seats in an election was appointed as the Prime Minister. The Cabinet was appointed by the king on the recommendation of the Prime Minister. Governments in Nepal tended to be highly unstable, falling either through internal collapse or parliamentary dissolution by the monarch, on the recommendation of the prime minister, according to the constitution; no government has survived for more than two years since 1991.⁴

Nepal has experienced a succession of weak governments, most of which have lasted less than a year. A Maoist rebellion that erupted in February 1996 caused increasing problems for the government and over the years has affected almost all 75 districts of the country. The movement found support among the impoverished and largely disadvantaged masses of the rural population. The fighting between the Royal Nepali Army (RNA), which was first mobilized in November 2001, and the Maoist's People's Liberation Army (PLA), has contributed to the decline of democracy and human rights in the kingdom, causing considerable concerns among Westerners and Nepalese over the country's future.⁵

The entire royal family of King Birendra was murdered on 1 June 2001 under unexplained circumstances, and the dead king's brother, Gyanendra, was crowned king on 4 June 2001. A brief cease-fire and dialogue with the Maoists ended in November 2001 with a renewed escalation of violence. The government declared a state of emergency. In May 2002, Prime Minister Sher Bahadur Deuba (NC) recommended that the king dissolve the parliament, set new elections and issue a decree extending the state of emergency for another three months. In addition, he dissolved the elected local bodies when local elections could not take place in July 2002.⁶ When parliamentary elections proved similarly impossible to be held as scheduled, the prime minister and the leaders of other parties agreed to ask the king, under the authority of Article 127 of the Nepalese constitution, to postpone the elections and form a government with representation from all parties. Instead of reinstating the dissolved parliament, King Gyanendra seized this opportunity to stage a royal coup, claiming full sovereignty and assuming executive authority. He disbanded the cabinet, postponed elections indefinitely and appointed a new government made up largely of technocrats and dissident members of major parties, rather than party leaders. In June 2004, King Gyanendra re-installed Deuba as prime minister of a multiparty government, in hopes of quelling the

growing number of protests and street demonstrations. Disappointed by the lack of success in combating the insurgency, the king again declared a state of emergency, and with the assistance of the RNA, seized power on 1 February 2005 and thus completed his coup d'état. The king dismissed the cabinet, detained opposition leaders and NGO activists, and appointed a crisis cabinet with staunch royalists that reported directly to him. Under great pressure from civil society, a loose political alliance was formed in November 2005 between the Seven Party Alliance (SPA) and the Maoist insurgents. A pro-democracy movement launched in April 2006 forced King Gyanendra to accept the principles of popular sovereignty and to reinstate the dissolved parliament.⁷

Gyanendra invited the SPA to implement the people's "roadmap to peace," which included the election of a constituent assembly to rewrite the constitution, an inclusive state and society, and the introduction of a federal republican system. Former Prime Minister Girija Prasad Koirala was once more appointed prime minister. November 2006 marked a turning point in Nepalese politics; a comprehensive peace agreement between the Seven Party Alliance (SPA) and the Communist Party of Nepal (Maoist) (CPN-M) put an end to the civil war that the Maoist party launched against the royal regime of King Gyanendra Shah and the mainstream political parties in 1996.⁸ An interim constitution came into force on 15 January 2007. On the same day, an interim parliament with 330 nominated members was formed; the Maoists rejoined the government in April 2007. In the aftermath, the election of a constituent assembly was delayed three times within the following year until the Nepali people could cast their votes on the country's political future. The elections brought the CPN-M a landslide victory and led to the political downfall of the conservative parties who were held responsible for the collapse of the democratic system established after the Jana Andolan movement in 1990. The CPN-M election campaign focused on fundamental political and social reforms. On the other hand, the use of intimidation and coercion by Maoists has also been reported in the run-up to the elections. Though falling short of an absolute majority, the CPN-M achieved half of the 240 direct mandates and 30% of the seats on the basis of the proportional list. Holding 220 out of 601 seats, the Maoists form the strongest faction in the constituent assembly. Ram Baran Yadav (NC) was elected first president of the Federal Democratic Republic of Nepal in July 2008. One month later, a new coalition government was formed under Prime Minister Pushpa Kamal Dahal (CPN-M). The CPN-UML joined this government, while the NC remained in the opposition. In May 2009, the Maoists stepped out of the government, making way for a minority government lead by the CPN-UML under

Prime Minister Mahdav Kumar Nepal. Due to political pressure exerted by the Maoist party, Prime Minister Nepal resigned in 2010. After 16 failed attempts to elect a new prime minister, Jhalanath Khanal (CPN-UML) became Nepal's 34th Prime Minister with the help of the Maoist party in February 2004.⁹

With political instability being on the rise again, a peace process that is persistently fragile, and an incomplete integration of the former PLA into the NA, Nepal remains in a critical state of transition.¹⁰

The constituent assembly has still not accomplished the urgent process of writing a new constitution, the deadline has been again rescheduled until 28 May 2011, while it remains doubtful that the deadline will be met this time.¹¹

Political Movements in Nepal

Movement of 1990

The 1990 People's Movement was a multiparty movement in Nepal that brought an end to absolute monarchy and the beginning of constitutional democracy. It also eliminated the Panchayat system.¹²

The movement was marked by a unity between the various political parties. Not only did various Communist parties group together in the United Left Front, but they also cooperated with parties such as Nepali Congress. One result of this unity was the formation of the Communist Party of Nepal (unified Marxist-Leninist).

The 1990s People's Movement drafted the constitution into effect in November 1990. This constitution forced the monarchy of King Birendra Bir Bikram Shah Dev to hand over decisions of government to the Nepali people. Through rallies and protest King Birendra was convinced to enforce a new constitution of the people, and "identifies the people as the source of political legitimacy and guarantees of basic rights". Now Nepalese citizens 18 years of age and up are eligible to vote. Due to the high illiteracy rates, nearly 40% of the population, political parties are related or associated with symbols. For instance, the Tree represents the Nepali Congress Party, and the Sun represents the Unified Marxist Party.¹³

However, the construction of the constitution faced many difficulties because of the chasm between elites and the typical voter. The leaders of the most prominent parties are typically

upper class citizens who are rarely concerned or associate with the larger section of the Nepal population, in which the typical voter had a high probability of being illiterate and high ethnic attachment. This large disparity increased the difficulty of creating a usable system that allowed electoral officials and Nepali citizens create a new system, yet still embrace traditions and beliefs about caste.

Movement of 2006

In a nationally televised address, King Gyanendra reinstated the old Nepal House of Representatives on April 24, 2006. The King called upon the Seven Party Alliance to bear the responsibility of taking the nation on the path to national unity and prosperity, while ensuring permanent peace and safeguarding multiparty democracy.

The reinstatement of Parliament was accepted by the SPA. It declared that Girija Prasad Koirala would lead the new government. The SPA stated that the new parliament will hold elections for a body that would write a new constitution.¹⁴

The move was rejected by the Maoists. Baburam Bhattarai stated that merely restoring the parliament was not going to resolve the problems and that the rebels planned to continue fighting against government forces. They still demand the formation of a Constitutional Assembly and abolition of the monarchy.

On April 27, however, the Maoist insurgents responded to demands by Girija Prasad Koirala and announced a unilateral three-month truce in the Nepalese civil war. In addition to this, on May 1, Bhattarai announced that if "the elections [to a Constituent Assembly] are free and fair, one has to respect the result of the elections. Then of course we will abide by the verdict of the people. This was seen as a large step forward as it shows the first signs of Maoist acceptance of the democratic process.

On May 2, Koirala announced the new government cabinet including himself and three other ministers from the Nepali Congress: K.P. Sharma Oli from CPN (UML), Gopal Man Shrestha from Nepali Congress and Prabhu Narayan Chaudhari from the United Left Front. This was followed on May 12 by the arrest of four ministers from the ousted royalist government and an investigation into alleged human rights violation by the army during the General Strike.

Madhesi Factors in Nepal

The most popular or accepted version for Madhesi is that it refers to 'Madhya-desh', a region between the hills and the plains. Also known as 'Terai', Madhes region consists of twenty districts, all of which share their borders with India. Many Madhesis are of Indian origin and thus have strong socio-cultural ethnic linkages across the border.

Over the years, Madhesis have suffered from a sense of discrimination and consequent deprivation. They also feel exploited and discriminated against by the upper caste Pahadi migrant communities. Hindi-speaking Indian Madhesis particularly feel discriminated against by the Nepali state due to the following factors. Firstly, Indian Madhesis, under the Citizenship Act of 1964 and the Constitution of 1990, were debarred from citizenship certificates, due to which they could neither acquire land ownership nor could avail government benefits.¹⁵ Although the Citizenship Law was amended in November 2006 making it possible for people born in Nepal before 1990 and those residing there permanently to acquire Nepali citizenship, it has been alleged that many Madhesis and Dalits are still deprived of citizenship. It has also been alleged that instead of taking into consideration the Madhesis' cultural affiliation with India, the Nepali government has adopted a discriminatory attitude towards this group by trying to introduce compulsory Nepali language for both official work and as the medium of education in the Madhes region. Despite the fact that the Madhesi population constitutes nearly one-third of the Nepali population, their share at the level of gazetted level employees is merely 9.9 per cent. Madhesi people have also voiced concerns about the economic exploitation of the resource-rich Madhes region by the Nepali government. Although Madhes contributes 70 per cent of the agricultural production of Nepal, 65 per cent of the GDP, and 76 per cent of the country's total revenue, the infrastructure in this region is considered to be much poorer than in the hill areas. Allegations have also been made regarding how during the monarchy, in the name of land reform, lands belonging to Madhesi people were given away to Pahadis.¹⁶

Madhesi Movement

A feeling of deprivation and exploitation made the Terai or Madhes region a hub of the pro-democratic movement during the 1950s and 1960s. During that time, perceiving India as anti-establishment and the Madhesis as India's agents, and fearing that Indian immigrants in Terai

might prompt India to claim it as Indian territory, the Nepali elite adopted stringent policies to curb the Madhesis' activism. But this led to the emergence of identity-based movement in Madhes, particularly with the formation of two groups: the Nepal Terai Vongress led by Vedanta Jha in 1951 and the Madhesi Mukti Andolan led by Raghunath Thakur in 1956. At present, numerous political parties and non-state actors are involved in the Madhesi cause. In this context, examples of Madhesi Janadhikar Forum (MJF), Terai Madhesh Loktantrik Party (TMLP), etc., can be particularly cited. There also exist a number of major armed groups in the Terai region, such as the Janatantrik Terai Mukti Morcha (JTMM), Terai Cobra, Nepal Defence Army (NDA), Nepal Janatantrik Party (NJP), and Chure Bhawar Ekta Samaj (CBES). Although all these forces are involved in armed revolution in Nepal, there seems to be a divergence in the goals each of them aspires to achieve.¹⁷ While JTMM demands the establishment of an autonomous Terai region, and Terai Cobra aspires to launch an armed separatist struggle for a sovereign Terai state, the objective of NDA is to form a Hindu army with suicide bombers to fight against religious extremism, conversion, as well as Maoists. Similarly, while as a royalist outfit, the NJP aspires to retain constitutional monarchy and multiparty democracy in Nepal, the CBES basically demands the establishment of a Chure Bhawar federal region in Terai and is opposed to 'one Madhesh one Pradesh' demand.

There are reports of 'internal tensions and lack of clarity on immediate demands and long term strategy' of Madhesi groups. While the Madhesh-based parties take a soft stand on the issue, the armed groups are demanding nothing less than sovereignty. Moreover, the Madhesi political parties are in a dilemma especially regarding whom to take sides with among the major parties. They cannot support a liberal democratic government in Kathmandu as their autonomy demand would be lost. They cannot really support the Maoists basically due to the prevailing fear of losing a multi-party democratic system in Nepal under a Maoist led government. In the meantime, due to their involvement in kidnapping, killing and extortion, some armed groups involved in the Madhesi cause are often dismissed as criminals by most Madhesis themselves. In this scenario of diffused leadership and objectives, the future of the Madhesh cause remains uncertain.

Regions of Terai, can provide avenues for both China and Pakistan to encourage anti-India elements there, through arms and fake currency trafficking, madrasas, terrorist outfits, etc. Reportedly, China has already extended its support to the faction of the MFJ led by Upendra Yadav. In recent time, the United States too has taken particular interest in the developments

of Madhesi region. Although it has listed JTMM on the US terrorist list, it granted a visa to Upendra Yadav to attend the Terai Diaspora event held in Washington.¹⁸

Over the years, while treating Madhesi issue as an internal matter of Nepal which can be resolved by accommodating minority rights within the new Constitution, India has largely taken a stance of non-interference. Even then, the Pahadis often allege India of encouraging the 'one Madhesh, one Pradesh' demand. It would aggravate the prevailing anti-India sentiments in Nepal and consequently give more space to China and Pakistan to use Nepal as a hotbed for anti-India activities. Ironically, the Madhesis accuse India of neglecting the Madhesi movement. Recently, in June 2009, allegations were raised regarding India's involvement in engineering divisions in the MJF. Debate has also been brewing in the Terai that the Madhesis have failed to take any concrete decision about their future because of India's support for the liberal democratic parties opposed to ethnic-based federalism.

Anti-Indian sentiment of the Madhesi movement is likely to affect India's economic interests in Nepal. Frequent protests will affect India's trade and commercial relations with Nepal. It will also affect India's hydroelectric projects and the business operations of Indian investors in Nepal. Since the Terai is the link between India and northern Nepal, a troubled Terai may affect "every major highway, custom point. The industrial, economic, and other fertile resources of Nepal are in Madhesh, helping circulate trade relationship."

Under the prevailing circumstances, India is faced with certain difficult choices. Any constructive attempt by India to salvage the Terai situation through proactive involvement is likely to be interpreted as unnecessary intervention in the internal affairs of Nepal and upset its Pahadi constituency and Nepal Army. At another level, passive indifference to developments in Terai will be misconstrued as shirking of responsibility by observers at home as well as by the Madhesis themselves. India cannot possibly afford to ignore developments in Nepal and especially the discrimination in Terai. At present, the best approach for India seems to be to work as a positive facilitator to strengthen the capacity of various democratic institutions to resolve the social tensions in Nepal in general and in Terai in particular. Given India's leverages in Nepal, India could also make an earnest effort to bring all political parties together to have a dialogue on the contentious issues.¹⁹

Present Political situation in Nepal

The main players influencing the political situation in Nepal are the mainstream political parties, the civil society and the Nepalese army. The nature of politics will largely depend upon the interaction among all these forces in future. As things stand today, Nepal is experiencing a political deadlock because of the differences between major political parties on issues ranging from the form of government, nature of federalism, integration/rehabilitation of Maoist combatants, to the competition between the major political parties to lead the national unity government. There is a serious trust deficit between the major stake-holders in Nepal. The NC and UML suspect that the Maoists have a long-term agenda to capture state power by infiltrating their cadres into the army, bureaucracy and other institutions.²⁰ Some sections within the Maoists suspect that the NC along with the Nepal Army and India is trying to suppress them. The Madheshi parties are reluctant to support any NC and UML-led government due to their differences over autonomy issues. Moreover, all political parties are divided from within. This has affected the present peace process and delayed the process of Constitution writing. The mistrust between the Nepal Army and the Maoists has also had a negative impact on the integration as well as the reconciliation process. In the prevailing atmosphere of uncertainty, Nepal has already had four Prime Ministers heading coalition governments with simple majority in the CA- cum-Parliament between April 2008 and August 2011. A prolonged state of instability could lead to serious governance problems, ethnic unrest in eastern and southern Nepal, an economic and energy crisis, and labour migration to other countries.

The political situation in Nepal will play a critical role in determining Nepal's future and its relations with India and the wider world. Nepal will stabilize if the political parties strike a consensus and deal with all contentious issues effectively and the Maoists assure all concerned about their commitment to the democratic process. However, if the present state of dissension continues, Nepal will become further unstable; it could even witness a fresh round of political violence.

End Notes

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