

Chapter 3

Indo-Nepal relation in different phases

Nepal and India have been living as close neighbours of South Asia since the existence of the two countries. The relationship between the two countries is bound by history, geography, economic cooperation, socio-cultural ties and people-to-people relations. The bilateral relationship, which is marked by mutual trust, good will and cooperation, has been moving forward with the increased interactions and close cooperation between the two countries with the passage of time.

Independent India and Nepal initiated their intertwined relationship with the 1950 Indo Nepal treaty of 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 a passport and visa and live and work in either country.

India-Nepal Treaty of Peace and Friendship of 1950 is the bedrock of the special relations that exist between India and Nepal. Under the provisions of the treaty, Nepalese citizen have enjoyed unparalleled advantages in India, availing the facilities and opportunities at par with Indian citizens. The Treaty has enabled Nepal to overcome the disadvantages of being a land-locked country. Overtime, many regimes in Nepal have raised the issue of revision of the treaty. India has maintained that it is willing to examine all bilateral arrangements with a view to further strengthening our relations. Specific suggestions from the Nepalese side have not been forthcoming.

Although no formal agreements before 1950 maintained that the border between the two countries should remain open, both countries never introduced any provision of travel permits for the people of either country moving across the border. The open border is always operating at the pleasure of Indian interest. India has time and again used the open border issue to threaten Nepal whenever it feels that Nepal is not responding to its interest. There are incidents of major transit points closed for long duration by India without consulting Nepal as a punishment for dealing with other countries without India's prior knowledge and consent. However, after the birth of Maoist insurgency in Nepal, and especially in the past few years, India is also feeling the heat of negative implication of the left-wing and anti-Indian coordination in both countries that is linked to its internal security concern. So, it is the time for not only Nepal, but also India to rethink its strategic policy about the open border in the changing context of regional security as well as cross border undesirable activities.

The specific geopolitical character of Nepal and age old social, religious and cultural relation, the open border, passage to the sea through India only and the special treaty of security could not let Nepal escape from the dominance of India in political and economic front. Hence, during the past years from 1950, Nepal's political issues never drew the attention of international community other than India. Even our northern neighbour China did not bother to give its attention in Nepal's political development in the period. India enjoyed the sole monopoly in engaging itself in every political development of Nepal.

Political Relations

India relation with Nepal from Prior to 1951

Nepal's relationship with India prior to 1951 was based on the 1816 Treaty of Sugauli, and the 1923 Treaty of Peace and Friendship concluded with the British East India Company in India and Great Britain, respectively. Nepal fought a war with the British East India Company from 1814 to 1816 for a brief period that checked a Nepalese drive for westwards expansion.¹ A peace treaty, formally signed by Nepal in March 1816 included territorial concessions by which Nepal lost almost one-third of its territory on the east, south, and the west. This treaty remained the basis of the relationship until the Treaty of Friendship and

Peace was signed in December 1923. This treaty enhanced the relationship between Nepal and the British Raj until 1947. In view of longstanding friendly relations that included, Nepal sending troops to India to help Britain to maintain control, the British government agreed that Nepal would be free to import goods and military hardware from and through India, which was restricted under the Treaty of 1816. Nepal further strengthened its relationship with the British Raj by providing troops in World War II.²

Nepal's Relationship with India Since 1951 to 2006

Nepal's relationship with the newly-independent India developed when Nepal assisted militarily, on the request of India, to maintain law and order in 1947. As religious violence erupted between the Hindu and Muslim communities in many places in India due to the split of British India into India and Pakistan, a contingent of 19 Battalions led by a major general was deployed in different places throughout India, to help stabilize the situation.

A friendly relationship with the newly-independent was formally established by concluding a Treaty of Peace and Friendship in July 1950. The relationship during the 1950 was also shaped by the establishment of a Communist government in China in October 1949.³ After the occupation of Tibet in 1951, China stated that "Tibet is China's palm and Nepal, Bhutan, Sikkim, Ladakh, and the Northeast Frontier Agency of Assam are the five fingers. Now that palm has been restored to China, the fingers should go with it. This created Nepal's, and especially India's, suspicions about China's future intentions.

Nepal's relations with India further developed under a new regime when the hereditary Rana regime was abolished, and the king's power was reinstated by the active political involvement of India in 1951. Subsequently, the relations were developed in economic and military areas as well. The Nepal-India Economic Cooperation Program was launched in 1951. The objective of the program was to supplement the efforts of the Government of Nepal in national development. As described by the Indian Embassy in Kathmandu, "To give a concrete shape to this vision of development cooperation, the Government of India set up the Indian Aid Mission in Kathmandu in 1954. Military relations developed when an Indian military mission was established in Nepal in 1952, to train the Nepalese Army, and Indian

security check posts were established along the Nepal's northern areas bordering Tibet in 1954.⁴

Nepal's relations with India deteriorated in the years following the King Mahendra's accession to the throne in 1955, after the death of his father, King Tribhuvan. The first parliamentary elections were held in February 1959, but King Mahendra aborted the democratic experiment, and took full control of the state into his own hands in December 1960. King Mahendra started reducing Nepal's dependence on India and developed closer relations with China.

The Sino-Indian War of 1962 affected Nepal-Indian relations, when Nepal and India concluded an Arms Assistance Agreement in 1965. The agreement made India a major supplier of military hardware to the Nepalese Army. India also agreed to maintain and replace the equipment of Nepalese Army. In 1969, relations became stressful when Nepal asked India to withdraw Indian security check post stationed in Nepal, and demanded the abrogation of the 1950 treaty. India withdrew the security check post, but no action was initiated regarding the treaty.

Nepal strengthened economic relations with India by signing a Treaty of Trade and Transit in August 1971. However, those relations became stressful after a few years when Nepal demanded separate treaties for trade and transit. In the mid-1970s, Nepal pressed for substantial amendments to the 1971 Trade and Transit Treaty, which was due to expire in 1976. India also continued to provide economic assistance to Nepal. The relationship improved, but not steadily, over the next decade.

In 1975, King Birendra Bir Bikram Shah Dev proposed that Nepal be recognized internationally as a "zone of peace". In New Delhi's view, if the King's proposal did not contradict the 1950 treaty and was merely an extension of nonalignment, it was unnecessary; if it was a repudiation of the special relationship, it represented a possible threat to India's security and could not be endorsed. In 1984, Nepal repeated and continually promoted the proposal in international forums with Chinese support.⁵ By 1990, it had won the support of 112 countries, but it did not materialize.

Nepal-India relations deteriorated in 1988. In 1978, India agreed to have separate trade and transit treaties, satisfying a long-term Nepalese demand, but in 1988, when the two treaties were up for renewal, India insisted on negotiating a single unified treaty in addition to an

agreement on unauthorized trade, which Nepal saw as a flagrant attempt to strangle its economy. Nepal's refusal to accommodate India's wishes on the transit treaty caused India to call for a single trade and transit treaty. Thereafter, Nepal took a hard-line position that led to a serious crisis in India-Nepal relations.

Apart from the trade and transit issues, there were also other factors contributing to the crises. In 1987, India urged expulsion of Nepalese settlers from neighboring Indian states, and Nepal retaliated by introducing a work permit system for Indians working in Nepal. In addition to that, Nepal's agreement to purchase weapons from Beijing was a matter of serious concern for India. India perceived these developments as deliberately jeopardizing its security. New Delhi imposed tough economic sanctions, which further hastened the slide into political crisis. Nepal undertook a major diplomatic initiative to present its case on trade and transit matters to the world community.

In the aftermath of the 1989-1990 crises, a political movement emerged in Nepal demanding a multi-party democratic system. India supported the political movement of Nepal. In June 1990, a Joint Kathmandu-New Delhi statement was issued which settled the existing differences in Nepal-India relations.

Several other developments took place in the Nepal-India relationship in the post 1990 period. Indian Prime Minister Chandrasekhar visited Nepal in February 1991, and announced his government's assistance to Nepal in transportation, flood control and some other projects. The trade and transit treaties were revised.⁶ Again in October 1992, the Indian Prime Minister P. V. Narashima Rao visited Nepal, and emphasized that Nepal would be the first beneficiary of India's liberalization policy. In 1994, Nepal's Prime Minister Man Mohan Adhikari proposed to India to change the Treaty of 1950, but he expressed that, "Nepal was totally in support of India's security concern, and Nepalese territory would not be used for anti-India activities. In 1996, Nepal's Prime Minister Sher Bahadur Deuba repeated, "Nepal will never pose a security threat to India.

Nepal maintained diplomatic, informational, economic, and military relations with India throughout the insurgency. In the beginning of the insurgency, although, the Maoist were anti-Indian by ideology and in practice, but later they received support from India. On 1 February 2005, when King Gyanendra imposed direct rule in Nepal, India did not fully support this because India felt that it was done without getting formal consent from the Indian establishment. When the people's movement started from 6-24 April 2006 against the King's

direct rule, India did not encourage the people's movement because India was determined to support the three-pillar theory, parliamentary parties, the Maoist, and the former King Gyanendra.⁷

India played an instrumental role in bringing the Maoist and the political parties of Nepal to a 12-point understanding that brought political change in Nepal. The agreement was concluded in New Delhi on 21 November 2005, which mainstreamed the Maoist into the political process, ending 10 years of armed conflict.

Socio culture

The countries in South Asia, while enjoying their own peculiarities, share common culture and ways of life. The norms and values, mainly of Hinduism, Islam, Buddhism and Sikhism, are deeply rooted in South Asian societies. Though the numbers of followers of these religious and cultural mainstays vary from country to country, their presence and influence in local arts, cultures and traditions are distinctly visible in every country and society in the region. Nepal, too, has its unique geography, history and cultural heritage, and still is an integral part of the broader cultural history and tradition of Indian sub-continent. As the saying goes, culture sees no borders.⁸

While being parts of broader South Asian culture, Nepal and India share special closeness and similarity in cultural tradition. They are so closely and strongly interlinked by social life and cultural tradition that nobody can imagine to separate them. Both have made great contributions to enriching religious and cultural heritage in this region, and beyond. Lord Buddha, born in Nepal, has left his footprints not only in South Asia but all over the world. Sita, the daughter of Nepal, who was married to Ram, the crown prince of Ayodhya in India, has made special place in the hearts of Hindus living anywhere in the world. The contributions made by Indian philosophers and saints need no further elaboration. It is these great personalities of this region that have helped evolve, develop and spread the cultural heritage that is proudly known today as the South Asian culture.

The cultural links between Nepal and India have many facets. Religion is perhaps the most important factor, and plays a predominant role in shaping the cultural relations between these two countries. This is manifested in the large number of peoples from both countries visiting

each other's countries for pilgrimage. Thousands of Nepalese nationals visit pilgrimage sites in India every year.⁹ The visit of four *dhams* in India, viz. Badrinath/Kedarnath in Uttarakhand, Jagannath in Orissa, Rameshwaram in Tamilnadu, and Dwarka in Gujrat is a life-time aspiration of almost all Hindus. There are many other places in India which are considered sacred sites by Nepalese people. They include Haridwar, Rishikesh, Varanasi, Gaya, Vaishnodevi, and many more. Similarly, there are a number of religious sites in Nepal which are considered very sacred and important, and are attractions as 'must visit' religious destinations for Indian nationals. Such sites include Pashupatinath in Kathmandu, Lumbini (the birth place of Buddha) in Rupandehi district, Ram-Janaki temple in Janakpur (the birth place of Janak and Sita), and many more. As the peoples of both countries share common religious faiths and philosophies, and revere and worship same gods and incarnations, their cultural ties are really very strong and inseparable.

Another component of Nepal-India cultural relations is cinemas and music. Indian movies are popular in Nepal; and so is Indian music. Similarly, Nepali cinemas and music are popular in India, especially in places with concentration of the people of Nepalese origin, mainly in Northern and North-eastern India.

Language is yet another component of Nepal-India cultural affinity. Peoples in both countries share many languages. Such common languages include, inter alia, Nepali, Maithili, Bhojpuri, Hindi, Avadhi, etc. Sanskrit is the root of many of these languages, which is regarded as the language of the gods and saints. Nepal and India both use Devnagari script in writing Nepali, Hindi and many other common languages. Many a religious texts, including the Vedas, Upanishads, Puranas, Tripitak, are written in this script.

Between Nepal and India, there have been frequent exchanges of ideas, personalities and groups of people representing the areas of the art, culture, music, literature and sports. These kinds of events are not limited to government entities alone, but are taking place even more at the peoples' level. Nepal's diverse cultural heritage of dance and music- both classical and folk-, theatre, fine arts, and sports have been interacting with their counterparts in India, and have been contributing to foster friendly ties and generate a better understanding and appreciation of each other's traditions. Every facet of art and culture has become a way of life, and is expressed in carvings, paintings, architecture, sculptures and performing arts like music, cinema and dance.¹⁰ Every form of the arts in these countries is heavily influenced by

the respective religious traditions and mythologies, and has helped shape religious norms and values in Nepal and India.

The close cultural relationship between the peoples of Nepal and India is a great asset for both countries. This closeness has not only helped maintain traditional friendly relations between the two countries but has also greatly contributed to promoting mutual understanding, appreciating each other's aspirations, and cementing the existing ties of warm and cooperative neighbourhood. This has remained, and will continue to remain, the strongest and unshakable link between these two countries.

The major religion of Nepal is Hindu.¹¹ It was an only-Hindu Kingdom in the World before it was declared as a secular state in 2007. The population of Hindu in Nepal is 80.6 percent. The Hindu religion is the major religion of India, and it accounts 80.5 percent. The Hindu population of Nepal and India follow almost the same rituals, because of the caste-based system in the Hindu religion. The sacred God of the Hindu religion is Lord Shiva, whose temple is located in Kathmandu. The Hindu people of India pay their religious visit to the temple at least once in their lifetime. In 2009, out of a total 93,884 Indian tourists, 12,406 visited Nepal for the purpose of pilgrimage. Similarly, there are sacred Hindu religious places in India, commonly known as Char Dham, where Nepali people pay their religious visit. The Chinese people mainly pay their visit to the Birth Place of Lord Buddha at Lumbini, Nepal and other Buddhist shrines and monasteries located at Kathmandu and surrounding areas. In 2009, 3,406 Chinese tourists visited Nepal for the purpose of pilgrimage. The number of Indian pilgrimages in the same year was 12,406--three times higher than China.

Security and development

An important bilateral issue between Nepal and India is related to politics and security. Nepal virtually lies in the southern lap of the Himalayas, and shares borders with two huge states of Asia. This geopolitical reality has to be taken into account. Naturally, there would be political and security concerns of our neighbours which Nepal is committed to observe keeping in mind mutual interests. Nepal will not allow its soil to be used against the security interests of any of its neighbours.¹² Another key issue is economic development and development of resources. In the present day world, the economy of every country is interlinked with that of

others, especially neighbours. If we have to prosper, we can only prosper if we cooperate with each other. Poverty and underdevelopment in the neighbourhood will have fallout, and hamper your own development.

India and China are developing at a fast pace. Nepal, lying between two fast-growing economies, cannot remain backward and under-developed. We will seek the cooperation of both our neighbours, especially India. If Nepal can develop faster, it can become a development partner for India. For India also, a more developed Nepal will be a better guarantee of its security as only with development, peace, and stability, there can be security. Security concerns cannot be treated in isolation, but must be viewed in totality. Security and economic development must be seen together.

Open Border

Benefits and Problems

Indo-Nepal border is an open border, which has facilitated close social, cultural, and economic exchanges and led to a special relationship between the two countries. However, in recent times, the increasing misuse of the borders by terrorists, political activists, anti-social elements, etc.¹³ has led to the demand for the closure of the border from the Indian side. The paper posits that a closed border is not beneficial for both the countries as the social and political costs involved in such a border are immense. Therefore, the paper suggests the 'middle path' of a regulated open border should be adopted as a policy.

The Indo-Nepal border is an open border. People from both countries are free to enter each other's territory from any point on the border, while the movement of goods is allowed along 22 designated transit points. Both geographical compulsions and historical developments in the two countries have contributed to the evolution and sustenance of such an open border. The unrestricted movement of people across the border, over the centuries, has led to the development of well-entrenched socio-cultural linkages between the people of the two countries. These linkages have, in turn, facilitated greater economic interdependence and political ties. However, if on the one hand this open border provided a conducive atmosphere for the growth of better relations between India and Nepal, its misuse by smugglers, drugs and arms traffickers, terrorists and insurgents, petty criminals, etc. as well as residual points

of dispute along the border have strained the relationship. These factors have also resulted in demands from some sections in both India and Nepal – especially concerned politicians, security establishments, and academia – for either closing or tightly regulating the border. Given the special relationship between the two countries, a better approach would be to iron out these wrinkles and take effective steps to properly manage the border.

Benefits of an Open Border

The concept of an open border between India and Nepal was institutionalized in the Treaty of Peace and Friendship that the two countries signed in 1950. Provisions in the treaty, wherein citizens of both countries are given equal rights in matters of residence, acquisition of property, employment and movement in each other's territory, provide for an open border between the two countries.¹⁴ Although there is a general perception that the Indo-Nepal border has always allowed unrestricted movement, it has been argued that the concept of an open border formally began in the 19th century after the delimitation of the India-Nepal boundary in 1816 and the restoration of Naya Muluk to Nepal in 1860. During colonial times, the British had an interest in keeping the border open for two reasons. Firstly, impressed by the fighting skills of the Gurkhas, the British wanted to recruit them into the Indian army. Secondly, Nepal was seen as a market for finished goods from India. To achieve these objectives, it was necessary to provide unrestricted cross-border movement for both goods and people, and hence the idea of an open border.

Independent India continued with this practice, given the established and continuing linkages. An added reason for India to keep the border open was the emergence of an assertive China. The Himalayas, a section of which lay north of Nepal, have been historically perceived as the northern barrier that guards India. In the absence of a well-defined natural barrier between India and Nepal, Indian policy-makers came to view the Himalayas as a natural barrier between India and China. This line of thought was lucidly highlighted by Prime Minister Jawaharlal Nehru in a speech in parliament in December 1950 and regardless of our feelings about Nepal, we were interested in our own country's security, in our own country's borders. Now we have had from immemorial times, a magnificent frontier that is to say, the Himalayas. It is not quite as difficult as it used to be, still it is difficult, very difficult. Now so far as the Himalayas are concerned, they lie on the other side of Nepal, mostly not on this side. Therefore, the principal barrier to India lies on the other side of the Nepal.¹⁵ Therefore, much as we appreciate the independence of Nepal and we cannot risk own security to

anything going wrong in Nepal which permits either that barrier to be crossed or otherwise weakens our frontier.

The open border between India and Nepal not only addressed mutual security considerations but also fostered friendly relations between them. The unrestricted flow of people over the years has resulted in the dissemination of ideas, culture, and settlements of people in each other's territory. Religious places and institutions in both countries have played a very important role in strengthening the social and cultural relations between the two countries. Places like Pashupatinath, Lumbini, Janakpur, and Muktinath in Nepal and Kashi, Gaya, Rajgir, and Haridwar in India are visited by people from both countries. One main factor that historically contributed to the strengthening of ties has been matrimonial alliances between the royal dynasties of Nepal and their Indian counterparts, which was pursued as a matter of policy.¹⁶

The open border also has important economic implications for the two countries. One major aspect is the income that accrues to Nepal in the form of salaries, remittances, and pensions from the Gurkhas recruited into the Indian army. As part of the tripartite agreement between Nepal, India, and the United Kingdom, Nepal allowed the recruitment of Gurkhas in the Indian army, because it faced the burden of rehabilitating 200,000 soldiers discharged from the British Indian army at the end of World War II. The Ranas, who then ruled Nepal, also feared that the well-trained but unemployed Gurkhas might pose a threat to their rule. For India, the recruitment of the Gurkhas was a foreign policy tool to garner goodwill among the people of Nepal.¹⁷ According to some estimates, Nepal receives Rs. 100 million annually as foreign exchange from the Indian army. Moreover, those engaged in agricultural pursuits have benefited by the sale and purchase of agricultural products, livestock, and implements from markets located on either side of the border. The rapid urbanization of the Terai region has opened up economic opportunities for the inhabitants of the border regions, as people from both the countries can cross the border and work in each other's country.

Disadvantages of an Open Border

Cross-Border Movement of Terrorists, Insurgents, and Criminals

An open border allows easy egress to terrorists and insurgents. In the late 1980s, Sikh and Kashmiri terrorists sneaked into India via Nepal, as the border between India and Pakistan was fenced, making infiltration through it difficult. In later years, many north-east Indian

insurgent groups, such as the United Liberation Front of Asom (ULFA), the National Democratic Front of Bodoland (NDFB), and the Kamtapur Liberation Organization (KLO), also misused the open border. These insurgent groups are reported to have shifted their base to Nepal after being chased out of Bhutan in 2003. It has also been reported that they are increasingly sneaking into Nepalese territory and forging links with the Maoists there.¹⁸ Their aim is to establish a safe haven in Nepalese territory and engage in the supply of arms and ammunitions to various insurgent groups operating in north-east India. In recent years, it has been reported that many terrorists involved in numerous bomb blasts in the country have sneaked through the porous and poorly guarded Indo-Nepal border.

From Nepal, Maoists reportedly often escaped into India when pursued by Nepalese security agencies during the period of Maoist insurgency in Nepal. The districts of East and West Champaran and Sirohi of Bihar were particularly frequented by the Maoists, mostly to seek medical aid and shelter. This trend of Maoist rebels escaping into India has presumably stopped since they have agreed to become a part of the government in Nepal.

The Maoists menace, unfortunately, has taken a new form along the border area now. According to the media reports, the Maoists are now indulging in extortion and land grabbing and are terrorizing the villagers.¹⁹ In addition, there are apprehensions about a coordinated effort by the Indian and the Nepali Maoists to create unrest along the border. Evidence to corroborate this fact, however, is yet to be found.

Apart from insurgents, many hard-core criminals pursued by Indian security forces escape into Nepal through the open border. There they set up smuggling gangs and criminal syndicates and carry out smuggling of gold, drugs, fake currency, arms, and explosives. It is reported that Dawood Ibrahim visited Kathmandu several times and utilized his connections with Pakistan's Inter-Services Intelligence (ISI), Nepalese politicians, business houses, and the criminal underworld for large-scale hawala transactions.

Similarly, criminal groups operating in Bihar and Uttar Pradesh use Nepal as a sanctuary from where to mastermind crimes like car-theft, kidnappings, extortions, etc. Petty criminals, too, cross over to the other side to keep away from the Indian police. The mushrooming of madrasas along the Indo-Nepal border is also a source of major concern for Indian security agencies.

The use of Nepalese territory by the ISI as a base to carry out anti-India activities since the 1990s is also another matter of serious concern for India's security establishment. It is

reported that the ISI has been able to establish a wide logistical network in Nepal to help its agents enter India to carry out subversive activities. Investigations into the hijacking of Indian Airlines plane conclusively prove the ISI's involvement in that episode. Intelligence reports also suggest that the ISI is funding many madrasas along the border, which are then used as a platform for anti-India propaganda and also as a recruiting center for terrorists. In the past few years, there have been reports alleging the ISI's involvement in pumping fake currency notes into India to destabilize its economy. Arrests of persons involved have provided clues into how many Nepal-based criminal syndicates are used by the ISI to smuggle in fake currency through the open Indo-Nepal border. In 2005–2007, Pakistan and China had shown interest in opening consulates in the Terai. This was, however, not permitted by the Nepalese government on India's request.

Spill-Over of Unrest across the Border

Unrestricted migration over the years has produced territorial pockets dominated by people originating from the other country. According to official estimates, there are 2.2 million Nepali citizens residing in India.²⁰ Unofficial estimates put the figure at approximately 6 million. Nepalese generally come to India in search of better employment opportunities. There are three types of movements from Nepal. The first is that of people who come on a daily basis to buy goods for domestic needs. Such movement is usually confined to the border region. The second type is that of seasonal migrants, who generally travel to India to find work during agricultural off-seasons. The third type of migrants moves on a long-term basis and generally settles down in India. In the second and third cases, migrants spread out both to neighbouring areas as well as further away from the border. In recent years, due to the intensification of the Maoist movement and the consequent threats to their livelihood and security, the number of Nepalese migrating to India has increased. The net effect of such migration, in extreme cases, is the clamour for a 'homeland', as was witnessed in the hill district of Darjeeling adjoining the Indo-Nepal border. In the 1980s, these Nepali speakers demanded a separate homeland under the aegis of the Gorkha National Liberation Front. It is believed that the agitation received support from across the border.²¹

A similar phenomenon is also unfolding in Nepal's Terai region, which is preponderantly inhabited by Madhesis. Madhesis are of Indian origin and constitute a substantial portion of the population in the Terai region. They are highly dissatisfied with their present state of

affairs and are agitating for a fair representation in Nepal's political, administrative, and military establishment. If this problem is not addressed urgently, the incipient Madhesi movement might flare up into a major secessionist movement in Nepal. An open border and a sympathetic population across the border, along with repressive government measures, could lead to its spilling over into India, causing severe unrest in the border region.

Another issue that has an impact on the border areas is that of the Maoist movement in Nepal. The Maoist objective of forming an alleged red corridor from Nepal to Tamil Nadu running across many Indian states is being viewed with considerable apprehension by Indian policy-makers. Attempts to achieve such an objective would further vitiate what is already emerging as a critical security problem for the country.

Illegal Activities

Illegal activities, such as the smuggling of essential items and fake Indian currency, gun-running, and trafficking in drugs and people, are quite rampant along the Indo-Nepal border. Smuggling of essential items from Nepal to India takes place because of the differential tariff rates that prevail in the two countries. This problem is compounded by Nepal's decision to import these goods far in excess of its requirements. A portion of these goods get diverted to Indian consumption centres even before entering Nepal. In addition, a number of other items are smuggled in, including ganja and hashish, different types of herbs, vegetable ghee, and cardamom, as well as goods from third countries. Conversely, urea, sugar, industrial explosives, gutkha, etc. are being smuggled from India into Nepal.

The Indo-Nepal border has become an easy route for the smuggling of arms and ammunition as well. Arms ranging from sophisticated AK47s and 56s to country-made weapons are smuggled across the border through the districts of Pilibhit, Lakhimpur Kheri, and Bahraich. Insurgencies in the two countries and the emergence of criminal gangs, especially in the states of Bihar and Uttar Pradesh, create demand for these weapons. Various Indian insurgent groups, Maoists, various criminal syndicates, and individual couriers are actively involved in such arms smuggling.²²

To prevent smuggling and other illegal activities, India and Nepal have signed an agreement and instituted regular interactions between concerned officials. However, the multiplicity of routes along the border, the ease with which the border can be crossed, the existence of ready markets on both sides, and the relatively thin presence of law enforcement agencies on the

ground make the task of countering these illegal activities difficult. State governments do not seem to have woken up to the enormity of the problems facing them. State police forces like the Bihar military police and special auxiliary police of Bihar and the provincial constabulary in Uttar Pradesh are neither well-trained nor properly motivated to take on criminals and insurgents. In addition, the quality of intelligence-gathering and information-sharing about the movement of insurgents and terrorists is appalling. A lack of coordination between different security agencies like the state police forces, the Directorate of Revenue Intelligence, and the border-guarding forces also makes regulation of the border difficult.

Demands for Closing the Border

The adverse consequences of an open border have led from time to time to demands for its closure. A demand for closing the border first came from people in the north-east, who did not view favorably the continued migration of Nepalese into their region. Nepali migrants in the north-east basically followed the Gurkha soldiers who were recruited by the British Indian army to guard the north-eastern frontiers. These settlers worked as laborers in the coal mines, oil refineries, and tea plantations, and also as dairy farmers and kitchen helpers.

In subsequent years, the misuse of the open border by criminals, terrorists, and smugglers provided the spark for the demand to close the border. The ISI's increasing use of Nepalese territory to launch anti-India activities has provided further ammunition to such a demand. Advocates of this course of action argue that security considerations, one main reason for keeping the border open, no longer exist given the improvement in Sino-Indian ties. Moreover, given that international crime and cross-border terrorism have now become fundamental security concerns, an open border is seen as hindrance in tackling these threats.

In the case of Nepal, it has been a more vocal proponent of a closed border. The Nepalese people have generally been apprehensive about being inundated by Indian migrants through the open border. This fear has been compounded by the fact that it shares borders with two of the most densely populated Indian provinces, Uttar Pradesh and Bihar. These states also suffer from intense population pressure on agricultural land and provide meager employment opportunities – factors that invariably force people to migrate in search of land and economic opportunities. Many Nepalese are also uneasy about what they perceive as Indian domination of their economy. They allege that Indians are siphoning off the benefits of economic development instead of reinvesting them in their country.

Before 1990, the Nepalese monarchy also suffered from a perpetual fear of the dissemination of democratic ideas from India. The country's political parties, especially the Nepali Congress, had close links with their Indian counterparts, and on many occasions India had covertly supported the cause of democracy. These fears forced successive governments in Kathmandu to put checks on Indian migrants in the form of stringent rules regarding work-permits and citizenship.

The open border between India and Nepal has been one of the main contributory factors to the increasing magnitude of international migration. Illegal trade associated with free movement of people across the border has been a matter of grave concern for both countries. It is, therefore, necessary to regulate the movement of people along the border between India and Nepal.

The Commission recommended the imposition of restrictions on the free movement of people, the introduction of work permits, granting of citizenship to persons of Indian origin, etc.

The Maoists have also been strongly advocating for a more regulated Indo-Nepal border. In this context, they have been voicing their demand for a review of the Friendship Treaty of 1950, which facilitates an open border between the two countries.²³ Recently, a senior member of Communist Party of Nepal (Maoist) had demanded that the border between India and Nepal should be regulated 'to promote national economic interest and domestic capital'.

The Middle Path

Given the close social, economic, and cultural linkages that exist between the two countries, closing the border is not a sensible or feasible proposition. Such a step would be retrograde and adversely affect people at the individual level as well as the economies of the two countries. A more prudent step would be to better manage and regulate the movement of goods and people across the border. Aware of the enormous costs involved in closing the border and realizing that what is actually needed is better management of the border, the government of India has been adopting a three-pronged approach in this regard. Firstly, it has put in place, along with its Nepalese counterpart, bilateral mechanisms to better manage the border in a coordinated manner. Secondly, it has begun to deploy security forces to supplement state forces that hitherto have been principally engaged in guarding the border. And thirdly, it has begun to initiate the building up of better infrastructure in the border

regions to improve connectivity and enhance the accessibility of these areas to security forces.

Bilateral Mechanisms

To facilitate bilateral dialogue on matters of mutual concern regarding border management, India and Nepal decided to constitute a system of institutionalized interaction through the meetings of the home secretaries and the Joint Working Group on Border Management in 1994. These bilateral mechanisms have been helpful in sensitizing each other about their respective security concerns and formulating strategies for better management of the border. Both countries have agreed that in pursuance of the decisions taken in these bilateral forums, they would coordinate measures to prevent the misuse of the open border. Some of the decisions taken include: introduction of passport verification of passengers travelling by air between the two countries; sharing of intelligence on the movement of Maoists, political activists, insurgents, criminals, etc. along the border; finalization of an extradition treaty and agreement on mutual legal assistance on criminal matters; settling of border disputes; and the development of infrastructural facilities in border areas. The Indian government has also discussed the issue of ISI presence in Nepal from time to time and has been successful in eliciting promises from Nepal that it would not allow its territory to be used for launching anti-India activities.

Prior to independence, an Indo-Nepal joint boundary team used to inspect the boundary every year to check for any encroachment, ill-defined boundary, missing or displaced boundary pillars, etc. After independence, this practice was abandoned, leading to many boundary disputes. To resolve these disputes and to complete the demarcation of the border the Joint Technical Level Boundary Committee (JTLBC) was established in 1981. In 1997, during then Prime Minister I.K. Gujral's visit to Nepal, an expert-level joint working group was constituted by the JTLBC to examine the relevant facts relating to the demarcation of the boundary alignment in the western sector, including the Kalapani area, and to propose, if necessary, further measures in this regard. This was reiterated in the India–Nepal joint press statement released on August 3, 2000, which also directed that the Committee should complete its field work by 2001–2002 and final preparation of strip maps by 2003. The JTLBC has been engaged for the last 26 years in this task and has so far successfully completed demarcating 98 % of the boundary. The remaining 2 % of the border, which involves various disputes like Kalapani, Susta, and Mechi, are yet to be resolved. In June

2007, officials of both the countries also agreed to resolve the Kalapani and Susta dispute on the basis of documents in possession of both governments.²⁴

Though these institutionalized interactions have provided opportunities for improving the management of the border between the two countries, the infrequent nature of these meetings coupled with the absence of diplomat among officials have hampered speedy solutions for most of the festering problems. Two other factors also contributed towards the shortcomings of the bilateral mechanisms. Firstly, Nepal being a friendly country, the threat perceptions emanating from there were considered extremely low. This fact made the government complacent regarding the border. It was only after the hijacking and increasing ISI activities in Nepal and its spill-over effect in India that policy-makers started paying more attention to the border with Nepal. Secondly, the domestic political situation of Nepal was continually in a state of flux, especially after 1996. As a result, the Nepalese government remained preoccupied with their internal problems and could spare little attention to the problems afflicting its borders.

Deployment of Security Forces

For effectively guarding the border and to prevent its misuse by undesirable elements, the Sahastra Seema Bal (SSB) was deployed as the border-guarding force along the Indo-Nepal border in 2001. It was also designated as the lead intelligence agency in the areas of deployment. This force was primarily deployed to prevent the Maoist insurgency spilling over into Indian territory. To prevent any transgression of the border by the Maoists, the SSB have divided the entire border into three segments: security sensitive, under observation, and normal. Forces are deployed accordingly. For security-sensitive areas, check-posts have been constructed every 4 km; for areas under observation, one check-post has been set up every 6 km; and for normal areas, check-posts have been established 15 km apart.

Apart from this, the SSB has also been entrusted with the task of checking smuggling as well as trafficking in arms, drugs, and people. Presently, the entire stretch of the border is manned by 314 SSB outposts. To improve its border-guarding ability, the central government has sanctioned the raising of 20 additional SSB battalions and has provided a grant of Rs. 444 crore for its modernization.

The deployment of the SSB has gradually changed the profile of border security. Instead of the few police check-posts which earlier checked cross-border movements either cursorily or

not at all, today one can see an increased presence of paramilitary forces maintaining a stricter vigil in the border areas. The once completely open border is gradually acquiring the image of a tightly regulated border, with security forces undertaking random checks.

On the flip side, these actions of the security forces have, at times, resulted in the harassment of innocent people, for whom an open border had been till recently a way of life. Although the annual report of the Home Ministry argues that instances of smuggling and transgression of territory by terrorists have reduced and that security along the border has improved following the deployment of the SSB, there are also reports that SSB personnel are indulging in corrupt practices, like abetment to smuggling, and creating law and order problems in the areas where they are deployed.

Development of Infrastructure

The difficulty in guarding and managing the problem-ridden border is compounded by the poor level of infrastructure along its entire length. The density of road and rail networks, which form a major component of infrastructure, is very sparse along the Indo-Nepal border areas. Because of bad road connectivity and the flow of a large number of rivers in these areas, the region remains inaccessible to the security forces. Along the major transit points, existing roads are narrow and in a dilapidated condition. Traffic is also not streamlined, and cars, trucks, and bullock carts jostle for space. The problem is worse along roads where the volume of traffic is higher, like in Raxual in Bihar and Sunauli in Uttar Pradesh. Cross-border rail connectivity is also poor between India and Nepal. At present, there is only one rail link between Janakpur in Nepal and Jainagar in Bihar.

As far as check-posts are concerned, the infrastructure seems to be on the verge of total collapse. There are very few warehousing facilities, no state-of-the-art x-ray machines exist for non-intrusive inspections, and testing laboratories are located far away in major cities. In addition, the paucity of space makes inspection of incoming traffic extremely difficult and time-consuming. Different windows exist for obtaining clearances and these are manned by very few officials. In addition, there are many unauthorized Nepali substations (Chhoti Bhansar), which collect custom duties from goods coming from India. Even motor vehicles stolen from India pass through these unauthorized custom posts. Since there are no corresponding check-posts on the Indian side, it becomes difficult to initiate action against such criminals.

Realizing the need to improve infrastructure both within and across the border, the government of India has initiated many programs. The Border Area Development Program (BADP) is one such initiative. The BADP is a centrally funded scheme aimed at fulfilling the infrastructural and security gaps in border areas. Construction of roads and physical assets like community halls, primary health centers, schools, etc. are undertaken under this program.²⁵Roads along the borders are not only important for strategic requirements but also are of great utility to the people residing in these remote areas. Recently, the central government provided funds for the construction of a 702 km road along the border through seven districts of Bihar. The grant was given under the BADP.

To improve cross-border connectivity, the Indian government has decided to set up four integrated check-posts (ICPs) at Raxaul, Sunauli, Jogbani, and Nepalganj Road. Since more than half of the bilateral trade volume passes through the Raxaul-Birganj border point, it has been decided that the ICP scheme will be first implemented at this check-post.

These ICPs would house all regulatory agencies like immigration, customs, border security, etc. They would also have all modern facilities like state-of-the-art, dedicated passenger and cargo terminals comprising adequate customs and immigration counters, x-ray scanners, passenger amenities, adequate parking areas, warehousing, banks and financial services. Furthermore, the government of India is also envisaging the development of new cross-border rail and road links. At present, a feasibility study is being undertaken for establishing five cross-border rail links between the two countries. Work is also under way with regard to the development of link roads to connect the east-west highway in the Terai region of Nepal, as well as to implement a pipeline for channelling oil supplies between Raxaul (Bihar) and Amlekhgunj.

There is no doubt that the progress in building border infrastructure, i.e. roads and rail tracks, has been tardy. The Nepalese government has also been slow in responding to Indian suggestions for integrated check-posts (i.e. integrating Indian and Nepalese check-posts). The political turmoil in Nepal has also not helped in expediting the matter. Nevertheless, in a significant policy shift, the government of India has reoriented most of its development aid programme to fund more projects along the border areas. These investments are aimed at engaging the border population in productive pursuits, guided by the realization that their economic uplift as a committed, prosperous, and nationalist border population is necessary for the proper management of the border.

End Notes

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