

A Reset in India-Nepal Relations

Rakesh Sood

Summary

India and Nepal enjoy a close, yet complicated relationship. This has, however, gone downhill with the recent border controversy after the latter decided to redraw its map. The increasing dominance of China in the Himalayan state has led to further impediments. It is time for India to employ a broader communication strategy and have a transparent approach to restore the 'special relationship' with Nepal which is today interpreted differently by both sides.

Introduction

No two countries enjoy as close and as complicated a relationship as India and Nepal. In recent times though, it is the 'complicated' part that has been more on display. On every such occasion, Nepali political leaders invoke the spirit of nationalism with India getting blamed for being insensitive or, worse still, a bully and interfering in Nepal's internal affairs. A pattern repeated over decades, this has strengthened an anti-Indian sentiment and also distorted perceptions of the positive aspects of the relationship. Both countries need to find a way out of this negative spiral. Partial tinkering will not resolve matters; what is needed is a thorough review enabling a reset that will be beneficial for both countries in the 21st century.

Kalapani Controversy

Recent months have seen a downturn in the relationship, this time triggered by the boundary issue of Kalapani. In May 2020, the Nepal government took an unprecedented step of issuing a new map of the country, that incorporated not only the 60 sq km of territory (Kalapani) on its western border, to which Nepal had first raised a claim in 1996 and about which both countries have had inconclusive discussions, but also added another adjoining 330 sq km by unilaterally changing the tributary of Kali river that constitutes the boundary between the two countries as defined in the 1816 Treaty of Sugauli between Nepal and the East India Company.

After the revised map was issued on 20 May 2020, it was introduced as a constitutional amendment proposal and adopted with overwhelming support. On 18 June 2020, President Bidhiya Devi Bhandari signed it into law. Any suggestions that such an irrevocable move would shrink any room for talks with India were swept aside in the rising swell of Nepali nationalism. Most of the opposition parties also voted in support of the amendment.

Figure 1: Map issued by the Nepalese government



Source: Map from article by Kanak Mani Dixit and Tika P Dhakal in Scroll.in. [https://scroll.in/article/962226 / territoriality-amidst-covid-19-a-primer-to-the-lipu-lek-conflict-between-india-and-nepal](https://scroll.in/article/962226/territoriality-amidst-covid-19-a-primer-to-the-lipu-lek-conflict-between-india-and-nepal)

The immediate provocation was the virtual inauguration of an 80-kilometre long road from Ghatibagar to Lipulekh pass at 17,000 feet on the India-Tibet boundary. The track has long been the traditional route for Indian (and Nepali) pilgrims to reach Mount Kailash and Mansarovar lake in Tibet. It is also the pass for border trade between India and China since 1954. The road was in the making for a decade and at no stage had Nepal protested about its alignment.

After India issued new maps last November following the changed status of the state of Jammu and Kashmir into two separate union territories of Ladakh, and Jammu and Kashmir, Nepal revived its request for holding bilateral talks on the Kalapani issue. Since the new map only dealt with the internal alignment of a provincial boundary and nothing changed in so far as the boundary with Nepal was concerned, the Indian response was lukewarm.¹ India later suggested that meetings could take place after the COVID-19 crisis was over and regular travel between the two countries was restored. Since the road passes through Kalapani, Nepal interpreted it in May 2020 as a ploy by India to claim Kalapani.

Politics and History of Kalapani

However, the politics and history for Kalapani, like for most controversies in India-Nepal relations, is a little more complicated. K P Sharma Oli was sworn in as Nepal's Prime Minister on 15 February 2018. His autocratic governance style had led to growing unhappiness among the opposition and within his own party but under the new Nepali constitution, a no-

¹ "Political Map of India", Survey of India. http://www.surveyofindia.gov.in/files/Political%20Map%20of%20India_1.jpg.

confidence motion cannot be admitted for the first two years. Political rumblings began in March 2020 and gradually, a move began within the Nepal Communist Party (NCP) to implement a one-person-one-post rule which would require Oli (who is Co-chair of the NCP and Prime Minister) to relinquish one of the posts. In end-April 2020, Oli issued two ordinances designed to help him out of his predicament but mounting public criticism forced him to withdraw these.² A temporary truce with other NCP leaders was managed, with Chinese Ambassador Hou Yanqi playing a visibly active role in the rapprochement.³

At such a moment, the controversy with India over territory was a political lifeline for a beleaguered Oli. He promptly donned the mantle of Nepali nationalism, vowing to restore Nepal's territory. As a result, rumblings within the NCP subsided but these are likely to resurface and Oli will once again blame India for plotting his ouster.

Oli's relationship with India is marred by mistrust. India had brokered the deal following the 2013 election between the Nepali Congress and the United Marxist Leninist (then headed by Oli) that split the prime ministership period between the two. However, India's urging in September 2015 to delay the adoption of the new constitution to accommodate Madhesi demands was seen by Oli as a turnaround by India. He manoeuvred a deal with the Maoist party (the two merged before the 2017 election to form the NCP) and first took over as prime minister in October 2015. Faced with growing Madhesi protests, which often turned violent in the Terai (areas bordering India), against the constitution, movement of trucks from India to Nepal came to a halt. Oli accused India of mounting an economic blockade while India called it a disruption in supplies caused by the deteriorating security situation. The result was an acute shortage of essentials like liquefied petroleum gas, petrol, diesel, medical supplies and so on. As a landlocked country, Oli turned to China to negotiate access routes. After a few months, India relented and the situation was restored. In 2017, Oli successfully used his Nepali nationalist credentials of having stood up to India and led the NCP to a convincing electoral victory.

The history of Kalapani is equally mixed up. In the early years of the 19th century, Nepal's territorial expansion brought it into conflict with British India and the resulting Anglo-Nepal war ended with the 1816 Treaty of Sugauli.⁴ The western boundary is defined as the Kali river which arises in the Himalayan mountains. No maps or coordinates are attached. The problem arises north of Garbyang village where a number of tributaries join to flow southward as Kali. Which of these tributaries is to be labelled as Kali? Survey maps of this period have kept changing with improved techniques and access to the remote area. However, as early as 1817, an exchange of letters makes it clear that Nepal's attempt to lay claim to the villages Nabi and Kuti by using the western tributary as the Kali river was

² Anil Giri, "Repealing the ordinances might quell dissent but Oli still faces moral questions", *The Kathmandu Post*, 24 April 2020. <https://kathmandupost.com/politics/2020/04/24/repealing-the-ordinances-might-quell-dissent-but-oli-still-faces-moral-questions>.

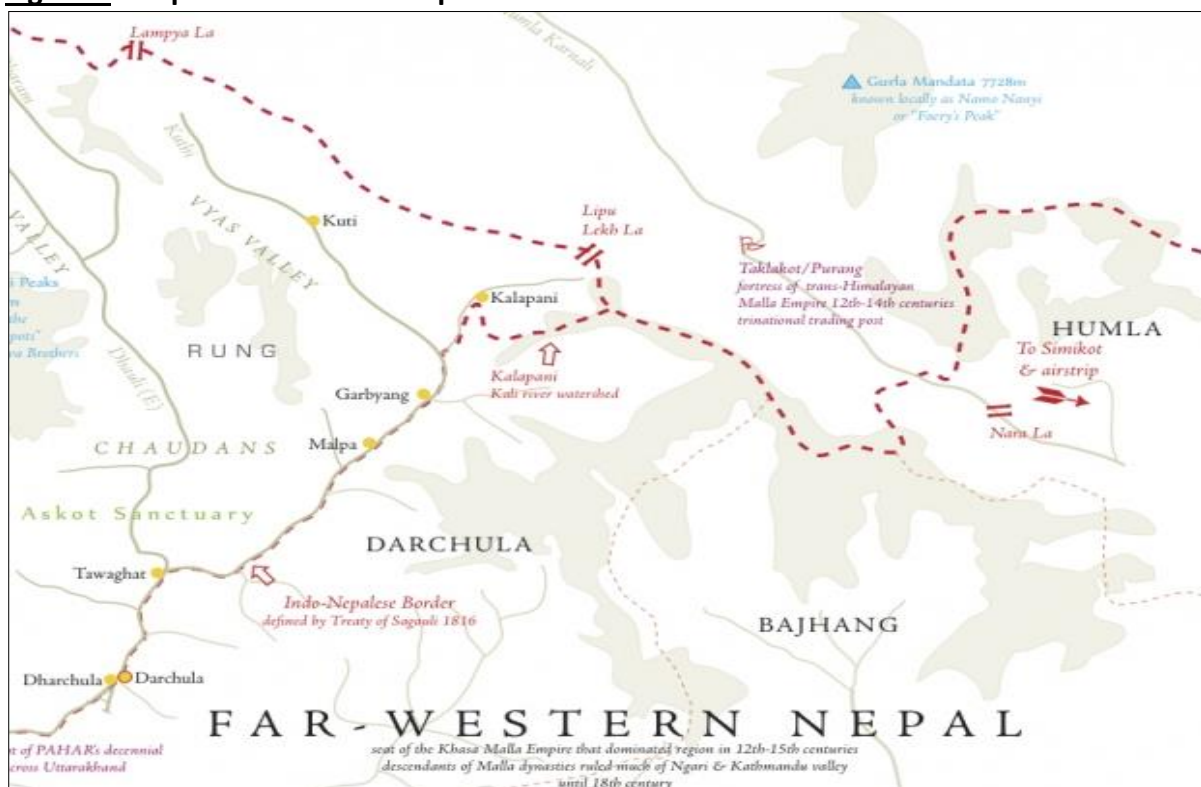
³ Anil Giri, "In a series of meetings, Chinese envoy calls for unity among ruling party members", *The Kathmandu Post*, 2 May 2020. <https://kathmandupost.com/politics/2020/05/02/in-a-series-of-meetings-chinese-envoy-calls-for-unity-among-ruling-party-members>.

⁴ "Treaty of Sugauli, 2nd December 1815 between East India Company and the Kingdom of Nepal", Wikisource. https://en.wikisource.org/wiki/Treaty_of_Sugauli.

rejected (See Annex A). The subsequent survey maps indicated that the origin of the Kali river was the Kalapani springs, thereby giving the river its name.

“The whole of Kumaon became British territory and the only point in dispute was a small and unimportant tract to the north. By treaty the Kali was made the boundary on the east, and this arrangement divided into two parts parganah Byans, which had hitherto been considered as an integral portion of Kumaon as distinguished from Doti and Jumla. In 1817, the Nepal Darbar, in accordance with the terms of the letter of the treaty, claimed the villages of Tinkar and Changru lying to the east of the Kali in parganah Byans, and after inquiry had shown that the demand was covered by the terms of the treaty possession was given to Bam Sah, who was then Governor of Doti. But not satisfied with this advantage, the Nepalese claimed the villages of Kunti and Nabhi as also lying to the east of the Kali, averring that the Kunti Yankti or western branch of the head-waters should be considered the main stream as carrying the larger volume of water. Captain Webb and others showed that the lesser stream flowing from the sacred fountain of Kalapani had always been recognised as the main branch of the Kali and had in fact given its name to the river during its course through the hills. The Government therefore decided to retain both Nabhi and Kunti, which have ever since remained attached to British Byans.”⁵

Figure 2: Map of Far Western Nepal



Source: Map from article by Sam Cowan. <https://www.recordnepal.com/wire/indian-checkposts-lipu-lekh-and-kalapani/>

⁵ Excerpt from The Himalayan gazetteer, vol. 2, part. 2, by Atkinson, Edwin T (1884), p. 679e.

However, Nepali narrative often suggests that British India wanted to keep the Lipulekh pass with it in order to control Tibetan trade and hence redrew survey maps later. Nepal was not in a position to do much about it.

A new complication arose when the Nepali royalist regime, nervous after Maoist China's takeover of Tibet in 1950, sought Indian assistance to man the Nepal-Tibet border. Eighteen border posts were set up and Nepal maintains that India removed all except one and this was on the basis of a tacit understanding between King Mahendra and Prime Minister Jawaharlal Nehru. However, this seems unlikely because King Mahendra was quite adept at balancing India and China. With deteriorating relations between India and China from 1959 onwards, he moved in 1961 to settle Nepal's boundary with China which begins near Tinkar pass. This point is about 10 km further east of Lipulekh pass, reflecting the Indian perception of the India-Nepal boundary alignment.

The ground reality is that India and Nepal share an open border that allows for the free movement of people. Given the lack of infrastructure, the road would be seen as benefitting people on both sides of the border and consequently, its alignment did not raise concerns during the decade-long construction phase but became a convenient emotive issue at a time of domestic political instability. The inauguration of the road by the Indian Defence Minister, Rajnath Singh, on 8 May 2020 provided a ready catalyst.

Political Instability and Brinkmanship

The Kalapani background provides an illustration of how Nepal's relations with India often get woven into its domestic politics and result in brinkmanship with India. This tendency is more visible in times of political uncertainty. Nepal's political transition to a multiparty democracy, which began in 1990 has been a tortuous process. The tussle between political parties and the Palace, a decade long Maoist insurgency and emergence of new political forces finally led to a new constitution in 2015. The 250-year-old monarchy was abolished and Nepal was declared a federal republic with seven newly created provinces. The first election under the new constitution, held in 2017 made Oli the 26th Prime Minister in these 27 years, a clear indicator of the turbulent domestic politics of Nepal's transition to democracy.

Yet, these peculiar aspects have been part of the relationship from the outset; it is just that these have now become more toxic. All political leaders when facing domestic persecution have found asylum in India, including the Maoist leaders when they were underground. This is not a new phenomenon. King Tribhuvan, whose powers had been constrained by the Rana regime, had sought asylum in the Indian Embassy with his family in 1950. However, this is what draws India into Nepal's domestic politics. Hence, there is no surprise that the peace deal to end the decade-long Maoist insurgency in 2005-06 was brokered by India.

The Palace was adept at using the cover of Nepali nationalism for its manipulations of political factions in Nepal, frequently painting inconvenient politicians as "pro-Indian". However, the Palace took care to maintain a relationship with Indian elites to ensure that communication channels remained open and brinkmanship did not make a situation irretrievable. It provided a degree of continuity in the relationship even with frequent

changes of prime ministers. This is one reason why the 1950 Treaty of Peace and Friendship came into being and the unique institutional ties between the armies of both countries have contributed to the special relationship.

India-Nepal Special Relationship

The strong people-to-people relationships are rooted in a shared religion, language and culture and further cemented with ties of kinship. At a political level, it is reflected in the 1950 Treaty of Peace and Friendship.⁶ Today, this treaty is resented by large sections of the Nepali population who consider it an unequal treaty. Most Nepalis are unaware that it was Nepal's rulers who had pushed for this treaty in order to maintain special ties with independent India that they had enjoyed with British India. A key driver was that Nepal's security concerns had been heightened by the Maoist revolution in China in 1949 and its subsequent takeover of Tibet.

This treaty provides for an open border between India and Nepal and enables Nepali nationals to work in India without a work permit and enjoy 'national treatment' with regard to engaging in commercial and economic activity such as purchase of property, opening of bank accounts etc. Nepali citizens are allowed to apply for all government jobs in India except for the Indian Foreign Service, Administrative Service and the Police Service. Nepali citizens can join the Indian armed forces as commissioned officers and they have risen to the ranks of two-star generals. These provisions are extended to Nepali nationals on a non-reciprocal basis. Informal estimates put the number of Nepalis working and living in India at five million.

The treaty also has 'secret' side letters that were exchanged which have no longer been secret for over 50 years (See Annex B). These letters required Nepal to consult India on its defence requirements and provided India with the right of first refusal for projects relating to exploitation of natural resources, both of which Nepalis perceive as unfair. In actual practice, these provisions are no longer observed. For over a quarter century, India has repeatedly agreed to requests by successive Nepali prime ministers to review and update the treaty. Yet, each time the issue is suggested for inclusion in a bilateral agenda, Nepal prefers to sidestep the issue.

The 1950 treaty was drawn primarily from the 1923 treaty between Nepal and British India. The difference is that British India was an imperial entity. India inherited the role in 1947. However, it was not a super power as imperial Britain but a large poor country struggling to build its institutions and also a democracy that wanted to be perceived as a good neighbour. The dichotomy has proven difficult to reconcile, often leading to ups and down in India's relations with Nepal. Interestingly, the same dichotomy has existed with respect to Bhutan but has been managed more successfully. The 1949 Treaty of Friendship with Bhutan was a legacy document and was replaced by a new treaty in 2007 with the introduction of a parliamentary democracy in Bhutan.

⁶ "1950 India-Nepal Treaty of Peace and Friendship", Ministry of External Affairs, Government of India. <https://mea.gov.in/bilateral-documents.htm?dtl/6295/>.

Another unique aspect of the close ties is the institutional relationship between the defence forces of the two countries. British India had begun recruiting Gurkhas into its army after the 1816 Treaty of Sugauli. In 1947, four of the 11 regiments became part of the British army and the other seven became part of the Indian army. A trilateral agreement between the United Kingdom, India and Nepal, signed in 1947, enabled India to continue recruiting Nepali Gurkhas for these regiments, which today consist of 39 battalions.⁷ The Maoists had sought to block this but local demand forced them to revise their stand. While annual recruitment is approximately 1,300, there are 125,000 ex-soldiers in Nepal who receive pensions and other benefits routed through the Indian Embassy in Nepal. Since 1950, both sides have a tradition of the Army Chief of one country being made an honorary general of the other army too.

Till the 1990s, there were no Nepali security personnel deployed on the 1,751 kilometre-long border. In 1996, Nepal deployed 410 army personnel to protect customs offices and other sub-offices in the Terai from Maoist insurgents. In 2001, India deployed a para-military force, Sashastra Seema Bal (SSB) on the India-Nepal border to enhance a sense of security in the border region, tackle problems of smuggling, narcotics, fake currency, trafficking of women, illicit weapons and also cross border movement of criminals. With the establishment of its Armed Police Force, Nepal set up 22 border observation posts in 2007 to coordinate activity with the 450 SSB posts. Today, Nepal has 123 posts and after issuing the new map, announced a decision to increase these by 100 next year and then gradually up to 500, to match the 533 posts currently maintained by the SSB. The growing presence of the security forces is bound to create an irritant for the people who have been used to free and unfettered movement.

Notwithstanding the political ups and downs, economic ties historically determined by geography and connectivity have grown. Two-thirds of Nepal's foreign trade is with India, which also accounts for half the foreign direct investment into Nepal. The Nepali currency is pegged to the Indian rupee, giving it greater stability. India provides over 3,000 scholarships every year to Nepali students for high school, college and university education.

India has also maintained an extensive development cooperation programme in Nepal, building roads and highways, optical fibre links, medical colleges, trauma centres, polytechnics, schools, health centres, bridges and solar electrification in remote villages. For flood protection and embankment construction in Nepal, India provides more than US\$10 million (S\$13.9 million) every year. To facilitate cross-border movement of people and goods, India is providing US\$40 million (S\$55.7 million) to build four Integrated Check Posts on the border, US\$100 million (S\$139.3 million) to extend five railway lines into Nepal and another US\$100 million (S\$139.3 million) to enhance the road network in the Terai region, where rivers and streams during monsoon months hamper movement.

A lot of Indian assistance is geared to reach out into the rural areas. A three decade-long programme of providing iodised salt to be distributed to the remotest areas has virtually

⁷ "The Tripartite Agreement (TPA) 1947", Brigade of Gurkhas, The British Army. https://web.archive.org/web/20050308125906/http://www.army.mod.uk/brigade_of_gurkhas/gurkha_employment/tpa/.

eliminated iodine deficiency disorders like goitre that were widespread. Every year, Indian doctors conduct more than 400 diagnostic and surgical camps in rural areas for treating cataract and trachoma patients. Nearly 500 ambulances and 100 school buses have been given to primary health centres and schools in remote areas.

Disbursements of pensions, medical and social welfare programmes to the 125,000 ex-servicemen and their families cost US\$1.7 billion (S\$2.3 billion) annually. Following the 2015 earthquake, Indian disaster relief teams became the first responders, reaching the affected areas within two days, while the Indian government pledged US\$1 billion (S\$ 1.3 billion) for reconstruction. Such programmes ensure a positive people-to-people relationship which is in contrast to the anti-Indian narrative that periodically emerges from Kathmandu; aggravated during periods of political infighting.

Nepali Nationalism and a New China

Nepal's mountainous geography has made for a highly diverse and stratified society. It has traditionally been ruled by the hill upper castes (Bahuns and Chettris) that constitute 29 per cent of the population. Together with the five per cent of Newars, these are the more prosperous, urbanised elite. The indigenous hill tribes (Magars, Gurungs, Rais, Limbus and Tamangs) are 30 per cent. The Terai based population is 25 per cent Madhesis (with similar caste structures as on the Indian side of the border leading to close kinship ties), four per cent Muslims and seven per cent Tharus (indigenous plains tribals). Till 1958, the Madhesis needed a permit to enter the Kathmandu valley. Leadership of the traditional political parties has invariably been drawn from the hill elites. Rising political consciousness among the Madhesis and tribals became the driving force behind identity politics in recent decades and behind the demand for a federal structure when the new constitution was being drafted.

Frequent recourse to the anti-Indian narrative by Nepali politicians when they are in opposition and the need to blame the government for being pro-India has imposed an economic cost because the roles of government and opposition get reversed fairly soon and the story keeps repeating. An example is the hydel sector. Nepal today has a power generation capacity of 1,000 megawatts (MW) and needs to import 500 MW from India to meet domestic demand even though it has a hydel potential of over 50,000 MW. On the other hand, Bhutan has an installed generating capacity of 1,500 MW and exports three-fourths to India, which has boosted its per capita income to four times that of Nepal.

One aspect that has changed in Nepal is China's growing presence and role. Nepali leaders, beginning with King Mahendra in the 1960s, have been adept at playing the China card to extract a better bargain from India. China maintained good relations with the Palace and this enabled it to address its security concerns regarding the Tibetan refugee community's activities. For the rest, its consistent advice to Nepali leaders was to maintain good relations with India, given its close links. With the abolition of the monarchy, China has been actively pursuing outreach with the political parties and has begun to play a visible role in domestic politics. Its growing economic weight positions it as a potential development partner and Nepal has enthusiastically joined in the Belt and Road Initiative. Oli's marked tilt towards China has taken place at a time when China is actively expanding its presence in South Asia

and the Indian Ocean region, heightening India's concerns. This makes it clear that India needs to invest more deeply in its policy towards Nepal as any neglect will extract a higher political cost than was the case earlier.

Need for a Review

The time has come for India to undertake a thorough re-assessment of its Nepal policy and the premises on which it was based. Political instability and a young democracy, abolition of the monarchy, federalism, rising discontent among the Madhesis (and other marginalised groups), a youthful population with a median age of 24 years and a growing Chinese role, have altered the ground realities of Nepal. The current impasse over the new maps has made early resumption of dialogue unlikely. Perhaps this is just as well for it provides India with time to reflect on how it wants to shape its relationship with Nepal to mutual advantage.

Political brinkmanship and frequent recourse to Nepali nationalism has contributed to the narrative of anti-Indianism that India can no longer afford to ignore. Earlier, opposition leaders would whip up nationalist emotions to accuse their government of being pro-Indian and then privately explain it to Indian leaders as the route to gain power while assuring them of fully backing stronger India-Nepal relations once they were in authority. Once in power, as the honeymoon period ends, they would find it difficult to deliver on their assurances, blaming the opposition for queering their pitch. Nepal's failure to exploit its hydel power potential is a pertinent example of how this has stymied development in this critical sector. In the age of social media, the old 'wink-and-nod' style of diplomacy no longer works. Brinkmanship tips over the point of no return as the case of the Kalapani map demonstrates.

Nepal's intellectual elite attributes its new found assertiveness to its young democracy. Recalling the 'special relationship' is often seen as a throwback to earlier years when issues were managed behind the scenes. Frequent reiteration of shared religious, cultural and linguistic ties is perceived as a stifling closeness. Invoking the rhetoric of 'roti beti ka rishta' (ties of sharing bread and through cross-border marriages) is increasingly associated with the Madhesis though the hill elites also enjoy significant kinship ties across the border. India needs to employ a more innovative communication strategy based on transparency. Only then can the cobwebs of myths surrounding the 'unfair' treaties of the past be removed.

This does not mean disengagement but actually implies engagement at multiple levels, conscious of a new Nepal's sensitivities. It also means that India should refrain from actions that antagonise the people of Nepal as it learnt in 2015 when the Narendra Modi government was blamed for the 'blockade' causing widespread economic hardship. There are two other lessons that India needs to draw from 2015.⁸ Rising Madhesi political consciousness has led the hill elite to tag them as Indian 'fifth columnists' which does the Madhesis a disservice. Oli successfully projected the Indian blockade as further evidence of

⁸ "Nepal blockade: Six ways it affects the country", *BBC New*, 12 December 2015.
<https://www.bbc.com/news/world-asia-35041366>.

Indian links with the Madhesis as they were the ones protesting against the new constitution. Too close an identification with any group that accounts for 25 per cent of the population is not a good position for India to be placed in. The second lesson is that Nepal should be seen as a foreign country and not as a factor to be used in India's domestic politics. There was a widespread assumption that with Assembly elections in Bihar scheduled for November 2015, a pro-Madhesi posture would help the Bharatiya Janata Party (BJP) which had been trailing. As it transpired, the strategy did not work and when India relented because of widespread criticism, some Madhesi leaders accused India of letting them down.

Some pro-Hindutva elements linked to the BJP believe that shared ties of Hinduism, invoked by talking about Kashi Vishwanath in Varanasi to Pashupatinath in Kathmandu (both old Shiva temples) or Ayodhya in India and Janakpur in Nepal (birthplaces of Ram and Sita), are the permanent glue that bind the two countries. However, this is a delusion. Nepal is a sovereign state and Nepalis are not swayed by religious sentiments when it comes to sensitive sovereignty-related issues. It is worth recalling that an innocuous comment by a popular Bollywood actor Madhuri Dixit some years ago that Nepal seemed much like India was criticised as being a sign of Indian expansionism or that riots had erupted in Nepal when it was alleged that another popular actor, Hrithik Roshan, had made anti-Nepali remarks in a television interview, an allegation that later turned out to be baseless.⁹

The beginning has to be made with the 1950 Treaty of Peace and Friendship which is seen by a majority of Nepalis as a symbol of what is wrong in India-Nepal relations and is at the core of the 'special relationship'. India should stop going along with the Nepali tactics of blaming India for an 'unfair treaty' but shying away from discussing what to do about it because it would push them to acknowledge the special advantages that it provides to Nepal. As the larger country, India needs to make it clear that it will be generous and that it is not seeking to impose reciprocity.

However, all issues arising from the special relationship will need to be put on the table. These would include open borders and visa free travel, non-reciprocal privileges available to Nepali nationals, trade and transit issues, linkages between institutions like the two armies, joint river embankment and flood management, security cooperation if there are going to be border controls and so on. While not all can be covered in a single treaty, how these will be dealt with will depend on how the two sides agree to recast the fundamental premises of the bilateral relationship.

The primary negotiations will be among political leaders and officials but India will need to employ a much broader communication strategy, consisting of appropriately tailored measures, to address all sections of the Nepali population. A more transparent approach is necessary so that a balance can be restored to the 'special relationship' which today is interpreted differently by both sides. The political leaders will have to take their respective parliaments into confidence. Hopefully, this will provide a clearer measure of the benefits to

⁹ "Why is Nepal so highly strung over Hrithik Roshan", *India Today*, 8 January 2001.
<https://www.indiatoday.in/magazine/editor-s-note/story/20010108-why-is-nepal-so-highly-strung-over-hrithik-roshan-776005-2001-01-08>

people on both sides while removing those contentions that have accumulated a baggage of mistrust. It is an exercise that needs political maturity but will stand both countries in good stead in meeting the challenges of the 21st century.

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Appendix-IV

**Letter of the Government of India to Commissioner of Kumaon, September 5, 1817,
extracted from Bhasin, A. S. (2005). *Nepal-India, Nepal-China Relations: Documents 1947-
June 2005. Nepal-India. Volume-IV, page 3034--35***

To

G.W. Traill Esqr.
Commissioner for Kemaon.

Sir,

I am directed to acknowledge the receipt of your dispatch of the 20th August with the several documents stated to be enclosed.

2. The Governor General entirely approves your having declined to transfer to the Chountra Bum Sah the two villages of Koontee, and Nabbee in Pergunah Byanse without the specific orders of Government on the ground of their being situated to the west of the stream ordinarily recognized as the principal branch of the Kali in that quarter.

3. On examination of the maps transmitted by you and of the facts and circumstances detailed by yourself and Lieutenant Webb has left no doubt on the mind of the Governor General that the stream denominated Kala Panee is that which is to be considered as the principal branch of the Kali and as such it is to be held the boundary between the possessions of the two states as a question of equity and just construction of the Treaty therefore our retention of those villages cannot be objected to. It appears on the other hand from your report and Lieutenant Webb's, that considerable inconvenience would result from their surrender to the Nipaulese on these considerations then, His Lordship has determined not to relinquish any portion of Pergunah Byanese lying to the Westward of the Kala Panee and you will accordingly be pleased to intimate this resolution together with the grounds of it to Chountra Bum Sah.

4. You are authorized to pay to Buh Sah Sonat Rupees 140.13 on account of the Revenues of the Villages of Tinkar, and Chaunguroo.

5. A copy of this letter will be transmitted to the Resident at Catmendhoo whom the Governor General concluded you have furnished with a copy of your dispatch and its enclosures if not, you will be pleased to do so without delay.

I have the honour to be
On the ganges
Above Allahabad
5th September 1817

Signed I Addam
Secy, to the Governer General

A True Copy
Sd / -
Secy to the Gov. General.

Treaty of Peace and Friendship and Letter of Exchanges, extracted from Bhasin, A. S. (2005). *Nepal-India, Nepal-China Relations: Documents 1947-June 2005. Nepal-India. Volume-I, page 94-98*

**45. Treaty of Peace and Friendship.
Kathmandu, July 31, 1950.**

THE Government of India and the Government of Nepal, recognising the ancient ties which have happily existed between the two countries for centuries;

DESIRING still further to strengthen and develop these ties and to perpetuate peace between the two countries;

HAVE resolved therefore to enter into a Treaty of Peace and Friendship with each other and have, for this purpose, appointed as their plenipotentiaries the following persons, namely,

The Government of India :

His Excellency Shri Chandreshwar Prasad Narain Singh,
Ambassador of India in Nepal.

The Government of Nepal :

Maharaja Mohun Shamsher Jang Bahadur Rana,
Prime Minister and Supreme Commander-in-Chief of Nepal,

WHO, having examined each other's credentials and found them good and in due form

HAVE agreed as follows :

Article I

There shall be everlasting peace and friendship between the Government of India and the Government of Nepal. The two Governments agree mutually to acknowledge and respect the complete sovereignty, territorial integrity and independence of each other.

Article II

The two Governments hereby undertake 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.

Article III

In order to establish and maintain the relations referred to in Article I the two Governments agree to continue diplomatic relations with each other by means of representatives with such staff as is necessary for the due performance of their functions.

The representatives and such of their staff as may be agreed upon shall enjoy such diplomatic privileges and immunities as are customarily granted by international law on a reciprocal basis :

Provided that in no case shall these be less than those granted to persons of a similar status of any other State having diplomatic relations with either Government.

Article IV

The two Governments agree to appoint Consuls-General, Consuls, Vice-Consuls and other consular agents, who shall reside in towns, ports and other places in each other's territory as may be agreed to.

Consuls-General, Consuls, Vice-Consuls and consular agents shall be provided with exequaturs or other valid authorization of their appointment. Such exequatur or authorization is liable to be withdrawn by the country which issued it, if considered necessary. The reasons for the withdrawal shall be indicated wherever possible.

The persons mentioned above shall enjoy on a reciprocal basis all the rights, privileges, exemptions and immunities that are accorded to persons of corresponding status of any other State.

Article V

The Government of Nepal shall be free to import, from or through the territory of India, arms, ammunition or warlike material and equipment necessary for the security of Nepal. The procedure for giving effect to this arrangement shall be worked out by the two Governments acting in consultation.

Article VI

Each Government undertakes, in token of the neighbourly friendship between India and Nepal, to give to the nationals of the other, in its territory, national treatment with regard to participation in industrial and economic development of such territory and to the grant of concessions and contracts relating to such development.

Article VII

The Governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature.

Article VIII

So far as matters dealt with herein are concerned, this Treaty cancels all previous treaties, agreements and arrangements entered into on behalf of India between the British Government and the Government of Nepal.

Article IX

This treaty shall come into force from the date of signature by both Governments.

Article X

This Treaty shall remain in force until it is terminated by either party by giving one year's notice.

DONE in duplicate at Kathmandu this 31st day of July, 1950.

Sd/-
CHANDRESHWAR PRASAD
NARAIN SINGH
For the Government of India

Sd/-
MOHUN SHAMSHER JANG
BAHADUR RANA
For the Government of Nepal

(At a Press Conference in New Delhi on 3rd December 1959 Prime Minister Jawaharlal Nehru for the first time disclosed that letters were exchanged along with the signing of the Treaty which were kept secret. Though these letters have not been officially made public, they have since appeared in a number of texts and are reproduced below. *Editor*)

Letter from the Ambassador of India to the Prime Minister of Nepal

KATHMANDU
Dated the 31st July, 1950

YOUR HIGHNESS,

In the course of our discussion of the Treaties of Peace and Friendship and of Trade and Commerce' which have been happily concluded between the Government of India and the Government of Nepal, we agreed that certain matters of details be regulated by an exchange of letters. In pursuance of this understanding, it is hereby agreed between the two Governments :

1. Neither Government shall tolerate any threat to the security of the other by a foreign aggressor. To deal with any such threat, the two Governments shall consult with each other and devise effective countermeasures.
2. Any arms, ammunition or warlike material and equipment necessary for the security of Nepal that the Government of Nepal may import through the territory of India shall be so imported with the assistance and agreement of the Government of India. The Government of India will take steps for the smooth and expeditious transport of such arms and ammunition through India.
3. In regard to Article 6 of the Treaty of Peace and Friendship which provides for national treatment, the Government of India recognize that it may be necessary for some time to come to afford the Nepalese nationals in Nepal protection from unrestricted competition. The nature and extent of this protection will be determined as and when required by mutual agreement between the two Governments.
4. If the Government of Nepal should decide to seek foreign assistance in regard to the development of the natural resources of, or of any industrial project in Nepal, the Government of Nepal shall give first preference to the Government or the nationals

of India, as the case may be, provided that the terms offered by the Government of India or Indian nationals, as the case may be, are not less favourable to Nepal than the terms offered by any other foreign Government or by other foreign nationals.

Nothing in the foregoing provision shall apply to assistance that the Government of Nepal may seek from the United Nations Organization or any of its specialized agencies.

5. Both Governments agree not to employ any foreigners whose activity may be prejudicial to the security of the other. Either Government may make representations to the other in this behalf, as and when occasion requires.

Please accept Your Highness, the assurances of my highest consideration.

Sd/-
CHANDRESHWAR PRASAD NARAIN SINGH
*Ambassador Extraordinary and Plenipotentiary
of India at the Court of Nepal.*

To

His Highness Mohun Shamsher Jang Bahadur Rana, Maharaja,
Prime Minister and Supreme Commander-in-Chief of Nepal.

**Letter from the Prime Minister of Nepal to the
Ambassador of India**

KATHMANDU
Dated the 31st July, 1950

EXCELLENCY,

In the course of our discussion of the Treaties of Peace and Friendship and of Trade and Commerce which have been happily concluded between the Government of India and the Government of Nepal we agreed that certain matters of details be regulated by an exchange of letters. In pursuance of this understanding, it is hereby agreed between the two Governments :

1. Neither Government shall tolerate any threat to the security of the other by a foreign aggressor. To deal with any such threat, the two Governments shall consult with each other and devise effective countermeasures.
2. Any arms, ammunition or warlike material and equipment necessary for the security of Nepal that the Government of Nepal may import through the territory of India shall be so imported with the assistance and agreement of the Government of India. The Government of India will take steps for the smooth and expeditious transport of such arms and ammunition through India

3. In regard to Article 6 of the Treaty of Peace and Friendship which provides for national treatment, the Government of India recognize that it may be necessary for some time to come to afford the Nepalese nationals in Nepal protection from unrestricted competition. The nature and extent of this protection will be determined as and when required by mutual agreement between the two Governments.
4. In the Government of Nepal should decide to seek foreign assistance in regard to the development of the natural resources of, or of any industrial project in Nepal, the Government of Nepal shall give first preference to the Government or the nationals of India, as the case may be, provided that the terms offered by the Government of India or Indian nationals, as the case may be, are not less favourable to Nepal than the terms offered by any other Foreign Government or by other foreign nationals.

Nothing in the foregoing provision shall apply to assistance that the Government of Nepal may seek from the United Nations Organization or any of its specialized agencies.

5. Both Governments agree not to employ any foreigners whose activity may be prejudicial to the security of the other. Either Government may make representations to the other in this behalf, as and when occasion requires.

Sd/-

MOHUN SHAMSHER JANG BAHADUR RANA,

Maharaja, Prime Minister and

Supreme Commander-in-Chief of Nepal

To

His Excellency Shri Chandreshwar Prasad Narain Singh,
Ambassador Extraordinary and Plenipotentiary of India at the
Court of Nepal,
Indian Embassy, Kathmandu.