

## RECONSIDERING NEPAL-INDIA BILATERAL RELATIONS\*

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Diplomacy that governs the relationship between Nepal and India has always been like a myth, akin to the myth of Sisyphus. No sooner do diplomats climb down the mountain of controversy with treaties and agreements than they have to turn around again to begin the re-ascend as they face the mountain of controversy anew. This pattern has become a life-cycle of Nepal-India relations which are firmly based on the framework set by the 1950 treaty. The governments in both countries are apt to describe this situation as the process of continuous negotiations which is never ending as the world of diplomacy thrives on such process.

Unfortunately, diplomacy and negotiations are not recyclable which are being observed as a distinct pattern in Nepal's relations with India. The purpose of diplomacy is not to be dogged and the objective of negotiation is not confined to make documents with government seals. Every thinking individual today feels that the purpose of diplomacy is to forge understanding for the future rather than settle the differences temporarily and push the past to the future to renegotiate on the same differences again. The structural arrangement that has predominately influenced the bilateral relations between Nepal and India is conspicuous in suggesting that this state of affairs is to stay unless a dent is made unitarily or collectively by both states in the 1950 treaty to recast their relationship under a new setting. Momentous changes have not affected their ties which could be positively recalled but the consequent negative aspect of this relationship today is whether to call it 'normal' or 'strained'? Several treaties and agreements already signed by them reiterating friendly ties are suffice to suggest of normalcy; it is however the implications of these same treaties and agreements on Nepal's foreign policy posturing-which are invariably an expression of domestic politics – have made the relationship an uneasy one.

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\* A paper presented at a colloquium on "Nepal-India Relations" organized by the Society for Constitutional and Parliamentary Exercise (SCOPE) at Hotel Blue Star, Kathmandu, on November 24-25, 1993.

Despite a relative calm in the relationship at the governmental level, a strong undercurrent of preexisting suspicion in Nepal has begun to overwhelm its domestic contexts, the repercussion may not augur well for India. The absorbing perception of a best possible ties between the two countries after democratic restoration in Nepal is now significantly altered. Two issues of contemporary Nepalese interests corresponding to its relationship with India have patterned the texture of current ties. Nepal's desire of sharing of the water resources and its unilateral concession on seemingly a decade old dispute over the construction of the Tanakpur Barrage to strive for a broader understanding on the related matters have remained largely, inadequately responded by India. Likewise, Nepal's urge to help it overcome the Bhutanese refugees' influx, as it understandably encompasses the trilateral context, is being curtly denied by India. These two critical issues of national interests to Nepal are on the verge of controversy, as the Nepali Congress government has lapsed in showing the required political will to resolve these problems.

Within the past three years of democracy in Nepal, both India and Nepal have given priority to their bilateral ties, as being expressed by the high level diplomatic exchanges. And a renewed commitment from both to strengthen their relationship is featured in the agreements signed. Realistic appraisal of these visits, however, shows Nepal had let the opportunity slip away. It is self-evident in Nepal's failure to raise the most pressing issue of 1950 treaty in its bilateral relations with India. This may turn out to be a critical factor for the forthcoming policy disaster. Perhaps the Prime Ministerial visits or other high level diplomatic exchanges would become a mere Potemkin show if the structural complexities of the 1950 treaty were to continue to determine the profoundly intimate relationship between Nepal and India. Beyond the reasonable understanding of this intimacy, what is needed in Nepal is a much more serious approach to the question of its relationship with India by critically assessing what kind of India will emerge in future and what would be India's political preference towards Nepal and how could Nepal co-opt with the new situation created by the sands of time. Should India be the same and Nepal's relations with the former were to continue as before, what future could Nepal strive for? It is difficult to postulate any answers to these questions. This uncertainty, however, suggests to examine the historical status of relationship between the two to ensure a realistic assessment of the future.

### **Status of Relationship**

Comprehending the psychological reality of the elites ruling both in Nepal and India and their perception of 'reality' it could be postulated that they have

a common point in agreement to think of a predetermined future for their respective country. Post-colonial India that inherited a colonial strategic culture thought it better to reconstruct a relationship preordained by the past. This has served the Indian motive of continuing a predominant position in its relationship with Nepal by conditioning the future by constructively engaging its smaller neighbour to reinforce the arrangements made under the 1950 treaty. Stipulations made under the Arms Supply Accord of 1965 were a design to provide sanctity and legitimacy of the previous treaty. Other agreements that followed to the present were instruments to make Nepal irrevocably commit to the Indian terms and be satisfied with what India deemed necessary to consider for Nepal.

For India, negotiations with Nepal beyond the structure of the 1950 treaty remain an anathema because it implies a change in the relationship and suggest of an alternative future. A change in the 1950 treaty is understandably a threat to Indian security concerns as Nepal remains in the heartland of the Indian security perimeter. Although India's military power has multiplied by leaps and bound since the commencement of the treaty, its fear of the enemy has increased correspondingly. The Chinese threat, as India calls it, has made Nepal a victim of India's coercive diplomacy and a case of three consecutive economic blockades in the past although the damage caused by these embargoes are yet to be assessed correctly. A seemingly independent posture taken by Nepal becomes a symbol of hostility for India. Be it a case of trade diversification or Nepal's demand for a reciprocal treatment of its commodities in the Indian market, an obdurate rationalization on the part of India comes forth with a suggestion that such a tendency was caused by the evil and misguided influence of China<sup>1</sup>. Strangely, this misperception played repeatedly in the Indian psyche that governed in totality the Indian attitude towards Nepal. Certain bizarre examples could be gleaned through the advocacy of the Indian leadership and the press with an inclination to draw a major distinction between the Nepali leadership and the general mass. Qualifying that the blockade in fact was not against Nepal and the Nepalese people but against the autocratic panchayat regime, India had justified its actions. Perhaps such a distinction was drawn in consonance with its perception of long tradition of friendship along with congenial and cultural affinities with the Nepalese people, but not the panchayat rulers in Nepal. The Nepali leadership of the period, on the other hand, was contrary to its own self. The self-image of the leadership was so vulnerable that it could not sense the critical situation brought about by the crisis in Nepal-India relations. It was of little relevance to the perception of self-delusion in which Nepal's leadership was entrapped. The precious reality was slipping from its hold but it remained firm in dispute with India. The behaviour of the Nepali

leadership of the time was analogous to that of a compulsive gambler, who, unable to cut losses, continued the play fantasizing that the dice will turn in his favour.

The center of controversy between Nepal and India in 1989 was the 1950 treaty and the arms accord of 1965, which, according to India, Nepal had overstepped by importing arms from China. Nepal's well-publicized position was an end to the "special relations" with India. By taking such a position Nepal had made its disagreement obviously an explicit one and had even prepared to trade with India on the most favoured nations basis without seriously contemplating the broader implications of such a trade regime<sup>2</sup>. However, Nepal had to back down from its previous position by agreeing with India to negotiate within the framework of the 1950 treaty and the draft document tabled by the Indian delegation on March 31, 1990. This document prepared with legal finesse plugging all the loop holes, in fact, was an expression of Indian desire to retrieve all the possible lost grounds. In the final analysis, this draft document had put the clock four decades back to July 1950<sup>3</sup>.

rapprochement that averted the precipitous deterioration of relations through a joint communique on June 10, 1990 was specifically designed to extricate Nepal from the disastrous economic blockade imposed by India. This however has brought about a new challenge to the precarious domestic situation in Nepal. Recommitment to India's security sensitivities along the Himalayan frontiers in exchange for the opening of the entry points in the south, some definite concession on the trade matters, capping of the relationship with "brotherly" ties, and the inclusion of the term "common rivers" in consideration of the Indian willingness as a pivotal partner in sharing Nepal's water resources, have all dwarfed the previous agreements in positioning India's pre-eminence while determining the future of relationship between the two. This irrevocable commitment made by the Interim Government to India – though understandably it had no mandate to do so – had destroyed the margin of maneuverability that the Koirala government could have assumed while negotiating with India in December 1991.

As the format for Nepal-India negotiations was set and reinforced by the joint communique of June 1990, followed by decisions made by the joint commissions with respective governments' endorsements, the subsequent repercussion was to tie the hands of the elected Koirala government from exploring any alternative to the one already framed. For instance, the application of the term common river has critically limited the executive power in furthering negotiations. Although the term "common river" has been conscientiously defined as a provision for joint exploration of the natural resources for mutual benefit which was adhered by a national

consensus in Nepal<sup>4</sup>, the perceived implication of the term, however, has crucially determined the process of the constitution making even to the extent of influencing Nepal's interactions with India. The term common river caused the incorporation of Article 126, and the four subclauses under it made any government under the present constitution to firmly observe these provision while negotiating an accord or a treaty with foreign government.<sup>5</sup>

December 1991 negotiations with India, thus, encountered both internal as well as external complexities. Despite a popular mandate, the Koirala government was constrained by the constitutional provision requiring two-third votes in the parliament for the ratification of any treaty with "pervasively grave or long term" implications for the country, of which the sharing of the natural resources was one. Externally, India was discernably bent on to reach an accord on Tanakpur and had presented its position on the sharing of water resources with Nepal through previously held meetings of the high level joint commission that supposedly had agreed to let India build the left afflux bund on the Nepalese territory to save it from land inundation.

It was reliably learnt that the negotiation was stalemated by the Indian insistence on signing two separate treaties on trade and transit conditional upon Nepal's approval of the related provisions on the Tanakpur Barrage. The final decision was made on the highest political level on one-to-one talk basis between Koirala and Rao. What India considered a concession and display of its magnanimity on trade and transit matters, was indeed a *fait accompli* to Nepal, as Prime Minister Koirala was already trapped by the decisions reached by the Interim government on the basis of the recommendations made by the fact finding mission to determine the cost/benefit of permitting India to build the left afflux bund in the Nepalese territory. He could not return home without an agreement, which could have made the disagreement too explicit. This could also have made India perceive him to be an unlikely candidate for negotiation in future. Koirala thus avoided the risk inherent in the summit failure. The Nepali Prime Minister, as being new to the job, could have thought more about the negative consequences of the negotiation failure than any alternative to it. Surely, his naivety was an asset at the moment, which was not used to inform him about the steps of alternatives to a comprehensive negotiation. On this point, his top foreign policy adviser failed to live up to the general expectation, despite the latter's long *jagirdari* experiences as a seasoned negotiator with India. Koirala was not advised about the art of surviving the negotiation failure. A failure in negotiation does not necessarily deprive one from the importance of achieving success. While negotiating, a party which is in the best position to survive the failure is the most likely candidate to succeed in negotiation – be it a protracted one or otherwise.

### **Back to the Origins and the Perception of Interests**

In democracy in particular, if the executive branch of the government thinks that there is a perception of interests of the government, it would be equally valid to observe that there is a perception of interests on the part of the legislative branch too. Many of the conflict between the executive and legislative branches of government in the field of foreign policy stem from the different perceptions of the precisely same circumstances. Mostly, part of the perception gap appears to emanate from different imperative and ideologies. With numerous crises behind it, it is still striking to find such different views and interpretation of the same problem in Nepal. Specifically, Nepal's India policy has always encountered these difficulties.

Presently, it is fundamentally instructive to look at the constitution, because the legislative branch of the government at large plays a significant role in the subjects concerning foreign policy, that is, to enter into a treaty relations with any foreign country is not, unfortunately, an executive act, but it is a legislative act. The controversy over the Tanakpur barrage is a point of this reality in the making of Nepal's foreign policy. Differences of view of the same act, despite the increase in the speed and the amount of information available, placed the legislative and executive branches at odds because of the differences of perspectives. Perceptions may never be identical not only between the ruling party and the opposition in the parliament, but also between the representatives of the ruling party in the cabinet and the parliament, but they certainly should be more alike than they have been in many occasions.

As the parliament is empowered to legislate matters concerning foreign policy, providing it an exclusive legislative authority to implement treaties and other international agreements, the executive is made more accountable to its acts. The subclause 3 of the Article 126 that maintains an unratified treaty to be void which shall not bind Nepal or its government under the constitution, makes the executive authority too precarious in substance unless the ruling party enjoys a two third majority in the parliament. Theoretically, this provision provided the opposition parties in the parliament exceptionally a sound footing to promote their views. The parliamentary debates of the past four sessions out of the five commenced to date, are the instances of the oppositions' assertion of their role by progressively challenging the executive prerogative in foreign policy making and building awareness in general on the matters of public interests. The failure of the government to realize the implication of such a trend on its own image as well as the country's relations with India is expressed in the dilemma that the executive faces in pursuant to its policy. Parliamentary debates over whether the decision reached with India on the Tanakpur Barrage

and let India build the left afflux bund on the Nepalese territory was an "understanding" (as the government maintained) or a "treaty" (as the opposition claims), was finally resolved by the supreme court verdict in favour of the treaty on December 15, 1992, suggesting that it involves the sharing of the water resources which falls within the perimeter of Article 126. This generated another round of controversy that revolved around the question whether the treaty is of "pervasively grave or long - term" nature or an agreement of common pursuit, whether it requires two- third majority or a simple majority in the parliament to make the deal effective.<sup>6</sup>

Renewed deliberations on these points and the government's efforts to reach understanding on the issue in the parliament favouring its position was finally aborted by a letter sent by the supreme leader of the Nepali Congress to the party president Krishna P. Bhattarai warning that "it would be alike signing on a death warrant" to opt for a simple majority on the Tanakpur issue in the parliament.<sup>7</sup> Though certainly unconstitutional, this "bombshell" has further weakened the already eroded credibility of the government as it implied the extremity of the differences persisting within the ruling Nepali Congress party on the issue and to a larger extent on Nepal's relationship with India.<sup>8</sup>

India, though a lower riparain country, had taken a customarily uncongenial approach while initially undertaking the Tanakpur project on the international border river between Nepal and India thinking that the project was entirely built by the Indian money, for the Indians, by the Indians and on the Indian land. Nepal's complains on the issue in 1983- 84 went unheeded. Further enquiries on the project by Nepal were dismissed by suggesting that no such project exists. When the project as such came into existence, it was suggested that it is of no concern to Nepal because the project was entirely built on Indian territory. Frankly, this suggests of a case underlining the interplay of India's dishonesty, deception and power politics reflecting the attitude of a mega-state toward its smaller neighbour. This is also a point in reference to the long held Nepalese perception that India had "cheated" Nepal in their joint collaborative efforts in water resources management, which India has never tried to dispel by a good deal. It is widely believed in Nepal today that India could have entirely skipped Nepal from the project, had not it required the barrage to be extended and built in the Nepalese territory and link it to the high elevation land to generate more electricity. Indian claim that the left afflux bund is built in Nepal to save the territory from inundation is propaganda which is however taken by the government of Nepal today in the spirit of friendship and candour. This account could be proven by citing the skepticism of the chief minister of Bihar who had reportedly remarked that New Delhi is determined to preserve its interests in

the sphere of the water sharing than others. Similar revelation was made by Muchkund Dubey, the former foreign secretary of India, that Nepal had requested for a minimum share (25 megawatts) from the Tanakpur project which was denied. Such an attitude on the part of India may create difficulties in future while negotiating on other mega-projects impairing even the Indian interests in the long run.

The controversy in Nepal over the Tanakpur issue had thus, drawn India into the fray. This was conspicuously displayed in the joint communique issued at the end of the Indian Prime Minister Narasimha Rao's visit to Nepal between October 19-21, 1992. India's generosity of availing Nepal of an additional 10 million units of power supply free of cost was in itself a recognition of the fact that it had not given what Nepal previously deserved<sup>10</sup>. As the Indian foreign secretary J.N. Dixit had said in Kathmandu that the term "sympathy" bears no relevance while conducting foreign policy<sup>11</sup>, it was apparent that India was not treating Nepal as a specific case but in the context of New Delhi's national interests to make the Indian position palatable to seemingly "anti-Indian" factors in Nepal than ease the problem faced by the Nepalese government internally on the issue. The content of the joint communique that came in the shape of certain clarifications from the part of India also exposed the fact that how insensitive that the Nepalese foreign policy bureaucracy was while underwriting a treaty document in international relations involving the fate of the nation it served.<sup>12</sup>

Further clarification on the Tanakpur issue was made by India when the parliamentary delegation led by Speaker Daman N. Dhungana met with the Indian minister of state for foreign affairs R.L. Bhatia at the Tanakpur Barrage site on February 7, 1993. The clarification, however, was a double speak and paternalistic as well. The logic was that India was more than forthcoming in helping Nepal to tie over its difficulties while presenting New Delhi's case. Bhatia was candid in telling Nepal in no uncertain terms that Nepal had been facilitated more for nothing in return and India was generous enough to suffer loss. Excerpts from some of the points he made at the meeting suggest of the Indian mindset:

- India has suffered a certain loss by giving 150 cusecs of water to Nepal. By "this act we have lost 50 million KW of electricity".
- "Total loss to India would be 80 million KW of electricity by sharing with Nepal."
- "In order to save 60 hectares of land in Nepal, we have to reduce the height of the dam. This means there is a loss of 29 million units and the cost of generation of electricity has gone up."<sup>13</sup>



Bhatia's astute diplomacy was repeatedly couched with the phrase "We have given you" notwithstanding his later submission that "Tanakpur project would not have been there if Nepal had not contributed. Its for mutual benefit." He refrained, however, to mention a crucial point: had not Nepal provided its territory to build the left afflux bund, India's total capacity to generate electricity from the Tanakpur project would have been much less than the estimated 125 MW. Amidst this conspicuously contradictory remarks, Bhatia had also suggested that "India will be happy to have [this] project done on international basis, because we have other projects to be completed with Nepal", in a reply to a query of MP Prakash Chandra Lohani.<sup>14</sup> If India is sincere and serious to work on other projects on the international basis, as implied by Bhatia, it is for Nepal to rope in this alternative to present arrangement.

The blow up of the Tanakpur Barrage case has a serious implication for the future of Nepal-India relations. As a substantial interest of these countries to determine the prospects of their economies tied with power generation is being disputed by the case, their mutuality of interests to share the water resources would remain on paper not on the projects. In view of the estimated vast potentiality, Tanakpur Barrage project is a minuscule case. If a case like this could pose a thorn, it foretells the complexities in reaching understanding on future mega-projects. Though the Nepalese Prime minister is on record to have dismissed this problem as a "storm in a tea cup", the spill over effects of the 'tea cup' has made him well aware of the crisis his leadership has faced by its virtual isolation on the issue and which has still to await for the final verdict, perhaps in the forthcoming sessions of the parliament. In the absence of the two-third majority, his government would fall and make any successor government more cautious and sensitive while making a deal with India. Alternately, if the incumbent government succeeds in mustering a bipartisan support to its cause in the parliament, it would be a grand success but without any tangible achievement to resolve the crisis. Because ratification of the treaty in the parliament either by a two-third majority or by a simple majority is simply a process to satisfy constitutional requirement, not change the ground reality. As of now, it remains to be seen the supply of the 20MU of power and 150 cusecs of water to Nepal and the question of guarding the left afflux bund for its safety is yet to be decided. Perhaps the modality provided by the Tanakpur case would be inappropriate for the future of water resources sharing relationship between Nepal and India. Contemplating a renegotiating on the project, therefore, could be a best guide for the future. As the government of India has suggested an alternative to the present arrangement – if R.L. Bhatia's words were to be taken as India's intention – Nepal could gain an opportunity to reassert its position to correct

previous lapses. For Nepal, it would not be an exaggeration to suggest that renegotiating is the only means through which it would be gradually able to change the status quo in Nepal-India relationship.

### **Need to Revitalize the Relationship**

A status quoist relation could perhaps be strain free, at least in the governmental perceptions, and could also be easy to handle as all the parameters of relationship are already defined and acquiesced with. Policy changes at the governmental level are also a difficult task so long as the policy makers think a change in the approach towards certain issue would not be immediately beneficial to them or the leadership that constitutes the ruling elites. Continuity in most cases of foreign policy is the best guarantee to pursue a policy which would cushion the legitimacy of the leadership to formulate policy in a given situation. Nor would such a continuity be seriously challenged. Whereas a certain deviation from the past pattern would be alike risk-taking while endeavouring a change which would also be beyond the capacity or even the imagination of a leadership influenced by the carpetbaggers.

Assumption of a predeterministic future, as stated above in this paper, has largely contributed to the status quo per se in the relationship between Nepal and India. Further, a weak leadership whose interests are only confined to the tenure of its office not the history of the nation it leads compromises its ability to foresee anything beyond the realm of its tenure. In Nepal in particular, this sense of the future is manifested in several forms. A small state with its landlocked geographical situation is thought to be an impediment, hence what a leadership can best do is to adjust to an already determined future and make the best of what is bound to happen any way. This pessimism is reflected both in the absence and avoidance of a systematic planning in the field of foreign policy. A landlocked country's specific goal should be to make conscientious efforts to realize the transit right as facilitated by the international conventions while negotiating with the sea-board country. Previous Nepalese efforts in the matter were resisted by India for one or another reasons; prominent among them was the fear of the loss of Indian market in Nepal. This situation still prevails. What has however changed is the economic policy in India which is demonstratively more liberal than before. This change in India's economic policy is duly expressed in India's trade concessions to Nepal recently which is used as a salami tactics while negotiating with Nepal. Unfortunately, these concessions could not be seen even as an asymmetric responses in the context of preferential trade relations between Nepal and India under the framework of the 1950 treaty, because the original agreements had provided less than what was due

to Nepal. Again India's trade concessions were relative not only to Nepal's capacity to export but also to its acquiescence with Indian security sensitivities and withholding of the work permit system in response to a 'reciprocity' which cannot be applied in an asymmetric situation. It is distressful to suggest that Nepal could not even learn from India's use of linkage politics. Nepal could have applied this lesson while negotiating for the transit rights. Nepal could have, at least, asked for perpetual transit rights in exchange for the land Nepal has given to India for perpetuity to build the left afflux bund of the Tanakpur project. This swapping strategy could have become a test case to determine the future of Nepal-India relations.

There should also be a reconsideration on Nepal's virtual borderless status in relations with India, not vis-a-vis India. Free flow of Nepalese goods is still restricted under the stipulation of the requirement of 50 percent indigenous contents whereas Nepal is open to Indian supply. Consequent widening of the unfavourable balance of trade between the two countries has become an irritant, though dormant, it could explode the myth of interdependence between the two in the long-run. A recent review of the bilateral trade relations by a Nepalese delegation in New Delhi revolved around the old problems such as the means for reducing the transit cost, availability of an alternate transit port, compatibility in duties and excise levied on Nepalese industrial products imported into India as imposed on similar products in India, aside from a certain exercise to attract investment in Nepal.<sup>15</sup>

Another critical problem which could be disastrous in the future of Nepal-India relations is the problem of migration eased by the open border. Already certain agreements between the two have commenced to prevent cross-border terrorism. India is suspicious of the ISI, LTTE, Kashmiri and Punjabi separatists' operations from across the border in Nepal. This could create unwarranted trouble for Nepal in case such immigration in the guise of common Indian citizen remains unchecked. Thus migration across the international border which was not a serious source of conflict previously could turn out to be a content of inter-state dispute. Incidentally, the intermittant quarrel over the "people of Indian origin" (which has also become a strong point in reference to the origin of Sadvawana Party in Nepal) could generate unwanted ethnic turmoils in Nepal (which, in fact, has already encouraged several Jana-Jati groups to build pressure on the government.) Several reasons that first attracted immigration in the Tarai from India have increased manifold as development efforts grew. The influx of people from India, compared to India from Nepal, though smaller in size, has always been seen as greater in impact.<sup>16</sup> It should, obviously, be made clear that there could neither be compatibility nor reciprocity on the

unchecked movement of the people on account of physiological and demographical differences between the two countries.<sup>17</sup> Policy makers in Nepal must also be cognizant with the reality that planning performs not only the space of time but also the space confined by territory. Borderlessness makes the concept of space void.

Thirdly, Nepal should also prepare for the inevitable by overcoming its inhibition to approach India to regulate the border to record the human and commodity transit properly. Perfunctory arrangement is crisis prone, hence both countries should mutually decide for the better results on this issue. Earlier Nepal had developed cold feet fearing India's reprisal whenever the issue was raised. The question that stormed the Nepalese psyche was that how will the country adjust with the challenges posed by the Nepalese returning from India if the border regulation and the work permit system will be invoked. Traditionally, India has provided a safety valve for Nepalese working class by absorbing thousands of Nepalese youth of working age. Perhaps a majority of them are now Indian citizens of Nepali origin as there are Nepali citizens of Indian origin in Nepal. However, this fear is not unfounded. As the past Indian behaviour suggests, Nepal has absorbed persecuted Nepalese from Assam/Megalaya areas in the 1980s. This can be repeated in the sense of fury. Although Article six of the 1950 treaty vouch against such behaviour, this provision has been applied more stringently in the context of Nepal. Furthermore, Article seven of the same treaty unholds the "privileges" India enjoys in Nepal on the 'reciprocal basis' which has virtually become an euphemism for Indian dominance in every competitive sectors except civil service (government) and the armed forces. In the short term the fall out of such an arrangement between Nepal and India is gradually being expressed by the resurgent Jan Jati movements in Nepal. The long term implications for the contracting parties, as sustained by the 1950 treaty, would be damaging to the good neighbourliness whenever ethnicity is articulated. What is implied here is the context that ethno-demography has become a mutual problem in fostering bilateral relations between Nepal and India. Relationship could long been served and made thriving and beneficial by periodical review of the existing framework. Perseverance in relations to resolving mutual problem is the coin of modern diplomacy, not persistent avoidance in confronting the problem. The art of diplomacy is to sense the time, at which a certain problem that was previously intractable may suddenly become tractable. Stagnant policy posture may only make an apparently resolvable problem more complex. Fourthly, like it or not, the future of Nepal-India relationship would be largely determined by the question of a proportionate sharing of the water resources, irrespective of the types of government in the respective countries.

Since the onset of the Sarada Barrage agreement between the British India and Rana Nepal in 1920, followed by the Kosi (1954) and the Gandak (1959) agreements, the process of negotiation on water resources development has been a series of controversy rendered by a relationship between a dominant partner and a limited option neighbour. Renegotiation, further amendments and modifications over the agreements of the Kosi and Gandak projects over the sovereignty issue, rental of the land used for 199 years, compensations for the displaced persons and water for irrigation facility etc., had dragged on for over decades to make both parties, particularly Nepal a more cautious participant as the issue of water sharing became extremely sensitive in the domestic context. The proposed Karnali project that is yet to be implemented is the consequence of differences persisting between Nepal and India over the modality of collaboration. Previous experiences with India has significantly influenced the Nepalese decision makers' perception on the issue. The point is that Nepal is least prepared to loose a considerable control over the Karnali project. Obviously, Nepal will be interested in sharing the rights than benefit in water resources cooperation with India. Agreement on this point could facilitate cooperation, even though India's first among equal priority had already wasted three decades to reach any substantial decision on Karnali project ever since it was first considered in 1963. As the "Agreed Minutes"<sup>18</sup> of December 4-5, 1991 has extensively covered the understanding reached between Nepal and India on the sharing of the water resources, the fate of implementing these understandings now, however, hangs on the successful resolution to the Tanakpur controversy.

Equally genuine is the problem of flood control which is intricately linked with the sharing and management of the water resources and the Himalayan ecology. The devastating flood this July had clearly indicated about the magnitude of problem that was unprecedented in terms of both human and resources loss. Across the border, the Indian state of Bihar was grievously affected where in the Sitamarhi district only over 800 villages were inundated making 50,000 people homeless. Decades of flood-control efforts have not changed this situation. The only remedy to this crisis is to build high dams on the rivers in their catchment areas in Nepal, as Prime Minister Narasimha Rao reportedly said. "Till then, we have to fall back on our own resources, our own method to alleviate the suffering of the people." To resolve this perennial problem, the Prime Minister added: "We have to make Nepal agree to it as most of the major rivers originate from Nepal. We have been holding talks but not enough progress has been made."<sup>19</sup>

Although this statement is indicative of the present state of relationship, it is actually meant for the future of Nepal-India ties which have been complicated by the water politics since long. Nepal should be thoroughly

cognizant with the broader ramifications of dam sites and reservoirs on its territory in relations to the tremendous impact they will render on the environment and indigeneous population. Only scant benefit in economic terms would not justify major dam building projects with adverse repercussion on national ecology and sacrifice of the national property for an unassured friendship. Theri and Narmada dam projects in India have exemplified the complications involved in such efforts. Again the national security implications of dam failures in the region is comparatively high (India has the second highest rate of dam failures in the world which is recorded at 9.2 percent.)

Building of the high dams like the Sapta Kosi multipurpose project and flood embankment projects are not only confined to the bilateral interests between Nepal and India; another prospective partner in this endeavour is Bangladesh. Nepal may be lead to opt for a multilateral arrangement for such projects if it were to consider both Indian and the Bangladeshi proposals which remain to build eight high dams and reservoirs in the Nepalese territory.

These agendas, as touched upon above, are crucially tied to the national future, therefore, the national priority should be to articulate a position on the issues of its national interests. A successful foreign policy depends on the clearcut articulation of a realistic policy which could ensure the national interests and chart a future unambiguously. Initially a national consensus on these agendas should be strived at because all these require parliamentary support according to the constitutional dispensation. Armed with a national consensus the government could practically deal with any problems concerning its interests with India. Only a satisfactory resolution to these problems outlined could in essence revitalize the Nepal-India bilateral ties. Otherwise the problem will staggeringly be same and their relationship stagnant.

### **Living in the Shadow**

Crucial to the Nepal-India relations of the future is a question: Should both countries live in the shadow of the bilateral relationship of the past? Incongruous policy structure and inconsistency in its advocacy on the part of Nepal have much contributed to a continuity adversely affecting its manuverability which, as a matter of fact, is an instrument for a geopolitically disadvantaged nation like Nepal to broaden it diplomatic horizon. The absence of a central intellectual force guiding the foreign policy, subsisting it by nonprofessionals at the diplomatic service as a reward for personal service, has continued to make disorderly policy formulation. This context should necessarily be changed if Nepal ever wish to achieve certain

definitive result of its policy. Primarily, Nepal has to formulate an understandable policy patterned to achieve a defined goal. This goal in its historical context could be attempts to change India's traditional interests, alter its behaviour or even try to inhibit its ability to act adversely. Attempting to change India's interests would involve altering the basic values of Indian leadership, a task which is difficult to accomplish in the short-run. Most attempts to alter the Indian behaviour with diplomatic bargaining were a failure and acquiescence to the latter's position has narrowed Nepal's policy options. And it would be beyond Nepal's capacity to inhibit India's ability to act in any perceivable future.

This situation leads to another speculative question: will Nepal be able to achieve any of its objectives? Given the trends of the past four decades in Nepal-India relations, the question remains only of academic value. Aligned with this question is the current situation faced both by Nepal and India. If the present economic crunch in India were to continue indefinitely and will be harbingers of the future, Nepal could face a much weaker India with increasing societal problems impinging its political-economy. If the situation will be reversed as a consequence of the liberalization of the Indian economy and enlightened leadership policies with a break-through in the sphere of high technology acquisition, Nepal could face a much more powerful India. Where on this spectrum of possibilities will India emerge, and how much impact will Nepal have on the outcome. These are the issues to which to turn if Nepal has sought a better future in its relationship with India through economic cooperation. Development of a cooperative structure between Nepal and India remains a problem which is nevertheless compounded by the perceived self-interests and the endeavour to preserve the gains in pursuit of these interests.

An alternative future against the past and the present state of relationship is akin to traversing an unfathomable uncertainty. Perhaps a disinclination towards a change or a fear of India's rebuttle to any policy change were the self-fulfilling nature of the past policy premises. What would be India's response and how would India view its objectives and its relative priority remain a difficult proposition to understand. However a refrain in the policy making from contemplating any probable response from India may lead to a loss of initiative if Nepal desires to change the status quo. The problems confronting Nepal's future could best be anticipated within the context of status quo and only by toying with the ideas to change the status quo, projection for future could be made. If a leadership that contemplates future is honest, it should question the status quo and institutionalize a process to prepare for challenges to be faced in future. A relationship that is stagnant but is difficult to cope with remains superficially 'stable' (as in Hindu

marriage system that discourages divorce), which finally destroys the prospects of amelioration, should better be discarded sooner than later, and replaced with constructive engagement with a thorough review of previous position and procrastination between Nepal and India.

### Notes

1. The fear of China determining the evolution of Indian approach towards Nepal is succinctly elucidated by S.D.Muni, *India and Nepal: A changing Relationship* (New Delhi: Konark Publishers, 1992).
2. See Dhruva Kumar, "Managing Nepal's India Policy", *Asian Survey*, July 1990, p. 705.
3. Dhruva Kumar, "Asymmetric Neighbours", in Dhruva Kumar, ed., *Nepal's India Policy*, (Kathmandu: Centre for Nepal and Asian Studies, 1992), pp. 17-19 and the Appendix-A.
4. As the controversy exploded, some members of the interim cabinet who were equally responsible for approving the joint communique refused to be a party to it suggesting that they had been denied access to the document before it was made public on June 10, 1990. Two members, Mrs Sahana Pradhan of the United Left Front, and Mr Devendra Raj Panday representing the independent intellegencia were the participants in negotiation with India. Only the Royal nominee in the cabinet was not represented during the negotiation. However, it does not mean that it was not a collective responsibility.
5. See *The Constitution of the Kingdom of Nepal 1990* (Kathmandu: HMG/Ministry of Law and Justice, 1990), p. 73, (in Nepali).
6. For details refer to the spat of technical papers and debates published in the local press in 1991-92. Also see the *Report of the Select Committee of the House of Representatives, 2049* (Kathmandu: Parliamentary Secretariat, September 2, 1992), a compilation of documents *Tanakpur: From Beginning to the End* (Kathmandu: Pairavi Pustak Bhandar, December 1992), and the report of the government constituted recommendation commission *Report on the Evaluation of the Agreement on Tanakpur Barrage Project between Nepal and India* (Kathmandu, February 14, 1993). This report concluded that the agreement was of common nature. The submission of this report also coincided with the opening of the Fourth Session of the Parliament.
7. For the full text of the letter sent by Ganesh Man Singh see *Kantipur*, March 11, 1993, p. 3.
8. The president of the Nepali Congress party, Krishan P. Bhattarai, had also implied for the requirement of the two-third majority of the joint



session of the parliament while addressing a seminar on Tanakpur Barrage project, organized by the 'Abhiyan' group on February 17, 1993.

9. For both of these statements made by Bihar's chief minister Lalu P. Yadav and Muchkund Dubey, former Foreign Secretary in the Indian Ministry of External Affairs who had personally dealt with Nepal on the issue, at a seminar "Cooperative Development of Indo-Nepal Water Reservoirs" see *Suruchi Weekly*, September 20-26, 1992, p. 8. It was maintained that the 125 MW Tanakpur hydro-electricity project had serious physical implications for the Mahakali Irrigation project in Nepal. See Dipak Gyawali and A. Dixit, "Righting a British Wrong", *Himal*, May/June 1991, p. 10.
10. See the Joint Communique "Visit of the Prime Minister of India to Nepal, October 19-21, 1992, issued in Kathmandu on October 21, 1992.
11. As reported in the *Bimarsha Weekly*, October 23, 1992.
12. The "2.9 hectares of land given to India to build 577 metres of of the left aflux bund remains under the complete sovereignty of Nepal... with the nonconsumptive use of water, supply of 150 cusecs of water to Nepal would be perennial..." See the *Joint Communique*, October 21, 1992. Still whether the land given to India was for perpetuity or not remains indeterminate.
13. See an "Interview with the Indian minister of state for External Affairs R.L. Bhatia", released by the government as per the demand of the opposition parties. "Tape on Tanakpur" *Nepal Television* March 6, 1993.
14. See "Tape on Tanakpur", *Nepal Television*, March 6, 1993.
15. See the *Kathmandu Post*, October 22, 1993.
16. For details see Lok Raj Baral, *Regional Migration, Ethnicity and Security: The South Asian Case* (New Delhi: Sterling Publishers, 1990).
17. Even by a conservative estimate, Nepal will have 31 million population by 2010. India's population is estimated to reach 1.6 billion by that date. See *World Population Data Sheet* (Washington DC: Population Reference Bureau, April 1991).
18. Excerpts are published in *Nepal Gazette*, December 23, 1991; for details see the "Agreed Minutes of the Second Meeting of the Indo-Nepal Joint Commission", held on December 4-5, 1991.
19. For the data see "Monsoon Misery", *Frontline*, August 27, 1993; for Prime Minister Rao's statement see *The Hindu*, July 31, 1993.