

An Analysis of Indo-Nepal Relations: A Study After 1990

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ABSTRACT- Treaties are important tools for safeguarding the concerns and interests of participants. If they don't keep up with changing international policies, they are upgraded or changed. India and Nepal have a unique friendship and cooperation relationship that is marked by an open border and deep cultural and kinship connections between people. The two nations formalized their relations with the assistance of different settlements endorsed now and again. The article investigates the significance of the various treaties India and Nepal have signed in light of the shifting international landscape.

KEYWORDS- India, Nepal, Relations, Treaty, Friendship.

I. INTRODUCTION

India and Nepal have a very close, extensive, and multifaceted relationship. India blocks Nepal's east, west, and south from land. This makes Nepal for all intents and purposes India-locked, subject to India for admittance to the ocean and the worldwide market. Nepal has a long border with China's Tibet region, but the hilly terrain makes crossing the border between Nepal and China too difficult for most purposes. Nepal shares a border with five Indian states, Sikkim, West Bengal, Bihar, Uttar Pradesh, and Uttarakhand.² As a result of these geographical factors, Nepal is dependent on India not only for its trade but also for international trade and transit matters (i.e., by using twenty-two mutual trade routes and fifteen transit routes via India to reach the nearest Indian sea port Kolkata). India and Nepal also share a border that is completely open and accessible without any natural barriers, allowing for the free movement of people and India and Nepal are geographically connected, as are their histories, cultures, languages, and economic activities. Religion, along with other factors, has established a solid foundation for relationships. The relationship between the two nations has been shaped by pilgrimage, trade, employment, and marriage since ancient times, in addition to these other factors. Formally, the relationship between two parties is governed by specific treaties in both post-independence India and pre-independence Nepal, where British India and Nepal signed specific treaties.

A. Pre-Independence era

The people-to-people relationship between the two countries goes back to the time immemorial. The official relationship is also very old and goes back to the period of British Raj signing with the 'Treaty of Sugauli' in 1816, and

the 'Treaty of Peace and Friendship' in 1923 concluded with the British East India Company in the India and Great Britain, respectively [1,2,3,4].

a) Treaty of Sugauli

A peace treaty was formally signed by Nepal in March 1816 and included territorial concessions by which Nepal lost almost one-third of its territory on the east, south, and west.⁵ The boundary between Nepal and India was also demarcated with this treaty. Rivalry between Nepal and the British East India Company over the princely states bordering Nepal and India eventually led to the Anglo-Nepalese war (1814-1816), in which Nepal suffered a complete rout.³ The treaty resulted in the loss of approximately one third of Nepal's territory. This included territory to the west of the Kali River, such as Kumaon (the current state of Uttarakhand in India) and Garhwal (the current state of Uttarakhand in India); a lot of the Terai Region and some of the territories west of the Sutlej River, like Kangra, which is now Himachal Pradesh. In contrast to the other border disputes that India has with its neighbors, there has not been a significant conflict between Nepal and India since the border was drawn. The treaty stipulated the formal establishment of relations between the two nations. "There shall be perpetual peace and friendship between the East India Company and the Rajah of Nepal," as stated in Article one of the 1816 Sugauli Treaty. The diplomatic ties between Nepal and the British East India Company were also addressed in this treaty [5, 6, 7, 8]. The treaty increased Nepal's dependence on the British Raj and limited Nepal's foreign relations primarily to interactions with the British Raj in India. Articles 7 and 8 of the treaty also established the first-ever exchange of foreign diplomatic residents between these two nations. [9,10].

b) Treaty of peace and Friendship 1923.

Until the Treaty of Friendship and Peace was signed in December 1923, the relationship between Nepal and British India remained based on the 1816 treaty. Up until 1947, this treaty improved Nepal's relationship with the British Raj. Nepal provided military personnel to Great Britain during the First World War, and the 1923 treaty between Nepal and Great Britain explicitly recognized Nepal's complete independence.⁸ The treaty also allowed Nepal to extend its relationship externally without jeopardizing the security of the British Raj. Their military ties were further bolstered by the provision of sharing information about each other's security in the 1923 Treaty of Friendship. "Each of the High Contracting Parties will use all such measures as it may

deem practicable to prevent its territories being used for purposes inimical to the security of the other," is the statement that is found in Article 4 of the Treaty. "9 One of the huge elements of the Arrangement was that the English government consented to permit Nepal to acquire military equipment from different nations, such arrangement was neither referenced in the past deals nor did Nepal raise any issues in regards to this to the English East India Organization prior. The Treaty's Article Five stated: As long as the British Government is satisfied that the intentions of the Nepal Government are friendly and that there is no immediate danger to India from such importations, the arrangement for Nepal may have emerged as a result of the situation that is likely to be created by the political instability in China and its impact on the security of Nepal vis-à-vis the interests of the British Raj.¹⁰ The British Government has agreed that the Nepal Governments shall be free to import into Nepal any arms, ammunition, machinery, warlike material, or stores that may be required or Another reason might have been to provide Nepal's military with the necessary equipment and to improve their performance so that they could collaborate with British troops in future conflicts. [11,12,13,14,15].

B. Post-Independence

India continued the British frontier policy toward Nepal after it gained independence in 1947. India was keen to redefine its relationship with Himalayan kingdoms—Nepal, Bhutan, and Sikkim—with the goal of preventing communist influence from spilling over into the neighboring Himalayan kingdoms. India sought to strengthen "The Himalayan Frontier Policy" of British India, which regarded the Himalaya as a second frontier. However, a treaty of friendship negotiated in 1949 could not be signed because Nepalese Rana leaders resented India's proposal for a democratic India entered into peace treaties with these three kingdoms as a result. A Treaty of Peace and Friendship was signed in July 1950, concluding a friendly relationship between Nepal and the newly independent India after approximately nine months of diplomatic activity and negotiations.

II. TREATY OF PEACE AND FRIENDSHIP 1950

In order to bring the importance of closer ties between the two countries up to date, the 1950 Treaty was also an extension and modification of the earlier agreements. Notwithstanding, there has been a contrast between the 1950 Deal and the Settlement of Sugauli in one regard is that the previous was closed between the victor and the vanquished; The latter was the result of parties working together to achieve the goals of the two countries.¹⁴ The 1950 treaty, also known as the "Treaty of Peace and Friendship," was signed by Shri Chandreshwar Prasad Narain, the Ambassador of India to Nepal, and Prime Minister of Nepal Mohan shumsher Jung, the head of an oligarchical government (the Rana regime in Nepal). The goal of the treaty was to further strengthen and develop the already strong and fruitful The main topics covered by the treaty are defense, security, economics, and trade [16,17,18,19].

"There shall be everlasting peace and friendship between the Government of India and Government of Nepal," reads Article 1 of the treaty. According to Article 2 of the treaty,

"the two Governments should inform each other in case of any friction or misunderstanding with any of the neighboring states likely to cause breach in the friendly relations subsisting between the two Governments." Article 3 gives support of strategic relations and agent for it. Article 4 accommodates arrangement of specific people who will live in towns, ports, and different spots an in one another's area, it likewise gives specific freedoms, honors, exceptions and resistances concurred to these people. "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 Nepal's security," reads Article 5 of the treaty. The two governments, working together, will devise the means by which this arrangement will be implemented. Article 6 stipulates that when it comes to participating in industrial and economic development, each nation treats its own citizens equally on its territory^[20,21,22]. In terms of residence, property ownership, participation in trade and commerce, movement, and other similar privileges, Article 7 accords reciprocal privileges to each nation's nationals. The Peace and Friendship Treaty agreed to acknowledge and respect the other's sovereignty, territorial integrity, and independence to continue diplomatic relations and on matters pertaining to industrial and economic development to grant rights equal to those of its own citizens to the nationals of the other residing in its territory. It also interconnected the security of the two countries bringing them under one umbrella. Article 8 provides for the cancellation of all previous treaties between the British Government and the Government of Nepal.¹⁵ [6,8].

A. Treaty of Trade and Commerce 1950

The "Treaty of Trade and Commerce," which allowed goods to be imported and exported, was signed in addition to the "Treaty of Peace and Friendship." Nepal's right to trade with other nations through Indian ports and territories was also established by this treaty. The Indian government agreed, in accordance with Article 2 of the Treaty, to allow any goods intended for re-export to Nepal to be transported to the agreed-upon location or locations without paying any duty at any Indian port. Because there were no roads to allow for the crisscross movement of goods, Nepal was also granted the right to move goods through Indian Territory.¹⁶ In the Treaty of Trade and Commerce, which was ratified in October 1950, India acknowledged that goods in transit through India could not be subject to customs duties.

B. Treaty of trade and transit 1960

Nepal and India marked an Exchange and Travel Settlement in 1960 that supplanted the 1950 Deal of Exchange and Business. In accordance with this treaty, India granted Nepal the "right of commercial transit" in exchange for economic cooperation toward the establishment of a common market. The parties to the treaty wanted to increase the amount of goods traded between their respective territories, encourage economic development cooperation, and make trade with third countries easier. In the 1960 treaty, the phrase "full and unrestricted right of transit" was dropped, and Nepal's transit facilities and provisions through Indian territory were more clearly defined than in the 1950 treaty (Art. XII).¹⁸ The definition of "traffic in transit" in the treaty said that traffic in transit was exempt from customs and transit duties and would not be delayed

or restricted in any way that was not necessary. Articles VII and IX)[23,24]

Nepal and India signed a new mutual trade and transit treaty on August 13, 1971, following the expiration of the 1960 agreement on October 31, 1970.²⁰ The treaty included provisions regarding India's provision of transit facilities for Nepal's trade with a third country; It also included guidelines for working together to stop illegal trade. Obligation free admittance to Nepalese imports on a nonreciprocal premise was first given in 1971, yet with a Nepalese-Indian material substance prerequisite of 90%. When the Trade Treaty was periodically renewed[12,17], this gradually decreased.

When the Janata Government took power in India in 1977, it granted the Nepalese's long-standing request for a separate trade and transit treaty. So in 1978 separate exchange and travel settlements were agreed upon. India – Nepal treaty of Trade, 1978.

Through this certain clause in previous trade treaty were modified and amended with the dynamics of the situation. Through this treaty India relaxed the conditions for entry of Nepalese goods into India. This treaty exempted goods with 90% Indian or Nepalese material from excise duties, this treaty also agreed that duty charged on goods up to 50% of such components would be half of what was charged from the most favored nation. (Protocol Art. V) [12,14]

C. *India-Nepal Treaty of Transit, 1978*

On March 25, 1978, India and Nepal signed a separate transit treaty for the first time. This treaty gave Nepal, a landlocked nation, access to the sea and allowed it to grow its international trade. The treaty was signed with a seven-year term. Thirteen routes were specified to facilitate trade with third countries as part of the transit treaty, which provided Nepal with facilities at the Calcutta and Haldia ports (Protocol Article VI). The 1971 treaty established ten routes.

The two deals terminated in Walk 1988, however because of contrast in light of a legitimate concern for the both the nations as India needed a solitary settlement rather than two and Nepal called it infringement of opportunity of exchange of landlocked country, the arrangements were expanded two times for brief period, at long last the deal lapsed on 23 Walk 1989 bringing about virtual barricade that finished in April 1990. The trade and transit treaties were both renewed in 1991 with some changes. The trade and transit treaties have been periodically updated and modified to accommodate shifting dynamics since then; the most recent update and renewal occurred in 2009[22].

III. CONCLUSION

In 1950, the "Treaty of Peace and Friendship" and "Trade and Commerce" treaties were signed by India and Nepal. The arrangement of harmony and fellowship frames the bedrock of connection between two nations till now. In accordance with this treaty, the two governments primarily focused on security issues in addition to respecting each other's sovereignty and independence. They consented to counsel commonly on issues connecting with security, both made a deal to avoid enduring any danger to the security of the other by an unfamiliar hostility and both the states will talk with one another and gadget viable countermeasures to manage any unfamiliar danger. The two state run

administrations made a deal to avoid utilizing any outsiders whose exercises might be biased to the security of the other.²⁴ The 1950 Settlement prompted an exceptionally huge milestone in the India-Nepal relationship that recognized Nepal autonomous, sovereign and free yet constantly connected Indian security with Nepal that later on turned into a bone of dispute between two states. "The 1950 Treaty is a uniquely significant landmark in the Indo-Nepal relationship because it goes far beyond the standard diplomatic format of relationship and seeks to concretize a grand vision handed down from centuries," stated former Indian prime minister P.V. Narasimha Rao. Prime Minister Jawaharlal Nehru and His Majesty King Tribhuvan, the great leaders of both countries, cherished this vision. The treaty of trade and commerce was signed to make it easier for Nepal and India to trade with one another. "It was a vision of a Nepal and an India that were independent, sovereign, and free, but indissolubly linked by unbreakable bonds."²⁵ The treaty of trade and commerce of 1950 was criticized primarily for Article 5, which stated that the exemption of excise and import duties granted on goods of Nepalese origin under Articles 3 and 4 would depend on the fulfillment of the conditions embodied in Article 5. As a result, Nepal's expansion of trade with overseas countries could not be made possible. These unequal and unfavorable provisions in the treaty were regarded as a symbol of India's economic dominance. In order to meet Nepal's needs, the two nations signed separate trade and transit treaties in 1978. Since then, these treaties have been revised and updated in accordance with changing circumstances.

However, the Peace and Friendship Treaty was never altered. Since the late 1950s, when a "secret letter" that was exchanged in conjunction with the treaty was made public, the celebration of the Peace and Friendship of 1950 has become a source of intense contention between Nepal and India. All sections of Nepal are pressing for changes to be made to the treaties right away. Nepalese contend that then State leader of Nepal Mohan Shumsher, which was going to be ousted by a popularity based development drove by Nepali congress, marked this letter along with the Settlement among India and Nepal. This cannot possibly be representative of people's goals. Nehru quickly recognized the situation and the opportunity it presented during its final days in power, when the government was prepared to cooperate with New Delhi and was in desperate need of foreign assistance for its survival. That is the way the Harmony and Fellowship Deal was closed between these two Nations under which India figured out how to get terms ideal for it.²⁹ S. D. Muni an Indian essayist, expresses that the Rana's completely obliged India's financial and Security interests.³⁰ In any case, in light of the resulting designs of relations, one is enticed to surmise that these settlements and arrangements were adapted more by transient procedures of system endurance than by certifiable public interest.³¹ The Deal of harmony and Kinship has conceivably stayed the most questionable and much discussed archive essentially for three fundamental reasons, notwithstanding many politically significance contents that were consolidated in the arrangement. The first is the timing of the treaty's signature, which has already been mentioned. The second is the previously unfathomable reason why the last paragraph of the document governing its validity was changed at the last minute, just on the eve of signature, to make it appear to be perpetual despite the time-consuming

and politically difficult requirement to notify each other in writing prior to its termination. The earlier draft had a straightforward and standard provision that said it would end after ten years, though the two sides could extend it if they agreed. The third and potentially damaging act is the bilateral decision, which appears to have been ill-advised, to keep the accompanying "Exchange of Letters" with provisions of far-reaching significance secret until its full text was leaked to the media after a decade after the Indian Prime Minister Pt. Jawaharlal Nehru unveiled its presence during his instructions on reciprocal relations and his accentuation on the Basic need to carefully notice the arrangements of the treaty.³² India then again respects 1950 deal of harmony and kinship as an underwriter of extraordinary connection between two nations. India continues to defend itself against it. Since the Maoists emerged in Nepal, there has been a significant demand for the Treaty of Peace and Friendship to be revised. The issue of revising the treaty gained momentum following the leftists' victory as the largest party in the elections for the constituent Assembly. When Nepali prime minister Pushpa Kamal Dahal visited Nepal in 2008, he made a proposal to change the treaty, but nothing significant changed. When Indian Prime Minister Narendra Modi visited Nepal in 2014, he told the parliament there that "India is ready to sign the new or modified draft of peace and friendship treaty prepared by Nepalese." Despite objections from both sides, the treaty remains in effect. In addition, both sides agree that the treaty should be adjusted to reflect the current situation. India must adopt a liberal approach when dealing with Nepal and establish a multilateral partnership with Nepal in accordance with international and regional dynamics because of the geographical realities. In light of the current situation, the new treaty ought to take into account the requirements of both nations.

CONFLICTS OF INTEREST

The authors declare that they have no conflicts of interest.

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