

The 2015 Constitution in Nepal and Changing Indo-Nepal and Sino-Nepal Relations*

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Abstract: Nepal promulgated her new Constitution on the 20th September, 2015. The new Constitution could not please the Madheshi people in Terai region, which is situated in the southern part of Nepal adjacent to the Indian border. Madheshi people blockaded the India-Nepal border in Terai region, which is the only commercial route of Nepal with India. Nepal had claimed that India supported the Madheshi ethnic groups, who are known as of Indian origin and make up 30% of Nepal's population. During the blockade, India stopped exporting petroleum, fuel, oil, medicine, and other essential goods to Nepal. That blockade caused immense miseries for Nepalese people. Anti-Indian sentiment rose high among Nepalese people. The anti-Indian sentiment had resulted in people's preference for China as an alternative to India. During the blockade China exported petroleum, fuel to Nepal. This paper discusses the causes of blockade and how the blockade affected India-Nepal relations and how Nepal moved strategically closer to China. It also discusses how Nepal is trying to maintain balance in its relationship with both India and China.

Introduction

A Constitution was enacted by the Constituent Assembly of Nepal on the 20th September 2015 which turned Nepal, among many things, into a federal democratic country. The then ruling political parties, namely, the Nepali Congress and Communist Party of Nepal-United Marxist-Leninist (CPN-UML) celebrated "Diwali", while the Madheshi Political Parties and Tharuhat Action Committee in the Terai region of southern Nepal bordering India observed the day of the enactment of this 2015 Constitution as a "black day". China, Pakistan and few other countries welcomed the new Constitution. But, India expressed its displeasure over Nepal's political development.¹ With "coded" encouragement from Indian administration, Terai politicians kept the transit routes between Nepal and India shut for almost five months from September 2015 to February 2016 stopping supply of petroleum products and other essential goods for which Nepal was completely dependent on India. This caused immense sufferings to the Nepalese people who blamed India for this and turned anti-Indian. In that circumstance, China came forward and announced its steadfast support for Nepal's national independence, sovereignty, and territorial integrity. China supplied oil to Nepal which added to the anger of Indian-backed Madheshi protesters and India. The Chinese move made India further concerned about Chinese influence over Nepal whom India for long has considered nothing more than its satellite and Nepal's northern border with China as its own border with regard to India's security threat from China.

* The Author would like to express gratitude to Professor Bhuian Md. Monoar Kabir of the Department of Political Science, University of Chittagong, Bangladesh, for his comments on an earlier version of this paper.

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This paper aims specifically at dealing with the nature of Nepal's domestic politics and the reasons for the Madhesi and Tharu communities' concern and opposition over some provisions of the 2015 Constitution. It also aims at focusing on the Indian role in encouraging and supporting the Madhesi's protest movement and blockade and Nepal's search for alternative source and force to India and did find China a ready source and force willing to reach out to Nepal to avert crisis caused by India-backed economic blockade by the Madhesi and Tharus. The blockade created an environment and opportunity for both China and Nepal to develop close relationship. To the chagrin of India, the crisis-time government of K.P. Sharma Oli had made a "soft strategic tilt" toward China. The paper deals with India's late realization of the real possibility of "losing Nepal" to China and thus its decision to "unofficial" lifting of "unofficially" declared blockade. It also discusses the down fall of the crisis-time government of K.P. Sharma Oli in July 2016 and the formation of new pro-Indian government with the backing of India after the fall of the Oli government. The paper finally discusses the new Prime Minister Pushpa Kamal Dahal (Prachanda)'s Madhesi, Indian, and Chinese dilemmas.

Qualitative approach has been used in preparing this paper. It is a descriptive as well as an analytical paper. Books, articles, Newspapers, Magazines, commentaries of experts on the issue at hand have been used as source and research materials for this paper. Formal and informal discussion with Bangladeshi, Chinese, Indian, and Nepali researchers and experts have also helped articulate arguments in this paper. The nature of the paper did not necessitate field survey or use of statistical tool.

Madheshis and Their India Connections

Nepal is a South Asian land-locked Himalayan country. It is bounded and butted by India in three sides (east, west and south). China is its northern bordering country. Nepal shares an open border of 1868 KM with five Indian states (Uttarkhand, Uttar Pradesh, Bihar, West Bengal and Sikkim) and 1,415 km with Tibet in China.²

The word "Madhesi" is derived from "Maddhadesh" and, in Nepali language, Maddhadesh means middle/central territory between northern hill and southern plain land. The inhabitants of Madhesi and Tharu community of Madhesh are located in Terai region of the Southern part of Nepal adjacent to the border with India who live in 22 out of 75 districts of Nepal. A sizeable portion of the Madheshis has originated in India and their Socio-cultural-anthropological relationships with India are much older.



Source: Google Map
https://www.google.com/search?q=map+of+terai+district+of+nepal&client=firefox-b&tbm=isch&imgil=5gD0dUrez8eWbM%253A%253BH6ZomzxURLwO1M%253Bhttp%25253A%25252F%25252Fmantraya.org%25252Fenduring-dilemmas-nepali-insurgencyredux%25252F&source=iu&pf=m&fir=5gD0dUrez8eWbM%253A%252CH6ZomzxURLwO1M%252C&usq=EzpqDLDflb4fB80BaXerIGakD_Y%3D&ved=0ahUKEwiYq5imqNHTAhWLuo8KHZuuDF4QyjcIOg&ei=i4klWdi514v1vgSb3bLwBQ&biw=1280&bih=647#imgcr=5gD0dUrez8eWbM: Accessed on 20 April, 2017.

As the map shows, the Terai region, where the Madheshi people live, has open borders with India. Madheshi families marry off their daughters to Indian men and bring brides for their sons from there.³ In addition, majority of Madheshi population have come from Bihar and Uttar Pradesh of India and thus treated as the “blessed fellow” of India by the mainstream political forces and the non-Madhesi Nepalese. Consequently, the mainstream people of Nepal don’t have much trust in them and look upon them with some degree of suspicion as “agents” of India.⁴ The Madheshis are allegedly deprived of some of the citizens’ rights; rights such as rights of the title and possession of land and even some government privileges. They are also deprived of proper representation in Nepal’s parliament.⁵

The 2015 Constitution, Madhesi and Indian Concerns, and the Blockade

Although over 85% of the legislators in the 686-strong Constituent Assembly supported the 2015 Constitution, the pro-Indian parties representing the Madheshis strongly opposed the Constitution on a number of grounds. Apprehended to be marginalized in mainstream politics of Nepal, the Madheshis and Tharu communities vehemently protested against the Constitution enacted in 2015. Among others, this Constitution, in order to form a Federal system in Nepal, divided Nepal into seven administrative units against which the Madheshis and Tharu community launched vehement and violent protest movement. They argued that the way these seven provinces were divided was likely to make the Madheshi community minority and marginalized in the society and politics in those provinces leading them to resort to blockade the India-Nepal border which is Nepal’s only commercial route with India and the outside world. Resultantly, all kinds of external trade of goods like petroleum, fuel, medicine was shut down.⁶

The Madheshis originally raised four point demands that included demarcation of provinces which were related to five districts (Sunsari, Jhapa and Morang in the east, Kanchanpur and Kailali in the west); resorting to population as the primary criterion for delimitation of electoral constituency; proportional representation in government jobs; and issues relating to citizenship.⁷

But, the three major political parties, namely, the Nepali Congress, the Communist Party of Nepal-United Marxist Leninist (CPN-UML) and the Communist Party of Nepal (the Maoist Center) – who were instrumental behind the articulation of the 2015 Constitution -- were steadfastly opposed to these demands. They thought that such demands of the Madheshis were impossible to accept and implement.⁸

Indian Support for the Blockade and Nepal’s Failed Efforts to Change Indian Stand

Nepal’s mainstream people and political forces strongly believe that there was India’s “undeclared” support and role behind the blockade despite India’s routine denial of such allegation. Both India and the Madheshis had raised almost the same objections about Nepal’s 2015 Constitution. The fact of India’s support was substantiated by Federal Socialist Forum’s senior leader Ashok Rai’s statement when he said, “We have blocked the border check-post by changing the form of agitation and India has been supporting and welcoming the agitation”.⁹ India had stopped supplying petroleum, fuel, medicine

and other essential goods. India used the Madheshis by supporting their protest movement from behind the scene. Obviously, the Madheshi parties provided India with the opportunity to meddle in the internal affairs of Nepal by resorting to violent protest against the 2015 Constitution. It has been a matter of fact that Madhesh-centric political parties always support India and India also patronize them.¹⁰ Pushpa Raj Pradhan, a prominent Nepalese Columnist, wrote in the People's Review of Nepal that- 'The dangerous agenda of India is not only to permanently capture the disputed land Kalapani, but also to separate the Terai districts and finally annex the 20 Terai districts (along Indian border) through the modality it adopted in annexing Sikkim'.¹¹

Many Nepalese feared that India might repeal the agreement on transit right to land-locked Nepal. Many analysts opined that the aggression and involvement of India in Nepal could hamper Indo-Nepal relationship. The question was raised whether or not Nepal could solve its problems without India's help. Under such circumstance, Nepal's Deputy Prime Minister and foreign minister, Kamal Thapa, of the then government of Prime Minister K.P Sharma Oli, visited New Delhi during October 18-20, 2015. He met with Indian foreign minister Sushma Swaraj and Home minister Rajnath Singh and requested them to help lift the blockade. Both advised Thapa to solve Nepal's internal political crisis and to take initiative to address the discontent of the Madheshis through discussion and amending the 2015 Constitution. Kamal Thapa did not get any assurance from the Indian side about the lifting of blockade and returned home being disappointed.

The mainstream politics of Nepal is mostly influenced and dominated by the Monarchists, Nepali Congress, Communists, Maoists and the hill communities. On the other hand, India always dominated Nepal as it's "big brother" and that's why mainstream politics of Nepal is always against India. Nepalese leaders were determined not to give India any chance to fulfill its design. Even under heavy pressure from India, Nepal's political leaders had shown complete unity for the first time and did not compromise on self respect, dignity and sovereignty for petroleum as it was nobody's "little brother".

There is a persistent perception among a large section of Nepalese that India was primarily responsible for the five month blockade of the Indo-Nepal border. This perception is the strongest among high level Nepali bureaucrats, who are mostly drawn from the traditionally privileged hill communities.¹² Nepal's Prime Minister during the blockade, K.P. Sharma Oli, urged India to lift the blockade. He also said that his government was prepared to amend the Constitution by re-demarcating Federal State borders, for which the Madheshi political parties were protesting with Indian instigation and blockaded India-Nepal border. But, he did not get any positive indication of that from India causing a rift in Indo-Nepal bilateral relations.¹³

Nepal's Search for Alternatives: "Soft Strategic Tilt" Toward China, and Concerns of India

Although historically Nepal had maintained very close relationship with India on the basis of historical-religio-cultural-anthropological ties, China-Nepal relations dwell into the border conflict that resulted in Nepal-Tibet-China War in 1789-1792. Nepal even

severed all ties with China in the late 19th Century. At present, Nepal-China relations have developed due to two disasters and many more factors. On the other hand, over the years, many factors gradually caused distance in India-Nepal relations.

Nepal faced two large crises in a very short succession; the 2015 earthquake and blockade over the 2015 constitution. During these two events, China came forward to help Nepal, took the advantage to consolidate its relationship with Nepal, and pushed India to strategically inconvenient condition.

The climate of widespread anti-Indian sentiment among Nepali people, discussed above, led the Nepalese leaders to “tilt” toward China. Oli turned toward China and met with Wu Chuntai (Chinese ambassador) on 23 October, 2015 and requested Wu Chuntai for supply of fuel from China. An eight-member delegation headed by Commerce and Supplies Minister, Ganesh Pun, visited China to secure supply of fuel oil and cooking gas. China responded positively and immediately. China was also ready to supply raw materials to make solar power generators in Nepal. Naturally, the Madheshi protestors did not like Chinese oil supply. Madheshi political forces accused China of supporting Nepal’s mainstream parties and elites against Madheshi interests.

With the arrival of Chinese fuel oil in Nepal, India had lost its outstanding status as Nepal’s sole fuel provider and consequent leverage over Nepal. Nepal also requested China to open up six more routes linking Nepal with Tibet for increasing volume of trade between the two countries. Nepal also sought for duty-free access of its good to China.¹⁴ By these initiatives, Sino-Nepal direct trade has begun. Kamal Thapa, the then Deputy Prime Minister and foreign minister of Nepal, also visited China during December 23-28, 2015 and was received warmly. He met with Chinese Vice President Li Yuanchao who assured that China will assist Nepal to secure its interest, will expand connectivity, and help increase energy production capacity, post-disaster reconstruction, tourism, and other sectors. Thapa also met with Chinese foreign minister Wang Yi and discussed matters related to trade and other issues of common interest. Wang Yi and Thapa reached at an agreement on a wide range of issues of common interests of the two countries.¹⁵ China promised to supply 1.4 million liters of fuel for urgent necessity US\$500/- million in post-disaster rebuilding of Nepal. Nepal also started accelerating the advancement of its northern trade routes with China. An example of this is the enhancement of the Dhulekhel Tatopani Section of the Araniko Highway, which was built in 1970 with the Chinese aid, but had to be closed due to earthquake.

Prime Minister K.P. Sharma Oli also visited China in March 2016, met with Chinese President Xi Jinping, and discussed the possibility of establishing China-Nepal Free Trade Area and increasing cooperation on connectivity and energy sectors between two countries. Nepal had chosen China as her alternative trading partner which can be termed as “soft strategic tilt” toward China. Nepal sought to import gasoline from China for the first time.

China and Nepal also signed agreements allowing Nepal to conduct foreign trade via Chinese ports. Currently, over 90 percent of Nepal’s trade with third countries is done through India. The new agreement has paved the way for some of that to be diverted to Chinese transit hubs. Oli also encouraged Chinese businessmen to invest in Nepal in

manufacturing, hydropower, tourism, service sectors, IT, mining, and agro-based industries.¹⁶ China also sanctioned loans for building an international airport at Pokhara. They were also looking into the possibility of a rail link between the two countries.

Sensing that the control over the “Nepali Ball” was about to be lost to China, India found out the futility of the “unofficial blockade”, and it, without any pre-condition, lifted blockade against land-locked Nepal in January 2016. Protestors called off the blockade and allowed supply trucks standard for about five months to roll into the landlocked country as Nepal also pledged to amend the Constitution to provide greater political voice to the Madhesi and vowed to resolve other grievances through talks.¹⁷ K.P. Sharma Oli, then visited India on February 19, 2016. He expressed his intention to forget the “undesirable” things that occurred between Nepal and India and wanted to expand reciprocal friendship between India and Nepal. As expected, his visit to India was going to normalize the Indo-Nepal bilateral relations. After lifting the blockade, India-Nepal trade resumed once again.¹⁸

End of Blockade and Fall of the Oli Government: The Dilemmas of the Pro-Indian Prachanda Government

K P Sharma Oli resigned from his post in July 2016 in the face of concerted opposition from the Pro-Indian Madheshi parties, Nepali Congress, and the Maoists. Pushpa Kamal Dahal (Prachanda) of the Maoist Party was elected as new Prime Minister of Nepal on August 4, 2016 who headed a coalition government consisting of Nepali Congress and the Communist Party of Nepal (CPN)-Maoist Center. His government signed a 3-point agreement with the Madheshi Front composed of several parties. India was displeased with ex-Nepali Prime Minister, K. P. Sharma Oli, as it considered him bitter to India. On the other hand, Prachanda proved himself to be a pro-Indian Nepali leader who came to power by compromising with India. Thus, he could not do anything independently without support and advice from India.

Prachanda visited India in September 2016 and Nepal and India signed a three-point Memorandum of Understanding (MoU) and issued a 25-point joint communiqué. As per the MoU, the government of India is to provide project management consultancy service for the road up gradation and improvement of projects in the Terai region of Nepal. India also agreed to provide a mandatory dollar credit line of US\$ 750 million for the post-quake reconstruction in Nepal.¹⁹ Prachanda was also prepared to amend the Constitution not only to satisfy the Madheshi people but also Indian counselors upon advice from Delhi. Oli's CPN-UML party sharply opposed this decision. Nepali ruling elites knew that the Indian elites have used them to fulfill their own agenda to disconnect the entire Terai districts from the hill districts. Indian ambassador to Nepal also asked the Madheshi leaders to support the Constitutional amendments proposed by Prachanda's government.

On the contrary, China was not happy about the fall of Oli's government and was reluctant to award Nepal's new Prime Minister, Prachanda, because of the widely held perception that Prachanda, with Indian help, was involved in plotting Oli's downfall. China was concerned about the bilateral agreements which it signed with the Oli government. But, Prachanda assured China that Nepal would fulfill all the bilateral

commitments including agreements and obligations made by the previous governments. Parachanda has been trying hard to play a balancing act between India and China. In the 1950s and 1960s, we saw that Nepali King Mahendra also tried to keep balanced relationship with both India and China. He involved China as a potential counter-balance against India in the political game in the Hiamalayan region. He established the strategy through appointing Chinese-minded and India-minded Prime Ministers alternately. He also began to pursue the principle of “Non Alliance and Equal Friendship” to keep Nepal at “same distance” from both India and China.²⁰

Nepal conducted its first ever Joint Military Exercise, named ‘Pratihar’, with China on February 10, 2017. This drill was designed to train Nepali forces in handling international terror groups and disaster management. Both sides hoped that it would set up a trend of adjustable military exercise between the two countries. Previously, Nepalese army had been involved in such drills only with the United States and Indian armies. By the beginning of new and higher level of bilateral military engagement, they also signed bilateral collaboration contracts of worth 01 billion RMB (the Chinese Currency). Most of the money was supposed to be spent for reforming and upgrading Nepal-China road links. In 2017, China sanctioned aid of US\$ 32.3 million to the Nepal Army to increase its capacity and can provide its accessories for United Nations Peacekeeping Missions in high conflict areas. China has increased the number of seats for Nepalese Army Officers in its War Colleges. Some senior officers of the Nepalese Army argue in favor of deeper military cooperation with China to reap more benefits. Most Nepalese think that China is a neighboring state which does not interfere in Nepal’s domestic political affairs. They also believe that since China is a permanent member of UN Security Council good relationship with it may be useful for the interests of smaller countries like Nepal.²¹

Nepal, at the same time also, assured India that military drill with China does not violate the India-Nepal Peace and Friendship Treaty of 1950. It is also clear that China wants to make an inroad to enter into South Asian countries. China wanted to expand her trade and commerce in South Asia by creating a link. That’s why it is looking at Nepal as a centre to achieve its goal. China’s position in Nepal is becoming stronger; it is gradually establishing its hold in Nepal. Geographical proximity between Nepal and China also gives China an easy access to Nepal.

Nepal and China have also started to promote their economic and political relations. China also wants to become an alternative trading partner for Nepal by providing new trade routes and improving its strategic relations. It has created a kind of unease in the Indian policy circles. Recent Nepal-China Joint Military Exercise is perceived as increasingly troublesome by the Indian elites. Though Nepal has assured India that there is nothing to be worried about it, as the Military engagement with China was of small scale, India’s suspicion in this regard still remains. Prachada also assured India that Nepal’s relationship with other countries is not designed to harm India-Nepal relationship. The relationship with one is not going to affect the other. The ambition of India is to increase trade ties with Nepal. For this, India has been building two rail lines in Nepal and three more are being planned. Yet, India’s worries have increased lately. Improved Nepal-China relationship is troubling for India as unlike the past, India no

longer remained the only principal trading partner of Nepal as China has become its alternative trading partner.

In recent times, India's Zero Sum mindset has become obsolete and unsustainable. India has understood this fact but is yet to come up with any realistically viable and attractive alternative idea to replace the Zero Sum mindset. Since the position of Chinese diplomacy is a Win-Win one, Nepal's former Prime Minister K.P. Sharma Oli moved to consolidate Nepal's relationship with China. The standoff with India on the Madheshi and blockade issues led him to hug China's amity. His successor, Prachanda, found it hard to undo that.

India's Strategic and foreign policy planners need to be careful and ready to be able to adapt to the new reality that as China has been steadily expanding its influence in Nepal and other parts of South Asia,²² Beijing's focus is also on Lumbini, the Lord Buddha's birthplace, which lies inside Nepal and barely 25 KM across the border from India.²³

Conclusion

After promulgation of the Constitution in mid-September 2015, Tharu and Madheshi inhabitants in the Terai region protested against the new Constitution alleging that Constitution would further marginalize their position in the Nepalese society and Polity. They blockaded India-Nepal border. India joined the blockade program by stopping supply of fuel, oil and other essentials to Nepal. Nepali people strongly believed that India put pressure on Nepal to force it to change its Constitution by supporting the blockade which Nepal refers to as an "unofficial" trade blockade by India which India denied.

During the blockade, Nepal had developed political and economical relations with China out of desperation and necessity. China also responded positively and supplied fuel oil in Nepal to minimize fuel crisis. Analysts said that India has always caused instability in Nepal. But this time around, India was not very successful to achieve much from blockade. China wants to take India's place as the largest trading partner of Nepal. India is the largest economy and a rising power in South Asia. China labels India as a country with overwhelming economic and social challenges where as China could play a role by investing in infrastructure and other sectors. However, an international environment that has apparently been favorable to India at the moment had led China to term India as a rising power in the international system.²⁴

On the other hand, China wants to be a superpower on the global stage. China's concern is that, if India rises as leader of South Asia, it might hinder China's desire to become the super power. That's why China has developed relationship with Nepal to make an inroad into South Asian sub-region through Nepal as well as other South Asia countries. The Chinese are behaving with much savior-faire to win over countries in neighborhood by displaying respect combined with easy familiarity through soft power.²⁵

End Notes:

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²² For details about China's focus on South Asia, please see, Anwara Begum, *Sino-South Asian Relations: Missed Opportunities?* (Dhaka: AHDPH, 2015); and Bhuian Md. Monoar Kabir, ed., *Sino-South Asian Relations: Continuity and Change* (Chittagong: Department of Political Science, University of Chittagong, 2013).

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