

Nepal-India Open Border: Prospects, Problems and Challenges

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The Evolution of Nepal's International Boundary with China and India

Like most of the countries of the world, the existence of Nepal had been recognised even before the international boundaries had been fully and finally established. Mention of Nepal is found in the ancient history of both China and India. Nepal-China boundary is as old as the history of the two countries, but in contrast to the very ancient cultural, social, political and economic relations, Nepal-India boundary has a comparatively recent origin and its present boundary demarcation and delimitation took place after the Anglo-Nepal War of 1814-16. In contrast to Nepal's boundary with India on three sides: west, south and east, the boundary between Nepal and China lies in the north only. However, the demarcation of Nepal-China boundary had been a problem in the past, because more than 90 percent of the frontiers run through high altitudes with rocks and snow, glaciers and ice fields which are entirely uninhabited. Both countries have respected and continue to respect the existing traditional and customary boundary line and have lived in amity. No remarkable or noticeable territorial dispute has existed between Nepal and China. The few territorial disputes that existed were over rival claims for the settlements of Kimathanka in the Sankhuwasabha and Taplejung districts, the area adjoining the border of Rasuwa, and Nara Nangla of Humla district with the origin of dispute dating back to 1815, 1818 and 1834 respectively

(Nepali, 1964:1).:These disputes were resolved by the Nepal-China Joint Boundary Commission on October 5, 1961.

The ruggedness of Nepal-China boundary is clearly revealed by its length which is 1415 kilometres, while Nepal-India boundary which runs along three sides of Nepal is only 1580 kilometers, 165 kilometers longer than Nepal-China boundary. The 1415 kilometre length of Nepal-China boundary is based on measurement in the maps (for details on Nepal-China Boundary see Annex). If the actual measurement is made on the ground along the slopes and ridges of the mountains, the length of the boundary will be more than that indicated by the measurement in the maps. So far as Nepal-India boundary is concerned, the mountainous portions of the boundary lie in Sikkim State and Darjeeling district of West Bengal State in the east, while rest of the boundary runs along the plains in the south and along the Mahakali River in the west.

The Delineation and Demarcation of Nepal-India Boundary

Prior to the domination of India by the British East India Company, both Nepal and India were divided into petty kingdoms and principalities. As such, very little information is available regarding the extent of border as well as border disputes between Nepal and India. The British East India Company had already started the colonisation, expansion and consolidation of Indian states and principalities through invasion, and was planning to invade Nepal after the death of King Prithvinarayan Shah. The plea for invading Nepal was their false claim over the control of Butawal, which in reality belonged to Nepal. The Anglo-Nepal War of 1814 and the subsequent treaty of peace signed between Nepal and the East India Company on December 8, 1816 resulted in the delimitation and delineation of Nepal-India border. The Mahakali River formed the western boundary, while the Mechi formed the boundary in the east along with ridges in the Darjeeling hills and Sikkim. Accordingly, Nepal had to forsake the areas lying to the west of the Mahakali River and the areas lying to the east of the Mechi River including the return of the territory of the Rajah of Sikkim occupied by Nepal. The East India Company delineated and

demarcated the southern boundary on its own. But no demarcation was made for the Tarai region lying between the Mahakali River and the Arrah Nala, which was ceded to the British India in 1816. Moreover, the entire western Tarai was almost covered with dense forests, and, at the same time, there was no physical basis to discern the northern limit of Tarai. Nepal and India had a dispute over this ill-defined and ill-demarcated boundary. Prime Minister Jung Bahadur spent the last two decades of his rule in solving these problems. In his lifetime, he settled all the problems affecting the boundary between Nepal and India, because he was apprehensive that in the future such problems might lead to friction between the two states (Husain, 1970:108). A straight line between the two pillars was drawn for the demarcation of the border in the forest areas, while demarcation in the cultivated land was made on the basis of village boundaries on the principle of mutual give and take. Major disputes and problems arose in the case of river boundary due to erratic changes in the river courses in the Tarai region. In recognition of assistance of Nepalese army in quelling the 1857 mutiny in Lucknow, and because of the fact that the western Tarai, which was ceded to India under the Treaty of 1816, was retroceded to Nepal, the Boundary Commissions of the two Governments met in North Oudh at Bhagura Tal in February 1860 to survey and demarcate the boundary. After the completion of the survey and demarcation, the King of Nepal and the British Resident signed a formal treaty on November 1, 1860. Even after that, the dispute over the river boundary between Mondia Ghat to Bunbasa along the Mahakali (Sharada) river arose immediately after the treaty and was resolved in December 1864. Nepal made the claim over the Dudhawa Range up to the foot of the hills, while the British insisted on the Range watershed forming the boundary and the area along the Southern slopes of the watershed belonging to India. The Agreement endorsing the claim of Nepal was ratified on June 7, 1875 (Tyagi, 1974:88-98). For the Nepalese territory of 2800 acres ceded to India for the construction of the Sharada Barrage in the early 1900s, a total of 4000 acres in Taratal area to the south of Bardia district was given to Nepal. Later, the survey and review of the territory ceded to India by Nepal revealed that an excess of 31

acres had gone to India. India had agreed to compensate for that area, but it has not yet materialised.

The actual scientific demarcation of Nepal-India boundary started during the topographical survey of the whole of Nepal carried out by the Survey of India in 1926-27. As the survey was carried out from the lower altitudes in the mountain areas in the north, it failed to delineate Nepal-China boundary in the north. This survey produced topographical maps for Nepal indicating Nepal-India boundary including the location and number of each boundary pillar together with topographical details of the Indian side in the maps as well. The scale of topographical maps was 1 inch to 4 miles. The topographical survey of 1955-58 conducted again by the Survey of India provided more detailed survey of Nepal both through aerial and ground surveys and resulted in the publication of maps to the scale of 1 inch to a mile. This map also indicated the boundary line and boundary pillars with their respective numbers. However, the Indian territory across Nepal-India boundary was left blank. One notable fact about the topographical maps of Nepal and Bhutan is that the Surveyor General of both was Brigadier General Gambir Singh, and in the case of the topographical maps of Bhutan, details across the India Bhutan border on both sides have been shown.

Under the Sugauli Treaty, Nepal withdrew from all the territory it had occupied in Sikkim as Nepal had no formal treaty with Sikkim regarding Nepal-Sikkim boundary. The British East India Company, under the Treaty of Titaliya on 10 February 1871 with the Government of Sikkim restored the territory ceded by Nepal. A *Sunnud* dated 7 April 1817 regarding the granting of the territory to the Rajah of Sikkim stated:

"The honourable East India Company, in consideration of the services performed by the Hill tribes under the control of the Rajah of Sikkim, and of the attachment shown to him to the interest of the British Government, grants to the Sikkimputtee Rajah, his heirs and successors all that portion of low land situated eastward of the Meitchie River , and westward of the Maha Nuddee, formerly

Possessed by the Rajah of Nepal, but ceded to the Honourable East India Company by the Treaty of Segoulee, to be held by the Sikkimputtee Rajah as a feudatory, or as acknowledging the supremacy of the British Government over the said lands, subject to the following conditions."

Moreover, there has not been any formal treaty between Nepal and India on Nepal-Sikkim Boundary after the independence of India, and even after the annexation of Sikkim with India in 1975. It is to be noted that Nepal has not yet formally recognised the annexation of Sikkim by India, and, at the same time, India has not sought recognition from Nepal. However, after the accord between Indian Prime Minister Atal Bihar Bajpayi and Nepalese Prime Minister Girija Prasad Koirala in 1990 to resolve the boundary demarcation and boundary dispute within three years, there has been efforts towards this end by constituting several joint boundary teams. Realising the existence of no boundary treaty between Nepal and India on boundary regarding territory of Nepal adjoining Sikkim State of India, The Government of India initiated the proposal to start the review and re-demarcation of Nepal India border from northernmost part of Sikkim. According to the Sugauli Treaty, the demarcation of boundary between Nepal and India started from Falaut in Darjeeling district with the marking of Boundary Pillar number 1 from there. However, after the new demarcation starting from Sikkim, Falaut has now Boundary Pillar number 51. According to the new arrangement, it has been agreed to put boundary pillar at an average of 2 kilometres and to avoid the use of reference pillars.

Before the independence of India, there existed a system of regular survey and supervision of Nepal-India boundary jointly conducted by the officials of both countries every year to oversee and find out encroachment, if any, on the boundary, ill-defined boundary, missing and broken as well as displaced boundary pillars with the objective to fix and place them in their original position. Accordingly, while Nepal has been entrusted to look after the pillars having odd number, India looks after the pillars having even number. After the independence of India, no joint boundary survey

has been conducted until the formation of a Joint Boundary Commission in 1981 with the composition of six boundary survey teams. Delay in the formation of a Joint Boundary Commission resulted in several boundary disputes, which remain unresolved, because the activities of the Commission are going on at a very slow pace. There is provision for two meetings of the Joint Boundary Commission every year. Twenty years have elapsed since the formation of the Commission in 1981 and accordingly, there should have been 36 meetings up to 1999, but so far only 22 meetings have been convened (Shrestha, 2000:168). Boundary survey of almost all the districts bordering India has been completed except for Darchula, Dadeldhura and Kanchanpur as well as the border with Sikkim state of India. Moreover, there have been several cases of encroachment on and tampering with the boundary markers and damage, destruction and removal of boundary pillars in the areas already surveyed by the joint boundary teams. As a result, there exist several cases of boundary disputes with resulting claims and counter claims. There are reportedly 8 disputed areas along the Nepal India border with a total of six along the rivers of the Mahakali, the Narayani/Gandak (Susta) and the Mechi and the other two are in Pasupatinagar and Thori. There are several areas along the Nepal-India border where no man's land has been encroached on both sides. According to Mr. Buddhi Narayan Shrestha, the former Director General of the Department of Survey of Nepal, there are 53 disputed and encroached areas along the Nepal-India boundary. However, the All Nepal Free Students' Union affiliated with the Nepal Communist Party (Marxist and Leninist) has indicated 61 disputed areas along the Nepal-India boundary. Out of the 26 districts of Nepal bordering India, the map indicates 22 districts having encroachment(problem) and the only 4 remaining districts having no boundary problem are Baitadi, Bara, Mahottari and Dhanusha. The map also indicates boundary problems in the districts bordering the Sikkim State of India.

The Nepal-India Open Border

Before the signing of the Sugauli Treaty between Nepal and India and subsequent demarcation of the Nepal India boundary, there existed free and unrestricted movement of people of Nepal and

India across the border. It was almost impossible to control and regulate the movement of people along more than 1400 kilometres long border. Nevertheless, the main thoroughfare existed for social relations, cultural exchanges (pilgrimages, festivities, fairs, etc.) and trade and commerce and they constituted the major road junctions and places for levying customs duties. Nepal-India border is unique in the world in the sense that people of both the countries can cross it from any point, despite the existence of border checkposts at several locations. The number of check posts meant for carrying out bilateral trade is 22. However, only at six transit points out of them, the movement was permitted to nationals of third countries, who require entry and exit visa to cross the border. As the whole length of the border except the checkposts is not patrolled by police or paramilitary or military forces of either country, illegal movement of goods and people is a common feature on both sides of the India-Nepal border.

It is not known how the system of free movement of people on either side of the border continued even after the delineation and demarcation of Nepal-India border after 1816. Prior to the 1814 war, the movement of people of both countries was allowed, but they were not allowed to purchase land and settle in the Tarai. Nevertheless, Nepal has been the land of shelter for the refugees fleeing due to the fear from powerful enemies. The Lichhavis, the Mallas and the Shakyas who existed before the birth of Lord Buddha, took refuge in the Tarai and the Valleys of the Himalayas when their lands were usurped by Ajatasatru. Similarly, during the Muslim invasions of India, the Mallas and the Shahs are reported to have taken refuge in Nepal. The growing domination in India of the British East India Company prompted the rulers of Nepal to restrict the movement of Indians into Nepal. Moreover, the Tarai could not be brought under cultivation through immigrants from India, because they were neither permitted to purchase land nor entitled to have tenancy rights. Thus the large tracts of the Tarai were covered by dense forests and infested with malaria. The cattle herders of adjoining Indian territories of Champaran and other districts used to graze cattle annually for four months (October to January) by paying duty. Duty was levied on buffaloes and cows were exempted from

the levy (Kirkpatrick, 1801:83). Similarly, the agreement on Dudhawa Range specially preserved the right of the Indian nationals to come to the hills for bankas (a type of grass) by paying revenue. Prior to 1789, the Nepal Government established bazaars on the Nepalese side of the Nepal and India border for regulating trade and decided that trade could be conducted at these points only. This hampered the freedom of trade, as the British (Indian) merchants had to cross the Nepalese in the bazaars in the morning, and return in the evening with whatever they could not sell. Anyone entering Nepal, particularly the Kathmandu Valley and other places in the Tarai in general, prior to the restoration of Oudh Tarai to Nepal in 1860, had to get *rahadani* or visa from the district governor. This was relaxed during the festival of Shivaratri and after the festival the combing up operation was done to expel all those who had come to attend the festival. This system continued even after the installation of democracy in 1951 until the opening of the Tribhuvan Rajpath in late 1950s.

The Treaty of 1860 and the Nepal India Open Border

In recognition of the supply of Nepalese army at the disposal of the British East India Company to quell the Sepoy Mutiny, the Treaty of 1 November 1860 signed between India and Nepal restored the territory ceded to India under the 1816 Treaty of Sugauli. Prime Minister Jung Bahadur tried to develop the Far Western Tarai restored to Nepal by the British as his family property. In order to develop it he made provision in the first legal code of the country formulated during his time, in which foreigners were entitled to purchase and sell land in the Tarai. He even invited the businessmen, traders and the landlords from India. This led to the large scale immigration of Indians into the Tarai for reclamation of forests, for agriculture and for trade and commerce. In the eastern Tarai the Yadav community exploited this opportunity and their significant number is an instance in point. Some of them had even settled in these places before that. Moreover, in the historical past after the draining away of the Kathmandu Valley lake, some of the cow herders from the south settled in Nepal and are said to have established the Gopalbanshi Dynasty. Before the conquest of the

Kathmandu Valley by King Prithvinarayan Shah, the culture and economy of the Valley was so rich that it not only attracted people from outside, but also assumed the role of a melting pot, wherein the in-migrants to the valley coming from both the south and north adopted the Newari culture and language.

The British Government kept the Nepal-India border open primarily for two purposes. The first was to maintain unrestricted migration of the Nepalese hill people to India and to procure them for recruitment in the Indian army. Recruitment of the Nepalese in the British army was very difficult up to the period of Prime Minister Ranodip Singh, because the Government of Nepal was in principle against the recruitment of its people in a foreign army. The clandestine and secret operations adopted by the British to get Nepal hill people in the Indian army were disliked by the Nepalese government which took strong measures to discourage the practice. Some of the Gorkhas serving in the Indian army on their return home on leave were even put to death and the property of those serving the Indian army was confiscated (Mojumdar, 1973:42-3). Sensing the harassment meted to families of the Gorkhas in the Indian army by the Nepalese government and to make the recruitment easier, the British Government encouraged migration of the Gorkhas from Nepal with their families and established Gorkha settlements in the hills of India, such as Bhagsu, Bakloh, Almora, Darjeeling, Deharadun, Shillong, etc.(H.M.S.O, 1965:61) It was only during the period of Prime Minister Bir Shumsher that the Nepalese government freely allowed enlistment of Nepalese in the Indian army (Kansakar, 1982::77-124).

The second important factor for maintaining open border by the British was to have easy and free access of British and Indian manufactured goods into Nepal as well as to Tibet wherein Nepal was the only easy and accessible route from India before the discovery of Chumbi Valley route from Sikkim.. Moreover, the British wanted to have secure and easy supply of raw materials from Nepal into India such as timber and forest produce, herbs and medicinal plants, hides and skins, etc.

1923 Treaty of Friendship between Great Britain and Nepal and Development of The Tarai

The large scale involvement of men from the hills of Nepal in the World War I led to the shortage of able-bodied youths, particularly the Magars and the Gurungs, resulting in drastic decline in agriculture activities and shortage of foodgrains in the hills. More than 200,000 Nepalese took part in the war with a casualty of 20,000 men or one in every 10. In recognition of this assistance the British government gave Nepal an annual gift of Rs. 100,000 in perpetuity and the amount was increased to Rs. 200,000 after World War II (Mansergh and Moon, 1976:62). Most of those who were retired and released from war duty after the war, instead of coming back to Nepal, stayed in India where they could get employment in police and para-military services, security services in factories, offices as well as as domestic servants in Indian cities where they were in great demand for their honesty, loyalty and hard work. In recognition of the contribution of Nepal during World War I, the Treaty of Friendship between Great Britain and Nepal signed at Kathmandu on 21 December 1923 recognised Nepal as a sovereign independent country, and this treaty erased from the Nepalese mind the apprehension of invasion by the British. In order to meet the foodgrains need of the country and to resettle the landless, Prime Minister Chandra Shumsher initiated the development of the Tarai. On the one hand, the clearing of the forests in the Tarai provided agricultural lands and on the other hand, the sal tree that was felled provided much needed timber to be used as sleepers for the expansion of Indian railways. Due to the fear of malaria and unbearable heat of the Tarai, the hill people were reluctant to move to the Tarai and the programme rather benefited the immigrants from India. Moreover, development programmes of the Tarai during the period of Chandra Shumsher like railways linking Amlekhganj to Raxaul and Janakpur to Jayanagar, Chandra canal etc attracted more immigrants from India.

Industrialisation and Development in the Tarai

There has been significant contribution of the Indian technical manpower and skilled immigrants to the industrialisation of the Tarai. During the period of Prime Minister Juddha Shumsher, a lot of industries were established in Biratnagar, Birganj and other areas of the Tarai in the process of industrialisation in the Tarai. Industries were established in jute, cotton and textile, matches, plywood and bobbin, pulses, rice, flour, oil, etc. The skilled, semi-skilled and unskilled labour for these industries came from India. Those living in the Tarai who had enough land to till for livelihood were not in need of employment outside agriculture, while people from the hill areas, who lacked technical and industrial skills were reluctant to move down to the hot, humid and malarial Tarai and were more inclined to migrate to India for employment. Thus employment opportunities generated by industrialisation in the Tarai benefited and attracted the Indian immigrants. This trend is still continuing. After the Great Earthquake of 1934, a new modern township around New Road was created in the Kathmandu city with new buildings and shopping lines; local businessmen of Kathmandu and businessmen from India were invited to open up shops. The Marwaris and the other Indian business communities established shops at New Road and Indrachowk, while the original inhabitants who were displaced as a result of the creation of New Road were resettled in Naya Bazar, the area between Paknajol and Balaju in Kathmandu.

The Nepal-India Treaty of 1950 and the Open Border

The Nepal-India Peace and Friendship Treaty which was signed on July 31, 1950 agreed to grant, on a reciprocal basis, to the nationals of one country in the territory of the other the same privileges on matters of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature. It became a major turning point in the movement of Indians into Nepal and was further reinforced by the Nepal India open border. However, it did not materialise until the installation of

democracy in February 1951, which replaced the oligarchic Rana regime within three and a half months of the signing of the Treaty. It is said that in response to the evolution of incidents in Kashmir, the Nizam State of Hyderabad and the Indian states and territories bordering China, Sardar Patel, as he assumed the portfolio of Home Minister, strongly pleaded and persuaded Prime Minister Nehru to impose some sort of control on Nepal and the result was the Treaty of 1950 and it is clearly reflected in his letter to Nehru (See appendix). It is to be noted that the Rana Government assisted Indian Government by sending Nepalese troops, when India had to face problems in Hyderabad during independence and in Kashmir in 1948..

Evolution of Major Events due to Nepal-India Open Border after the Installation of Democracy in 1951

As per the agreement between the Nepali Congress and the Rana regime, Mohan Shumsher who as the Prime Minister of Nepal signed the 1950 treaty became the Prime Minister after the installation of democracy in Nepal. Democracy installed in the country actually implemented the spirit of the 1950 Treaty. The movement of Indians into Nepal was not only relaxed, but they also started purchasing land, and were engaged in trade, commerce and other different occupations. The economic and employment opportunities created by the establishment and development of industry, trade, education and health were capitalised by the Indian immigrants by virtue of their capital, entrepreneurship, skill and technology which the people of the hills as well as those of the Tarai lacked. Those from the hills preferred to emigrate to India and Malaya for recruitment in the army and other services rather than move to the hot , humid and malarial Tarai to compete with the skilled migrants from India.

After the complete control over Tibet by China, Nepal witnessed a large influx of about 16,000 Tibetan refugees who were rehabilitated in the camps established at Jawalakhel in Lalitpur, Pokhara, Mustang, Solukhumbu, Baglung, etc. As these refugees were rehabilitated by the International Red Cross and the UN High

Commissioner for Refugees and were involved in their traditional wool and carpet industries, which provided income for their livelihood, their impact on Nepalese economy was hardly felt. The transfer of technology provided by the Tibetan refugees in the carpet industry proved to be a boon for Nepal, as carpet has been established as the largest export and foreign exchange earning industry of Nepal.

Status of Open Border during Panchayat Period

The Nepalese who migrated to Burma via Assam during British rule in India in the late nineteenth and early twentieth centuries settled in Burma and were engaged in agriculture, dairy farming, trade and business. In 1964 when Burma (now Myanmar) enforced the Burmese Citizenship Act, those Nepalese who opted for Burmese citizenship stayed back in Burma and those who wanted to retain Nepalese citizenship returned to Nepal. As the returning refugees were allowed to take only limited property, Nepal Government had to take responsibility to resettle them in Nepal. Under the Israeli experts, the government established a Nepal Resettlement Company to launch the first land resettlement in Nawalpur to the west of Chitawan across the Narayani river with the objective of resettling the landless, the natural disaster victims and Nepalese returning from Burma and from North Eastern States of India (Kansakar, 1979:65). There was also influx of domiciled Nepalese from North Eastern States of India, who fled from the wrath of the native people who launched agitation against the foreigners and also the Indians from outside that region (Kansakar, 1984:65). In the mean time the government launched Land Reform programme with the imposition of ceiling on maximum holdings so as to secure excess land above ceiling and to distribute it among the landless in the country. As land reform was launched in the different districts of the country at different stages, it allowed the big landlords to make necessary arrangement to adjust their lands among their families and relatives. Thus the excess land likely to be received from land reform was far below the expectation of the government. Moreover, landlords started evicting the tenants from their land to avoid conferring tenancy rights. The government could

not meet the demand of the people aspiring for land under resettlement programme and the result was the reckless deforestation of the Tarai forests by migrants from the hills who started moving to the Tarai after the eradication of malaria. Moreover, after the enactment of land reform programme, the landlords started tilling their land with the help of immigrant labour from India, because foreigners were neither entitled to purchase land nor were they entitled to have tenancy rights. This led to the large scale influx of migrant labourers from India, and with the passage of time they became eligible to get Nepalese citizenship. Over time, the Tarai witnessed large-scale influx of population from within the hills and the mountain areas of Nepal as well as from India. In order to meet the demand of labour and services in different sectors and population of the Tarai, further influx of immigrants with different skills took place from India.

Land Reform and Open Border

As already stated, the big landlords were able to dislodge tenants so as to avoid conferring tenancy rights under the Land Reform Act. As a result, a large number of low caste people and untouchables like Mushahar, Dom, Chamar, Bantar, Tatma, Dhobi, etc. were deprived of tenancy rights and were compelled to work as agriculture labour in the farms of the landlord and were allowed to stay there. They became landless with no land and housing property of their own. As a result, they were deprived of the Nepali citizenship certificate for which property ownership of land or house is essential. However, their names have been enrolled on the voter list. Political parties have raised issues, particularly by the Nepal Sadbhabana Party regarding the need for conferring citizenship certificate on 4 million Nepalese in the Tarai. The exact number of Nepalese who have not got citizenship certificate is not known. Most of the Commissions constituted to investigate the issue of citizenship have come up with ad hoc figures without any details regarding the name, address and age of those who have not yet got Nepalese citizenship. However, none of the political parties has launched campaign to prepare the list of bonafide Nepalese who have not yet got citizenship certificate. The landless of the Tarai like

Mushahar, Dom, Chamar, Bantar, Tatma, Dhobi, etc. have been deprived of several benefits to which a Nepali citizen is entitled, and being the landless they have neither been able to get land under resettlement programme nor could they buy land. It is alleged that the political leaders and government officials are interested in securing Nepali citizenship certificate for Indians who could afford to spend money. There are reports and complaints that foreigners ineligible for Nepali citizenship have also acquired citizenship by means of false declaration or fraud or undue influence, malpractice and corruption (New Era, June 2000:7.69). Moreover, the big landlords could avoid the ceiling on land under Land Reform Act by converting their land for commercial farming like horticulture farm and tea plantation. These commercial farms could not get and employ Nepalese labour force as the latter could easily secure land under land resettlement programme or by illegally clearing government forests. So the commercial farms and tea plantations had to secure migrant labour from India. Thus agricultural and industrial development in the Tarai as well as in the service sectors attracted migrant workers from India.

Open Border and the Bhutanese Refugees

Nepal and Bhutan are separated by a wide stretch of Indian territory. Bhutan and India have no open border. However, because of the open border between Nepal and India they could easily enter into Nepal via Indian territory. In reality, the first place of asylum for the Bhutanese refugees is India. Under international convention, it is the responsibility of India to settle them in India by establishing refugee camps, but India drove them into Nepal. The Bhutanese refugees represent different Nepalese ethnic and caste groups, but it does not mean that they have directly migrated to Bhutan from Nepal. Lots of them have migrated from different parts of eastern and north-eastern India as well. Nearly 100,000 Bhutanese refugees are resettled in the camps in Jhapa and Morang districts. Though they live in the closed camps with barbed wire fencing, their movements outside are not restricted, and they are also able to cross the barbed wire fencing easily. This has affected the natural, social and economic environment of the surrounding areas, because they

are engaged in illegal cutting of trees in the government forests, are engaged in business and work as cheap labour thereby affecting the business and employment of the local community. It is also alleged that a lot of Bhutanese refugees have been able to secure Nepalese citizenship through illegal means. Moreover, a lot of the Indians of Nepalese origin have also migrated to Bhutan, and naturally a large number of them must be Indians. It is not known when the Bhutanese refugee problem will be solved.

Prospects, Problems and Challenges arising from Nepal India Open Border

None of the treaties between Nepal and India ever mentions the procedures for the regulation of the Nepal-India border. The trade agreement has specified the agreed routes for mutual trade. But there is no agreement regarding movement of the people and the agreed routes for movement of people of both countries along the border. As for trade, there are 22 agreed transit and customs posts along the Nepal-India border. The concept of open border between Nepal and India has still remained an enigma. Besides, there are several sub-customs posts. It is alleged that it is possible to have illegal movement of people and goods in collaboration with personnel deputed in those posts. There is no denying the fact that it is not unusual from the practical point of view to have illegal smuggling of goods, trafficking of girls to brothels in Indian cities, trafficking in narcotic drugs, arms and ammunition and movement of criminals and terrorists. In principle, both Nepal and India have positively agreed to control such illegal activities along the border, but there is lack of an effective and practical approach. So far as smuggling from Nepal to India is concerned, Mr. Sriman Narayan, the former Indian ambassador to Nepal, had once decribed it as smuggling by the Indians, to the Indians and for the Indians because of the craze for foreign goods in India and the import of Chinese goods (Sriman Narayan, 1970: 84). Inder Malhotra, a noted Indian Journalist, has remarked, "Nepal's economic needs should be treated with maximum understanding and generosity even if India has to suffer losses here and there, provided no grave damage is done to the Indian economy. India's unwillingness to adopt such attitude has

been due to the diversion of import and export between Nepal and India in which a particularly unsavoury group of Indian businessmen in Nepal have been the main promoter as well as beneficiaries of the various rackets. If allowed unchecked, the activities of these ugly Indians may do incalculable damage to Indo-Nepal relations" (Malhotra, 1970:6). Since the start of Nepal's foreign trade with the third countries, Indian business and industrial entrepreneurs started pouring into Nepal to benefit from the provision of foreign trade, because of the high demand for foreign manufactured goods in India and restriction on the import of foreign goods from abroad as well as very high import duties. Nepal became safe haven for the Indian business community to import foreign goods which had a high demand in India and to smuggle them to India. In the process of industrialisation in Nepal, Indians came in the forefront for investment by taking advantage of facilities such as foreign exchange to import machinery and raw materials, excise and tax exemption and foreign exchange bonus for the export of goods manufactured in Nepal. But the government's attempt to develop industries received a setback, because most of the Indian industrialists indulged in misappropriation of foreign exchange by importing second grade machinery and excessive raw materials to sell them in India. Recent incidents of the import of Indian carpets and garments into Nepal and their re-export to third country as Nepal's own products have rendered incalculable damage to the carpet and garment industries of Nepal. It will be no exaggeration to state that this is due to the existence of massive corruption in the government bureaucracy, ad hoc policies, rules and decisions based on them, and lack of monitoring and evaluation. Moreover, there is no denying the fact that customs on both sides of the border are involved in corrupt practices.

The Main Transit Points along the Nepal India Border

The agreed routes for Mutual Trade along Nepal-India border are as follows:

1. Pashupati Nagar / Sukhia Pokhari
2. Kakerbhitta / Naxalbari

3. Bhadrapur / Galgalia
4. Birat Nagar / Jogbani
5. Setobandhe / Bhimnagar
6. Rajbiraj / Kunauli
7. Siraha / Janakpur / Jayanagar
8. Jaleswar / Birtamod (Sursand)
9. Malangwa / Sonabarsa
10. Gaur / Bairania
11. Birgunj / Raxaul
12. Bhairahawa / Nautanwa
13. Taulihawe / Khunwa
14. Krishnagar / Barhni
15. Koilabas / Jarwa
16. Nepalgunj / Nepalgunj Road
17. Rajapur / Katerniyaghat
18. Prithvipur / Sati (Kailali) / Tikonia
19. Dhangadhi / Gauriphanta
20. Mahendra Nagar / Banbasa
21. Mahakali / Jhulaghat (Pithoragarh)
22. Darchula/Dharchula

Immigration Points

The immigration points along the Indo Nepal border for the entry and exit of nationals from the third countries are:

1. Banbasa
2. Dhangadhi
3. Nepalganj
4. Bhairahawa (Sunauli)
5. Birhanj
6. Kakarbhitia

There are only two immigration points along the Nepal China border. They are Kodari with road connections from Kathmandu and Nara Nagla in Humla with mule track from Simikot. The border checkpost of Nara Nala, however, lies several kilometres south inside Humla. As for the immigration points along Nepal India border, they are connected by road. Tribhuvan international airport

in Kathmandu is the only immigration point for foreign nationals coming by air.

Socio-Cultural Implications of the Open Border

Socio-cultural similarities on either side of the international border, a universal phenomenon, are more pronounced in the case of Nepal-India border, because such ties have been enhanced by open border with no restrictions on the movement of people on either side. Social and cultural similarities do exist along the Nepal China boundary as well but more so in the case of Nepal India border where people have easier access and interaction. Ethnic and linguistic similarities exist along the Nepal-India border both in the south plains and hills in the east and west. The open border has naturally promoted social and cultural interaction among the nationals of both sides through matrimonial relationship as well.

The role of religious centres of pilgrimage for both Hindus and Buddhists in both countries has been responsible for strengthening the social and cultural bonds between the two countries. Nepal as the abode of Pashupatinath, and the birth place of Sita and Buddha has been the holiest place for both Hindus and Buddhists. Regular visits of pilgrims from India to the holiest places like Lumbini, Janakpur, Kathmandu Valley, Muktinath, Swargadwari, Barahakshetra, etc. have contributed to enhancing and strengthening the cultural relations between the two countries. Likewise, Nepalese pilgrims visit the holiest Hindu places of Kedarnath, Kashi, Gaya, Jagannath, Haridwar, Allahabad and holiest Buddhist places like Buddhagaya, Rajgir, Sarnath, Nalanda, Kushinagar. People's visits from both countries to places of tourist attraction as well as to important cities have contributed to strengthening friendship, mutual understanding as well as trade and cultural relations.

When health infrastructures in Nepal were not developed, a large number of people from the Tarai as well as from the hills used to go to hospitals in India across the border. During the last few decades, Nepal has been able to develop health facilities in the country, particularly in the Tarai, with the establishment of regional,

zonal and district hospitals with modern medical facilities. This has resulted in the large-scale flow of patients from India into these hospitals. One noteworthy development of medical facilities in the Tarai has been the opening of the modern eye hospitals and ophthalmology units in zonal and regional hospitals. These facilities have resulted in the large scale inflow of eye patients from the bordering states of India because of quality and cheap services. A medical institution that has attracted a large number of cancer patients from India is the cancer hospital in Bharatpur with ultra modern cancer treatment facilities. The flow of Nepalese cancer patients to Mumbai is still continuing. Another important development in the medical sector is the opening of a number of medical colleges in Nepal. There are 10 medical colleges in Nepal, most of them in the private sector. Three medical colleges are located in Kathmandu, one in Pokhara and 6 in the Tarai: Dharan, Birgunj, Bharatpur, Bhairahawa, Nepalganj and Chisapani. These medical colleges have attracted a large number of Indians including non-resident Indians seeking medical education and also patients seeking medical services in these hospitals. The flow of Nepalese students seeking medical education in India is also continuing.

The legacy of ancient civilisation that existed along the entire length of Nepal-India border has been relegated to historical ruins and archaeological remains. How the ancient civilisations of Mithila, Birat, Koshala, Shakyas, etc., in the Tarai region perished has still remained an enigma. It has been argued that the bad drainage system converted ancient towns and villages into malarial places and people deserted them; they were reverted to natural state as dense forest infested with wild animals and, above all, malaria. The Tharus, the Kumhals, the Dhimals, the Rajbanshis, the Dunwars, the Mushaars, etc., are considered to be the ancient people of these civilisations. They were malaria immune ethnic groups living in the isolated patches of dense forests in the Inner Tarai in the past. The migrants from India as well as from the hills and mountain areas of Nepal squeezed them. They were gradually displaced from their traditional tribal lands, and most of them were relegated to the status of marginal and landless peasants. The existence of *Kamaiya* or bonded labour among the Tharus numbering some 8000 families is an instance in point. The *Kamaiya*

system has been abolished in the country recently without any arrangement for the rehabilitation of the freed *Kamaiyas*.

The open border has economically benefited the nationals inhabiting both sides of the border. Those engaged in agriculture have economically benefited from the sale and purchase of agriculture and livestock products in *hat* bazaars taking place regularly in different places on either side. The increasing urbanisation and growth of towns in the Tarai and along the border inside Nepal has resulted in large inflow of goods from Indian side into Nepal. The open border has provided employment to the people on both sides in the transport sector as well.

Migration into Tarai prior to 1860 was constrained by restriction on the purchase of land by Indian nationals in Nepal. When the western Tarai was restored to Nepal in 1860, the legal codes formulated by Prime Minister Jung Bahadur made provision for the allotment of land to Indian nationals through sale and purchase so as to appropriate income from the restored territory for himself, his families and favourites. This resulted in the large-scale migration of the Indian people from the adjoining border areas of India. Similarly Prime Minister Chandra Shumsher also initiated reclamation of the forest areas of the Tarai for agricultural purpose on the advice of J.V. Collier, an Indian Forest Officer. Collier himself became a contractor to clear the forest in Kailali district by extending railway line up to Godawari near the Siwalik foothills. Collier cleared the forest so rapidly that it alarmed the Government of Nepal which had to cancel the contract. It may also be noted that the sal forest of Nepal Tarai provided the timber for much needed railway sleepers for the expansion of Indian railways. Forests also provided the largest source of revenue to the government, even after the installation of democracy in 1951. The reclamation of the Tarai not only attracted the immigrants from India but also the hill people who were employed in government services in the Tarai. They purchased land in the Tarai and became *Zamindar*, the big landlords.

The installation of democracy in 1951 marked the unrestricted movement of the hill people in the Tarai as well as from

India. It was further accelerated by malaria eradication programme launched in the Tarai in the late 1950s. This brought about a drastic change in the regional redistribution of population in Nepal. Malaria eradication programme was accompanied by land resettlement programmes for diverse target groups, such as landless people mostly from the hills; political sufferers; Gurkha ex-servicemen both of Nepalese, Indian and British armies; victims of natural disaster; Nepalese refugees from Burma; Tibetan refugees, and so on. The Tarai which accounted for only 35.2 percent of the total population of Nepal in 1952/54 had 46.7 percent of the total population of Nepal in 1991 (Table 1)

Table-1

Regional Distribution of Population in Nepal

(in Percent)

Region	1952/54	1961	1971	1981	1991
Mountain	-	-	9.9	8.7	7.8
Hill	64.8	63.6	52.5	47.7	45.5
Tarai	35.2	36.4	37.6	43.6	46.7
Nepal	100.0	100.0	100.0	100.0	100.0

Source: Central Bureau of Statistics, HMG, Kathmandu, Nepal, 1991.

Population growth in the Tarai has shown the highest trend since 1961. It has been estimated that in the census of 2001 that has yet to be finalised, the Tarai only with 23.1 percent of the total land area of the country will have more than 50 percent of total population of Nepal.

The density of population in the adjoining districts of India is higher than in the adjoining areas of Nepal. However, development activities in the Tarai districts of Nepal have been responsible for migration of Indians into the Tarai. The division of Bihar state with the detachment of mineral wealth rich and industrial belt going to Jharkhand and the creation of Utrakhnad with the detachment of fertile Ganga plain in Uttar Pradesh might inevitably

aggravate further the poverty of the districts of Bihar and Uttarkhand bordering Nepal and might increase immigration of Indians into Nepal. In view of the dearth of different skills among the Nepalese, the skilled manpower required for different development service activities comes from India and the process of replacing these migrant workers by Nepalese has been very slow due to strong competition from the most skilled migrant workers on the one hand and the lack of government policy and programmes to train Nepalese in these skills on the other hand. The failure of the country's education programme to produce manpower with different technical skills has resulted in the production of educated mass with limited demand base in the country's economy. The large number of unemployed educated youth in the country is creating serious social, economic and political problems for the family, society and the nation. There is no denying of the fact that the emerging Maoist problem of the country is related to this reality.

The socio-cultural aspect of migration involving migration of family members, kith and kin, relatives, local communities, is notable in the case of Indian migrants into Nepal Tarai from across the adjoining districts of India. One of the important socio-cultural aspects of migration on either side of the Nepal-India border is marriage migration. Usually age and sex selectivity of migration is characterised by predominance of able-bodied males. But in the case of migration on either side of the Nepal-India border, it is characterised by predominance of females over males. The 1991 census of Nepal revealed 378, 692 Indian born population in the Tarai, of which only 93,345 persons or 24.7 percent were males and 285, 347 persons or 75.3 percent were females. The available figure of Nepal born population in the four States of Bihar, Sikkim, U.P. and West Bengal, according to the 1981 census of India, recorded higher proportion of females in Bihar (39.0 %), Sikkim (52.7 %) and U.P. (56.5 %), while West Bengal had only 41.1 percent. In India as a whole the proportion of Nepal born females constituted 52.3 percent of the total, while in Nepal the India born females constituted 71.9 percent of the total. The India born population in Nepal accounted for 2.4 percent of the total population of Nepal, while the Nepal born population in India constituted 0.07 percent

only. In the Tarai districts, the India born population represented 4.4 percent of the total population of Tarai. In the States of Bihar, West Bengal and U.P., Nepal born population accounted for 0.21, 0.001 and 0.09 percent respectively, while it was 6.84 percent of the total population in Sikkim. This clearly indicates the impact of India born population in Nepal compared to that of Nepal born population in India.

Communal disturbances in India have a direct bearing upon the increase in the magnitude of Indian immigrants into the Tarai. The sudden spurt in the increase of Muslim population in Nepal between 1981 and 1991 is a clear-cut instance. The Muslim population increased from 399,197 persons in 1981 to 653,218 persons in 1991, which means an increase of 38.9 percent over a decade. 96.7 percent of the Muslim population confined to the Tarai constitute 7.32 percent of the total population of the Tarai. The sudden increase in Muslim population may be attributed to the growth of garment industry in Nepal to a greater extent and to other activities to a certain extent, because the Muslim community possesses diverse occupational skills which other communities usually lack. Similarly, since 1984 the number of Sikh immigrants into Nepal has considerably increased. At present, there are six Gurudwaras in Nepal, namely, in Kathmandu, Lalitpur, Birganj, Nepalganj, Butwal and Dhangadhi of which the latter four are in the Tarai.

Quite obviously, development of agriculture, industry, commerce, transportation and other related activities in the Nepal Tarai has been attracting Indian immigrants from across the border. The very high growth of population in the Tarai has resulted in a growing demand for employment within the Tarai region itself. The population living on either side of the Nepal-India border is overwhelmingly dependent on agriculture, and seasonal employment was open to them in the past in the agricultural sector in Punjab. With increased disturbances in Punjab, migration of population to this region virtually stopped. The ever-increasing immigrants from across the border into the Tarai have displaced the local population from their employment opportunities and they are

migrating to the urban areas from the hills, particularly the Kathmandu Valley, and also to the urban areas of the Tarai. It is a universal phenomenon that migrants are hard working people and they can devote more time to their work because they are free from the day to day obligations of their families and society. This has indeed resulted in hatred among the local people towards the immigrants as they find it difficult to compete with the outsiders. The eagerness of the immigrants to secure citizenship certificate by hook or by crook has rather delayed the process of distribution of citizenship certificates to the bonafide population under constitutional provisions. Large-scale migration of the outsiders in Northeastern India, Kashmir and Punjab has actually displaced migrants who have settled in these areas for generations, giving rise to the movement for 'sons of the soil'. There is every danger of this situation cropping up in Nepal as well, if efforts are not made to regulate migration. Indians of Nepalese origin being driven away from Northeastern states of India is a glaring instance. Nepal-India migration in the real sense represents the mutual exchange of poverty rather than prosperity.

The most serious and adverse impact of open and uncontrolled Nepal-India border has been in the form of growing and anti-social and lawless activities. The ever increasing crimes along the border has been a major concern for both governments since early nineteenth century, and the Treaty of 1855 was aimed at controlling these problems. However, the policy of open border has rather enhanced such activities. The unrestricted border has indeed been responsible for all sorts of criminal, anti-social and illegal activities such as robbery, theft, murder, smuggling of goods to evade custom duties, narcotic drugs trafficking, trafficking of girls, arms smuggling, smuggling of archaeological arts and artifacts and manuscripts, etc. Since 1980s, Nepal-India border has developed into a thorough passage for the cross border movement of terrorists. In view of growing terrorism in Uttar Pradesh-Tarai border in Nepal, members of the Lok Sabha demanded the sealing of the Nepal India border. When Nepali political leaders and intellectuals raised their voice for controlling and regulating the movement of

people across the border, their counterparts in India termed the Nepalese concern as an anti-Indian stand.

The use of muscle men for booth capturing and for electoral manipulations on either side of the border during elections is also not uncommon. Complete sealing of the major entry points to control such practices a day or two before elections has not been so effective as there are no provisions for patrolling along the border. It has been alleged that criminal elements have been harboured and provided protection by the political leaders and influential persons on either side of the border. This sort of activities also exists along the Nepal-China border. It is alleged that some of the influential political leaders on the Nepalese side in collaboration with the border customs officials are involved in smuggling of the Tibetans to the monasteries in Kathmandu, for which they are paid handsome amounts. The Tibetans who illegally cross the Nepal-China border are handed over by the Home Ministry to the UNHCR representative in Kathmandu, who in turn hands over them to the office of the Dalai Lama in India. It is said that Tibetans in the rural areas who intended to raise their children as monks and nuns on account of their cultural tradition or for monetary gain are smuggled into Nepal as refugees. Nepalese professing Tibetan Buddhism and living along the Nepal-China border also get their children admitted to the monasteries in Kathmandu or in the monasteries run by the Dalai Lama. Most of the religious institutions in which there is manpower shortage to run temples, monasteries, churches, mosques, etc. are facing difficulty because men and women from the urban and developed rural areas have their access to education, social awareness and modern amenities and way of life. So these religious institutions are attracting people from the backward and poor rural areas. The monk and nuns in numerous Tibetan Buddhist monasteries in the Kathmandu Valley and in other parts of the country can be cited as an instance in point. Similar situation exists in Sanskrit Pathshalas and Vedic Pathashalas and also in the religious Islamic Madrashes in the country.

In recent years, there has been sudden spurt in crimes such as theft, robbery, kidnapping and murder on both sides of the border

as well as increase in terrorist activities on the Indian side. Open border has provided safe passage to criminals and terrorists. The incursion of Indian police inside Nepal without permission in search of criminals who fled into Nepal has hurt the sentiments of the Nepalese and is reported to have generated hatred against India. There has been a number of intrusions/hot pursuits by Indian police-Manebhanjyang in December 1987, Delhi police raid in March 1994 and several other incidents near Nepalganj, Bhairahawa and Birganj, 90 per cent of these cases are of Indian origin (Mehata, 2001:21). The incursion of Indian police without permission of the Nepalese authorities in connection with manhunt in Banaswaor, Kathmandu is still fresh in the mind of the Nepalese. Such unauthorised incursions by the Indian police with blatant violation of international law and code of conduct need to be avoided.

The recent deployment of the Nepalese army in the border customs checkpoints needs serious reconsideration because of its sensitive nature and role in the national defence. It has demoralised the customs personnel, and police already working in these checkpoints are indirectly branded as corrupt. There is no guarantee that army personnel also might not follow the suit of corrupt customs personnel and police deployed in the border check-posts. The deployment of army in the border customs check-posts might cause unforeseen and unwarranted incidents. The recent sad incident along the disputed India -Bangladesh border is a glaring example of how hostility may arise between the two friendly countries. Considering the unresolved boundary demarcation along Nepal-India border, such army deployment needs serious consideration. Recently, clash between the local Indian and the Nepalese people regarding the Nepal-India border occurred in Kakarbhitta in the Mechi River.

There is a general feeling in Nepal that the Indian leaders and diplomatic personnel have a tendency to look upon Nepal with suspicion and distrust, particularly regarding Nepal's relations with China and Pakistan. This attitude reminds one of the British colonial legacy. During the exile of King Rana Bahadur Shah to Benares, the British East India Company became successful in exploiting the

situation by entering into a treaty with the Nepalese King in 1801. One of the clauses of the treaty states, "The principals and officers of both Governments will cordially consider the friends and enemies of either State to be the friends and enemies of the other; and this consideration must ever remain permanent and in force, from generation to generation". (Aitchison, 1863:196). Though the treaty was abrogated by the treaty of 1804, most of the Indian leaders and diplomatic personnel as well as news media have not given up this colonial legacy from their mind. Regarding the purchase of arms and ammunitions by Nepal from other countries, Nepal was required to have permission to import them via Indian territories from the Government of India. This precondition envisaged by the British (Husain, 1970:170-9) was followed by the independent Government of India as it was incorporated in the letter of exchange of 1950 treaty. According to the 1965 Nepal-India Agreement on Arms Assistance, Nepal's response was rather lukewarm, because it was having arms assistance and purchase from other countries. In view of Nepal's confrontation against the rebel Khampas among the Tibetan refugees in Nepal who made forays in Chinese territories from across the Nepal-China border and the need for training the Nepalese army in modern weaponry and warfare so as to make them competent enough to work in the UN Peacekeeping Force, importation of arms, ammunition and vehicles by Nepal in 1989 became a pretext for India to impose economic blockade on Nepal which, however, hurt the Indian traders and businessmen rather than the Nepalese majority of whom live in the rural areas. During the 1950 -51 revolution against the Rana regime, the Nepali Congress had to purchase arms from Burma because of India's unwillingness. After the installation of democracy, during the period of Prime Minister Matrika Prasad Koirala, those arms and ammunition in the hand of the Mukti Sena (who were posted in Nepal as para-military force) were destroyed in Khumaltar, Lalitpur under the supervision and presence of the Chief of the Indian Military Mission in Nepal. During this period Indian military checkpoints were established along the important border posts along the Nepal-China border.

The attitude of Indian politicians and news media to view with suspicion any assistance Nepal gets from China and the debate

in both Houses of Indian Parliament on Kathmandu-Kodari Highway linking Kathmandu with Lhasa and terming them as "military road capable of moving tanks" bear ample testimony to this fact. However, Prime Minister Indira Gandhi had to say, "China is a neighbour of Nepal and naturally they would like to remain friendly with China also. But I do not think it is in no way interference with the very close friendship and close cultural link which we have with them" (Bhasin, ed., 1970:116). When the Chinese constructed a ring road around Kathmandu and Lalitpur, some Indian papers carried the news that the road is wide enough to land jet fighters. Frequent strains in relations between Nepal and India at the government level are not due to political, geographical, economic or cultural reasons, but due to the amateurish handling of some of the issues by Indian politicians (Sharma, 1970:2). Recently the statement of Mr. K. R. Malkani of the Bharatiya Janata Party questioning the sovereignty and independence of Nepal and the statement of Mr. Thakerey, President of Shiva Sena in favour of Indian military intervention following the Royal Palace massacre are instances in point to hurt the sentiments of Nepalese and the friendly relations between Nepal and India. Indian news media are also responsible for spreading false news. The exaggerated and false news telecast through Indian televisions relating to the incidents and disturbances in Kathmandu in the aftermath of the Royal Palace massacre have been largely responsible for the drastic decline in the tourist flow from India and other countries. Jawaharlal Nehru, the first Prime Minister of India who aspired for and established cordial relations between Nepal and India, while addressing a press conference in New Delhi on 18 January 1961, had said, "Broadly speaking, our relations depend not really on any person's goodwill, on Nepal's goodwill, on that government or this government.....They depend on geography and history, which cannot be easily done away with" (Bhasin, 1970:55). The concept of territory and boundary is imbedded in the animal kingdom and mankind cannot be an exception. Many wars and battles have been fought over territorial and boundary dispute and are still continuing in the absence of mutual rapprochement over the demarcation of boundary between the two States. One must not forget the Nehru-Zhou-en Lai concept of Hindi_Chini Bhai Bhai

turning into Sino-Indian war of 1962 over the border dispute. .So Nepal and India must not overlook the issue of undefined border between the two countries. It is quite disheartening to note that both countries have not been able to resolve the boundary issue even during time span of two decades since the formation of a Joint Boundary Commission in 1981. The recent understanding reached between the two governments during the meeting between Prime Minister Atal Behari Vajpayee and Prime Minister Girija Prasad Koirala to complete the boundary demarcation within three years is praiseworthy. However, seriousness and an action plan required for its completion are still lacking.

An uncontrolled and open border, as stated earlier, constitutes the breeding ground for anti-social, criminal and illegal activities. Regulation of the Nepal-India border had become urgent. In both Nepal and India, voter's identify card has become compulsory for the voters, and this will facilitate, to some extent, the task of regulating the movement of population on either side of the Nepal-India border. The need for both Nepal and India to provide employment to their citizens in their respective territories has become urgent in view of the growing xenophobia against immigrant workers. There is no denying the fact that Maoist insurgency in Nepal is basically related to the problem of growing unemployment. The unrestricted flow of migrant workers might further aggravate this problem. Similarly, India must have faced the same problem to a certain extent due to the migrant workers from Nepal. Both Nepal and India must realise the urgency of exploring an effective and pragmatic mechanism for the benefit of both countries and people. Therefore, keeping in view the welfare and development of people of the two countries, there is an urgent need to check and regulate the free as well as illegal movement of people and goods across the unpatrolled open border through intensive research, joint reviews and fruitful dialogues on diverse aspects of Nepal-India open border so that Nepal-India friendship can be further strengthened.

Annex

Delineation of Nepal-China Boundary, Problem and Solution of Demarcation

The border areas between Nepal and China represent one of the least known areas of the world. The first regular survey of Nepal was conducted by the Survey of India in 1926-27 and that resulted in the actual demarcation of Nepal-India boundary with 10yard no man's land on either side of the land boundary. However, the demarcation of Nepal-China boundary was made through a survey from a much lower altitude. The topographical survey of 1956-58, which covered the whole of Nepal, was also conducted by the Survey of India. But this survey also could not properly delineate the boundary between Nepal and China because of the lack of proper and sophisticated instruments and equipment as well as the trained personnel to conduct survey in the high altitudes and rugged terrain. Because of the strategic importance of the Himalayas and boundary dispute between India and China as far back as 1950, when India insisted on Mc Mahon line as Sino-Indian boundary which was rejected by China (See Annex 4 and Foreign Language Press, 1973:1-33). India did not provide topographical maps for a large section of the Nepal Himalayas as the aerial photographs of these regions had been damaged. When boundary talks between Nepal and China were initiated for a Boundary Agreement on March 21, 1960, its basis was the maps submitted by both countries. However, these maps were not based on proper surveys. The boundaries were drawn on sketch maps, or represented simply by a boundary line on plain paper or cloth. In order to solve the dispute resulting from such unscientific maps, the Joint Boundary Commission was constituted to survey the entire length of Nepal-China boundary as well as to resolve the territorial dispute through on-the-spot visit and assessment of the problem.

The acceptance of traditional customary boundary by both sides was the major reason for conclusion of a border agreement on as October 5, 1961. Nepal and China established diplomatic relations for the first time on August 1, 1955, that is, six years after

the establishment of the People's Republic of China in 1949, and four years after the installation of democracy in Nepal in 1951. In the Agreement designed to maintain friendly relations between the People's Republic of China and the Kingdom of Nepal and in the Agreement on trade between the Tibetan Autonomous Region of China and Nepal the customary movement of people and goods along the border has been accepted. (Foreign Language Press, 1960:1-6).

It is to be noted that the survey for the delineation of Nepal-China boundary in 1960-61 had to be carried out with several constraints. Firstly, the survey had to be carried out from lower altitude and there was no aerial survey. Secondly, the instruments and equipment for the survey, manpower as well as proper training for high altitude survey were completely lacking. Moreover, in the absence of on-the-spot survey of high altitude areas, the drawing of the boundary line through the survey was done by recording actual location of important peaks and then drawing boundary line tentatively between the two surveyed peaks. This mainly accounts for change in position and alignment of Nepal-China boundary between 1961 and 1982 as well as change in the total length of boundary between 1961 and 1982. A glance at the maps of 1961 and 1982 shows a major change in Humla and Mustang. The 1982 boundary maps had been prepared through ground survey on higher altitude than in 1961 and was supported by aerial survey and satellite imageries. As compared to 1961, the length of Nepal-China boundary in 1982 increased to 303 kilometres and the area has increased by 1.876 sq. km. for Nepal.

The Nepal-China border extends along the whole length of northern border of Nepal and the starting and ending point of Nepal-China boundary is the tri-junction of the boundary between Nepal, China and India. However, because of the Sino-Indian boundary dispute as well as Nepal-India dispute over the Kalapani on the source of the Mahakali River, the demarcation started 5 kilometers ahead of the tri-junction in the west and 5 kilometres behind the tri-junction in the east. There is no man-made boundary demarcation on land as indicated in the boundary treaty maps, except for the

boundary pillars. Along the whole length of Nepal China boundary, there are 79 boundary pillars, only as against more than 1000 boundary pillars along Nepal India border with 10 yards no-man, land on either side of Nepal India boundary. Under the protocol signed and exchanged between Nepal and China on January 20,1963, the contracting parties agreed to maintain and adopt necessary measures to prevent the removal, damage or destruction of boundary pillars as far as possible, to prevent the boundary rivers from changing their course and to make a joint inspection of the entire boundary every five years. Accordingly, in 1979 a new agreement was signed between the two countries after detailed mapping and demarcation of the boundary.

The Entry and Exit Points along the Nepal China Boundary

The Nepal-China border is almost marked by the absence of settlement on either side. The number of settlements along the proximity of border is 10 in Nepal and 18 in China. The border settlements in Nepal are located in the districts of Humla, Rasuwa, Sindhupalchok, Dolakha and Sankhuwasabha, and the settlements on the other side of these districts also are located on Chinese side. The Gorkha district has no border settlement, but has two settlements across its border with China.

One notable feature of Nepal-China boundary is the complete absence of border check posts, except at the Kodari border. Most of the border check posts are located at a distance of more than one day's walk from the actual border on either side. The movement of the border people living within a distance of 30 kilometres on either side of the border has been regulated with the provision of multiple entry permits. However, this provision has not been able to serve the need and purpose of the border people who wish to pursue trade or visit relatives on the other side. Most of the places intended for visit for trade and social relations lie far ahead of the limit of 30 kilometres. In order to tackle this problem, the Agreement on Trade, Intercourse and Related Questions between Nepal and the Tibet Autonomous region of China was concluded on 2nd May 1966, and renewed for the third time on 2nd May 1986. In

the revised Agreement, emphasis was laid on identifying areas of movement and fixing of the exact settlements rather than the 30-kilometre distance on either side. However, the survey for the identification of the specified locations of movement for the border people has not yet been initiated.

It is to be noted that on 7 November 1950, according to a letter from India ambassador to China, India's Home Minister Sardar Vallabhbhai Patel, in his letter to Prime Minister Jawaharlal Nehru, stated that Chinese Government has declined to accept the boundary treaty entered into between India and Tibet in 1914, and the McMahon line demarcated as the boundary between India and China in the North Eastern Frontier of India between Bhutan and Burma (Day, 1982:252-56 and also see Appendix IV). He emphasised the need of controlling the bordering countries like Nepal, Sikkim and Bhutan as well as India's northern areas bordering China. The main purpose of India's motive behind imposing the 1950 treaty on Nepal has been guided by this concern. On the basis of this motive, during the period of Prime Minister Matrika Prasad Koirala, India sent Military mission, and the Indian army was posted at the Nepal-China border check-posts, which were removed during the period of Prime Minister Kirtinidhi Bista.

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APPENDIX I

Text of the Tripartite Agreement Between the Government of the United Kingdom, the Government of Dominion of India and the Government of Nepal Memorandum of Agreement

At a meeting held at Kathmandu on 1st May 1947 between representatives of His Majesty's Government in the United Kingdom, the Government of India and Government of Nepal, His Highness the Prime Minister and Supreme Commander-in-Chief of Nepal stated that he welcomed the proposals to maintain the Gurkha connection with the armies of the United Kingdom and India on the following basis "If the terms and conditions at the final stage do not prove detrimental to the interest or dignity of the Nepalese Government, my Government will be happy to maintain connections with both armies, provided men of the Gurkha regiments are willing so to serve (if they will not be looked upon as distinctly mercenary)."

1. Discussions have taken place in Delhi between representatives of His Majesty's Government in the United Kingdom and of the Government of the Dominion of India and the points of agreement are embodied in the Memorandum dated 7th November 1947 a copy of which forms Annexure I of this document. Necessary financial adjustments between the two Governments are still under consideration.
2. Further discussions between the representatives of the three Governments have taken place at Kathmandu during which the Government of Nepal have put forward certain pertinent observation on the memorandum of agreement referred to in the preceding paragraphs which are set out in Annexure II. In

regard to these points, the representatives of His Majesty's Government in the United Kingdom and of the Government of the Dominion of India have replied as follows:

- a. Location of the Recruiting Depots The use of the existing depots at Gorakhpur and Ghum has been sought by His Majesty's Government in the United Kingdom for a temporary period only pending establishment of their own depots in Nepal. The wishes of the Government of Nepal have been noted and arrangements for the establishment in India of the Recruiting Depots required to meet the needs of the Gurkha units of the British Army will be settled between the United Kingdom and Indian Governments.

- b. Desire of the Government of Nepal that the total number of Gurkha Units to be employed in the Armies of the United Kingdom and of India shall be limited and brought down to the peace-time strength of 20 Battalions out of which 8 Battalions will be allotted to the British Army.

The representatives of Her Majesty's Government in the United Kingdom and of the Government of Dominion of India have taken note of the wishes of the Government of Nepal.

The representative of Her Majesty's Government in the United Kingdom has explained that the long term planning of the British Post-War Army has proceeded on the assumption that the Government of Nepal would be prepared to furnish sufficient men to establish the equivalent of an Infantry Division in South-East Asia and he has received an assurance from the Government of Nepal that final decision on the question of recruitment of Gurkhas in excess of 8 Battalions at peace-time strength shall be left open until Her Majesty's Government in the United Kingdom have had an opportunity of considering the view of the existing political situation in India.

- c. Arrangement for the import of foreign currency belonging to the Gurkha units of the 8 Battalions serving overseas.

It is noted that the Government of the Dominion of India has agreed to afford all normal facilities in regard to the import of foreign currency belonging to these men (Annexture I, Item 10). A reply to the specific points raised in this connection will be sent to the Government of Nepal in due course.

3. The Government of Nepal being generally satisfied in regard to the terms and taking note of the agreement dated 7th November 1947 reached between Her Majesty's Government in the United Kingdom and of the Government of Dominion of India hereby signify their agreement to the employment of Gurkha troops in the armies of the United Kingdom and of India.
4. In addition to the observations referred to above the Government of Nepal have put forward certain suggestions connected with the employment of Gurkhas in the armies of the United Kingdom and of India. These suggestions are contained in Annexture II of this document and the views of the two Governments thereon will be communicated to the Government of Nepal in due course.
5. Note has been taken of the desire of Her Majesty's Government in United Kingdom that prompt action be taken to ascertain the wishes of the personnel of the 8 Battalions concerned as to whether they desire to be transferred for service under the United Kingdom Government. With this objective in view a questionnaire and a memorandum embodying terms and conditions of service have been prepared by the representatives of Her Majesty's Government in the United Kingdom. These documents are acceptable to the Governments of India and Nepal. They will be issued to the personnel of the 8 units concerned as soon as possible. In accordance with the wishes of

the Government of Nepal as well as those of the Government of India it is agreed that their representatives will be present with the 8 units while the referendum is being taken.

6. The representatives of the three governments desire to place on record that their deliberations have been conducted in an atmosphere of cordiality and goodwill and are confident that the friendly relations which have existed in the past will be further cemented as a result of the arrangements which have been agreed for the continued employment of Gurkha soldiers in the armies of the United Kingdom and of India.

7. Signed in Triplicate at Kathmandu this 9th day of November 1947.

Sd/-

For the Government of the United Kingdom

Sd/-

For the Government of Dominion of India

Sd/-

Padma Shamshere Jung B.R.

For the Government of Nepal

Appendix II

Treaty of Peace and Friendship, Kathmandu, July 31, 1950

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

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

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

The Government of India:

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

The Government of Nepal:

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

who, having examined each other's credentials and found them good and in due form have agreed as follows:

Article I

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

Article II

The two Governments hereby undertake to inform each other of any serious friction or misunderstanding with any neighbouring state likely to cause any breach in the friendly relations subsisting between the two Governments.

Article III

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

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

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

Article IV

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

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

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

Article V

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

Article VI

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

Article VII

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

Article VIII

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

Article IX

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

Article X

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

(At a Press Conference in New Delhi on 3rd December 1959 Prime Minister Mr. Jawaharlal Nehru disclosed that letters were exchanged along with the signing of the Treaty which have been kept secret – Editor)

(Foreign Policy of India, Text of Documents; Lok Sabha Secretariat, New Delhi: 1966: 56-58)

Letter exchanged with the Treaty

KATHMANDU

Dated the 31st July 1950

EXCELLENCY,

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

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

Government of India will take steps for the smooth and expeditious transport of such arms and ammunition through India.

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

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

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

Please accept Excellency, the assurances of my highest consideration.

SHAMSHER JANG

(Sd.) MOHUN

BAHADUR RANA
Prime Minister and
Commander-in-Chief
Nepal
To

Maharaja,
Supreme
of

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

APPENDIX III

Treaty of Peace and Friendship between the People's Republic of China and the Kingdom of Nepal

(April 28, 1960)

The Chairman of the People's Republic of China and His
Majesty the King of Nepal,

Desiring to maintain and further develop peace and
friendship between the People's Republic of China and the Kingdom
of Nepal,

Convinced that the strengthening of good-neighbourly
relations and friendly co-operation between the People's Republic of
China and the Kingdom of Nepal is in accordance with the
fundamental interests of the peoples of the two countries and
conducive to the consolidation of people in Asia and the world,

Have decided for this purpose to conclude the present treaty
in accordance with the Five Principles of Peaceful Co-existence
jointly affirmed by the two countries, and have appointed as their
respective plenipotentiaries:

The Chairman of the People's Republic of China:

Premier Chou En-lai of the State Council,

His Majesty the King of Nepal:

Prime Minister Bishweshwar Prasad Koirala.

The above-mentioned plenipotentiaries, having examined
each other's credentials and found them in good and due form, have
agreed upon the following:

ARTICLE 1

The Contracting Parties recognize and respect the independence, sovereignty and territorial integrity of each other.

ARTICLE 2

The Contracting Parties will maintain and develop peaceful and friendly relations between the People's Republic of China and the Kingdom of Nepal. They undertake to settle all disputes between them by means of peaceful negotiation.

ARTICLE 3

The Contracting Parties agree to develop and further strengthen the economic and cultural ties between the two countries in a spirit of friendship and co-operation, in accordance with the principles of equality and mutual benefit and of non-interference in each other's internal affairs.

ARTICLE 4

Any difference or dispute arising out of the interpretation of application of the present treaty shall be settled by negotiation through normal diplomatic channels.

ARTICLE 5

This present treaty is subject to ratification and the instruments of ratification will be exchanged in Peking as soon as possible.

The present treaty will come into force immediately on the exchange of the instruments of ratification and will remain in force for a period of ten years.

Unless either of the Contracting Parties gives to the other notice in writing to terminate the treaty at least one year before the expiration of this period, it will remain in force without any specified time limit, subject to the right of either of the Contracting Parties to terminate it by giving to the other in writing a year's notice of its intention to do so.

Done in duplicate in Kathmandu on the twenty-eighth day of April 1960, in the Chinese, Nepali and English languages, all texts being equally authentic.

(Sd.) CHOU EN-LAI
KOIRALA
Plenipotentiary of the People's
Kingdom
Republic of China of Nepal

(Sd.) B.P.
Plenipotentiary of the

Appendix IV

Sardar Patel's letter to Jawaharlal Nehru on 7-November, 1950

D.O. No. 8₂₁-DPM/50

New Delhi, 7th Nov., 1950

My dear Jawaharlal,

Ever since my return from Ahmedabad and after the Cabinet meeting the same day which I had to attend at practically fifteen minutes' notice and for which I regret I was not able to read all the papers, I have been anxiously thinking over the problem of Tibet and I thought I should share with you what is passing through my mind.

2. I have carefully gone through the correspondence between the External Affairs Ministry and our Ambassador in Peking and through him the Chinese Government. I have tried to peruse this correspondence as favourably to our Ambassador and the Chinese Government as possible, but, I regret to say that neither of them comes out well as a result of this study. The Chinese Government have tried to delude us by professions of peaceful intentions. My own feeling is that at a crucial period they managed to instil into our Ambassador a false sense of confidence in their so-called desire to settle the Tibetan problem by peaceful means. There can be no doubt that, during the period covered by this correspondence, the Chinese must have been concentrating for an onslaught on Tibet. The final action of the Chinese, in my judgment, is little short of perfidy. The tragedy of it is that the Tibetans put faith in us; they chose to be guided by us; and we have been unable to get them out of the meshes of Chinese diplomacy or Chinese malevolence. From the latest position, it appears that we shall not be able to rescue the Dalai Lama. Our Ambassador has been at great pains to find an explanation or justification for Chinese policy and actions. As the External Affairs Ministry remarked in one of their telegrams, there was a lack of firmness and unnecessary apology in one or two

representations that he made to the Chinese Government on our behalf. It is impossible to imagine any sensible person believing in the so-called threat to China from Anglo-American machination in Tibet. Therefore, if the Chinese put faith in this, they must have distrusted us so completely as to have taken us as tools or stooges of Anglo-American diplomacy or strategy. This feeling, if genuinely entertained by the Chinese in spite of your direct approaches to them, indicates that, even though we regard ourselves as the friends of China, the Chinese do not regard us as their friends. With the Communist mentality of "Whoever is not with them being against them," this is a significant pointer, of which we have to take due note. During the last several months, outside the Russian Camp, we have practically been alone in championing the cause of Chinese entry into the UNO and in securing from the Americans assurances on the question of Formosa. We have done everything we could to assuage Chinese feelings, to allay its apprehensions and to defend its legitimate claims, in our discussions and correspondence with America and Britain and in the UNO. In spite of this, China is not convinced about our disinterestedness; it continues to regard us with suspicion and the whole psychology is one, at least outwardly, of scepticism, perhaps mixed with a little hostility. I doubt if we can go any further than we have done already to convince China of our good intentions, friendliness and goodwill. In Peking we have an Ambassador who is eminently suitable for putting across the friendly point of view. Even he seems to have failed to convert the Chinese. Their last telegram to us is an act of gross discourtesy not only in the summary way it disposes of our protest against the entry of Chinese forces into Tibet but also in wild insinuation that our attitude is determined by foreign influences. It looks as though it is not a friend speaking in that language but a potential enemy.

In the background of this, we have to consider what new situation now faces us as a result of the disappearance of Tibet, as we know it, and the expansion of China almost up to our gates. Throughout history, we have seldom been worried about our north-east frontier. The Himalaya has been regarded as an impenetrable barrier against any threat from the north. We had a friendly Tibet which gave us no trouble. The Chinese were divided. They had

their own domestic problems and never bothered us about our frontier. In 1914, we entered into a convention with Tibet which was not endorsed by the Chinese. We seem to have regarded Tibetan autonomy as extending to independent treaty relationship. Presumably, all that we required was Chinese counter-signature. The Chinese interpretation of suzerainty seems to be different. We can, therefore, safely assume that very soon they will disown all the stipulations which Tibet has entered into with us in the past. That throws into the melting pot all frontier and commercial settlements with Tibet on which we have been functioning and acting during the last half a century. China is no longer divided. It is united and strong. All along the Himalayas in the north and north-east, we have, on our side of the frontier, a population ethnologically and culturally not different from Tibetans or Mongoloids. The undefined state of the frontier and the existence on our side of a population with its affinities to Tibetans or Chinese have all the elements of potential trouble between China and ourselves. Recent and bitter history also tells us that Communism is no shield against imperialism and that Communists are as good or as bad as imperialists as any other. Chinese ambitions in this respect not only cover the Himalayan slopes on our side but also include important parts of Assam. They have their ambitions in Burma also. Burma has the added difficulty that it has no McMahon Line round which to build up even the semblance of an agreement. Chinese irredentism and Communist imperialism are different from the expansionism or imperialism of the Western Powers. The former has a cloak of ideology which makes it ten times more dangerous. In the guise of ideological expansion lie concealed racial, national and historical claims. The danger from the north and north-east, therefore, becomes both communist and imperialist. While our western and north-eastern threats to security are still as prominent as before, a new threat has developed from the north and north-east. Thus, for the first time, after centuries, India's defence has to concentrate itself on two fronts simultaneously. Our defence measures have so far been based on the calculations of a superiority over Pakistan. In our calculations we shall now have to reckon with Communist China in the north and north-east—a communist China which has definite ambitions and aims and which does not, in any way, seem friendly towards us.

4. Let me also consider the political considerations on this potentially troublesome frontier. Our northern or north-eastern approaches consist of Nepal, Bhutan, Sikkim, Darjeeling and the Tribal Areas in Assam. From the point of view of communications they are weak spots. Continuous defensive lines do not exist. There is almost an unlimited scope for infiltration. Police protection is limited to a very small number of passes. There too, our outposts do not seem to be fully manned. The contact of these areas with us, is, by no means, close and intimate. The people inhabiting these portions have no established loyalty or devotion to India. Even Darjeeling and Kalimpong areas are not free from pro-Mongoloid prejudices. During the last three years, we have not been able to make any appreciable approaches to the Nagas and to the hill tribes in Assam. European missionaries and other visitors had been in touch with them, but their influence was, in no way, friendly to India or Indians. In Sikkim, there was political ferment some time ago. It is quite possible that discontent is smouldering there. Bhutan is comparatively quiet, but its affinity with Tibetans would be a handicap. Nepal has a weak oligarchic regime based almost entirely on force; it is in conflict with a turbulent element of the population as well as with enlightened ideas of the modern age. In these circumstances, to make people alive to the new danger or to make them defensively strong is a very difficult task indeed, and that difficulty can be got over only by enlightened firmness, strength and a clear line of policy. I am sure the Chinese and their source of inspirations, Soviet Russia, would not miss any opportunity of exploiting these weak spots, partly in support of their ideology and partly in support of their ambitions. In my judgement, therefore, the situation is one in which we cannot afford either to be complacent or to be vacillating. We must have a clear idea of what we wish to achieve and also of the methods by which we should achieve it. Any faltering or lack of decisiveness in formulating out objectives or in pursuing our policy to attain those objectives is bound to weaken us and increase the threats which are so evident.

5. Side by side with these external dangers we shall now have to face serious internal problems as well. I have already asked Iengar to send to the External Affairs Ministry a copy of the Intelligence

Bureau's appreciation of these matters. Hitherto, the Communist Party of India has found some difficulty in contacting Communists abroad, our in getting supplies of arms, literature, etc., from them. They had to contend with difficult Burmese and Pakistan frontiers on the east or with the long seaboard. They shall now have a comparatively easy means of access to Chinese Communists and through them to other foreign Communists. Infiltration of spies, fifth columnists and Communists would not be easier. Instead of having to deal with isolated communist pockets in Telengana and Warrangal we may have to deal with Communist threats to our security along our northern and north-eastern frontiers where, for supplies of arms and ammunition, they can safely depend on Communist arsenals in China. The whole situation thus raises a number of problems on which we must come to an early decision so that we can as said earlier, formulate the objectives of our policy and decide the methods by which those actions will have to be fairly comprehensive involving not only our defence strategy and state of preparation but also problems of internal security to deal with which we have not a moment to lose. We shall also have to deal with administrative and political problems in the weak spots along the frontier to which I have already referred.

6. It is, of course, impossible for me to be exhaustive in setting out all these problems. I am, however, giving below some of the problems, which in my opinion, require early solution and round which we have to build our administrative or military policies and measures to implement them:

- a. A military and intelligence appreciation of the Chinese threat to India both on the frontier and to internal security.
- b. An examination of our military position and such redistribution of our force as might be necessary, particularly with the idea of guarding important routes or areas which are likely to be the subject of dispute.
- c. The question of Chinese entry into U.N.O. In view of the rebuff which China has given us and the method which it has

followed in dealing with Tibet, I am doubtful whether we can advocate its claims any longer.

There would probably be a threat in the U.N.O. virtually to outlaw China, in view of its active participation in the Korean War. We must determine our attitude on this question also.

- f. The political and administrative steps which we should take to strengthen our northern and north-eastern frontiers. This would include the whole of the border i.e. Nepal, Bhutan, Sikkim, Darjeeling and the Tribal Territory in Assam.
- g. Measures of internal security in the border areas as well as the States flanking those areas such as U.P., Bihar Bengal and Assam.
- h. Improvement of our communications, road rail, air and wireless in these areas, and intelligence of frontier outposts.
- i. Policing and intelligence of frontier posts.
- j. The future of our mission at Lhasa and the trade posts at Gyantse and Yatung and the force which we have in operation in Tibet to guard the trade routes.
- k. The policy in regard to McMahan line.

7. These are some of the questions which occur to my mind. It is possible that a consideration of these matters may lead us into wider questions of our relationship with China, Russia, America, Britain and Burma. This, however, would be of a general nature, though some might be basically very important, e.g., we might have to consider whether we should not enter into closer association with Burma in order to strengthen the latter in this dealings with China. I do not rule out the possibility that, before applying pressure on us , China might apply pressure on Burma. With Burma, the frontier is entirely undefined and the Chinese territorial claims are more substantial. In its

present position, Burma might offer an easier problem for China, and therefore, might claim its first attention.

8. I suggest that we meet early to have a general discussion on these problems and decide on such steps as we might think to be immediately necessary and direct quick examination of other problems with a view to taking early measures to deal with them.

Yours

(sd.) Vallabhbhai Patel

The Hon'ble Pt. Jawaharlal Nehru,
Prime Minister of India,
New Delhi

India's Ambassador in Peking at the time was K. M. Pannikar

Appendix V

TREATY OF TITALIYA

10 February 1817

Treaty, Covenant or Agreement entered into by Captain Barre Latter, Agent on the part of His Excellency the Right Honourable the Earl of Moira, K.G., Governor-General & C., & C., and by Nazir Chaina Tenjin and Macha Teinbah and Lama Duchim Longdoo, Deputies on the part of the Rajah of Sikkimputtee, being severely authorised and duly appointed for the above purpose- 1817.

Article 1

The Honourable East India Company cedes, transfers, and makes over in full sovereignty to the Sikkimputtee Rajah, his heirs or successors, all the hilly or mountainous country situated to the eastward of the Mechi River and to the westward of the Teesta River, formerly possessed and occupied by the Rajah of Nepaul, but ceded to the Honourable East India Company by the Treaty of Peace signed at Segoulee.

Article 2

The Sikkimputtee Rajah engages for himself and successors to abstain from any acts of aggression or hostility against the Gorkhas or any other State.

Article 3

That he will refer to the arbitration of the British Government any disputes or questions that may arise between his subjects and those of Nepaul or any other neighbouring State, and to abide by the decision of the British Government.

Article 4

He engages for himself and successors to join the British Troops with the whole of his Military Force when employed within the Hills, and in general to afford the British Troops every aid and facility in his power.

Article 5

That he will not permit any British subject, nor the subject of any European and American State to reside within his dominions, without the permission of the English Government.

Article 6

That he will immediately seize and deliver up any docoits or other notorious offenders that may take refuge within his territories.

Article 7

That he will not afford protection to any defaulters of revenue or other delinquents when demanded by the British Government through their accredited Agents.

Article 8

That he will afford protection to merchants and traders from the Company's Provinces, and he engages that no duties shall be levied on the transit of merchandise beyond the established customs at the several golas or marts.

Article 9

Te Honourable East India Company guarantees to the Sikkimputtee Rajah and his successors the full and peaceable possession of the tract of hilly country specified in the first Article of the present Agreement.

Article 10

This Treaty will be ratified and exchanged by the Sikkimputtee Rajah within one month from the present date, and the counterpart, when confirmed by His Excellency the Right Honourable the Governor General, shall be transmitted to the Rajah.

Done at Titaliya, this 10th day of February 1817, answering to the 9th of Phagoon 1973 Sambat, and to the 30th Maugh 1223 Bengallie.

BARRE LATTER
NAJIR CHINA TINJIN
MACHA TIMBA
LAMA DUCHIM LONGADOC

MOIRA
N.B. EDMOSTONE
ARCHD SETON
GEO DOWDESWELL

*Ratified by the Governor General, in Council, at Fort
William, this fifteenth day of March, one thousand eight hundred
and seventeen.*

*J. Adams
Acting Chief Secretary to Government.*

Appendix VI

Copy of A Sunnad granted to the Rajah of Sikkim

Dated 7th April 1817

The Honourable East India Company, in consideration of the services performed by the Hill tribes under the control of the British Government, grants to the Sikkimputtee Rajah, his heirs and successors, all that portion of low land situated eastward of the Meitchie River, and westward of the Maha Nuddee, formerly possessed by the Rajah of Nepaul, but ceded to the Honourable East India company by the Treaty of Segoulee, to be held Sikkimputtee Rajah as a feudatory, or as acknowledging the supremacy of the British Government over the said lands, subject to the following Conditions:-

The British laws and regulations will not be introduced into the territories in question, but the Sikkimputtee Rajah is authorised to make such laws and regulations for their internal government, as are suited to the habits and customs of the inhabitants, or that may be in force in his other dominions.

The Articles or Provisions of the Treaty signed at Titalya on the 10th February 1817, and ratified by His Excellency the Right Honorable Governor-General in Council on the 15th March following, are to be in force with regard to the lands hereby assigned to the Sikkimputtee Rajah, as far as they are applicable to the circumstances of those lands.

It will be especially incumbent on the Sikkimputtee Rajah and his officers to surrender, on application from the officers of the Honourable Company, all persons charged with criminal offences, and all public defaulters who may take refuge in the lands now assigned to him, and to allow the police officers of the British Government to pursue into those lands and apprehend all such persons.

In consideration of the distance of the Sikkimputtee Rajah's residence from the Company's Provinces, such orders as the Governor-General in council, may upon any sudden emergency, find it necessary to transmit to the local authorities in the lands now assigned, for the security or protection of those lands, are to be immediately obeyed and carried into execution in the same manner as coming from the Sikkimputte Rajah.

In order to prevent all disputes with regard to the boundaries of the low lands granted to the Sikkimputtee Rajah, they will be surveyed by a British Officer, and their limits accurately laid down and defined.

Appendix VII

BOUNDARY TREATY

1st November 1860

Boundary Treaty With Nipal, 1st November 1860

During the disturbances which followed the mutiny of the Native army of Bengal in 1857, the Maharajah of Nipal not only faithfully maintained the relations of peace and friendship established between the British Government and the State of Nipal by the Treaty of Segowlee, but freely placed troops at the disposal of the British authorities for the preservation of order in the Frontier Districts, and subsequently sent a force to co-operate with the British Army in the re-capture of Lucknow and the final defeat of the rebels. On the conclusion of these operations, the Viceroy and Governor-General in recognition of the eminent services rendered to the British Government by the State of Nipal, declared his intention to restore to the Maharajah the whole of the lowlands lying between the River Kali and the District of Goruckpore, which belonged to the State of Nipal in 1815, and were ceded to the British Government in that year by the aforesaid treaty. These lands have now been identified by Commissioners appointed for the purpose by the British Government, in the presence of Commissioners deputed by the Nipal Darbar, masonry pillars have been erected to mark the future boundary of the two States, and the territory has been

formally delivered over to the Nipalese Authorities. In order the more firmly to secure the State of Nipal in the perpetual possession of this territory, and to mark in a solemn way the occasion of its restoration, the following Treaty has been concluded between the two States:

Artucke 1st

All Treaties and Engagements now in force between the British Government and the Maharajah of Nipal, except in so far as they may be altered by this Treaty, are hereby confirmed.

Article 2nd

The British Government hereby bestows on the Maharajah of Nipal in full sovereignty, the whole of the lowlands between the Rivers Kali and Raptée, and the whole of the lowlands lying between the River Raptée and the District of Goruckpore, which were in the possession of the Nipal State in the year 1815, and were ceded to the British Government by Article III of the Treaty concluded at Segowlee on the 2nd of December in that year.

Article 3rd

The boundary line surveyed by the British Commissioners appointed for the purpose extending eastward from the River Kali or Sarada to the foot of the hills north of Bagowra Tal, and marked by the pillars, shall henceforth be the boundary between the British Province of Oudha and the Territories of the Maharajah of Nipal.

This Treaty, signed by Lieutenant-Colonel George Ramsay, on the part of His Excellency the Right Honourable Charles John, Earl Canning, G.C.B., Viceroy and Governor-General of India, and by Maharajah Jung Bahadoor Rana, G.C.B., on the part of Maharajah Dheraj Soorinder Vikram Shah Bahadoor Shumshere Jung, shall be ratified, and the ratification shall be exchanged at Khatmandoo within thirty days of the date of signature.

Signed and sealed at Khatmandoo, this First day of November, A.D., one thousand eight hundred and sixty corresponding to the third day of Kartick Budee, sumbut nineteen hundred and seventeen.

G. Ramsay, Lieut, Col,
Resident at Nipal

CANNING
Viceroy and Governor-General.

This Treaty was ratified by His Excellency the Governor-General, at Calcutta, on the 15th November 1860.

A.R. Young,
Deputy Secretary to the Government of India.