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NEPAL:
Finding A Way Forward

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NEPAL: Finding A Way Forward

ABSTRACT

Nepal is no stranger to Constitution drafting, having gone through six such rounds since 1948, with the seventh culminating in September 2015. This recent exercise, however, was unique as it was conducted, for the first time, without the oversight of the monarchy. Certain populations of Nepali society had specific stakes in a new Constitution. For many of Nepal's marginalised communities such as the Madhes is, for example, the new Constitution offered hope for closure for their six-decade-old struggle for equality. But the new Constitution has only served to divide Nepali society. And India's neighbour is facing more serious challenges with its economy, which tumbled further in the aftermath of a devastating earthquake in April last year. What is the way forward for Nepal, and what is India's role? India has a legitimate interest in political stability in its neighbouring country; after all, it shares with it not only an open border but also an extraordinary relationship at the political, economic, and people-to-people levels.

INTRODUCTION

Nepal promulgated its new Constitution in September 2015. Rather than being a cause for universal celebration, however, the event has only led to increased polarisation within the country. The Terai region, for instance, which has been in the throes of an agitation since mid-August of 2015, has witnessed the different parties hardening their position and showing little sign of nearing compromise.

Nepal's relations with India have also been on a downward spiral. Nepal's economy, already battered by the massive earthquake in April 2015 is suffering more as supplies of essential goods from India have slowed to a trickle. India blames the insecurity caused by the Terai agitation for this disruption, even as it urges the Nepali government to find a compromise. Meanwhile, the popular perception in Nepal is that such disruption in supplies is the result of an informal Indian blockade. For the first time in the history of their bilateral relations, India and Nepal exchanged serious allegations against one another before a recent UN Human Rights Council session in Geneva. There has thus been a marked shift in Nepal-India relations, falling from the high of August 2014 when the view was that Prime Minister Narendra Modi's visit at that time had won the hearts and minds of Nepali society and a new chapter in India-Nepal relations had begun.

The paper opens by describing some of the most significant political changes in Nepal which provided the context in the drafting of the new Constitution. It then discusses the ebbs and flows in India-Nepal relations, and the intertwining of Nepali nationalism with anti-Indianism. The paper then examines more recent developments in Nepal's internal affairs and its spiralling relations with India. The closing section identifies the reasons behind the impasse and the efforts that need to be made by all stakeholders for Nepal to get over the current crises, and for its bilateral relations with India to improve.

WRITING A NEW CONSTITUTION

Nepal is no stranger to Constitution drafting, the last one being the seventh such exercise since 1948. The 2015 draft, however, was fundamentally different as it was conducted, for the first time, without the oversight and guidance of the monarchy. Certain populations of Nepali society had specific stakes in the 2015 Constitution drafting. For many of Nepal's marginalised communities such as the Madhesis, for example, the new Constitution was a

time of hope that their six-decade-old struggle for equality and inclusiveness will finally come to a closure.

Nepal has had a challenging history of writing its Constitution. The 1948 Constitution was stillborn: proclaimed by then Prime Minister Padma Shamsheer Rana, it had not been implemented fully before he was overthrown by his cousin, Mohun Shamsheer Rana. Following the end of the Rana regime, an Interim Constitution was introduced in 1951, as a first step towards normalising the country's electoral politics. King Mahendra replaced this with a new Constitution in 1959, which gave the monarchy enhanced powers and which the King used to dismiss the elected government. In 1962, King Mahendra promulgated yet another Constitution which introduced the party-less Panchayati Raj, a system in which the heavy hand of the Palace was always close by. The Jan Aandolan in 1989 led to the promulgation of a 1990 Constitution which retained the monarchy but with significantly reduced powers and introduced multi-party electoral democracy. Following the ten-year-long Maoist insurgency from 1996 to 2006, an Interim Constitution was introduced in 2007, to pave the way for the Constituent Assembly elections in 2008, which in turn led to the 2015 Constitution.

The 2008 elections altered the political landscape of Nepal, with the Maoists and the Madhesis emerging as the country's new political forces. While the Madhesis had been agitating for their rights since the 1960s, the Maoist insurgency had given birth to an identity-based political demand for federalism for which the two main political parties, Nepali Congress and the UML, had never shown enthusiasm. The smaller pro-monarchy parties had opposed federalism on the grounds that it would lead to fragmentation. In addition to the demand for abolishing the institution of monarchy, the Maoist demand for federalism was partly driven by ideology and also by the fact that the Janjatis constituted a significant support base.

Broadly speaking, Nepal has been ruled by the Khas Arya (Bahun Chetripahadi elite) who constitute about 30 percent of the country's population. Belonging to the Shah, Rana and Thakuri communities, they mostly trace their descent from India's Rajput families. The Janjatis

(indigenous hill tribes) make up another 30 percent of the population and consist of Magars and Gurungs (primarily between Gandak and Karnali river basins) and Rais, Limbus and Tamangs, concentrated in eastern Nepal. Madhesis (including Dalits and Muslims) and Tharus (indigenous plains tribes) are based in the Terai and account for another 35 percent of the population. Among the Terai-based groups, the Madhesis have close ties with the Indian population in the northern districts of Bihar and Uttar Pradesh, often evocatively described as *roti-beti-ka-rishta*, which has led the ruling elite to question their allegiance during periods of domestic political polarisation. Incidentally, it is not only the Madhesis but the Khas Arya, too, have strong ties with their counterpart Indian aristocratic and landowning classes, though this does not attract similar questioning. Traditionally, the Janjatis, Tharus and the Madhesis have been the marginalised communities of Nepal. Up until 1958, the Madhesis needed a special permit to enter Kathmandu Valley.

Given the concentration of the Madhesis in the Terai and the open border, King Mahendra undertook a major administrative restructuring during the Panchayat era with the objective of diluting their majority. The number of districts in Nepal was increased from 32 to 75. In the process, the Terai-based districts which were earlier geographically restricted to the plains, were reconfigured to include areas north of the Siwalik Hills. With the construction of the East-West Highway, new Pahadi settlements were encouraged in the Terai-based districts, thereby changing the demographics. The Pahadi population in the Terai went up from six percent in 1952 to 36 percent in 2001. Today, out of the 20 Terai districts bordering India, the Madhesis constitute a majority in less than half. While this change can no longer be undone, it has remained an issue of concern and finds reflection in current Madhesi demands relating to federalism.

According to the 2007 interim Constitution, the Constituent Assembly was expected to complete its task in two years, or by 28 May 2010. This deadline was not observed and the task remained unfinished even after the CA had awarded itself four extensions, taking it to May 2012. The Supreme Court intervened, putting an end to the exercise of repeated extensions and

in November 2013, a second CA was elected for a four-year term. Sensing the public's impatience, it set itself a deadline of January 2015 for completing the Constitution drafting exercise but once again failed. The devastating earthquake in April 2015, which claimed 9,000 lives and caused economic losses estimated at \$ 7 billion, showed the political leadership in poor light, pushing them to work for an early conclusion of the Constitution drafting exercise.

The composition of the second CA was different from the first. In 2008, Maoists had emerged as the single largest party with 229 seats while the three Madhesi parties together accounted for only 84 seats. In 2013, Maoists were down to 80 seats and the Madhesi parties, which had splintered from three into a dozen, could manage only 40 seats. On the other hand, the two older parties, NC moved up from 115 in 2008 to 196 and the UML from 108 to 175 seats, together accounting for nearly two-thirds of the CA (whose strength was 601) in 2013. The Maoists lost because of widespread allegations of corruption, poor governance record and infighting. The Madhesis, for their part, failed because of ego clashes, caste differences between the Brahmins, Thakurs, Yadavs and Kurmis, and political fracturing which weakened the Madhes movement of 2007 and 2008.

After the 2013 elections, NC claimed the prime ministership with UML support. Sushil Koirala was sworn in as PM on the understanding that after the promulgation of the new Constitution he would step down and NC would support UML leader K P Oli as the next PM. Maoists were in the opposition and faced yet another internal split due to differences between Pushpa Kamal Dahal Prachanda and Dr Baburam Bhattarai, with the latter eventually parting from the Maoists in September 2015. With Oli getting impatient, pressures on Sushil Koirala mounted and in June 2015, the NC, UML, Maoists and Bijay Gachedar's MJF (D) signed a 16-point agreement covering some of the major issues on which differences had persisted. The objective was to enlarge the support base to more than three-fourths of the CA if consensus was not possible. On the contentious issue of federalism, this agreement recommended the creation of eight provinces with the

boundaries to be determined by an Expert Committee within six months. However, it was shot down by a Supreme Court single-judge bench on the grounds that the CA was responsible for defining the federal structure and this could not be delegated. The big three then came out with a six-province proposal, Gachedar dissociated himself from it and as protests mounted, the three hurriedly made it into a seven-province federal structure. Agitations turned violent particularly in western Terai (the Tharu-dominated areas) and by September 2015, the Madhesi *aandolan* had merged in full strength with calls for a general strike that would eventually bring the Terai to a standstill. Schools, shops and businesses shut down, and movement along the major thoroughfare, the East West Highway, was severely hampered.

By the time the Constitution was adopted, the agitation had claimed nearly 50 casualties. Leaders of the big three parties – NC, UML, and the Maoists – were busy confabulating in Kathmandu about the positions of the President, Vice President, and Speaker. None of them took the trouble to visit the region and open a dialogue with the agitating groups. The sense of alienation was heightened by the fact that the top 12 leaders of these three parties belonged to the Khas Arya group. Finally, the Constitution was introduced in the CA on 13 September, and with negligible debate and discussion, voting was completed within four days. The Madhesi members of these three parties were silenced by issuing party whips, forcing them to fall in line quickly. Eventually, the Constitution was adopted on 16 September by 507 votes out of 532 members present. Sixty-six members (representing Madhesis and other marginalised groupings) boycotted the session in protest and 25 members from RPP(N) voted against.

Thereafter, Koirala backtracked from his understanding with Oli and NC put forward his candidature. However, Oli had tied up with the Maoists and was able to defeat Koirala in the CA election on 11 October, gaining 338 versus 249. In a rush to bolster his standing, Oli brought in parties that had boycotted and even opposed the vote on the Constitution by offering them Cabinet positions. As a result, today he has six deputy prime ministers and over 20 twenty cabinet ministers; of these, 17 belong to the Khas Arya group, further fueling Madhesi resentment.

INDIA-NEPAL RELATIONS

No two countries perhaps share as close and as complex a relationship as India and Nepal. The ties of a shared religion, culture and language are cemented with ties of kinship. At a political level these ties found expression in the 1950 Treaty of Peace and Friendship which is today resented by large sections of the Nepali population for being 'an unequal treaty'. However, most Nepalis are unaware that it was Nepal's rulers who had pushed for the treaty in order to maintain the special ties with independent India that they had enjoyed with British India. A key driver was that Nepal's security concerns had been heightened by the Communist revolution in China in 1949 and its subsequent takeover of Tibet.

This Treaty provides for an open border between India and Nepal and allows Nepali nationals to work in India without the need for a work permit. They enjoy 'national treatment' with regard to engaging in commercial and economic activity such as purchase of property, or opening of bank accounts, on a non-reciprocal basis. The provisions of the 'secret' side letters to the Treaty, which required Nepal to consult India on its defence requirements, which Nepalis perceive as unfair and which are often used by politicians to whip up anti-India sentiment, are no longer secret or even observed. Today, the open border is used by Pakistan to infiltrate terrorists and pump in significant amounts of counterfeit Indian currency. Although India has repeatedly agreed to review and update the Treaty, Nepal sidesteps the issue every time the matter is taken up.

Democratic forces in Nepal have often looked to India for help in their struggle; however, Indian involvement has also led to criticism about 'Indian interventionism'. In 1950, the monarchy whose powers had been eroded by the Rana regime found asylum in India just as the Maoist leaders did in the 1990s. During the height of the panchayat days, political parties often used Indian territory as a base to organise and launch their struggles for multi-party democracy. During this period, the Left movement was frequently infiltrated by the Palace to create tactical alliances by creating and manipulating its factions in the name of Nepali nationalism, by projecting

Nepali Congress as a pro-Indian party with strong links to the Indian Congress. In this process, the original Communist Party of Nepal went through more than a dozen fractures, beginning in the 1960s and continuing till the 1990s. The machinations of the Palace of projecting Nepali nationalism with strong undercurrents of anti-Indianism were largely ignored by the Indian establishment. One reason was that the Palace was adept at making sure that its connections with Indian elites (with the Embassy in Kathmandu and the political leadership in Delhi) remained intact. This led to a 'wink wink, nod nod' brand of diplomacy where Indian interests continued to be protected but nevertheless, an adverse public narrative was allowed to take root. A consequence of this development was that this narrative became an integral part of the ideology of virtually all the Left parties as they competed for political space with the Nepali Congress over the last four decades. In the interest of political pragmatism, this would be put aside whenever they (UML in the 1990s and Maoists in the last decade) came to power, but would be quickly revived when they were in opposition to the sitting government.

Since the 1960s, the Palace also used the China card in its dealings with India. However, for China, its primary concern has remained the movement of the Tibetan refugees into Nepal and the activities of the Tibetan community in Nepal. To address these, the Chinese authorities maintained close ties with the Palace; on the other hand, China's links with Nepal's political parties were relatively low-key. During the decade-long Maoist insurgency, China was strongly supportive of the Palace, even providing military assistance to the Army when India and the rest of the international community was nudging the Palace to lift the Emergency and re-open political dialogue. None of the Maoist leaders received support from Beijing; on the contrary, many of them sought refuge in India, using the open border and the provisions of the 1950 Treaty to open bank accounts and rent properties. China's economic linkages with Nepal have grown in recent years but this is more a result of China's growing economic profile globally. After the abolition of the monarchy in 2008, China has moved to set up linkages with Nepal's political parties. However, China has traditionally

advised Nepali political leaders to manage their differences with India, in view of the close economic and cultural ties which are dictated by geography. India's engagement with Nepal's politics increases whenever there is growing political instability and the peace process that began in 2005 with the Maoists coming into the political process was no exception. India facilitated the dialogue between the political parties and the Maoists, as well as that between the Madhesis and the Nepali authorities following the 2007 *aandolan* in the Terai. Nevertheless, it consciously refrained from offering any advice on the Constitution drafting exercise this time, though there were suggestions by Nepali politicians and opinion-makers inviting closer Indian engagement, as they grew impatient with the prolonged exercise. Eventually, it was a Nepali process that ended the first CA and prepared the ground for a fresh CA election in 2013.

Notwithstanding the political fluctuations, economic ties between India and Nepal have grown in recent decades. After all, two-thirds of Nepal's foreign trade is with India, which also accounts for half of foreign direct investments into Nepal. The Nepali currency, to begin with, is pegged to the Indian Rupee. India's economic cooperation programme in Nepal has been extensive and has included projects like building highways, optical fibre links, medical colleges, trauma centre, polytechnics, schools, health centres, and bridges. For flood protection and embankment construction projects in Nepal, India provides more than INR 750 million annually. To facilitate the movement of goods and people, India is providing INR 2.7 billion to build four Integrated Check Posts on the border, INR 6.5 billion for extending two railway links out of the five under consideration and INR 7 billion for the first phase of rebuilding old postal roads in the Terai region. During Prime Minister Modi's visit to Nepal in August 2014, a \$ 1-billion concessional Line of Credit was announced and after the earthquake in April 2015, India pledged another \$ 1 billion for Nepal's reconstruction. About INR 13 billion is disbursed annually to the 125,000 Indian Army ex-servicemen as pensions, medical and social welfare schemes. The provision of iodised salt, conducting cataract and trachoma camps, gifting of ambulances and school buses in the remotest of Nepal's villages are only some of the initiatives that

have made a difference to people's lives in rural Nepal. The anti-Indian narrative has, however, been an obstacle to permit exploitation of Nepal's massive hydel power potential though two long pending Project Development Agreements have been signed in recent months.

LOSING CONTROL

Nepal has to overcome two crises: addressing the Madhesi demands in a manner that makes them (and Tharus and Janjati who are also unhappy) stakeholders in the new Constitution, and steering relations with India back to normal. The manner in which perceptions about these have crystallised in Kathmandu, a resolution of the two is inter-connected. Prime Minister Modi's visit to Kathmandu in August 2014 was an enormously successful regional diplomatic initiative, expected to open a new chapter in India-Nepal relations. His address to the CA where he talked of the new Constitution being a 'bouquet in which every section of Nepali society saw itself and its aspirations reflected in a flower' attracted applause from across the Nepali political spectrum. By the time he returned to Kathmandu in November 2015 for the SAARC summit, the mood was shifting. With the deadline of January coming closer, internal political polarisation was growing. In a media interaction, when Modi stated that outstanding differences should be resolved on the basis of dialogue and widespread consultation so that it could create the basis of a united, peaceful, stable and prosperous Nepal, a section of the Nepali media reacted adversely and called it 'unwarranted advice'. This should have been a signal about the approaching discord in Nepali politics.

In the following months, a number of Nepali political leaders from different parties visited Delhi. They were given a uniform message that it was important to get the new Constitution adopted by consensus rather than push its adoption on the basis of majority. However, their approach did not change when they returned to Kathmandu. Some of them claimed that in the meetings with the RSS leaders, the importance of 'Hindu rashtra' was emphasised. Certain political parties that had been close to the erstwhile

monarchy found this message appealing while others (UML and Maoists) were not in favour. Finally, the Constitution retained the term 'secular' but defined it as 'respecting pre-historic traditions and religious and cultural freedoms'. The cow was also made the national animal. According to some, these gestures were intended to satisfy the Indian establishment. Meanwhile, the simmering resentment among the Madhesi parties was ignored by the big three – NC, UML and the Maoists. Given the mood in the Terai, MJF(D) led by Bijay Gachedar also backed off from the new federalism-related provisions. In its final days in July and August, the Constitution drafting exercise became secondary to K P Oli's efforts to become PM and any suggestions for giving the process more time, were brushed aside. Consequently, Foreign Secretary Dr S Jaishankar's highly publicised visit to Kathmandu on 18 and 19 September, with the Constitution scheduled to be promulgated on 20 September, was widely perceived as coming too late. Most Nepali media were critical of his message that the promulgation be delayed to enable dialogue with the Madhesi groups, calling it 'interference in Nepal's internal affairs'.

Given the timing of the visit and the rejection of the suggestion that Jaishankar had conveyed, India could hardly welcome the promulgation of the Constitution on 20 September. India's official statement on the occasion therefore took 'note of the promulgation in Nepal today of a Constitution'. The following day, another statement referred to the 'security concerns due to the prevailing unrest' in the Terai which were creating difficulties for movement of goods. By this time, the Madhesi agitation had already been underway for a month. An Indian newspaper carried details of the specific amendments proposed by India though the report was denied by the government. Movement of goods across the Raxaul–Birgunj border crossing—which accounts for nearly two-thirds of traffic between the two countries and nearly all of the petroleum products—ground to a halt. Other border crossing points were also affected. Nepali nationalism surfaced as India was accused of imposing a 'blockade' while India blamed the 'prevailing law and order situation' which had led to Madhesi protestors occupying the 'no man's land' on the border. In the past, security forces on both sides would

have cooperated to open up the crossing but such cooperation was missing this time.

Nepali political leaders, preoccupied with the political transition from Sushil Koirala to K P Oli were content to stoke the anti-Indian sentiment. The China card was again brandished about, with the announcement that China would supply 1,000 MT of petroleum products to Nepal. Meanwhile, the agitation in the Terai escalated with growing polarisation between the Khas Arya and the Madhesis. Relations between NC and UML came under strain as PM Sushil Koirala suggested certain constitutional amendments which could help address some of the Madhesi grievances but Oli saw this as a ploy to delay his taking over. New appointments were needed for the posts of President, Vice President and Speaker and Oli struck a deal with the Maoists, promising them the posts of Speaker and Vice President in return for support to his claim for the PM's post, even as NC put forward Sushil Koirala's candidature. Sources close to Oli maintain that India was behind Koirala's bid to retain power, which would explain Oli's anti-India rhetoric. The tide of Nepali nationalism helped Oli win comfortably against Koirala. He offered Dy PM posts to Kamal Thapa whose party had voted against the Constitution and Bijay Gachedar whose party had boycotted the proceedings in solidarity with the Madhes aandolan. Oli further consolidated his position by ensuring the election of a close comrade-in-arms, Smt Bidhya Devi Bhandari as President in end-October.

However, the Oli government made no serious effort to reach out to the Madhesi leaders and the anti-Indian rhetoric continued. For the first time, India and Nepal engaged in a sharp exchange in a multilateral setting. The presence of Foreign Minister Kamal Thapa in Geneva for the Human Rights Council meeting in November was a signal that Nepal was going to raise the pitch by referring to 'the blockade by India'. India pre-empted by raising concerns about instances of 'violence, extra-judicial killing and ethnic discrimination', over the last three months. Nepali media went into overdrive, accusing India of interference in Nepal's internal affairs. In terms of international sympathy, however, Nepal was the gainer with the international donor community claiming that the post-earthquake relief

and rehabilitation was being hampered – a news that struck an emotive chord, with winter approaching.

According to Sujeev Shakya (Nepal Economic Forum), the economic outlook was positive after Modi's announcements during his visits to Nepal in 2014 to register a four- to five-percent growth rate. The earthquake pushed an estimated 7 lakh people below the poverty line. Now the continuing shortage of essential goods caused by the 'blockade' and the creation of a parallel economy has pushed another 5 lakh people to poverty. The growth rate projection has turned negative, to -0.8 percent. The Oli government has made little effort to find a compromise with the Madhesi leadership, finding it easier to blame India for Nepal's economic woes.

Meanwhile, the Madhesi agitation led by the Sanyukta Loktantrik Madhes Morcha (SLMM) led by Mahant Thakur, Rajendra Mahato, Upendra Yadav and Mahendra Yadav, representing four Madhes-based parties, has become a movement. According to them, unless a meaningful compromise is worked out soon, the movement could turn violent and demands for separatism could gain ground. The four key Madhesi demands relate to provincial demarcation, restoring the population criteria for electoral constituency delimitation, proportional representation in government jobs, and citizenship-related issues. An attempt has now been made by the Oli government by reviving the two amendments that were originally put forward by the Koirala government three months earlier. These relate to electoral constituency delimitation and proportional representation; provincial demarcation is to be addressed over a three-month period by setting up a 'political mechanism' and citizenship issues through appropriate rules. The SLMM has rejected the package as falling far short though the Indian government welcomed it as 'positive steps that help create the basis for a resolution of the current impasse in Nepal', though it has also suggested that the SLMM should be brought on board the amendment process to make it inclusive.

Differences over the provincial demarcation are limited to five districts – Sunsari, Morang and Jhapa in the east and Kanchanpur and Kailali in the west. The Madhesis would like the eastern districts to be added to Province 2

though significant proportion of the local population in Jhapa and Morang are opposed to it. In the west, the Tharus would like the two districts to be part of Province 5. The present demarcation ensures the Khas Arya majority in six of the seven provinces, which is a breach of the earlier understandings on federalism. Bifurcating the districts would be the eventual solution but a positive environment needs to be created first. On the second issue of electoral constituency delimitation, the Madhesis claim that the Terai accounted for 116 seats out of 240 in the present CA whereas the new Constitution only provides 62 seats out of the 165 'first past the post' seats. A constitutional amendment to restore the salience of the population criteria could raise the Terai seats to approximately 80 which can resolve this matter. However, there is resentment that the number of Proportional Representation seats has been brought down from 335 earlier to 110 now which further reduces the weight of the population criteria. Providing equal number of seats (eight) to each province in the Upper House strengthens the hold of the Khas Arya, who constitute the majority in six of the seven provinces.

Proportional Representation in government jobs had been introduced in the Interim Constitution by the system of 'reservations'. This has been diluted by shifting the focus to 'inclusiveness' and expanding the number of categories to be included to more than 20. Criteria now include caste, ethnicity, economic status, and gender, which weakens the stress on 'affirmative action' that characterised the earlier policies. Citizenship issue is a particularly sensitive one for the Madhesis as they frequently conduct cross-border marriages. The new Constitution creates two kinds of citizenship: by descent and through naturalisation. The latter applies to foreign nationals who seek to acquire Nepali citizenship, normally after marriage. Since citizenship is through the male line, offspring of naturalised Nepali men are barred from senior positions (both elective positions of President, PM, or Chief Minister of a province and other official positions such as Army or Police chief). Madhesis would like this to be rectified. This explains why the SLMM have rejected the Oli government's proposals.

OVERCOMING THE IMPASSE


How have things come to such an impasse? The fact is that nobody expected the Madhesi agitation to last this long and consequently, nobody had thought of a Plan B. Meanwhile, the agitation took on the character of a movement and today, even the SLMM leaders are not sure they can control it. A younger, more vocal and assertive group is emerging though for the moment, these spontaneously emerging groups lack coordination. Unlike the SLMM leaders who are old-time politicians, the younger lot have not been in politics and are not familiar with the trade of negotiations and compromise. Secondly, Oli has been unable to provide a healing touch, preferring instead to blame India for his woes and hoping that he can develop alternatives with China. This is a serious error of judgement; even the Palace knew the limits of the China card. It is not just the Madhesis who are upset; Janjatis and Tharus too share some of the Madhesi concerns regarding federalism and proportional representation. The Janjatis are geographically more dispersed compared to the Madhesis and Tharus. So far they have not joined the Madhesi agitation because none of their leaders visualised the creation of a united front. Were this to change, it could throw Nepal into a political upheaval. Oli's coalition is a weak coalition and could easily fracture under the strain of the agitation, continuing the cycle of political instability. There are already murmurs in Kathmandu that Oli needs to be replaced by a more pragmatic and acceptable UML leader.

Any policy, however consistent and well crafted, yields desired results only if implemented effectively. In Nepal, Prime Minister Modi's 'neighbourhood first' agenda has suffered a setback and the goodwill generated by his visits stands eroded. To be fair, though, Indian policy has been consistent in urging the need for a national consensus so that the Constitution can accommodate the aspirations of all the traditionally marginalised groups. India has a legitimate interest in political stability in a neighbouring country with which it shares an open border and also an extraordinary relationship – at political, economic, social, cultural and people-to-people levels. However, the timing of Foreign Secretary

Jaishankar's visit was unfortunate and it should have been clear that he was embarking on an impossible mission which would constrain India's space for manoeuvre and limit its options. It also provided the Oli government an opportunity to deflect attention away from its own incompetence by stoking anti-Indianism and appealing to Nepali nationalism. India's refrain did not carry enough conviction: that movement of goods across the border was hampered due to the prevailing unrest because the transporters were worried about their security.

In Nepal, there is a common grouse that India delegates its Nepal policy to its officials who engage in micro management. The only way to change this perception is to ensure regular engagement at a political level and that is one reason why Modi's two visits after a gap of 13 years, aroused such expectations. What is needed is a balance between remaining politically engaged and not be seen to be intervening. The second problem is the presence of too many interlocutors which dilutes the clarity of the message. A Nepali visitor then chooses to believe what suits him more. A way out would be to have a small group of MPs, cutting across party lines, authorised by the PM, to engage in some much needed and effectively coordinated public diplomacy. The appointment of a former senior intelligence official as Adviser on Nepal can only lead to the fabrication of more conspiracy theories which tend to gain currency easily in Kathmandu Valley. It is worth recalling that riots had erupted (2001) when it was alleged that actor Hritik Roshan had made anti-Nepali remarks in a TV interview, an allegation that turned out to be baseless; actor Madhuri Dixit's innocuous comment (1999) that Nepal seemed much like India was criticised for being a sign of Indian expansionism as was the comment in the film *Chandni Chowk to China* (2009) that 'Buddha was born in India'.

There is a growing realisation that de-escalation is necessary but face-saving exits remain elusive. There has been a perceptible easing in the movement of goods through border crossings other than Raxaul-Birgunj and Sunauli-Bhairawa. India's statement cautiously welcoming the Oli government's initiative on the constitutional amendments was seen as a positive step. However, more intense political consultation and diplomacy is

needed to overcome the impasse. Oli needs to understand that he could lose power if the agitation continues and grows which it could, unless he shows leadership and magnanimity. The SLMM need to understand that relying on India to bolster their agitation is counter-productive to their cause because it only stokes the Pahadi-Madhesi divide and they need to find areas of compromise. India needs to regain control of its Nepal policy and give it political content so that it can regain lost ground and play a constructive role in helping end the prevailing stasis. Patient engagement is needed to change the current narrative and revive the image that Modi had presented in 2014, of a friendly and caring India, sensitive to Nepal's concerns, and generous in seeking mutually beneficial partnerships. 

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