

The Madheshi Question in Nepal: Implications for India-Nepal Relations

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By

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Rasik Rai

Lists of Abbreviation

ACHR	:	Asian Center for Human Rights
BCNs	:	Brahimin-Chhetri-Newar
CBS	:	Central Bureau of Statistics
CHHEM	:	Caste Hill Hindu Elite Males
CPN	:	Communist Party of Nepal
CSC	:	Conflict Study Center
DDC	:	District Development Committee
FNCCI	:	Federation of Nepalese Chamber of Commerce And Industry
ICG	:	International Crisis Groups
ISAS	:	Institute of South Asian Studies
INSEC	:	Informal Sector Service Center
JTMM	:	Janatantrik Tarai Mukti Morcha
LeT	:	Lashkar-e-Taiba
JTMM(JS)	:	Janatantrik Tarai Mukti Morcha (Jwala Singh)
MJF	:	Madhesi Jana Adhikari Forum
MRMM	:	Madhesi Rastriya Mukti Morcha
NC	:	Nepali congress
NDHS	:	Nepal Demographic and Health Survey
MPRF	:	Madhesi People's Right Forum

NEFA	:	North-East Frontier Agency
PRIO	:	The Peace Research Institute Oslo
SAHR	:	South Asians for Human Rights
SSB	:	Seema Surakha Bal
TLF	:	Terai Liberation Front
UDMF	:	United Democratic Madhesi Front
UML	:	Unified Marxist-Leninist
UPA	:	United Progressive Alliance
VDC	:	A Village Development Committee

February 6, 2017

CERTIFICATE

This is to certify that the dissertation entitled “**The Madheshi Question in Nepal: Implications for India-Nepal Relations**” submitted to **Sikkim University** for the award of the degree of **Master of Philosophy** in International Relations, embodies the result of bona fide research work carried out by Rasik Rai under my guidance and supervision. No part of the dissertation is submitted for any other degrees, diploma, associate-ship and fellowship. All the assistance and help received during the course of investigation have been deeply acknowledged by him.

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DECLARATION

I hereby declare that the dissertation entitled “**The Madheshi Question in Nepal: Implications for India-Nepal Relations**” submitted to **Sikkim University** in partial fulfillment of the requirements for the degree of **Master of Philosophy** is my original work. This dissertation has not been submitted for any other degree of this university or any other university.

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**“The Madheshi Question in Nepal: Implications for
India-Nepal Relations”**

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Introduction

Nepal has three different ecological zones: in the north there are high Himalayan ranges bordering Tibet, Hills in the middle and the flat stretch of plain land bordering India in the South. These three different zones have also been considered as the division for administrative and socio-economic planning. Tarai which lies in the plain is a border between India and Nepal which has twenty districts out of the total 75 districts in the country and is the home for 49 per cent of the country's population (CBS, 2001).

Tarai is the landmass at the foothills of Nepal's Himalayan mountain and hill ranges, beginning typically from the succeeding low hill chains called the Mahabharata, Siwalik and Churia ranges to the wet and swampy land to the South, touching the vast Gangetic plains of India. In contemporary Nepal, the most politically salient socio cultural groups are the high-caste Hindu from the hills, the low-caste Hindu (Dalit), ethnic groups (indigenous nationalities, or Adivasi Janjati), and the Madheshi (people from the Tarai region, including both ethnic and caste groups) (Hagen: 2007). Nepal has a long history of political exclusion of groups such as the *Janajati* (indigenous peoples), *Dalits* (the untouchable cast), *Madheshi* (inhabitants of Madhesh) – including Muslims, and women. This exclusionary system is based on patriarchal norms, the supremacy of Hindu religion and a hierarchical caste system that can be traced back to the very foundation of the state of Nepal in 1779 (Balkrishna, 2015).

A number of popular movements have attempted to challenge this exclusive State, most remarkably through the Maoist 'People's War' which began in 1996 (ibid). This war ended in November 2006 with the signing of a Comprehensive Peace Accord. Ethnic inequalities have been persistent and pervasive features of the modern state, even though it was not widely discussed or acknowledged until the 1990s. The high-caste Hindu from the hill region constitutes the dominant group in Nepal. They gained the upper hand in the political arena during the period of state formation in the last half of the 18th century, when Prithvi Narayan Shah, the king of a principality called Gorkha, conquered and annexed the numerous small kingdoms that existed throughout Nepal (Hagen, 2007).

During the panchayat era (1962-90), the state solidified the idea of Nepal as a Hindu society and sought to create a culturally homogenous population. The state promoted the Hindu religion, the Hindu monarchy, and the Nepali language as signifiers of the national community (ibid). Nepal was proclaimed as a Hindu kingdom in 1962. In 1956, the National Education Planning Commission recommended only Nepali can be used in school, a plan explicitly intended to reduce the currency of the many other languages spoken in the country (Gaige, 1975). State-published school textbooks excluded the cultures, histories, and languages of Nepal's ethnic groups, highlighting the histories of high-caste Hindu heroes only (ibid). Nepali state had succeeded in maintaining its hold over the population through a constructed Hindu identity and a complex connection between this identity and the cultural legitimacy of the social order. This constructed identity was designed to subsume ethnic and regional differences (Ali, and Subho, 2007).

Fridrich Gaige (1975) used the terms 'hill people' and 'plains people' living in Terai districts and defined "plain people are those who speak any one of the plains languages as their mother tongue or first language, whether they are born or lived in the plains or hills"; the plains languages being Maithili, Bhopuri, Awadi, Urdu, Hindi and Bengali, and dialects of these languages used by Janjati groups (Karan Kanta Vijay: 2007). Madhesh has a long historiography dating back to the kingdom of Vaideha or Mithila established in eastern to central Madhesh and present day north Bihar, India (Malangia, 1997).

After the unification of Madhesh in Nepal by Prithivi Narayan Shah in 1769, its border was again re-drawn by the Sugauli Treaty concluded between British India and Nepal in 1816. Saugauli Treaty divided, scattered the people in Madhesh across the border which divides India and Nepal internationally. The term 'Madheshi' literally means a dweller in 'Madhes' or the plains. It refers to plains dweller of Indian, Hindu origin who speak languages like Maithili, Hindi, Bhojpuri, Awadhi, and Urdu (Mahendra, and Veena, 2014). Their lifestyle, food habits, dress, language and culture are common with people who live across the Indian border in Uttar Pradesh and Bihar (Jha, 1993). The cultural identity of the plains Hindu castes transcends national territories. The trans-national linkages along with the open border have contributed significantly to enhancing the capacity of the Madheshi to fight against the hill-dominated state. This is less true of significant plains Janjatis, such as Tharus and

Rajvamshis, who lack large bodies of fellow ethnic communities just over the border (Hachhethu, 2007).

The Madheshi, who are pushing the federal agenda for their distinct identity since the 1950s support identity based federal restructuring of the states. During the 1950s, the Madheshi fought for their direct autonomy (Kumar, 2015). In the 1980s, the “Sadbhavana Party had demanded the autonomy of Madheshi from hill administration, but was snubbed by Kathmandu” (Jha, 2015). The 1960 constitution promoted one language, one religion and one culture. The dynamics between the state and the ethnic groups strengthened as the period changed to a Panchayat system of “guided democracy”. Between 1962 to 1990, the situation started taking new turns with regard to ethnic suppression. The Nepali state encouraged migration from south of the border to Madhesh as well as from the hills to the Madhesh since the 1950s. Thus, hill migration was used as one of the instrument for the homogeneous model of *Nepalization* (the notion of one language, one dress, Hindu nation and respect for the king) which has adverse impact in the *Madhesh* so far its cultural uniqueness, economic interest and political power structure are concerned (Kalpana Jha, 2015).

The rise and fall of Madheshi movement was witnessed in every democratic venture made by Nepal. Finally, after travelling an uneven trajectory, the defining moment of the Madheshi movement came in 2007, which took a strong stand for re-structuring of the state and declaring *Madhesh* as an autonomous state. United Democratic *Madheshi* Front (UDMF), and several small *Madheshi* and Janjati outfits including the CPN-M came together to form a Federal Democratic Republican Alliance (FDRA). One of a reason for the coalition was to strive for ‘a constitution with federalism and federalism with identity. A new constitution promulgated in Nepal on 20 September 2015, once again failed to satisfy the Madheshi and Tharus who constitute 70 percent of Tarai population, who regard the formation of seven federal provinces as per the constitution as grossly unfair to them. The constitution initiated in Sept. 2015 continues with policies that make them marginalized. Madheshi represent over 33 percent of the population but occupy less than 12 percent of the positions in the government bureaucracy, including the police, army, and armed police force. They blamed the government that some of the demands like proportional representation of Madheshi in government bodies, electoral constituencies based on

population, autonomous identity-based provincial demarcation and equal citizenship provision for Nepali women marrying foreigners were not fulfilled.

The Terai stretches from the east to west of the country along the Nepal-India border adjoining the Indian state of Bihar, Uttar Pradesh and West Bengal. Nepal initiated their relationship with the 1950 Indo-Nepal Treaty of a Peace and Friendship. The influence of India remains more prominent given the open-border that it shares with Nepal. This has not been recent though; the influence of India was marked profoundly immediately after the 1950 revolution, a political movement against the direct rule by the Rana dynasty of Nepal. As the political leaders who were adjusting to the changes that 1950 revolution brought, Indian government that engineered the settlement between the Rana, the Nepali Congress and the king, exercised considerable influence in Kathmandu through appointment of Ambassador CPN Singh, Govinda Narayan, personal advisor to the king and other Indian officials (Gaige, 2009).

India and Nepal have shared centuries old historical and cultural relations by virtue of their geographical location. This has underscored the unique proximity or affinity one country feels with the other, but the specialty of this relationship has always been in the context of the over-bearing presence India on Nepal. For India, from a pure geographical context, Nepal was the bulwark against any foreign aggression into India from the north. Therefore, it was always in India's self-defence and security interests that Nepal did not have a ruler or government hostile to it, and that Nepal was not susceptible or vulnerable to external conquests and control as that would expose large tracts of India's territory. This further emphasized India's Big Brother stance.

Socially, the Nepalese, especially those in the Terai had economic and personal relationships through marriage and shared genetics as well as cultural and language across the Indian border especially in the states of Bihar and Uttar Pradesh. This relationship, colloquially called the *roti-beti*¹ relationship, opened up channels for both countries to advance their national interests. It also brought the Madheshi into close contact with India. Even the erstwhile ruling monarch family of Nepal has had associations among Indian elite through marriage.

¹ A relationship based on sharing of hearth and marriage.

Economically, the relationship has been a very significant one for Nepal as India was the chief supplier of fuel, medicines, grains and other items of daily consumption for the Nepalese. Nepal has had a treasure trove of natural resources, exploited by vested interests. It is important to note that India had enforced an economic blockade in 1989-90. However, the economic exchange between the nations continued after the blockade was lifted. Additionally, Indian tourists provided a steady source of revenue for Nepal and serves as a destination for migrant workers from Nepal.

The most significant aspect of this economic relationship is that nearly 90 per cent of Nepal's trade with third-party countries transits through India, the primary outcome of being a land-locked country. It gives India enormous power over Nepal. India has always enjoyed the economic muscle *vis-à-vis* Nepal which has made it an unequal relationship often with Nepal at India's mercy and the latter taking advantage of this.

Politically, the history of the Indo-Nepal relations is often traced back to the movement for India's independence from the 19th century but it has had its share of disputes too. Nepal too witnessed struggles for political assertion and bringing power to the people. The famous Koirala brothers who founded the Nepali Congress took inspiration from the Indian National Congress and Mahatma Gandhi. The Treaty of Peace and Friendship was formally signed in 1950. Over the decades, India has provided safe places to various pro-democracy and pro-people groups against a succession of Nepal's monarchs especially in the 80s, 90s and later in 2005-06 when King Gyanendra declared the emergency, though India also supported monarchs in exile. India has also enjoyed a level of influence with the Maoists in Nepal. PM Girija Prasad Koirala visited India in 1991 and both countries signed new separate trade and transit treaties. India has played a role in influencing or steering Nepal towards a constitutional statehood but in the current context of 2014-15, this appears to have acquired a brittleness and intervention perhaps not seen in the past.

Just a couple of days before the new constitution was formally adopted in September 2015 (but after it has been passed by the constituent Assembly) India's top diplomat was sent to Katmandu at the behest of Prime Minister Narendra Modi. Foreign Secretary S Jaishankar held discussions with Nepal's President and Prime Minister and leader of all the major political parties including those who had opposed the constitution in its current form to delay the adoption of constitution and hold

discussion with political groups opposed to it. Hours after the constitution was formally adopted, India raised a concern with the violent reaction to the low-lying southern plains, adjoining India, the Terai (BBC, 2015). When the Madheshi people were dissatisfied with the new constitution, they started a violent protest, blockade was declared by Madheshi. The Indian government not only offered advice which further invoked its Big Brother approach to Nepal but also raised objections to parts of the new Constitution. Nepal went ahead with its process of Constitution-making.² Subsequently, when it was promulgated in September 2015 and after protests had surfaced in the Terai over the Constitution, there was also an accompanying blockade which completely crippled Nepal and led to a humanitarian crisis of large proportions.

The Nepal government accused India for imposing undeclared blockade that led to severe humanitarian crisis in Nepal. Officially, India did not accept that it had enforced the blockade or even had a hand in it, but few in India or Nepal believe this. India's position was that the blockade was because Nepali protestors in the Terai had blocked the entry-exit points on the Indo-Nepal border due to which Indian trucks could not ferry fuel and supplies into Nepal and trade had to be halted.

In fact, the Nepal government does not accept this line.³ The dominant perception in Nepal is that India had orchestrated the blockade as a mark of support to the Madheshi in their protest against the Constitution. The lack of supplies, especially fuel and medicines, crippled Nepal during the four-month blockade in late 2015, worsening the situation after the deadly earthquake in April 2015.

India refuted those allegations, stressing that the border tensions were caused by Madheshi agitation. Anti-Indian sentiment and anti-Indian slogan were raised by people in Kathmandu. India has a major concern as the growing instability in Madhesh may have a direct impact on peace and security of India. There is a chance of growing cross-border crimes such as arms smuggling, fake currency trade, human trafficking, as well as terrorist activities as India shares a 1,751 km (1,088-mile) open border with Nepal. India considers Nepal as crucial to its security; India sees Nepal as a buffer with China and hence any tie between Nepal and China is a malediction for

² Kumar Sanjay, September 2015 <http://thediplomat.com/2015/09/nepal-tests-indias-much-touted-neighborhood-diplomacy/> Accessed on January 16, 2017

³Kallol Bhattacharjee, As Blockade ends, Nepal announces Oli's visit, The Hindu, 7.2.2016, <http://www.thehindu.com/news/national/as-blockade-ends-nepal->

India (Chaturvedy, 2012). Another concern for India is China's overstepping in Nepal, which has a real and concrete strategic impact on India's Himalayan security. With the already persistent insecurity of the northern neighbour that stemmed from Maoists coming into power and increasing military aid, the increasing scholarly interventions in Terai, with the proliferation of Chinese study centres, has also caught its attention (Kumar, 2011). Nepal has become a battleground between India and China. Nepal becomes the focal concern because of its geo-strategic location. India has enormous leverage on Nepal. To be fair, on Terai, India is in a difficult spot. Kathmandu feels that it backs the Madheshi movement to undermine the Nepali state. Madheshi actors feel that India does not adequately back their movement, and only uses them as a bargaining chip with Kathmandu (ACHR, 2009).

Survey of Literature

Major sources of study are secondary sources i.e. books and articles.

Ali Riaz, and Subho Basu book, *Paradise Lost? State Failure in Nepal* discusses how the Nepali state, founded in the eighteenth century, characterized by its extractive patrimonial nature and dependent on a monarchical political order, has failed; and the nation is standing at crossroads with a catastrophic past behind and an uncertain future ahead of it. It also deals with how since the period of Prithvi Narayan Sha, high caste elite group marginalized other people by implementing caste system. This book also highlights how these high caste communities also came to dominate the Nepali political scene.

Susan Hagen's *Creating a "New Nepal": The Ethnic Dimension*, explores the ethnic dimension and its challenges that Nepal is currently facing. Although Nepal has made a substantial progress since 2006, ethnic conflict has become a major problem. The indigenous nationalities movement and their demands are examined here and how these indigenous movements emerged to revitalize their own cultures and end the domination of high caste Hindus. The movement seeks ethnic federalism, the proportional representation of indigenous in state institutions and linguistic freedom.

Mahendra Lawoti's book *Looking Back, Looking Forward: Centralization, Multiple Conflicts, and Democratic State Building in Nepal* (2001), discusses how hierarchical caste system has instilled a values that helped to maintain the superiority of upper caste groups, which concentrated privileges in the upper castes contributed to

discrimination of marginalized groups. The post 1990 years also witnessed violent identity-based conflicts, although these were overshadowed by the Maoist insurgency. Over centralization, which continued even under the democratic 1990 Constitution, was the root of the multiple conflicts and governance crises in Nepal. The multiple problems, including governance crises, insurgency, and ethnic exclusion, that undermined the fledgling Nepali democracy were symptoms of a larger problem.

Mahindra Prasad Singh and Veena Kukreja book *Federalism in South Asia* (2014), is a systemic study of aspiring federal system in South Asia. It seeks to present a comparative political study of federal discourses in four major South Asian states, namely, India, Pakistan, Nepal, and Srilanka. Chapter 4 deals in context with Nepal. Chapter examines the history of federal discourse in Nepal taking into account the circumstances that have facilitated the demand of federalization. This chapter also deals with how ethnic groups were marginalized by hill people and because of this Madheshi people started seeking the region that is free from hill domination through the federal structure that lead to Madheshi uprising of 2007 which made the Nepal to change its unitary set up into federal structure.

Kalpana Jha's article "Contested Idea of Nation" (2015), deals with the emergence of ethnic demands in the *Terai* (Plains now known as *Madhesh*) was initially witnessed in the 1950s. This text explains various dynamics involved in the ensuing systematic Madheshi upsurge. It also highlights the repeated failure of the Constituent Assembly to draft a constitution which institutionalises the ethnic demands. The text also addresses the dynamic interplay between social, economic and political structures vis-à-vis the *Madheshi* movement.

Pramod Jaiswal's article, "Contextualizing Madheshi frustration in the wake of Nepal's New Constitution" (2015) highlights the current problems of Madheshi and how state have failed to address their problems and fulfill their demands. This article also discuss briefly about the marginalization of Madheshi people and how they struggled to fight against the state to raise their voice and the recent framing of Nepal's Constitution failed to provide a solution of Mahesi people.

N.Jayapalan book *Foreign Policy of India* (2001), highlights the foreign policies of India with big powers as well as various neighbouring countries. This book also discusses the origin of Indian foreign policy after Independence and Non- Alignment.

In context to Nepal this book discusses the attitude of New Delhi towards Nepal, consideration for strengthening democratic process in Nepal. It deals with how India helped to resolve the constitutional crisis and as well criticism by Nepal when Sikkim was acceded with India in 1973. Various issues such as trade and transits, economic blockade of 1990s have also been highlighted.

The Book *India Nepal Relations: Historical, Cultural and Political Perspective* (2011) written by Sanasam Sandhyarani discusses that India-Nepal relationship is worked out by the centuries old socio-cultural, historical and geographic connections. This book also highlights how India has over the years consistently responded with a sense of urgency to the needs of the people and Government of Nepal in ensuring the success of peace process and institutionalization of multi-party democracy through the framing of a Constitution.

S.C Bhatt book, *Triangle, India Nepal China: A Study of Treaty Relations* (2012), discusses the problem of treaty relations between India and Nepal on the other hand India and China. He highlights about the open border between India and Nepal yet Political and diplomatic relations between two countries have not been uniformly good. He has highlighted how Chinese foreign policy has influenced the course of Nepal's relation with India. He has focused more on India's relation with Nepal but he has also dealt with India's relation with China too.

Satish Kumar's article, "China's Expanding footprints in Nepal: Threat to India" (2011), discusses about how China's overstepping into Nepal has a real and concrete strategic impact on India's Himalayan security. With the already persistent insecurity of the northern neighbor that stemmed from Maoists coming into power and increasing military aid, the increasing scholarly interventions in Terai, with the proliferation of Chinese study centers, has also caught its attention. He argues that, fundamentally these Chinese agencies are building up anti- India sentiments in Nepal. China is also reaching out to the political parties of Nepal. Therefore, Nepal has become a battleground between India and China. He also discusses that Nepal has become the focal concern for India because of its geostrategic location, Himalayan frontier that has remained a prime security cutting edge ever since history and on the other hand, the porous border as an emerging security challenge and in these Tarai border has challenges the security of India due to Madheshi agitation.

Rationale and Scope of the Study

The Madheshi issue of Nepal is the one of the contentious issues. As Nepal has drafted the new constitution in 2015, there has been a protest from Madheshi groups who claim that once again they have been marginalized. The new constitution does not really promise to end the longstanding political and cultural hegemony of hill Brahmins, followed by Chhetri and Newars, over Madheshi communities. This Madheshi problem has also raised a question in terms of India-Nepal relationship as both of the countries share common socio-culture, history and common geographical boarder. India wants Nepal to address the demands of Madheshi people which otherwise leads to spill over. If Madheshi problems are not addressed, there may be the possibilities of effecting India-Nepal relationship.

Objectives of the Study

1. To understand the nature of the Madheshi problem and Nepal's response to it.
2. To examine whether Madheshi problem in Nepal is a significant factor in India-Nepal relations.

Research Questions

1. What is the nature of Madheshi problem in Nepal and how is the Nepal government responding to it?
3. Is Madheshi problem in Nepal a significant factor in India-Nepal relations?

Methodology

The study will follow historical analytical method. Both primary and secondary sources will be used for the study. The study is mainly descriptive.

Chapterisation

Introduction

It deals with brief overview of historical background of Nepal and political transformation from Monarch to Democracy, how political transformation gave birth to various identity politics in Nepal.

Chapter I: The Madheshi Question in Nepal

This chapter reflects the rise of the Madheshi movement in Nepal. It highlights the core issues and demands of Madheshi people.

Chapter II: The Response of Nepal State to the Madheshi Problem

This chapter deals with the response of the State into the Madheshi problem since the unification of Nepal by Prithivi Narayan Shah in 1769 till present day and how State have addressed their problems.

Chapter III: The Madheshi Factor in India-Nepal Relations

This chapter looks into India-Nepal relations in regard to Madheshi problem and its implication to India-Nepal relations.

Conclusion

This chapter will make a concluding remark of the study.

Chapter-I

The Madheshi Question in Nepal

1.1. Introduction

Nepal is landlocked by India on three sides and China's Tibet region to the north. Nepal has a very formidable terrain and tremendous geographic diversity. Nepal has three different ecological zones that stretch over 145 to 241 kilometres at its breadth: in the north there are high Himalayan ranges bordering Tibet, Hills in the middle and the flat stretch of plain land bordering India in the South. These three different zones have also been considered as the division for administrative and socio-economic planning. These zones are quite different in terms of climate, physical features, landscape and altitude. The land area of the Mountain Region lies at an altitude of 4,877 metres to 8,848 metres above sea level. This zone makes up 35% of the total land area of Nepal. It includes the rocky areas of the Himalayan range that are not appropriate for human settlements. Hill zone lies at an altitude of 610 to 4,877 metres above sea level. This zone covers 42% of the land area of Nepal. There are many valleys and river basins located in this region that are suitable for human settlement, for example Kathmandu and Pokhara. Tarai zone is situated at an altitude less than or equal to 610 metres above sea level. It is the most fertile and low-lying region of Nepal and constitutes 23% of the total land area of Nepal. Although Nepal is a small country in terms of its geography but elevation changes drastically in a short span due to its unique and varying physiographic regions, which includes high Himalayas, high mountains, middle mountains, Siwalik and Terai. Nepal is indeed very rich in biodiversity and socio-cultural diversity due to its unique and varying physiographic regions. Nepal is proud of owning 5,400 species of higher plants (2.2 percent of the world figure), 850 birds (9.4 per cent of Nepal's share of world's record), fish fauna amount to 170 species, mammals 175 species dragon fly 180 species, moths 50 species, the butterflies over 600 species, 7,000 vascular plants, lichen 500, Fungi 1,700 (Shrestha, and Gupta, 1993).

Modern history of Nepal begins from the period of Prithvi Nararayan Shah (c 1769-1775). Malla dynasty ruled the Kathmandu valley until almost the end of the 14th

century before Shah dynasty. During Malla dynasty the foundation of city Kantipur (later Kathmandu) was laid. During the period the Malla kings ruled the Kathmandu Valley, Nepal was divided into a total of forty six principalities, not counting those in the valley. They were aggregately known as the Chaubise⁴ and the Baise.⁵ Those fiefdoms were invariably associated with immigrant Hindu chiefs from India. Over time, they carved out separate fiefdoms for themselves and their progeny in hill areas largely inhabited by various indigenous tribes of Mongoloid origin, eventually bringing them under their rule. They were a bickering bunch, constantly engaged in petty quarrels and rarely finding common ground or seeing a bigger picture. As a result, few rose above their petty heights to form a large territorial foundation, though a few certainly made some feeble attempts. Among the fiefdoms was the House of Gorkha, founded in 1559 by Dravya Shah, located in today's Gorkha district in the central hills. It was in the Chaubise group (Shrestha, 2002). Jayasthiti Malla who commences the later Malla period in the Kathmandu Valley, reigned towards the end of the 14th century. Though his rule was short, his place among the rulers in the valley is eminent for the various social and economic reformation such as 'Sanskritization' of the valley people, new methods of land measurement and allocation etc (Devi, 2011).

Prithivi Narayan Shah was the ninth generation descendant of Dravya Sha (1559-1570), the founder of the ruling house of Gorkha. Prithivi Narayan Shah succeeded his father King Nara Bhupal Shah to the throne of Gorkha in 1743 A.D. (Devi, 2011). He was quite aware of the political situation of the valley kingdoms as well as of the Baise and Chaubisi principalities. He foresaw the need for unifying the small principalities as an urgent condition for the survival in the future and set him as an urgent condition for survival in the future and set himself to the task accordingly. His assessment of the situation among the hill principalities was correct, and the principalities were subjugated fairly easily. King Prithivi Narayan Sha's victory march began with the conquest of Nuwakot, which lies between Katmandu and Gorkha, in 1744.

After Nuwakot, he occupied strategic points in the hills surrounding the Kathmandu Valley. The Valleys communications with the outside world were cut off. The

⁴ Twenty-four principalities located in the central hills.

⁵ Twenty-two principalities concentrated in the western hills.

occupation of the Kuti Pass in about 1756 stopped the valleys trade with Tibet. Finally, King Prithivi Narayan Shah entered the valley. After the victory of Kritipur, King Jay Prakash Malla of Kathmandu sought help from the British and so the East India Company sent a contingent of soldiers under captain Kinloch in 1769. The British force was defeated at Sindhuli by King Prithivi Narayan Shah's army. These defeat of the British completely shattered the hopes of King Jay Prakash Malla. The capture of Kathmandu (September 25, 1768) was dramatic. As the people of Kathmandu were celebrating the festival of Indra Jatra, Prithivi Narayan Shah and his men marched into the city. King Prithivi Narayan Shah was successful in bringing together diverse religio-ethnic groups under one Nation. He was a true nationalist in his outlook and was in favour of adopting a closed-door policy with regard to British. Not only his social and economic views guided the country's socio economic course for a long time, his use of the imaginary, yam between two boulders in Nepal's geo-political context, formed the principle guideline of the country's foreign policy for future century (Devi, 2011). For twenty-six years, he organized blockades, sieges, and assaults that ultimately enabled him to conquer the valley comprising sixty local kingdoms. Prithvi Narayan and his successors did not stop with this formidable achievement and went on to further expand their kingdom, incorporating the Himalayan foothills as far as Sikkim in the east and the Kangra Valley in the west. They thus gave birth to another princely polity in South Asia.

After conquering Kathmandu Valley, Prithvi Narayan Shah reduced the ChhaThar Ghar⁶ into Char-Thar Ghar,⁷ he excluded Magar and Gurung. He also at a same time launched a state policy of Hinduization with the concept of Asali Hindusthan and Gorkhaization, seeking Gorkhali people's hegemony over all the ethnic groups defeated by the Gorkha. Prithvinarayan Shah was well aware of the heteronymous character of the newly annexed territories and its complex ethnic mix which lacked even a single common bond of nationality. Recognizing the fact that the feelings of nationalism can be generated only by the binding factors like common language, culture, or even by the feeling of a shared nationality - and that none of the above mentioned factors were present in the unified principalities termed as Nepal, the Gorkha king tried to give his kingdom a uniform identity - which saw the Gorkhanisation [commonly interpreted as Nepalisation or Hinduisation] of the diverse

⁶ Six family lineage system to support king for policy making.

⁷ four-family lineage, comprising Shah, Pande, Thapa and Basnyat.

Himalayan society. He did this by introducing homogeneous national culture based on common religion (Hinduism), language (Nepali i.e. Khas Bhasa) and a uniform social structure on the lines of four-fold Hindu caste division.

The state started donating new Guthis (land) to Brahmin priests. Guthi donation was accelerated "particularly to those areas where Hinduism was nominal, i.e., towards the eastern region". For example, twenty-eight Brahmin families were settled in July 1811 in the Hattigisa of Morong, in eastern Nepal (Chauhan, 1989). When Nepal's emerged as a nation-state in 1768, Brahmins and Kshatriyas became the ruling elite and dominated other caste. In order to make people respect for Brahmins, royal orders was implicated repeatedly to urge the people to respect Brahmin and not to take the flesh of dead cattle, as Brahmins consider cattle like cow and ox as sacred. The government further ordered that "only the Brahmin could perform religious ceremonies in the houses of individuals and none else", and "Brahmin would not be put to death throughout the kingdom howsoever heinous his crime might be"-though "he could be degraded from his caste and imprisoned" (Chauhan, 1989). The government employed 65 postmen in 1825-26, allotting them rice land on Adhiya tenure. The high-caste postmen were allotted 95 to 105 Murris each, and the low-caste postmen, only 35 to 45 Murris (ibid).

Only Gorkha were recruited in the Military and Civil stalwarts from only the Gorkha from among Brahmins and Kshatriyas by Shah dynasty. Chauhan defined Gorkha as "those progeny of Brahmins and Kshatriyas who had migrated from southern plains and had come into contact with the Khas and Magars of this region, and who had accepted the Hindu religion, including diet and deity". Indigenous groups like Newars in Kathmandu Valley and Tamangs in surrounding area of Kathmandu were excluded from the elite group. As regards the Shah dynasty's policy towards other religions such as Christianity and Islam, "as soon as Gorkha conquered the Kathmandu Valley in 1768-69 Catholic missionaries and their local converts were expelled". Islam was termed Ulto Dharma (opposite religion) (Goborieau, 1972). Prithvi Narayan Shah granted rights to the Limbus of eastern Nepal to practise their traditional customs, gave them control over their communal land (Kipat), and allowed internal rule by their traditional chiefs. Over time, however, as the kingdom became more centralized both politically and administratively, the ruling elites not only gained more control

over economic resources, especially land, but also imposed a more homogeneous (Parbatiya) cultural matrix on the diverse social, cultural, and religious groups.

Whether by consensus or by the sword, the Shah dynasty unified more than fifty-six principalities in a single garland but failed to achieve its objective of projecting a unified and prosperous Nepal on the world map. Soon after the demise of Prithvi Narayan Shah, the fortunes of the dynasty declined. While the Brahmins and Kshatriyas continued to be the ruling elite, the erstwhile elite—the Char-Thar Ghar continued their contention for power. "None of the Mukhtiyars or regents between 1769 to 1846 died a natural death; their lives were ended abruptly either by the assassin's bullet or sword or by their own hand" (Joshi, and Rose, 1966). The Shah dynasty had virtually become pawns in the hands of a few rival groups which had monopolized the army, bureaucracy, and the local control (Chauhan, 1989).

Jang Bahadur Kunwar Rana, a powerful member of the court, usurped real power. In 1846 he massacred many members of the royal household and compelled the king to appoint him as the prime minister. The Rana family gained power as hereditary prime ministers and reduced the monarch to a figurehead. Through the *Lal Panja* edict of 1856, the monarch transferred power to Jang Bahadur Kunwar and his male heirs. Thus, the Rana family became the hereditary prime ministers and de facto head of the state. Under the Ranas⁸ Nepal became a model patrimonial state where political rights and economic rights converged, in the sense that political power claimed ownership of all resources. Even the royal household depended on the Rana family for access to throne. Ranas, on the other hand, in order to gain further legitimacy, arranged marital alliances with the royal family, thereby transforming the royal Shah family into an extension of the Rana family. While the monarch remained titular head of state, the Rana family became the true power of the land (Shaha, 1990).

To further consolidate his rule, the founder of the Rana family, Jang Bahadur Kunwar Rana assumed the title of Maharaja of Lamjung and Kaski and also assumed control over the army as the commander in chief. Being the patriarch of the patrimonial state, Ranas distributed largesse among members of the family and established a precedent of honor call, which implied that the prime minister would recruit from his extended kin the highest-ranking members of bureaucracy in an institutional manner. The lower

⁸ Ranas are referred to the entire Rana clan which produced long lines of prime ministers.

level of bureaucracy was selected on the basis of demonstration of loyalty to the regime, acceptance of gifts, and bribes. This obviously created a wider network of patron-client relationships and a culture of sycophancy pervaded all levels of the bureaucratic elites (Bista, 1991). As in any patrimonial state the real source of power was the ruling elites' tight control over the army. Rana's position as hereditary commander in chief gave him substantial power to exercise this control. Jang Bahadur Kunwar Rana also shrewdly recognized that the military oligarchy needed religious sanction in order to secure obedience of their subjects. He also understood that a religious structure could be utilized to create a hierarchical social order that would buttress his authority. Here the earlier process of state formation under the Shah dynasty, and myths and legends associated with the princely family and the evolution of the caste system, provided the impetus for the construction of new religious social order. The social system of the new Nepali state drew upon the caste structure of the *Parbatya* people of the middle hills or areas surrounding the Kathmandu valley. In the late eighteenth century the caste system in this region consisted of *Bahun*s (Brahmins) at the top followed by *Chetris* (*Khastriyas*) with a tiny minority of the royal caste among them, namely *Thakuri*. These high castes supervised the political system and extracted surplus both in kind and labor from low caste artisans (Gellner, 1997). With the expansion of territory, the Nepali monarchy in the pre-Rana days bolstered the economic and political positions of upper caste elites through official appointments and land grants.

The gravest crisis to the Rana Dynasty and Maharaj Padma Shamsher came in the late 1940s. The year 1947 proved ominous for Rana regime in mainly two ways Firstly, the formation of Nepali congress, and the wide-scale anti-Rana movement organised by it, baffled the Ranas on how to tackle the situation. Secondly, the British decision to leave India, deprived the Ranas of the powerful external support which was unlikely of the new Indian Government (Joshi, 2014). The opposition to Rana came not only from general public, but also from the political parties, the dissident Ranas and the Nepalese Monarchy. King Tribhuwan who was a "prisoner" of the Ranas in the Palace and desired "to regain his power" joined hands with the people and the Nepali Congress to overthrow the Rana autocracy. Nepali Congress was pioneering a popular movement against the Rana with the flight of the Royal family on November 6, 1950 to the Indian embassy in Kathmandu, the Revolution broke out all over Nepal and the people and the Nepali Congress struck the Ranas fast (Agarwal, 1980). King

Tribhuvan along with his family was flown to New Delhi, four days later, in an Indian Air Force plane. The Ranas installed Gyanendra, the three year old grandson of King Tribhuvan on the throne, but neither the Nepali people, nor the international community recognised the accession of infant King. After 104 days of bloodbath, the 104 years old Rana regim collapsed under the weight of the popular movement. Tripartite talks began in Delhi in February 1951 between the King, the Ranas and the Nepali Congress, which concluded in the historic "Delhi Agreement" on 12th February 1951. The Revolution 1950-51 was unique, since the King joined forces with the people at the risk of his Crown (Joshi, 2014).

The period 1951-60 thereafter combined democracy and autocracy. During this period Nepal became free from "isolation" of the world and constitutional and social changes occurred as a result of the people's movement. An interim people's government was constituted to bring about a democratic system through a constituent assembly. This interim government lasted nine months. The king, who had been freed from the stranglehold of the Ranas with the support of the people, had promised to let the democratic system prevail in the country. However, the first eight years of this period were consumed by "the king's experiment" and the struggle between pro-democratic and autocratic forces. The king, who in 1951 had declared that the monarch would be accommodated as a "constitutional monarch" under the constitution, two years later refused to be under the constitution and declared that "supreme rights are vested in the king". In 1955 a committee constituted by the government nominated by the king, called Nepal National Education Planning Commission, recommended the exclusive use of Nepali language so that "other languages will gradually disappear and greater national strength and unity will result" (Whelpton, 1997). This was later accommodated in the Panchayat slogan-Ek Bhasa, Ek Bhes, Ek Desh (one language, one dress, one country). An elected government had its tenure only for nineteen months (27 May 1959 to 15 December 1960).

The first elected prime minister, B.P. Koirala, was reported to have "antagonized orthodox Hindus and the conservatives" (Joshi, and Rose, 1966). The main slogan of his party, the Nepali Congress (NC), in the election was to eradicate the roots of the economic and traditional social inequalities. The party's manifesto included abolition of the proprietor system, abolition of Rajyas (principalities which enjoyed semi-autonomy), a ceiling on landholding and redistribution of the excess land, nationalize

forests, and promotion cooperative farming. The manifesto also promised to guarantee the right of every citizen to practise the religion of his choice and to encourage the development of regional and local languages. The Koirala government, after being successfully elected, declared a twenty-five-year plan to achieve socialism in Nepal. The government aimed to fulfil the basic needs of the people with a cow and some land per household. King Mahendra carried out a royal coup 18 months later, in 1960. He dismissed the elected Koirala government, declared that a “partyless” panchayat system would govern Nepal, and promulgated another new constitution on December 16, 1960. Subsequently, the elected Prime Minister, Members of Parliament and hundreds of democratic activists were arrested. In fact, this trend to arrest of political activists and democratic supporters continued for the entire 30 year period of partyless Panchayati System under king Mahendra and then his son, King Birendra (Devi, 2011)

In 1989, the ever susceptible and corrupt panchayat system came under renewed assault. But panchayat was largely a pretext, not the real target. Although many may dispute it, what was actually coming under assault was the monarchy itself, as it remained a symbol of both reverence and revulsion. Monarchy is a socio political divide, and the forces of revulsion were resurfacing to challenge it once again. The assault came from different fronts, culminating in the eventual complete dismantling of the panchayat system. The disintegration of the Berlin Wall and the Soviet Union and the subsequent success of the democracy movement in Eastern Europe gave new impetus for the pro-democracy movement in Nepal. The country was reeling from the economic embargo that India imposed in 1989. Ever-simmering disenchantment was beginning to openly surface in the form of protest. In late 1989, the banned Nepali Congress Party and Communist Party of Nepal formed a coalition to present a united front to pose a serious challenge to King Birendra’s regime. As a result, thirty years after the first coming of democracy was prematurely aborted by King Mahendra, the Movement for the Restoration of Democracy was established on February 18, 1990, followed by a series of anti panchayat demonstrations and rallies all across the nation. Violence, numerous arrests, and deaths ensued. Consequently, political uprising became even more widespread (Shrestha, 2002). In April 1990, the panchayat government was replaced by a multiparty interim government under the prime ministership of the Nepali Congress Party leader Krishna Prasad Bhattarai. In November 1990, a new constitution was approved, reducing the monarchy to more or

less a constitutional status. Almost a year later, in May 1991, general elections were held. The NC wins and Girija Prasad Koirala was elected a prime minister.

The return of party democracy in 1990 did not made much differences and failed to address the issue of excluded groups, the intensity of the discontent increased enabling the Maoist insurgents to use these disparities successfully as a basis for recruitment and justification of the People's War. Recent studies (UNDP, 2004; World Bank/DFID, 2005; World Bank, 2006) have documented these disparities using national data sets like the Census, the National Living Standards Survey II and the 2001 DHS. Social exclusion and discrimination against Dalits, Janajatis, Muslims and Madheshi is now out in the open. Discrimination against women which has been talked about for decades, but never taken seriously by politicians or bureaucrats is now given much more weight. One of the major demands of the Jana Andolan II was not just democracy, but more inclusive democracy and greater government attention to overcoming the persistent disparities between the dominant high caste Parbatiyas and the urban Newars (along with a few other Janajati groups and certain powerful Madheshi castes) – and the rest of the country (NDHS, 2006).

Thus although a parliamentary democracy of sorts was introduced in 1991, consecutive governments were unstable and beneath the outward signs of democratic politics there lay deep socio economic cleavages. There is a view that monarchical rule ended with the assassination of King Birendra and his immediate family members in June 2001. His younger brother Gyanendra ascended the throne and pledged to build a meaningful democracy and restore peace. From the beginning Gyanendra was hampered by a problem of legitimacy. This was the second time he had assumed the throne - the first was in 1950 when his grandfather fled to India during the revolution against the Rana oligarchy. As then, Nepalis found it difficult to accept his rule because of his extensive business interests, authoritarian inclinations, and little interest in the welfare of Nepali society. On assuming power in 2001, he alienated the political parties committed to a constitutional monarchy, pushing them closer to the anti-monarchist Communist Party of Nepal-Maoist (CPN-M). The king centralized all powers, simultaneously ascribing to himself the positions of head of state, head of government, and supreme commander of the army. He arbitrarily granted extensive security powers to the army, police, and intelligence agencies, and curtailed civil liberties. The king's refusal to work with political parties produced a series of

developments which almost cost him the throne. First, factions within the CPN-M patched up their differences and the CPN-M became a united party. Second, the seven political parties represented in the dissolved parliament formed the Seven Party Alliance (SPA) to coordinate their fight for a return to democracy. Lastly, the SPA coalition joined with the CPN-M to launch a political movement. In just 19 days, between April 6 and 24 2006, the royal regime collapsed, creating a third opportunity for democracy-building. Before attempting a critical analysis of Nepal's experiment in democracy-building following the events of April 2006, it is important first to understand the role of the Maoist insurgents in challenging the 240-year Hindu monarchy and in placing themselves at the centre of modern Nepali politics (Thapa, 2007).

1.2. Madhesh and Madheshi

During the Neolithic age, the first people who settled in eastern Tarai were Ahirs,⁹ cowherds by occupation (Mishra, 1981). According to the mythological texts, during the ancient and mediaeval age, Madhesh was the home of Ashrams of mystics, hermits, saints and sages. The Ashram of Balmiki was in Triveni, or as it is called by the Indian people living across the border, Bhainshalotan, of Lumbini zone; The river Gandaki is named after a hermit called Gandak; the river Koshi is named after a hermit called Kaushik. According to the Hindu holy texts, the place for exercising austerity by a sage called Gautam was in Madhesh. The mystic Yaagyanwalyaka's Ashram was in Dhanusha district (Shrestha , 2015). During the ancient period, this region had many federal states, among them were Mithila or Videha, Tirbhukti, Shakya, and Koliya.

Madhesh has a long historical background dating back to the kingdom of Videha or Mithila established in eastern to central Madhesh and a part of the present day north Bihar, India (Malangia, 1997). In the mid western Madhesh, Shakya kings ruled in 600 BC, the Buddha belonging to the Shakya dynasty was born in 563 BC. Similarly, kingdoms were established in Simraun Garh in the present day Bara district. In

⁹ Cattle-tending caste widespread in northern and central India. Considerable historical interest attaches to this caste, because its members are thought to be identical with the Abhiras of Sanskrit literature, who are mentioned repeatedly in the great epic the Mahabharata. Some scholars contend that these cattlemen, scattered over southern Rājasthān and Sind (now part of Pakistan), played a role of importance in the early development of the god Krishna as the cowherd, which has continued to be a significant aspect of the Krishna legend.

Madhesh, several kingdoms were established and ruled by many dynasties (Thakur, 1956), which all perished with time and were abandoned and the land converted into forests. Gaige (1975) concluded: “the ancient and medieval history of this region is a cyclic one in which men and forests have dominated in terms”.

Madhesh was incorporated into Nepal in 1769 by King Prithvi Narayan Shah of Gorkha, after that by Sugauli Treaty map of Tarai was redrawn which was concluded between British India and Nepal in 1816. The treaty caused the people living in Madhesh to remain separately across the international borders dividing India and Nepal. Madheshi have ever since been divided, with no change in their status.

The political boundary of Nepal changed several times during the early nineteenth century (1806-1860), and so did the southern strips of the Tarai or Madhesh. The reason was the Gorkhali expansion of the Shah Kings along the Himalaya in the late 18th and early 19th centuries paralleling the British advances on the Gangetic Plains. There were inevitable conflicts between the administrators and armies of the two contenders whenever they came face to face. At the end of the eighteenth century, the British embarked on a programme of rationalization of their administration. The British felt that the administrative measures, such as the Permanent Settlement of 1793, with regard to land revenues and proper protection of the people subject to their government, required a clearly defined and demarcated boundary. The easiest way to achieve these goals was to establish border lines along the ranges of the hills. This made some sense from the military point of view as well. Although the disputed land (Tarai) had comparatively insignificant value for the East India Company, it had great importance for the Nepalese, for whom it formed a part and parcel of the real fruits of their conquests.

Once the military structure grew to the size required for the continued expansion of Nepal, only the large stretches of the very fertile land in the Tarai, both cultivated and virgin, could satisfy the increased demands for space and resources that the system required. It was from these lands that the military commanders and the upper echelons of government were paid their salaries (Stiller, 1975). In order to settle the border disputes, the East India Company put forward two options before Nepal: either accept an annual stipend of 200,000 rupees to be paid by the Company to the Bhardars (relatives of the ruler) for relinquishing their rights over their lands in the Tarai territories or face imminent war. Since Nepal did not want to lose the Tarai belt at any

cost, its rulers chose the second option. The contest for the control of Butwal and Shivraj (the present Kapilvastu and Rupandehi districts) in western Tarai ultimately led to the Anglo-Nepali War of 1814-16. The British also considered annexing the Nepal Tarai as a means of cutting off this valuable source of revenue and thereby financially crippling the government in Kathmandu (Gaige, 1975). As per the ensuing terms and conditions of the Sugauli Treaty of December 1816, Nepal lost the entire Tarai to the East India Company. One year later, however, the eastern and central strips from the Mechi River to the western Rapti river were returned to Nepal. In 1860, after the Gorkhas aided the British during the Indian "Sepoy" Mutiny (1857-58), western Tarai was also returned. The present international boundary of Nepal, from Mechi to Mahakali, is the political demarcation that has been put into effect since 1860.

Nepal has three different ecological zones: the high Himalayan ranges bordering Tibet in the North, the Mahabharata Mountains and Hills in the middle and the flat stretch of plain land bordering India in the South. These three different zones have also been considered as the division for administrative and socio-economic planning. Tarai which lies in the plain land bordering India has twenty districts out of the total 75 districts in the country and is the home for 49 per cent of the country's population (CBS, 2001). Tarai is defined as the landmass at the foothills of Nepal's Himalayan mountain and hill ranges, beginning typically from the succeeding low hill chains called the Mahabharata, Siwalik and Churi ranges to the wet and swampy land to the south, touching the vast Gangetic plains of India. The Tarai includes twenty districts: from east to west, Jhapa, Morang, Sunsari, Saptari, Siraha, Dhanusha, Mahottari, Sarlahi, Rautahat, Bara, Parsa, Chitwan, Nawalparasi, Rupandehi, Kapilbastu, Dang, Banke, Bardia, Kailali and Kanchanpur. In contemporary Nepal, the most politically salient socio cultural groups are the high-caste Hindu from the hills, the low-caste Hindu (Dalit), ethnic groups (indigenous nationalities, or adivasi Janjati), and the Madheshi (people from the Tarai region, including both ethnic and caste groups) (Hagen, 2007). Madhesh or Terai lies at the foothills of Himalayas. It is mostly the plain land on the southern side of Siwalik range in Nepal. It is situated in the Outer Himalayan Zone, and has been created by organic activity as well as by alluvial action in the Siwaliks and the Himalayan ranges (Spate, and Learmonth, 1967). In addition to the plain land, it includes some low lying inner valleys, north of Siwaliks, and is referred as "Vitri Madhesh" (Inner Madhesh). Its total area is 23,068 square

kilometres. The climate of Tarai is subtropical, similar to northern plains of India. The hot and humid summer lasts from March to June, and the monsoon from late June to late September, the winter from November.

The term Madhes implies to the Gangetic plain and the *Vitri Madhesh* area bordering India on the southern side and spreading north up to the foothill of Siwalik range. Madhesh extends from the foothill of the Himalayan region in the north to the Vidhyachal mountain in the south situated in central India. Madhesh is a well defined ecological region, which is approximately 885 km long from its western boundary, the Mahakali River, to its eastern boundary, the Mechi River while its average width along its entire east-west axis is only 26 km varying from 4 km to 52 km. The term Madhes implies to the Gangetic plain and the *Vitri Madhesh* area bordering India on the southern side and spreading north up to the foothill of Siwalik range. The word Madhesh is derived from Sanskrit word 'Madhyadesh' which extends from the foothill of the Himalayan region in the north to the Vidhyachal mountain in the south situated in central India.

According to the CBS (2011), as of June 22, 2011, Nepal's population was 26,494,504. Terai constitutes 50.27% of the population (13,318,705) while the hill and mountain terrains constitute 43% (11,394,007) and 6.73% (1,781,792) of the population respectively (see table 1.1). As the rising awareness of caste/ethnicity as cultural identities of people has increased in recent years in Nepal, people have started identifying themselves as a separate cultural group than the "other" category. Caste/ethnicity has also become a distinct cultural identity of people (Dahal, 2014). Despite the tremendous importance of ethnic/caste studies in Nepal, no detailed anthropological/sociological survey has been carried out in Nepal to date to identify different ethnic and caste groups and their cultures. Because of this gap in data, the number of ethnic/caste groups differs from one source to another. The CBS identified only 60 ethnic/caste groups in the 1991 census, 100 ethnic/caste groups were further identified in the 2001 census and the list of ethnic/caste groups was 125 in the 2011 census.

Table 1.1: Distribution of population by ecological zones, Nepal, 1952/54-2011

CensusYears	Mountain	Hill	Mountain Hill	Tarai	Total
1952/54	-	-	5,349,988	2,906,637	8,256,625
	-	-	(64.8)	(35.2)	
1961	-	-	5,991,297	3,421,699	9,412,996
	-	-	(63.6)	(36.4)	
1971	1,138,610	6,071,407	7,210,017	4,345,966	11,555,983
	(9.9)	(52.5)	(62.4)	(37.6)	
1981	1,302,896	7,163,115	8,466,011	6,556,828	15,022,839
	(8.7)	(47.7)	(56.4)	(43.6)	
1991	1,443,130	8,419,889	9,863,019	8,628,078	18,491,097
	(7.8)	(45.5)	(53.3)	(46.7)	
2001	1,687,859	10,251,111	11,938,970	11,212,453	23,151,423
	(7.3)	(44.3)	(51.6)	(48.4)	
2011	1,781,792	11,394,007	13,175,799	13,318,705	26,494,504
	(6.7)	(43.0)	(49.7)	(50.3)	

Source: CBS 2014

Note: Figures in the parenthesis indicate percentage of the total population.

The increased number of ethnic caste groups over a period of time is due to the rising ethnic awareness and cultural identity among various groups of people in Nepal since 1990. Twenty-five ethnic/caste groups were added in different ecological regions. From the Hill region, a large number of Adibasi/Janajati groups were added because many sub-cultural groups were listed in the 2011 census (see Table 1.2 below). The Table clearly shows that a number of ethnic/caste groups were added in the Mountain, Hill and Tarai in the 2011 census. In the Mountain, Hill and Tarai, 80%, 22.2% and 22% of groups have been added respectively. The increasing number of groups over the period of time between censuses clearly shows that ethnic awareness and the cultural identity of people have become more pronounced over the years. It further shows that Nepal is a multi-ethnic country, which could pose challenges for the nation-building process in the coming years (such as the federalisation of Nepal with caste/ethnicity principles). On the other hand, diverse cultural groups are also assets of the nation as they have distinct forms of art, technology, food, dance, songs etc. contributing to the greater Nepali culture. There are only two ethnic/caste groups which were reported in the 2001 census and not reported in the 2011 census: Jain and Churaute. The Jain or Jaine group, which was reported separately in the 2001 census,

is merged with the Marwari category in the 2011 census. It is because Jain is a religious rather than a separate cultural group (CBS, 2011).

Table 1.2: Some distinct ethnic/caste features reported in the 1991, 2001 and 2011 census

Region	1991 census	2001 census	2011 census
Total ethnic /caste groups reported	60	100	125
Mountain	3	5	9
Hill	27	45	55
Tarai	29	50	61
Addition of ethnic/caste groups from previous census	Not applicable	40	25
Ethnic/caste groups listed in the previous census were not reported in following census	Not applicable	1	2
Ethnic/caste groups' population counted in "other" category (%)	4.44	1.80	1.04
Number of ethnic /caste groups whose population size declined than the previous census	Not applicable	9	10

Source: CBS, 1991, 2001 and 2011 censuses

The population in Nepal is generally classified under three major overlapping divisions: (i) the hierarchical caste-structured (Jats) vis-a-vis egalitarian ethnic groups (Janjatis); (ii) the high or ritually "pure" vis-a-vis the low, ritually "impure untouchable" castes (Dalits); and (iii) residence by region-Pahadis (hill people) vis-a-vis Madheshi (people of the Tarai). There are significant cultural differences between the caste and ethnic groups as there are between Pahadis and Madheshi. The caste groups (Jats) are Caucasoid Hindus speaking various Indo-European languages such as Nepali, Maithili, and Bhojpuri. The ethnic groups (Janjatis) comprise mainly Mongoloid stock, speak various Tibeto-Burman languages such as Tamang, Gurung, Newari, and Magar, and profess religions such as Buddhism, Animism, Kirat, and Hinduism. While the castes are hierarchically structured in terms of ritual purity, the ethnic groups are more egalitarian in their social structure. The Newars, an ethnic group, who are internally structured by castes, are an exception. Among the caste

structured groups, there is a fundamental division between the ritually "pure" castes, such as Brahmin, Chhetri (Kshatriya), Kayastha, and the "untouchable" castes, such as Kami, Sarki, Chyame/Chamars, and Damai, commonly known as Dalits these days. Many ethnic groups influenced by the Hindu caste ideology also consider the Dalits as "untouchables". In other words, the division between Dalits and all other groups ("upper" castes and ethnic) is as fundamental as the division between the caste structured Hindus and the ethnic groups. The Pahadis comprise diverse groups such as the Nepali-speaking Parbatiya castes as well as ethnic groups such as Tamang, Magar, and Rai, each with its own language, culture, and religion. Similarly, the Madheshi are composed of various castes such as Brahmin and Dalit, linguistic groups such as Maithili and Bhojpuri, ethnic groups such as Tharu and Danuwar, and religious groups such as Hindu and Muslim. The Pahadis consider themselves culturally distinct from the Madheshi even though there are many similarities among the caste groups who are Hindus and speak Indo-European languages (Gurung, 2001). The total land area of the Madhesh is less than 34,109 square kilometres (13,170 sq mi) and comprises 20 districts which account for 23.1% of Nepal's total area. According to the population census in 2011, the Madheshi people made up about 35.9% of the total Nepalese population. In 2001, 47.79% of Nepal's total population of 23.2 million lived in Tarai districts with a density of 329 persons/km (CBS, 2011).

The Tarai encompasses great linguistic and social diversity. Madheshi speak Maithili, Bhojpuri, Awadhi and Hindi, some languages also spoken across the border, while ethnic groups such as Tharus have their own languages (Gurung, 2003).¹⁰ Among Hindus, Brahmans and Kshatriya groups, primarily Thakurs and Rajputs are at the top of the caste hierarchy, while the untouchables, Dalits, are considered impure (Jha, 2003; Action Aid, 1999)¹¹. There is also a substantial presence of the middle castes like the Adavs, who are otherwise at the bottom of the caste structure but rank above Dalits. Caste divisions govern social relations, play a significant role in forming political choices and often shape economic stratification.

¹⁰ Maithili is the most widely spoken language in Nepal after Nepali; along with Bhojpuri and Awadhi, it is closely related to Hindi and often referred to on the Indian side of the border as a regional variant. The ethnic groups speak languages from the Tibeto-Bunnan, Austro-Asiatic and Dravidian families.

¹¹ In Tarai, significant Dalit communities include Chamars (1.19 per cent of the national population) Musahar (0.76 percent). There are also Dushad, Dhobi, Khatwe, Tamta, Santhal, Jhangad, Wantar, Kahar, Mali, Dome and Halkhor communities. For data and other information on Dalit issues, see Jagaran Media Centre, www.jagaranmedia.org.np; Hari Bansh jha (ed.), *Dalit and Dalit Women of Tarai* (Katluruindu, 2003); and "The Tarai Dalits in Nepal", Action Aid Nepal, 1999.

Madhesh is renowned for the World Heritage Site of Lumbini in Kapilvastu district in the western region denoting the birthplace of Lord Buddha. Central and eastern Madhesh is the seat of Mithila culture, with its identity chiefly enshrined in Janakpur, the birthplace of Sita, the consort of Lord Ram. Madhesh abounds in exotic and indigenous fauna and flora of Nepal, with several national park reserves and bird sanctuaries to house them. Arable land and water resources are in plenty in Tarai districts; nearly 47 per cent of the country's arable land (about 3 million hectares) and about 28 per cent forest area lie in this region. The groundwater available in the region could irrigate 1.9 million hectares of land. All the rivers flow through this region to India.

According to C.K. Lal, a noted Nepal political analyst, when the Aryans came 3500 years ago, they referred to the Tarai region as Madhyadesh or central country; The Nepali rulers later on corrupted it as Badesh and referred to the indigenous people such as the Tharus as Badeshis. It was only of late that Badhesi became Madhesi¹²(Shah, 2006). Madhesi are the non-hill origin people living in Madhesh region. The Madhesi community is composed of the traditional Hindu caste hierarchy such as Brahmin, Kshatriya, Baisya and Dalits, and indigenous Janjati ethnic groups, other native tribes and Muslims. Gaige (1975) used the terms 'hill people' and 'plains people' living in Tarai districts, and defined a) "plains people are those who speak plains languages as their mother tongues or first language, whether they were born or live in the plains or hills", the plains language Madhesi are the indigenous "non-hill origin" inhabitants of the Tarai. They include such indigenous ethnic nationalities as Tharu, Rajbanshi, Meche, Dhimal and other tribals as well as the people of different Hindu caste groups whose religious traditions, languages, social lifestyles and customs, foods and clothes are similar to those of the people living in the Gangetic plains of India. People of different religious beliefs such as Islam, Sikhism and Jainism and other faiths, including ancient animism and nature worship, are also found in the Madhesh mosaic.

The term "Madhes" is used as a near synonym of Tarai and "Madhesi" (used for people), have distinct political connotations. "Madhes" is derived from the Sanskrit *madhyadesh*, meaning "middle country". In broad terms it can refer to a region

¹² Lal CK, 2002.

stretching from the Himalayan foothills to the Vindhya hills of central India. The narrower reference “Madhes” in current usage is a relatively recent development. Madhes generally denotes the plains of eastern and central Tarai, while Madhesi have been defined as non-*pahadis* with plains languages as their mother tongue, regardless of their place of birth or residence (Gaige, 1975). The term encompasses both caste Hindus and Muslims and, in some definitions, the indigenous Tarai ethnic groups. Though the terms Madhesh and Tarai are used synonymously, it is important to note that Madhesh does not cover all parts of Tarai districts; it excludes Siwalik and mid mountain areas. Madhesh is a well defined ecological region, which is approximately 885 km long from its western boundary, the Mahakali River, to its eastern boundary, the Mechi River while its average width along its entire east-west axis is only 26 km varying from 4 km to 52 km (Shah, 2006).

Madhesi are Indo-Nepali people primarily includes Tarai inhabitants excluding hill migrants in the region. Generally identified as the *Madhesi*, they were relocated to Nepal from northern India. Most of them were actually encouraged by the government of Nepal or its agents to move into the Tarai for settlement during the nineteenth and early twentieth century, when the country was attempting to expand its revenue base through agricultural land settlement. Although some of those Indian migrants later became large landowners in the Tarai, most of them remain peasants with small tracts of land or no land at all. They belong to different sub-ethnic groups with their own respective dialects as the primary medium of communication. Although their felicity with Nepali has greatly improved over the years, they use it only when necessary (Singh, 2010).¹³

The term *Madhes* refers to Madhyadesh, which originally meant central realm in terms of the Hindu political canons of Nepal but generally came to refer to the plain land, i.e., India. Thus, Madhes had a connotation of being different from Pahad Desh (or hill country) in the everyday language of the people (Burghart, 1984). This etymological root of the word has a direct bearing over the political contestation concerning the identity of the people inhabiting the region and the claim of regional discrimination made by the political activists who belong to the region. The word *Madhesi*, or inhabitant of Madhes, had been used to signify people of Indian descent. This reference is actually a historically anachronistic construct as many of these

¹³ (Shrestha, Nanda R. 2002: 85-7)

people inhabited the region for nearly two centuries and thus predated the formation of the boundaries of nation-states in South Asia. Maithili, Bhojpuri, and Avadhi are widely spoken languages in the region. Indeed, Mithila had been the center of cultural activities in this region for many centuries and in the past the Maithili language had been widely used in the literature of the Kathmandu court as it had been elsewhere in South Asia. Maithili also happens to be the second most important language of Nepal. According to the census of 2001 nearly 12.8 percent of the people speak Maithili in Nepal. This is followed by 7.4 percent speaking Bhojpuri and 2.4 percent who speak Avadhi. In other words, these languages primarily spoken in the Terai region actually demonstrate the links between the Nepali people inhabiting this region and their neighbouring regions in India. However, regional leaders from Tarai often claim that Hindi is the lingua franca of the region and should be recognized by the state as the second language. During the early 1950s after the restoration of monarchy Hindi came to enjoy equal status with Nepali. Gajendra Narain Singh, then a congressman who later worked within the *panchayat* system and became a founder of the Nepal Sadbhavana Party, insisted in parliament (1959) on speaking in Hindi. Though he was supposedly allowed to speak in Hindi, his speech, Madheshi activists allege, was not recorded in the parliament (Mahto, 2006).

Many languages and dialects like Maithili, Awadhi, Bhojpuri, Tharu, Hindi, Rajbanshi, Santhali, Satar, and Urdu are spoken by Madheshi. Maithili is the dominant language in eastern Tarai, in Morang, Sunsari, Saptari, Siraha, Dhanusha, Mahottari, Sarlahi, and Rautahat districts. Bhojpuri dominates in districts Bara, Parsa, Chitwan and Nawalparasi. Awadhi is spoken mainly in districts Rupandehi, Kapilvastu, Banke, Bardia, Kailai and Kanchanpur Hindi serves as the lingua franca from the Mechi River in the east to the Mahakali River in the west¹⁴ (ICG, 2007).

There are 123 languages spoken as mother tongue reported in census 2011. Nepali is spoken as mother tongue by 44.6 percent (11,826,953) of the total population followed by Maithili (11.7% 3,092,530), Bhojpuri (6.0%; 1,584,958), Tharu (5.8%; 1,529,875), Tamang (5.1%; 1,353,311), Newar (3.2%; 846,557), Bajjika (3.0%; 793,418), Magar (3.0%; 788,530), Doteli (3.0%; 787,827), Urdu (2.6%; 691,546) (NPHC: 2011).

¹⁴ (Thakur, 1959: 21-24).

Madheshi take offence to being called outsiders and see themselves as people who have always lived in the region. Some argue that hill migrants settled in the Tarai should be labelled Madheshi as well but most plains people do not see them, however long resident, as Madheshi. The term is often distorted as *Madise* and used pejoratively for any plainspeople not considered “true Nepalis”. Madheshi have only recently sought to reclaim the term; one slogan of the movement, which also appeared in Maithili-language wall-painting in Kathmandu and elsewhere, was “Say with pride, we are Madheshi” (ICG, 2007).

1.3. Marginalisation of Madheshi

Nepal has become a highly unequal society. There is a strong conceptual debate around the notion that exclusion, social, economic, political or geographic, has been the main cause of inequality in Nepali society. Exclusion results in poverty, unequal distribution of resources development initiatives and inability of certain communities or geographic areas to participate in socio-economic and political development processes. Madheshi community in spite of having a long history of origin and habitat within the present day Nepal is practically considered outsiders and they have been mostly marginalized and face exclusion in active political participation, administration and governance, decision making and policy planning, and moreover, they face serious humanitarian problem i.e. of their true identity in their own native land. The Madheshi people feel highly discriminated and has almost lost ‘the sense of belongingness to this nation’. Since the early 1990s, Madheshi people have organized community groups and formed societies or organizations for the cause of Madheshi community. The issues of Madhesh and Madheshi community have been time and again raised by Jha (1997), Lawoti (2001), Shah (2002) Yadav (2003), Gupta (2004) and few others. Many Madheshi people feel that the entire Madhesh region and its inhabitants do not practically exist in Nepal’s consciousness and certainly in the consciousness of much of the outside world. Lawoti (2001) reported a very low level of Madheshi people (11.2%) in the integrated index of governance with none in culture, academic and professional leadership. The exclusion of Madheshi, who constitute 32 per cent of the country's population, from the national mainstream has been a negative factor for Nepal's sound economic development. It has also caused disharmony between Pahadis and Madheshi.

Following the annexation of Tarai to the Gorkha kingdom, the polity, economy and the land were under the control of the Shah Kings, who deprived Madheshi of every kind of right and pushed them into virtual slavery. Tarai lands were granted as Jagir to loyal military commanders, governors, the upper echelons and ex-officers of the government, with the agricultural produce there of being considered as salaries to the royal grantees (Stiller, 1975). Unification and amalgamation of the lesser states and principalities in the hills and mountain regions of Nepal and the continued expansion of Nepal necessitated growth in the military structure of the Shah king. Simultaneously, there was an increased demand for lands which was required by the system to satisfy its burgeoning needs. Therefore, the solution lay in requisitioning the large stretches of very fertile land in the Tarai, both cultivated and fallow, and awarding them to the military commanders and principal government officials as Jagirs. This was a crucial reason for the Nepalis to opt for war with the East India Company when there was a border dispute because the Tarai lands not only provided excess wealth to Nepali aristocrats but also sustained the total costs of the central government (ibid).

There has been a systematic process of discrimination, deprivation and marginalization of the Madheshi nationalities during the last two and a half centuries of the authoritarian rule perpetuated by the Shah kings, their Rana usurpers and the ruling hill elites of Nepal. The first step after the annexation of Tarai to Gorkhali rule was to abolish the land rights of the Madheshi nationalities. The strategy was to force them into slavery, indenture them as unpaid labourers, conscript them to military service and buy their unconditional loyalty. No wonder a vast number of the population fled across to the British Indian territories in search of safety and survival. This desertion, in the first place, resulted in the loss of their belongingness to the soil, followed by the loss of self-respect when they were reduced to being refugees in their own ancient land.

Since the unification of Nepal, the rulers-Shahs, Ranas and Panchas-have tried to develop Nepal as a homogeneous, monolithic and unitary state providing protection to one language (Nepali), one caste group (hill Bahun-Chhetri), and one religion (Hindu), ignoring the reality of the diversified and pluralistic character of Nepali society. The state-designed "Nepalization" process-through Hinduization, spread of Parbatiya culture, institutionalization of the caste system by converting the separate

identities of ethnic groups into caste structures, and centralization of politics and administration-led to increased disparity among different social groups. The hill based High-caste Brahmin-Chhetris and Newars have long been in a privileged position. The other groups, i.e. Janjatis, Madheshi and Dalits, are generally marginalized. The legacy of history is well reflected in the unequal distribution of socio-economic resources of the country and in the representation of the political power structure of the country (Hachhethu, 2003).

One of the widely accepted factors of impoverization and marginalization of indigenous peoples and other marginalized communities in Nepal is the social exclusion. The cultural discrimination, economic exploitation, social exclusion and political oppression have become the national characters of Nepali state politics ever since the formation of greater Nepal through territorial conquest by the Gorkha rulers in 1769 A. D. According to Stiller (1968, 44), the very popularly recited version of a speech by late King Prithvi Narayan Shah says:

If brother soldiers and courtiers are not given to pleasure, my sword can strike in all directions. But if they are pleasure seekers, this will not be my little painfully acquired kingdom but a garden of every sort of people. But everyone is alert; this will be a true Hindustan of the four Jats (castes), greater or lesser, with the thirty-six classes.

Soon after the territorial conquest, Prithivi Narayan Shah declared Nepal as the *Ashali Hinustana*, meaning Nepal as the true Hindu Kingdom. He further declared Nepal as the common garden of four *varnas* and thirty six castes. In practice, Nepal never became a common garden of all communities. Instead, it remained private vassal of so called high caste Hindu *Bahun*s and *Chhetris*. The territorial unification of Nepal through military conquest did not unify the feelings and aspirations of non-Hindu communities. They were excluded from the mainstream national political life and deprived off the socio-economic opportunities. The indigenous patterns of communal life and economy that existed in the hill and mountain regions of Nepal were subjected to penetration by dominant Hindu caste people. Hindu rulers created conditions for perpetuating their penetration by the transformation of land tenure systems, codification of Hindu laws and imposition of Nepali language. The structure of Nepali society into a hierarchical segmentation along the line of Hindu caste system with the ritual claim of superior and inferior as well as pure and impure

excluded indigenous peoples, women and *Dalits* from the national social, cultural, economic and political life (Gurung, 2009).

Following this, Prime Minister of the Rana Oligarchy, Jung Bahadur Rana, took over the Kingdom in 1846 and established an exclusive kinship-based dictatorship that lasted for 104 years. Prime Minister Rana promulgated the *Muluki Ain*¹⁵ Country Code in 1854, based on a hierarchical Hindu four-fold system, followed by the declaration:

We [Hindus] do have our own country and a state where cow slaughtering is prohibited. Women and Brahmans cannot be prosecuted for death sentence. In this Kaliyug this is the only country where Hindus ruled over the land (Sharma, 2005).

Muluki Ain classified the punishments and impunity in the law as being based on the hierarchical structure of Hindu norms and mythology that were fixed in the *Manusmrti* (Law of Manu—a Hindu religious text). People who had a different culture, religion, language and history other than the Hindu higher castes were generally excluded from the State. The *Dalits* who were originally recognised as *Sudras* in the Hindu *Manusmrti*, and the *Janajati* or indigenous people who were marked in 1854 A.D. as *Matwalis* (Hofer, 1979), were subject to discrimination and exclusion. Additionally, women and people from the Terai (plains) region were also excluded from state governance and state representation – the former because of societal patriarchy, and the latter due to the very unitary structure of the State.

The stratification stipulated in this legal code influenced a wide range of policies. The *Muluki Ain* classified penalties for crimes according to caste, determined laws over land tenure and trading privileges and institutionalized economic dominance of upper

¹⁵ This code is described in Hofer (1979) as such:

The Hierarchical Structure Consists of:

A. Water acceptable (pure):

1. Wearers of the sacred thread/ Tagadhari: Upper caste” Brahmans and Chhetris (Parbatiya), “Upper caste” (Madheshi), Upper Caste (Newar),
2. Matwali Alcohol drinkers (non-enslavable): Gurung, Magar, Sunuwar, Thakali, Rai, Limbu, Newar,
3. Matwali Alcohol drinkers (enslavable): Bhote (Including Tamang) Chepang, Gharti, Hayu, Kumal, Tharu,

B. Water unacceptable/PaniNachalne (impure) :

4. Touchable- Dhobi, Kasai, Kusule, Kulu, Musulman, Mlechha (foreigner).
5. Untouchable (Achhut). Badi, Damai, Gaine, Kadara, Kami, Sarki (Parbatiya), Chyame, Pode (Newar).

caste elites over subaltern social groups ranging from Janajatis (tribals) to Dalits (untouchables located at the bottom of the social hierarchy below the organized caste system) (Levine, 2004). This social order that privileged caste hierarchy with Bahuns (Brahmins) at the top is described in modern Nepali political discourse as Hindu Brahminical order. It had been economically sustained by an agrarian political economy based on a complex tenural structure (Riaz, and Basu, 2010).

Missing from the *Muluki Ain* hierarchy were many groups from the Tarai/Madhes – the plains region of Nepal bordering on India. Those missing included a number of ‘untouchable’ occupational groups such as the Chamars, Musahars and Tatma who are today among the poorest in Nepal. In the 2001 Census, some 26 middle-ranking Tarai castes and Janajati groups from the Tarai area were also not recorded in the original *Muluki Ain*. This reflects the marginal position of the Tarai/Madhes subjects and the relative lack of attention they received from the Kathmandu-based government during this period. The Parbatiya rulers had little concern for the welfare of either the indigenous inhabitants of the Tarai or the Maithili, Bhojpuri and Avadi speaking Hindu groups who through the ebb and flow of historical conquests found themselves within the territory of the Parbatiya rulers in Kathmandu as borders shifted at various times during the 18th and 19th century¹⁶ (NDHS, 2006).

Between the 1860s and 1951, the government made efforts for vertical migration of the hill people to Madhesh, with not very encouraging results, on account of the climatic conditions in Madhesh which the hill people were not used to. There were settlements in Madhesh south of the dense forest area, and Vitri Madhesh was inhabited by Janjatis. As land, water and forest resources were abundant in Madhesh, many from the densely populated Indian districts bordering Madhesh having similar cultures, traditions, practices and languages migrated to Madhesh between the mid nineteenth and mid-twentieth century.

Overpopulation, agricultural and economic deterioration, and natural calamities resulting in famine and many other reasons later on pushed the hill people of both Hindu origin and Janjatis to migrate to Madhesh. Better economic opportunities,

¹⁶ The Tarai/Madhes belt was incorporated into the Shah kingdom in the late 1700's. Most of it was lost again to the East India Company after the Gorka rulers did poorly in the Anglo Nepali War of 1814-16 which ended with the signing of the Sugauli treaty in 1816. Then again after the 1857 “Sepoy Mutiny” (or alternatively, the “first war of independence”) in India, Nepal was rewarded for its loyalty to the British by the return of sections of the Tarai that had been lost through the Sugauli treaty.

abundant land and forest resources and the malaria eradication programme launched by the state encouraged this migration, the hill people migrated mostly to northern Madhesh and Vitri Madhesh, which were forested and had smaller settlements. Large areas of forest were cleared for farming and settlements, which gradually reduced the Madheshi' access to forest resources. The hill people established settlements and farming areas along the East-West Highway still under construction; very few migrated to already established towns and virtually none to the large Madhesh settlements.

Between the 1890s and 1930s, the Ranas encouraged the settlement of the hill people in mid western Tarai as well. The people originating from the Indo-Gangetic plains were encouraged to settle down in the Tarai for agricultural works and logging to increase government revenue. Settlers moved in large numbers to forested areas, encouraged by the promises of landownership and low tax rates. But after the settlers cleared the forests and turned them into cultivable lands, the Ranas confiscated the lands to lease out to tenants for income and revenue, who named these lands as Raikar. Thus, the Madheshi were rendered slaves in their own homeland (Singh, 2014).

Since 1951, Hindi had in fact been advocated as the second national language of Nepal. But in 1956, Nepalese nationalism was articulated clearly enough to challenge the role of Hindi and other languages of Madhesh plains in the Tarai. King Mahendra's one-language-one-costume-Nepali language and the daurasuruwal-topi dress code-policy were introduced to further marginalize Madheshi languages and cultures. The "hill culture orientation" was interpreted as the true Nepali nationality.

In 1954, the National Education Planning Commission was instituted as the state's first effort to organize a national educational system. The commission published its report, "Education in Nepali" in 1956, which recommended that from the primary level up, Nepali should be the medium of instruction in schools. It was a deliberate imposition of Nepali language and culture on Madheshi. Many pro-Hindi meetings were held in a number of Tarai towns to protest the official decision during the spring of 1956. The language controversy took a serious turn in the summer of 1957. In early September, there were reports of "incidents" resulting from clashes between Madheshi and Pahadi groups in the eastern Tarai towns of Biratnagar, Rangeli and

Dharan. The controversy was fuelled even by Prime Minister K.I. Singh who issued a directive, clearly inspired by the commission, to us Nepali as the medium of instruction; The Nepal Tarai Congress Party even organized Save Hindi campaigns, and Save Hindi committees were formed in a number of Tarai towns. Meetings, protests, marches and strikes in Biratnagar, Gaur, Rajbiraj and Janakpur continued for a while (Gaiage, 1975). The most serious incident occurred on 19 November when the Save Hindi Committee organized a procession of several thousand people, and the Nepali Pracharani Sabha staged a counter demonstration. The two hostile crowds confronted each other, resulting in street fighting and looting that was ended only by police action (ibid.). The Save Hindi movement, however, lost momentum as its organizers aligned themselves with political parties preparing for the 1958 national elections. Meetings, protests, marches and strikes in Biratnagar, Gaur, Rajbiraj and Janakpur continued for a while (Gaig, 1975). The most serious incident occurred on 19 November when the Save Hindi Committee organized a procession of several thousand people, and the Nepali Pracharani Sabha staged a counter demonstration. The two hostile crowds confronted each other, resulting in street fighting and looting that was ended only by police action (ibid.). The Save Hindi movement, however, lost momentum as its organizers aligned themselves with political parties preparing for the 1958 national elections.

The citizenship legislation of the early 1950s was non-discriminatory. However, the citizenship legislation of the 1960s was formulated in a very different atmosphere. This was after the royal coup and political leaders of the Nepali Congress party were in exile who had initiated underground activities from the Tarai and border areas of India; which posed a threat to the royal government. This resulted in formulating a discriminatory legislation for acquiring citizenship, particularly for the plains people of Tarai. In Articles 7 and 8 of the Constitution of Nepal, 1962, there were clauses regarding naturalization procedures required by foreigners for obtaining Nepali citizenship. These required oral and written skills in Nepali language and two years of residence for hill people and twelve years of residence for people of Tarai (Gaiage, 1975). Already perceived as Indians, the absence of birth certificates and other documents to prove their Nepali origin made it almost impossible for Madheshi to acquire citizenship. The naturalisation process required fluent spoken and written Nepali as the requirement of speaking and writing Nepali was inserted in the Act. Madheshi of Tarai, who had settled in Nepal for several generations, was denied

citizenship on this account. Local officials often demanded land ownership titles before granting citizenship, which trapped Madheshi in a vicious cycle, because they could not get land titles without citizenship certificates. A government commission in 1994 reported that almost 3.5 million Nepalis did not yet have citizenship certificates (ICG, 2007).

From 1960 (strictly, from 1962, when the new constitution was promulgated) until 1990 Nepal was ruled by a system known as party less panchayat democracy. Instituted by the present king's father, king Mahendra, it was supposed to be more "suited to the soil of Nepal", and was designed to mobilise the country's various groups for the "all-round development" of the country. Ethnic and caste affiliations were discouraged, in the name of patriotism and nation-building. Organisations could be formed for cultural purposes, but not in order to advance the cause of particular social or regional interests politically. All political parties were banned. With no reservations as in India, nor even any development initiatives specifically targeting "backward" groups, the lion's share of the fruits of development and rapidly expanding educational opportunities and rewards went to those groups who were already well connected and had long established traditions of literacy and academic study, namely, bahuns, some Chhetris, and some (principally high-caste) newars (BCNs). On the rare occasions when figures were collected on the proportion of BCNs in high education or the professions, they were considered too explosive to publish. People were told there was no ethnicity in Nepal. Gopal Gurung wrote a book about it under the panchayat regime, calling it *Hidden Facts in Nepali Politics*. He was put in prison for it in 1988 and after 1990 started the Mongol National Organisation, which won a base in local government in east Nepal.

In the mid-1970s and 80s, the issues of citizenship and work permits were major problems for the Tarai-Madhes at the behest of King Mahendra. Mahendra tried to foster good relations with the new Nepal's Tharu and other ethnicities, but not with the Madheshi. Ignoring the southern Hulaki road east to west, he constructed the east-west highway in his own name, just below the Siwalik foot hills. After the construction of east-west highways, the migration from the hills and mountains (hills in particular) led the process of *Prabatanization*¹⁷ in the Tarai-Madhes. According to

¹⁷ Frederick Gaige has used the term, Nepalization of the Tarai in his book *Regionalism and National Unity in Nepal* (1975).

Ram Prakash Yadav, the Mahendra government strategy was to weaken the Madhesi.¹⁸ After the introduction of quinine and DDT eradicated malaria in the 1950s, the Tarai-Madhes became a lucrative land for *Prabate* (hill and mountain dwellers) and the settlement mission started accordingly. The huge *Pahade* migration into the Tarai- Madhes marginalized the voices of Madheshi. Unlike the cluster populations such as Assamese in Assam, Gujarathi in Gujarat, Tamil in Tamil Nadu, etc. in India, Nepal is a country of minorities where all castes and ethnicities along with religious groups have been scattered across the country (with the exception of the Tharu). While the settlement in the Madhes through direct forced labor failed, the Tarai-Madhes was promoted to Indians across the border to settle as tenants by indirect means of forced labor. Mass migration from hill towards Tarai-Madhes was state sponsored under the projects named Rapti Valley Project (1955 AD) and Jhapa-Kanchanpur-Nawalparashi Rehabilitation Project (1964 AD). Two-thirds of total migration happened between the 60s and 70s under King Mahendra's cultural diversity policy. The migration caused deforestation (CSC, 2009).

However, state and bureaucratic power continued to be virtually monopolized by a small elite composed mainly of Brahmins and Chetris, ethnic groups who made up less than 30 percent of the population. The 57 other ethnic groups in Nepal were excluded from power and thus felt alienated from the state (Bista, 1991). Discrimination was widespread: people from low caste groups such as dalits (untouchables) and those from the Tarai areas (flatlands bordering India) were not seen as suitable for army or higher civil service positions. In response, ethnic and regional groups increasingly began to identify themselves in terms of a distinctive sub-nationalism and pressed for their grievances to be addressed through representation in parliament. These exclusionary tendencies have remained a feature of Nepali politics, and in the competition for power and resources Nepal remains divided along urban-rural and caste-ethnic-religious lines (Gaize, Scholz, 1991 and Sharma, 1998).

Madheshi are under-represented in all areas of national life. They occupy less than 12 per cent of the posts in influential areas, including the judiciary, executive, legislature, political parties, industry and civil society, and less than five per cent in international

¹⁸ Yadav, Ram Prakash. 2007. *Mainstreaming Madhes*. Anand Aditya (ed.). In 'The Inclusive State: Reflections on Reinventing Nepal.' Kathmandu: SAP.

organisations and multilateral donor projects. Madheshi were 21 per cent of MPs in 1991, 18 per cent in 1994 and 20 per cent in 1999; in the upper house, representation hovered between 8 and 15 per cent. In 2000, there were only nine Madheshi senior bureaucrats and three members of constitutional bodies. Madheshi hold just over one tenth of senior positions in the public and private sectors. The security forces are most actively discriminatory, in particular the army, which has no senior Madheshi officers. Although statistics are hard to come by, there is a sense the post-1990 democratic period made things worse. A Madheshi commentator points out: “Until 1990 there used to be at least a dozen or more Madheshi CDOs [Chief District Officers] at any one time but now you’re hard pushed to find even a few. The palace had a long time to learn how to co-opt influential regional figures” (ICG, 2007).

From 1990-2002 Nepal witnessed twelve governments. Post 1990 can be witnessed as cultural discrimination and political exclusion of marginalized groups like the Dalit, indigenous nationalists, the Madheshi people of southern Tarai region and women. CHHEM and Newar ethnic group held more than 80% of leadership in government like executive, administration, the judiciary and Parliament. The CHHE and Newar held around 90% of top position in prominent NGOs and human rights group in 1991. CHHE 80% in Media elite (editor, publisher and columnist) (Lowiti, 2007). A hardworking Bahun boy can get a free residential education in Sanskrit up to the doctoral level fully supported by the state, these opportunity are not provided to other ethnic groups and women. The data on educational attainment of men and women age 15-49 presents a disheartening picture of the pockets of illiteracy that remain in Nepal. Nearly 85 percent of Tarai/Madheshi Dalit women are not educated. Madheshi Other Caste women and Muslim women are close behind: 75 and 78 percent respectively have no education. Hill Dalit women do somewhat better (59 percent without education) though still below the national average for women (53 percent). The men from the Tarai/Madhes-origin groups do better than women, but with 29 percent uneducated, they still lag behind the national average for men (18 percent uneducated) and quite far behind the average for men from Hill/Mountain groups (13 percent). The highest rates of uneducated males are among the Tarai/Madheshi Dalit (46 percent) and Muslims (42 percent). Tarai/Madheshi Other Caste men have the same percent uneducated as Hill Dalit men (25 percent) (NHDS, 2006).

The Tarai is the backbone of the national economy, containing more than 60 per cent of the agricultural land and contributing over two thirds of the GDP. Investment in some infrastructure has been significant but the focus has been on developing national communications rather than serving local populations. For example, the east-west highway, a vital transport artery, does not link even one Tarai district headquarter directly all are on poor feeder roads. Madheshi are poorer and have lower education and health indicators than hill communities. Literacy among Madheshi is 41 per cent but 68 per cent among Bahuns and Chhetris (the hill high castes) and Newars. Activists argue that this is an inevitable result of Kathmandu's stranglehold on decision-making: even when large revenues are generated locally, they are disbursed on the whims of capital-centric bureaucrats (ibid). Both the government and private sector media have excluded Madheshi from their management committees. The Media seldom raise positively the socioeconomic, development and political issues of Madhesh and Madheshi. Academia and the media have paid scant attention to Madheshi concerns. While the grievances of the hill ethnic groups did command some attention in the democratic interlude between 1990 and 2002, Madheshi issues were ignored. Human rights organisations did not take up the issue of discrimination against Madheshi either, while international development agencies preferred to focus on hill ethnic groups (*janajatis*). This lack of interest was one of the spurs to the establishment of organisations such as the Madheshi Janadhikar Forum (ibid).

After the reinstatement of multiparty system in 1990, identity politics became a major force in Nepal politics. Ethnic groups that now called themselves indigenous nationalities (Adibasi Janjati) mobilized to demand greater inclusion within the political system as well as social and cultural rights. Other marginalized groups such as low-caste Hindus (Dalis) and caste and ethnic groups hailing from the southern region (Madheshi) also formed movements. These groups all argue the high-caste Hindus from the hills have dominated the state since its inception in the late eighteenth century, and that this has created political, economic, social disadvantages for others. These groups seek to end this long-standing inequality and create a state that recognizes diversity and allows for wider range of the population to participate more fully in governance (Hagen, 2007).

The post-1990 period witnessed the rise of ethnicity and regionalism. The constitutional provision of 'right to protect and promote own language and culture'

was experimented with introducing mother tongue, Maithali as official language in District Development Committee of Saptari and Newari in Kathmandu municipality. But the Supreme Court voided this decision. Discrimination against Madhesh was distinct in many other cases. For instance, to the satisfaction of some excluded groups, the government formed Dalit Commission, Women Commission and Foundation for Indigenous Nationalist in the post-1990 period, but none of similar inducement to the Madheshi. The Madheshi were not listed when the governments of both the pre- and the post-*Janandolan* II initiated for reservation policy to the excluded groups. Moreover, the Deuba government, with consent of all major political parties, took a decision, in 2002, overriding the constitutional provision of delimitating parliamentary constituencies on the basis of population in aftermath of the national census. The population of Tarai increased from 43% in 1991 to 48% in 2001 which, according to the 1990 constitution, required an increment of parliamentary constituencies in the Tarai. The decision not to follow this constitutional provision for the next 25 years was a clear discrimination against the Madhesh

1.4. Madheshi Movement

The hill people or Pahadis generally treat Madheshi as outsiders and, therefore, as second-grade citizens of Nepal. Madheshi take offence to being called outsiders and see themselves as people who have always lived in the region (ICG, 2007). Some argue that the hill migrants settled in Tarai should be labelled as Madheshi as well but most plains people do not treat them as such, no matter how long they have resided in Tarai. The term is often distorted as *Madise* and used pejoratively for any plainspeople not considered "true Nepalese". Madheshi have only recently sought to reclaim the term; one slogan of the movement, which also appeared in Maithili-language wall painting in Kathmandu and elsewhere, was -"Say with pride, we are Madheshi".

Most Madheshi are losing their identity since they are treated as less Nepali or non-Nepali by the Pahadis. A chief reason is their socio-cultural, linguistic and physical affinity with the communities living immediately on the other side of the border in India, which historically was a part of Madhesh. Culture, tradition, practices and language always exercise great influence on the identity of a person. Nepali or hill language-speaking people from Darjeeling or Sikkim, who have been living there for generations, are readily accepted in Nepal as Nepalese and they enjoy all the socio-

political benefits. A Madheshi who does not speak Nepali or any other hill language and who does not follow hill tradition and practices is not easily accepted as Nepali by the Pahadis.

Madheshi fought against Gurkhali occupation since the first arrival of Gurkhas in Madhesh. In the Anglo-Gurkha war of 1814-16, the Madheshi had fought on the side of British leading to an eventual victory over the Gurkhas. But the British handed over the Madheshi and their land to the same enemy, the Gurkhas. However, in the memorandum of 8th December 1816, through which the British handed over the Madheshi and their land to the Gurkhas, they put a condition to ensure the safety of the Madheshi, stating, “the Rajah of Nepal agrees to refrain from prosecuting any inhabitants of the Terai, after its reversion to his rule, on account of having favoured the cause of the British Government during the war”.

Contribution of Madheshi people goes back to the period of Rana regime and they took active part in nationwide protests and campaigns to have the despotic Rana regime overthrown and to establish democracy in the country. To this end was born the Nepal Praja Parishad on 4 June 1936. Many were arrested following the formation of this party; many were hanged, exiled or deprived of their properties. Under the leadership of Pandit Ramakant Jha twenty-two Madheshi youths took an oath in Janakpur to end the Rana rule by signing their pledge in their blood. Jha formed a Service Committee with the aid of Kanwar Jha, Ramanand Thakur and Pandit Surya Kant Jha. In his poetic work, *Sudama Charitra*, he depicted the public as Sudama. The anthology was recited in villages to arouse the people against the Ranas. Ramakant Jha was also founder member of the Nepali Rastriya Congress. He was imprisoned in 1949 and released in 1951. He thereafter became president of the Nepali Congress in Mahottari district (Singh, 2010). Panchanand used handmade grenades and tractors combined to resemble tank-like armoured vehicles, which helped defeat the Rana Royal Force in Biratnagar. Many became martyrs in Biratnagar during the rebellion. When the Nepali Congress decided to launch an armed struggle against the Ranas and the Mukti Sena was formed after the meeting at Bairganiya, a border town in India, Matrika Prashad Koirala became commander-in-chief of the armed movement. In this struggle, many Madheshi were his associates and supporters.

Kashi Prasad Srivastava was given the responsibility for the procurement of arms and ammunition from India. Under the leadership of Kulpati Mishra and Yamuna Devi, a Revolutionary Force of men and women was organized. Laxmi Narayan Adhikari, Vashudev Tripathi, Premchand Agrawal and Bhagyanath Dubey formed the Krishak Sena in Kathmandu. On 17 November 1950, the Mukti Sena captured Rangeli Bazaar and Bara and Rautahat districts. It was a year of mass movements that gradually turned into general armed struggles. As a result, on 8 January 1951, under the mediation of the Indian government, Prime Minister Mohan Shamsher signed an agreement in New Delhi for ushering democracy in Nepal (Yadav, 2004; Yadav, 2003).

Nepal Tarai Congress

1950s marks both the beginning of modern era in Nepal and the beginning of Madheshi struggle. In 1951, soon after first democratic revolution against the clan based Rana oligarchy, a Tarai leader, Vedanand Jha, disillusioned with the Nepali congress (NC), formed the Nepal Tarai Congress. Its main demands included the use of Hindi as an official language, and autonomy for the Tarai. In the mid 1950s, when government decided to introduce Nepali as a sole official language of a country, there was a resistance in the plains, even leading to clashes in Biratnagar in the eastern Tarai between groups supporting Nepali and Hindi. Those supporting Nepali were largely people of hill origin, pahadis, who were recent migrants to Tarai; those demanding Hindi were people of plain origin, Madheshi, and Marwaries. The medium of instruction in educational institutions in the Tarai till then had been Hindi, with teachers from the neighbouring areas of Bihar running schools. Locals feared that the imposition of Nepali would not only block the growth of their imposition of Nepali would not only block the growth of their languages, but also disrupt livelihoods and reduce opportunities for growth (Jha Prashant, 2014). In 1953, Vedanand Jha raised the demand of representation of Madheshi in the Advisory Assembly. The party held its third convention on 29 November 1957, which passed the agenda of Regional Autonomy of the Tarai (Joshi, and Rose, 1996). The party also demanded elections for representatives to the Constituent Assembly before the general elections. However, through his Royal Proclamation in 1958, king declared general elections in the country, making the Constituent Assembly issue redundant.

But the ground was not yet ripe for ethnic identity-or language-driven politics. The big Battle of the decade was for democracy, and the symbol of the democratic Struggle was the B.P. Koirala-led NC. Structurally modelled on the Indian National Congress, the NC drew inspiration from the democratic and socialist guard of the India politics and gave space to leaders from diverse regions and ethnicities, including those of plains origin. Along with Kathmandu, it was the Taraibasis, the Tarai-dwellers, who were most active in the politics. The Koirala family itself was a phadi family from Bairatnagar, and the major battles against the Rana regime were fought in the Tarai towns (Prashant Jha, 2014).

Unlike royalist or communist parties, the NC was also the most inclusive in its symbols. Its leaders had spent a long time in exile in Banaras, Patna and Calcutta and were comfortable with the culture, lifestyle and habits of the Gangetic plain and North India. This helped the people in the Nepali plains relate to NC leaders at various levels-when they saw them wear dhotis, eat pan, speak in Hindi, or use familiar idioms, the pahadi-Taraibaasi divide became secondary. That many of these leaders had been associated with the Indian freedom struggle, and with political stalwart across the border, gave them additional aura (ibid).

All this meant that in the first election of 1959, the Nepal Tarai Congress suffered a rout, and even Vedanand Jha lost his election deposit. The NC swept the polls nationwide, winning a two third majority. In the Tarai, its image of a national, democratic and inclusive party, the co-option of the relatively influential upper caste leaders of plain origin, and its appeal to the intermediate castes and the landless with a radical land-reform agenda helped. Identity and regional politics had lost out for now, both due to limited political mobilization around these issues but also because the NC had remained sensitive, at least symbolically, to the concerns of the people in the plains, it has treated them like citizens, and had won their confidence (ibid). Another reason the party received only 36,107 votes (20 per cent) and no seats in the general elections was that the party could not establish itself in an organized way among the public. Also, Vedanand Jha did not interact more with the people to mobilize them in an organized way.

Later, following the coup of King Mahendra in 1960, Vedanand Jha surrendered to the monarch and became a member of the Tulsi Giri-led Council of Ministers on 2

April 1963. The party general secretary Ram Janam Tiwari decided to align himself with the Nepali Congress through the offices of Subarna Shamsher for the restoration of democracy in Nepal. In this way, while one faction of the Nepal Tarai Congress joined the Panchayat system, the other opted for the Nepali Congress.

Tarai Liberation Front

Raghunath Thakur established Madhesh Liberation Movement in 1956 to end Nepali occupation of Madhesh. He later formed “Madheshi Janakrantikari Dal” to continue Madhesh Revolution. In 1960's, “Terai Liberation Front” was established with a guerrilla war strategy. The TLF was inspired by the leftist movements in India. In eastern Tarai, the Naxalite movement started while in western Nepal, the party initiated armed struggles. However, its leaders, namely, Ramji Mishra, Raghunath Ray and Saniwaschar Chaudhari, the latter with his wife, and many others were killed by the police and the army at different places in Tarai. In addition, organizational weakness, lack of clear vision and military expertise were drawbacks that ended this movement (Yadav, 2004). He later formed “Madheshi Jana krantikari Dal” to continue Madhesh Revolution. However, Nepal police and army killed its major leaders one by one including Ramji Mishra, Raghunath Raya Yadav, and Satyadev Mani Tri-pathi.

Madhesh Mukti Andolan: Madheshi Krantikari Dal

Raghunath Thakur established the party in 1958. His manifesto was similar to those of the Nepal Tarai Congress and the TLF. During the 1960s, in broad daylight, he lit a "petromax" gas lamp, and placing it on his head, walked around the Indian Parliament several times. When the parliamentarians asked him about what he was doing, he replied, "Justice is lost or vanished from India and Nepal. I am searching for it." He was a supporter of the socialist ideology in the Nepalese democratic context. He was also a follower of non-violence and peaceful movement against the existing discrimination, impunity, atrocities and political exploitation suffered by Madheshi. He was of the view that the Madheshi' political, economic, educational and cultural development was possible only by holding a referendum for Tarai carried out under UN auspices, as per Article 11, Section 73(e) of the UN Charter. Among his literary works were *Dependent Madhesh and its Culture* (1958/59) and *Madheshi Movement*

Agenda and its Explanation (Yadav, 2004). Thakur was killed in a conspiracy on 21 June 1981.

Madheshi Rastriya Mukti Morcha

In the initial phase of their "People's War", the Maoists, lacking roots in Tarai, were not very effective in influencing the government in Kathmandu. The Maoists; therefore, tried to tap the sentiments of the Madheshi and were successful in opening their Tarai wing, the MRMM. In addition to the genuine demands of Madheshi, which were incorporated in the Maoist agenda, two other dimensions were added to the manifesto. The first was class struggle; and the second, Indian imperialism and expansionism with relevance to Tarai. However, in the aftermath of the very recent Madhesh Movement in 2007, Maoist influences have been diminishing in Tarai (Yadhav, 2004).

Madheshi Jana Adhikar Forum (MJF)

The MJF is sometimes referred to in Nepal's English-language media as MPRF, reflecting a translation of its Nepali name (Madheshi People's Rights Forum). The MJF was established in 1997 and was initially registered as an NGO. Its founding leaders say that the Maoists supported its creation (ibid). It developed as a cross-party intellectual forum to discuss and promote Madheshi concerns, publishing several research papers and books. Other activities included seminars and training programmes to spread awareness, building an organization and reaching out to Indian leaders (ICG, 2007).

The MJF emerged as a leading force in the Madheshi movement and in April 2007 applied to the Election Commission for registration as a political party. Its two main leaders were Jai Prakash Prasad Gupta and Upendra Yadav. Gupta was a Koirala protégé and former NC minister from Saptari who adopted the Madheshi cause after falling out of favour with the party leadership; Yadav was a UML candidate in the 1991 elections from Sunsari who had briefly joined the Maoists but left them in 2004 (CSC, 2007). Gupta quit the MJF in June 2007. Although this party seeks to build up a Madhesh base, most of its leaders come from eastern Tarai, and its central committee consists largely of upper and intermediate caste Hindus, with a

predominance of Yadavs (ibid.). The MJF identifies internal colonization as well as regional and racial discrimination against Madhesh as its key concerns. Its demands include declaration of a federal democratic republic With an undivided, autonomous Madhesh, secularism, a proportional electoral system, citizenship certificates for all Madheshi, inclusion of Madheshi in all state organs, special schemes for Dalits and other oppressed Madheshi castes, local promotion and use of Maithili, Bhojpuri and Awadhi languages, recognition of Hindi as a lingua franca, an end to internal migration of Pahadis to Madhesh, investment in Madhesh of a substantial portion of taxes raised in the region, an end of discrimination against Nepali Muslims, and official recognition for Madrasas. MJF has also tried to tie up Madheshi politics to larger national developments. It opposed the king's rule and Maoist violence and called for elections to the Constituent Assembly based on equitable population representation under UN supervision (Mulyankan, 2006).

Janatantrik Tarai Mukti Morcha (JTMM)

The JTMM is an armed Madheshi militant group which has split into three factions. Former MRMM leader Jai Krishna Goit broke from the Maoists to set up this organization in July 2004. He was unhappy with Pahadi domination in party leadership positions in Madhesh and discrimination against Madheshi in the People's Liberation Army. He also resented Matrika Yadav's appointment as head of MRMM while he was shifted to the position of senior adviser. In August 2006, he expelled the group's eastern commander, Nagendra Paswan (Jwala Singh). Goit said that he had acted against Singh for indiscipline. Singh, who complained of Goit's dictatorial tendencies and cattiest attitudes, established his own JTMM group. Both factions endorse and perpetrate violence. Goit was a political activist with the UML before joining the Maoists, and Singh comes from the journalism background. In late June 2007, JTMM Goit split up again, with eight rebels, led by Bisfot Singh, forming a splinter faction (*Kathmandu Post* 2007).

The Jwala Singh faction claims to have an organization modelled on the Maoists, with a central committee, central and district level Tarai governments, a Tarai Liberation Army and district committees across the region (ICG, 2007). Goit has a central committee, East and West Tarai Regional Bureaus, village, ward and cell committees, and a parallel military organization. For both factions, it is hard to confirm how their

claims would be realized, although they have certainly recruited considerable number of members and expanded significantly. Goit's faction identifies the Tarai issue as one of colonialism and has demanded independence. He refuses to call himself a Nepali citizen and believes that Nepal has no legal claim to Tarai (ibid.). Goit has also demanded that all administrative posts in Tarai be filled by Madheshi and the government must return the tax revenues raised from the region back to the people. Jwala Singh also questions Nepal's historical claim to Tarai (ibid.). He identifies three main issues: the authoritarian Pahadi state and its colonial exploitation of Madhesh and Madheshi, class differences and caste differences (INSEC, 2007). He believes that the Madheshi movement has failed until now because its leaders have not picked up guns. In his words, "First, the colonial problem needs to be solved through an armed struggle our main aim is independence. Once we are free from *pahadi* rule, we can solve the other problems" (ICG, 2007). However, JTMM (JS) sympathizers say this is a bargaining position; Singh recognizes that independence may not be feasible and would be satisfied with a unified Madhesh province within Nepal (ibid.). He has also asked for a fair electoral system, a fresh census conducted in Madhesh by Madheshi, appointment of only Madheshi in citizenship distribution teams, an end to Maoist fundraising and the return of seized property, as well as for all revenue collected from Tarai to be spent in the region (ibid).

Recent Madheshi Movement

The Twelve Point Agreement of 2005, between seven political parties and CPN (Maoist), and the Comprehensive Agreement of 2006 was aimed at achieving permanent peace through peaceful resolution and 'inclusive democratic processes' to end a 10 year civil war, local and international observers were surprised to see new fighting erupt in the Terai region of southern Nepal. The violence, however, was initiated not by either party to the civil war but by groups targeting both the state and the Maoists, polarizing citizens along ethnic issues largely unaddressed during the civil war. When the draft Interim Constitution was prepared by the Seven Party Alliance (SPA) and the Maoists, without broad consultation became public in December 2006, it prompted protests. Madheshi groups, as well as Madheshi MPs across party lines, objected to silence on federalism and what they saw as an unfair electoral system (Singh, 2010).

The first flashpoint was in Nepalgunj, where the Nepal Sadbhavana Party had called a strike. The administration tried to block the march; at the same time, Pahadis attacked Madheshi-owned shops in the heart of the town. There were reports of retaliation by Madheshi but Pahadi violence and police complicity were captured on camera. A DVD showing the anti-Madheshi rampage was widely circulated, fuelling anger and raising tensions (ICG, 2007).

The promulgation of the Interim Constitution spurred twenty-one days of protests in January-February 2007. On 16 January, MJF leaders were arrested while burning copies of the constitutional document in Kathmandu. Three days later, MJF activists protesting the arrest of their cadres in Laban and Siraha districts, clashed with Maoists, who shot dead Ramesh Kumar Mahato, a young MJF activist. On 20 January, as the MJF demanded action against the perpetrator and compensation, the Maoist cadres seized his body and cremated it. The MJF stepped up protests against both the government for inaction, and the Maoists, whose leaders grudgingly and belatedly apologized. The escalation of tensions surprised even those who led the movement. "Everyone, including Madheshi leaders, failed to read the intensity of [popular sentiment]", commented an Indian diplomat who followed the events closely. "Even when Upendra Yadav and his colleagues burned the Interim Constitution, they did not quite realize what they were doing- and when the NSP called a Bandh [strike], its own leaders were amazed at its success" (ibid.).

Mahato's killing was the spark for a prolonged agitation. Madheshi activists called for a general strike in Tarai and organized widespread protests. The government responded with curfew and an increased police presence. On 25 January, the MJF announced it would continue the protests indefinitely until the Interim Constitution was amended. Activists looted government offices, police posts, banks, mainstream parties' district offices and media offices; in a move reminiscent of the Maoists' antimonarchy actions during the April 2006 movement, they vandalized statues of Pahadi political leaders. The blocking of Kathmandu's key supply routes had a more direct impact, leading to travel disruption, price rises and a petrol shortage. Although there were sporadic attacks on Tarai-based Pahadis, communalism was not a defining feature of the unrest. The state response was harsh: police shot dead more than 30 persons and wounded 800 (ibid).

The protests initially centred around Laban and Janakpur but soon spread to all major Tarai towns. The MJF organized some demonstrations but others were spontaneous or organized by local groups (ibid.). These mobilized people provided support to the injured and helped coordinate protests. Some important Tarai towns like Malangwa, Birgunj, Laban and Biratnagar saw major clashes. In some cases, the agitators turned their ire on journalists, blaming them for not covering the movement sufficiently. The MJF emerged as the movement's leading group but the protests lacked clear planning. "It was Lahan that created Upendra, not the other way around", commented one observer (ICG, 2007).

After a week of protests; Prime Minister Koirala, in 31 January televised address, invited the protesting groups for negotiations, promised to increase electoral seats in Tarai and announced a commitment to federalism (*Rising Nepal* 2007). On 2 February, the government set up a ministerial-level talk team. However, Koirala misjudged the popular mood. MJF-led protestors rejected the offer and complained that he did not empathize with their movement. Many Madheshi felt that the speech was high-handed and unilateral and did not recognize Madheshi demands as rights that were overdue to them. A week later, as the situation deteriorated further, Koirala made a second address, recognizing the contribution of Madheshi to strengthening democracy, expressing regret over the loss of lives (*Rising Nepal*, February 2007) and promising electoral representation and inclusion of marginalized groups in state bodies on a proportional basis.

The MJF cautiously welcomed this announcement, suspending its agitation for ten days to allow the government to implement its promises but also setting preconditions for talks: the Home Minister's resignation, action against those responsible for the killings and setting up of a judicial commission to examine the governmental conduct. The JTMM (JS) conditionally agreed to talks but the JTMM (Goit) (then the much stronger faction) rejected the offer. The government prevaricated. It delayed amending the constitution, backed the Home Minister and did not even address uncontroversial demands such as compensating the victims. The promised judicial commission- which, given the tradition of such enquiries in Nepal, would probably have been a painless way of deferring judgement on tricky issues- was formed months later. Even so, it was dominated by establishment figures, including the police chief,

whose own force's actions were under investigation.¹⁹ There were no talks with the JTMM (JS) (ICG, 2007).²⁰

The movement prompted mixed reactions outside the Tarai, including in pahadi-dominated civil society. Although the need for a more inclusive state is now a rhetorical commonplace, Madheshi militancy prompted fears and resentment, often reinforcing old prejudices. Despite concern for a backlash from other communities feeling threatened by Madheshi strength, most marginalised communities expressed support and emphasised they shared the demand for federalism and proportional representation. Civil society groups visited the troubled districts, agreed the agitation was mostly spontaneous and urged the government to address legitimate demands (ibid).

There was also a cross-border dimension. Indian political and social groups, especially in Jogbani and Raxaul, organized camps to give shelter and medical care to the injured (ibid.). Many politicians were quietly supportive, with some border legislators making public statements in favour of Madheshi people's rights and others organizing rallies on the Indian side (ibid.). Some Members of Legislative Assemblies (MLAs) were reported to have told district administrators not to lean too heavily on Madheshi activists, both armed and unarmed (ibid).

Maoist-MJF tensions continued to increase and turned violent in Gaur on 21 March, when the MRMM organized a mass meeting at the same time and venue as had been done by the MJF. MJF activists allegedly destroyed the MRMM stage, provoking a similar response.²¹ After initially fleeing, MJF partisans attacked the outnumbered Maoists, killing 27 of them. Some human rights activists alleged that five women were raped and mutilated and accused the MJF of hiring professional killers.²² Other assessments, including a UN report, said that there were no incidents of rape and blamed the police for not enforcing order, the Maoists for provocation and the MJF

¹⁹ The cabinet formed the commission on 25 May 2007, with Supreme Court Justice Kihaj Regmi as its head; other members were the eastern regional police chief, Rabindra Pratap Shah; Deputy Attorney General Rajnarayim Pathak; National Investigation Department deputy head Sukhchandra Jha and Siraha district court judge Sahadev Bastola.

²⁰ The JTMM(JS) had declared a ceasefire and set up a talks committee after the Prime Minister's address but said that the government did not reciprocate. Jwala Singh said: "It did not respond to our efforts and instead continued with their strategy of using force. They filed cases against our activists and did not try to engage with us."

²¹ [www.nepal.ohchr.org/en/resources/Documents/English reports/IR/Y ear2007/Gaur.pdt](http://www.nepal.ohchr.org/en/resources/Documents/English%20reports/IR/Y%20ear2007/Gaur.pdt)

²² www.ekantipur.com, 25 March 2007

for preparing for and resorting to violence. Several victims were summarily executed. There may have been a caste component to the clash, for Gaur has got sizeable Rajput and Yadav populations. Angry with the Maoists for mobilizing the lower castes, they used this as an opportunity to assert local dominance (ICG, 2007). The massacre has left the MJF with a legitimacy crisis and encouraged the Maoists to build a more organized militant force in Tarai.

After nearly eight years of work, Nepal finally promulgated its new constitution in mid-September 2015. In June 2015, Nepal's four political parties reached a 16 point political accord on the progress of the constitutional-making process. The new Constitution, promulgated on 20 September 2015 has many distinguishing features. It has been adopted by an overwhelming majority of 507 out of 598 members of the Constituent Assembly. The Constitution enshrines the principles of republicanism, federalism, secularism and inclusiveness. The preamble of the Constitution also incorporates the principle of "socialism based on democratic values." It incorporates proportional representation to ensure that women, untouchables (Dalits), and marginalised groups like the Janjatis and the Madhes find representation in the national legislature and in the other institutions of the state. The new legislature will have 275 seats in the parliament of which 165 will be filled by direct elections (first past the post) and 110 will be based on proportional votes (Muni, 2015).

It bestows fundamental rights and freedoms on its citizens and provides for specific constitutional commissions to take care of discrimination against women and marginalised groups. The President would be the constitutional head of the state, elected by collegiums of central and provincial legislative bodies. The head of the executive will be the prime minister elected by parliament through a majority vote. There would be an independent judiciary, nominated by a Judicial Commission. In the interest of stability, neither the prime minister will be able to dissolve the parliament on his own nor will the parliament accept a no-confidence motion against a prime minister before the lapse of two years. Despite these impressive features, then new Constitution has become a highly controversial document. It has been disapproved by the large constituencies of the marginalised groups—the Madhes, Janjatis, and women. They are agitating as their aspirations have not been substantially addressed. There are six main agitating groups, namely, the Madhes parties, the Janjati groups, women, monarchists, Hindu fundamentalists and splintered extremist Maoists. It is

true that many Constituent Assembly members belonging to these groups voted for the new Constitution but most of them did so under the fear of their respective party bosses and for saving their political careers. The differences of these agitating groups from those of the Constitution makers lie in five areas. These are, (i) the carving of federal provinces, (ii) proportional representation, (iii) citizenship rights, (iv) the identity of the Nepali State, and (v) its ideological parameters. The Madhes parties have disapproved of the seven province structure of federalism and the manner in which their boundaries have been carved out. From the beginning they were asking for at least a 10 province structure with one single Madhesh province. Later, they were ready to settle for two Madhes provinces. They were however never taken on board while deciding constitutional issues and the federal structure. When they knew that the dominant parties had decided on a six province model, they started abstaining from the Constituent Assembly proceedings (ibid).

The leader of Nepal's ethnic Madheshi community, which is waging mass protests against the country's new constitution, has accused mainstream political parties of racism. "The mainstream Nepali parties don't consider Tarai people as their own," said Upendra Yadav, the leader of the Sanghiya Samjawadi Forum, referring to those living in the southern plains bordering India. "The Nepali ruling class discriminates against Madheshi people, who comprise [nearly] half the population. But according to the new constitution, our representation won't even cross 25 percent in parliament," (Al Jazeera, 1 Dec, 2015).²³

The Janjati groups are upset for being denied identities to the provinces and also that their boundaries have been drawn in a manner that the upper hill castes will continue to dominate the provinces politically. They also oppose the reduction of the proportionate representation in parliament from 58% under the interim constitution to 45% under the new Constitution. This will affect them adversely. Women who have otherwise been assured of 33% representation in the central legislature and the post of either chief or deputy chief are angry on the question of citizenship because motherhood was not considered as the basis of citizenship. This was done largely to keep out such children who are born of a Nepali mother and a foreign father. Only those with citizenship by descent will be entitled to high posts. There are also a number of Indians married to Nepali spouses who will have to go through

²³ <http://www.aljazeera.com/news/2015/12/nepal-ethnic-Madheshi-denounce-ruling-class-racism-151201104814926.html>

complicated legal procedures for acquiring naturalised citizenship. There is fear among the Madheshi, who are affected most by such provisions, that a large number of such persons (estimates vary from 1–4 million people) may remain stateless (Muni, 2015).

They have been demanding the implementation of the past agreements signed between the Government of Nepal and Madheshi parties in 2007 and 2008 in the country's new Constitution. Although some of the points from the past agreements have been included in the Constitution, the four major points - electoral constituencies based on population, proportional representation of Madheshi in government bodies, autonomous identity-based provincial demarcation, and equal citizenship provision for women marrying Nepali men - have been rejected. According to C.K. Lal an eminent political analyst:

The time has gone mad; no one is concerned with anyone else. If one gets to do what he wants to do, he does not care about anybody else. That is the exact situation of Nepal. While half of the Nepal is burning, the ritual of constitution writing is being observed. This is not a constitution writing 'process', but merely a 'ritual' being performed to bring a set of document, rather than a constitution which represents the aspiration of progressive Nepal. Katmandu has always been cold, there's no fire in here, and the heat of fire anywhere else, does not reach here. Although the fire has been there since last 60 years and it never goes out, some sparks always remain to periodically inflame when Kathmandu provokes. This is the 60 years old dissatisfaction of Madheshi that Nepal does not consider it as a Nepali, Nepali considers Madhesh as an internal colony.²⁴

As the hill-centric political elite resisted making amendments to the constitution, the protest leaders blocked the border with India. The blockade lasted for almost five months and resulted in a severe shortage of fuel and some essential items, such as medicines and food items. As protests rage, millions of students have been forced out of schools, hospitals are running low on essential medicine, transportation has taken a hard hit and industries have shuttered. More than 50 people, mostly Madheshi, were killed in the violence.

²⁴ News 24 Nepal published a recorded interview on September 11, 2015. <http://www.Madheshiyouth.com/political/ck-lal-explains -about-madhesh-andolan>

The landlocked country of 27 million imports almost all of its fuel from India and relies heavily on its southern neighbour for most of its domestic and industrial needs. Raju Jaiswal is a Madheshi who drives an auto-rickshaw in Nepalgunj, the administrative hub of Banke district. The 27-year-old struggles to support his family of 12 and says: "People from the hills corner most of the jobs. We don't have a fair share in that. We have to work hard to earn money while they live in comfort." (Al Jazeera, April 5, 2016).

Chapter II

The Response of Nepal State to the Madheshi Problem

2. 1. Introduction

Since the unification of Nepal, the rulers-Shahs, Ranas and Panchas-have tried to develop Nepal as a homogeneous, monolithic and unitary state providing protection to one language (Nepali), one caste group (hill Bahun-Chhetri), and one religion (Hindu), ignoring the reality of the diversified and pluralistic character of Nepali society. The state-designed "Nepalization" process-through Hinduization, spread of Parbatiya culture, institutionalization of the caste system by converting the separate identities of ethnic groups into caste structures, and centralization of politics and administration-led to increased disparity among different social groups. The hill-based high-caste Brahmin-Chhetris and Newars have long been in a privileged position. The other groups, i.e. Janjatis, Madheshi and Dalits, are generally marginalized. The legacy of history is well reflected in the unequal distribution of socio-economic resources of the country and in the representation of the political power structure of the country (Hachhethu, 2003).

The issues of cultural discrimination, subjugation to Hindu domination, exclusion from the state decision-making processes and socio-economic deprivations of the ethnic groups are the major core "issues" being raised by the ethnic groups and their organizations to demand the protection of their culture and political rights (Bhattarai, 2001). Lawoti asserts that ethnic groups in Nepal are facing multiple forms of discrimination (socio-cultural, constitutional, legal and other forms of discriminations). He identifies among these linguistic discrimination, religious discrimination, abrogation of land rights, cultural imperialism, illegal discrimination. One of the widely accepted factors of impoverization and marginalization of indigenous peoples and other marginalized communities in Nepal is the social exclusion.

The ethnic upsurge is inevitable in Nepal as the historical process of national integration has been exclusionary. The restoration of democracy with the principles of popular sovereignty; equality, freedom and cultural rights has provided a platform for ethnic activism. The ethnic issue has gained a new weight and strength because of the

impact of the Maoist armed insurgency. The Maoist party does have ethnic contents, i.e. secular state and ethnic autonomy, but it can be simply overridden by the communist principle of "democratic centralism"; the experiences of other communist countries show that autonomy is limited to the paper only. However, it is generally perceived-particularly by the Western media, academia and diplomats that the Maoists succeeded in capitalizing the psyche of alienation and frustration of the excluded groups, Dalits and Janjatis in particular, in escalating their armed insurgency (Hachhethu, 2003).

In Nepal, the ruling dynasties defined identities as per their convenience. The caste groups in hills structured their distinctiveness on the basis of labour so as to find service easily. Ascribing the Madheshi the identity of being 'Indians' was also a part of the plan to exploit the abundant resources of their area/land while keeping the people distant from these resources. Moreover, for the powerful, the main source of power is derived from division of society. Only when an identified group is treated as 'outsiders', they can be effectively denied state benefits while the status of the insider remains protected. In other words 'othering' is the bridle of power. The basis for this 'othering' can be nothing better than identity. This propaganda is spread by the ruling classes who create a social hierarchy which places them in a superior position, and by that same process denying others a social position in the state. This construction of identities has continued since time immemorial. With the inception of Naya Nepal the long discriminated Madheshi community also sought to assert its identity in a new way. By first accepting discriminatory term "Madheshi" as their identity, they asserted themselves politically as the Madheshi people. They now differentiate themselves from the other communities on many fronts; they have focussed on certain physical and cultural parameters to create a new definition of themselves and extended it to become a sense of nationhood. The most commonly held notion that most of the participants of the study identify is, "We have a different facial appearance, we are red in colour; we, who wear dhoti, and speak Maithili, Bhojpuri, etc. are called Madheshi. Language culture, dress expresses different nations". These statements profess a sense of national consciousness which has elements of identity and autonomy in this particular group of population. Having a long history of marginalization and sharing common sense of exclusion has led to formation of the common identity as a means of assertion to power.

The cultural and linguistic commonness as well as the question of appearance is also being stressed strongly. This is the awareness of being a part of a community as opposed to another with clearly different cultural and linguistic parameters has become an important development for people of this region. Here the high status group members have been highly discriminatory and ethnocentric where they saw their legitimate superiority threatened by the low status group, but not their superiority as illegitimate (Ellemers, 1999).

2. 2. Saha Dynasty 1768-90

The cultural discrimination, economic exploitation, social exclusion and political oppression have become the national characters of Nepali state politics ever since the formation of greater Nepal through territorial conquest by the Gorkha rulers in 1769 A. D. Soon after the territorial conquest, Prithivi Narayan Shah declared Nepal as the Ashali Hindustan, meaning Nepal as the true Hindu Kingdom. He further declared Nepal as the common garden of four varnas and thirty six castes. In practice, Nepal never became a common garden of all communities. Instead, it remained private vassal of so called high caste Hindu Bahuns and Chhetris. The territorial unification of Nepal through military conquest did not unify the feelings and aspirations of non-Hindu communities. They were excluded from the mainstream national political life and deprived off the socio-economic opportunities. The indigenous patterns of communal life and economy that existed in the hill and mountain regions of Nepal were subjected to penetration by dominant Hindu caste people. Hindu rulers created conditions for perpetuating their penetration by the transformation of land tenure systems, codification of Hindu laws and imposition of Nepali language. The structure of Nepali society into a hierarchical segmentation along the line of Hindu caste system with the ritual claim of superior and inferior as well as pure and impure excluded indigenous peoples, women and Dalits from the national social, cultural, economic and political life.

The conquest of Nepal by the Shah dynasty not only provided the country with an increasingly unified political system, but also laid the foundation of a unifying social organization based on a Hindu Brahminical notion of caste hierarchy. Indeed, the territorial unification of an ecologically diverse, ethnically heterogeneous land required a unifying social mechanism of control that would buttress the hold of a centralizing polity: hence, the Shah rulers privileged the Hindu caste hierarchy of

ruling Parbatya elites.²⁵ Nepal, at the time of Prithvi Narayan Shah's conquest, had three distinctive caste systems: Parbatya, Newar, and Terai. More importantly, there also existed major cultural differences between Indo-Aryan-language-speaking Hinduized Parbatya groups, Tibeto-Burman-language-speaking diverse hill ethnicities with their belief system occasionally influenced by Buddhism and Shamanism, and Mundari and Dravidian-language-speaking residents of the Terai region practicing their own autochthonous religious rituals (Raize, and Basu, 2007).

Prithvi Narayan Shah stated that "Nepal is a garden of four Varnas and thirty-six Jatis". However, this seems to have been only his slogan to induce the ethnic groups for active participation in the unification process. His slogan later on, *Yo Asali Hindustan Ho* (This is the pure land of Hindus) (Gurung, 1997) makes this agenda clear. Gellner asserts that Prithvi Narayan Shah was not "really a nationalist" and he was "very far from being a multiculturalist celebrating cultural diversity for its own sake (Gellner, 1997). After conquering Kathmandu Valley Prithvi Narayan Shah reduced the Chha-Thar Ghar into Char-Thar Ghar (four-family lineage, comprising Shah, Pande, Thapa and Basnyat), by excluding Magar and Gurung. He launched a state policy of Hinduization with the concept of Asali Hindusthan and Gorkhaization, seeking Gorkhali people's hegemony over all the ethnicities defeated by the Gorkha. The state donated new Guthis (land) to Brahmin priests. Guthi donation was accelerated "particularly to those areas where Hinduism was nominal, towards the eastern region".

In the midst of this complex mosaic of languages and cultures, Shah rulers imposed a framework of accommodation and ranking through internal colonization of these various ethnicities by privileging high caste Nepali-speaking Parbatya Hindu social groups, both culturally and materially. The new pattern of taxation, the promotion of certain Brahminical rituals, and the Khas Gorkhali Nepali language in the functioning of the state and the extension of central government's support to emerging Hindu land-holding elites led to the consolidation of a Hindu kingdom. The incipient Nepali state under the Shah rulers between 1768 and 1844 thus created a framework of domination through the construction of a Hindu social order that simultaneously incorporated as well as marginalized various other ethnicities within this broad,

²⁵ The term *Parbatya* refers to high caste Hindu groups of the middle hill region in Nepal comprising Bahuns, Thakuris, Chetris, and their occupational caste retainers now described as Dalits, or former untouchables.

unifying, but also ethnically discriminating social order. Thus, the Nepali state had from the beginning a particular ethnic outlook based on Parbatya Hindu values. The state as a ruling entity as well as a resource extracting and distributing mechanism remained in the hands of high caste Parbatya Hindus who excluded others. The sole exception to this process happened to be high caste Newars, who had evolved a separate caste system prior to the Gorkha conquest of Kathmandu valley rituals (Raize, and Basu, 2007).

2. 3. Rana Dynasty (1846-1951)

In 1846 Janga Bahadur Kunwar came to power as a result of "intrigues, counter-intrigues and conspiracies". Backed by the junior queen Lakshmi Devi, he organized a massacre (Kot Parva) and "established virtually dictatorial control over the government". A backward-looking regime, it discouraged the opening of educational institutions, imposed orthodox and discretionary social rules to get education, banned travel abroad for education; and fostered communal disputes and rivalries. The royal priests, in the name of religion or Dharmashastra code, sternly punished any attempt by the people to modify social, ethnic, and caste inequalities. People's mode of apparel and wearing ornaments, house construction, etc. were strictly controlled. In the army, officers were appointed from Rana male offspring soon after their birth, and sometimes even before their birth (Joshi, and Rose, 1966).

Rana rulers further consolidated the social stratification along caste lines through a formal countrywide legal code. The infamous *Muluki Ain*, introduced on 5 January 1854, served to divide the society clearly in terms of a Hindu caste hierarchy. The term *Muluki Ain*, derived from two Perso-Arabic words *Mulk* (country), and *Ain* (law), actually sought to promote the new legal system as the comprehensive code of law for the entire land. Through a fourteen-hundred-page document entitled *Muluki Ain* (law of the land), Jang Bahadur sought to establish a legally sanctioned hierarchical social order based on Hindu caste ranking. In Nepal the caste structure sustained the patrimonial despotism of the Rana family. It upheld royal honor, associated notions of power, dominance, and order. Although within the Gorkha kingdom, earlier Hindu practices had never been sharply delineated from diverse religious traditions emanating from Buddhist or animist heritage, *Muluki Ain* forcibly assimilated within the Hindu caste hierarchy a range of hill and plain ethnicities. Hill ethnicities, such as the Gurung and Magar (often described as tribals, currently styled

as Janajatis), were placed into the middle ranks of the caste hierarchy under Bahuns and Chetris, compelling the former to acculturate and work within the system (Levine, 2005). The stratification stipulated in this legal code influenced a wide range of policies. The *Muluki Ain* classified penalties for crimes according to caste, determined laws over land tenure and trading privileges and institutionalized economic dominance of upper caste elites over subaltern social groups ranging from Janajatis (tribals) to Dalits (untouchables located at the bottom of the social hierarchy below the organized caste system) (ibid). This social order that privileged caste hierarchy with Bahuns (Brahmins) at the top is described in modern Nepali political discourse as Hindu Brahminical order. It had been economically sustained by an agrarian political economy based on a complex tenurial structure.

The Ranas not only privileged Sanskrit and Nepali as the language of the court but projected it as the language of the people as well. Again, Janajatis (sometimes referred to as tribals, but we prefer to use the Nepali term) had to accept high caste linguistic culture, and similarly untouchables had to operate and perform labor within this social order. Indeed, elite resistance to linguistic culture led to the accidental renaming of the national language as Nepali. In the 1920s, when the Newars, an ethnic group of the Nepal valley, claimed their language as Nepali, the Gorkha government gave the national language the same name, privileging it from a range of amorphous names such as Parbatya, Khas, or Gorkhali, at the same time styling the kingdom as Nepal. They thus actually created common national nomenclature for a people, land, and government, and a critical category for the projection of national identity. Soon the British provided external legal sanction in 1923 by recognizing the Nepali court as an independent sovereign state and thus placed the country on the world map distinguishing it from the maze of princely states that dotted South Asia under British tutelage (Raiz, and Basu, 2007).

2. 4. Post Rana period (1951-1990)

Ethnic activism was first noticed with the dawn of democracy in 1951. The general election of 1959 to Parliament brought out the hill ethnic groups and the Madheshi community from complete exclusion in the past under the Shah and the Rana regimes. In 1959, their representation was 26.3 and 15.5 per cent in the government and 15.6 and 22.0 per cent in Parliament respectively (Drefden, 1992). Their comparable

representation-14 to 21 per cent of hill ethnic groups and 11-18 per cent of Madheshi community-continued in the legislature throughout the Panchayat period despite the fact that the regime was highly tilted towards the hill high castes, Chhetris in particular. The ethnic activism was revived as Panchayat politics appeared flexible following the announcement of a referendum in 1979 (held in 1980) to make a choice between multiparty system and party-less Panchayat system. Particularly after the end of the Panchayat system and the restoration of multiparty democracy in 1990, the ethnic movements are gaining momentum (Hachhethu, 2003).

Indigenous peoples, women, Madheshi and Dalits experienced new form of domination and hegemony during the Panchayat (partyless political system) regime (1960-1990). Politics was dominated by Hindu Bahuns, Chhetris and few Newar elites and indigenous peoples, women, Madheshi and Dalits were excluded from the national political life. The new political system called Panchayat headed by absolute monarch was engaged in a new project to modernize Nepal and attain national integration. But rather than developing a new model of ethnic pluralism, the Hindu rulers of the new regime engaged themselves to officially promoting ethnic homogenization by imposing the concept of one nation, one culture, one language, one religion, and one national identity. To become a citizen of Nepal, one has to speak Khas language, observe caste system, follow Hindu religion and wear Nepali dress. Parbatiya Hindu values became the ingredients of pragmatic model of creating national culture. Under this type of cultural model or cultural accommodation which Pfaff-Czarnecka (1997) calls "nationalistic model", indigenous and other non-Hindu peoples were forced to share a common culture. Sharing cultural elements of unity was proclaimed by suppressing the differences. Any claim to ethnic identity was reduced to political rebellion during Panchayat period, because it was supposedly considered to be a threat to nationalism. Though the legal code of 1963 was considered to be a dramatic change, it also declared Nepal as the Hindu kingdom and practice of untouchability and gender inequality continued to be debated. Debate and efforts pertaining to ethnicity and culture other than national culture fashioned in the line with the high caste Hindu was discouraged as anti-national and communal and therefore met with strong official opposition. The impact of the state policy of Hinduization and homogenization of cultural diversity threatened identities and severely constrained indigenous nationalities and other marginalized communities to practice and promote their languages, cultural traditions and religions. Development

was a promise of the state and school education system promoted Hinduization and sankritization as parameters of civilization and development. Those who retained their culture and languages were considered primitive. In many respects, Panchayat policy was even more rigid and orthodox.

1950s marks both the beginning of modern era in Nepal and the beginning of Madheshi struggle. The Madheshi struggle first started with the formation of the Terai congress. It asserted on three important demands - i) to declare Terai an autonomous region ii) to declare Hindi as official language iii) to ensure proportional representation of the Terai dwellers in Civil Services (Gautam, 2008). In the mid-1950s, when the then government decided to introduce Nepali as sole official language of the country, there was a resistance in plains, even leading to clashes in Biratnagar in the eastern Tarai between groups supporting Nepali and Hindi.

King Mahindra took over in a royal coup in December 1960 and in 1962 he promulgated a constitution which promoted one language, one religion and one culture. He constructed a narrative in which the monarchy was the symbol of the unity of the nation. And faith in the 'glorious' history of the Shah dynasty, a common language (Nepali), a common religion (Hinduism), and a common dress (daura-saluwar) tied the country together. From a historical and political perspective, the Tarai found no mention at all in school curricula, except as a breadbasket. There was a little a Madheshi could relate to when he was taught in the classrooms-the language of instruction, the historical figures which were being mythologized, and the hill-centric cultural practices were all alien to him. But that was the aim, to make him more Nepali through pedagogy and force him to be ashamed of his own roots (Jha Prashant, 2014).

Discriminatory citizenship law with impossible requirement to prove 'descent' and to speak in Nepali were framed, making it difficult for those of a plain origin to acquire citizenship papers. This virtually disenfranchised them, since they could not buy land, access state services, or participate in politics. They had little choice but to be meek and pliant for survival. At the same time, people of 'Nepali descent'-which could include Nepali speakers from Darjeeling and Sikkim in India, or Bhutan were granted citizenship and encouraged to move to the Nepali hills and plains (ibid). The dynamics between the state and the ethnic groups strengthened as the period changed to a Panchayat system of "guided democracy".

Between 1962 to 1990, the situation started taking new turns with regard to ethnic suppression. The Nepali state encouraged migration from south of the border to Madhes as well as from the hills to the Madhesh since the 1950s. This had served the interest of small hill elites. Land and forest, the two major resources available in abundance in *Madhes* was distributed disproportionately in favour of the hill people. Thus, hill migration was used as one of the instrument for the homogeneous model of *Nepalization*,²⁶ which has adverse impact in the *Madhes* so far its cultural uniqueness, economic interest and political power structure are concerned. Four major factors – end of malaria, land reform act of 1964, launching of several resettlement projects in the *Madhes*, and construction of the East-West highway, led to flow of hill dwellers into the *Madhes* (Hachhethu, 2007). Creating settlements facilitated hill-dwellers in acquiring land and leadership quite quickly in the tribal areas; the hill migrants showed great sharpness of wit to choose places in the tribal areas which were dense malaria infected forests before. These areas showed maximum influx of hill migrants (Gaije, 2009). The dissatisfaction grew when the 1990 constitution, which was supposed to be the first democratic constitution of Nepal, formally hedged its bets by dividing its Article 6 into two clauses: 6 (1) “The Nepali language in the Devanagari script is the state language (*rashtrabhasha*) of Nepal. The Nepali language shall be the language of the workings of Government.” Article 6(2) enshrined, “All languages spoken as mother-tongues in the various parts of Nepal are national languages (*rashtriya bhasha*) of Nepal.” Article 18(2) goes rather further, stating: “Every community shall be able to run schools so that education may be provided to children up to the primary level in their mother-tongues.” The above articles were probably drafted to appease linguistic and religious minorities. But it is already apparent that groups such as the Nepal Goodwill Party, which had demanded the status of a second national language for Hindi, along with Christian, Buddhist, and Muslim groups, which had demanded a secular state, were far from satisfied. The dissatisfaction of the Christian minority had been compounded by the fact that Article 14 of the 1962 Constitution, that banned conversion, was retained as Article 19(1) (Hutt, 1991). Here it is clear that the state has confined the limits of the cultural concerns of their diverse populations to a personal sphere. This has been the cause of repeated threats of conflicts over language politics (Joanna, 1999). The state has through these policies, provided ample space for ethnic conflict to prosper and language became the major

²⁶ the notion of one language, one dress, Hindu nation and respect for the king

source of contention. Language was not just a means to alienate non-Nepali speaking population who majorly concentrated in Terai but also it was associated with the freedom of expression that was curbed; thus with every democratic wave, language augmented the ethnic cleavage (Jha, 2015).

2. 5. Democratic Era Post 1990

The advent of multiparty democracy of 1990 provided an opportunity for articulating the pains of historical injustice and long-standing grievances of indigenous peoples, women, Madheshi, Dalits and other marginalized communities in Nepal. The promulgation of new constitution of Nepal in 1991 states equality to all citizens of Nepal before law. Nepal was declared as multi-ethnic, multi-cultural and multi-lingual, democratic, independent, indivisible sovereign state. Thus, for the first time, the constitution of the kingdom of Nepal recognized Nepal as plural society. In comparison to the constitution of panchayat era, the constitution of 1991 looked more progressive. At least in principle, the new constitution guaranteed civic rights, freedom of speech, freedom of organization, freedom of religious practices and freedom of languages. For the first time in the political history of Nepal, Nepali people enjoyed political rights even in its limited form. Various indigenous groups, women, Madheshi and other disadvantaged communities became assertive in an organized form for their collective and ethnic identities. The multiparty democracy provided indigenous peoples, women, Madheshi and Dalits with an impetus to quest for equal participation in the national politics and policy-making processes. Nevertheless, the multiparty democratic system failed to address indigenous people, women and other marginalized communities' hope to reduce socio-cultural and politico-economic inequalities and promote human rights. The declaration of Nepal as the Hindu kingdom legally prohibited indigenous peoples and other religious minorities from practicing their religions. Similarly, the state's recognition of Nepali (Khasa) as the language of the nation and language of official business certainly discouraged the protection and promotion of various languages of indigenous peoples and other linguistic groups. The Supreme Court of Nepal issued an ordinance to Kathmandu Municipality, Rajbiraj and Dahnusa districts for not to use their local languages in the official businesses. This ordinance has prohibited the linguistic freedom and thereby human rights of indigenous and other linguistic communities. The elimination of the practice of untouchability based on Hindu culture and gender inequality promoted by the patriarchal Hindu society became rhetoric of everyday

politics rather than a reality. Nepali people became much poorer even during post-democratic Nepal (ibid).

Indigenous peoples, women, Madheshi, Dalits and other marginalized groups are not proportionally represented in the state's politics, legislative and executive bodies and judicial and civil and military services. This situation remained same even after the establishment of multi-party democratic system in 1990. The multi-party parliamentary democracy did not meet the expectations and aspirations of Nepali peoples. Although the new constitution of 1991 recognized Nepal as multi-ethnic, multi-cultural and multi-lingual country, the fundamental tenets of the Hindu religion and culture remained the same. This prohibits indigenous peoples, women, Madheshi, Dalits and other marginalized groups from religious, linguistic and political rights and thereby excludes them from mainstream development programs.

The parliamentary record, for example, shows that the high caste Hindus (Bahun, Chhetris and Thankuris) who constitute only 30.5 percent of the total population, had 55.16 percent in 1991, 62.9 percent in 1994 and 59.5 percent seats in 1999 in the legislature. Indigenous peoples who constitute 37.2 percent of the total population (23million) of the country represented only 25.2 percent in 1991, 18.5 percent in 1994 and 18.4 percent seats in 1999 in the legislature. Similarly, Madheshi had 8.7 percent in 1991, 10.7 percent in 1994 and 14.1 percent in 1999. Dalits had only one elected Member in 1991 and no representation in 1994 and 1999. Similarly, women, who comprise 51 percent of the total population in the country, had no more than 5 percent representation in the parliament from 1991 to 1999. Madheshi and Dalits had less elected chairs and vice-chairs in the Local Self-government Bodies (for example, indigenous peoples had 19% in DDCs and 39% in VDCs, Madheshi had only 31 elected chairs and vicechairs in DDCs and VDCs whereas Bahuns and Chhetris had 59% in DDCs). In reality, the elected members from indigenous people do not represent the interests of their own communities as they are elected from their affiliated political parties. In the executive bodies and bureaucracy, indigenous peoples and other marginalized communities have lower representation (indigenous peoples 12%, Madheshi 5%, Dalits 1.3% and religious minorities 1.1%). They also did not hold key position in bureaucracy and they do not occupy important Ministries. In civil services, gazetted civil service posts seem virtually the fiefdom of Bahuns, Chhetris and Thakuris. Janajatis excluding Newars occupy only 2.3 percent of the total positions in the civil services. In judiciary, indigenous peoples have only

two judges and so is the case of the Madheshi. Indigenous peoples, Dalits and Muslims have only nominal representation in constitutional bodies (CBS, 2004). After peaceful settlement of armed conflict, the Maoists participated in the legislature. The participation of Maoists in the legislature increased the percentage of the representation of indigenous peoples, women, Madheshi and other various marginalized communities. But an increase in the political representation has not necessarily solved the problem of poverty, health, education and unemployment, as Bahuns, Chhetris and Thakuris are still holding the major political power and control state's economic resources. Indigenous peoples, women, Madheshi, Dalits and other marginalized groups have neither any share in the resources nor do they have access to opportunities. Their share in the state resources and access to socio-economic opportunities has been constrained by political, legal and institutional barriers that need to be removed through the restructuring of the state in an inclusive manner.

In the history of the planned development efforts, the Government of Nepal included, for the first time, policies and programs related to the development of indigenous peoples, women, Madheshi, Dalits and other marginalized communities in the Ninth Five-Year Plan. In this Plan, the government has admitted its weaknesses to accommodate these communities in the mainstream development programs of the country. It has considered indigenous peoples and other marginalized communities as development partners. But in practice, these communities did not participate in the development planning and programming of the Ninth Five-Year Plan because the government never consulted them. The Tenth Five-Year Plan was the Poverty Reduction Strategy Program for Nepal that identified human development and social inclusion as one of the four main pillars of the poverty reduction strategy with objectives to: (i) improve access to and quality in primary education and (ii) provide primary education in mother languages of the communities. But the government did not look honest and serious to implement the development programs for these communities. Instead, its development programs displaced indigenous peoples and other marginalized communities from their lands and territories. The land reform program, for example, converted the Tharu and Madheshi from land owning communities to Kamaiyas (bonded labourers) in western Tarai. The establishment of National Parks in Nepal has displaced indigenous Chepangs, Botes, Majhis, Darais, Rajis and Mushars communities from their land and territories. The community forestry program, a model of the most successful community-based development program in Nepal, has deprived many indigenous peoples of their customary use

rights of forest resources. This has not only affected the economic life of the local communities but also their traditional knowledge, skill, technology, beliefs and practices which, in turn, has affected their ethnic identity (Gurung, 2009)).

Since April 2006, Nepal has made substantial progress toward regaining political stability. In that month, a popular movement led by an alliance of seven major political parties forced the king to relinquish his control of the government and to reinstate the parliament that has dissolved in 2002. The decade-long conflict between the Maoists and the state officially ended when the Maoist and the Seven Party Alliance (SPA) signed a peace accord in November 2006. In addition to making headway on arms management, this coalition formed an interim government, drafted the Interim Constitution, and planned for election to a constituent assembly, all steps on the road to a constituent assembly, all steps on the road to creating a “new Nepal”. In January 2007, however, a new wave of political conflict took the leaders of the Nepali government and the international community by surprise. Denouncing the ruling coalition for ignoring their demands, ethnic groups including Madheshi (people from southern Tarai region) and indigenous nationalities (a coalition of marginalized ethnic groups from across the country) embarked on their most wide spread and vociferous protest yet. Extensive violence erupted in Tarai, disrupting business in the key economic region and stalling the plans for constituent assembly elections. In 2007, the Madheshi movement captured the attention of Nepali media because of extensive violence accompanying its protests throughout the Tarai, but until this time it had not received state attention, and scholarship on this movement is still nascent (Hangen, 2007).

After the government of Nepal signed a peace agreement with the Communist Party of Nepal Maoist in 2006 to end a 10 year civil war, the war officially ended and now Maoists were established mainstream political party in Nepal. During the movements the MJF also strengthened its stands by being affiliated to the Maoist movement (Miklian, 2009). Apparently, in comparison to other urban centred social movements in Nepal, the Maoists have managed to mobilise a large rural population contributing to their political and social awareness. During the People’s War, the Madheshi were particularly active on the ethnic front. Many had joined the *Madheshi Rashtriya Mukti Morcha* (Madheshi National Liberation Front), an organisation headed by the Maoists, with the hope of achieving greater recognition for their people. However, The Maoist failed to keep their own promises of social and political empowerment for

the Madheshi; and this has kept the Maoists trapped in a game that they initiated themselves.

The trigger for the first Madheshi movement in January 2007, when the interim constitution was promulgated, was the silence of the interim constitution on federalism and an inequitable electoral system (ICG, 2007). Madheshi leader Upendra Yadav burnt the interim constitution. This was followed by widespread protests in the Tarai by MJF activists, the killing of a MJF activist by the Maoists in Lahan of Siraha district, and the flare-up of the agitation across Tarai – with a strong anti-Kathmandu and anti-Maoist flavour. The Maoists had contributed to militant mood in Tarai and were the first ones to characterize the exploitation of Madhes as a case of ‘internal colonialism’. But they could not politically reap the benefits of this mobilization, as they were seen to have betrayed the cause after becoming a part of the Kathmandu establishment (ibid).

The primary issue underlying the Madhes movement is the re-definition of Nepali nationalism, which has rested on pillars like one language (Nepali) and one dress (daurasaluwar) (ACHR, 2009). While a hill person - irrespective of nationality in the case of Nepali speakers from Indian Himalayas - is considered Nepali, Madheshi citizens have long been treated as the fifth column because of their geographical, cultural, linguistic and kinship ties with people across the border in Bihar and Uttar Pradesh. This has manifested itself in various forms – from deprivation of opportunities to insinuations about their ‘patriotism’ and prejudiced comments about dress, language and colour. It is in this regard that a distinction can be made between the different socio-political movements that engulf the country. The quest for representation is common to all of them, but there are subtle differences as well. The Janajati movement is a fight to end the cultural oppression of the Nepali speaking, Hindu, upper castes; the Dalit movement is against the oppressive caste structure and challenges the hierarchy inherent in it; the women’s movement is a battle against patriarchy. The Madhes movement challenges the very basis of old Nepali nationalism and thus is considered politically the most dangerous and subversive (ACHR, 2009).

The rise and fall of Madhes movement was witnessed in every democratic venture made by Nepal. Finally, after travelling an uneven trajectory, the defining moment of the *Madhes* movement came in 2007, which took a strong stand for re-structuring of

the state and declaring *Madhes* as an autonomous state. United Democratic *Madhesi* Front (UDMF), and several small *Madhesi* and Janjati outfits including the CPN-M \came together to form a Federal Democratic Republican Alliance (FDRA). The stated aim of the coalition was to strive for ‘a constitution with federalism and federalism with identity’.²⁷

The principal demand calls for the ‘liberation’ of the entire Terai by redrawing the region into a single autonomous unit called Madhes that will have the right to self-determination under Nepal’s yet to be finalized federal system. This demand is known in common parlance as ‘One Madhes’ in Nepal. The first post-war nationwide elections in Nepal were held in April 2008, and each of the organizations of the UDMF chose to participate with an election slogan of ‘Ek Madhes, ek Pradesh’ (one Madhes, one state, collectively gaining 11.3% of the nationwide vote and 81 of 601 seats. Other political promises made included greater representation in the political, bureaucratic, and military spheres, recognition of Nepali citizenship, recognition of Maithili as an official language of Nepal, and ending discrimination of Madhesi by Pahadis by evicting Pahadis from the Terai if necessary.

After the promulgation of the 1990 constitution, different elected governments started addressing the grievances of ethnic, regional and marginalized groups. The government formed Women Commission, Dalit Commission and Janjati Commission, and started broadcasting news and programmes in different languages such as Maithili, Bhojpuri, Awadhi, Newari, Tamang and Hindi. In 2006 the government declared Nepal as a secular state to remove religious discrimination, amended laws related to the Citizenship Act and distributed certificates of citizenship to 2,200,000 stateless people. The interim government of 2006 announced reservation for marginalized groups like Madhesi, women, Dalit, Janjati and economically backward classes. In 2008 the government declared Nepal as a federal democratic republican state and started discussions about restructuring of the state in accordance with the aspirations of the people. These attempts have, however, failed to satisfy the activists of ethnic and regional groups. At the same time, the traditionally dominant groups, who control and run institutions of the state-the bureaucracy, the judiciary, the

²⁷ Retrieved from: <http://www.thehindu.com/news/international/article3775142.ece> on 11th September 2012

defence forces and the legislature-have begun to resist claims for fundamental restructuring of the state.

Nepal has a new Constitution. Way back in 1949 the Nepali Congress (NC), in its fight against the Rana autocracy, demanded in its manifesto a Constitution written by an elected Constituent Assembly. This principle was supported by India during its active involvement in ending the Rana system and initiating democratisation of Nepal in 1951. Nepal has taken 65 years to realise that dream. The first Constituent Assembly of Nepal was almost within reach of finalising a popular Constitution in 2012. The lack of determination on the part of the ruling Maoists, and the lack of support from the opposition NC and the Communist Party of Nepal—United Marxist Leninist (UML) then, did not let that happen. The NC and the UML, as also perhaps India, were not interested at that point of time in the Maoists getting credit for giving “New Nepal” a Constitution and consolidating politically on that basis (Muni S.D, 2015).

The new Constitution, promulgated on 20 September 2015 has many distinguishing features. It has been adopted by an overwhelming majority of 507 out of 598 members of the Constituent Assembly. The Constitution enshrines the principles of republicanism, federalism, secularism and inclusiveness. The preamble of the Constitution also incorporates the principle of “socialism based on democratic values.” It incorporates proportional representation to ensure that women, untouchables (Dalits), and marginalized groups like the Janjatis and the Madhes find representation in the national legislature and in the other institutions of the state. The new legislature will have 275 seats in the parliament of which 165 will be filled by direct elections (first past the post) and 110 will be based on proportional votes. It bestows fundamental rights and freedoms on its citizens and provides for specific constitutional commissions to take care of discrimination against women and marginalised groups. The President would be the constitutional head of the state, elected by a collegium of central and provincial legislative bodies. The head of the executive will be the prime minister elected by parliament through a majority vote. There would be an independent judiciary, nominated by a Judicial Commission. In the interest of stability, neither the prime minister will be able to dissolve the parliament on his own nor will the parliament accept a no-confidence motion against a prime minister before the lapse of two years. Despite these impressive features, the new

Constitution has become a highly controversial document. It has been disapproved by the large constituencies of the marginalized groups—the Madhes, Janjatis, and women. They are agitating as their aspirations have not been substantially addressed. There are six main agitating groups, namely, the Madhes parties, the Janjati groups, women, monarchists, Hindu fundamentalists and splintered extremist Maoists. It is true that many Constituent Assembly members belonging to these groups voted for the new Constitution but most of them did so under the fear of their respective party bosses and for saving their political careers. The differences of these agitating groups from those of the Constitution makers lie in five areas. These are, (i) the carving of federal provinces, (ii) proportional representation, (iii) citizenship rights, (iv) the identity of the Nepali State, and (v) its ideological parameters. The Madhes parties have disapproved of the seven province structure of federalism and the manner in which their boundaries have been carved out. From the beginning they were asking for at least a 10 province structure with one single Madhes province. Later, they were ready to settle for two Madhes provinces. They were however never taken on board while deciding constitutional issues and the federal structure. When they knew that the dominant parties had decided on a six province model, they started abstaining from the Constituent Assembly proceedings (ibid).

Chapter III

The Madheshi Factor in India-Nepal Relations

3.1. Introduction

Nepal shares its borders with both India and China but not equally. Nepal is surrounded by India from the eastern, western and southern sides. China lies on the Northern border. Thus, Nepal is geographically land-locked by India in a major way. Nepal and India, have shared a long and chequered relationship, though it was hardly ever a relationship between equal powers. Nepal's relationship with China is relatively new and evolving. Potentially, this has the possibility to upset the balance between the two large Asian powers, India and China.

As a land-locked country, Nepal will have to work out these relationships to its long-term benefit, even if they appear fraught with burdens of history, the “Big Brother” attitude of its neighbours in the light of India's overt or covert attempts to shape the course of recent events in Nepal. India and Nepal have shared centuries old historical and cultural relations by virtue of their geographical location. This has underscored the unique proximity or affinity one country feels with the other, but the specialty of this relationship has always been in the context of the over-bearing presence India on Nepal. For India, from a pure geographical context, Nepal was the bulwark against any foreign aggression into India from the north. Therefore, it was always in India's self-defence and security interests that Nepal did not have a ruler or government hostile to it, and that Nepal was not susceptible or vulnerable to external conquests and control as that would expose large tracts of India's territory. This further emphasized India's Big Brother stance. Socially, the Nepalese, especially those in the Terai had economic and personal relationships through marriage and shared genetics as well as cultural and language across the Indian border especially in the states of Bihar and Uttar Pradesh. This relationship, colloquially called the *roti-beti* relationship, opened up channels for both countries to advance their national interests. It also brought the Madheshi into close contact with India. Even the erstwhile ruling monarch family of Nepal has had associations among Indian elite through marriage.

Economically, the relationship has been a very significant one for Nepal as India was the chief supplier of fuel, medicines, grains and other items of daily consumption for the Nepalese. Nepal has had a treasure trove of natural resources, exploited by vested

interests. It is important to note that India had enforced an economic blockade in 1989-90. However, the economic exchange between the nations continued after the blockade was lifted. Additionally, Indian tourists provided a steady source of revenue for Nepal and serves as a destination for migrant workers from Nepal. The most significant aspect of this economic relationship is that nearly 90 per cent of Nepal's trade with third-party countries transits through India, the primary outcome of being a land-locked country. It gives India enormous power over Nepal. India has always enjoyed the economic muscle *vis-à-vis* Nepal which has made it an unequal relationship often with Nepal at India's mercy and the latter taking advantage of this (SAHR, 2016).

Politically, the history of the Indo-Nepal relations is often traced back to the movement for India's independence from the 19th century but it has had its share of disputes too. Nepal too witnessed struggles for political assertion and bringing power to the people. The famous Koirala brothers who founded the Nepali Congress took inspiration from the Indian National Congress and Mahatma Gandhi. The Treaty of Peace and Friendship was formally signed in 1950. Over the decades, India has provided safe places to various pro-democracy and pro-people groups against a succession of Nepal's monarchs especially in the 80s, 90s and later in 2005-06 when King Gyanendra declared the emergency, though India also supported monarchs in exile. India has also enjoyed a level of influence with the Maoists in Nepal.

Nepal's boundary on the south is demarcated on the basis of the Treaty of Segouli in 1816 signed between Nepal and the East India Company. The southern border encounters Gangetic plains of India and the natural barriers like mountains and rivers extend into Indian Territory. The main population centres of India e.g. Uttar Pradesh, Bihar and West Bengal are contiguous to Nepal. Nepal has to depend on India for transit purposes, except for the goods that move by air. For all practical purposes Nepal is 'Indialocked' rather than landlocked (Glassner, 1976). The strategic importance of Nepal emanates from its geographical placement between India and China whose relations are strained over the border issue. Though the Chinese have settled their border issue with Nepal through the Sino-Nepal boundary agreement (1960) and are attempting to normalise relations with India through diplomatic talks, in the wake of an armed conflict they may not hesitate to pass through Nepal and carry out operations against India (Rao, 1991). Also with the open border, illegal trade, smuggling, drug trafficking is on the rise and Kathmandu has become a haven

for terrorists, smugglers from India (Goyal, 1994). Thus, Nepal becomes an integral part of Indian security concern in the Himalayan frontier. In order to consolidate its security interests in the northern borders India entered into security arrangements with Nepal for example the recruitment of Gurkhas in the Indian Army (1947), Treaty of Peace and Friendship (1950), Arms Assistance Agreement (1965) etc. On perusal these security arrangements reveal the British Indian legacy.

Relationship between India and Nepal has come under strain on several occasions. One occasion in the recent past was in 1989-90 when the then Prime Minister (PM) Rajiv Gandhi effected the economic blockade. It lasted from March 1989 to July 1990. When the blockade was lifted, Gandhi had been replaced by VP Singh as India's PM. That blockade had brought unforeseen hardships to Nepal. The transit treaty between the two countries had expired and Gandhi's government in India did not renew it ostensibly owing to the political situation in Nepal. The political reform movement was in full swing and eventually led to the restoration of the multi-party democracy in 1990. The treaty was renewed after that when Nepal PM Girija Prasad Koirala visited India in 1991 and both countries signed new separate trade and transit treaties.

The Indian government not only offered advice which further invoked its Big Brother approach to Nepal but also raised objections to parts of the new Constitution. Nepal went ahead with its process of Constitution-making. Subsequently, when it was promulgated in September 2015 and after protests had surfaced in the Terai over the Constitution, there was also an accompanying blockade which completely crippled Nepal and led to a humanitarian crisis of large proportions.

Officially, India did not accept that it had enforced the blockade or even had a hand in it, but few in India or Nepal believe this. India's position was that the blockade was because Nepali protestors in the Terai had blocked the entry-exit points on the Indo-Nepal border due to which Indian trucks could not ferry fuel and supplies into Nepal and trade had to be halted.

3.2. Brief historical background to Indo-Nepal Relations

Many believe that 1950's Peace and Friendship treaty lays as a foundation for India and Nepal relations which has allowed each other's citizens to engage in business, trade and several other economic activities, which is unique in itself, but we can trace

back the relation between India and Nepal from the British rule. British recognised the importance of Nepal on its northern frontier in terms of her strategic location, foreign policy and armed strength. In the beginning the British interests were commercial in nature. The trade relations between Nepal and the Indian states of U.P. Bihar, and Bengal on the northern border attracted the British attention. It also tried to develop trade with Nepal as it acted as a catalyst in the development of East India Company's trade with Tibet and Central China (Jha, 1975).

However, the offensives of the Gurkha Chief Prithvi Narayan Shah in the valley of Nepal caught the British attention. In 1767, the Newar Raja Jai Prakash Malla of Kirtipur solicited the British aid against the Gurkha invaders. Britain fearing disruption of trade with the valley, if Gurkhas annexed it from the peace loving Newars, sent Bogle and Turner missions and later on Captain G.Kinloch, with a small force in support of Newars. However, by September 1768 Prithvi Narayan Shah defeated the Newar Rajas and organised Nepal as a Nation²⁸.

The expansionist policy of the Gurkhas brought them into conflict with Sikkim and Tibet which in turn involved China in support of Tibet. Apprehending Chinese invasion, Nepal sought the friendship of the British which ultimately led to Anglo-Nepalese Treaty of Commerce and Alliance on 1 March 1792 (ibid). To contain expansion of Gurkhas towards the Indian plains, the British India followed the Forward policy towards its neighbours which implied that the frontiers of India's neighbours were to be integrated with the then existing defence system in a manner that they enjoyed internal autonomy but their external relations were subjected to the British interests²⁹. Many Nepalese take pride that Nepal was never under British rule. Though not directly under the administration of the British Empire, Nepal was defeated in the war and its territories were demarcated with British India as was dictated by the latter. In fact, the later events prove that Nepal went all the way to cooperate with British India. The relations between the two countries were regulated by the Treaty of Segouli in the years to come.

²⁸ Refer Ramakant, *Indo-Nepalese Relations* (Jaipur, 1968), pp. 4-5. For detailed work on the emergence of Gurkha State see T.R. Vaidya, *Prithvi Narayan Shah: The Founder of Modern Nepal*, (New Delhi, 1993).

²⁹ Refer Alastair Lamb, *Britain and Chinese Central Asia* (London, 1960),p.260.

3.2.1. Saugali Treaty of 1815 and Political Configuration of Madhesh

At the end of the eighteenth century, the British embarked on a programme of rationalization of their administration. The British felt that the administrative measures, such as the Permanent Settlement of 1793, with regard to land revenues and proper protection of the people subject to their government, required a clearly defined and demarcated boundary. The easiest way to achieve these goals was to establish border lines along the ranges of the hills. This made some sense from the military point of view as well. Although the disputed land (Tarai) had comparatively insignificant value for the East India Company, it had great importance for the Nepalese, for whom it formed a part and parcel of the real fruits of their conquests. Once the military structure grew to the size required for the continued expansion of Nepal, only the large stretches of the very fertile land in the Tarai, both cultivated and virgin, could satisfy the increased demands for space and resources that the system required. It was from these lands that the military commanders and the upper echelons of government were paid their salaries (Stiller, 1975).

In order to settle the border disputes, the East India Company put forward two options before Nepal: either accept an annual stipend of 200,000 rupees to be paid by the Company to the Bhardars (relatives of the ruler) for relinquishing their rights over their lands in the Tarai territories or face imminent war. Since Nepal did not want to lose the Tarai belt at any cost, its rulers chose the second option. The contest for the control of Butwal and Shivraj (the present Kapilvastu and Rupandehi districts) in western Tarai ultimately led to the Anglo-Nepali War of 1814-16. The British also considered annexing the Nepal Tarai as a means of cutting off this valuable source of revenue and thereby financially crippling the government in Kathmandu (Gaige, 1975).

As per the ensuing terms and conditions of the Sugauli Treaty of December 1816, Nepal lost the entire Tarai to the East India Company. One year later, however, the eastern and central strips from the Mechi River to the western Rapti river were returned to Nepal. The Treaty had nine articles which was drafted at Segouli on 2 December 1815 and was ratified on 16 March 1816.³⁰ Article I of the Treaty

³⁰ See the text of the Treaty in Yogi Narharinath and Narendra Mansingh Basnayet, *Itihas Prakasma Sandhi Patra Sangraha* (Kathmandu, 1964), pp. 13-18.

established peace and friendship between the East India Company and Nepal. The Treaty confirmed British claim over the Terai through Article III which compelled Nepal to give away whole of lowland (Terai). Nepal's territory to the east of the Mechi river was assigned to Sikkim, the western Terai to the Nawab of Awadh and the Sutluj states were returned to the native princes. East India Company retained Nepal's central and Western Terai, Garhwal and Kumaon under its control. Article IV agreed that East India Company would pay a sum of Rs. 200,000 annually to compensate Nepali officials affected by the loss of their land. Later on in December 1816 Nepal was allowed to retain part of the Terai land between the Rapti and Kosi river in lieu of the cancellation of the provision of cash payment by the British. Nepal accepted British arbitration in its disputes with Sikkim (Thapliyal, 1995). In 1860, after the Gorkhas aided the British during the Indian "Sepoy" Mutiny (1857-58), western Tarai was also returned. The present international boundary of Nepal, from Mechi to Mahakali, is the political demarcation that has been put into effect since 1860.

3.2.2. Treaty of 1923

The Nepal–Britain Treaty of 1923 is considered to be one of the most important treaties in the History of Nepal. The treaty was first discussed in 1921 and the final treaty was signed in 1923 December 21 in Singha Durbar. The treaty was the first to define the international status of Nepal as an independent and a sovereign country and is considered to be “A great achievement of 25 years of Chandra Shumsher's diplomacy” (Assad, 1970). The treaty was recorded in 1925 in the League of Nations (Majumda, 2000).

After the Anglo-Nepalese War of 1814–1816, Nepal had generally maintained a peaceful stance with the East-India company. The friendship between the two countries reached its pinnacle during the reign of Jang Bahadur Rana. During the Sepoy Mutiny of 1857, Nepal also involved itself in favour of the East India Company (Assad, 1997). After the Sepoy Mutiny, some areas of the Terai region that comprises today's Banke, Bardiya district, Kailali, and Kanchanpur districts of western Terai collectively known as "Naya Muluk" ("New Country") were returned to

Nepal.³¹ Nepal also helped the British in the First World War. The relation between Nepal and Britain was generally good both before and after the treaty.

The then Prime Minister of Nepal, Chandra Shamsher wanted to conclude a treaty with Britain for the recognition of the independence of Nepal. Aware of the implied restrictions placed upon the foreign policy of Nepal by the Sugauli Treaty, he wanted Nepal to be recognized as a fully sovereign nation. In 1921, when the Prince of Wales, later Edward VIII, came to Kathmandu, Chandra Shamsher raised the question of formulating a new peace treaty between Nepal and Britain. With the coming of Chandra Shamsher into power, Nepal made 'alliance' with the British as the focal point of its foreign policy. Nepal had contributed military help to the British India in world war I. To consolidate their friendship, Nepal and British India entered into a Treaty on 21 December 1923 at Segouli³². The signatories recognized each other's independence. Article II of the treaty confirmed all the treaties and arrangements signed since the Treaty of Segouli (1816).

Independence of Nepal had limited scope as article III made it conditional that both the contracting parties recognize it as their mutual interest to preserve peace and friendship with the adjoining neighbouring states with whom they shared frontiers. In case of any friction or misunderstanding with the states in the north, the other signatory should be informed about it. In the same spirit article IV binds the signatories to prevent its territory from being used against the security interests of the other. These provisions granted friendship of Nepal to British India which was needed to maintain tranquillity in the turbulent north. Also, to secure its northern frontiers British combined its security interests with that of Nepal. They agreed to share mutual friends and foes, thus, placing limitation on Nepal's external policy to befriend other countries.

Nepal under Prime Minister Juddha Shamsher and later Chandra Shamsher had been demanding revocation of article VII of the Treaty of Segouli (1816) which prevents Nepal to engage services of the British, American or European subjects. Nepal desired to be free from the influence of British India and wanted to maintain diplomatic

³¹ Banke, Bardiya, Kanchanpur and Kailali, also known as "New Kingdom" were given to Jung Bahadur in 1860, 1 November.

³²For further reference visit <http://treaties.fco.gov.uk/docs/pdf/1925>

relations with other nations. In order to preserve its security a small micro state tries to move away from dependency and maintain relations with other nations. But the British were apprehensive of Nepal establishing relations with other nations which could weaken Britain's influence in the strategically located country (Thapliyal, 1998).

Keeping in view the British security interests in India article V of the Treaty gave Nepal the right to import arms and ammunition from or through British India for its strength and welfare. This provision would last till such importation pose no threat to India. On the other hand, the government of Nepal agreed not to export arms on its own or to allow private individuals to do so. However, if the Government of British India signed in future any international regulations of arms and arms traffic then it was binding on the Nepalese Government in order to claim the right to import arms. This article though important in dealing with arms purchase, had limited usage for Nepal. Nepal was granted freedom to import arms but it had to be ratified by the British Indian government that it doesn't threaten its security. Thus, Nepal's arms import depended on British goodwill. Secondly, a condition was imposed on Nepal to accept any future British convention for regulation of arms if it wanted to enjoy the right to import arms. In fact the British Indian perception of arms traffic still holds good (ibid). Through the 1923 Treaty, the political loyalty of Nepal towards British India was secured forever. Nepal stood with British India in practically all the crises whether it was nationalist movement in India against the British regime or the British involvement in the Second World War.

3.2.3. India–Nepal Treaty of Peace and Friendship of 1950

Ties between India and Nepal have consistently been close and reflect the historical, geographical, cultural and linguistic links between the two nations. The signing of the India-Nepal Treaty of Peace and Friendship in 1950 established the framework for the unique ties between the two countries. The treaty was signed with an objective to strengthen the relationship between the two countries by recognizing historical values and perpetuating peace in the region. It provided the foundation for India and Nepal relations. The treaty contains ten articles and a letter of exchange. In Article 1, the two countries acknowledged each other's territorial integrity and sovereignty. Article 2 says that they have to inform each other in case of friction with neighbouring

countries. Article 5,6 and 7 deals with arms imports of Nepal, national treatment of each other's citizens in economic matters, and reciprocal treatment to nationals in matters concerning residence, protection and trade. Article 8 cancels all the past treaties between Nepal and British government. Article 9 and 10 deals with renewal and cancellation of the treaty (Thapliyal, 1998).

The Treaty pledges for 'everlasting Peace and Friendship' between the two countries. Through this provision India acknowledged 'complete sovereignty, territorial integrity and independence' of each other (Clause I). The sovereignty of Nepal was recognised for the first time on record between the two countries. The Treaty of Friendship in 1923 did mention about internal and external Independence of Nepal but was silent on its sovereignty. To further strengthen their friendship and avoid any cause of breach the friendly relations, both the Governments agreed "to inform each other of any serious friction or misunderstanding with neighbouring state likely to cause any breach in the friendly relations subsisting between the two Governments" (Clause II). Here the 'neighbouring state' was the factor with whom any friction or misunderstanding of the signatory should be informed to each other. However, no specifications were drawn which could categorize countries as neighbouring states. The provision follows article III of the 1923 treaty where the signatories had agreed to inform each other, if friction or misunderstanding arose with the territories adjoining their common frontiers. In the 1923 Treaty the neighbouring countries were specified as those with whom the territorial boundaries met.³³

The objective of the treaty signed by mutual consent of the contracting parties was to establish permanent peace and friendship between the two countries by identifying their mutual politico- economic and socio-cultural linkages and security requirements. The land- locked Nepal conducts trade with the outside world through India. As K.V. Rajan observed, the treaty basically offered economic opportunities in India for Nepalese nationals against Nepalese assurances that security concerns would be respected. The international and regional situation during the 1950s, when the treaty was signed, was wholly different from what it is today. The world was then reeling under the cold war. The international community was divided into three blocks of capitalist, communist and non- aligned nations. India as a newly independent country

³³ For detailed analysis of the Treaty of Peace and Friendship (1950) refer S.D. Muni, *India and Nepal: A Changing Relationship* (New Delhi, 1992), p.36.

with a weak military and troubled by internal disturbances was suspicious of the Chinese adventurism in Tibet. It was also apprehensive of the Communist influence in Nepal. India was also perturbed by the Chinese claim that Tibet is China's palm and Nepal, Bhutan, Sikkim, Ladakh and NEFA are five fingers. With the palm already under Chinese grip the security of other Himalayan countries was endangered. The Chinese annexation of Tibet changed the strategic significance of Nepal. India decided to strengthen its northern frontier by taking Nepal into confidence. Expressing India's concern, Prime Minister Jawahar Lal Nehru said, we cannot allow anything to go wrong in Nepal or permit that barrier to be crossed or weakened because that would also be a risk to our security." Nepal, which was striving for recognition in the community of nations and was facing domestic upheaval due to protests against Rana rulers, was surprised by the Chinese claim on Tibet. The then external environment, particularly the developments in China and Tibet and the Chinese attitude of acquiescence towards the Indo- Nepalese ties also contributed a great deal in the evolution and perpetuation of special relations between the two countries. The Ranas also were looking for an opportunity to enter into some kind of understanding with India to pacify the democratic movements in Nepal which had its base in India. During 1947-1950, Rana's policy towards India was guided by winning over India's sympathy or to prevent it from supporting the democratic movements in Nepal which had its base in India. The commonality of interests and requirements resulted in the signing of the treaty. The treaty, thus addressed the socio-economic variables in the relationship. Such as, the citizens of one country could participate in the industrial and economic developments in another country without any discrimination in trade and commerce and movement in each other's country (Clause 7). The provisions were favourable to both the countries particularly to Nepal considering its dearth of economic development and opportunities for people. The letters exchanged along with the treaty explicitly states: it may be necessary for some time to come to offer the Nepalese nationals in India protection from unrestricted competition (Clause 3). This was done to protect the interests of the Nepalese. At the same time, Nepal also agreed to give first preference to the Government of India or Indian nationals in development projects related to natural resources. When the countries erected barriers to strengthen their security, India and Nepal through the treaty agreed for an open border and tried to bring their countries socially, culturally and economically closer. The treaty could have become a model for bilateral cooperation where the signatories played on each other's strengths but with the

passage of time, the mutual interests and concerns have changed in tone and tenor. For example, the open border, which is a historical reality and took into consideration the socio-cultural-economic and security interests of the signatories, was infringed by the forces inimical to the interests of the two countries. The mutuality in the security interests was questioned. The treaty which provides for, national□ treatment for each other's citizens in matter of entry, movement and business in their respective territories, is a reflection of the unique relationship.

In common parlance, security is understood as immunity of a state to threats emanating from outside its territorial boundary. India tried to strengthen its security interests through taking measures to curtail potential territorial threat from the North. As the security of a state does not exist in isolation and co-exists with the region as a whole India aligned its defence related measures with Nepal. The measures were in conformity with the letter exchanged along with the 1950 Treaty where the countries agreed to 'consult' and 'devise effective counter measures' in times of any threat and security. India and Nepal were tensed due to the Chinese threat in the Himalayan border and the Communist activity in Nepal.³⁴ Hence, the joint Indo-Nepal endeavour was against China. It was essential to create a climate of friendship and trust to curtail Chinese influence in its neighbourhood. Once India was assured of Indo-Nepal border security against the Chinese threat, then it tried to stabilize the internal disorder in Nepal which had caught the attention of the policy makers (Thapliyal, 1998). The conflict between King Tribhuvan and the Rana oligarchy became more pronounced. The King was supported by the Nepali Congress and the C category Ranas³⁵ (Joshi, and Rose, 1966) who had planned a military coup in September 1950 against the Ranas with the ultimate aim of establishing a constitutional government under the King. However, the Rana government arrested several Congress leaders such as Sunder Raj Chalise, Toran Shumsher Rana, and C category Rana military officers (Chauhan, 1974).

³⁴ The Communist activities in Nepal were going under the name of Sanjugta Morcha which organised processions and meetings with anti-India propaganda and slogans against Nehru and C.P.N.Singh. Nepal expressed its inability to defend the northern border from communist threat and asked India to man the border.

³⁵ It is interesting to note the division to power amongst the Ranas. The 'A' class Rana were born from Ranas and wives of same caste with whom Ranas could inter-dine. They automatically become Major-general at age of 21 and could rise higher in rank hierarchy. The 'B' class Ranas were born from Ranas and not so high caste wives with whom they could not inter-dine. They started from Lt. Colonel and could rise till commanding colonels. 'C' class Ranas were from low caste women who could not rise above the rank of Major, 'B' and 'C' class Ranas were out of race for Prime Ministership as they could not acquire rank of commanding generals.

The Ranas, on the other hand, placed four year old grandson of the King, Prince Gyanendra, as the new King of Nepal on 7 November. Mohan Shamsheer expected recognition of the new king from India, Great Britain and USA. His position became vulnerable when no great power extended any recognition to the new King. Seeing no other option left, Bijoy Shamsheer and Keshar Shamsheer, the foreign and defense ministers of Nepal respectively were sent to India for negotiations. An agreement on "middle course" was reached in New Delhi on 7 February 1951. Under the compromise formula, the King was brought back to power. Monarchy was restored to its original position which it enjoyed before 1856. The Ranas and the Congress agreed to form an interim Government with Mohan Shamsheer as the Prime Minister. An elected Constituent Assembly was to be set up to draft a new Constitution (Thapliyal, 1998).

Thus, India explicitly showed pro-monarchy leaning as it realised that the liberals would be unable to handle the situation, only monarchy could give a stable regime in the country (ibid). Meanwhile, those dissatisfied with the Delhi settlement started unrest in Nepal. The Nepali Congress was divided on the question of support to Delhi Compromise. Though B.P. Koirala, M.P. Koirala and Subarna Shamsheer gave their delayed support to the Delhi Compromise, the rank and file of the party remained dissatisfied, who preferred transfer of power to people. On 22 January 1952, the Raksha Dal (Liberation Army) staged a coup in Kathmandu and proclaimed K.I. Singh as their leader who was imprisoned in Singha Durbar. The Raksha Dal was a para-military organization consisting of men who fought against the Ranas in 1950 revolution. The new government of M.P.Koirala was not sure of the loyalty of the Nepal Army which had Pro-Rana sympathisers in it. In this situation the Raksha Dal was maintained by the regime as a separate unit which did not come under the administration of the Regular Army Command (Sharma, 1968). Dissatisfied with Delhi compromise the Raksha Dal, demanded an all party government in place of M.P. Koirala Government, revolted with 2000 men and captured the Armoury, Civil Secretariat, Jail, Telephone Exchange, Airfield and laid siege to the palace. However, the situation was controlled with loyal forces rushing to Kathmandu. Several Raksha Dal men surrendered but K.I. Singh and his 200 sup porters fled the valley. It was reported that K.I. Singh along with 50 men fled towards Tibetan border.⁷⁰ The Government of Nepal feared that the area around Ilam in East and Palpa in West were

potential danger spots and asked for 300 to 500 Indian troops respectively to be kept on the Indian side of border who could be relied upon in case of any trouble (Thapliyal, 1998).

The King declared Emergency in Nepal, banned Rashtriya Mahasabha and Communist Party for alleged support to Raksha Dal and requested Government of India for help. India sent its forces thrice to Nepal, in February, April and July 1951.⁷² India was apprehensive of the Chinese move as K.I. Singh was considered to have pro-China leanings. Inevitably, Nepal also had its inhibitions towards China (ibid).

The Treaty of Peace and Friendship, considered as the bedrock of Indo-Nepal relations, has often been criticised as signed between democratic India and undemocratic Rana government, which was overthrown from power in 1951 Revolution.³⁶ It is also alleged that India took advantage of anti-Rana situation in Nepal and signed the Treaty when the Rana Regime was approaching termination (Sharma, 1994). True, the Ranas were facing opposition at home and to secure their position they signed the Treaty with India but they were also concerned by communist China and its annexation of Tibet. To meet any eventuality from north the Ranas willingly accommodated India's security concerns provided the political reforms were not enforced on them by the latter.

The issue of revision of Indo-Nepal Treaty of Peace and Friendship considered unequal by most Nepalese, was first raised publicly by Prime Minister Kirti Nidhi Bista in the year 1969 terming it as obsolete and outdated. The argument put forward for its revision had to do with India not abiding by the related clauses of that treaty (Article II requires that both governments 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 countries). Letter exchanged with the treaty stipulates clearly that the two governments shall consult each other and devise effective counter – measures to deal with the threat from a foreign aggressor. India had taken two unilateral actions during its war with China in 1962 (along Ladakh region) and the Pakistan in 1965 (disputed region of Kashmir) without informing

³⁶ This is the view of many academicians, senior political leaders and Bureaucrats. Refer Rishikesh Shaha, Nepal's Foreign Policy: Focus on Nepal-India Relations" in Dhruva Kumar, ed., *Nepal's India Policy*(Kathmandu, 1992) p.42.

Nepal on both occasions despite the treaty obliging both parties to do so. Even later in 1971, India's direct involvement against Pakistan for Bangladesh independence without Nepal's knowledge breached the important article of that treaty. Holding India responsible for violating certain provisions of the treaty, Prime Minister Kirti Nidhi Bista said, developments have taken place in India's relations with the Soviet Union and the United States on the one hand and with Pakistan and China on the other. Nepal was not informed about these developments and India therefore assumed and has led Nepal to assume that exchange of information on such cases is not necessary". These views were expressed in print media and were not forwarded to the Government of India officially to amend or abrogate the Treaty. Hence, there was no response from the Indian government on this.

With the introduction of multi-party democracy in Nepal in 1990, the treaty became an important electoral issue for some political parties in Nepal. It was by the Communist government of Nepal during 1994-95 that a demand was raised officially for the revision of this treaty for the first time. It was with the launch of Maoist Insurgency in Nepal in 1996, the demand for the revision of the treaty gained momentum. The 40-point demands of the Communist Party of Nepal (Maoist) also focused on this issue and generated intense anti-India feelings during the people's war in Nepal. Nepalese Foreign Minister Kamal Thapa visited India in September 1997, which, for the first time, introduced some ideas for a revision of the treaty. Most recently, the CPN-Maoist, in its manifesto for the 2008 Constituent Assembly elections, promised to abrogate the treaty and maintain equal distance between India and China. However, the Nepali Congress (NC) manifesto was silent on the matter. The Communist Party of Nepal (Unified Marxist- Leninist (CPN-UML) promised to review all unequal treaties, a reference to the 1950 Treaty between India and Nepal.

Almost forty years down the line in 2008, the Prime Minister, Pushpa Kamal Dahal, terming Indo-Nepal 1950 treaty as unequal from a security relation point of view called for scrapping it off. He also called for a revisit and review of several other treaties such as the Mahakali Treaty of 1996. Even today the core grievance of Maoists in Nepal is the 1950 Treaty of Peace and Friendship signed with India.

3.3. Economic blockade 1889-1990

The Indo-Nepal security arrangements, namely the 1950 Treaty and the 1965 Agreement were grossly violated in 1988 when Nepal bought arms from China. 450-

500 Chinese trucks carried arms of both defensive and offensive capability including anti-aircraft guns and medium range SSM besides AK-49 assault rifles, medium boots etc worth over \$ 20 million. The arms reached Nepal through the Chinese built Kathmandu-Kodari road. The arms deal also included the training by the Chinese People's Liberation Army to use, maintain and repair the equipment given to Nepal (Muni, 1988).

India has been the primary supplier of arms to Nepal since 1950s. It is said that in July 1975 and in 1978 Nepal had handed over a list of defence stores and arms and ammunition worth Rs. 7.95 crores and Rs.2.40 crores for respective years and the demand was accepted by India. However, Nepal did not respond to the Indian decision to supply arms on grant basis. Nepal made the request for infantry weapons for about brigade strength to the Chief of Army staff General O.P. Malhotra in 1980 and General K.V.Krishna Rao in 1982 during their visits to Nepal. It was decided to give defence stores worth Rs.2 crores in grants- in-aid and a subsidy of 20% on all the purchases made by Nepal and in 1986 the defence stores were sanctioned to Nepal. The delay in the arms supply could have been avoided had Nepal been more responsive in placing its demands clearly whether it wanted in grants-in-aid or payment. However, India had also not met the Nepalese expectations of the desired arms. It is said that the request for anti aircraft guns by Nepal in 1972 and later in 1976 were brushed aside by India stating that it was unnecessary. In the end Nepal approached China for arms in March 1988 (Garver, 1998).

India was perturbed by Nepal's purchase of arms and ammunitions from China. In the eighties, China had emerged as the major arms exporter in the world. It continued to supply arms to Pakistan under the pretext to help counter the Soviet threat to Pakistan's security. In 1978 the Karakoram Highway between Pakistan and China was opened linking China's Sinkiang province with the Pakistan-occupied-Kashmir which opens Kashmir to the Chinese intervention in the time of crisis. Following the Soviet Union's refusal to provide military assistance to Bangladesh after Mujib-ur- Rahman's assassination China provided military and economic aid. It established an arms and ammunition factory in Dhaka and gave fighter aircraft and tanks for Bangladesh Army (Acharya, 1992). And in this situation Nepal's arms import from China threatened India's security especially when the Chinese forces had intruded in the Sumdurung Chu valley in Arunachal Pradesh in 1987.

India tried to restrain Nepal from buying arms from China. It is said that India's Minister of State for Foreign Affairs K.Natwar Singh met King Birendra in Kathmandu on 22 July 1988 carrying a letter from Prime Minister Rajiv Gandhi asking for an assurance that the arms purchase from China was a onetime affair and would not be repeated again(Upadhyaya, 1991). In an audience with King Birendra the Indian foreign Minister expressed that The security arrangements do not restrain Nepal to procure arms from or through the territory of India with its prior consultation. But, as Nepal had limited contact with the outside world and the transit routes were from the south, the possibility of getting arms from the north was not comprehended. However, India was kept in dark about the procurement of arms from China which was against the spirit of the 1950 Treaty. The Treaty was signed with an understanding to look after their common threat arising from the communist China and its control over Tibet in 1950. The purchase of arms from China was against this mutual security concern. Nepal maintained that the Treaty of Peace and Friendship had not been violated as the arms did not reach via or through India.

Nepal's decision to acquire arms from China was guided more by King's desire to assert independence and identity against the increasing demands for democracy and less by Nepal's need to improve its defense capabilities. Otherwise the Palace would not have kept the purchase of arms as a closely guarded secret. Giving his impressions on the arms import from China, Shailendra Kumar Upadhyaya, the former Foreign Minister of Nepal, said that the import of arms had taken even the Nepalese Prime Minister and Foreign Minister by surprise. Neither the Prime Minister nor the Foreign Minister knew about the arms deal and it was the Indian Ambassador who broke the news to the Foreign Minister.³⁷

King Birendra in an attempt to counter the anti-panchayat supporters and strengthen the Panchayat government at home whipped up Nepali nationalism by challenging not only the security relationship with India but also the socio-economic dimensions of the relationship. In April 1987, Nepal introduced work permit restriction on Indians working in Nepal in 3 out of 75 districts and in 1989 it imposed discriminatory tariffs against Indian goods. In early 1989 it provided 40% duty concession to the Chinese goods and later following the trade impasse withdrew duty concessions from the Indian goods in such a manner that the products for third countries would be cheaper

³⁷ Refer *Deccan Herald* (Bangalore) 10 July 1989.

than Indian goods. This led to the souring of relations between the two countries which had already been strained over the purchase of Chinese arms by Nepal (Thapliyal, 1998).

The trade relations between both the countries received a setback when India refused to renew two separate treaties on Trade and Transit and insisted on a single treaty for both the issues and Nepal rejected the single treaty proposition. The Indian decision to go back to the pre 1978 arrangement of a single treaty of Trade and Transit was intended to restrain Nepal's diversification of trade with other countries which was more export oriented.³⁸ Most of the exported items, especially from China, make their way to India affecting the traditional trading pattern between India and Nepal. Till mid-sixties the Indo-Nepal trade was 98% which came down to 41% in 1989 (ibid). Also the non-economic issues like work permit for Indians in Nepal, arms purchase from China affected the strategic interests of India. As a result the treaties on Trade and Transit expired on 23 March 1989. Out of 15 transit points 13 were closed and two in Raxaul and Jogbani were left open in Indo-Nepal border and two more transit points were provided for trade with Bhutan and Bangladesh.³⁹

As a consequence of the expiry of Trade and Transit Treaties, India was under no obligation to provide any transit point because it is neither a signatory of international convention on trade and transit of landlocked countries (1965) nor the United Nations convention on law of sea which provides transit rights to the landlocked countries. In fact, the international convention on landlocked countries provides only one transit point to them but considering the traditional socio-cultural linkages between the two countries India had left two transit points open for essential items like medicine, baby food and cement for the Nepalese people. India also allowed the Gurkha soldiers going home on leave to carry an additional five kilogram of sugar, kerosene etc. This welfare measure was taken with the purpose of removing any hardship for the families of serving and ex-servicemen Gurkhas and earning their goodwill in return. It is said that even in the Terai border area Nepalese were allowed to buy essential items from across the border and because of the traditional socio-cultural relationship and people to people contact, the Terrains did not face the brunt of the impasse (Thapliyal, 1998).

³⁸ Mahendra P.Lama, "Trick of the Trade: Roots of Indo- Nepalese Crisis" in *The Statesman*, 9 August 1989.

³⁹ *The Telegraph* (Calcutta), 2 April 1989.

However, the lapse of Trade and Transit treaty had affected the common man in Nepal due to restriction on supply of petrol, aviation fuel, kerosene and basic consumer goods. Most of the industries in Nepal came to a standstill because of their dependence on India for resources, trade and transit (Khadga, 1998)The crisis was due to the admixture of politico-strategic concerns (Kumar, 1989). The personality clash between King Birendra and Prime Minister Rajiv Gandhi is also considered as the root cause of the economic blockade unfriendly India.

However, the Nepal government's strategy to deal with the crisis was unable to get mandate and support from the people (Koirala, 1990). The price rise of the essential commodities and the regime's dependence on foreign aid rather than finding a solution with India had a negative impact on the people. Lack of seriousness was detected over the regime's efforts for crisis management and solving the country's problem (Kumar, 1990).

Kathmandu's efforts to depend on China for alleviating their economic hardship backfired. China expressed geographical and financial constraint in delivering goods to Nepal and suggested the latter to improve relations with India.⁴⁰ The normalisation of Sino-India relations weakened Nepal's maneuvering capacity to effectively play the neighbours against each other (Hachhethu, 1990). This proved the limited capability of the policy of equidistance and non-alignment of Nepal because the geographical compulsions forced Nepal to depend for transit and trade with India rather than use China as an alternative. "Nepal should accept this hard reality that they are landlocked and have no other option open to them".

Economic Pressures are a source of threat to the small states whose repercussion is felt by the governed rather than the government."By impoverishing them or making their private lives difficult or starving them or reducing their comforts or their fortunes it may alter their attitude to their rulers or to their policies or both and so upset the political arrangement within the state" (Vital, 1967). Though India had not imposed any economic pressure on Nepal but followed the legalities of international law, in the event of the expiry of the treaties of trade and transit, its ramifications were felt by the people and the regime. The hardship faced by the Nepalese had created

⁴⁰ *IDSANews Review* (New Delhi), vol. 23, no.1, January 1990.

fissure between them and the ineffective regime to handle the crisis and it accelerated the pace of development of the pro-democratic movement.⁴¹

During his visit to India in 1990, the Nepalese Prime Minister Krishna Prasad Bhattarai had opined that though the expiry of trade and transit treaty had caused difficulties to the people nevertheless the "negative benefit for the same was derived" (ibid).

3.4. Madheshi Movement and India

In 1950, Nepal became a democratic country with a ceremonial monarchy. The first election of Nepal was held in 1959 but within a year, King Mahendra, the then monarch, had dissolved the parliament, dismissed the cabinet and banned political parties. He then created a non-party panchayat or council system of government which somehow sustained till 1980. The first direct parliamentary elections were held in 1981.

The people's movement in the 1990s would eventually lead Nepal to a multi-party democracy, but not before it took many lives, brought forth many grievances between people of different ethnicities and turned Nepal's politics into a simmering cauldron. It was the period when a number of marginalized and excluded ethnic groups, including Madheshi and Adivasi Janajati (indigenous ethnic community) demanded recognition of their ethnic identities and representation in State structures. It was also the period when Maoists gained considerable ground and made their presence felt, often in violent ways.

On February 1, 2005, the then monarch King Gyanendra suspended the Parliament and appointed a government led by himself, and enforced martial law, on the grounds that civil politicians would not be able to deal with the Maoist insurgency. Many well-known political leaders were detained while some others fled to India to regroup themselves. A broad coalition called the Seven Party Alliance (SPA) was formed to oppose the royal takeover. Sustained, spontaneous, belligerent, often violent protests saw to it that the pro-democracy sentiments were kept alive. In this battle, all political force actively participated, from civil society groups and professional organizations to

⁴¹ Cited in Thapliyal, 1998, pg. 204.

workers and marginalized groups. Their one-point agenda was to end King Gyanendra's autocratic rule.

In the face of such a mass uprising and possible over-throw by people's forces, on April 21, 2006, King Gyanendra declared that "power be returned to the people". However, this did not mean anything to the protestors who continued to openly challenge his decisions and decrees of curfew. Three days later, the King announced the recall the House of Representatives. It was a virtual defeat for him. In all, 21 people had died and thousands injured during the protests.

On May 19, 2006, the Parliament was vested with complete legislative power and it, in turn, gave executive power to the Government of Nepal. This government for the first time was not called His Majesty's Government of Nepal. Accordingly, the names of many institutions were changed, the King's properties were subjected to taxation, and eventually Nepal was declared a republic and a secular state abolishing the Hindu Kingdom. The Maoist insurgency was also called off with the signing of the Comprehensive Peace Agreement between the Maoists and the SPA.

The success of the April 2006 people's mass movement resulted in the formation of the Constituent Assembly (CA) in 2007 to draft a new constitution. There were mass protests by Madheshi in 2007-08 which brought in a federal structure to the interim constitution. The Assembly had to be re-convened again in 2013. When the new Constitution was finally promulgated in September 2015, there was joy in many parts but, at the same time, Nepal also saw some of the most vicious protests mainly from the Terai (or Tarai, both used interchangeably to mean the 'plains') region bordering India, comprising Madheshi and Tharus. The second CA formed in 2013 took the task ahead. At the end of 2014, when the negotiations evolved into the new Constitution, the proposal was that Nepal would be a federal state divided into eight provinces which the Assembly members said represented the broad ethnic groups. However, on August 21, 2015, three political parties – Congress, UML and Maoists agreed on the seven provinces model.

In the new federal structure, the Parliament would have 165 members directly elected through the simple system of voting and counting majority votes, and 110 members would be elected through proportional representation. Some politicians in Nepal

wanted the Constitution to be passed by consensus. India too desired maximum consensus. But the consensus was elusive.

In the summer of 2015, the new Constitution was contentiously adopted by a majority vote in the Parliament but ethnic groups such as the Madheshi and others complained that it did not accommodate their concerns and concerns of other marginalized or protesting groups, nor did it demarcate regions. A key demand of the Madhes-centric group was “*Ek Madhes – Ek Pradesh*”. This would be one plains-based federal unit in province number 2 based on identity, and about 500miles long and 20 miles wide, for themselves. The government seemed unwilling or unable to engage in a meaningful dialogue at this stage. The flow of these events sparked off adverse reactions from Madheshi, Tharus and other groups in the Terai who believed the new Constitution and its adoption paved the way for their domination by the hill people.

India has played a role in influencing or steering Nepal towards a constitutional statehood but in the current context of 2014-15, this appears to have acquired a brittleness and intervention perhaps not seen in the past. The Modi Administration has placed on developing India’s ties with its immediate neighbours. The previous Indian UPA coalition government, headed by Prime Minister Manmohan Singh, showed little inclination towards developing its ties with Nepal. For instance, no Indian Prime Minister visited Nepal between 1997 and 2014 and the Minister for External Affairs visited Kathmandu twice under the UPA Administration. Modi, in contrast, visited Nepal twice after taking office in 2014, during his two visits to Nepal in 2014, Indian Prime Minister Narendra Modi himself focused on the need to accommodate the aspirations of each section of the Nepalese population in the constitution. When he advised Nepal’s leadership to work with a ‘rishi-man’ to frame a Constitution based on ‘sahmat’ (consensus) rather than ‘bahumat’ (majority). I believe that this advice, of a neighbour and well-wisher, reflects the broad opinion of the House as well as our polity. If this was not enough, India’s External Affairs Minister Sushma Swaraj made five visits to Nepal to make India’s views on the constitution clear. Even at the eleventh hour, India’s foreign secretary S. Jayshankar made sincere effort to pursue the Nepalese leaders to accommodate the concerns of the dissatisfied groups in the constitution.

International reactions to Nepal's new Constitution have been mixed. China and the European Union have welcomed the new Constitution. The Chinese are particularly happy that their concerns to avoid an identity-based federal structure have been taken care of. The Chinese may also not resent the continued dominance of the hill upper castes in the Nepali state, with the Janjatis and Madheshi continuing to remain on the periphery of core political power. The US ambassador personally went to congratulate the UML leader and the prime minister in waiting, K P Oli, for successful adoption of the Constitution. Earlier, the US state department spokesperson in a statement on 14 September 2015, urged for an "inclusive and flexible" constitution that has the "broadest possible support." India and the United Nations have only taken "Note" of the new Constitution, without welcoming it. Both have expressed concern for "violence" and emphasized the importance of dialogue and negotiations between the government and the agitating parties. Strong Indian reaction is focused on violence and instability in the Nepal Terai. This has implications for the adjoining Indian states of Bihar and Uttar Pradesh.

The Modi government has particular concerns about the Nepali spill-over having an adverse impact on the election process in Bihar where the ruling BJP has deep stakes. The reasons for the Indian leadership's frustration with the dominant parties in Nepal are that they have failed in delivering a truly inclusive constitution in conformity with the promise of the peoples' movement of 2005–06 (*Jan Andolan-II*) which India had so actively supported. The present Indian government has felt particularly frustrated by the Nepali leadership because ever since his coming to power, Prime Minister Modi has gone out of his way to strengthen India's relations with Nepal. He paid two official visits to the country, making a commitment to partner Nepal in its development and progress. His government also responded spontaneously and generously in helping Nepal deal with the horrendous consequences of the earthquake. Many of the prominent Nepali leaders like Sher Bahadur Deuba of the NC, and Prachanda of the Maoists, were invited to India for consultations where all of them promised to take Madhes and other groups on board. In fact, some of the Nepali leaders themselves, like the former Prime Minister and prominent Maoist leader Baburam Bhattarai, have admitted that mistakes have been made in bulldozing the constitutional process and ignoring the aspirations of the marginalised groups (Muni, 2016).

After the new Constitution was promulgated, the Madheshi parties intensified their protest. At this stage, the Indian government too expressed its discontent with the Constitution. A few days later, Indian authorities released a press statement stating that due to obstructions and unrest in Nepal, Indian freight forwarders and transporters faced difficulties in movement of vehicles and feared for their security. This was seen in Nepal as an excuse for the blockade because after the statement, very few trucks entered Nepal. By December 2, 2015, nearly 50 people – civilian and police were reportedly killed in the Madhes unrest. The unfortunately dead included 28 civilian protestors, five innocent children and eight police personnel. Many were not related to the protest at all. Children and civilians who were not part of the protest groups ended up dead in the retaliatory police firing. Indeed, the protests too turned violent at some points and targeted police personnel. This raises questions about Nepal government's tactical and strategic responses to the unrest and the blockade (SAHR, 2016).

The obstruction because of the Madheshi protests was of maximum intensity at Birgunj-Raxaul points on the Indo-Nepal border. Later into the protest, however, a number of cargo and fuel trucks entered Nepal through other border points where the protests were minimal or non-existent.⁴² People also had to contend with daily power cuts of up to 13 hours a day. Everyday life was crippled and the country was forced to come to a standstill. Equally badly affected were the rebuilding projects undertaken after the devastating earthquake in April which had killed about 9,000 people and damaged more than 600,000 houses. The shortage of fuel and supply disruption had led to the shutting down of 90 percent of industries across Nepal, with more than 60 percent of the business which occurs during the festive season of Dashai and Tihar failing to uplift the economy.⁴³ Nepal's financial sector too took the brunt as economy came to a halt.

⁴² The Kathmandu Post (2016). Obstruction continues at Birgunj- Raxaul point- vehicles entering Nepal through other crossings. The Kathmandu Post (online). Available at <http://kathmandupost.ekantipur.com/news/2016-01-26/obstruction-continues-at-birgunj-raxaul-point.html>/Accessed on January 31, 2016

⁴³ The Himalayan Times (2016). Statement made by Prof Dr. Bishwambher Pyakuryal in *Government seems unconcerned about economic problems*. Perspectives. The Himalayan Times. January 24, 2016. P.1

According to “Fact Finding Team”⁴⁴ report, “The Nepal-China border is created by the snowy Himalayan Mountains. To enter Nepal from China and vice versa is a herculean task. This comes with different health hazards, and puts on at the mercy of nature. Any supplies from elsewhere in South Asia or beyond can only enter Nepal through India. It is also a fact that there are several treaties assuring easy access from India to Nepal by roadway and other means of available conveniences. It is also agreed to that under the International Treaty (Convention on Transit Trade of Landlocked States, 1965) India is committed and advised to render uninterrupted roadway passage and other means of convenient transition.” They further adds that, “ The Fact Finding team got information in the process of interacting with persons affected, stake-holders and victims revealing that, by the Indo-Nepal border, the blockade of vehicular movement was initiated at the day of emersion of Goddess Durga (23 September 2015) in perpetrating a programme for drying Nepal by slowing down transport of essential commodities for the people of Nepal, such as medicine, oxygen, food grains, essential household requirements, garments, cooking gas, fuel (both diesel and petrol), industrial components and ingredients, raw materials, coal and many other essential commodities for human living in Nepal.

From 23rd September 2015 there has been a complete blockade of vehicles carrying commodities at several Nepali checkpoints, including Kakarivitta. It was deliberate, as there was no report of agitations, and continued for more than three months. At the time of the fact finding effort, the situation had improved, but in a very slow pace, with a few vehicles entering Nepal at the Kakarivitta outpost. At Kakarivitta, the situation was improving from a complete blockade to the entry of 50 -60 vehicles a day to Nepal. The Fact Finding team on its return met Indian Custom Officials at the Kakarivitta check post and border security force SSB personnel. They completely denied any complexities and hindrances. They rather implied that they were facilitating smooth transportation of commodities from India to Nepal. As per spot investigation by the Fact Finding team, it was revealed that the SSB and customs office delayed vehicles from entering Nepal, and with that the transportation of commodities, such as fuel (diesel and petrol), food grains, medicines, oxygen, cooking gas and more. The team received information that for three months there was

⁴⁴ Fact finding team is a selected group of people of South Asian members of the Asian Forum for Human Rights and Development (FORUM-ASIA), who had gathered in Kathmandu in November, realised the urgency of looking into the reality of the problem and its impact on the Nepalese population. For further reference visit website: <https://www.forum-asia.org/uploads/wp/2016/07/Fact-Finding-Report-on-Nepal-Final.pdf>

a complete road blockade. There was no entry of any commodities as mentioned above (ibid).

The momentum generated after the visit to Nepal by India's Prime Minister Narendra Modi, and India's swift assistance after the tragic earthquake in Nepal suffered a serious setback due to that unfolding crisis in Nepal. While Prime Minister Modi was greatly admired in Nepal due to the benefits derived from the work done in initial months, his popularity evaporated very quickly. The Modi Government's policy of 'Neighbourhood First' was losing its shine due to a mishandling of India-Nepal relations. While New Delhi used its 'geographical trump card' to support the Madheshi, it denied charges of blockade and blamed the supply disruption on the mass protests. In the process, anti-India feelings reached a record high in Nepal, undoing the goodwill won through the generous aid that was given after the terrible earthquake. The Madheshi agitation against the new Nepal Constitution upset India-Nepal relations.

The ruling elite, however, claimed that India was trying to control Nepal through divide and rule tactics by taking the side of the Madheshi. His efforts failed, consequently, and when the new Prime Minister, Mr Khadga Prasad Sharma Oli, took office on 11 October 2015, he fanned anti-India sentiment in Nepal and people even shouted an anti-Indian slogan in Katmandu and claiming an unofficial blockade from India. This led to an almost-total breakdown in bilateral relations. India totally rejects this allegation and always has been saying that blocked is not from India but it's from their own side. On 3.12.2015 Ms. Sushma Swaraj, External Affairs Minister of India said in Rajya Sabha (upper house of Indian parliament) on "Situation in Nepal and the state of Indo-Nepal relation", "India's only interest is in a peaceful, united and stable Nepal and our approach to the present crisis is completely consistent with these objectives." She further added, "India is assisting in re-routing stranded POL (Petrol, Oil and Lubricant) tankers and vehicles carrying medical supplies through other available crossing points, as also air lift. But there are logistical constraints and the best remedy remains a political solution leading to the end of the agitation."

In May 2016, the President of Nepal, Bidhya Devi Bhandari, cancelled her visit to India, Mr Modi cancelled his visit to the Buddha Purnima festival in Lumbini on 21 May and Kathmandu recalled its ambassador in New Delhi. Worse yet, in March, Mr

Oli visited Beijing soon after visiting New Delhi. While there, he concluded several agreements, most notably one on transit facilities through China, thereby ending India's monopoly over Nepal's access to seaports. It did not escape Indian observers that obtaining imports via seaports in China and then through Tibet would cost Nepali importers two to three times more than it would to import goods via Indian ports. The fact that Nepal was willing to take this measure, however, caused consternation in New Delhi.

The Nepali Government tried to play its northern neighbour against southern neighbour. This time there was a change in China's approach. On earlier occasions, China had politely expressed its inability to send fuel to Nepal, but the voluntary offer by China to supply fuel during the present crisis demonstrates Beijing's growing interests in Nepal. Beijing has focused its policies vis-à-vis Nepal by trying to reduce its dependence on India in the political, economic, and security arena. Mr Oli began courting China immediately after assuming his post and took advantage of India's apprehensions regarding China's growing influence. While Mr Oli put an "unofficial pre-condition" of lifting the informal blockade before he could visit India, he also explored the possibilities of visiting China first. However, back-channel diplomacy and direct communication between political leaders of India and Nepal helped to mend fences (ISAS, 2016).

In fact, there was a realisation in Nepal, too, that politically and economically, it is heavily southward-oriented. Furthermore, its foreign trade is largely dependent on access to and through India, not China. The consequences of the economic blockade by the agitators forced the Nepali Government to soften its stand. The rapprochement between New Delhi and Kathmandu began with the first step was taken by the Nepali Government. It displayed some flexibility by agreeing to some of the core demands of the protestors. This paved the way for an easing of tensions between India and Nepal, as well as the Madheshi calling off their protests. India welcomed the developments as positive steps that helped create the basis for a resolution of the current impasse. New Delhi was also aware of ground realities and anti-India sentiments which were detrimental to a strong relationship between the two countries, and hence, India was looking for a way-out to restore normalcy (ibid).

According to Nischalnath Pandey,

Indo-China relation is subject to both competition and cooperation. While the countries are cooperating in areas of climate change, trade and investment, and counter terrorism, they are also competing in a number of other areas. Smaller countries in south Asia like Nepal, Sri Lanka and Bangladesh are going to be pockets where Indo-China competition will be increasingly felt. India-China rivalry will be reflected in the domestic politics of these countries. This is why these small countries have to make sure that gain out this strategy rivalry rather than fear it. How much we gain will depend on our caliber and the activities of our political leaders. But in Nepal, we have taken our domestic political issues to the foreign policy domain and have dragged foreign policy issue into our internal politics. So we tend to politicize both domestic and foreign policy issue and blame foreign actors for domestic problems. This has become a habit of our political leaders. This is not done. It is not right to say that foreign actors are involved in every little day to day governance. There is no point in blaming external actors for appointments and even removal of certain individuals from certain institutions. The political actors blame the external actors to hide their incompetence. They spread rumors against foreign actors. But they never reflect on how efficient they have been. This is a sad story..... There are two sides to it. First, our leaders go to Delhi to curry favors on their behalf. And when favors are not done, they become anti-Indian. So I sometimes think India is in a difficult situation. If they support certain political leaders in Nepal, they are criticized. If they don't they are also criticized.⁴⁵

Nepal's domestic politics has adversely affected India-Nepal relations. Nepal has been passing through a critical phase of prolonged political transition. Many larger issues – like the implementation of the Constitution, federalism, the Madhesh tangle, etc. are still unresolved. There has always been a tendency in Nepal to tag its domestic failures to external factors. Whenever a serious crisis erupts in the domestic politics of Nepal, the India-Nepal relationship becomes a victim. If India intends to help Nepal in overcoming the crisis, it is blamed for interference in the internal affairs of the country. If India wants to keep its distance, then it is criticised for not being sensitive to the problems of a neighbour (Upreti, 2016).

⁴⁵ Nischlnath Panday is the director of Center for South Asian Studies, he is also a keen student of diplomacy in South Asia and of the strategic rivalry between India and China in Nepal.

India-Nepal relations are multidimensional, and are therefore complex in certain respect. There are political, strategic, and economic dimensions to India- Nepal relationship. At the same time, there are dimensions like social, religious and cultural. The latter is what makes people-to-people relations between the two countries intimate and inseparable. Both dimensions are important in understanding India-Nepal relations. The concerns of the two countries are not merely political and strategic but also have to do with other issues such as trade, transit, sharing and exploitation of river waters and other resources, migration, open borders, etc. As a landlocked and small power, Nepal is always sensitive about these issues, and expects India to be generous and helpful. India's negative responses at times become irritants in the relationship between the two countries. When more than one issue comes up, then the situation becomes complicated. One could even say that, at times, some of such attempts are made deliberately. However, what is more important is that the informal channels of the relationship between the two countries operate independently from the compulsions of the 1950 Treaty. The socio-cultural exchanges at the people to- people level are not affected by the political tangles between the two countries. It is for this reason that the breakdown of the relationship between the two does not affect the people at large - so long the situations such as the closing of borders or a blockage in Tarai (as it happened in the recent past) do not arise (ibid).

These relations are unique in South Asia. Peoples of India and Nepal have family bonds, share overwhelmingly the same religion, travel freely across borders, invest, trade, educate, and study without barriers, and generally straddle the same socio-economic and socio-political milieu. They do not pose any threat to each other by themselves. However, this uniquely open relationship can be abused by third parties for diabolical aims – like the staging of terrorist acts, hijacking of aircraft, trafficking in counterfeit currency, women and children, and other transnational crimes (Sharma, 2016).

Nature has placed India and Nepal as parts of a single geographical region which are inseparable from each other. The Tarai region of Nepal is a part of Indo-Gangetic zone while the hills and mountains form a part of the larger Himalayan ranges. The two countries share resources, biodiversity, environment issues and the challenges of climate change. The open border provides continuity and strength to the bonds of nature between the two countries. The religious and cultural linkages between the two

countries are also age old and intimate. Both are part of the same civilisation. The social fabric and the cultural traits of both countries are similar. Both carry immense religious and cultural value for each other. However, this oneness and togetherness in the socio-cultural field has not been helpful in building bridges between the two countries. It is a fact that soft power diplomacy plays an important role in overcoming political biases and conflicts. But, in the case of India and Nepal, the socio-cultural intimacy is mere rhetoric in the political realm. It may be very important at the people to people level, but it has failed to influence political relations between the two.

3.5. Madheshi Movement and its Implications for India-Nepal Relations

Anti-Indian Sentiment

Since mass protest by Madheshi in 2007, there is a perception in Nepal that India has been backing the demand for federalism. The *Pahadis* (hill people) believe that India has been encouraging the demand for ‘One Madhesh One Pradesh’. Many in Nepal see this as an attempt on the part of India to balkanise the country, while others think that India wanted a single province as a buffer zone on the southern flank of Nepal. The perception gained currency in the early 2000s as India was attempting to carry out special development programmes in the underdeveloped and neglected Terai region to prevent Nepalese Maoists from gaining influence there, given their strategic linkages with Indian Maoists. Historically, Nepalese nationalism, as promoted by King Mahendra, is dominated by the ethos of the hill people and the people from Terai were regarded as being close to India and were discriminated against. Therefore, the demand for special autonomy in Terai was raised as early as the late 1950s. The Maoists expanded their base to the region cashing in on anti-monarchy sentiment. Moreover, India was unhappy with monarchy for not protecting its security interests (Nayak, 2014).

From that time onwards, a number of India-funded development projects were diverted to the Terai region. After the CA elections, India reportedly used this constituency to promote its interests in Nepal. On one occasion India attempted to use Madheshi parliamentarians to keep the Maoists out of power (Varadarajan, 2013). The Maoists and some Nepalese analysts argue that Shyam Saran’s visit to Kathmandu in 2010 as special envoy of the Indian prime minister was for the purpose

of preventing the Madheshi from supporting any Maoist-led coalition government (Khanal, 2013).

Former Prime Minister G.P. Koirala, hinting at India's hand in the Terai crisis, had also said, "The ongoing Madhesh crisis [2007] can be solved within a minute if Nepal and India jointly work together for it."⁴⁶ This indicates that senior political leaders were under the impression that India had links with those agitating in the Madheshi movement and sought India's help for resolving outstanding issues in Terai. A similar observation was made by Prachanda during the 2007 Madheshi protests against the Interim Constitution. If this perception gains further ground, it can lead to greater anti-Indianism in Nepal, and allow more space for China and Pakistan to make Nepal a hotbed of anti-India activities.

India has always supported popular governments in Nepal. It played a major role in bringing the monarchy, the democrats and the Ranas together in the 1950s and supported the movement for multiparty democracy in 1990. India played an important role in bringing the Maoists and the seven political parties together to sign a 12-point agreement in November 2005. This agreement significantly led to the mainstreaming of the Maoists as stakeholders in Nepal's multiparty democracy and brought an end to a decade-long insurgency. Since then it has been constantly supporting the peace process in Nepal. But there is growing anti-Indian sentiment among people, specially Katmandu centric political parties has been propagating anti-Indian sentiment for their own political benefits and even during 2016 blockade there was a protest from various groups in Katmandu against India believing that blockade was from India side who is backing a Madheshi movement. Most of the media are under a control of elites groups and among them most of them are political active and they are also using a media to project that India has been always trying to interfere the internal politics of Nepal and this has wide spread the anti-Indian sentiment not only in Katmandu but now it has also penetrated into rural areas due to influence of media.

Madheshi' sympathy towards India is more a cultural than political issue, given their centuries old relationship with the people of India and their desire to maintain it. The Nepalese political parties have not been sympathetic to their plight and the

⁴⁶ Krishna Hari Pushkar, "Seeds of ethno-civil war in Terai", *Nepal Monitor*, 20 December 2007, at http://www.nepalmonitor.com/2007/12/seeds_of_ethno-civil_war_in_nepal_terai.html (accessed on 25 January 2017).

discrimination against them (Nayak, 2014). Even the New constitution which was drafted earlier in 2015 was not inclusive at all and it has failed to address some of the issues of Madheshi people. It's obvious hill people looks suspicious about India's concern. While formulating Nepal's Constitution India showed up concern to have a inclusive constitution and when finally Constitution was drafted, India's dissatisfaction and the Madheshi protest as well as blockade fuelled up more anti-India sentiment and it will cost a lot for Indo-Nepal relationship, if it is not sorted out. As noted by a former Deputy External Affairs Minister of India, Surendra Pal Singh: "As long as they [Madheshi] keep their cultural links or other types of links with another country, naturally they will be looked at with suspicion."⁴⁷ However, the fact of the matter is that both the hill people and those of Terain origin have a strong cultural affinity with India, apart from property and business interests.

The Madheshi on their part believe that India's Nepal policy is more Kathmandu-centric. They accuse India of neglecting the Madheshi movement. Upendra Yadav, the then president of the Madheshi Janadhikar Forum, said in an interview:

*India, especially South Block and the Indian Embassy, have been against the Madhes and Madheshi Janadhikar Forum (MJF). They created the Terai Madhes Loktantrik Party (TMLP) to weaken us. In fact, one of the reasons the pre-election alliance did not happen was because India was trying to boost up TMLP.*⁴⁸

There is also a new trend of growing anti-Indianism amongst people living close to the border on the Nepalese side. This feeling is visible among the Terai and hill Madheshi who are mostly dependent on India for their livelihood. While the livelihood of some villagers is dependent on farming, others earn money by trafficking of illegal goods. Those who are dependent on farming allege encroachment of farm land by Indian farmers and security forces. Those who are dependent on trafficking of illegal goods complain of harassment by Indian security forces. Both the sections make their hatred towards India quite plain (Nayak, 2014).

Instability in Nepal is likely to have an adverse impact on India's political, economic and security interests. Any upheaval in the Terai bodes more ill for India. The anti-

⁴⁷ *White Paper on China's National Defense, 2008*, The Central People's Government of The People's Republic of China, at http://www.china.org.cn/government/whitepaper/node_7060059.htm (accessed on 25 February 2017).

⁴⁸ Prashant Jha's interview with Upendra Yadav, "Koirala must resign", *Nepali Times*, Issue 401, 23-30 May 2008.

Indianism flowing especially from the Madhes movement will again have adverse impact on India's economic and security interests in the border region. Since the Terai is closely linked with India, a troubled Terai may affect every major highway, custom point and industrial zone, as well as Nepal's trade with India and other countries.⁴⁹

India, however, is faced with a dilemma—any constructive attempt by India to salvage the Terai situation is likely to be interpreted as unnecessary intervention in the internal affairs of Nepal and upset its *Pahadi* constituency, whereas, passive indifference to developments in Terai will be construed as shirking of Indian responsibility by the Madheshi. India cannot afford to ignore developments in Nepal, and especially the discrimination against the people of Terai region (Nayak, 2014).

One cannot erase the anti-India sentiment in Nepal; however, this can be minimised considerably. Firstly, India has to identify the anti-India forces and engage them. India should try to correct the perception through a Track-II dialogue with Nepal, which should extend beyond Kathmandu. A special emphasis should be given to the Terai region to counter Chinese influence in the region. India should highlight its developmental activities in Nepal. India needs to formulate a comprehensive and long-term Nepal policy (Nayak, 2102). India should be sensitive and India need to have a unbiased policy and strategy in a holistic way. Although it won't be possible to stop anti-Indian sentiment if it is through Nepal's side, India can learn from past and take a wise steps to avoid it.

Misuse of Open Border

Since 2007 armed groups appear to have multiplied in the Terai, particularly in the eastern half of the Terai. There is some debate about the number of armed groups active in the Terai as well as the nature of these groups. The Ministry of Home Affairs published a report in 2009 claiming there are 109 armed groups active in Nepal and that most of these operate in the Terai. Other estimates run close to this, or simply repeat the Government estimate. While others suggest a far lower estimate and that there may be closer to a dozen armed groups operating in the Terai. Armed groups are

⁴⁹ Keshav Prasad Mainali, "India's Stand on Madhesh issue is self contradicting, at http://www.telegraphnepal.com/backup/test/news_det.php?news_id=3654 (accessed on 25 February 2017).

reported to use primarily homemade guns. These handguns are produced predominantly in India through illegal manufacturing processes. They are relatively cheap and widely available across the border. Armed groups are involved in a range of political and criminal activities, including: intimidation, forced donations, shootings and bombings in response to donation refusals, participation in *bandhs* and participation in the drug trade and counterfeit currency trade.⁵⁰

The presence of armed groups and organised crime syndicates in the border region constitutes a major security challenge for both the countries. The unregulated border enables these groups to cross over and move around with impunity. Suraj Vaidya, vice-president of the FNCCI, told this author in Kathmandu in August 2010:

Due to political instability and poor law and order situation in Nepal, revenue collection is affected. In the border districts more consumer goods from India are being smuggled into Nepal than from Nepal into India. Security in the border area is a big problem. Life is miserable in Birgunj. People fear to send their children to school. The ever increasing number of 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 movement across the border has indeed been responsible for all sorts of criminal, antisocial 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 [artefacts] and manuscripts, kidnapping for ransoms, etc (Kansakar, 2001).

Infiltration of Terrorists

In recent years, Nepal has become a haven for terrorists, smugglers and anti-India elements sponsored by Pakistan's ISI. ISI agents have also been using the Kathmandu–Delhi bus service to enter Indian territory. The rise in the number of Muslim seminaries in the border region is a major concern for India. According to Tilak Kak the Director General of the Sashastra Seema Bal (SSB) around 1900

⁵⁰ Interdisciplinary Analysts, Nepal Madhes Foundation, Small Arms Survey and Saferworld, August 2011.

madaras have come up in the border region and security agencies are monitoring the activities of 50 or 60 ‘sensitive’ ones.⁵¹

While reviewing the security situation on the Nepal-India border in 2013, the SSB found that over the past 20 years most of the materials used in major terror attacks in the Indian cities were brought into India through Nepal or Bangladesh.⁵² Arguing for an Extradition Treaty with Nepal, then India’s Minister of State for Home, Sriprakash Jaiswal, informed Parliament on 4 November 2006 that Pakistani militants had been using Nepalese territory as a hideout and as a base for infiltration into India. Maloy Krishna Dhar, a former joint director of the Intelligence Bureau, has also supported this view and held that two subsidiaries of the ISI—the Joint Intelligence Miscellaneous and Joint Intelligence X—have been systematically exploiting the sentiments of the Muslim population of Nepal in general and Muslim population in the Terai area in particular to foster anti-India sentiments. They have also been aiding some Islamist groups such as the Nepal Islamic Yuva Sangh, Jamaat-e-Islami Nepal, Nepal Muslim Seva Samiti and Nepal Muslim Ittehad Association (Dhar, 2006).

Media reports reveal that radical Islamist groups operating within India, such as the Indian Mujahideen (IM), use Nepalese territory as a safe haven, especially after Bangladeshi security forces raided their bases in Bangladesh. According to the *Country Reports on Terrorism 2009* of the US State Department, There is a possibility that members of extremist groups could transit Nepal, especially into India. The large ungoverned space along the Nepal/India border exacerbates this vulnerability, as do security shortfalls at Tribhuvan International Airport. In June 2009, Mohammad Omar Madani, the alleged Lashkar-e-Taiba (LeT) head in Nepal, was arrested in Delhi. According to media reports, Madani had set up a madarsa in the jungles along the border from where newly trained militants could be sent to India. The LeT presence in Nepal was confirmed in 1999 with the hijacking of Indian Airlines flight IC 814 from Kathmandu to Kandahar, Afghanistan (Nayar, 2014).

The Nepalese Maoists’ links with Indian Maoists were a major concern for India until the former joined the peace process in 2006. The same concerns have re-emerged after the split of the UCPN (Maoist) in June 2012 and Mohan Baidya faction openly

⁵¹For details visit <http://inwww.rediff.com/news/2006/mar/24border.htm>

⁵²For details visit <http://www.deccanherald.com/content/375461/numbers-paks-nepal-missionincreasing.html>

declared its ideological linkage with the Indian Maoists. They are members of Coordination Committee of Maoist Parties and Organisations of South Asia (CCOMPOSA) and have vowed to fight jointly against “Indian expansionism” in the region. Leaders of the CPN (Maoist) visited Maoist-affected areas of India. Prachanda acknowledged in 2000 that since Indian Maoist groups such as the PW, the MCC and others had experience of an armed struggle, “we made some investigation of [areas] in Bihar in India. We went to Andhra Pradesh to look at the struggle there and we tried to understand the practical situation and practical problems of armed struggle.”⁵³ As the relationship deepened, the Nepalese Maoists and the PW formed the “India-Nepal Border Regional Committee to coordinate their activities in areas along the India-Nepal border in Bihar”.⁵⁴ They were also reportedly acquiring arms through the rebel groups active in Northeast India. The links between Indian and Nepalese Maoists were reduced from strategic level to ideological level after the Nepalese Maoists joined mainstream politics. Despite that Mohan Baidya faction of the UCPN (Maoist) had been in touch with Indian Maoists.⁵⁵

Trafficking and Illegal Trade

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 described 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). 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

⁵³ <http://www.revcom.us/a/v21/1040-049/1043/interv.htm>

⁵⁴ <http://www.rediff.com/news/2004/oct/14spec2.htm> (accessed on 25 February 2017)

⁵⁵ “Split in Nepal Maoists spells trouble for India”, *The Times of India*, 2 July 2012,

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 unsavory 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).

The border has become a major hub for trafficking in fake currency, small arms, narcotics and humans. The Indian Intelligence Bureau (IB) has estimated that around INR 1690 billion worth of fake currency is in circulation all over India. A large part of the money used to fund the terror operation in Mumbai in November 2008 was obtained through the fake currency and hawala channels. Sabahuddin, an accused in the Mumbai attack, who was also the chief of operations for the LeT in Nepal, confirmed that it takes just INR 5000 to cross over from Nepal into India.⁵⁶ Although the border is open and does not require any documents for common people to cross over, sometimes suspicious and anti-national elements have to find backdoor channels for safer entry.

The ISI uses Pakistan International Airlines (PIA) to transport counterfeit currency to its agents in Nepal and Bangladesh. After the flights from Pakistan were put under the scanner in Nepal, fake money began entering through Bangladesh, the Middle East, Tibet and even Sri Lanka into that country. The ISI has been using women couriers, particularly those with young children and physically disabled persons, to minimise suspicion. Both India and Nepal lose huge amounts of revenue due to illegal trade through the open border. The leakage of transit goods imported by Nepalese traders from third country through Indian territory is another concern for India. The trading items depend on demand and supply, subsidies, high transaction costs of official trade and tariff differentials. Gold, sugar, rice, motor vehicle parts and fertiliser are among the main items being smuggled to Nepal from India. During blockade there was a rise in black market, selling of commodities in a higher price than a normal rate.

⁵⁶ <http://www.rediff.com/news/2009/apr/02how-terror-travels-to-india-in-a-bus.htm>

Conclusion

Jawaharlal Nehru had stated in the Indian Parliament in December 1950: “from time immemorial, the Himalayas have provided us with a magnificent frontier....We cannot allow that barrier to be penetrated because it is also the principal barrier to India.” Historically, India and Nepal have recognised their mutual security interests and acted closely with each other. The agreements that Nepal has had with British Indian authorities and also with independent India attest to this fact.

Despite that, there have been ups and down in the century-old India- Nepal relationship due to several factors psychological, geographic, political, economic and social, apart from some external factors. The perception of the Nepalese elites about India being an interventionist or hegemonic power has percolated down to the common people. The ruling elites, including the political parties, exploited this sentiment to either protect their regime or for acquiring power.

Violence broke out in August 2015 and seven policemen were killed by angry mobs. Fifty people were killed between August and September. The Indian Foreign Secretary urged Nepal’s rulers to address the demands of the Madheshi, stating that India did not wish to see a neighbour with which it shared close ties devolve into violence and bloodshed. The ruling élite, however, claimed that India was trying to control Nepal through divide and rule tactics by taking the side of the Madheshi. His efforts failed, consequently, and when the new Prime Minister, Mr Khadga Prasad Sharma Oli, took office on 11 October 2015, he fanned anti-India sentiment in Nepal. This led to an almost-total breakdown in bilateral relations.

India has always believed that, ‘only an inclusive Constitution with the widest possible consensus by taking on board all stakeholders would result in durable peace and stability in Nepal. India’s core interest in Nepal is a united Nepal’s peace and stability which has a bearing on India as well because of the long and open border shared between India and Nepal. In May 2016, the President of Nepal, Bidhya Devi Bhandari, cancelled her visit to India, Mr Modi cancelled his visit to the Buddha Purnima festival in Lumbini on 21 May and Kathmandu recalled its ambassador in New Delhi. Worse yet, in March, Mr Oli visited Beijing soon after visiting New Delhi. While there, he concluded several agreements, most notably one on transit

facilities through China, thereby ending India's monopoly over Nepal's access to seaports. It did not escape Indian observers that obtaining imports via seaports in China and then through Tibet would cost Nepali importers two to three times more than it would to import goods via Indian ports.

Essentially, the present crisis in bilateral ties has to do with several sets of factors. One is the short-sighted insensitivity of the main political parties (that happen to dominate in the current Constituent Assembly) towards the aspirations of one half of Nepal's population (classified in over-simplified fashion in this paper as "Madheshi" for convenience) in the new Constitution. India made no secret of its disapproval of the manner in which the Constitution was rushed through, as well as its content. Widespread discontent in the Terai was, in "Pahadi" eyes, encouraged by New Delhi. Then, there was the inexplicable urge on the part of the highest echelons of Nepal's political leadership to repeatedly provoke India with its anti-India rhetoric and posturing. Finally, there is also the equally inexplicable inability or unwillingness on the part of India to correct widespread perceptions in much of Nepal that it is being deliberately prescriptive, judgemental, and intrusive in its insistence that Constitutional shortcomings should be addressed immediately by accommodating key Madheshi grievances.

After several weeks of a so-called blockade of entry points on the India-Nepal border which brought the country to its knees (and for which incidentally India is blamed in much of Nepal), the agitation has now become more low key. However, it is likely to gain momentum again by September 2016, unless the main grievances are addressed. Most observers in Nepal, even from the hill areas, are convinced that the Constitution promulgated in September 2015 is flawed, and needs immediate substantive amendments after negotiating compromises with Madhes representatives. Yet, the impasse has continued because of the apparent stubborn refusal of key mainstream leaders to entertain Madheshi demands in any substantive sense. Going by present trends, it is likely that prolonged delay in striking a mutually acceptable compromise will only lead to the rise of extremism on India's border, with very serious consequences for the security of the sub-region. On the main issues agitating the Terai – which include the demarcation of provincial boundaries, proportionate representation, inclusion, and citizenship - there has been no substantive dialogue between the two sides to date.

India has repeatedly said that it respects Nepal's right to have a constitution of its choice, and has neither reason nor interest to play a partisan role in Madheshi-Pahadi tensions. New Delhi was right to share its deep concerns about the process by which the Constitution was finalised and its contents formulated; though one can debate whether the style or timing of certain demarches could have been different, given Nepal's well known hypersensitivities. India will now need to try harder to convince mainstream Nepalese opinion that it is motivated solely by the desire to be helpful in Nepal's search for stability and cohesion. This would mean that the public profile of Indian diplomacy in Nepal should be more low key, and that India will give the time and space needed by the main stakeholders in Nepal's polity to find an early resolution through mutual accommodation, which will give the people of the plains a sense of ownership of the Constitution.

Many in Nepal think that 'India's over-reaction to Nepal's assertions of sovereignty' (even when they do not affect legitimate Indian interests) has fuelled anti-Indianism over the years. Other aspects of India's 'misconceived' Nepal policy, as pointed out by the Nepalese, are: India's inconsistency in supporting various political players and thereby giving one or the other a sense of political insecurity; the recurring effort to micro-manage Nepal's internal politics (an effort which can be said to date back to the 1950s); its intrusive profile in Nepal's internal politics (a historical pattern rather than occasional aberration); a hegemonic attitude, which is all too apparent to most Nepalese, despite New Delhi's professions of respect for Nepal's sovereignty.

At the same time, certain sections in Nepal believe that India should play a constructive role in the peace and Constitution-drafting process rather than being involved in petty politics. The political forces in Nepal also do not rule out the importance and necessity of India for Nepal's political stability and economic prosperity—in fact, every political party wants India's support for its own benefit. Ramesh Nath Pandey, former foreign minister of Nepal, observed: "India has very good relationship with many leaders of Nepal cutting across the party line. But it is yet to introduce a comprehensive policy towards Nepal focusing on economic engagements." Therefore, there is a strong view in Nepal that India needs to take advantage of its leverage in the country and help to forge consensus on government formation and critical constitutional matters.

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