

A Study of open Borderrelationship and Issues between Nepal and India

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Abstract - A border is drawn to indicate a region that has a shared legal and political system. The Broder issue refers to disagreements between two countries over the imaginary border line.. Natural resources such as rivers, minerals, and rich land can be a major cause of border conflicts, but so can the rapid growth of the population, politics, culture, religion, and a host of other factors. Nepal has been considered as a sovereign country since the beginning of time, with India encircling it on all three sides, a distance of 1751 kilometres. The Lipulekh border dispute between Nepal and India is now a hot topic. In addition to this, there are a number of additional challenges along the Nepal-India border that need to be addressed. As a result of their long-standing amicable relations, the Nepal-India border has long been plagued by tensions.

Keywords - Border, disputes, Lipulekh, Kali River, Treaty

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INTRODUCTION

Nepal and India relationship of friendship and cooperation is special, with open borders and deep-rooted people-to-people contacts of kinship, tradition, religion and culture. Since the dawn of time, individuals have been able to freely travel borders between countries. There are 29 million people living in Nepal, an area of 147,181 square kilometres and a population of 29 million. Nepal has a border with India of over 1758 kilometres in the east, south, and west. China's Tibet Autonomous Region lies to the north of the country.

The Treaty of Peace and Friendship between India and Nepal, signed in 1950, serves as the foundation for this particular relationship between the two countries. The articles of this treaty provide citizens of both nations with advantages, facilities, and opportunities that are on par with those available to citizens of the countries in which they reside. The Treaty, on the other hand, makes it easier for Nepal to get out of its landlocked situation. Some Nepalese political parties have addressed the topic of Nepal's disadvantages throughout the years and have called for a rethink of the agreement. India, on the other hand, is open to reviewing any and all bilateral agreements in order to expand the relationship even further. Detailed and consolidated proposals from the Nepalese side have not been forthcoming.

The *1950 Peace and Friendship Treaty* Articles 5, 6 and 7 were the key components of the treaty. Article 5

allowed Nepal access to purchase weaponry and armor from India. Article 6 established national treatment for both Indian and Nepalese businesses. Article 7 established reciprocal treatment of Indian and Nepali citizens in the two countries, in residence, property, business and movement. Article 5 especially signaled an establishment of potential for deeper ties between the two countries.

The India-Nepal Trade & Commerce Treaty was signed in the same year, 1950. With the agreement, customs and tariffs laws between the two countries would be streamlined. Due of Nepal's geographic isolation, this is a critical consideration for international trade. Additionally, an Indian military deployment in Kathmandu would create friction between Nepal and India.

During the 1960s, Nepal began to balance its relations with India and the People's Republic of China. During the year of 1962, King Mahendra disbanded parliament and instituted the Panchayat System, which prohibited political parties and established a hierarchy of local councils, district councils, and national councils (the apex body parliament). It was agreed that the King would still hold the position as head of state and the sovereign power.

An agreement on the construction of a roadway (the Kodari Highway) connecting Nepal to China had already been reached when the country's government signed a peace and friendship treaty

with China in 1960 and a border treaty in 1961. All of this was a sign that India was losing its grip.

In the 1970s and 1980s, India and Nepal inked a slew of trade and transit agreements that solidified bilateral relations. There was an increase in collaborative investments between Indian and Nepalese companies, as well as greater cooperation between the two countries. In spite of this, Nepal's relations with India and China remained balanced. After the failure to negotiate a new trade agreement and the purchase of weapons from China, key trade and commodities transit agreements between India and Nepal were terminated, putting enormous strain on Nepal's economy in 1989.

That pressure eventually led to a public mass campaign led by the Nepali Congress and the United Marxist League of Nepal. During this time, Nepal's multi-party parliamentary democracy was resurrected. When leaders of India and Nepal met in the early 1990s, trade relations were re-established through the signing of new agreements. By 2006, a great public uprising overthrew King Gyanendra, who had disbanded parliament in the 2000s and dreamed of reviving the monarchy.

India is Nepal's major foreign investor, donating money and building hydroelectric dams. There is a credit line of \$1 billion made available. Chinese efforts to establish a presence in Nepal have been noteworthy, as has the ease of trade, road connection (BRI) projects, railway and hydropower projects. China has also offered hundreds of millions of dollars in infrastructure and military aid to Nepal.

When individuals from the Madhesi community set up blockades at important border crossings for trade with India in 2017, the Madhes crisis was sparked. They gathered to call for more equitable representation in Nepal's founding document. There were tensions between India and Nepal as a result of this, and Nepal requested that the official blockade be lifted. India, on the other hand, claimed that the blockade was the result of internal Nepali movements and conflict. Efforts had been made to reduce tensions by upgrading infrastructure and rebuilding after the disaster.

Because Nepal is sandwiched between India and China, the two most powerful Asian countries, Nepal's foreign policy must avoid becoming overly reliant on either one. Nepal's landlocked status prevents it from freely trading with the rest of the globe, therefore balancing between India and China is a sensible strategic move. In the event that one of the countries relies too heavily on the other, there is a risk of serious consequences. The most recent developments, on the other hand, indicate that this status quo will continue.

Affiliations between the two countries date back to the dawn of time and include everything from history and culture to commerce and religion. Historic evolution, physical proximity, and socio-cultural identities have

nurtured this relationship over time. Intimate interactions between economic and strategic variables are the result of this dynamic. In the words of a Nuni:

Both countries' southern borders are united by the flat Indo-Gangatic plane, resulting in close proximity. With more than 1600 kilometres of shared borders, citizens from both countries can easily travel to each other's shores for anything from shopping and health care services to education and business. Because of the interplay between geography, socioeconomics, and culture, it is possible to migrate. Following the Sugauli pact (1614 AD), individuals in neighbouring territories felt free to cross over. The Nepal-India migration pattern is unique in the sense that both nations' citizens are able to freely enter each other's borders.. Since the birth of civilization, waves of Indian migrants have poured into Nepal from India. Lord Krishna and his fellow milkmen fought the demon Vanasur in the Kathmandu valley, defeated him, and established the Gopal dynasty to rule the realm. After defeating the Kirats, the Vaisali (Hanzipur) Lichhavi monarchs established their rule. From Chittorgadha (Rajsthan) came the Shah dynasty, who established their empire in Lamjung and Gorkha region, and eventually expanded their dominion up to Tistha river in east to Kangda river in west and from Himalayas to the Ganga river in the south.

Four priests from (Maharashtra) South India serve in the Pashupatinath temple, which remains the most important cultural link between Nepal and India. He had special access to the temples of Puri and Rameshwaram in India. Nepal's Lumbini, where Buddha was born and where he delivered his first speech, is regarded the holiest Buddhist sacred site. For both official and non-official reasons, Nepal employs the Vikram Samvat (originated after the great monarch of India, Bikramaditya). Like the majority of Indian languages, the Nepali language has its roots in Sanskrit and is written using the Devnagari script. The histories, cultures, and traditions of Nepal and the United States have been intertwined for centuries, according to a Nepalese author. Nature seemed to have decreed that Nepal and India coexist together, sharing the same economic and social challenges. Because of Nepal's strategic relevance, India's military and security planning in the north-eastern section of the country must take Nepal's relationship with Bhutan into account.

INDIA- NEPAL RELATIONS

With open borders and long-standing ties of family and cultural exchange, India and Nepal enjoy a special bond of friendship and collaboration. People have been free to move across boundaries for a long time. With a total land area of 147,181 square kilometres and a population of 29 million people, Nepal is a large country. Five Indian states - Sikkim, West Bengal, Bihar, Uttar Pradesh and Uttarakhand - share a border of more than 1850 Kms to the south, and Tibet autonomous territory in the People's

Republic of China in the north. Dr. Ram BaranYadav, President of Nepal, paid an official visit to India from December 24 to 29, 2012, continuing a history of frequent high-level exchange visits between India and Nepal. Dr. BaburamBhattarai (20-23 October 2011), Prime Minister Madhav Kumar Nepal (18-22 August 2009), Prime Minister Pushpa Kamal Dahal 'Prachanda' (14-18 September, 2008 and 28-30 April 2013), and previous Prime Minister SherBahadurDebu have all recently visited India (9-14 June 2013). Shri. S. M. Krishna, Minister of External Affairs, paid two visits to Nepal in 2010 and 2011: on January 15-17 and April 20-22. On November 27, 2011, Finance Minister ShriPranab Mukherjee travelled to Nepal. The India-Nepal Treaty of Peace and Friendship of 1950 is the foundation of the special relations that exist between India and Nepal today. The Treaty has allowed Nepal to overcome the limitations of being a landlocked country by giving Nepalese individuals equal access to the amenities and opportunities available to Indian citizens. Over the years, numerous Nepalese governments have mentioned the possibility of a reform of the agreement. To further improve our relationship, India has stated that it is willing to review all bilateral agreements. The Nepalese side has not provided any specific recommendations. Beginning in Delhi in November 2005, the Indian government welcomed the historic Comprehensive Peace Agreement of November 2006, which mapped out a path toward political stability in Nepal through peaceful reconciliation and inclusive democratic processes. When it comes to the demands of Nepal's people and government, India has always acted quickly to respond to their concerns and help them achieve their goal of establishing a new constitution and multi-party democracy through an elected Constituent Assembly. The Government of Nepal (GoN) benefits from India's contributions to its development initiatives, which include a variety of infrastructural, health, rural and community development, and educational programmes. Under the 'Aid to Nepal' budget for 2012-13, '300 crores' in grant aid was given to Nepal. GOI has also provided substantial financial support to the current Nepalese peace process. Small Development Projects Scheme, sponsored by the Embassy of India, is part of India's overall support to Nepal, which totals about Rs.4000 crores. With over Rs. 500 crores in funding, it presently encompasses 425 different initiatives. Around 1800 scholarships are given to Nepalese students every year as part of India's efforts to aid in the development of Nepal's Human Resources. India remains Nepal's most important trading partner, as well as a source of investment and tourists. In 2009, India and Nepal signed a new Trade Treaty that includes measures that provide Nepal greater access to the Indian market. Trade with India accounted for 65.1% of Nepal's total exports in its most recently completed fiscal year (ending in July 2012), according to official data. As part of their transit agreement, India and Nepal agree to use mutually agreed-upon routes and modalities to pass through each other's territory. The Transit Treaty was extended

for a further seven years on January 5, 2013. Rail Services Agreement (RSA) and updated Air Services Agreement (ASA) have been signed by the two countries to improve bilateral connectivity in the transportation sector Indian investments in Nepal total Rs.2175.5 crores, with 525 FDI projects, making it the country's most important source of foreign investment. Over half (46 percent) of all foreign investment in Nepal comes from India. The two nations signed the Bilateral Investment Protection & Promotion Agreement (BIPPA) and the Double Taxation Avoidance Agreement (DTAA) in October and November of 2011, respectively, which provides a legal framework for increasing Indian investment in Nepal and integrating the two economies. The deployment of equipment and training by India has played a significant influence in the modernization of the Nepal Army (NA). A total of about 250 training slots are made available each year in various Indian Army training facilities for training of NA troops. An honorary general rank is bestowed upon the Indian Army's Chief-of-Staff and the Nepal Army's Chief-of-Staff reciprocally. Nepalese troops have long been a source of pride for India, which has made every effort to safeguard their well-being as they age. Over 1,265,000 former service members now call Nepal home. A total of Rs. 1387 crores was paid out in pensions to Indian ex-servicemen in Nepal in 2012-13. These ex-servicemen, their families, and their dependents are being cared for in the greatest possible way by the Government of India. The Indian government has set up "The Indian Ex-Servicemen Welfare Organization in Nepal (IEWON)" in order to make sure of this. 2012 saw the inauguration of ECHS in Nepal, which provides free medical care to Indian ex-servicemen of Nepali origin and their dependents in the country. Private empanelled hospitals in India will also provide free care for ECHS beneficiaries. Water resources collaboration between India and Nepal has enormous potential. Technically and commercially, 43,000 MWs is available hydropower potential in Nepal. Major initiatives, on the other hand, have stalled because of factors unrelated to the economy. In a strange twist of fate, India is Nepal's largest source of electricity. In order to ensure that all water-related cooperation between the two countries is properly managed, they have established a three-tier bilateral mechanism at the Ministerial (Joint Ministerial Level Commission on Water Resources- JMCWR), Secretary (Joint Committee on Water Resources- JCWR) and technical (Joint Standing Technical Committee- JSTC) levels. In February 2012, the first JMCWR meeting was conducted in New Delhi. Mr. Post BahadurBogoti, Minister of Energy, GON, headed the Nepalese delegation. Also accompanying the Nepalese delegation was GON Minister for Irrigation Mahendra Prasad Yadav. Mr. PawanBansal, India's Minister of Water Resources, was in charge of the Indian delegation. The open border has been a constant source of cooperation between the United States and Nepal. The Nepalese government has made it clear at numerous levels

that its territory will not be utilised in any way to harm India. All security issues, including cross-border crime, are addressed through simplified bilateral channels and effective communication lines between and along the bordering districts. With their shared cross-border security challenges, India has frequently called for a stronger legal framework to confront them. In addition, India has generously offered aid to Nepal's security forces in the form of infrastructure development, capacity building, equipment, and human resource training. Ninety-eight percent of the India-Nepal border's strip maps were created and initialled by a Joint Technical Committee (JTC) led by Surveyors General of India and Nepal (December 2007). Plenipotentiary officials are reviewing these strip maps for approval. Nepal recently attempted to portray the situation of the boundary in an unflattering light, alleging instances of Indian encroachment, even though the topic has not been formally taken up by the Nepalese Government. In order to commence work on installing border pillars where they are absent or repairing them where they are broken, India has highlighted the importance of early signature of the strip maps at the plenipotentiary level. The Nepalese government has stated that they are preparing for the signing of the strip maps by gaining political support. On a number of occasions this year, the Indian Embassy in Kathmandu and the BP Koirala India-Nepal Foundation (BPKF) brought people together in the fields of culture, the arts, technology, academia, and the media. The Nepal Tourism Board in Kathmandu hosted the Indo-Nepal Youth Conference on the 13th and 14th of May 2012, which featured prominent young professionals from the worlds of film, fashion, music, literature, and business. On July 8, 2012, the Kumari Cinema Hall in Kathmandu exhibited two of the late actor's critically praised films, Hare Rama Hare Krishna and JohnnyMeraNaam, as part of the festival "Tribute to DevAnand". The India-Nepal Crafts Exhibition, organised by the Embassy and BPKF in collaboration with the South Asia Foundation, the Nepal Tourism Board, and the Goa Government, was opened on April 27th, 2012 at the Nepal Academy in Kathmandu by President of Nepal Dr Ram BaranYadav. The 150th anniversary celebration of MahamanaMadanMohanMalaviya's birth, which took place from 30 November to 1 December 2012, was also opened by President Dr. Ram BaranYadav. Organizers of the event in Kathmandu included the MahamanaMalaviya Mission in Kathmandu and the Indian Embassy. The conference focused on Banaras Hindu University, founded by Malaviya in the early 20th century, and its significance in Nepal. January 2013 was Vishwa Hindi Diwas and the birth anniversary of Swami Vivekananda. Poemandu and Cinemandu, the Embassy's monthly literary and art discussions, have also been launched. Nepal has a population of approximately 6,00,000 Indians. Those who have been living in Nepal for a long time, as well as professionals such as doctors, engineers, and IT experts, are included in this group (including seasonal migratory in construction sector).

MAJOR ISSUES

1) Present Status of the Indo-Nepal Border

After the Sugauli Treaty was signed on March 4, 1816, work on demarcating the India-Nepal border began. A border treaty with the British India was signed on November 1, 1860, and negotiations were completed in 1885, accelerating the demarcation process. River Mechi in the east and Mahakali River in the west are also known as this area (usually called as MechidekhiMahakali in Nepal). Although the overall border area had not yet been delineated and demarcated, there is a dispute over the border between two countries in distinct sections. India has deployed its Para military force along its border with Nepal in order to keep an eye out for undesirable actions and to carry out activities in its favour. The Indian government has deployed 25 SSBs inside a one-kilometer radius (1 SSB in 40 meter). They've built one every five kilometres. An Armed Police Force has also been deployed by the Nepalese government in 20 Terai districts to guard against border security threats and revenue leaks since March 2007. 87 Border Outposts employ a total of 4,740 APF for security and revenue generation (Shrestha, 2014). Of the 8,553 border pillars, the Ministry of Home Affairs reports that 1325 are missing or have not yet been built.

2) Limpiyadhura, Lipulekh and Kalapani

The bilateral Treaty of Peace and Friendship governs the 1800-kilometer open international border between the two countries (1950). An 1816 treaty stated that Nepal "renounces all claim to or connection with the kingdoms located to the west of the River Kali" in Article 5, which established the border. This means that the area east of the Kali River from Kalapani to Limpiyadhura has historically belonged to Nepal. It is important to note that India is using a fictitious account of the origin of the Kali River to attempt to seize Nepal's territory along its course, including the Lipulekh region. By working together, Nepal and India were able to resolve 97% of their border disputes by 1981. They did this by creating a Joint Technical Committee (JTC). About 606 square kilometres of this disputed area are the focus of long-running boundary disputes. Indian Defense Minister Rajnath Singh opened an 80-kilometer road to Mansarobar on Nepali soil in the Lipulekh area on May 8, 2020, which re-inflamed border tensions. The Limpiyadhura's origin is declared to be 16 kilometres northwest of Kalapani on maps created by India's survey in the years 1850 and 1856, according to Nepal. However, it is rejected as proof in India. Consideration should be given to the Indian Map from 1875, according to the critics (Zehra,2020). India's external ministry responded quickly to Nepal's obvious opposition to the road's construction as being built "totally within the territory" of India. India's army chief made things more complicated by claiming that Nepal's opposition was motivated by China's interests. India's assertion that India has violated the Treaty of Peace and Friendship simply serves to exacerbate the

diplomatic crisis and validate Nepal's claims. Lipulekh is a vital area between India and China that has long been coveted by the Indian military.



Figure 1: Disputed border issues in West Nepal

"Everybody knows that bilateral treaties set the international boundary between two countries. There is no basis for a valid claim of presence if they engage in any form of unilateral action" Foreign Minister Pradeep Gyawali of Nepal told the BBC of his plans. As a response to India's criticism, Nepal released a revised map last month that included the disputed regions within Nepal. India contends that the treaty does not specify the actual location of the river, and that since then, better survey techniques have led to a redrawing of the map. The Nepalese side has called a meeting to discuss the disputed land, but the Indian side has no intention of attending at this time, according to reports.

3) Susta

In addition to Susta, Nepal and India have a territorial dispute over Susta. It is part of the Bihar province of India and is currently under Indian sovereignty. A village in Susta claims that it is part of Nepal and that its residents are citizens of the country. The Gandaki River was designated as the international border between India and Nepal in the 1816 Treaty of Sugauli. India controlled the left bank of the Gandaki River, whereas Nepal ruled over the right bank. When the treaty was signed, Susta village was on the right side and was part of Nepal. Gandaki River's channel changed over time and Susta shifted to the left bank, which today belongs to India. There is no doubt that Susta is Nepal's property, and the Indian government should return it. Indians' ideal of "Greater India" becomes more attainable when Susta is cut off from Nepal; this makes it easier for India to annex the territory. Since the border was agreed upon Susta on the Indian side of the river, as indicated in Figure 1, the Gandaki river's course has moved.

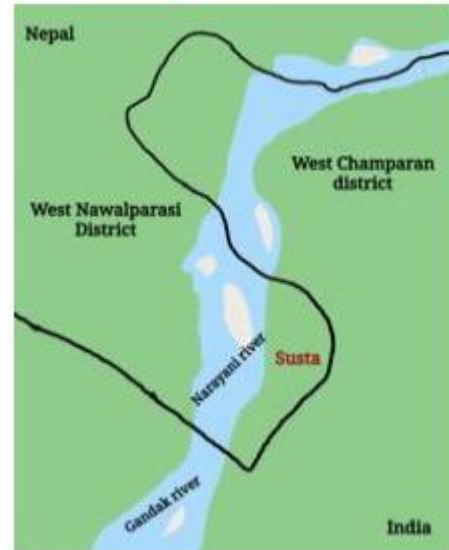


Figure 2

4) Border issues on other various Regions

After India gained independence in 1947AD, the issue of Nepal's border with India grew steadily. The dispute border areas include the original location of the Mechi River, the Antu Hill region, the Ramnagar region, the northern side of Chure Mountain to the southern side rainforest, and others. Kalapani, Limpiyahura, Susta, Mechi, and Tanakpur are some of the most contentious places. Ten-yard disputes between India and Nepal have risen in recent years because of a significant population expansion in India and the deforestation of Nepal's four-side jungle or bush by India. There is a disputed border area where even the border pillars are missing, such as Susta, Arra, Nala, and Tal Bangonde (Paudyal, 2013:p.37). Nepal has seen a number of political upheavals in recent years. The BS Democracy was founded in 2007. In 2046 BS, the Democracy was re-established, and in 2065, Nepal became a republican monarchy. Formerly known as the Federal Democratic Republic of Nepal, the country's official name has been changed. However, the number of border disputes is on the rise. Nepal and India share a border in 26 districts, and there are 54 sites in Nepal where the issue of the border is a major concern. More than 60,000 hectares of Nepalese land have been encroached upon by Indian forces. The KalapaniLimpiyadhura region is the most contentious, with 37,000 acres of land having been encroached upon (Paudyal,2013). Mechi is the second most contentious issue. There is a border dispute in Mechi because of Indian concerns over utilising "Junge pillars" as primary boundary markers. These pillars are clearly marked on a map released by British India following the Sauguli Treaty, and history shows that the British erected these pillars as monuments of the Nepal-India border. Even though these pillars establish the border, India continues to reject it.

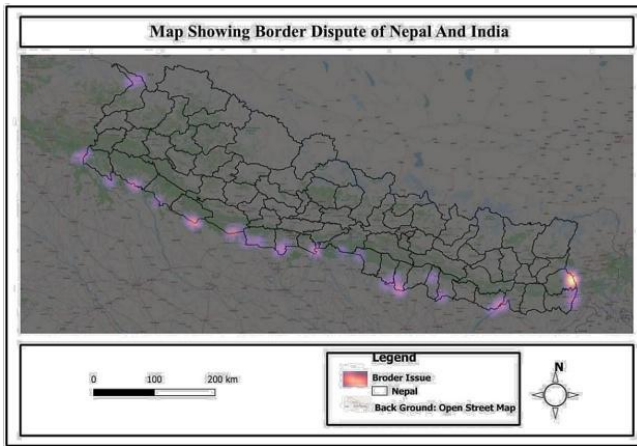


Figure 3: Map showing major border dispute areas in Nepal-India Border

MAJOR FINDINGS FROM RESEARCH

- A Das Gaja is missing in areas like Pashupatinagar (on the Ilam side), Jogbani (on the Morang side), Alau and Inarwa (on the Nepali side), Balara (on the Indian side), and Arnah in Sarlahi (on the Indian side). At Pashupatinagar border, it was startling to find Indian Customs and Immigration offices in both No Man's Land (Dasgaja) and Nepali territory. There are a few personal homes built in the midst of Dasgaja just behind the buildings. Two separate entrances are found on the Indian and Nepalese sides of a house. In the event that a person enters the house from one country, he or she can simply exit the residence and enter a different country. At the Nepal-India border's Jogbani gate, a similar situation was discovered.
- Kalapani in the Far West [in reference to the source of the Mahakali River] and Susta in Nawalparasi have traditionally been at the forefront of Nepal-India border ties. In the Darchula region of Nepal, the most contested section of the Nepal-India border lies in the Kalapani-Limpiadhura area. It's a hot-button topic for both countries right now.

CONCLUSION

Disputes over the border can lead to conflicting viewpoints and ideas on how to resolve them. The paper should be used to resolve boundary disputes between adjacent countries. The third countries may continue to serve as mediators in the issue. Satellite photography can be used to verify the accuracy of the data based on the flow of the river. As a result, throughout the treaty, we can learn the precise location of the river. The Global Positioning System (GPS) can be used to take accurate measurements of the area. UAVs should be used to obtain an image of the control point. So that if the control point is lost or damaged, we can locate it. The border site must be monitored and surveyed from time to time. People living near the border should be aware of it. To ensure

that agreements and treaties are implemented, citizens should put pressure on the government to do so. In the border area, there should be a security force. Non-residential locations are strictly prohibited. Getting the community involved in land preservation. We need to know that the United Nations can support us. We'll need to take the case to an international court if we can't resolve it ourselves. Experts should be consulted, and researchers should look at the country's border difficulties. Other contested territories have also been characterised by an opportunistic tone on the part of both governments. An India-Nepal Joint Technical Level Boundary Committee should be established to provide a workable solution to this problem.

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