

INDO-NEPALESE STALEMATE

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When one starts to muse about the Indo-Nepalese stalemate, he or she is generally reminded of Prithivi Narayan Shaha's aphorism which has aptly described Nepal's geopolitical location as a "yam between two boulders". Nepal's sandwiched position between India in the south and China in the north has historically conditioned Nepal's foreign policy as inherently non-aligned. Nepalese and Indian people have maintained strong amicable ties from time immemorial because of geographic contiguity and cultural similarity. The open border system existing between Nepal and India has historically promoted the socio-cultural and economic exchanges between the people of these two neighbouring countries. The traditional Indo-Nepalese friendship and economic relationship are now facing a critical juncture.

Indo-Nepal relations have considerably worsened since the sudden, unexpected and unilateral abrogation of the trade and transit treaties by India since 23 March, 1989. Ever since India has closed all but two of the fifteen transit points, Nepal has experienced the severest shortages of essential supplies such as petroleum, diesel, kerosene, medicines, salt, baby food, etc. in the urban and rural areas of Nepal. The Indian economic blockade has caused unbearable hardship among the Nepalese people. However, India has repeatedly claimed that it has regularly allowed the entry of essential supplies into Nepal and insists on saying that the Nepalese people have not had any severe shortage.

India wants only a single unified treaty covering both trade and transit. In 1978, Nepalese and Indian governments had concluded two separate treaties of trade and transit. Now India does not clearly spell out why she wants to conclude only a single unified treaty. In

providing the counter argument regarding the Indian stance, Nepal has emphatically said that trade is a periodic arrangement between two parties and claimed on the basis of international law that transit is a necessary permanent condition for any landlocked country. Therefore, Nepal wants to conclude two separate treaties of trade and transit. Nepal has also repeatedly told India that her insistence on the conclusion of a single unified treaty would be totally unacceptable. The United Nations Conference on Trade and Development (UNCTAD), the Convention on the Law of the Sea, 1982 (LOSC), and the General Agreement on Tariffs and Trade (GATT) have all strongly advocated for landlocked countries' legitimate right of transit and access to the sea. Article 125 (1) of UN Convention of the Law of the Sea clearly spells out that, "Landlocked states shall have the right of access to and from the sea for the purpose of exercising the rights... including those relating to the freedom of the high seas and common heritage of mankind. To this end, landlocked states shall enjoy freedom of transit through the territory of the transit states by all means of transport". It thus clearly shows that transit is the legitimate right of landlocked Nepal.

The trade embargo that India has imposed on landlocked Nepal is reported to have been carried out because of security considerations. India has often accused Nepal of violating the 1950 treaty of peace and friendship. The Indo-Nepalese impasse has come to the forefront since Nepal obtained one consignment of weapons including an anti-aircraft battery from China. The importation of Chinese weaponry has been done with the objective of modernizing the Nepalese army. According to the letters exchanged along with the 1950 treaty, India was required to

provide the facility of transit through her territory for hardware imported with her assistance and agreement. In 1965, Nepal and India arrived at an agreement of arms assistance according to which India undertook the responsibilities in reorganising and equipping the Nepalese army. The agreement stated that all the hardware requirements were to be met by India. It further stated that if India was not in a position to meet the hardware requirements of the Nepalese army, the United Kingdom and the United States of America would fulfil these gaps. Now India feels that the one consignment of Chinese weaponry Nepal obtained in the Summer of 1988 is contrary to the letter and spirit of the 1950 and the 1965 treaty and agreement, respectively.

Regarding the 1950 treaty, India must not be oblivious to the change of the geopolitical circumstances in a span of 40 years' time. The 1950 treaty was concluded during a period when India had obtained independence from the British on the one hand, and a communist regime had appeared in China, on the other. During that time, India was very scrupulously watching the political developments in China and considered the Chinese communist activity as a treat to her security. Therefore, Jawaharlal Nehru, the then Prime Minister of India, considered that Indian security consideration extends to the frontiers of the Himalayas (Nepal, Sikkim and Bhutan). Besides this, the 1950 treaty was signed by the autocratic Rana regime whose main intention was to please the then Indian government and thereby obtain all possible help to crush the fledgling democratic forces fighting against the Rana autocracy. However, this dream of Rana autocratic regime never materialized because its termite-eaten ruling base was toppled seven months after the conclusion of the 1950 treaty. This treaty can be labelled as unequal from the Nepalese side since it is not based on equality and mutual respect. Rather, it tends to undermine our sovereignty and independence.

Therefore, this anachronistic 1950 treaty must be reviewed on the basis of equality and mutual respect without undermining the sovereignty and independence of either party.

Nepal has not violated the 1950 treaty so far as the importation of Chinese weapons is concerned because these supplies came to Nepal via Tibet and therefore, there is no reason for any prior notice to, or agreement with India regarding this issue. Then, on what ground does India say that Nepal has violated the 1950 treaty? It seems ludicrous and entirely baseless. According to the Nepalese government, it had requested India to supply hardware such as anti-aircraft guns in the 1970's but the latter refused to do so and therefore, Nepal was left no choice but to seek Chinese help. Besides this, Nepal has always been an independent country and is not to be dictated to by anybody else in its foreign policy matters. Being a sovereign and independent country, Nepal has the right to import weapons from any foreign country and modernize its army for its national security in view of the kaleidoscopic political reality. Jawaharlal Nehru had a doctrine of "limited sovereignty" for India's smaller neighbouring states. Speaking in the Indian parliament on December 6, 1950, he declared with specific reference to Nepal. "... much as we appreciate the independence of Nepal, we cannot allow anything to go wrong in Nepal...". This so-called anachronistic Nehruvian tradition of undermining the sovereignty of Nepal can no longer be accepted.

Other issues that India has raised regarding the current Indo-Nepalese impasse are questions of citizenship and work permits. The Nepalese government has introduced the system of work permits for any foreigner in the organised sector in three districts of the Kathmandu valley. India found this highly objectionable and repeatedly issued allegations against Nepal stating that the work

permit has violated articles VI and VII of the 1950 treaty. Article VI of the 1950 treaty reads: "Each government undertakes, in token of the neighbourly friendship between India and Nepal to give to the nationals of the other, in its territory, national treatment with regard to participation in industrial and economic development of such territory and to the grant of concessions and contracts relating to such development". Similarly, article VII further reads: "The governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature".



India's allegation that the Nepalese government's introduction of work permits has violated the 1950 treaty is totally unacceptable since it does not deprive any Indians of the opportunity to work in Nepal. The Nepalese government has already made it clear that not a single Indian national has been deprived of a job in the organised sector ever since the work permit system was introduced. Work permits as the Nepalese government has clarified, have been introduced to serve the needs of modern management and planning for the organised sector. In reality, the introduction of work permits is worth welcoming because during the past few years, Indian immigrants have multiplied. Such an influx of Indian immigrants might, in the long run, pose a serious threat to the national interest of small Nepal. At this point, one must not be oblivious to what is

happening in Sri Lanka. If the influx of Indian immigrants is not timely checked, even the slogan of the family planning scheme of Nepal becomes virtually meaningless since the population will continue to increase due to the regular influx of Indian immigrants. With regard to this, Nepal must not object if India also introduces similar measures for her own interest. Conclusively, India has no right to object to the work permit system introduced by the Nepalese government since no discrimination is made against Indian nationals regarding employment in the organised sector.

Equally important is the issue of citizenship raised by India. According to the Indian media, about half of the country's six million Madhesia population (people of Indian origin as described by India), have no clear citizenship status

despite their stay in Nepal for generations and this innocuous work permit, once extended to all parts of Nepal, will deprive them of their criteria or rules and regulations for the acquisition of citizenship. Those who qualify can acquire the certificate of citizenship and those who do not qualify cannot. The Indian media has tried its level best to split the Nepalese by distinguishing between the 'people of Indian origin' and the 'people of Nepalese origin'. This is both detestable and futile. All people living in the territory of Nepal, whether in the mountains, hills or Terai, are Nepali. All Nepali people have a contribution to make in the shaping of modern Nepal. Hence, Prithivi Narayan Shaha, the founder of modern Nepal, has aptly described his hard-earned kingdom as "a gar-

den of four castes and thirty-six sub-castes”.

Nepal and India have also departed from the preferential trading regime and both have aspired to treat each other on the most favored nation basis (MFN). The increasing Indian domination over the Nepalese economy has resulted in an increasing trade deficit (more than Rs. 300 crore every year) for Nepal. The Nepalese government had frequently requested India to introduce a reasonable balance between imports and exports. In order to lessen the dependence on India, the government of Nepal has already made changes in the additional custom duties against Indian goods which India has labelled as 'discriminatory' since they had enjoyed 'preferential treatment' so far. Nepal's introduction of Open General License (OGL) to import its essential supplies and industrial raw materials has been increasing competition among many supplier countries subsuming the neighbouring India. Laudable is the emphasis on the diversification of trade with third countries and lessening our economic dependence upon India because all this leads to depart from Nepal's expected role as a economic satellite state of India.

India's current trade embargo has had severest effects on agriculture, industry, domestic transportation, and tourism, the mainstays of our economy. The current crisis is estimated to cost the economy about two billion rupees in loss of output and value added for this current fiscal year. According to the Finance Minister, Bharat Bahadur Pradhan, the Gross Domestic Product (GDP) growth which had been estimated to exceed 5 per cent this year is now likely to decline to 1.6 per cent. This negative trend can be expected to continue if the current Indo-Nepalese stalemate remains. The severe shortage of fuel (kerosene and gas) in the urban areas has had adverse and irreversible affects on the fragile

himalayan ecology of Nepal because fuelwood has to be extracted for energy which means an increase in deforestation and an acceleration of soil erosion. The increased deforestation in this country will affect not only Nepal but also India and Bangladesh. All this demonstrates how vulnerable the Nepalese economy is.

Instead of making efforts for rapprochement, the media war between Nepal and India has been further intensified. India has brought many groundless, misleading and imaginary news into publicity through the manipulation of the media, i.e. radio, television and newspapers. Take, for instance, *The Times of India* of May 12, 1989, where, quoting the Indian ambassador to Nepal, it was written that, "Indian professionals in Nepal were being harassed and teachers were either being erased out or denied wages on the pretext of their not having work permits. Traders were finding it difficult to open accounts. A small and industrious community of the people of Indian origin, was being projected as a threat to the Nepalese economy". The government of Nepal has denied all these allegations as groundless, misleading and imaginary. Both sides have stated through media that they are ever willing to have talks for detente. In fact, both Nepal and India signed a draft agreement at the secretarial level last October, 1988. Now Nepal has asked India to name the agenda, date, venue and level for talks and is waiting for the Indian response. Nepal is ready to review the whole gamut of the Indo-Nepalese relationship including the 1950 treaty. However, Nepal has not received any official communication so far, despite Indian Prime Minister, Rajiv Gandhi's thrice repeated readiness for talks. People of both countries have been misled by the media war.

So far, the Nepalese people have fully co-operated with the government by demonstrating unpre-

cedented patience even though they have to stand in queues to get two liters of kerosene from 9 in the morning to 9 in the evening, many times returning empty-handed. Similarly, the government stance to conclude two separate treaties of trade and transit is unequivocally supported. Therefore, the government of Nepal must never kneel down before hegemonistic India by accepting one single unified treaty of trade and transit. This would be very frustrating for the people. In case Nepal has to conclude only one treaty, it must be a treaty of transit only, the legitimate right of a landlocked country. People have also supported the austere measures devised to face the current economic challenges.

Introduction of the Open General Licence (OGL) and trade diversification with third countries can only be a temporary palliative

of the present crisis of our economy. If we merely depend on them, our economic dependence will never be lessened. The more we become economically dependent on others, the more we lose our power to make our own decisions. Taking this into due consideration, the government must formulate suitable economic policies and implement economic programs to build a self-reliant economy by encouraging and prioritizing agro-based labour intensive industries, promoting traditional handicraft production for export to earn hard currency needed to maintain the trade balance and building the transportation infrastructure throughout the country. The government must always be committed to finding long-term solutions for our economic problems rather than simply adopting a 'crisis' management approach'. Lastly, the sooner both countries come closer for rapprochement, the better will it be for the peace, harmony and prosperity of South Asia.

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