1950 Treaty: A Visionary Approach

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(The views expressed by the author are his own)

In Nepal, there are certain groups of people who hold 1950 Treaty of Peace and Friendship signed between Nepal and India on 31st July 1950 as a great asset to Nepal; while others take it as liability. However, the dilemma is that those who take it as an asset have not been able to speak so strongly as to how much the nation benefits from the Treaty. Those who oppose it have also miserably failed to bring out its alternative. And the common mass of the Nepalese population who continue to benefit from the Treaty provisions through its social, cultural, political and economic arrangements are simply the silent spectators.

Of the ten articles of the 1950 Treaty, Article VI and Article VII have direct bearing for the promotion of economic relations between Nepal and India. Article VI of the Treaty stipulates that the nationals of Nepal and India be accorded national treatment in the territory of other country in regard to participation in activities related to industrial and economic development. Article VII further elaborates that the Government of Nepal and India would grant the nationals of one country in the territory of the other the same privileges in such spheres as residence, ownership of property, trade and commerce, movement, etc. on the reciprocal basis.

However, the provision for 'reciprocity' in the matter of national treatment to the nationals of one country into the territory of the other as stipulated in Article VI was considered economically less beneficial for Nepal, which was due to the smaller size of geographical position and population of Nepal as compared to India. Therefore, in Article 3 in the letter exchanged with the Treaty on the same day i.e. on 31st July 1950, the Government of India recognized that the nationals of Nepal might be accorded protection from unrestricted competition from India for some time to come.

With the recognition of Nepal's position to protect its economic
interests from unrestricted competition with India for some time to come, the reciprocal aspect in the relations between Nepal and India was postponed. This leverage was accorded to Nepal in the same way as comparatively the more developed country often provides to the less developed country in the regional economic grouping.

On account of the above non-reciprocal treatment accorded by India to Nepal, Nepal government made it mandatory that only the Nepalese nationals with authorized citizenship certificates could buy land in the country. Accordingly, the Indian nationals were denied to buy land in Nepal. On the other hand, the Nepalese nationals continue to enjoy the privilege of buying land in India and holding property over there. Besides, the Nepalese nationals continue to gain from the government jobs in India. Except in foreign service, the Nepalese nationals have been working in different government positions in India, including in the Indian army, police and other security agencies. But the Indians have been denied to work in the government or even semi-government positions in Nepal.

However, there is no such discrimination in job opportunities at the people to people level between the two countries. The Nepalese have grabbed jobs in private sector in different Indian states both as unskilled and skilled workers. In Nepal too, the small private sector has employed many unskilled, semi-skilled and a few skilled manpower from India.

Earlier, it was a common practice for many of the Indian unskilled labourers such as the agricultural workers from across the Nepal-India border to come to Nepal for work in agricultural sector in certain seasons. But ever since the Indian economic growth rate picked to the new height of 8 to 9 per cent since the 1990s, they stopped coming to Nepal as several employment opportunities opened up in that country. The only Indians who work in Nepal are in certain industrial ventures and those associated in petty businesses and trade activities.

In light of the above background, it appears that the 1950 Treaty has resulted into win-win situation for both Nepal and India. Because of the provision of national treatment to the nationals of one country in the territory of the other country, the border continues to remain open for them. There is no need of passport or visa for the nationals of one country to cross over the border. Even the poorest of the poor in one country can make a trip to the other country and gain from prevailing economic opportunities.
Because of the open border system, 3.5 million to 6 million Nepalese men and women are estimated to have been involved in gainful employment in India as agricultural workers, porters, watch persons, helpers, officials and hotel staff. Be it the people from Terai, the hill or the mountain in Nepal, they all have India as their major destination for employment. Mainly from the mid and far Western Development Regions of Nepal, there are a large number of migrant workers making their earnings in India. On the other hand, GFONT study shows that only some 150,000 Indian nationals have been working in Nepal.

The Indians are getting reluctant to work in Nepal because of the boom caused by immense development opportunities in their own country and also due to the strength in their own currency. Even a beggar in India is benefitted more if s/he gets one rupee coin in that country as compared to the coin of same denomination available to the beggar in Nepal. Therefore, there has been a reverse flow in the migration pattern. Even many of those Nepalese, particularly from the Terai region who did not go outside Nepal for employment until recently have made India as their destination for employment opportunities. A large number of the agricultural workers from this region have been going to Hariyana and Punjab states of India in certain seasons for employment.

Besides, the conflict compounded with frequent bundh, closure of the industries due to the lack of raw materials and power, uncertainties like labour strike and donations and small size of the Nepalese market have made industrial, trade and business climate so worse in Nepal that there is very little charm left for the Indians to try for gainful employment opportunities in some of these sectors in Nepal.

Some of the above uncertainties in Nepal further pushed many of the Nepalese to migrate to India. Studies show that India accounted for 85% of the migration from Nepal until 1995-96, though it declined somewhat in the following years. Most of the households with illiterate and poor background have India as their destination. A survey conducted by WFP and EU suggests that 39% of Nepal's total households with one or more migrants have India as their destination.

What the Nepalese earn in India is a colossal amount, though no estimate is made of such earning. The remittance that the Gurkha soldiers draw in the form of salaries and pensions is huge, which keeps the hill economy booming. Remittance accounts for nearly 20% of Nepal's GDP; of which the share from India is substantial. While the
remittance from countries other than India benefits mostly the families from the middle or upper class of the society; the remittance from India mostly benefits the poorest of the poor. The contribution made by the remittance from India is one of the major factors responsible for the decline in the poverty level in Nepal from 42% to 31% during the recent years.

Apart from all this, thousands of Nepalese students receive education in the educational institutions in schools, colleges and universities in India. Many of the Nepalese receive health facilities in many hospitals, nursing homes and other such centres in India. These services in the educational or health institutions are available to the Nepalese at the same rate as it is available to the Indians. The Nepalese also save a lot when they visit India for the religious, tourism and other purposes as the transport and other costs that they have to bear are the same as it is for other Indians. If the Nepalese were treated in par with the nationals of other countries, they might have to spend more amount than what they spend now for availing some of these services in India.

Significantly, it is also due to the 1950 Treaty that the Indians often have access to Nepalese labour, who is treated to be trustworthy. Their contribution in the agricultural, service and security sector, apart from the development projects in India cannot be undermined. Many of them have sacrificed their life in their bid to protect the territorial integrity of India.

At the border level, thousands of marriage relations are established each year among the Nepalese and Indian border inhabitants. Be it in time of natural calamities like floods or other occasions, the people from one side of the border extend whole-hearted support to the people of other side of the border. Perhaps, in no other part of the world the relations among the border inhabitants or so to say among the people of any two countries are as deep rooted and strong as it is between Nepal and India. It is unique and unparallel example of love and cooperation at the people to people level.

Also, at the government to government level, the relations between Nepal and India remained largely smooth due to the Treaty. Quite recently, when the new Treaty of Trade was signed between Nepal and India on 28 October 2009, all forms of non-tariff barriers on Nepalese exportable items to India were removed, which was a major barrier in boosting up the country’s exports of agro and non-agro based products.
to India. The duty refundable process was scrapped and the Nepalese traders were allowed to import goods from India in Indian currency. In order to reap the gain of duty-free access to India without any quantitative restriction, some new products were added to the list of primary products to be exported to India. Such new items included products like floriculture, wheat flour, bran, husk, bristles, herbs, stone aggregates, boulder, sand and gravel. Over and above, additional Land Custom Stations including Maheshpur-Thuthibari (Nawalparasi), Sikta-Bhiswabazar, Laukha-Thadi, and Guleria-Murtia were added to the existing 22 border routes meant for facilitating the flow of goods and people from one country to the other. All such gains to Nepal or even to India would not have been possible in the absence of 1950 Treaty.

In the absence of 1950 Treaty, can one imagine of the fate of millions of Nepalese working in India and many more of their family members at home who solely depend on the earnings in India? What would have been the impact on the Nepalese economy due to the loss of billions worth of rupees in the absence of the remittance from India? What would happen to the economy of Nepal in the absence of non-reciprocity in job opportunities? Can they buy land and hold property in India in the absence of such a Treaty? Can land locked country, Nepal, afford to satisfy itself with only one border point as per the international norm to have access to the sea in the place of as many as 26 border points existing today? The gains from the 1950 Treaty would be better understood if it ceases to exist even for a day.

Why is it that the Nepalese rupee could not be devalued despite the conflict and deteriorating economic condition in Nepal? Why is it that Nepal is yet to be ranked among the list of the failed states despite the fact that it has developed several symptoms of failed state? Why it is that Nepal has a stable government despite the failure in law and order situation? Significantly, the answer to all these questions is one - and that is the existence of 1950 Treaty. So long as this Treaty remains, Nepal will continue to progress, no matter the pace of progress is slow due to Nepal's own internal problems.

If the 1950 Treaty is to be reviewed, it would reviewed in totality. A new Treaty would have to be framed. In such a situation, it is likely that the Nepalese would not be able to enjoy the same privileges in India as they enjoy today. Even the free flow of movement of the people along the Nepal-India border would be restricted. If it happens like that then it
would be illegal for the Nepalese people to stay or live in India as they would no more enjoy the privilege of national treatment. So much so that they might even loose the jobs as they would be treated as foreign nationals, which would directly affect the livelihood of millions of Nepalese residing in India. Life of the people living in the hills along the people living in the Nepal-India border region would be severely affected.

Now it looks like that the architects of 1950 Treaty were not short sighted. They were the visionary. They were imaginative. They had love for the people of Nepal. Perhaps, they were greater visionary than many of us who claim ourselves visionary to be. What they perceived good for Nepal 60 years ago is valid until today.

So much so that we could not go ahead in thinking more than what the architects of the 1950 Treaty envisaged long time back. In fact, the economic arrangement that they envisaged that time was more in tune with the arrangement of regional cooperation at the bilateral level between Nepal and India. Till today SAARC does not have as much vision for the prosperity of the people of the region as it was envisaged in 1950 Treaty.

It would not be irrelevant if we say that the architects of the 1950 Treaty were pioneer and so ahead in thinking as compared to those who conceived the idea of European Union later on. The Treaty was, in fact, a model of regional cooperation that we find today in one form or the other in European Union or other such successful regional blocks in other parts of the world. Perhaps, this is also one of the reasons why certain forces sometimes opposing the Treaty could not propose any alternative to the Treaty. Until they do so, it would be wrong to misguide the nation and make the life of the Nepalese more difficult.

Hence, it Nepal should concentrate in consolidating the gains from 1950 Treaty by introducing common custom union, common currency, removal of all forms of tariff and non-tariff barriers in trade and further facilitating the free flow of goods and services between the two countries in tune with what the European Union succeeded to do or what the SAARC nations need to do in the years to come.