

What exactly does 1950 Treaty contain?

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Whenever high-level visits are made between Nepal and India, the matter relating to reviewing 1950 Treaty comes in the news. However, no political party has taken up the issue of reviewing the pact seriously while in power, no matter how much energy they spend making hue and cry while in the opposition. The necessity of reviewing the Nepal-India Peace and Friendship Treaty 1950 has been a juicy topic for quite a long time. The nature of this issue has been like that of old Hindi cinema songs to a significant number of Nepali people who always find them evergreen and charming.

Today the UCPN (Maoist) are raising the issue of reviewing the accord chanting slogans in the streets in the same way the CPN-UML did more than a decade ago in the streets of Kathmandu for the sake of gaining mass popularity. Ironically, none of these political parties dared to take the matter seriously while they were in power.

Many people who speak so frequently about the treaty, in fact, do not know exactly what contents the treaty has. The Maoists have been saying that the treaty should be scrapped or replaced claiming it being unequal and that Nepal was cheated while signing it some 60 years back. The pact signed on July 31, 1950 in Kathmandu by the then Prime Minister Mohan Shumsher JB Rana of Nepal and then Indian Ambassador Chandreshwar Prasad Narain Singh on behalf of India consists of ten Articles.

The opening paragraph of Article 1 states "there shall be everlasting peace and friendship between the government of Nepal and the government of India...." It further mentions "the two governments agree mutually to acknowledge and respect the complete sovereignty, territorial integrity and independence of each other". In fact, this is the first written document whereby India recognizes Nepal as an independent and fully sovereign country. Let's examine briefly other Articles of the accord before coming to any hasty conclusions.

Under Article 2, the two governments agree to "inform each other of any serious friction or misunderstanding with any neighboring state likely to cause any breach in the friendly relations between the two governments", while Article 3 talks about maintaining "diplomatic relations with each other and enjoying diplomatic privileges and immunities as per international law on reciprocal basis".

The pact does not contain any provision of review. It can be terminated by issuing a one-year advance notice by either side.

Article 5 permits that the government of Nepal is free to import arms, ammunition, equipment or logistics from or through the territory of India if deemed necessary for the security of Nepal. However, this article seems to be almost defunct as Nepal has also imported arms as per its wish from countries like USA, Belgium, and China. The treaty, however, does not speak of imposing restrictions on Nepal to import arms from third countries.

Although Article 7 has incorporated the provision of providing nationals of one country in the territory of another the same privileges in terms of residence, ownership of property, participation in trade and commerce, and free movement,

in practice, however, Indian nationals are deprived of purchasing land and houses in Nepal whereas Nepalis are permitted to do so in India. Nepali nationals can also apply for jobs in India, except for certain sectors such as foreign services and police force. The pact allows both Nepali and Indian nationals to carry out businesses in each other's territory without any obstacles.

It is estimated that there are some 7-8 million Nepali nationals living in India doing different jobs or pursuing higher education and 2-3 million Indian nationals living in Nepal currently.

It is the 1950 accord that provided a basis for a free movement of people between the two countries along the 1,800 km-long open border. The credit for establishing cultural, social, economic, and even family links between the people of these two nations naturally goes to the 1950 treaty.

However, voices have been raised that the agreement has become obsolete and it should be reviewed or scrapped as per the changing time and situation, which cannot be undermined. We should be clear, however, as to which Articles of the treaty we need to change and why, and what changes are necessary.

In fact, interestingly, the pact does not contain any provision of review. In such a case what can be done is to terminate the treaty by issuing a one-year advance notice by either side. It is interesting to note that until today no government has initiated the process of scrapping the treaty.

It is essential to bear in mind that reviewing or replacing the pact should be for further strengthening the ties between Nepal and India, not to worsen them. The revision in the accord should bring more benefits to Nepal so that it will contribute in safeguarding our national interest in a better way. In any case, it should not otherwise invite further troubles and complexities. For example, currently there are more than two dozen border points open between Nepal and India, which have provided good business opportunities and more facilities for movement. If the new pact cannot guarantee more points, it will only increase our suffering.

To sum up, the issue of reviewing the treaty should not be turned into a cheap political slogan only to gain short-term popularity without assessing its long-term implications.