

An Analysis of Eminent Persons' Group (EPG) Meetings and its Significance

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Abstract

This paper explores the feedback and long-term solution by wiping out the disputes and long misunderstandings regarding bilateral relations between Nepal and India. Two years' tenure has completed of this Eminent Persons' Group (EPG) in July, 2018, where nine meetings are held on both sides Nepal and India in a rotation basis. There were four members from each Eminent Persons' Group, and in total eight members from the various intellectual fields were involved. This paper highlights on the overall EPG meetings; trade and transportation, information technology, development, water resources, border security and mostly Treaty of Peace and Friendship along with other various issues. This paper claims that this report is not the mandatory for the both governments; it is just a suggestion. The experts' views and more profound study and analysis of both groups may give guidelines for the both governments to carry on the sound bilateral relationship. The joint report will develop the cultural, social, political relation positively between the two countries erasing the misunderstanding and correcting the unequal bilateral treaties/ relations. For the implementation of this report on the ground, the goodwill of both governments is necessary.

Keywords: EPG, Border Security, Mutual Benefit, Bilateral, and Misunderstanding

Background

India is Nepal's immediate and one of the most essential neighbors for a historical, economic, and geopolitical reason. Geography of Nepal is very important to India. The Himalayan range of northern side of Nepal has become

the barrier against the penetrator. It has made safe to Nepal and also considered equally safe to India. Because of the geopolitical fact, former Prime Minister of India, Jawaharlal Nehru stated in 1959, "Nepal's frontier are India's frontiers" (Mankekar, 1974, p. 14). The high range Himalayas has become a defense for

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Nepal in the north and also India has seen the Himalayas as a barrier to Chinese influences as well as their protection too. Because of its geography, Nepal remained independent and sovereign even during British colonialism in South Asia. In the changed geopolitical and strategic situation, geography exerts the most complicated and, complex influences on the conception and formulation of Nepal's national security system or policy.

After the Second World War, on the one hand, India became independent and, on the other hand, communists came on power in China. "With the aim of preventing communist influence from spilling over into the neighboring Himalayan kingdoms, India sought to strengthen the 'Himalayan frontier policy' under which the Himalayas were regarded as a second frontier" (Subedi, 1994, p. 274). Therefore, India signed three treaties of peace and friendship with three small neighboring kingdoms, Nepal, Bhutan, and Sikkim, to bring them under its influence.

When the British left India, there were many disputes on the border and other problems with India but the issues, needed to be discussed, left without discussion. Nepal did not dare to talk

openly because of the fear of losing the remaining territory. Even at that time, the agreement of the Peace and Friendship Treaty between Nepal and India that has undermined Nepal's sovereignty. Having been long historical bilateral relation many ups and downs are seen in between the two countries. The EPG is the product of that long misunderstanding. Thus, this research paper tries to examine the role of EPG in Nepal- India relations, and also to analyze the significance of EPG.

Methodology

Qualitative research methodology has been applied. Descriptive research design is followed in this research. All the data of the study is taken from secondary sources like; newspapers, research journals and reliable websites.

Role of EPG in Nepal-India Relations

Nepal and India has a long history. Economically, socially, culturally, and geographically both countries are bind together from the ancient period. Comparatively, Nepal is more dependent on India in various relations, especially in the area of economic concern. In the words of G. P. Koirala, "Because of geography, social and cultural affinities,

as well as industry and commerce, it is clear that our relations with India must be more practical. We are not tilting towards India. Rather, we have only underlined the reality of our interdependent relation with India” (Naidu, 2017, p. 47). A powerful country always wants to bring under its security umbrella to the smaller neighboring countries. Consequently Nepal and India have many unparalleled agreements and treaties; Treaty of Peace and Friendship, Sugauly Treaty, etc. in the past. In the changing international politics, no country endeavors to be bound by a treaty. Therefore both countries felt to move forward reviewing the bilateral treaties and agreements for the peace, progress and prosperity according to the national, international and global scenario. In this way, the concept of EPG was originated.

Nepal and India came in the final stage in 2014, to install Eminent Persons’ Group from different backgrounds to recommend necessary measures to replace, update or, the setup of all bilateral treaties, including The Peace and Friendship Treaty of 1950. The formation of Nepal-India EPG is based on the assumption that the bilateral agreements linked between the two countries since the 1950s need to be replaced, updated, or scraped and on

their relevance and irrelevance in a new context. “An agreement on establishing the EPG in 2011, and the two countries agreed to prepare its terms of reference in 2014, when Indian External Affairs Minister Sushma Swaraj was in Kathmandu to attend a Nepal-India Joint Commission meeting” (My Republica, 5 April, 2017).

Nepal and India already had released US 100,000 each to develop the EPG secretariat comprising a parliamentarian, a lawyer, an economist and a civil society leader from the both sides (Giri, 4 August, 2014). The agreement reached on 20 – 23 October 2011 to establish EPG during the official visit of former Prime Minister Dr. Baburam Bhattraï to India (mea.gov. in, 23 October, 2011). “The two countries agreed to prepare the Terms of Reference (ToR) for EPG in 2014 during the third meeting of Nepal- India joint commission in Kathmandu. It was also agreed in the meeting that the matter would be discussed at the foreign secretary level within six months after Nepal has submitted a specific proposal” (Giri, 4 August, 2015, 3). To come to a mutual understanding by erasing distrust and make further steps for the peace, development and, prosperity between the two countries, the EPG has essential role. The

EPG can play an important role in strengthening the cultural, trade and, transit, social, economic, religious and, geographical relationship between the two countries. The EPG has studied the bilateral treaties and agreements and various sectors, including trade and transportation, information technology and, development, and submitted recommendations for further improvements. It has consisted four of members from each country, which have been briefly mentioned below.

Formation of Eminent Persons' Group

From Nepal Side

- a. The former foreign minister Bhekh Bahadur Thapa (coordinator)
- b. Former Chief Commissioner of Commission for the Investigation of Abuse of Authority Surya Nath Upadhyaya
- c. Former Law Minister Nilamber Acharya
- d. CPN-UML Law Maker - Rajan Bhattara

From India Side

- a. Former chief minister of Uttarakhand Bhagat Singh Koshyari (coordinator)

- b. Former Indian Envoy to Nepal- Jayanta Prasad
- c. Former vice- chancellor of Sikkim University Mahendra P. Lama
- d. Senior Fellow, Vivekananda International Foundation B. C. Upreti

The EPG meeting had two years tenure to be held every three months on a rotational basis. During India's Prime Minister Narendra Modi's visit on 2 July, 2014, Nepal and India agreed on forming an EPG comprising four members, each with tenure of two years (english. onlinekhabar.com/. 4 July, 2016).

EPG Meetings

First EPG Meeting, 4- 5 July, 2016, Kathmandu

The first EPG meeting inaugurated by former Deputy Prime minister and Foreign minister Kamal Thapa, discussed various issues of Nepal- India relations. At the press meet, the co-coordinator of the Eminent Persons' Group from the India side, Bhagat Singh Koshyari, stated that Nepal-India relation was reviewed in the meeting. "The meeting of our group will find out discontents between the two countries and will recommend both governments to resolve it" (Giri, 5 July,

2016, 1).

Second EPG Meeting, 4-5 October, 2016, New Delhi

The Peace and Friendship Treaty of 1950, was taken as a priority agenda by the meeting. “The first meeting that was held in Kathmandu in July, 2016, was a preparatory session. It identified five areas- political issues, government to government relations, cultural issues, business and connectivity for discussion and preparing recommendations” (Timilsina, 2019, p. 732). The top plan was reviewing the 1950 treaties related to trade and transit. It was not only the matter of reviewing the treaties rather developing a new framework of relationship between both countries.

Third EPG meeting, 5-6 April, 2017, Kathmandu

Nepal- India third EPG meeting, which was initially scheduled to be held in Pokhara from December 22, was canceled due an election in India. “The meeting was rescheduled from 18 March in Kathmandu but again cancelled as the Indian side said their representatives were unable to attend” (Bhattarai, 4 November, 2016, 2). The meeting was finally held in Kathmandu, where both

groups agreed to undergo further study on the Treaty. The Nepali side demanded revision of articles 2,5,6 and, 7 of the Peace and Friendship Treaty. During the meeting, the Nepali side presented that it wants to replace some of the themes of the treaty in the changed global and regional context (The Kathmandu Post, 6 April, 2017). The two days meeting discussed on three issues, the peace treaty, the treaty on water resources and, the trade and transit treaty between these two countries. Nilamber Acharya, an EPG member from Nepal, made a presentation on the 1950 Treaty and its provisions. Similarly, another member of EPG, Rajan Bhattarai made presentation on trade and transit and Suryanath Upadhyay made presentation on water resources. “From the India side, Jayanta Prasad talked about the 1950 treaty and Mahendra P. Lama presented 11 pages presentation on present arrangements and bottlenecks and suggested future co-operation on the issue” (Giri, 5 April, 2017, 3).

Fourth EPG Meeting, 29- 31 May, 2017, Dehradun, India

The fourth meeting of the Nepal –India Eminent Persons’ Group that concluded in Dehradun of India, discussed a wide range of bilateral issues. “The meeting couldn’t

reach any conclusion” (Bhattarai, 31 May, 2017, 2). It was mandated to recommend for changes though they were deliberately on the same problems that they began in the first meeting according to Bhagat Sing Koshyari, member of the India team. Other issues regarding trade and transit, which were concerned to Nepal, also featured during the discussion. The EPG didn't enter into the debate on the border matters in this meeting. During the meeting, both neighboring countries planned to visit border areas after the fifth round of meeting to the stack the situation there.

The Fifth EPG Meeting, 7 to 8 October, 2017, Kathmandu

The fifth meeting of the EPG held discussions on issues related to the 1950 Nepal –India Treaty of Peace and Friendship and water resources and also the subject of management of open border between the two countries. EPG member Rajan Bhattarai, from the Nepal side, stated that they held additional consultations on complications on the treaty and on the Nepal-India relations and have narrowed down differences to some extent and also initiated discussions on the management of the open border. The meeting mainly focused on how

to manage and regulate the border without causing any inconvenience to people based on interactional norms and the depth of Nepal- India relations. “Presently there's a double standard, where people travelling via air are asked to show identity card, but those traveling overland need not show any proof or card” (Bhattarai, 31 May, 2017, p. 2).

“The fifth meeting of bilateral Eminent persons Group agreed to recommend on regulating the Nepal- India border for controlling illegal activities on both sides without causing inconvenience to general public and travellers” (Bhattarai, 9 October, 2017,2). The group also focused on the requirement of valid identity cards like passports and citizenship to the Nepalese travelers to India and Indian travelers to Nepal. The two-day meeting also discussed the border dispute between the two countries, about security issues, the 1950 treaty, co-operation in the field of water resources, bilateral mechanism, and trade and transit.

The Sixth EPG Meeting, 11- 12 January, 2018, New Delhi, India

The meeting agreed on the format of the report format submitted to both government, and Nepali side has been given the responsibility of preparing

the report. “Both side discussed regular bilateral issues such as those related to the 1950 treaty, trade and transit, water resources, floods and border issues, among other things. The panel discussed about the report format of the joint report that EPG has to submit to the two governments after the talks concluded in July of 2018” (Bhattarai, 9 October, 2017, 2). The meeting made significant progress but did not reach any conclusion and no decision was made. Before leaving Delhi the EPG members had met Prime Minister of India Narendra Modi and other top political leaders to update them about the developments so far and for their inputs. Before the seventh meeting, the members of Nepali EPG planned to recommend for a new peace and friendship treaty with India and replace the existing one signed in 1950. “The member of Nepali side suggested not to avoid the positive aspects of Nepal-India Peace, and Friendship Treaty 1950, the status of 1950 Treaty of Peace and Friendship between the governments of India and the government of Nepal will be a significant core stone of the report” (Giri, 23 February, 2018, 1).

According to the Nepal side, the two sides planned to prepare their respective reports. After the completion,

a joint statement would be designed as mandated to the EPG that was tasked with suggesting a new blueprint for bilateral ties in the changed domestic, regional, and global context. Regarding the 1950 Peace and Friendship treaty, the provision of security and providing reciprocal treatment to the citizens by both countries is a significant concern for Nepal, and it wants to replace them.

Seventh EPG Meeting, 23-24, February, 2018, Kathmandu

The first draft on 23 February, 2018, in Kathmandu presented with the anticipation of a new Peace and Friendship Treaty that would reset their bilateral ties based on the 1950 accord. On the issue of security, particularly on purchasing arms from a third country, the Nepali side proposed that Nepal will only in front the Indian side about the deal but will not take consent as required by the 1950 treaty and the subsequent letter of exchange.

Eighth EPG meeting 12 - 13, April 2018, New Delhi

The meeting, which was focused on finalizing the report to be presented to both the governments, made further progress on bilateral issues. “The EPG, whose

two-year tenure was going to be ended in July 2018, was mandated to come up with a comprehensive report on anything that needs to be updated, adjusted, or amended in all existing bilateral treaties, agreements, understandings, including the Peace and Friendship Treaty of 1950” (The Himalayan Times 14 April, 2018).

Ninth, EPG meeting, 29-30, June 2018, Kathmandu

The ninth meeting of the Eminent Persons Group (EPG) was held in Kathmandu, Nepal. “To remove the confusion regarding the 1950 treaty, this meeting seems to have an important role,” (My Republica, 29 June, 2018). According to the 1950 Peace and Friendship Treaty, Article 2, mentions informing each other of any serious friction or misunderstanding with any neighboring state that is likely to cause any breach in the friendly relations subsisting between the two governments. Article no. 5, states that the government of Nepal shall be free to import from or through the India’s territory, arms, ammunition, or warlike materials and equipment necessary for Nepal’s security. The procedure for giving effect to the arrangement could be worked out by two governments through

mutual consultation. Articles no. 6 and 7 mention providing equal treatment to the citizens of both countries concerning to participation in the industrial and economic development of such territory and the grant of concessions and contracts, relating to such effect, the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature.

The letter exchanged with the 1950 treaty has often been cited in one paragraph show that “Neither government shall tolerate any threat to the security of the other by a foreign aggressor. To deal with any such threat, the two governments shall consult with each other and devise effective counter measures”. Arguably, the letter’s paragraph is not applied practically that India did not ask Nepal when it went to war with Pakistan and China.

Significance

The EPG was equipped to suggest both governments on fixing the numbers of entry and exit points at the border so that citizens from both sides would not be affected. Along with that, EPG is also set to suggest that both governments check and maintain records of people traveling

to both sides and make valid identity cards mandatory. Nepal-India Eminent Persons' Group (EPG) proposed a citizen ID card for border management.

There are other governing laws and legal provisions on trade and commerce issues. "Another strong recommendation is made on transit facilities that India should provide to landlocked Nepal" (Giri, 23 February, 2018, 2). The EPG is, mandated to suggest a new blueprint in Nepal- India ties on various dimensions of the bilateral relations in the changed global and regional context. Mahendra P. Lama, EPG member, stated that "both countries have historically deep cultural and social relationships. However, with the changing geopolitical dynamics, as per the term of engagement and owing to the need to change, ensures mutual trust, respect, and confidence in each other" (Giri, 25 February, 2018, 1). The two countries need to move forward with an integrated co-operation that creates a win-win situation for both sides.

After the seventh EPG meeting, according to Indian EPG coordinator Bhagat Sing Koshyari, the eighth EPG meeting would be the final to come to the conclusion, and they would flash the result formally in the press conference. They further would

include suggestions with reframing the 1950 treaty considering bilateral benefits. They had reached to a consensus on social, economic, cultural and other issues already except the treaty.

After the blockade the Nepalese people are dissatisfied with India, so to diminish the gap or to make the relation warm, India was a little bit flexible. India seemed not to have stood against the 1950 treaty instead positively receiving the proposal. At least the 1950 treaty issues are discussed on the table in the clause-wise direction. It is reflected that unless India does not go in a new way to improve the relation with Nepal, it might generate significant influence of China. The leftist government in Nepal has aroused the doubt and suspicion between the two governments, but the EPG has built up trust among the people. Bhekh Bahadur Thapa assured that the recommendation of EPG would not be materialized if won't be implemented.

Citizens of both countries can work anywhere, reside anywhere, and they can do business anywhere. When India strengthens or tightens border security showing security sensitivity, Nepal expects India to be liberal on trade and transit. So, it seems that both countries

have their problems and own national strategies, but both countries need to be liberal in the unparalleled treaties and show their goodwill. As per realist theory of international relations and geopolitical realities, we do not have choice to change our neighbor so foster relations better what so far we have built. The treaties between the two countries should be reviewed and revised with the spirit of co-operation and co-ordination instead than with control. Sweeping the problems under the carpet is not the long-lasting way to resolve the issue.

Conclusion

Members of both sides have done the hard work, depth study on the related issues, and regular discussion on EPG meetings that certainly give the good feedback for the both governments. Regarding the Peace and Friendship Treaty of 1950, it is suggested for having new content for articles no 2, 5, 6, and 7. It has been concluded that good report of EPG is not only the solution of the issues, instead implication part is most important to settle the disputes and to address the unequal bilateral relationship between both countries. Both groups have revealed that their role is just to give suggestions, but the implementation part belongs to their

respective governments. The joint report, which is going to be submitted by the two groups to their respective governments will be applied or not, that determines the value/meaning of the EPG. The time and situation when the treaty was signed is not the same now. Considering the global scenario, international laws, treaties, and agreements, the Peace and Friendship Treaty 1950 should be reanalyzed and reviewed in the present context, or else misunderstanding between two countries might resurface time and again.

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