

INTERNATIONAL COURT OF JUSTICE

COMPROMISE

BETWEEN THE REPUBLIC OF KUSHIYARA (APPLICANT)

AND

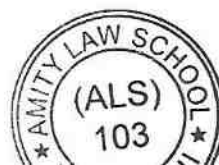
THE REPUBLICS OF KANGSHA AND IRANG (RESPONDENTS)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

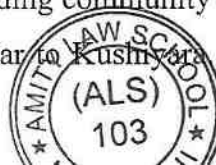
THE DIFFERENCES BETWEEN THE STATES

CONCERNING THE CONSEQUENCES OF THE DISASTER AT

VEDENTRON FACTORY AND OTHER RELATED MATTERS



1. The Titas River flows through the Titalian Peninsula comprising of three nations; Kangsha, Kushiyara and Irang. Kangsha and Kushiyara share a common boundary and the same is true of Kushiyara and Irang, however there is no shared boundary between Kangsha and Irang. The Titas starts in the snow capped mountains of Kangsha (close to the Kangshakia Glacier, one of the highest glaciers in the world), flows through the mountains of Kangsha, through the Caristhaseian Forest (that exists on the border between Kangsha and Kushiyara) into the plains of Kushiyara and Irang and then into the Irang Sea.
2. As Kangsha is a mountainous nation, the Kangshakians have historically been involved in subsistence farming and animal husbandry. In the last 60 years, the Government of Kangsha has built a mixed economy; mixed in terms of an agrarian base and industrial activity and mixed in terms of private and government owned enterprise. Economists are of the view that the policies of the government were responsible for an improved standard of life for at least 40% of the population of Kangsha, though a lot more needed to be done for a bulk of the population that were still involved in farming and animal husbandry. The Kangshakians are primarily of the same ethnic and religious background and this has been one of the reasons why this country has seen peace in the past 200 years.
3. Kushiyara and Irang are significantly better off when compared to Kangsha as they were almost completely based in the Titalian Plains. They benefited from the resources of the Titas with thriving agricultural and industrial bases. Many economists marvelled at the economic progress of the two nations. In the case of Kushiyara, it was well accepted that its economic progress was largely dependent on the Titas River, without which its people would have been poor and dependent on subsistence farming. Almost all of the Kushiyara economy is in private hands with the Government of Kushiyara concentrating on providing infrastructure. The relations between Kangsha and Kushiyara have been strong and cordial notwithstanding occasional problems due to the differences in economic progress between the two nations.
4. Irang, on the other hand, being a coastal nation has had strong historical trade relations with a number of nations around the world. Throughout its history it had also maintained a strong military to protect its trading community and the trading routes. In terms of economic activity, today it is similar to Kushiyara. The Iranganis were of a



different ethnic origin when compared to the Kangshakians and the two ethnic groups had almost no historical linkages despite the fact they were relatively proximate to each other. Interestingly however, despite the strong linkages with the external world, there was no ethnic diversity in Irang as historically the rulers of Irang had discouraged foreigners from settling down in Irang. The total population of Irang is 37 million.

5. Over the last few years, there has been a significant climatic change in the region which has had the most impact on Kangsha. Scientists have recorded rapid melting of the Kangshakia Glacier and a shrinking of the Caristhaseian Forest. An international body of environmentalists and scientists was of the view that these climatic changes were due to global warming compounded, in addition, by over 200 years of industrial activity in Kushiya and to some degree in Irang. Both these changes and deforestation in Kangsha, on account of its economic activity, have caused a number of flash floods in the last few years which have caused widespread loss of life and economic devastation.
6. Interestingly, however, Kushiya is now considered to be a world leader in environmental protection. Even prior to these changes being noticed, had Kushiya made considerable changes in its regulations and its industrial activity and was a leading proponent of responsible industrial activity and use of environmental friendly technology.
7. The shrinking of the Caristhaseian Forest and the increased waters in the Titas River on account of the melting of the glacier had the most impact on a small tribal minority known as the Mongeseia who have lived in the Caristhaseian Forest for over 500 years. The Mongeseians have never claimed any citizenship and therefore some legal experts are of the view that there is doubt as to whose citizens they are. Determination of citizenship has also been difficult as they are nomadic in the Caristhaseian Forest and have traditionally avoided any linkages with the outside world. However, a treaty between Kangsha and Kushiya, 200 years ago, had said that Kangsha would exercise sovereignty over the Mongeseians. Over the last few years on account of the changes in their environment, the Mongeseians have emerged out of the forest mostly on the Kangshakian side due to their greater degree of familiarity with the mountains rather than the plains of Kushiya. They have however found it hard to integrate into Kangsha due to a variety of reasons including different economic priorities for the Government which has caused some social unrest.

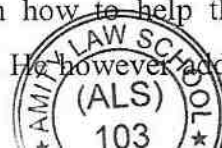


8. In 2011, the Government of Irang decided to pursue an aggressive policy of military and trade expansion in different parts of the world. As part of this policy, they entered into discussions with Kangsha to provide USD 20 billion in aid to support the setting up of a number of industrial units in Kangsha. The aid that Irang provided was used to set up a number of chemical industrial units and for the generation of hydro-electricity and wind energy. Many of these units used technology from Irang or at the very least were build using technical assistance from Irang.
9. Due to confidentiality reasons and claims of national interests being affected, both countries did not expressly highlight which units had received technical assistance or technology from Irang. Kangsha and Irang got increasingly close post these discussions and Irang opened a military base in Kangsha and were also given rights to a few blocks for oil exploration. Many political commentators in both countries believed that both these measures were a quid pro quo for the aid that Irang had provided Kangsha, even though both governments denied that this was the case. This base became one of the most important international military bases of Irang and supported over 200,000 military personnel.
10. One of the units that the Government of Kangsha set up using the aid provided by Irang was the Vedentron Factory, a large industrial chemicals unit the raw materials for which were easily found in Kangsha. Soon Vedentron Factory became one of the largest chemicals units in the region. The Government of Kushiyara had expressed concerns about the hazardous nature of the unit and its proximity to the Caristhaseian Forest and the Titas River and was assured by the Kangsha that the latest international safety standards were in place. Irang maintained that it did not control the specific utilization of the aid they had provided so long as it was used for setting up industrial units. Neither country confirmed or denied whether Irang technology or technical assistance had been provided in the case of the Vedentron Factory.
11. In early 2017, Kangsha was hit by unseasonal rains for over a month which combined with all the environmental change caused a humanitarian crisis in the country. Just as the country was getting back to its feet, it was hit by renewed rain for more than a week. A massive flash flood resulted along the Titas River which overflowed its banks and caused widespread destruction of property and killed a lot of people. The Vedentron Factory was destroyed by the flash floods (and emergency crew had to rescue the staff who were working at the factory) and while the chemical containers initially help up, the continuous pressure of the water eventually breached the



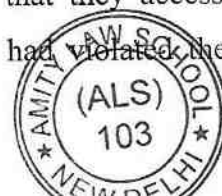
containers and Kangsha was faced with an environmental hazard of unprecedented proportions. Fortunately, in all this chaos, the oil drilling units that had been set up by Irang withstood the floods.

12. Fortunately the floods subsided less than 36 hours after the breach of the chemical containers and international experts were moved in to contain the breach and in particular, to try and limit the damage caused by the chemical leakage. They managed to accomplish their mission of containing the breach but on evaluating the extent of their breach, they realized that the chemicals had moved into the Titas River and were now moving downstream into the Caristhaseian Forest and into Kushiyara. An immediate warning was issued but there was not much that could be done. The resultant spread of the chemicals made the waters of the Titas undrinkable and unusable for any human or industrial activity. Environmentalists believed that it would take the Caristhaseian Forest and the Titas River in both countries over two to three years to recover and the clean up costs would be as high as USD 20 billion. Experts in Kushiyara were of the view that the country would slip into recession and would take the country years to recover due to the country's dependence on the Titas River.
13. The Mongeseians were now forced to move out of the Caristhaseian Forest completely and due to the widespread destruction in Kangsha, made their way into Kushiyara. The movement of over 100,000 Mongeseians into Kushiyara created additional pressure in Kushiyara and the country set up temporary camps for them to provide assistance. The Interior Minister of Kushiyara made a statement that Kushiyara would be willing to provide all possible assistance on humanitarian grounds but as they were not entitled to refugee protection under international law, it would be incumbent on Kangsha to adopt urgent steps to take the Mongeseians back. She also demanded compensation from Kangsha and Irang on two counts; firstly for the environmental damage caused and secondly, for the costs incurred in providing assistance and continued support to the Mongeseians.
14. The Prime Minister of Kangsha dismissed the demand for compensation saying that the environmental damage was a result of floods and there was no question of responsibility or fault on the part of Kangsha. He also stated that it could not be said that the Mongeseians were Kangshakaians, however, given the dire human situation that the Mongeseians were facing, Kangsha would be willing to enter into discussions with Kushiyara and the Mongeseians on how to help the Mongeseians and even consider taking some or all of them back. He however added that Kangsha would be



unable to, given the state of the country, to help the Mongeseians in any way (and in particular to take them back), till such time as Kangsha was back on its feet which would take at least two years. Irang merely issued a press statement saying that they had no role in this dispute as they had no direct or indirect role in the damage caused and the attempt by Kushiyara to bring them into the dispute was unfortunate and inconsistent with the principles of international liability.

15. In the meantime, the spills in the Titas River continued to move downstream and a warning was issued that it could enter Irang within a month. This caused widespread panic in Irang and the Government of Irang acted swiftly in requesting Kushiyara to provide all support in containing the spread of the spill. Kushiyara responded by saying that it would provide all assistance but insistent that Irang accept responsibility for the consequences of the aid it had provided Kangsha and commit to pay compensation as per its earlier demands. In the back and forth of statements between the two nations, the President of Irang fearing that precious time was being lost ordered military scientists based in Kangsha to fly into Kushiyara to conduct tests on the spill and for military forces based in Kangsha to provide protection to the scientists. The Kushiyaraian military was unable to put up any meaningful resistance due to the various problems in the country and the Irang military and scientists were on Kushiyara territory for three days after which they withdrew.
16. Irang said they had no option but to conduct this operation to protect its people and its economy from an environmental disaster. Kushiyara protested this operation by calling in the ambassadors of both Irang and Kangsha and said that an environmental disaster was not recognized under international law as a possible justification for a violation of sovereignty. The Defence Minister of Kangsha however responded saying they were not involved in this military action and the fact that the Irang military base in Kangsha was used did not cast any responsibility on Kangsha.
17. Based on the tests conducted by its scientists, Irang was able to develop a chemical to break down the spill and to prevent any environmental damage to Irang. Kushiyara was even more upset when they heard about this development and issued a press statement saying that it was obvious that Irang had provided technical assistance to Vedentron Factory as the speed within which they were able to develop a chemical to break down the spill could only have meant that they access to information from Vedentron Factory. They also said that Irang had violated their comity obligations



under international law in not offering assistance to Kushiyara to counter the effects of the spill.

18. Relations between Kushiyara and Irang on the one hand, and between Kushiyara and Kangsha on the other hand, started to deteriorate. Allegations and counter allegations were made with Kushiyara insisting that Kangsha and Irang bore joint responsibility for the environmental damage, for the presence of the Mongeseians on Kushiyara territory and for the violation of its sovereignty. Kushiyara also insisted that Kangsha immediately take back the Mongeseians as they are under no obligation to allow them to continue on Kushiyararian territory. Kushiyara also stressed that Irang in particular needs to accept responsibility for the consequences of the aid it provided Kangsha as the aid was an extension of its geo-political and military expansion in the region and in different parts of the world. The international community worried about the stability of the region brought all parties to the negotiation table but relations were so strained that a solution could not be brokered. Consequently, a decision was taken to refer all disputes between the three nations to the International Court of Justice.
19. All parties accept the jurisdiction of the court and have committed to argue on the merits of the dispute without raising any preliminary objections. Both Kangsha and Irang are jointly represented even though they may have different positions or arguments on the issues arising in this dispute. All parties are members of the United Nations.

