

Border Issues of Nepal

With Special Reference to India[*]

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Background :

Nepal is situated in between India and China. China is located on the northern border, whereas all three sides are surrounded by India. India and China are the neighbors of Nepal and it has very good relations with both of the countries. There are so many fellow-feeling in so many items due to close and neighborly relations. At the same time there may have some issues, dialogues and debates in some extent because of closeness and inter-related with each others. It is natural that sometimes there might have some issues and problems in between the close neighbors. And border issue is one of them.

Nepal-China Border :

Nepal has had border business and some issues with both of the countries, India and China. So far as the issues and border business with China is concerned, it is settled and resolved with signing the Boundary Treaty of 5 October 1961 by His Majesty the King of Nepal and Chairman of the People's Republic of China, after delineating and physical demarcation of the boundary line. However, there were disputes, conflicts, debates and controversies in 35 places including the question of Sagarmatha (Mount Everest) during the joint boundary demarcation on the Sino-Nepal borderline. But it was settled forever in accordance with the principles of equality, mutual benefit, friendship and mutual accommodation. Besides, it was adopted by both the parties, the Five Principles of Peaceful Co-existence and in a spirit of fairness, reasonableness, mutual understanding and most importantly respecting each other as Nepal and China have the equal rights and status in the international arena. Regarding the question of Sagarmatha, it was agreed to take the Nepalese map drawn with its historical facts, which depicted the highest part of the peak on Nepal side. As a result, the dispute of Sagarmatha was settled and ended while the visiting Prime Minister Chou En-Lai made a statement in Kathmandu on 28 April 1960 that "Sagarmatha belongs to Nepal." Finally the border line was demarcated and erected border pillars with watershed principle, determining the water-parting line to connect snow-capped high altitude mountain peaks, passing and crossing through mountain passes and spurs, saddles and cols, rivers and rivulets, pasture land and river basin or valleys. With the basis of these entire mutual understanding, Nepal-China border demarcation was successfully completed within the period of two and half years. Consequently, three Joint Boundary Protocols have been signed as the last one

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in 8 December 1988. However, it is high time to make the fourth protocol, because fourteen years have been elapsed since the third protocol was signed.

Nepal-India Border :

So far as the Indo-Nepal border demarcation is concerned, Nepal-India Joint Technical Level Boundary Committee is working for the last 21 years (since 15 November 1981). But the boundary business is not yet completed. There may be so many reasons the boundary business not to be completed in due time, though it has the target to complete it by 2003. However, this type of target had been fixed many times in the past as in 1993, 1998 and 2001. But the target was not materialized. The main reasons and issues of the boundary business with India is the border encroachments, disputes on certain segments, divergence of opinion on basic materials such as maps and old documents for demarcation, slackness in joint survey field teams and so on and so forth.

Nepal and India has two broad issues concerning border business :

1. Border Demarcation
2. Border Management

BORDER DEMARCATION

The Treaty of Sugauli of 4 March 1816, Supplementary Treaty of 11 December 1816 and Boundary Treaty of 1 November 1860 delineate the boundary of Nepal with India. British East India Company made treaty of Sugauli on 2 December 1815 and it was provided to Nepal to make the counter signature by fifteen days. But Nepal did not make the signature in due time, because of unwillingness. It was finally ratified after 92 days under pressure and compulsion enforced by the British regime that they will invade Kathmandu, the capital city of Nepal. Eventually, it was not signed by the King or Prime Minister/Maharaja but by only the courtier Chandra Shekhar Upadhaya. So there were disputes and conflicts and controversy on the borderline even after the ratification of the Treaty.

Historical Border Disputes :

There were so many issues of disputes just after the Sugauli Treaty. Some of the disputed areas are cited as examples as follows:

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1. Disputes on Siwalik Range : whether the borderline runs from the crest (ridge) of the Siwalik Range or northern or southern foot-hill of the range!
2. Origin of the river Mechi : whether it is originated from north-east of Antoo Hill or from north-west!
3. Dunduwa Range : India had claimed that the border line should be followed on the northern foot from Arrahnala to Talbagauda, whereas Nepal denied it.
4. Dispute on ownership of the village and settlements of Ramnagar Zamindari area.
5. Dispute on the lands adjoined with the districts of Tirahoot and Sarun.
6. Land area of Sharada Barrage constructed by India on the river Mahakali.
7. Disputes on the borderline of the river and rivulets, whether it has to be taken on the old course or the new channel.
8. Disputes on the demarcation of borderlines in agricultural land, forest area and village areas, where there are not conspicuous features.

Some of the above mentioned disputes were settled with mutual discussions. For example, identification of the origin of the river Mechi was solved by Campbell, taken as the origination from north-east, though Captain Lloyd had judged in 1827 that the area falls under the jurisdiction of Sikkim. Similarly, the dispute of Dunduwa range was solved jointly by Lieutenant Col. Mac Andrew and Siddhiman Singh Rajbhandari on 7 January 1875 that the borderline shall be demarcated on the southern foot-hill of Dunduwa Range from where the plain area begins. Regarding the disputes of Ramnagar Zamindari area, it was settled on 2 January 1841 with an Ikararnama of 95 people of village-heads, gentlemen, Chautaria and Guru Gharana. As far as the matter of the exchange of lands of Sharada Barrage is concerned, Nepal has not yet received 36.67 Acre of land from India. These are some of the examples of the then border issues between Nepal and East India Company. The main problem lies that Nepal's southern borderline on the Indo-Gangetic plain with India does not run from the prominent natural features such as mountain peaks, passes, crests etc.

Border Disputes after India's Independence :

The disease of border demarcation issues and disputes have not been cured even after the independence of India from the British rule in 1947. Encroachment on the Nepalese frontier have been rather increased. It is due to population boom across the Indian frontier. Secondly, dense forest of Charkoshe Jungle of the Nepalese frontier was being cut-off and cleared-up, so that encroachment of the Nepalese land from Indian population pressure was much easier, where there were not boundary pillars and demarcation of ten-yard width No-man's land.

By this time, there are 54 places and spots of encroachment, dispute, conflict, controversy and debate along Indo-Nepal borderline, especially in the plain area of southern border of Nepal. There are number of cases of disputes and encroachments in the Nepalese frontier of 21 districts

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among 26 districts which are adjoined with India. The area of encroachment consists of from a few hundred square meters of a small patch or strip of land to a big chunk of 372 square kilometers. There are frequent border disputes and debates in the borderline, on which it is not yet demarcated and erected border pillars. Surprisingly, disputes have been raised even on that spots where the boundary pillars have been installed. It is due to pull out of the pillars and cultivate the land and construction of houses, disfiguring the no-man's land. It has created the problems on either side of the borderline.

Places of Encroachments and Disputes :

There are not less than 54 places of encroachments, disputes, debates, controversy, differences and conversations on the Nepalese frontier and even inside the depth of the frontier. The most noted places and spots are Kalapani-Limpiyadhura area, Susta area, Mechi riverian sector, Balmikinagar, Thori, Sandakpur, Manebhanjyang, Chiwabhanjyang, Bhandabari, Jogbani, Sakhada-Lalapatti, Kunauli, Sunauli-Belhi, Krishnanagar, Santalia, Bhadanala, Biranala, Luna river area, Laxmanpur dam area, Rasiawal Khurdalotan dam area etc. etc.

1. After the independence of India, the issue of dispute was raised in Susta area along the river Narayani on the Nepalese frontier. The area is consisted of near about 14,850 hectares. The main reason of dispute is change of course by the river Narayani. During heavy floods of 1845, 1954, and 1980 the river changed its course dramatically some kilometers westward to the Nepalese territory. After the flood, Indian peasants used to encroach and cultivate the Nepalese land supposing that the new river course is the boundary line between the two nations. The river is changing its course more and more westward to Nepal side nearly every year but bluntly during flood havocs. And Indian nationals are encroaching the Nepalese land more when the river shifts its course.
2. The largest chunk of encroachment by India is Kalapani-Limpiyadhura area. It consists of 372 sq. km (37,800 hectares). It was encroached just after the border war of November 1962 between India and China. After the defeat with the Chinese army, Indian troops retarded back and set up a camp in the Nepalese territory of Kalapani area. Indian army men judged the Kalapani area as a strategic point to watch the Chinese activity and to check the attack / infiltration of the Chinese army via Lipulek Pass. There is a most strategic and highly sensitive spot with 6,180 meters high in Kalapani area, from where it can be visualized with the help of a binocular, whether horse or mule/ sheep or goat/ white or fair complexed men are crossing the Lipulek Pass to and from Taklakot of Tibet. At first, there were some Indian armed policemen with some tents and hand operating wireless and binoculars in Kalapani camp, as they had named Indo-Tibetan Border Post (ITBP). But these days there are more than eight buildings constructed having bunkers, deployed battalions of Indian army men with modern arms and ammunitions and means of satellite communication. Some of the buildings have central heating system, not to let freeze the expensive arms and ammunitions during winter season. Presently, the crux of the matter of

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dispute in Kalapani area is the determination of the river Kali, whether it is originated from nearby Lipulek Pass or Limpiyadhura or an artificial pond, south of Pankhagad Khola.

3. Mechi riverian sector is one of the notable disputed areas in the recent times since 1995. There are disputes in various places along 20 kilometer of the river Mechi. The main reason of the dispute is that Joint Boundary Survey Team erected new and small boundary pillars, ignoring the old Masonry Pillars (Junge Pillars), whereas Urdu written map of 1874 was taken as the basis of the demarcation of the course of river Mechi. The most illogical aspect of the dispute on this segment is that it tried to demarcate the old river course, instead of counting century old masonry Junge main boundary pillars, which have been standby along the river. These Junge pillars are the live guards in the border of Nepal, erected by the British Surveyors themselves during 1816-17, just after the Treaty of Sugauli. What needs the solid and live proofs more than these live and standby Junge Pillars? Paradoxically, these Junge Pillars have been categorized as the Reference Pillars, but not the main boundary pillars. So there are cases of encroachments and disputes in near about 1,600 hectares of Nepalese land from Bahundangi, Nakalbanda to Kakarbhitta, Pathamari, Bhadrapur, Maheshpur etc.
4. Border pillars and ten-yard width no-man's land have been disappeared due to the construction of Laxmanpur dam and 22 km embankment by India on the river Rapti, only 350 meter apart from the Border pillar No. 19. Small rivers flowing from Nepal have been blocked and Nepalese land of 5 Village Development Committees (VDCs) have been submerged.
5. The other construction by India is the Rasiawal Khurdalotan Dam on the river Danab-Ghongri in Marchawar area of Nepal. The three kilometer long dam has been constructed just 40 meter apart of Border Pillar No. 30, so that 20 km long no-man's land have been encroached. As a result, paddy land of 11 VDCs of Nepal have been submerged during the monsoon season. Besides, Lumbini, the birthplace of Lord Buddha will surely be inundated, if the water of the river is blocked by closing down the shutters of the dam and by further constructing the embankments.
6. 222 hectares of Nepalese land have been encroached in connection to the construction of Afflux Bond of Tanakpur Barrage by India. In connection to the construction of Sharada Barrage, Nepal has yet to get 14.84 hectare (36.67 Acre) of land. Furthermore, most recently India has encroached the area of six households and one government office of Nepal in Hile area of Pashupatinagar Ward-4. This is due to the erection of new Pillar No. 71/22 by Indian side in 8 July 2002. Similarly, part of Sandakpur (3,336 meter high) hill area of Ilam has been encroached. Sandakpur is a touristic place, from where Mount Kanchanjunga can be visualized majestically. There are various cases of encroachments in 21 districts of Nepal out of 26, which are adjoined with Indian States.

Nepal-India Joint Technical Level Boundary Committee :

Nepal-India Joint Technical Level Boundary Committee is working for the last twenty-one years. It is going to relocate the missing pillars, reconstruction of the damaged and dilapidated pillars, clear ten-yard width no-man's land and preparation of strip-maps of both the sides of borderline. But it has not resolved the issues, such as Kalapani-Limpiyadhura, identification of the

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source or river Kali, Susta dispute, Mechi controversy etc. These are the major issues and problems of demarcations of border between two nations, which should be settled in higher level (most probably in head of the government level) with diplomatic and political level talks. The issues climb slowly up to the ministerial level but it is instantly pushed back to the technical level, which has its limitations as the nature of the problem. In such a fashion, major issues have not yet given yield by the higher level decision making authorities.

BORDER MANAGEMENT

There is an open border system between Nepal and India, whereas Nepal has its controlled border system with China. It needs passport and visa to go to China and recently Hongkong, after China regained it from Britain. If we have a look back on the border management system between Nepal and India, anyone entering into Nepal particularly to the Kathmandu valley and towns of Tarai in general, had to get Rahadani or visa from the district administrations. It was prior to the restoration of Naya Muluk by Nepal in 1860, as the controlled border system was prevalent during that period. Afterwards, it was started slowly to keep the border open for recruiting the Nepalese hill and sturdy boys in British Gurkha regiment. The second factor was to have easy and free access of British and Indian goods and material into Nepal and Tibet (via Nepal). Next was to secure raw materials from Nepal to India such as timber, forest products, herbs and medicinal plants, hides and skins etc.

Open Border System :

Nepal-India Peace and Friendship Treaty of 31st July 1950 motivated for the openness of border between two countries. After the installation of democracy in Nepal in February 1951, it became major turning point in reinforcing the Nepal-India border open with the accelerated movement of Indian nationals into Nepal. Indians used to come to Kathmandu as politicians as advisors to the Nepalese ministers, overseers as technical experts, unemployed citizens as teachers, retailers as whole seller businessmen etc. Similarly, Nepalese were also free to go to Indian cities in search of jobs and works as guards, domestic workers and restaurant waiters. All these phenomena can be cited as Nepal India open border as it is unique in the world in the sense that people of both countries could cross the international borderline from any point / any time. Single citizen could cross the frontier of both the sides without any record running to and fro so many times a day.

Controlled Border System :

In other aspect, if we have a look back on the Nepalese perspective, Rahadani or controlled border system was on practice till four and half decades ago. This system was unknowingly relaxed after the construction of Tribhuvan highway, which linked Kathmandu to the

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Indian town Raxaul.. Before the completion of this highway, Nepalese people even going from Nepal to Nepal via Indian territory had to obtain Rahadani permit from Rahadani Goswara, Kathmandu or local / district office (Gadhi-Gaunda-Goswara). For the foreigners and even emigrant Nepali residing in India should have obtained Rahadani (visa) to enter into Nepalese territory either from Nepal Embassy or counselor or Alainchi Kothi of Patna, according to Rahadani Regulation- 2009 BS (1952 AD). But it was relaxed slowly, however Nepalese have not forgotten the then Rahadani System.

Impact of Open Border System :

Every object has its two aspects as every coin bears two faces. And every item has its negative and positive impacts. Similarly, Nepal-India open border system has its negative and positive impacts for both the nations. But Nepal has experienced a large percentage of negative impacts in many cases, as compared to India. If we make an inventory, negative impact outnumbered the positive one for Nepal. Followings are the impacts of open border system :

Positive Impact:

As we make a list of positive impacts, it may be the followings:

1. *Easy access:* The most positive aspect of open border system is the easy movement of people of both the countries.
2. *Strengthens relationship:* People to people relation on the frontiers of both sides has been maintained and strengthened due to free movement of people on either side of the border.
3. *Rescue operation:* Prompt services have been offered and provided on either side during calamities and disasters.
4. *Health service:* When there is an epidemic, health services can be offered from both the sides.
5. *Instant supply of labour:* When there is a shortage of local labor in one side it can be supplied instantly from other side.
6. *Competitive Market:* There is always a competition between the businessmen of the cross-frontier towns to be benefited to the consumers..
7. *Prompt Supply of food grains and daily stuff:* Unrestricted border has made comfortable for the prompt supply of food grains and daily foodstuffs from either side of the territory, where there are shortages.

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8. Open border has economically benefited the inhabitants of both sides of the border from the sell and purchase of livestock products, vegetables and daily kitchen stuff in *Hat Bazaars* (open-roof markets) taking place regularly in various days a week in different parts on either side.

Negative Impact:

Current open and unrestricted border system between Nepal and India has created so many adverse impacts and it has emerged many problems. Some of the issues have been mentioned as follows:

1. *Border Encroachment:* Aggression of boundary line and encroachment on the Nepalese territory is the by-product of the open border system. People are free to cross the border without any restriction. Some of the inhabitants who reside in the frontier area do not hesitate to destroy and pull off the main boundary pillars.
2. *Cross-border terrorism:* Open border has provided as safe passage to the terrorists. India has been blaming Nepal that Pakistani ISI agents are infiltrating into India via Nepalese territory. But it is the fact that Pakistanis must travel to India at first to come to Nepal, if they use the land route. Most recently Nepalese Maoist terrorists are creating havoc and they are making war with the Nepalese army men and policemen killing so many innocent local people, especially in the hill districts of Nepal. Those Maoist fighters who have been saved as casualties use to cross the borderline and they are taking shelter in the Indian settlements. The Indian policemen have arrested most recently five wounded Maoist casualties, who were under treatment in the private hospital at Lucknow. Besides, Lucknow Police officer D.B. Bakchhi arrested eight Nepalese Maoist terrorists (with one woman), including the leader Aakash Darlami (Nischal) and handed over them to the adjoined Nepal police post on the 8th of April 2002. Local inhabitants of India believe that Maoist terrorists are taking shelter at Kauwapur, Bishanpur, Balarampur and Baharainch of India as they think safe and secure (Gorkhapatra Daily, 22 April '02). American Assistant Secretary of State Christina Rocca expressed her worries during her recent visit to India that the Nepalese Maoists are taking shelter in India. United States under its military assistance has proceeded to provide equivalent to 20 million dollars to control the Maoist terrorism in Nepal. (Gorkhapatra Daily, 25 April '02)
3. *Trafficking of girls:* More than five thousand Nepalese girls have been sold annually in the Indian brothels. U.N. Women Development Fund, UNICEF Nepal field office mentions that there are near about two hundred thousand Nepalese girls and women in total in India. They are as the consuming commodity in the red-light and prostitution areas of Bombay, Calcutta, Darbhanga, Betia, Siligurhi and some other cities of India.
4. *Illegal import of arms and ammunitions:* Various types of guns, fire arms, gun-powder, grenades and its raw-materials, used by the Maoist terrorists have been confiscated by the army

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men, especially in the western hill districts. These unregistered and unlicensed arms and ammunitions might have been transported illegally because of the weakness of unrestricted border.

5. *Smuggling of goods, material and machinery:* There is always a possibility to be transported market goods and merchandise through the illegal entry points of the border, where there is no custom or police post.
6. *Smuggle of archeological artifacts:* Archeological materials such as ancient bricks and materials of Lumbini area (birthplace of Lord Buddha) have been smuggled to Piparhawa of India. Because India is going to construct duplicate structures to draw attention of the world, saying as Buddha was born in India. They are trying to distort the historical facts due to lack of the controlled border system between two countries.
7. *Cross-border crime:* Criminal activities such as murder, theft, and rape cases have been increased on the frontier of both the countries due to open border.
8. *Kidnapping:* Kidnapping of businessmen and children of well to do family is due to unrestricted movement in the borderline.
9. *Highjacking:* Indian aircraft IC 814 to Delhi was highjacked from Tribhuvan international airport on 24 December 2000. It was ultimately landed at Kandhar, Afganistan and the aircraft with the passengers were stranded for complete one week. People realized that open border is the cause of highjacking. It is to be noted that passport / identification card or controlled border system was introduced for the air passengers at Tribhuvan international airport Kathmandu and New Delhi Indiragandhi international airport after the Indian aircraft highjacking incident.
10. *Robbery and theft:* Two Indian motorcycle men looted Rs. 200,000 from the local money change counter at Malangwa of Sarlahi district in 5 February 2000. After snatching the money, they rushed and entered into Sonbarsha of Indian territory.
11. *Infiltration of Bhutanese refugees:* Nearly 100,000 Bhutanese refugees infiltrated into Nepalese territory five years ago via India. It was the cause and effect of open border between Nepal and India.
12. *Deforestation and exploitation of medicinal plants and herbs:* Smugglers have exploited Nepalese forest resources illegally due to open border.
13. *Peace and Security:* General people of Nepal are experiencing that peace and security in the nation is being weak due to free movement of people on either side of the frontier. Third country nationals, as similar face to the Nepalese and Indian may cross the border in the form of Indian / Nepalese national. It is creating problems to maintain peace and national security in both the nations.

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14. *Migration*: Density of population in the adjoining districts of India is higher than in the frontier areas of Nepal. So some of the Indian people resembling with the Nepalese faces have migrated to Nepalese territory, being benefited by the unmanaged open border.

Trafficking of narcotic drugs, encroachment on the Nepalese culture and traditions, leakage in revenue collection, distribution of fake academic certificates, prevalence of anti-social activities, rape cases, construction of dams and embankment submerging the borderline are also the result of thorough passage from the uncontrolled and wanton border

Concluding Remarks:

Nepal and India has a long and traditional relation. It has naturally promoted social and cultural relationship among the general people of both the nations, through matrimonial relation as well. Nepalese boys are the son-in-laws of the Indian nationals. Similarly, Indian daughters have been the daughter-in-laws of the Nepalese, being Nepalese and Indian fathers as the father-in-laws each other. So the border demarcation issues and the problem of border management can be solved through from the level of the general people to the levels of intellectuals, diplomats and politicians, if they make lively interactions with each others. They can highlight the issues, make convince to others by discussions. It can be made good understanding to solve the problem and issues, segment by segment grasping the difficulties of other side.

But the most important thing is the dedication and willingness to resolve the issues, since border business is a matter of equal participation from both the parties. Nothing can be happened if only one nation is willing, eager and hurried. It needs the equal spirit from both sides. Nextly, it must have time bound programme and monitoring of work from upper level is also important. Effective instruction from higher level to the lower and grass-root level field teams must flow in due time. Particular problem of particular segment of the border must be solved in such a fashion that this is resolved forever and no question will be raised in future.

So far as the border management is concerned, Open border system has created so many problems and it has affected in social and economic aspects for both Nepal and India. The most sensitive issues these days are the free movement of the terrorists and transportation of illegal arms and ammunitions across the open border. This is quite harmful for both the countries. An uncontrolled, unrestricted and opened border constitutes the breeding ground for terrorism, criminal, illegal and anti-social activities. Keeping in view the welfare and development of general people of both the nations, there is an urgent need to manage and regulate the free movement of people. It needs to check and stop transportation of smuggled goods across the unpatrolled open border. The time has been changed much from peacefulness to disturbing and troublesome. General people of both the countries are feeling panicky and fearfulness due to current circumstances in the South Asian region. It has to be made joint efforts to review the impact of open border system through

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dialogues and negotiations. It must come to the conclusion jointly to make the border restricted for the terrorist, controlled for smugglers, obstructed for the girl traffickers, checked for the criminals, stopped for narcotic holders but managed for the genuine passengers and regulated for legal export and import.

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