

NEPAL'S QUEST FOR SECURE BOUNDARIES AND INTERNATIONAL BORDER REGIME

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Abstract

The pursuit of secure and peaceful borders in Nepal encompasses the practice of boundary diplomacy, which operates within the existing geostrategic context influenced by neighboring states India and China. While Nepal has made progress in addressing some boundary issues with its neighboring states, there remain unresolved matters that necessitate the incorporation of comprehensive legal principles and norms of border management systems observed worldwide. This scholarly study revisits the fundamental aspects of Nepal's boundary diplomacy, specifically with regard to international border regime. The primary focus of the study centers on the diplomatic processes related to boundary delineation along the Nepal-India and Nepal-China frontiers. It discusses Nepal's border issues and boundary diplomacy with India and China with reference to the international border regime. It adopts content analysis and comparative studies in order to address the concerns it has identified.

Keywords: *border, boundary, China, diplomacy, demarcation, India*

Introduction

Nepal's boundary diplomacy includes Nepal's diplomatic efforts and tactics for managing and resolving border-related issues with its neighbors. It entails peaceful and mutually beneficial talks, dialogues, and diplomatic contacts aimed at preserving Nepal's territorial integrity and resolving border disputes. It, in fact, incorporates bilateral negotiations with its neighboring states—involving discussions on historical documents, treaties, maps, and other relevant evidence to determine the accurate demarcation of borders. It prioritizes the preservation of its territorial sovereignty, asserting its rights and interests, ensuring that any

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agreements or resolutions are consistent with international law and do not compromise its sovereignty.

King Prithvi Narayan Shah's *Dibyopadesh* continues to serve as a guiding light for Nepal, inspiring generations with its wisdom and vision for a prosperous and sovereign nation. His teachings emphasized the need for Nepal to protect its territorial integrity and sovereignty by engaging in strategic diplomacy and negotiation. It serves as a guiding principle for future leaders of Nepal, highlighting the significance of maintaining peaceful and respectful relations with bordering states, which has had a lasting impact on Nepal's boundary diplomacy. It emphasizes the importance of unity, discipline, and strategic thinking in order to safeguard Nepal's independence and territorial integrity. It highlights the need for strong leadership, wise decision-making, and the establishment of a strong military to protect the nation from external threats (Stiller, 1968).

Nepal upholds the principles of international law and respects the sanctity of treaties and agreements (Upreti, 2022). Peaceful coexistence and cooperation are elemental aspect of it since Nepal emphasizes the importance of maintaining peaceful coexistence and fostering cooperation with neighboring countries, recognizing significance of cordial relationships to promote regional stability and shared prosperity. Nepal also actively participates in regional frameworks, such as SAARC, BIMSTEC, BBIN etc. where boundary issues can be discussed in a multilateral setting (Ain & Shah, 2019). Nepal's historical boundary issues with neighboring countries are complex and multifaceted. Historical documents, differing interpretations, and overlapping claims can complicate the process of resolving border disputes. Navigating through these complexities requires meticulous research and a nuanced understanding of historical records. Nepal's diplomatic resources and capacity in dealing with boundary issues are terribly limited compared to larger and more influential nations. This poses challenges in terms of conducting in-depth research, maintaining a robust diplomatic presence, and effectively advocating for Nepal's interests in negotiations though resolving boundary disputes is definitely a time-consuming process (Upreti, 2003).

Additionally, negotiations and diplomatic efforts often require extensive discussions, consultations, and legal assessments. This often leads to delays in reaching concrete solutions, prolonging the uncertainty surrounding certain border areas. Geopolitical dynamics adds crucial

impact to this regard because Nepal's boundary diplomacy is largely influenced by regional geopolitical dynamics and power asymmetry (Baral, 2018, p. 32). And, domestic political factors, public perception and awareness of boundary issues equally play a significant role in shaping the approach and outcomes. Ensuring accurate information dissemination and fostering public understanding of the complexities involved is essential for garnering support and maintaining a cohesive national stance.

Nepal accommodates international norms for establishing international boundaries and addressing the conflicting issues in this regard. It adopts the global legal practices for boundary management systems since they shape identity of states and peoples by delineating, demarcating, and managing the geographical territories. They often lead to conflicts among the bordering states but serve primarily to define and distinguish space (Bhusal, 2020). Such borders also separate the social, political, economic, and cultural implications of one geographic place from those of another.

Lord Curzon (1907), Sir Henry McMahon (1935, and previous presentations since 1896), Col. Sir Thomas Holdich (1916), and C.B. Fawcett (1918) developed the foundations of current theory of practical border making. Their actual engagement in establishing boundaries in various situations gave their articles a unique influence. Significant emphasis was placed on distinguishing terminology of boundary-making phases, particularly between the words delimitation and demarcation. According to Trotter (1897), delimitation reflects the preliminary work and specifies the border in the treaty either by words or on maps, whereas demarcation represents the putting down of the line on the ground after the treaty has been signed--Mc Mahon in 1896 (Srebro, 2013, p. 17)

However, boundaries, in Nepal's case, are the contentious issues in the international arena with disagreements resurfacing (Baral, 2018, p. 29). In this regard, borders of Nepal are both open and secure—open to allow for the cross-border movement of lawful trade and business, and secure to defend governments' national security interests (Shrestha, 2021, p. 74).

Nepal's Boundary Diplomacy

The Sugauli Treaty, signed in 1815/16 by Nepal and the British Dominion in India marks the turning point in Nepal's geopolitical strategy as observed by Eminent geographer Pitamber Sharma. The Sugauli Treaty and the Boundary Treaty of 1860, he renders, established Nepal's borders

with India. Nepal's boundary diplomacy with India sustains problems due to the disputed territories such as Kalapani, Limpiyadhura, and Lipulekh, differing interpretations of historical agreements, political sensitivities, and the need to balance bilateral relations. With China, Nepal has had a relatively stable border relationship, but challenges arise due to potential differences in interpretations or changes in geographical features. Asia's two of the largest countries China and India border Nepal. The 1439 km northern border with China was delineated with the signing of the Nepal-China Boundary Agreement in 1960, the Nepal-China Boundary Treaty in 1961, and the Nepal-China Boundary Protocol in 1963. The location of the tri-junction point between Nepal, India, and China may add 50 kilometers to the Nepal-China boundary. The border with India is roughly 1880 kilometers long, having 1233 kilometers of land border and 647 kilometers of riverine border. The riverine boundary is formed by over 60 rivers and streams, the longest and most famous of which are the Mechi River (80 km) in the east and the Mahakali River (nearly 225 km) in the west (Sharma, 2022, p. 1).

Nepal's relations with India and China mark as unique in character in the world. The geographic accessibility, ethno-cultural and religious affinities, and many other multidimensional causes have ascertained this fact. Despite, the economic, geostrategic, and regional factors also are some of the elements behind it. Among them, economic elements, as the crucial parts of bilateral ties which are based on the infrastructural development on airports, irrigation, agriculture, roads, power projects, industrial estates, communication, surveys, forestry, building construction for health, education, human resource development among others have principally played the significant role between them.

Intriguingly, though, one of the neighbors is aggressively expanding its sphere of influence in Nepal, while the other does not want to lose its historical presence in the nation due to its social, cultural, and economic ties. The center has made very little effort to build infrastructure in those areas, including roads, telecommunications, schools, hospitals, and other services (Bhusal, 2020).

Additionally, the people who live along the border of Nepal and India benefit most from an open border system, which serves as a role model for other nations. However, there is no such reciprocity between the citizens living on either side of the Nepal-China border. India and China both have the fastest-growing economies in the world, thus Nepal should benefit as much as possible from them (Tripathi, 2019).

International Border Regime

Every sovereign state in the international system has got its own sovereign territories with clear demarcated borders and regulated with the globally accepted legal binding. Borders establish a state's territoriality and allow for state sovereignty, but its relational character also infringes on that sovereignty. As a result, a boundary may be both a reflection of internal conflicts and the source of an interstate conflict in and of itself. Because borders are a relational, complicated, and potentially conflict-causing factor, preventative diplomatic measures such as discussions can de-escalate boundary conflicts throughout the world (Agnew, 2005, p. 457).

The international border regime has a significant impact on Nepal's boundary diplomacy with India and China for several reasons. Firstly, it provides a legal framework that guides the resolution of boundary disputes, as international laws and norms related to territorial integrity and border management influence Nepal's approach to negotiations. Secondly, the regime offers mechanisms for mediation and arbitration, enabling Nepal to seek international assistance or engage third-party mediators in resolving disputes. Thirdly, the international border regime shapes the geopolitical dynamics surrounding boundary issues, as it affects the involvement of external actors and the level of regional and international support Nepal receives. Lastly, the regime provides guidelines for dispute resolution, including recourse to international courts or tribunals if bilateral negotiations fail. Therefore, the international border regime plays a crucial role in shaping and influencing Nepal's boundary diplomacy with its neighbors (Becker & Sanchez, 2010).

International law provides the most fundamental means of resolving territorial disputes amicably. International law governs state interactions, and any disagreements between nations should be settled peacefully and in conformity with international law principles (Sargsyan, 2003). The main goal of international law is to ensure international peace and security, which is why the League of Nations was established in 1919 and the United Nations was established in 1945 (Shrestha, 2021, p. 27). Border diplomacy is a component of international relations that uses international law and diplomacy to address issues such as border management, migration, refugees, immigration, maritime boundaries, people movement across borders, peaceful dispute resolution, and others.

Boundary, as a political body, influences people's lives inside it and has a huge impact on the lives of others who reside nearby. Borders, or state

demarcation lines, are also related with natural phenomena such as rivers, mountain ranges, summits, narrow passages, lakes, and others. If the conflicting parties do not comply with the standard legal frameworks, the counter diplomacy should take place within the confines of international law. The use of force against any state in a disagreement is not regarded appropriate (Aiyadurai, et al., 2017, p. 372).

Thus, the essential premise to create trust in the international community to international laws' commitment to global peace is the peaceful resolution of conflicts. The use of international arbitration or tribunals creates the merit of depoliticizing a conflict by sending it to technical specialists, which generates the merit of depoliticising a dispute. In this light, the International Court of Justice (ICJ) serves as a beneficial and effective judicial tool for current issues (Chetail, 2003, 241).

Nepal-India Border Issues

The Nepal-India boundary issues hold significance in both regional and global politics due to several reasons. Firstly, the South Asian region is strategically important, with both Nepal and India being key players. Any disputes or tensions between these two countries can have wider implications for regional stability and cooperation. Secondly, the boundary issues can attract the attention of other global powers who have vested interests in the region, potentially influencing the dynamics between Nepal and India. Thirdly, the resolution of the boundary issues can set a precedent for handling similar disputes in other parts of the world, thereby impacting the global discourse on territorial disputes. Finally, the boundary issues have the potential to affect trade, connectivity, and people-to-people exchanges between Nepal and India, influencing economic and cultural ties within the region (Upreti, 2003). Therefore, the Nepal-India boundary issues are critical for both regional and global politics, as they have implications for stability, regional cooperation, global interests, and normative frameworks surrounding territorial disputes.

Border delineation between Nepal and India began with the Treaty of Sugauli in 1816 and was completed in 1817-1820, 1859-1860, 1880-1883, and 1940-1941. (Baral, 2018, p. 31). During the British occupation, Jange Border Pillars were placed every 5-7 miles. Because of certain hazy borders, straight lines were not generated between the pillars. A Nepal-India Joint Technical Level Border Committee was founded in 1981 to build subsidiary and minor pillars on the zigzag boundary between two primary pillars, and it worked until 2007 (Shrestha, 2021,

p. 45). Nepal-India boundary demarcation from 1981 till 2007 concluded with preparing 182 strip-maps. Though it demarcated about 97 percent borderline, the critical 3 percent remains as the root of all geopolitical complications. Formulating other remaining strip-maps and maintaining boundary pillars are essential now. The encroached Nepali territories, occupations and cross-border land holdings require to be resolved immediately.

The available maps and archival documents pertaining to the Nepal-India border disputes predominantly originate from British-Indian sources. Consequently, they reflect the perceptions prevalent during that era. It is important to note that official documents and correspondence from Nepal's side are not accessible to the public. Valuable insights into the perspectives held by the Nepali central and local authorities regarding the disputed areas could be obtained from official correspondence between local revenue collectors, district administrations, and the central government in Kathmandu (Upreti, 2022). These historical records span from the time of the Sugauli Treaty up until the 1950s.

The public discourse surrounding these disputes has primarily relied on British-Indian archives, as the contribution of Nepal's official documents and relevant materials has been relatively minimal. Additionally, both the Nepali and Indian governments have refrained from issuing formal position papers concerning the disputes, except for sporadic communiqués responding to contemporaneous political developments. These supporting documents can help resolving Nepal-India boundary issues (Shrestha, 2014).

Within the Nepal-India border landscape, a multitude of areas, numbering around 86 according to one account, find themselves entrenched in lingering disagreements. However, among these, two significant regions emerge as the focal points of dispute. The first lies along the northwestern boundary, intricately intertwined with the origin and course of the powerful Mahakali (Kali) River in its upper reaches. The second area of contention resides in the downstream expanse of the Gandak River, specifically the Susta-Narshahi region, which rests adjacent to the Gandak barrage in the southern terrain. Notably, both of these disputed territories bear the hallmark of riverine borders, adding another layer of complexity to the ongoing disputes.

Efforts have been made to shed light on a diverse range of perspectives, with the intention of fostering a more objective understanding of Nepal's position on these contentious matters. The boundary disputes concerning

the Mahakali River and the Susta-Narshahi areas have endured through the ages, tracing their origins back to the immediate aftermath of the Sugauli Treaty. Remarkably, both of these disputes are legacies of the British rule in India, where independent India has not only perpetuated the path set by its colonial predecessors but has adopted a quietly entrenched position that disregards its smaller neighbor. The Indian side has displayed resistance in providing a political platform for sustained and rational discussions on these disputes, further exacerbating the situation (Sharma, 2022, p. 3).

However, India maintains its stance, emphasizing that the boundary protocols must receive joint endorsement as sector-wise strip maps are finalized. On the other hand, Nepal advocates for a comprehensive boundary protocol that would be jointly endorsed by both countries upon the completion of the entire process. This approach aims to achieve a lasting resolution of contested areas and disputes, putting them to rest once and for all. When sector-by-sector strip maps are developed, India would push for joint approval of border procedures. Nepal wants the two countries to jointly ratify a comprehensive border convention at the end of the exercise to settle areas of conflict and dispute once and for all. The Indian tactic is to continue to overlook the problem in disputed areas, so preserving the status quo in a field that favors India. Nepal's aim is to address the issues directly in order to permanently eliminate irritants in bilateral relations. India's strategy appears to allow the problems in disputed regions to persist, neglecting their resolution and effectively preserving the existing status quo that favors India. In contrast, Nepal earnestly seeks to address these issues comprehensively, aiming to eliminate persistent sources of tension in bilateral relations. By doing so, Nepal aims to pave the way for a harmonious and stable relationship, free from recurring irritations.

Nepal-China Border Issues

The Nepal-China border spans more than 1,400 kilometers, and the two countries have historically maintained a relatively stable and peaceful border relationship. However, it is important to acknowledge that border disputes can arise over time due to varying interpretations, changes in geographical features, or other factors. Therefore, although there have been no significant boundary issues between Nepal and China, it is crucial to stay vigilant regarding any potential developments in this matter.

Regarding the resolution of specific issues, certain Nepali communities, such as Chyanga and Lungdep in the Kimathanka VDC of the

Sankhuwasabha district, as well as some pasture areas in the Humla and Dolakha districts, have been designated as part of China. Similarly, several Chinese villages have been designated as belonging to Nepal. Currently, Nepal and China are addressing two particular matters: border marking number 57 in Lapchigaun, located in the Lamabagar region of the Dolakha district, and the accurate measurement of Mount Everest's height (Jha, 2010, p. 65).

To foster friendly border relations, Nepal-China border management diplomacy prioritizes the resolution of critical issues. Nepal and China share a border management system; however, there is a need to enhance border management on both sides to curb unlawful migration and travel, as Tibetans often enter Nepal illegally through the borders. Constructing border outposts and immigration checkpoints near border crossing points would help prevent any anti-China activities on Nepali territory. Currently, these posts are situated 10-20 kilometers away from the frontier. For instance, the Lamabagar Police Post in the Dolakha district has been established 22 kilometers south of the border crossing site, but it should be set up at Lapche Gaun to ensure effective monitoring.

To combat unlawful Tibetan infiltration, it is advisable to implement a policy that increases the number of Armed Police Force Border Observation Posts (BOPs). Additionally, there should be stricter scrutiny of Nepali lumber, Himalayan plants (especially the valuable Yarsagumba of Nepal), and Red Sandalwood imported from India to prevent illegal exports to China's Tibetan Autonomous Region. Building BOPs near border passes would aid in these efforts (Shrestha, 2013).

The border between Nepal and China's Tibet province spans 1,415 kilometers along the Himalayan range. Diplomatic relations between Nepal and China were established in 1955, and resident ambassadors were exchanged in 1960. In that year, Nepal encountered border confrontations with China in 35 locations, including Mount Everest. Consequently, a Nepal-China Joint Border Commission was formed on October 5, 1961, to address boundary issues with China.

As a result, the boundary between Nepal and China was jointly delineated between 1961 and 1962. The settlement was achieved amicably, based on the values of kindness, fraternity, equality, and mutual respect, and in accordance with the principles of Panchasheel. It is worth noting the commendable resolution of disagreements at the technical level. Notably, concerns regarding Mount Everest were resolved at the prime ministerial level during the visit of Chinese Prime Minister Chou-en-Lai to Nepal on

April 28, 1960. On January 20, 1963, the Boundary Protocol was signed (Shrestha, 2003).

According to the Boundary Protocol, the border will be administered and maintained amicably by Nepal and China through specified procedures. The Border Protocol must be renewed every ten years following a joint border inspection. During the process of renewing the previous Protocol, collaborative supervision and monitoring of the borderlines will take place, and a joint report will be issued.

Furthermore, any damaged or missing boundary pillars and markings must be repaired and replaced. Utilizing modern technologies such as Global Positioning System (GPS) observations and Geographical Information System (GIS) data, new strip maps will be created based on previous maps. Additionally, India-Nepal-China Tri-junction Points and Zero Markers must be established on both ends of the boundaries, with equal participation from India and China (Shrestha, 2013). Maintaining a peaceful border relationship between Nepal and China necessitates controlled border monitoring and supervision. Therefore, certain administrative responsibilities should be conducted diplomatically by both parties to effectively manage the boundaries (Sargsyan, 2003, p. 25).

As for the cases of Nepal's border-related issues with its neighbors, it has to deal with it through pacific measures. To overcome this issue amicably, Nepal and its neighbors should use border management diplomacy (Nayak, 2020, p. 7). Nepal should be prepared for any eventuality by having plans, policies, and tactics in place to reclaim its sovereign land from Indian occupation in a diplomatic and peaceful manner.

Hence, several steps have yet to be taken for resolving Nepal's boundary issues with India and China. Clear and comprehensive agreements on the exact demarcation of borders are still pending. Adequate documentation, including updated maps and border pillar placements, is needed to establish a shared understanding of boundary lines. Expert surveys and technical support utilizing modern technologies are yet to be fully utilized for accurate demarcation. The exploration of legal and international frameworks, such as historical treaties and dispute resolution mechanisms, has not been fully pursued. Enhanced diplomatic engagement, public awareness and participation, and regional cooperation are also areas that require further attention. Resolving these outstanding issues will necessitate sustained efforts, dialogue, and cooperation between all parties involved.

Conclusion

Nepal's boundary diplomacy is characterized by a complex and sensitive nature due to its geographical location and historical context. As a landlocked country nestled between two giant neighbors, India and China, Nepal's foreign policy regarding its boundaries is crucial for maintaining its sovereignty and territorial integrity. Nepal has historically pursued a policy of maintaining friendly relations with both India and China while seeking to protect its national interests. However, boundary disputes with India, particularly regarding the demarcation of the shared border, have been a significant challenge in Nepal's diplomacy. These disputes have required diplomatic negotiations, dialogue, and occasional tensions to address territorial claims and ensure the integrity of Nepal's borders since the nature of the international border regime is multifaceted and shaped by various factors, including historical, political, economic, and security considerations.

The International border regime refers to the set of rules, agreements, and practices that govern the management and control of borders between sovereign states. Firstly, borders serve as physical and symbolic boundaries between nations, defining territorial jurisdictions and marking the extent of state sovereignty. Secondly, the international border regime encompasses legal frameworks and regulations that govern the movement of people, goods, and services across borders. Thirdly, border regimes are influenced by political dynamics and power relations between states. Border disputes, territorial claims, and historical conflicts can impact the nature of the regime. Diplomatic negotiations, border demarcation processes, and regional cooperation initiatives play a crucial role in resolving border-related issues and maintaining peaceful relations.

Additionally, the border regime also addresses transnational challenges such as terrorism, organized crime, smuggling, and illegal migration. International cooperation and information-sharing mechanisms are established to enhance border security and promote joint efforts in combating cross-border threats. It is a complex interplay of legal, political, economic, and security factors. It reflects the balance between state sovereignty, national interests, regional cooperation, and the need for efficient and secure cross-border interactions in a globalized world.

Thus, direct communication channels, confidence-building measures, border management cooperation, technical expertise, documentation and research, Track II diplomacy, regional and international mediation

and stronger national unity can be Nepal's sustainable approaches for resolving boundary issues with its neighbors. They crucially support Nepal to foster a conducive environment for resolving its border problems with neighboring countries, promoting peaceful relations, and safeguarding its territorial integrity.

Recommendations

Nepal needs to pursue multi-pronged approaches to resolve its boundary issues with its neighbors. Firstly, engaging in diplomatic negotiations is crucial. Nepal should actively initiate dialogue and maintain sustained communication with its neighbors, particularly India and China. Meaningful discussions, based on mutual respect and understanding, can help find mutually acceptable solutions. Secondly, Nepal should focus on historical research and documentation to strengthen its claims. Thoroughly studying historical records, treaties, and agreements related to boundary demarcation can provide valuable evidence to support Nepal's position. Thirdly, exploring legal recourse, such as international arbitration or adjudication, can be considered if diplomatic efforts prove insufficient. Additionally, active participation in regional cooperation initiatives, fostering people-to-people exchanges, implementing confidence-building measures, and seeking international support are essential steps. Resolving boundary issues requires patience, perseverance, and political will from all parties involved, with the ultimate goal of maintaining peaceful and cooperative relations with its neighbors.

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