

Nepal-India Open Border: Use and Misuse

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Abstract:- The issue of open border use and misuse in regard of Nepal-India relations is always a hot cake. That's why; the researcher has studied about use and misuse of Nepal-India border and has suggested some of the crucial ways to mitigate the misuse of open border between Nepal and India. This article has made major objective as to find out major issues of use and misuse of open border and to highlight some of the efforts made by both the countries to manage open border. As well as on the basis of five principles i.e. peaceful co-existence, spirit of fairness, Reasonableness, mutual understanding and mutual Accommodation the Nepal India open border should be managed. For completion of this study, analytical and descriptive methods have been primarily used. As the core of the study, this research article has given special reference between India-Pakistan border management and India-Bangladesh border fencing that can be special reference to us also.

Keywords:- Open border, encroachment, Nepal-India relations, Use and misuse of open border, Border pillars, Trans border crimes

➤ *Objectives:*

General objective of this article is to pour fact and events of use and misuse of open border between Nepal- India. The specific objectives are:-

- a) To find out the facts on use and misuse of open border between Nepal and India.
- b) To suggest some better ways to manage open border.

➤ *Methods of Study:*

The researcher has studied various books and articles written by prominent authors and analyzed the fact and figures as per the requirements the descriptive method have been used. According to feasibility fact based analysis has been done. This article is written on the bases of descriptive and analytical methods. Books, articles, opinion of the Scholars, T.V. Radio interviews of intellectuals etc have been the sources of this study.

I. INTRODUCTION

Nepal-India both shares similar civilization and they share open border through which citizens of both countries easily migrate in each other's countries having no border obstacle for lawful activities. But in spite of the use of open border the frequent misuse of the border between Nepal-India is causing crisis and disputes time and again.

Nepal is a beautiful Himalayan Landlocked (India Locked) country located between India and China in South Asian region. It is extended between 26°22'N to 30°27'N from the equator and 80°4' to 88°12'E from the Prime Meridian and is spread in the area of 147181sq.km(56827sq.mile) but before Sugauli Treaty (4th March 1816A.D.); its area was about 268000sq km. The immediate friendly nation lying in the North is China; it is situated in the north of the equator between 8°04'N to 37°06'N latitude and 68°07'to 97°25' East longitudes whereas India lays in rest three sides I. e. East, West and South. Nepal is crowned by the great Himalayas in the north and surrounded by land on the other three sides.

It shares its political borders with India in three sides and China in North. Mainly Nepal's border with India is joined at southern border i.e. Terai (with the Indian states Bihar and Uttar Pradesh). Out of total land borders: 2926km (1818mile) it shares its border with China about 1236km (76^m mile) and with India 1690 (1050 mile). We have some border disputes with India whereas with china no sever problem exists. But petty issues at Lapchi area of Lamabagar, Dolakha district, here Nepal claims six hectors of land and other conflict is at that is about decreasing of the height of Mount Everest. China has played balancing role. Such role should be played by SAPTA between Nepal and India but India is extremely boy cutting Pakistan through giving special preference to BIMSTIC rather than SAARC which is creating gap between Nepal and India and other South Asian nations. The thesis of Huntington's civilization clash clearly gives ways to easy management of Nepal India borders due to common socio-cultural affinity.

Bauder (2015), the positive impact of globalization has facilitated for free flows of goods; capital, human recourse skill and information across international borders have been liberalized. However, the mobility of people across these same borders is still highly controlled. In fact, the discourse on open border has shown that it remains borders remain a main source not only of labor inefficiencies, but also a human suffering and injustices. These circumstances have dragged Scholars to call for open borders for people and for no border.

The concept on open border as natural and should be kept open was initiated by Gulasekaram (2003), and he has further stressed on operation Gatekeeper policy in the early 1990s and extended with significant funding by the secure Fences Act in 2006, the USA has committed itself a physical fortification of its border with Mexico. The stated purpose of border fence is to eliminate unlawful entry into the US. Yet, since the initiation of the border fence project, critics and empirical researchers have found the fortification, at best, to

be costly and ineffectual in accomplishing its stated goals, at worst; they argue it causes significant death without any deterrence.

International theorists' views on open border have been the rights of immigrants to block it are unnatural and inhuman. It should be left open but they do not say anything about misuse of open border that is why this researcher has found the research gap prospective of open Border and claimed that the new height of Mt. Everest is 8843.43 meter but Nepal strongly opposed it.

There are more than 56 areas where Nepali borders have been encroached by India that has caused, disputes, conflicts, cross-holding occupations, claims and counter claims in such places along the 1880 kilometer long border between Nepal and India. The total area of such conflicts has been computed at 66,602 hectares of land. The largest chunk of encroachment is in the Lipulek-Kalapani-Limpiyadhura area of Darchula district with 37,000 hectares of land being encroached. Around 14,500 hectares of land have been encroached at Susta of Nawalparasi and more than 15000 hectares in Mechi border.

II. THEORETICAL REVIEW

Careus (2015), views that to control natural flow of people from one to another part of the world is unjust because the Earth is common home to all where people should be free to cross artificial border created by so called states in the name of vague sovereignty. Security personnel's with guns and other instruments at border to control immigration is against the norms of democracy. USA has adopted dry foot and wet foot policy in regard to international immigrants but it is flexible to Cubans but rigid to Mexican immigrants such discriminations are also unjust in terms of human rights point of view. Africans in small leaky vessels seeking to avoid patrol boats while they cross the Mediterranean to Southern Europe, or to Mexicans willing to risk death from heat and exposure in the Arizona desert to evade the fences and border patrols, it is quite different. To these people, the borders, guards and guns are all too apparent, and their goal of exclusion all too real (<https://www.opendemocracy.net>), open Democracy free thinking for the world, the case of open border. The author is against the close border mechanism for lawful and compulsory movement.

The prominent scholar Laine views that such discriminatory behavior adopted by USA is undemocratic as well as unjust. It is more painful to the civilians staying at the border area. For instance the Finnish- Russian and US-Mexican Dry foot and Wet foot policy. Huntington's clash of civilizations has stressed on North meets South and vice versa than why do we do create unnecessary obstacles in free movement of people It has been done by extremist forces who do not want co-existence of civilization. But it is present day need to join the world through open access for civilizations.

➤ Border Demarcation Efforts between Nepal and India-China

After Sugauli Treaty the border demarcation and management between Nepal-India began. The efforts were made in 1817-20, 1859-60, 1880-83 and 1940-41 for that strip maps were made in distance of every 5-7 miles. The border line was not smooth that's why; subsidiary and minor pillars on the zigzag boundary were erected. To manage border, Nepal-India Joint Technical level Boundary Committee, TLBC was formed in 1981. It existed till 2007 and managed 97% of the border time and 183 strip maps were prepared except Kalapani, Susta and some other areas.



Fig 1:- Junge Pillar

The bordering country of Nepal is China that lies at the Northern side. Nepal and China also signed the border demarcation agreement in 1960 and a boundary treaty in 1961. At this process of border demarcation in 1960-1962, 32 disputed areas were identified (includes Mt. Everest and Gauri Shankar). All the misunderstanding were settled within a period of two years in accordance with the following five principles:

- (i) Peaceful co-existence,
- (ii) Spirit of fairness,
- (iii) Reasonableness,
- (iv) Mutual Understanding, and
- (v) Mutual Accommodation.

The misunderstanding over the Mount Everest was settled during the prime minister's level of both countries (B.P. Koirala and Mao Tse Tung). They agreed that peak of Mt. Everest belongs to Nepal. By the end of 2018 under the *PanidDhalo* (natural water flowing inclination) Principle Nepal-China border issues almost have been solved.

➤ Efforts for Border Management between Nepal and India

Shrestha (2006), a four tier mechanism was formed during P.M. Modi's 1st visit in Nepal. That were:-

- (i) Both the countries i. e. Nepal and India formed a Border working Group (BWG) under the Surveyor Generals of the both countries to re-establish the remaining border pillars, reconstruct the missing pillars, repair and maintain existing pillars and clear the no man's land.



Fig 2:- (Source: www.google.com, Das Gaja Chhetra)

- (ii) Under the Deputy Surveyor Generals from both sides the survey officials committee (SOC) was formed to fix the technical design, supervise and provide technical guidance to the field teams.
- (iii) Under the CDO of Nepal and District Magistrate (DM) of India Field Survey Teams (FST) were formed to conduct a joint field survey, repair and maintain the existing border pillars, relocate the missing pillars with GPS technology and prepare a strip-map .An Outstanding Border Issue Resolution Mechanism (OBIRM) was formed at the foreign secretary level to suggest to the respective governments on the issues of Kalapani and Susta based on technical inputs from the BWG. Joint field teams are working to repair and maintain the boundary pillars for short time. But the OBIRM is defunct yet.

➤ *Misuse of border*

Nepal and India's open border existing since long was taken easily due to our common aspirations but the time has been changed. Now the open border scientifically has been stressed because criminals commit crimes on one frontier and go to hide on the other side of border and mostly Indian criminals come and hide in Nepal to escape from death penalty. The border has been misused by unwanted elements. For instances:-

- (i) One of the most wanted top 20 Lashkaree-Taiba terrorists Abdul Karim Tunda was arrested on August 16, 2013 in Nepal.
- (ii) YasinBhatkal the co-founder of the outlawed Indian Mujahidein nabbed by Nepal police near India's border in 2013.
- (iii) Nepali industrialist Ganga Bishan Rathi was abducted from Biratnagar and taken to Siliguri, India where he was killed in 2013 after 23 days of his abduction

(iv) Indian Criminal Bablu Dubey, who did dozens of crimes in India sneaked Nepal through open border, was arrested by Nepal police on 29 May, 2013.

(v)Illegal transaction of small arms and gun-powder-Nepal police has arrested seven riots with a dozen of small arms and ammunition from Morang, Sunsari, Jhapa, Saptari over the last one month period, Sept-2013.

(vi) Trafficking of girls and women- Maiti Nepal, a social organization, rescued 264 girls and women (15-28 years) during 2013 in the Belahia-Nautanws (Sunauli) border crossing point (A *Strip Map* is a set of map pages that follow a river , road or pipeline etc.).

Home minister of Nepal has identified seventeen types of criminal activities existing on its border with India. Out of these, nine forms of crimes have linked with international gangsters. Smuggling of abusive drugs and small arms, robbery, abduction, extortion and homicide are commonly occurring. The crimes with an involvement of international gangsters are mostly related to fake currency notes and terrorist acts, including bomb blasts and other forms of explosions.

Open border has been misused by people who do not have the best interests of the two countries by heart said by Indian Ambassador to Nepal Ranjeet Rae, the Kathmandu post Daily,12 February 2014.It means open border is harmful to Nepal and India both. This reality has been understood by India and Nepal but the remarkable steps have not been taken yet.

Open border has been misused by Indian side making high dams, barrages and corridors unilaterally benefiting, Controversy over the use or misuse of rivers. The border dispute between Nepal-India seems to be one of the major factors in damaging Nepal-India relations (Baral and Pyakurel, 2015).

Trade smuggling is another crucial misuse of open border between Nepal and India. Looking all these misuse 100 poles, keeping the Nepal-India international borders open is not only threat to Nepal but it is being serious threat to India as well. Mostly fake Indian currency has been major threat to India in June, 2019 even seven corers fake IC carrying Pakistani citizens were arrested in Nepal who were using TIA to come Nepal and planned to go in India misusing open border.33k.g Gold scandal, use of Nepali land by terrorist (ISI Indian blame) and many more facts and events have made both the countries awake towards misuse of open border (<https://www.business-standard.com>).



Fig 3:- Representing Open Border
(Source:www.google.com)

➤ *Use of open border*

Open border between Nepal and India was identified by in the treaty of peace and Amity made in 1950 .The Government of India and Nepal agreed to grant the nationals of one country in the territories of the other the same privileges in the matter residence ownership of property, participation in trade and commerce, movement and privileges of a similar nature of the treaty has given the authority where citizens of both countries are given equal rights in matters of residence ,acquisition of property ,employment and movement in each other's territory provided between the two countries. It is referred that open border concept between Nepal-India formally began in the 19th century after the delimitation of the India-Nepal boundary in 1816 and the restoration of *Naya Muluk(Banke, Bardiya ,Kailali and kanchanpur)* to Nepal in 1860.

Firstly, British East India Company Government wanted to recruit youths into the Indian army. Secondly, Nepal was seen as a market for finished goods from India. For this, it was necessary to provide unrestricted cross-border movement for both goods and people and hence the idea of an open border.

➤ *The major reasons for India to keep the border open due to China fear.*

The Northern border of Nepal was taken as the Northern barrier that guards India i. e., high Himalayas. It is being perceived as a natural barrier between India and China by Indian policy makers and bureaucrats. It was viewed by Indian Prime Minister Nehru in December 1950 when he was giving speech in the Indian parliament. It was Indian interest because Himalayas are concerned; they lie on the other side of Nepal, mostly not on this side. Therefore, the principal barrier to India lies on the other side of Nepal and we are not going to tolerate any person coming over that barrier. Therefore, much as we appreciate the independence of Nepal and we cannot risk our own security to anything going wrong in Nepal which permits either that barrier to be crossed or otherwise weakens our frontier (Bhasin, 2005).

The open border between Nepal and India has created mutual security that to both. The unrestricted flow of people over the years has resulted in the dissemination of ideas, culture and settlements of people in each other's territory. Religious places and institutions in both countries have played a very important role in strengthening the social and cultural relations between the two countries .Places like Pashupatinath, Lumbini, Janakpur and Muktinath in Nepal and kanshi, Gaya, Rajgir and Haridwar in India are visited by people from both countries (Kansakar, 2008). Nepal-India relations have been strengthened by Matrimonial alliances too. Both the queens of King Tribhuvan belonged to royal families of India. Himani Rajya Laxmi Devi shah also belongs to the Royal family of Sikar, Rajasthan. Similarly, the first cousin of Mohan ShumsherRana, former prime Minister of Nepal is married to Dr. Karan Singh, Son of Maharaja Hari Singh, of Kashmir. These alliances have been of fundamental social, cultural and political influences. This sort of marital relationship are not just limited to the royal houses, common people also marry across the border. Cross-border marital ties confer many advantages including legal title to property and a greater chance of obtaining dual citizenship (Asian Report 2007).

has another The remarkable important of the open border between Nepal and India i.e. income of Nepali workers working in India, their salaries, remittances and pensions of Gurkhas (Nepali working in Indian Army)and trade and transit based benefits using 22 trading points. Likewise, Indian Merchants and entrepreneurs have invested heavily in Nepal, which offers them cheap labor and tax breaks for setting up joint ventures. There are 265 approved Indian Joint ventures in Nepal accounting for over 35% of FDI inflows. The Indians are also working in Nepal, mostly in trade and transit (Marwari community. Simultaneously), fruit seller, kawadi collectors, carpenters, painters, sirakdasna makers, Labors in constructions are the major areas for Indian Workers in Nepal.

Further, Nepal-India open border is useful for both countries that can be justified as:-

- (i) Both countries people are feeling Convenience in movement across the international border without any hassle.



Fig 4:- Formal Border (Source: alamy.com)

(ii) Facility of rapid response during hazard and natural calamities (Earthquake 2015 and Indian support). For instance – There was fire hazard in Illam of Nepal. Fire Brigade brought instantly from Darjeeling India put off the fire.

(iii) *Medical Services Facility*

Indian frontier inhabitants could come to Nepal's bordering areas hospitals for treatment (Sagarmatha Choudhary Eye Hospital, Lahan) and Nepal also go in Indian renounced hospitals (Apolo, Medanta etc) for the treatment severe diseases without obstruction.

(iv) Supply of local labors- from India Indian labors from India come to Nepal for agro activities.

(v) Immediate supply of food grains

➤ *Ways of Managing open border*

Between Nepal and India, there are close social, economic, cultural and political linkages that is existing since the distant past. Together, open border has been causing various sorts of threat for both countries. AS a result, the voice of closing the open border has been raised time to time but closing the border is not a sensible and feasible proposition. Such a step would be retrograde and adversely affect people at the individual level as well as the economy of the two countries. A more prudent step would be better manage and regulate the movement of goods and people across the border, taking the condition seriously.

The following three steps can be feasible for both the nations to manage open border (<https://thehimalayantimes.com>).

- (i) To manage bilateral mechanisms to make scientific border security.
- (ii) To deploy security forces.
- (iii) To built needy infrastructures to improve connectivity and enhance the accessibility of these areas to security forces in the border regions.

To materialize the above steps, the security authorities of Nepal and India have agreed to prevent cross-border crimes that take place along the Nepal-India border in Darchula district. The officials of both countries reached the agreement at a joint security meeting held at Tauljibi, India. The Indian Seema Suraksha Bal (SSB) had organized the meeting. The participants of the meeting were agreed to work in tandem and exchange information for stopping the cross-border smuggling, human trafficking, drug trafficking and smuggling of wildlife parts and trophies, Fake currency transactions etc. among the criminal activities.

➤ *Efforts for Solutions*

- **Narendra Modi** as P.M. said on 27 May 2014: Nepal and India should be mindful of mutual security concerns as they share an open border.
- **Nitish Kumar**, the chief Minister of Bihar said during CM's conference in New Delhi on 21 April 2012: open border with Nepal poses security challenges to Bihar. It needs center's support to regulate the border to check cross-border crimes.
- Indian Ambassador **Ranjeet Rae** has said that we have open border. Someone commits crimes in one country and runs to other. This is a problem for both countries.
- It was agreed between the IGP of Nepal and chief of Indian SSB, on 3rd December 2012, to fight against transportation of small arms, human trafficking and smugglings of fake IC.

India has separated its border from Pakistan and Bangladesh by erecting electric barbed wire fences. It would be better to construct similar types of fences in the border of Nepal and India too in understanding between the both countries was made to make 3k.m free from settlement from the No-man's land each side. However, it was not implemented. (Pant, 2006)

III. CONCLUSION

In order to mitigate misuse of open border, introduction of ID Card system, Monitoring with CCTV camera (As USA and Canada follow) Fencing the frontier (Bangladesh and India has 856km wire fencing, India- Pakistan have common barbed iron fencing 2912km). And other feasible and acceptable by the both countries can be adopted for managing open border otherwise its misuse may lead the both countries towards troublesome that was created during Terai movement held in 2015 that resulted unofficial blockage between Nepal and India which raised anti-Indian sentiment tremendously among layman too. The Newly second time elected Indian Prime Minister Mr. Naranendra Damodar Das Modi and Khadga Parsad Oli Nepal both should be serious for management of open border. They both can take necessary steps to follow the EPG report which has prescribed various ways to manage open border too.

Nepal-India open border is a life line for the people who are living on either side. But there are some unwanted incidents by certain miscreants which cannot be noted out. Nepal-India border is not a problem-free area due to multidimensional relations existing between the two countries for centuries. 31 June, 2018, Nepal and Indian security officials agree to curb cross-border crime. Nepal-India both have good hope with the newly elected P.M. Modi and Oli for possible prudential works to be taken by them in regard to facilitate use of border and to control its misuse. Eminent Persons Group (EPG) report should be addressed by both Prime ministers

soon to settle open border's misuse that is being keenly awaited by both countries people mostly border areas people.

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