



Nepal-India Open Border: An Overview

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Abstract

The article intends to explore the extent of age-old practices and integration of open border between Nepal and India besides the debates and security challenges brought by the open border regime. A natural practice of open border regime between Nepal and India has been facilitating social, cultural and economic exchanges. The objective of the study is to interpret the opportunities and threats of open border regime in the changed context based on the research questions ahead: Why is open border regime supported as well as debated? Following a secondary analysis of cooked information from the library and online sources as a research method, the study found that a misuse of open borders by terrorists, smugglers, anti-social elements and political activists has posed some challenges to the stakeholders leading to the demand of closure of the open border from Nepalese side. Nepal has been witnessing arguments for and against the open border in recent times to manage security and peace issues. The consolidated actions and policies are need of the hour to regulate the border for natural convenience of peace and security. Open border between Nepal and India remain instrumental to interdependence.

Keywords: Interdependence, Nepal-India, Globalization, Open Border, Security Challenges.

I. INTRODUCTION

Background

People can travel freely when there is no real border control in place because to the open border policy. Free mobility is not, however, disregarded in the sake of an open border in the wake of a peace and security crisis. In the past, a lot of states had open borders internationally. It was made feasible by the long-term maintenance of unrestricted international travel by individuals between nations. Many nations throughout the world have common borders. For example, the Nordic Passport Union Arrangement allows citizens of Sweden, Denmark, Finland,

Iceland, and Norway to travel freely within their shared borders without requiring identifying credentials. Additionally, Ecuador, Bolivia, Peru, Colombia, and Peru serve as models for open. Nepal was acknowledged prior to the completion of the international boundaries, as noted by Kansakar (2001). Nepal has been mentioned in the annals of ancient China and India. The border between India and Nepal is as old as both nations' respective histories. India and Nepal have had close social, cultural, religious, and economic relations since ancient times. The 1814–1816 Anglo–Nepal War resulted in the establishment of the border between Nepal and India. Geographically, Nepal is positioned between China and India. It borders the Autonomous Region of China, Tibet to the north, and India to the east, west, and south. The boundary between China and Nepal is clearly visible due to its length of 1415 kilometers. Merely 1850 kilometers separate the border between Nepal and India on three of its sides

Problem Statement

Open border is supposed to be a boon to the citizens of the two countries in terms of economic and socio-cultural interdependence. The restrictions do not remain as buffer against free movements. BK (2019) mentioned that Nepal is concerned with the mountainous portions of the boundary that lies in the Sikkim State Darjeeling District of West Bengal State in the East. The rest of the boundary runs along with the plains in the South and along with Mahakali River in the West. Such geo-strategic location and age-old socio-cultural closeness is an instrumental to the open border between Nepal and India. There are main twenty-two trade and transit points along the Nepal-India border for free movements of goods and services. Kukathas (2012) argued that a border is open to the extent that people are enter the jurisdiction and it defines the freedom to act therein. Guardian (2011) revealed that open borders advocates emphasize the free migration as an effective way of reduction of poverty.

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Despite the established fact, Nepal-India open border is disputed over the decades. Kansakar (2003) stated that both sides have faced myriad challenges linked to the open border, such as illegal smuggling of drugs, artefacts and arms, human trafficking and criminal activities. Bauder (2012) argued that the path towards an open border world in a dialectical one in which the immigration of the future cannot be fixed. Brown (1992) claimed that open borders have also been advocated resorting to political-economy and post-colonial perspectives. The mentioned perspectives are distinct from the liberal perspective. The material and historical relations of capitalism colonialism rather than universal and moral claims of equality have domination over the open border.

Having reviewed the literatures, the open border regime between Nepal and India is a boon to people to people interdependence. Against, even the literatures present that open border is remaining as a challenge. There is a contradictory position between the review of literatures. The study needs to further explore why and how an open border regime is discussed and disputed.

Thus, the purpose of the study is to interpret the context of Nepal -India open border regime by addressing following research questions?

- How is open border regime beneficial to Nepal and India?
- Why is open border regime disputed?

Objectives

The objectives of the study are undermentioned;

- To explore the benefits of open border regime between Nepal and India.
- To explore and interpret the reasons of dispute regarding open border regime.

Rationale

The rationale of the study is to disseminate knowledge and information on Nepal-India open border regime on the one hand and to lobby and advocate policymakers to regulate open borders on the other hand.

Limitations

The study was limited to the secondary sources of information and interpretation of the themes taken transcribed from the sources.

II. Literature Review

Open border is need of the time between the countries. Its closure cannot work at present. Heller (1992) argued that the open borders encourage the migration associated with the economic benefits based on remittances, or money saved by migrant workers and sent back to their families. Lopez (2005)

stated that the closure of border cannot be imagined with policies of zero migration. A strict and conditioned regulation indicates that the borders are transformed into airtight, strongly symbolic limits between countries that receive and countries that send people. Dummett (2001) mentioned that as long as there remains a great contrast between rich and poor nations, the demands of justice are immediately corrected by the rich nations and they do not strengthen their boundaries against the entry of people coming from poor countries. Pogge (2005) argued that, in a real sense, it is timely question the idea on migrations from poor countries towards richer ones make instrumental to have more equitable access to the resources, but even the transfer of resources to fight global poverty would be more efficient that the admission of migrants to the wealthy countries. Rodrik (2011) stated that the migratory efforts offer more returns to the individuals on the adventure of social mobility, far beyond the processes of upward mobility through education, work, changes in the redistributive model, or changes in access to public goods. United Nations Development Program (2009) claimed that migrations are advantageous in the development of the parties involved, as they offer people who undertake them the opportunity to work and possibly send money back home, while the labor force and social capital in the receiving countries are increased.

Article 13 of the Universal Declaration of Human Rights proclaimed that (1) everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country. Heller (1992) argued that emigration is a human right rather than immigration. Cole (2000) took position that the declaration recognizes the right of every person to leave the country they are a citizen of, as well as, the right to return this country, yet it mentions nothing about the correlative obligation of other governments to accept their entry in the territory of their own jurisdiction. In accordance with the aforesaid international laws, then, a right to leave one's own country exists, but in fact there noting about entering another. Baral & Pyakurel (2015) remarked that Nepal and India have adopted mechanisms to tackle the daily problems for streamlining the border. Yet, two types of problems have led to the controversy: infringement of border and humanitarian problems caused by the erosion of borderland and occupation of no-man's land by Indians and Nepalis at all. The use and misuse of open border by elements involved in the illegal trade and criminal activities of all nature, have also made open border management more difficult. Warner



(2010) argued that the non-state actors can seem on either the international or domestic levels. They include, but are not limited to, the following: visa policies, airlines, families, schools, detention centers, jails, criminal actors, human trafficking, technology and corruption. As states respond to disruptive nonstate actors, that have implications for transnational threats and increased crime along borders, it is important that states maintain positive relations with the international community. It is further argued, although nonstate actors often bring in negative aspects of security, they also have a somewhat backwards way of generating economic and other benefits. Typically, the United States sees this in its Southern border immigration. While much of this illicit trade brings great misery and sorrow to many, so too does it provide jobs and buoys up sagging economies, often blending seamlessly into busy commerce. Shrestha (2003) mentioned that this concept also applies to the countries like Nepal and India prescribing to the aforesaid argument.

Research gap. Nepal and India have a practice of open border over the decades. The open border is either perceived as a boon or curse to the two countries. The existing studies have answered the question or problem to some extent on benefits of open border. Most of the studies are incapable to address the question: why is open border disputed and remaining as a controversy? The perceptions of citizens and policymakers on infiltration of border insecurity and criminal activities are yet to be studied. It is necessary to look at the ineffectiveness on regulation of open borders by the two countries. The significance of the study is to sensitize and empower the stakeholders of the two countries in terms of effective regulation of Nepal-India open border.

III. RESEARCH METHODS

The paper followed a qualitative approach based on secondary sources of information. The secondary sources of information included the books and reports published. Even the articles published in journals were used. Besides, the authentic publications made by the Governments, Commissions and Offices were used. Articles, writings and descriptions available on the internet sources were used. The provisions added to the treaties and declarations were used to corroborate the context. The information was transcribed from the secondary sources. It was interpreted on the basis of thematic analysis of the contents.

IV. RESULTS AND DISCUSSIONS

Arguments for open border

With the pace of globalization, states are borderless and tending to bear the mutual and shared responsibilities in terms of trade, security and public safety. Ohmae () argued that globalization emerging as a fact that cannot be denied in the age of interconnectedness and interdependence. It has already taken place. The state and nonstate actors are moving into a new global state. The new world is of radical nature and is taking shape from the ashes of nation-based economy world existed yesterday. The endeavor on a global state leads to the success leveraging the new drivers of economic power and growth. Aitchison (1983) clarified that the concept of Nepal-India open border was begun in the nineteenth century after the delimitation of Nepal-India boundary in 1816 and the restoration of *Naya muluk* to Nepal in 1860. Furthermore, the general perception is that Nepal-India open border has always allowed unrestricted movements of people across the international boundary. During the colonial times, the British rulers in India were impressed by Nepal by having seen the fighting skills of *Gurkhas*. They wanted to recruit them into the army on the one hand and saw Nepal as a market for financial goods and services from India on the other hand. The achievements of these objectives made the rulers keep the border open for trans-border movement of people and goods. Thus, it led to an idea of open border. The Treaty of Peace and Friendship between Nepal and India signed on 31 July 1950 institutionalized a concept ahead practically.

The open border regime has been fostering cordial and friendly relationships between Nepal and India. The free movements and flows of people over the years have eased in the dissemination of ideas, cultures and settlement of people in each other's territorial land. The religious places and institutions existing in Nepal and India have been playing a vital role in terms of development of social and cultural relations. The places of religious importance namely Pshupatinath, Lumbini, Janakpur and Muktinath in Nepal and Kashi, Gaya and Haridwar in India are visited by the people of both countries. Rajbahak (1992) contended that matrimonial alliances between the Royal Dynasties of Nepal and their Indian counterparts had further fostered the ties historically. People to people contacts and their matrimonial relations have also been praising the socio-cultural ties to the sky. Some instances were around the ties that both the queens of king Tribhuvan belonged to the royal families of India. These alliances constitute the social, cultural and political significance in indeed. Marriages are not only limited to the royal



families. Common people also marry across the border. Cross-border marital ties confer advantages on the legal right to property and a chance of getting dual citizenship.

The open border remains conducive to economic benefits right from the beginning. Muni (1992) remarked that an open border conduces to the economic implications for two countries. The mentionable aspect is an income given to Nepal in the form of salaries, remittances and pensions from the Gurkhas recruited into Indian army. The tripartite agreement signed between Nepal, India and United Kingdom made Nepal allow the recruitment of Gurkhas in Indian army because it faced the burden of rehabilitating two hundred thousand soldiers discharged from the British India army at the end of the World War II. The then the Rana rulers feared that the trained but unemployed armies might pose a threat to their rule. From Indian point of view, the recruitment of Gurkhas was a foreign policy tool to enhance the goodwill with the people of Nepal. Besides, the community people engaged in agricultural pursuits take benefit of the sale and purchase of agricultural products and livestock from the markets located on either side of the border. The urbanization of plain area has open up ample opportunities for inhabitants of the border regions. People from both countries have a tendency to cross the border and work in each other's country at large. Nepal is the largest market for India. A couple of Indian merchants and entrepreneurs have invested in Nepal heavily. Nepal offers cheap labor and tax breaks for setting up joint ventures. Most of these investments are in the telecom, food-processing, tourism, cosmetics and pharmaceuticals sectors.

Nepal and India relations are founded on the age-old history, culture, tradition and religions. These relations are comprehensive, close and multi-dimensional and are arranged in political, social, economic, cultural and religious engagements with each other. The two countries established diplomatic relations on 17 June 1947 to boost up the historical connections. Nepal desires to foster cordinal and amicable relations with the neighboring country. The longstanding position of Nepal reveals not to allow its territory to be misused by any element inimical to India and also expects the same reciprocity and assurance from India. An open border between Nepal and India remains a unique feature of bi-lateral relations. Frontier without restriction has greatly facilitated the free movements of people to each other's territory and has enhanced interactions. A matter of utmost importance to Nepal is the partnership with India in the fields of trade and transit. India is Nepal's largest trading partner and has

provided transit facility to Nepal for third country trade. The public and private sectors of India have invested in Nepal. The two countries have concluded bi-lateral Treaty of Transit, Treaty of Trade and the Agreement of Cooperation to Control Unauthorized Trade. MEA (2023) mentioned that around six hundred thousand Indians are domiciled in Nepal. These include businessmen and traders, professionals (doctors, engineers and IT personnel) and laborers (including seasonal/migratory in the construction sector). The Marwadi people are the majority of the top businesses of Nepal. There are also a few Panjabis and Bengalis in the major cities of Nepal. Plenty of Muslims has also immigrated from India to Nepal. In 2001, it was estimated that around four million Indians had migrated to Nepal over the previous 35 to 40 years. It was further mentioned that as close neighbors, India and Nepal share unique ties of friendship and cooperation characterized by an open border and deep-rooted people to people contacts of kinship and culture. There has been a long tradition of free movement of people across the border. Nepal shares a border of over 1850 kilometers with five Indian states -Sikkim, West Bengal, Bihar, Uttar Pradesh and Uttarakhand. The Nepal-India Treaty of Peace and Friendship of 1950 forms the bedrock to the special relations that exist between Nepal and India. Nepali citizens avail facilities and opportunities on par with Indian citizens in accordance with the provisions of the Treaty. About eight million Nepali citizens live and work in India.

The present age is an age of interdependence. The open border between Nepal and India is beneficial to the citizens of the both countries despite the problems. The problems of illegal trading, smugglings and misuse of borders by terrorists can be overcome through the regulation of the border regime. Rather to raise a demand to close the border having influenced by the illegal activities blatantly is to minimize the historical people to people contacts and kinships and the economic interdependence. Bi-lateral efforts are supposed to be a base to facilitate border management. In the connection with this, Nepal and India decided to follow an institutionalized system of interactions in 1994 through the meetings of the home secretaries and the Joint Working Group on Border Management. The bi-lateral initiation has been useful in sensitizing their respective security concerns and formulating strategies for better management of border. The concerned officials from Nepal and India have been collaborating to regulate border for peace and security. The decisions on the introduction of passport verification of passengers travelling by an air between the two countries, sharing of intelligence



insurgents, criminals, smugglers along the, finalization of extradition treaty and agreement on mutual legal assistance on criminal matters, settlement of border disputes and the development of infrastructures in the border areas are praiseworthy. Prior to 1947, Indo-Nepal Joint Boundary Team used to inspect the boundary every year to check for any encroachment, ill-defined boundary, missing or displaced boundary pillars. After 1947, the practice of joint inspection of a boundary was abandoned leading to many boundary disputes. The Joint Technical Level Boundary Committee was established in 1981 to complete the demarcation of border through resolution of disputes. Then Prime Minister I.K. Gujral paid an official visit to Nepal in 1997. The JTLBC constituted an expert level joint group to examine the relevant facts related to the demarcation of the boundary alignment in the western sector including the Kalapani area to purpose further measures in these regards that was reiterated in Nepal-India joint press statement on 3 August 2003. The committee was supposed to complete its field work by 2001 to 2001 and final preparation of strip maps by the end of 2003. In spite of the lapse of more than three decades by JTLBC, no remarkable changes have taken place on demarcation of the boundary. Territorial disputes regarding Kalapani, Susta and Mechi are yet to be settled. However, the officials of the both countries had agreed to resolve the Kalapani and Susta dispute on the ground of documents and evidences in the possession of both governments.

Arguments against open border: A discussion

An open border remains averse to the peace and security in the territories of Nepal and India. The adverse consequences of the open border have led demand to closure from time to time. British Indian army recruited Gurkha soldiers to guard the northern-eastern frontiers. Nath (2006) analyzed that Nepal migration was basically followed to the north-east. The tendency not to view the Nepali migration favorably led to the demand from the north-east for closing the border first. The settlers aforesaid worked as laborers in the local mines, oil refiners and tea plantation and also as diary farmers and kitchen helpers. There was a harmony between the Nepali migrants and the locals till the late 1970s after the 'son of social movement' swept Assam and adjoining states. The locals had expressed resentment on the presence of Nepali foreigners and had demanded their excommunication from the territories of the Indian states. The agitation against Nepali population was geared up first in Assam and then it started spreading to other states. The violence against Nepali

was witnessed in Manipur in 1980. Meghalaya soon followed suit. The target against Nepali settlers was resumed in Shillong, Jowi and other parts of Meghalaya from 1986 to 1987. People were chased. The other states of India namely Mizoram and Nagaland did not remain as an exception to expulsion of Nepali people.

Jhaha (1995) advocated that the security considerations cannot be compromised. The international crime and cross-border terrorism are supposed to as the fundamental concerns of security considerations. The open border is a hindrance in tracking the threats aforesaid. With reference to Nepal, the debate on closing the border is as strong as in India. The fear of infiltration Indian migrants through the open border is held on top of the pyramid. Nepal also shares border with the mostly populated states of India such as Uttar Pradesh and Bihar. The fear has been compounded with the fact mentioned. These states also suffer from intense population pressure on agricultural land and provide adequate employment opportunities – factors that invariably force people to people migrate in quest for land and economic opportunities. Many Nepali people resent on Indian domination of their economy. People in Nepal do accuse that Indians are taking benefits of the developments instead of reinvesting in their country.

Muni (1992) opined that the monarchy in Nepal suffered from a consecutive fear of spread of democratic idea and culture from India before 1990. The kings were speculated with democracy and multi-party system in the country. Taking the name of the political parties, specially, Nepali Congress had special relations with its counterparts in India. India had eagerly supported the cause of democracy in Nepal. The fears forced the successive governments in Nepal to control the Indian migrants in the form of stringent rules regarding work permits and citizenship. In the connection with this, then the government was forced to eye on effects of migration in the country. The National Commission on Population was set up in 1980 to undertake a study. Gurung (1983) revealed the open border between Nepal and India as one of the factors to the increasing magnitude of international migration. The illegal trade across the border has been a matter of great concern for Nepal and India. That is why, it is necessary to regulate the movement of people along the border between Nepal and India. It can be concluded that the commission was highly debated internally and externally. The imposition of restriction on free movement of people, the introduction of work permits and granting of



citizenship to the persons of Indian origin were strongly recommended.

It is known to all that that India got an independence in 1947 and an Independent India followed the linkages and relations keeping a practice of open border as it is. The reason for India to keep the border open was emergence of confident China. The Himalayas falling on the North of Nepal were realized as the northern barrier that guards India. In the absence of the well-defined natural barrier between Nepal and India, Indian policymakers came to view that the Himalayas remains as a natural barrier between Nepal and India. This kind of thought was provoked by Jawaharlal Nehru in a speech in a parliament in 1950. Bhasin (2005) borrowed that irrespective of our attitude about Nepal, India was interested in its security and borders. Now we have had from immemorial times, a magnificent frontier that is to say, the Himalayas. It is now quite as difficult as it is used to be, still it is difficult. Now as far as the concern of Himalayas are concerned, that lie on the other side of Nepal, mostly not on this side. Therefore, the principle barrier to India lies on the other side of Nepal and India does not tolerate any person coming over that barrier. Therefore, as much India appreciates the independence of Nepal and it cannot risk its own security to anything going wrong in Nepal that permits either that barrier to crossed or otherwise weakens its frontier.

The transborder movement of capital, production activities and information technology lead to a process of global integration. The globalization makes the national barriers and policies not work and vanish in a global state. An imagination of restriction and controlling the freedom of mobility is dysfunctional in the age of globalized world. Against the argument, the treaty of Westphalia of 1648 is an evidence of the sovereignty of the nation-states. States are all in all in all affairs of their concerns and do not allow aliens and foreigners to intervene within the internal domains. The borderless world has weakened the Westphalian order and imposed challenges to security considerations. The borderless world is only buzzed and the nation -states are predominant to take decisions. The sovereignty of the states elevates the state borders to the expressions of multi-dimensional power. Coals (2007) argued that empires prosper on instability of the territories whereas national states are only survived within firmly demarcated borders. Empires rule diverse people through the provisions of separate jurisdiction whereas sovereign states claim to unify the populations under a single national jurisdiction. Empires chiefly seek to control the group of people whereas national states aim to

control the territories. Ministry of Home Affairs (2001) posited that ISI uses Nepali territory as base to bake anti-India sentiments in Nepal since 1990s. It was reported that the ISI has been able to establish a wide logistical network in Nepal to help the agents. Agents are encouraged to enter India to perform subversive activities. Investigations into the hijacking of Indian airlines plane IC814 logically prove an ISI's involvement in the episode in indeed. Intelligence reports also opined that the ISI has been funding many madrasas along the border to use them as a platform provoke anti-India sentiments. In the past, there have been reports accusing ISI of involving in pumping fake currency notes into India to constrain its economy. The arrests of persons have proved evidences and clues into how many Nepal based criminal syndicates are used by ISI to smuggle fake currency through the Nepal -India open border (Ibid).

The Hindustan Times (2008) revealed that another illegal activity posing a challenge to law enforcement agencies is the trafficking of women and children from Nepal. Hundreds of children and women were trafficked from Nepal to India for commercial exploitation. Based on the estimates, about two hundred thousand Nepali women are in Indian brothels. Nearly, seven thousand Nepali girls are sold in India every year. The trafficking takes place along the border districts of Bihar and Uttar Pradesh. A voluntary organization has mapped one thousand two hundred and sixty-eight unmanned routes along the Nepal-India border that facilitate human trafficking.

V. CONCLUSION

Nepal and India have been entertaining the advantages of open border for centuries. People from the both countries have institutionalized their socio-cultural connectives taking benefits of an open border regime between the countries. The open border regime has eased the employment opportunities for the citizens of both countries. People have their access to goods and services by crossing a border without any restriction. People to people bonds have been institutionalized for generations on the basis of cross-border interdependence. Besides, the open border regime sometimes brings a controversy in terms of security issues as it is infiltrated by terrorists and smugglers. Both countries are sovereign and independence that cannot tolerate the misuse of the open border. On top of that, there are arguments for and against the open border. The demands of closure of open borders sometimes take place in the minds of the intellectuals to maintain peace and order. Despite the narratives, an open border regime needs to be



regulated rather to seal following an increasing trend of interdependence among the people of both countries. The present age is known as the age of globalization that speaks for transborder movements of people for opportunities and advancement following global liabilities. In order to keep the age-old ties between Nepal and India intact, the illegal and unwanted endeavors along the border sides must be combated through joint undertakings. Consolidated actions and policies to maintain border governance are need of the time. All states are equal irrespective of their size and strengths. Both countries continue to stand together to gain by respecting their sovereignty, independence and territorial integrity. There is no fundamental border dispute between Nepal and India excluding the disputes over a few areas. Standoffs have to be settled on the basis of mutual dialogues and evidences for Nepal-India unique relations. Nepal and India have border disputes in many places. The border disputes have to be settled respecting each other's territorial integrity and sovereignty. The regulated border is in favor of Nepal and India in terms of dividing benefits to the people of both countries. Many studies have been pursued on Nepal -India open borders. The issues of objective and subjective opposition towards open border are need of the time to research further. Moreover, the prospects and challenges of Indian immigration to Nepal and vice-versa must be studied to balance Nepal-India relations in the changed context. The role of India in Nepal affairs is sometimes condemned. Nepal has three times faced and suffered blockades imposed by India in 1960, 1989 and 2015.

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