

The Reality Inside Nepal-India Open Border

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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.

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 visible due to its length of 1415 kilometres. Merely 1850 kilometres separate the border between Nepal and India on three of its sides.

Statement of the Problems

In terms of socio-cultural and economic connection, an open border is meant to benefit the people of both nations. The limitations no longer serve as a barrier to unrestricted movement. BK (2019) mentioned that Nepal is worried about the hilly sections of the border that are located in the eastern Sikkim State Darjeeling District of West Bengal State. The rest of the boundary runs along the plains in the South and along with Mahakali River in the West. Due in large part to their strategic location and long-standing socio-cultural affinities, India and Nepal have an open border. Along the Nepal-India border, twenty-two major commerce and transit sites allow for the unrestricted movement of products and services. Kukathas (2012) stated that a boundary defines the freedom to act within its boundaries and is open to the extent that people enter its authority. According to a 2011 Guardian article, proponents of open borders highlight unrestricted migration as a successful strategy for lowering poverty.

The open border between India and Nepal has been challenged for decades, despite being an accepted fact. According to Kansakar (2003), both sides have experienced a wide range of difficulties related to the open border, including illegal drug, artifact, and weapon smuggling, human trafficking, and criminal activity. According to Bauder (2012), there is a dialectical route leading to an open border world where immigration in the future cannot be fixed. Open borders have also been defended, according to Brown (1992), by drawing on political-economic and post-colonial viewpoints. The liberal worldview is not the same as the aforementioned perspectives. Open borders are subjugated to the material and historical ties of capitalism colonialism, not to universal and moral demands of equality.

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 the open border regime disputed?

Objectives

The objectives of the study are undermentioned:

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

Rationale

The rationale of the study is to disseminate knowledge and information on the 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 transcribed from the sources.

Literature Review

An open border between the two countries is necessary. Right now, its closing isn't functional. Furthermore, Heller (1992) contended that promoting migration had advantages, particularly in the case of open borders. It was further stated that remittances-money saved by migrant workers and transferred home to their families are the foundation of the economic gains. According to Lopez (2005), speaking about border closures or zero immigration policies at this time is inaccurate; instead, we should speak of severe and conditional regulations. Consequently, the borders become impenetrable, highly symbolic barriers between the receiving and sending nations. According to Dummett (2001), as long as there is a significant gap between wealthy and developing countries, justice will need to be served.

According to Pogge (2005), it is reasonable to challenge the notion that migration from underdeveloped to developed nations allows for more equitable access to the planet's resources. However, some argue that resource transfers to combat global poverty may be more effective than allowing migrants to settle in wealthy nations.

According to Rodrik (2011), migratory activities are most likely the ones that provide people with greater returns on their social mobility journey than processes of upward mobility through employment, education, adjustments to the redistributive model, or adjustments to access to public goods. According to the United Nations Development Program (2009), migrations are good for the development of all parties involved because they give participants

the chance to work and potentially send money home, while also increasing the labor force and social capital in the receiving countries.

According to Article 13 of the Universal Declaration of Human Rights, (1) everyone is entitled to the freedom of movement within each state's borders and to remain there. (2) The freedom to travel abroad and return home is guaranteed to all people, regardless of their nationality. Immigration is not a human right, according to Heller (1992), but emigration is. Cole (2000) argued that although the declaration acknowledges everyone's right to leave their country of citizenship and return here, it makes no mention of other governments' corresponding obligations to permit their entry into their national borders. Therefore, one has the freedom to leave their own country in compliance with the aforementioned international laws, but they are not allowed to enter another. According to Baral & Pyakurel (2015), Nepal and India have created systems to handle daily issues in order to streamline the border. However, two issues have generated controversy: border violations and humanitarian issues brought on by borderland erosion and Indian and Nepali encroachment in no-man's land. The complexity of border management has also increased due to the use and abuse of open borders by those involved in illegal trade and other criminal activity. According to Warner (2010), nonstate actors might manifest themselves at the national or international level. These comprise, but are not restricted to, the following: criminal actors, people trafficking, technology, corruption, families, schools, detention facilities, and jails. States reacting to nonstate disruption.

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.

Materials and 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.

Results and Discussion

Arguments for Open Border

States are becoming more borderless and assuming mutual and shared obligations for trade, security, and public safety as a result of the rapid speed of globalization. Globalization is becoming an irreversible fact in the era of interconnection and interdependence, according to Ohmae (1999). It has already happened. A new global state is emerging, involving both state and nonstate actors. From the ashes of the world of yesterday's nation-based economy, the new world is radical in nature. The attempt at a worldwide level results in the success of utilizing the new sources of economic growth and strength.

According to Aitchison (1983), after the line between Nepal and India was established in 1816 and Naya muluk was returned to Nepal in 1860, the idea of an open border between the two countries was first proposed in the nineteenth century.

Moreover, the prevailing belief is that the open border between India and Nepal has perpetually permitted unimpeded cross-border movement of individuals. The Gurkha fighters' fighting prowess impressed the British colonial rulers of India during that era. On the one side, they saw Nepal as a market for financial goods and services from India, and on the other, they sought to enlist them in the army. The accomplishment of these goals forced the ruling class to maintain open borders for cross-border trade in products and people. This gave rise to the concept of an open border. The Treaty of Peace and Friendship, which was signed on July 31, 1950, between India and Nepal formalized an idea beforehand. The open border policy has helped to build amicable and cordial ties between India and Nepal. Over time, the freedom of movement and flow of people has facilitated the exchange of ideas, civilizations, and human settlement on each other's territorial land. The growth of social and cultural ties has been greatly aided by the religious sites and organizations that are present in both India and Nepal. People from both nations travel to the holy sites of Pshupatinath, Lumbini, Janakpur, and Muktinath in Nepal and Kashi, Gaya, and Haridwar in India. Rajbahak (1992) argued that historical linkages between the Royal Dynasties of Nepal and India had been further strengthened by marriage partnerships. Interactions between individuals and their marriage relationships have also been lauding the socio-cultural connections to the sky. A few of the incidents concerned the connections between King Tribhuvan's two queens and Indian royal houses. The social, cultural, and political significance in fact consists of these partnerships. Royal families are not the only ones who get married. Regular folks cross-border in marriage as

well. Marital ties that span international borders offer benefits to the legal ownership of property and the opportunity to get dual citizenship.

Open borders continue to be beneficial to the economy from the outset. An open border has economic ramifications for both countries, according to Muni (1992). The noteworthy feature is the money that Gurkha recruits into the Indian army send to Nepal in the form of salary, remittances, and pensions. Due to its responsibility for rehabilitating two hundred thousand soldiers who were released from the British India army at the end of World War II, Nepal was forced to accept the enlistment of Gurkhas in the Indian army under the terms of the tripartite agreement signed by India, the United Kingdom, and Nepal. Those days, the Rana kings feared their power may be threatened by the well-trained but idle troops. From the perspective of India, the Gurkha recruiting was a foreign policy tool to enhance the goodwill with the people of Nepal. In addition, the community members who work in agriculture profit from the livestock and agricultural products that are bought and sold in the marketplaces on both sides of the border. The border region's residents now have many more opportunities because to the plains' development. Individuals from both nations frequently cross borders to work throughout the other nation. India's biggest market is Nepal. A few businessmen and traders from India have made significant investments in Nepal. Nepal provides inexpensive labor and tax incentives to establish joint ventures. The areas of telecommunication, food processing, travel, cosmetics, and pharmaceuticals account for the majority of these investments.

The long history, culture, traditions, and faiths of India and Nepal form the basis of their interactions. These relationships are deep, intimate, and multifaceted; they are structured around interactions in the areas of politics, society, economy, culture, and religion. On June 17, 1947, the two nations established diplomatic ties in an effort to strengthen their shared history. Nepal wants to promote cordial and friendly ties with the next nation. Nepal's long-standing stance indicates that it expects the same reciprocity and guarantee from India and does not permit its territory to be utilized by any entity hostile to India. The two countries' open borders continue to be a distinctive aspect of their bilateral relations. Without boundaries, the free flow of people into each other's region has been substantially facilitated, and this has improved.

According to MEA (2023), there are approximately 600,000 Indian residents in Nepal. These comprise professionals (such as doctors, engineers, and IT staff), businesspeople and traders, and laborers (such as seasonal and migrant workers in the construction industry). The bulk of Nepal's most successful companies are owned by Marwadi people. The main towns of Nepal also have a small population of Bengalis and Panjabis. Many Muslims have also relocated to Nepal from India. Four million Indians were thought to have immigrated to Nepal in 2001 during the course of the preceding 35 to 40 years. It was also said that, despite their

near proximity, India and Nepal have special bonds of friendship and collaboration that are defined by their open borders and long-standing cultural and familial ties. 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 foundation of the unique relations that exist between Nepal and India is the 1950 Treaty of Peace and Friendship. In compliance with the stipulations of the Treaty, citizens of Nepal have access to the same amenities and opportunities as citizens of India. India is home to almost eight million Nepali citizens who work there. The foundation of the unique relations that exist between Nepal and India is the 1950 Treaty of Peace and Friendship. In compliance with the stipulations of the Treaty, citizens of Nepal have access to the same amenities and opportunities as citizens of India. India is home to almost eight million Nepali citizens who work there.

We live in an era of interconnectedness. Despite their differences, Nepal and India's open borders benefit their respective populations. The border regime can be regulated to address issues with illicit trade, smuggling, and terrorist abuse of borders. Instead, calling for a complete border closure due to unlawful activity is a way to downplay the importance of past interpersonal interactions. Before 1947, the Indo-Nepal Joint Boundary Team would annually survey the boundary to look for any instances of encroachment, poorly defined borders, or missing or misplaced boundary pillars. Many boundary conflicts resulted from the practice of joint border examination being abandoned after 1947. The Joint Technical Level Boundary Committee was founded in 1981 with the goal of completing border demarcation through dispute settlement. Then, in 1997, Prime Minister I.K. Gujral visited Nepal on official business.

In a joint press statement between Nepal and India on August 3, 2003, the JTLBC reaffirmed its intention to take further action in this regard by forming an expert-level joint group to investigate pertinent facts regarding the boundary alignment demarcation in the western sector, including the Kalapani area.

A political system that allows for unrestricted trade and travel between nations is known as "open borders theory." Without the necessity for immigration controls like passports and visas, people could travel, live, and work in any country they want in an ideal society with unrestricted borders. Two economies benefit from the open border as well. An open border has also made it possible for many Indians to start businesses in Nepal and for many Nepalese citizens to find work in India. In spite of this, terrorists and criminals have abused the open border. The open border also has had a favorable impact on the two economies. Nepal is a landlocked country and its closest access to the sea is through India. As a result, most of its imports pass through India. As for India, it is the biggest trading partner of Nepal.

Arguments against Open Border: a Discussion

The peace and security that exist in the regions of India and Nepal are still opposed by an open border. The negative effects of having an open border have occasionally increased desire for closure. Gurkha soldiers were recruited by the British Indian army to secure the northern and eastern frontiers. According to Nath's (2006) analysis, Nepal's movement was primarily followed northeast. The north-east demanded that the border be closed first due to their inclination to not see the movement of Nepalis favorably. The aforementioned settlers held jobs as kitchen assistants, dairy farmers, and laborers in the nearby oil refineries, tea plantations, and mines. Before the 'son of social movement' swept over Assam and the neighboring states in the late 1970s, there was harmony between the natives and the Nepali migrants. The natives had complained about the foreigners from Nepal being there and had called for their banishment from the Indian states. Assam was the epicenter of the anti-Nepali movement before it began to spread to other states. In 1980, there was violence against Nepalis in Manipur. Meghalaya quickly did the same. From 1986 to 1987, the campaign against Nepali settlers was carried out again in Shillong, Jowi, and other areas of Meghalaya. Individuals were being pursued. The expulsion of Nepali citizens did not apply to Mizoram and Nagaland, two additional Indian states. It was argued by Jhaha (1995) that security considerations cannot be waived. The primary issues of security concerns are meant to be international crime and cross-border terrorism. The open border makes it difficult to monitor the aforementioned concerns. The argument over border closures is just as heated in Nepal as it is in India. At the top of the pyramid is the worry that Indian migrants may sneak in over the open border. Additionally, Nepal is bordered by heavily populated Indian states like Uttar Pradesh and Bihar. The previously mentioned truth has added to the worry. People are always forced to move in search of land and economic possibilities since these states suffer from severe population pressure on agricultural land and offer sufficient work prospects. Many Nepalis are angry over India's hegemony over their country's economy. There are accusations in Nepal that Indians are profiting from the advancements rather than investing back into their nation.

According to Muni (1992), the monarchy in Nepal suffered from a persistent dread of the spread of democratic ideas and culture from India before 1990. The nation's multiparty system and democracy had become old to the kings. The political parties of the nation, particularly the Nepali Congress, have unique relationships to their Indian counterparts. India had quietly aided Nepal's democratic cause. Fears prompted Nepal's successive governments to impose strict regulations on work permits and citizenship as a means of controlling Indian migrants. In light of this, the government at the time was forced to do research on the effects of migration in Nepal. In order to conduct research, the National Commission on Population was established in 1980. According to Gurung (1983), one of the primary causes of the growing

volume of foreign migration appears to have been the open border between Nepal and India. Both nations are extremely concerned about the illicit trade that is linked to the unrestricted movement of people across the border. Therefore, it is essential to control the flow of individuals across the border between India and Nepal. We can draw the conclusion that the commission engaged in extensive internal and external discussions. It had suggested restricting people's freedom of travel, introducing work licenses, and awarding citizenship to those of Indian descent. India, Nepal's closest neighbor, gained independence in 1947 and maintained open borders while fostering continuous ties and relationships. India's decision to maintain the border was mostly motivated by China's growing assertiveness. It has been acknowledged that the Himalayas, which fall to the north of Nepal, serve as India's northern defense. Indian politicians began to see the Himalayas as a natural barrier separating Nepal and India in the absence of a clearly defined natural barrier between the two countries. Jawaharlal Nehru included this line of thinking in a 1950 speech to the parliament. Bhasin (2005) appropriated it, and we were concerned with the security and boundaries of our own country, regardless of how we felt about Nepal. We have had the Himalayas as a wonderful boundary since the beginning of time. Even while it isn't as hard as it once was, it is still quite hard. The Himalayas are currently located on the opposite side of Nepal, primarily not on this side. Consequently, we will not allow anyone to cross the main border between India and Nepal, which is located on the other side of the country. As much as we value Nepal's freedom, we cannot jeopardize {Our} own security in the event that something goes wrong.

The process of integration known as globalization involves the cross-border flow of capital, production activities, and information technology. In a global state, national policies and obstacles are ineffective and disappear. In the era of the worldwide smaller globe, feeling constrained and attempting to limit one's freedom of movement are problematic. Contrary to popular belief, the 1648 Treaty of Westphalia provides clear evidence of state sovereignty. States forbid outsiders from meddling in domestic matters and maintain absolute power over all matters pertaining to them. The Westphalian order has been undermined by the borderless world that globalization has created, which also presents problems for security and territorial integrity. The nation states are only buzzing in the borderless world. Coals (2007) maintained that national states can only exist inside clearly defined borders, but empires depend on territorial volatility. While sovereign governments seek to unite the populace under a single national jurisdiction, empires govern heterogeneous people through the imposition of distinct jurisdiction. While national states try to dominate the territories, empires primarily seek to control the people.

According to Ministry of Home Affairs (2001), from the 1990s, ISI has been using Nepali territory as a base to inflame anti-Indian sentiment in Nepal. According to reports, the ISI was

able to assist the agents in Nepal by establishing a vast logistical network. It is encouraged for agents to travel to India and carry out subversive tasks. It is reasonable to conclude that an ISI was involved in the incident in question based on investigations into the hijacking of Indian Airlines flight IC814. Also, intelligence sources suggested that the ISI has been providing funds to numerous madrasas near the border in order to utilize them as a springboard to incite anti-Indian sentiment. Previous allegations have claimed that ISI was involved in supplying counterfeit money notes to India in order to restrain its economy. People's arrests have produced proof of evidence. The trafficking of women and children from Nepal is another illicit activity that presents a problem to law enforcement agencies, as reported by The Hindustan Times in 2008. For commercial exploitation, hundreds of women and children were transported from Nepal to India. An estimated 250,000 Nepali women are reportedly staying in Indian brothels. Every year, around 7,000 Nepali girls are sold to India. Trafficking occurs in the border districts of Uttar Pradesh and Bihar. One thousand two hundred and sixty-eight unmanned pathways that allow human trafficking have been mapped by a volunteer organization along the Nepal-India border.

Travel and trade are facilitated by open borders, but border control is made more difficult because new types of cross-border crimes are always emerging, necessitating the readiness of law enforcement, particularly border officials, to identify potential suspects and their victims, as in the case of human trafficking and other illegal activities. India and Nepal are engaged in two territorial disputes: the Kalapani region, which spans 35 square kilometers (14 square miles) at the India, Nepal, and China trijunction in North West Nepal, and Susta, which spans 20 square kilometers (7.7 sq mi) to 140 square kilometers (54 sq mi) in Southern Nepal.

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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