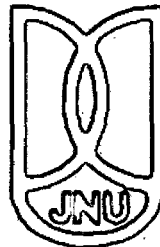


INDIA-NEPAL BORDER MANAGEMENT

*Dissertation submitted to the Jawaharlal Nehru University in partial fulfilment of
the requirements for award of the degree of*

MASTER OF PHILOSOPHY

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2010**



Date: 19.07.2010

DECLARATION

I declare that the dissertation entitled “**INDIA-NEPAL BORDER MANAGEMENT**” submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.



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CERTIFICATE

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To
My Revered Baba and Mama

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Needless to say the errors in the dissertation are all mine.

Rajeev Kumar
Rajeev Kumar

ABBREVIATIONS

ACHR	Asian Centre for Human Rights
ADB	Asian Development Bank
ADF	Agriculture Development Fee
AIDS	Acquired Immune Deficiency Syndrome
APF	Armed Police Force
BADP	Border Area Development Programme
BGF	Border Guarding Police Force
BJP	Bhartiya Janata Party
BOP	Border Out Posts
BSF	Border Security Force
CCS	Cabinet Committee on Security
CDO	Chief District Officer
CPI-ML	Communist Party of India-Marxist Leninist
CPMF	Central Para Military Force
CPN-M	Communist Party of Nepal-Maoists
CPN-UML	Communist Party of Nepal-United Marxist Leninist
DDCs	District Development Committees
DG	Director General
EGOM	Empowered Group of Ministers
EU	European Union
FICN	Fake Indian Currency Notes
FNCCI	Federation of Nepalese Chambers of Commerce and Industry
GNLF	Gorkha National Liberation Front
GoM	Group of Ministers
GoN	Government of Nepal
HIV	Human Immunodeficiency Virus
HLTF	High Level Tasks Force
HMG	His Majesty's Government
IAS	Indian Administrative Services
IBRU	International Boundaries Research Unit
IC	Indian Currency
ICD	Inland Container Depot
ICPs	Integrated Check Posts
IDPs	Internally Displaced Persons
IFS	Indian Foreign Service
IMF	International Monetary Fund
INBRC	Indo-Nepal Border Regional Committee
INC	Indian National Congress
INR	Indian National Rupee
IPS	Indian Police Service
ISI	Inter-Services Intelligence

JTLBC	Joint Technical Level Boundary Committee
JWG	Joint Working Group
LCS	Land Customs Stations
LPAI	Land Port Authority of India
MIS	Management Information System
MFN	Most Favoured Nation
MoU	Memorandum of Understanding
MPNIC	Multi-Purpose National Identity Card
MVA	Motor Vehicles Agreement
MWB	Migration Without Border
NATO	North Atlantic Treaty Organization
NC	Nepali Congress
NGOs	Non-Governmental Organizations
NIC	National Informatics Centre
NRB	Nepal Rashtra Bank
NRs	Nepalese Rupees
NSP	Nepal Sadbhavana Party
PDS	Public Distribution System
PWG	People's War Group
RAP	Restricted Area Permit
RIS	Research and Information System for Developing Countries
RITES	Rail India Technical and Economic Services
RNA	Royal Nepalese Army
RSA	Rail Services Agreement
RSSS	Rashtriya Samaj Sudhar Sangstha
SCA	Special Central Assistance
SSB	Sashastra Seema Bal
SSB	Special Services Bureau
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
UNPF	United Nations Population Fund
UPA	United Progressive Alliance
USAID	United States Agency for International Development
USD	United States Dollar
VDCs	Village Development Committees
WTO	World Trade Organization
UK	United Kingdom
US	United States
UP	Uttar Pradesh

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Chapter 1: Conceptual Analysis of Open Border

In the modern times, when peace and chaos co-exist simultaneously, differences and similarities go together, when enthusiasm and lackadaisical attitude go hand in hand and when possessions and dispossessions are contested more often than not, the existence of human race and humanity calls for a serious introspection and retrospection for finding a solution to peaceful coexistence in this world. People differ from people, one man differs from another man and the ideas are aplenty and varied and variegated and that is the reason forwarded for most of the differences (leading to dire consequences) in this world. In such circumstance, what needs to be done is to look at the things with a new and different perspective and with a new vision and meaning. Borders and border studies also need the same lens of clarity and approach while being envisioned.

Border, Boundary and Frontier: Conceptual analysis

For a long time in the past there was no clear-cut division of territory, nor was there a need felt for it as the notion of territoriality or sovereignty had not developed that much till the 18th and 19th centuries. States did not attach great importance to sovereignty over defined territories or their international boundaries as they do it today and that makes boundaries and borders comparatively newer expressions of division in or among the states.

Instead of physical demarcated lines guarded by posts and agents, borders have been extended, for purposes of security, across the world. Border, now, is not just a line in the dirt, but exists immaterially in cyberspace or anywhere along patterns of legal and illegal trade and migration flows.¹ Thus, border continues to be a dynamic concept in security studies. Security is a complicated notion, incorporating military, economic, political, environmental, security aspects, and so on.² In a globalised economy the security implications of migration, illegal trafficking and international terrorism needs to be addressed as such threats are defined in cross-border or trans-national terms. This can further be asserted by the fact that traditionally, security has been conceptualized from the view point of a nation state delimited, having a fixed

¹ Caparini, Marina & Otwin Marenin (eds.) (2006), *Borders and Security Governance: Managing Borders in a Globalised World*, Zurich: Lit Verlag, pp. 18-19.

² Kolossov, Vladimir (2005), "Border Studies: Changing Perspectives and Theoretical Approaches", *Geopolitics*, 10:606-632, p. 621.

territory, boundary, sovereignty and independence. The delimitation bounds or lines are sometimes referred to as frontiers, boundaries or borders. According to Curzon,

*Frontiers are indeed the razor's edge on which hang suspended the modern issues of war and peace, the life and death to nations.*³

The concept of border is also closely integrated with the notion of national security. Border areas are considered the natural location for border guards and customs services, of a high concentration of military units, especially facing dangers from which danger threatens in the eyes of public opinion. In fact, border guards and security systems are and will be the central building blocks of the new global security architecture.⁴

Frontier

The word frontier implies historically what is in the front. Another name for the frontier is the foreland, borderland or the march. However taking into cognizance political development and the emergence of the state centric thinking with its attributes of territorialities, the original meaning of frontiers has now expanded to include not only the front, not the end but the beginning of the state, captured as the borderlands and a buffer zone to mitigate conflicts.⁵

The term "Frontier" is more generic and refers to a region. The frontier can be described as a politico geographical area lying beyond the integrated region of the political unit and into which expansion could take place. Boundaries were often drawn through frontiers. Expanding countries or spheres met; sometimes they fought over the area involved, and sometimes they settled the disputed area by boundary treaty. Frontiers are frequently transition zones, and few transitions are more

³Prescott, John Robert Victor (1978), *Boundaries and Frontiers*, Taylor and Francis, London: Croom Helm, p.18.

⁴ Marenin, Otwin (2003), "Democratic Oversight and Border Management: Principles, Complexity and Agency Interests", Geneva Centre for the Democratic Control of Armed Forces (DCAF), Conference Paper, Geneva, p.1. Accessed on March 10, 2010.

http://www.dcaf.ch/border/bs_genevaconf_030313Marenin.pdf

⁵ Eselebor, A. Willie (2008), "The Challenges of Border Management and Collective Security", *Peace and Conflict Studies*, University of Ibadan, Nigeria, p. 8.

significant on the map or on the landscape than those between one culture and another.⁶

Boundary

“Boundary” is linked to a more precise, linear, and perfectly defined concept. The boundary means certain well-established limits or the bounds. It refers also to the bounds of a given political unit. Boundary gives an idea of sovereignty and is a potential source of conflict and crisis in modern day international disputes because the geographical space especially where it contains rich mineral deposits can ignite war.

The boundary, as its etymology suggests, indicates certain well established limits of the given political unit. Boundary fits to the present-day notion of the state according to which the state is seen as a sovereign spatial unit and where sovereignty is territorial and permeates territoriality itself. Nations are also distinguished from their neighbours by political and other forms of boundaries like economic, social, cultural or environmental. The role of boundaries has been closely connected with the idea of territory, territoriality and sovereignty. Boundaries have versatile functions: they are instruments of state policy and territorial control, markers of identity and discourses manifesting themselves in legislation, diplomacy and academic or scholarly languages.⁷

The ideal sequence of events in establishing a boundary is as follows. The first stage involves the description of the boundary and the terrain through which it runs. Often referred to as the definition of the boundary, this stage identifies, as exactly as possible, the location of the boundary being established. The second stage is that of delimitation when the cartographers, using large-scale maps and aerial or satellite imagery, plot the boundary as exactly as possible. Then there is the task of marking the boundary on the ground. Boundary demarcation, as this process is called, has by no means taken place along every boundary defined and delimited. Boundary demarcation is an expensive process, and when States do not face problems along

⁶ Glassner, Martin Ira & Chuck Fahrer (2003), *Political Geography*, New Jersey: John Wiley and Sons, pp. 72-3.

⁷ Paasi, Anssi (2005), “Generations and the ‘Development’ of Border Studies”, *Geopolitics*, 10:663-71, p. 666.

their boundaries that absolutely require demarcation, they often delay this stage indefinitely. The final stage in boundary making is administration, which is, establishing some regular procedure for maintaining the boundary markers, settling minor local disputes over the boundary and its effects.⁸

Border

*The border is a line at which one stops; the frontier is an indefinite area in which to proceed. The border is stable and fixed, the frontier mobile and uncertain. One is obstacle; the other is chance.*⁹

Borders are also very much different from boundaries in the sense that borders are meant to keep people out; they remind of walls; while boundaries are lines that mark out a territory. Borders are permanent, while boundaries can be moved and adjusted.

Borders are by their very nature complex constructs of man. The use of the term “border” can mean an international line or a region encompassing both sides of a political boundary.¹⁰ Borders are to be found on every geographical map, there are district borders and regional borders inside states and international borders between states. Borders seem to be as natural as the existence of nation states.

Originally, borders were used to delimit the territorial possessions of sovereign states, and the work of social scientists served the purpose of rulers who were eager to picture the boundary line demarcating their possessions. In short, borders became central to the nationalist agenda and the development of nation states. At the core of such institutional constructs is the fact that boundaries result from international agreements that are established by mutual understandings between states.¹¹

⁸ Glassner, Martin Ira & Chuck Fahrer (2003), *Political Geography*, New Jersey: John Wiley and Sons, pp. 75-6.

⁹ Virno, P. (2005), “About Exodus”, *Grey Room*, No. 21, in Angela Mitropoulos (2007), “Notes on the Frontiers and Borders of the Postcolony”, *Sarai Readers*, p.375.

¹⁰ Romero, Ricardo (1987), “Border Culture: Intermixing Along the U.S.-Mexico Border”, *The World & I*, in Naoko Kada and Richard Kiy (eds.) (2004), *Blurred Borders: Trans-Boundary Impacts and Solutions in the San Diego-Tijuana Border Region*, International Community Foundation, p. 17.

¹¹ Jaily, Emmanuel Brunet (2005), “Theorizing Borders: An Interdisciplinary Perspective”, *Geopolitics*, 10:633-49, p. 636.

Borders are not only the end of one state's territory; they are also the start of another state. Because the control of its territory, setting law on its population and dispose of its material resources, being the most important parts of statehood, it is essential for every state to demarcate its territory from other states. Fixed borders ensure states of their authority on their territory and enable them to be seen autonomous and even to be accepted as a state by other states. As borders are of this great importance for nation states, studying borders and borderlands seems to be quite fruitful to get knowledge about the state and its influence on its citizens.¹²

The proliferation of borders, security systems, checkpoints, physical and virtual frontiers can also be seen as one of the immediate results of global interconnections and movements. This phenomenon can be observed both at the micro-level of our surroundings, and on the macro-scale of global flows. Borders are, in fact, all around us. They are conventional and geographical, abstract and real, ordinary and controversial. An encompassing view of this combination of flows (of people, goods, ideas) and restrictions on a given territory unfolds the complexity of both individual and collective identities that are, at the same time, constructed and diffracted by the experience of border-crossing.

It has been demonstrated how, throughout history, there has been a constitutive replacement, of this concept which defines the borders of citizenship whose value goes beyond what we could call for comfort or the geopolitical dimension- or the model in which the individual has been historically constructed and imagined as a citizen. The starting point is what we could define as the classical concept of the border, which emerges from the contemporaneous developments of both- the general doctrine of the State and of political geography- in Germany during the 19th and 20th centuries. Interestingly, the connection between territory and State is the title of the first part of the well-known treatise on political geography published by Ratzel in 1897:

¹² Hans, Benjamin "Nepal's Border to India- National Border and Identity Boundaries in South-East Nepal." Accessed on March 17, 2010.
http://www.uni-bielefeld.de/tdrc/ag_soanth/downloads/hans.pdf

*Every State, we read towards the beginning of this work is a portion of humanity and a portion of territory. Man is unthinkable without land, and much less the greatest work of man on the planet, that is- the State.*¹³

The outcome of historical and cultural clash and compromise, borders are both transitory and zones of transit.¹⁴ They help in explaining the 'external' in the existing state of affairs. In a different tradition, Lord Curzon in 1908 believed that the integrity of its borders is the condition for existence of the State, the visible sign of the distinction between internal and external, which was the only thing that could guarantee order and peace. He also added that borders are the shaving razor against which questions of war and peace are pressed.¹⁵

The concept of border refers to a space of transition, where distinct forces and subjects enter into relation, collide and find themselves challenging (and changing) each other. The intensity of the tensions and conflicts of this double movement of the de- and re-compositions of borders have been aptly shown by the migratory movements. Without forgetting the continuities between the most recent migratory movements and the migrations of a century ago, it is necessary to emphasize some of the indisputable novelties of the former: multiplication of migratory models; strong acceleration of its flows; increasing complexity of their composition (e.g. increasing female presence); and the increasing unpredictability of their directions.¹⁶

The dynamic concept of borders has enlarged to include socio-economic constructs as well. The border is fast assuming the purpose of a discursive construct with deep symbolic meanings in history, culture, religion, science and technology. Moorehouse says:

Borderlands are spaces where the everyday realities of boundaries are played out. They are the proximate spaces of flows across the dividing line. They are

¹³ Ratzel, F. (2000), "The Nature of (Political) Geography", *Political Geography*, 19 (8), pp. 943-55.

¹⁴ Chambers, Iain (2006), "Borders and the Boundaries of Democracy", *New Formations*, 58:47-52, p. 48.

¹⁵ Curzon, Lord (1908), *Frontiers* [The Romanes Lecture 1907], Oxford: Clarendon Press, p. 7.

¹⁶ Ratzel, F. (2000), "The Nature of (Political) Geography", *Political Geography*, 19 (8), pp. 943-55.

*spaces where cultural identity sheltered by the boundary, becomes blurred, mixed, creolized.*¹⁷

Based on the principle of the nation-state, which dominated foreign policy in twentieth-century Europe, borders are generally understood as limitations, defining three major characteristics associated with statehood: territory, citizenship, and public authority. In the usual way of thinking, it is the border that defines international status and marks the state as a political entity with territorial sovereignty. They divide territorial entities and imagined communities¹⁸ at various levels in a material and mental sense and form a hierarchy of territorial, political and cultural organisations: areas, regions, provinces and states, ethnicities, nations and nation-states and their related identities. From these considerations it follows that borders are:

*Firstly, neither eternal nor constant, but extremely variable and politically, socially and culturally constructed in concrete historical settings. Secondly, a mental device for distinguishing between “them” and “us”, for exclusion and inclusion. They draw the lines of ‘difference’ and are thus a crucial ingredient in any imagined community and its collective identity and thirdly, the products of interaction and negotiation between different interest groups that try to use the borders to create power relations and hierarchies.*¹⁹

There is no doubt in the fact that the movement of populations across international borders in recent years, especially from developing to developed countries and between developing countries, is having a significant impact on international relations. Such movements are leading to demographic concerns or migration issues and to other forms of activities which are considered to be threat to security and creating problems in the host country. The changing role or status of transborder peoples is still another important development. Porous borders enable members of an ethnic group divided by an international boundary to move freely back and forth and to maintain their social cohesion; yet one or both governments may regard this free

¹⁷ Morehouse, B. J. (2004), “Theoretical Approaches to Border Spaces and Identities”, p. 19, in Pavlakovich-Kochi and Doris Wastl-Walter (et.al.) (2004), *Challenged Borderlands: Transcending Political and Cultural Boundaries*, Border Regions Series, London: Ashgate.

¹⁸ The idea of ‘imagined communities’ was developed by Benedict Anderson in his classic piece “Imagined communities: Reflections on the Origin and Spread of Nationalism.”

¹⁹ Ratzel, F. (2000), “The Nature of (Political) Geography”, *Political Geography*, 19 (8), pp. 943-55.

movement as threatening to their security, to their capacity to control trade, and especially to what they regard as measures for achieving national integration. Thus, population movements across international boundaries once regarded as benign are increasingly regarded as a problem.²⁰ Borders are becoming more and more important not as military or economic practices but as spaces and instruments for the policing of a variety of actors, objects and processes whose common denominator is their mobility, or more specifically, the forms of social and political insecurity that have come to be discursively attached to these mobilities.²¹

Different countries have adopted different systems of managing their border vis-a-vis their neighbours. Among them, following three systems are mostly in practice internationally:

1. Open Border System
2. Controlled Border System
3. Close Border System

An open border is a border that allows unrestricted entry and exit. An open territorial border allows the unrestricted movement of persons and goods for any purpose. Opening of borders allow people to move back and forth, more easily, between their place of birth and a new opportunity, which means people are no longer required to be separated from their families and social networks for extremely long periods. Also, in an era when capital can move freely across all borders, restricting the movement of labour, according to neo-classicists, is both unfair to workers and an impediment to the most efficient possible operation of the market. India and Nepal share an open border which is slowly evolving into a more controlled one. European Union (EU) nations also share open borders allowing free flow of people within the member countries. American bioethicist Jacob M. Appel has argued that “treating human beings differently, simply because they were born on the opposite side of a national boundary is inherently unethical.”²²

²⁰ Ibid.

²¹ Walters, William (2006), “Border/Control”, *European Journal of Social Theory*, 9 (2): 187-203, p. 188.

²² Appel, Jacob M. (2009), “The Ethical Case for an Open Immigration Policy.” Accessed on May 3, 2010.

<http://nihilistology.wordpress.com/2010/01/23/the-ethical-case-for-an-open-immigration-policy-appel/>

However, several arguments have been made in favour of closed borders as well. Open border has been perceived as a threat to security and public safety and in prosperous countries it is being viewed as triggering massive immigration leading to straining of the domestic economy and culture. Thus, it is assumed that the closed borders help in restricting migration and naturalization by non-citizens. India and Pakistan have entered a closed border agreement.

Globalization and Borderlessness

According to Martin Coward, the concept of globalisation, especially since the end of the Cold War, has become a dominant motif of social, economic and political theory.²³ Expanding on the question of the meaning of this motif, Jan Aart Scholte argues that the category of the global represents an alternative paradigm of enquiry associated with notions of: increased internationalisation; the liberalisation of governmental regulations on the movement of people, services, goods and money in the world economy; the universalization of objects and experiences around the globe; Westernisation and/or modernisation; and ‘de-territorialisation’ so that ‘social space is no longer wholly mapped in terms of territorial places, territorial distances and territorial borders’.²⁴

On the one hand, Scholte notes an array of competing positions and arguments within the by now burgeoning inter-disciplinary literature on globalisation. On the other hand, he also suggests that there is some consensus that it refers to a heightened sense of inter-connectedness in social, political, cultural and economic spheres.²⁵ This chimes with David Held and Tony McGrew’s characterisation of the concept of globalisation as implying ‘first and foremost, a *stretching* of [...] activities across frontiers such that events, decisions and activities in one region of the world can come to have significance for individuals and communities in distant regions of the globe’.²⁶

²³ Coward, M. (2005) “The Globalisation of Enclosure: Interrogating the Geopolitics of Empire”, *Third World Quarterly*, 26 (6): 855-71, pp.855-6.

²⁴ Scholte, J. A. (2000), *Globalisation: A Critical Introduction*, Basingstoke and New York: Palgrave MacMillan, p.16.

²⁵ *Ibid*, p. 44.

²⁶ Held, D. and A. McGrew (eds.) (2002), *The Global Transformations Reader: An Introduction to the Globalisation Debate*. 2nd Edition, Cambridge: Polity Press, p.15.

The forces of global and regional market integration are stimulating an acceleration of migration throughout almost all major regions of the world, bringing new challenges to national identities and borders. The tension between states and markets that results from the increasing role of migrants in the functioning of a global economy has provoked inchoate approaches to immigration regulation that call for both escalating levels of immigration control and regional cooperation in border relaxation.

Some scholars on international migration, like Antoine Pecoud and Nigel Harris, talk of 'migration without border' (MWB) scenario as a necessary step towards realising a 'human right to mobility.' On the other side, some scholars see the MWB scenario in a different perspective as both ethically correct and economically beneficial to the overall social welfare of the receiving country.²⁷

Perhaps more significantly, the formulation 'declining state sovereignty = increasing borderlessness between states' presupposes a particular view of the relationship between sovereignty and borders.²⁸ While the integrative imperativeness of globalization calls for borders to be increasingly porous with little or no barriers, the dark side of globalization has brought to the fore the need to fend off contrabands, criminals, illegal immigrants and terrorists.

Border Studies: Various Approaches

According to Prescott,

*The striking feature of the concept of the boundary is its universal acceptance. It is liable to meet with the most diverse interpretations by groups ranging from the man in the street or the peasant to the politician and the scholar.*²⁹

²⁷ Pecoud, Antoine and Paul de Guchteneire (2009), "Migration without Borders: Essays on the Free Movement of People", Association of Borderland Studies, *Journal of International Migration and Integration*, 10 (1), 109-11.

²⁸ Vaughan-Williams, Nick (2007), "Politicising Inside/Outside: The Continuing Quest for Alternative Border Imaginaries". Accessed on February 26, 2010.

www.globalborders.org.uk/vaughan_williams_borders.doc

²⁹ Prescott, John Robert Victor (1978), *Boundaries and Frontiers*, Taylor & Francis, London: Croom Helm, p.13.

The history of war making is perhaps as old as the history of humanity itself, and in all those wars the objective presumably was boundary. Geography was probably the earliest discipline to deal with the study of boundaries and borders.

There have been several theoretical approaches to studying border. Border studies, also known as limology, have now been transformed into an interdisciplinary field developed in parallel by political scientists, sociologists, ethnologists, psychologists, anthropologists, lawyers, economists, physical geographers and even specialists in technical sciences.³⁰

Essentially, the border scholars of the first half of the twentieth century saw borders as constituting no more than the physical and static outcome of a political decision-making process. Borders were the lines drawn on political maps and, to the extent to which they displayed any dynamic characteristics; their location underwent change as a result of the constant re-territorialization which took place through continual war, peace and negotiations. Borders were there to be described and categorized.³¹ At a later stage it was recognized that some borders were easier to cross than others and that this was largely contingent upon the nature of political and military relations between neighbouring countries. Traditional approach to study border includes historical mapping, functional and political methods.

According to Ratzel,

*In accordance with the general law of growth of historical spatial phenomena the borders of the larger areas embrace the borders of the smaller one.*³²

The Historical Mapping Approach

The Historical Mapping Approach takes into account the historical mapping of the evolution of boundaries and their morphological features along with an analysis of the

³⁰ Kolossov, Vladimir (2005), "Border Studies: Changing Perspectives and Theoretical Approaches", *Geopolitics*, 10:606-632, p.606.

³¹ Newman, David (2006), "Borders and Bordering: Towards an Interdisciplinary Dialogue", *European Journal of Social Theory*, 9 (2): 171-86, p. 175.

³² Kolossov, Vladimir (2005), "Border Studies: Changing Perspectives and Theoretical Approaches", *Geopolitics*, 10:606-632, p.606.

human geography of border regions. This traditional approach emerged from numerous case studies and applied researches related to boundary allocation, delimitation and demarcation that took place after the First World War. This approach deals with the combined study of borders in space and time, focusing on the formation and stability of the border-line. French geographer Jacques Ancel noticed in 1938, “*it is not the frame which matters but what is framed*”.³³

The interconnection, i.e. the relation between the functions of the boundary and the political regime and foreign policy orientations of neighbouring states showed the interdisciplinary nature of the border studies. What was also concluded was the real impossibility of establishing ‘natural’ boundaries matching physical limits like mountain ranges, and rivers. The geographers demonstrated the possible political implications and use of careful studies and the mapping of border regions along with defining the concepts of ‘frontier’ and ‘border’. Countless *typologies* of political boundaries have had as long history as their mapping. Geographers and politicians have distinguished numerous types of boundary by their morphology, natural features, origin, history and ‘age’, historical circumstances of allocation and delimitation (for example, post war, colonial, imposed, etc.), and functions. These have, on the one hand, helped in the better understanding of the impact of the physical and social characteristics of a region and the history and politics of neighbouring states on the boundary’s allocation and delimitation and, on the other, of the boundary’s influence on human life and the physical and social landscape. Knowledge gained from this approach was widely applied to the allocation and the delimitation of the colonial possessions of the European powers and of international boundaries after the First World War.

The Functional Approach

Border studies in the early 1960s, at a period when geopolitical analyses of political change remained passé because of the association with the then discredited discipline of geopolitics, began to focus on the functional characteristics of the borders and the

³³ Prescott, J.R.V. (1965), *The Geography of Frontiers and Boundaries*, Aldine Publishing Company: Chicago, p.3, quoted in Vladimir Kolosov (2005), “Border Studies: Changing Perspectives and theoretical approaches”, *Geopolitics*, 10:606-632, pp.610-11.

ease with which they could be crossed enabling trans-boundary contact to take place, or barriers to such movement, while in extreme cases of trans-boundary animosity and tensions, to be sealed altogether. The functions of boundaries were paid attention along with the political and territorial factors which determined them. The works of John House, who suggested an operational and efficient model for the study of trans-boundary flows, brought this approach to maturity.³⁴ It accepts the allocation of a boundary as a given reality and focuses on its permeability and percolation to the society for various purposes and on its impact on economy and society. It led special emphasis on the cross-boundary cooperation and the management of social processes in border areas.

The Political Approach

The political approach to border studies was brought about by political scientist.³⁵ According to Ratzel,

*Political balance (between countries) is to a large extent dependent on the (characteristics of) borders between them.*³⁶

The relationship between the paradigms of international relations and the functions of state boundaries is their area of concern and study. In the 'realistic' paradigm, the states are perceived as the most important actors on the international scene, and boundaries between them are interpreted as strict dividing lines protecting state sovereignty and national security. However, according to the views of the 'liberals', states are not the only and sometimes not even the major political actors, and the principal function of state boundaries is to connect neighbours and to enable various international interactions.³⁷ And thus the need to eliminate territorial disputes and border conflict for developing cross-boundary communications and infrastructure.

³⁴ House, J. William (1982), *Frontier on the Rio Grande: A Political Geography of Development and Social Deprivation*, Oxford: Clarendon Press, p.183.

³⁵ Goertz, G. & P. F. Diehl (1992), *Territorial Changes and International Conflicts*, New York: Routledge, p. 41

³⁶ Prescott, John Robert Victor (1978), *Boundaries and Frontiers*, Taylor & Francis, London: Croom Helm, p.61.

³⁷ Goertz, G. and P. F. Diehl (1992), *Territorial Changes and International Conflicts*, New York: Routledge, p.41.

The Global Paradigm Approach

The global paradigm approach pays attention to international networks connecting all kinds of economic and political actors. State boundaries, in this approach, are seen as being gradually transforming into virtual lines and as being replaced by economic, cultural and other boundaries.³⁸ The states, along with their policy and their hierarchical relations at the global and macro-regional levels were hardly taken into account so far, showing the border studies in the traditional approach as bereft of theoretical reflections. It was much later that the need to study boundary beyond the national level was thought of. It was greatly felt that the situation in the border zone cannot be explained only in terms of a boundary between two countries. The traditional approach was proving to be inefficient in explaining as to why even a small change in the state territory and its boundaries prompted huge emotional reactions in the society, leading further to territorial conflicts.³⁹

Traditional approaches could not find an answer as to why some border areas, which for a long time have seemed to be peaceful, can be rapidly transformed into the foci of conflicts and provoke bloodshed, or why governments and public opinion are often so painfully sensitive toward all questions concerning political boundaries. In reaction to this failure of traditional approach methodologically, postmodern concepts came into reckoning.

The Postmodern Trend

Around the late 1980s emerged the postmodern trend in limology which was largely interdisciplinary in nature and was based on a great number of concepts proposed by political scientists, philosophers, sociologists etc. During this period, the theory of world systems developed by I. Wallerstein, P. Taylor and others, greatly influenced the border studies. They perceived border studies at different inter-related levels depending on the evolution of territorial identities and the role of a border in the

³⁸ Moraczewska, A. (2005), "The Changing Interpretation of Border Functions in International Relations", *Geopolitics*, p.612.

³⁹ Kolossov, Vladimir (2005), "Border Studies: Changing Perspectives and Theoretical Approaches", *Geopolitics*, 10:606-632, pp.612-13.

hierarchy of political borders as a whole. The idea of the interdependence and the role of spatial scales were central to the studies now. A. Giddens (structuralist theory) further proposed that societal and global structures leave a certain freedom of actions within a system to each of the economic and political agents.⁴⁰ 'Discourse' and the social construction of space have now become widely used notions as defined by the postmodernist theory of M. Foucault and his followers. Foucault saw borders as social constructs and a mirror of social relations in past and present. He also perceived borders' role as a social symbol and its great importance in political discourse. Thus, he voted an approach of border studies which viewed border as an important element of ethnic, national and other territorial identities.

In postmodern studies, the functions of borders are seen in a different way. It is stressed that the whole state territory is involved in intensive economic exchanges with other countries. Following this approach, border regions can become locomotives for economic growth and centres of innovation. Transboundary systems are being shaped: urban agglomerations, industrial plants, etc. Demographic and social conditions in such regions lead to an increase in the number of inter-ethnic marriages and the change of the ethnic structure of the population and its identity. Under these conditions, postmodern theorists believe it worthwhile to simplify or abolish traditional boundary controls and to use modern technology as a means of remote control. The objective is to find a delicate balance among the needs of border security, the development of cross-boundary cooperation, and the interests of the central governments and border regions. Thus close cooperation with neighbouring states based on mutual trust can bring positive results.

According to the postmodern approach to boundary security, governments should contribute to the development of cross-boundary cooperation at the level of local authorities. The central power can no longer ignore the specific interests of border areas or create obstacles to their cooperation. Therefore, the notion of security acquires a considerable regional dimension.⁴¹

⁴⁰ Ibid, p. 613.

⁴¹ Ibid, p.622-23.

The major difference between traditional and more recent boundary studies is that the former aimed mainly at empirical analyses of concrete border cases or the application of the perspectives used to problem solving, while the latter more often than not aim at scrutinising or theorising upon boundaries empirically within the context of key social and political categories such as state, nation, nationalism, territoriality, identity and ethnicity.⁴²

Since the early 1990s, border studies has come to constitute a broad field that attempts to understand the various processes of power, nationalism, social relations and culture at the physical and symbolic sites of international boundaries. The concerns and approaches of the research on borders reflect both inter-disciplinary and a notable movement away from statist and centrist perspectives on borders as mere functions of international political and economic systems. Eric wolf emphasises the need to study nations not as bounded categories, but as interconnected processes.

The scope of border studies has further expanded into the culture and anthropology of borders and borderlands. Gloria Anzaldua, often cited as the most influential voice behind recent border theory, analyses the United States (US) - Mexican border as not only a physical boundary but also one that metaphorically constructs differences of race, class and gender. 'A border is a dividing line, a narrow strip along a steep edge. A borderland is a vague and undetermined place created by the emotional residue of an unnatural boundary. It is in a constant state of transition.'⁴³

Thus, a general theory of borders would seem a very problematic matter- not because they are all unique- but because one can theorise upon them in a reasonable manner only as part of a broader effort towards a socio-cultural theory which should combine such questions as the production and reproduction of territoriality/territory, state power, human agency and experience- and all these elements are deeply contextual.

⁴² Paasi, Anssi (2005), "Generations and the 'Development' of Border Studies", *Geopolitics*, 10:663-71, p. 665.

⁴³ Anzaldua, Gloria (1987), *Borderlands/La Frontera*, San Francisco: Aunt Lute Books, p. 3, quoted in Navtej Purewal (2003), "The Indo-Pak Border: Displacements, Aggressions and Transgressions", *Contemporary South Asia*, 12 (4), p. 541.

Boundaries may be unique, but there are a number of social, cultural and political processes that need to be theorised contextually.⁴⁴

Furthermore, in the current era of increased security, the borderless world argument- the underpinning issue of globalisation and economic integration- seems to be called into question. Hence, the study of borders, boundaries, borderlands and frontiers need more than the partial explanations currently available that focus on the economics of market forces, government activities and the roles of culture and local communities to explain the relative transparency of borders. There is no model available and no answer, to be precise, to address as to why some borderlands integrate economically but not politically. Hence, a microanalysis of borders and borderlands is required which would help in underlining the multiple and complex activities of individuals across and around borders, taking into consideration the role of local political clout and local culture in defining and shaping borderlands and boundaries.

Border Management

Managing borders in the 21st century is a complex and challenging task. It is widely agreed that in a globalising world borders should be as open as possible; yet in the post-9/11 world governments are understandably more anxious than ever to ensure that their frontiers are secured against external threats. Security, borders, and management as concepts are interrelated and have links in multidimensional ways in geopolitical and security studies. National security, an essential element for society and its members and national interest overall, is closely related to the management of the country's border. Gerald H. Blake states that, 'the objectives of border management strategy will be determined initially by national foreign policy objectives. The boundary may even be used as an instrument of foreign policy, particularly if relations between neighbours are poor. The fundamental aims of good

⁴⁴ Paasi, Anssi (2005), "Generations and the 'Development' of Border Studies", *Geopolitics*, 10:663-71, p. 668.

boundary management are designed to achieve (a) International Peace, (b) Local and National security, (c) Borderland Prosperity and (d) Effective Local government.’⁴⁵

‘Border Management’ indicates that it has three major facets. These are (a) Ensuring the security of border areas by preventing trans-border crimes; this would generally lie in the domain of border-guarding forces, (b) Ensuring the welfare of the border population and integrating them in the national mainstream; this would generally lie in the domain of civil administration and other government departments, and (c) Ensuring prompt resolution of all border related problems and maintaining cordial relations with the counterpart, especially between counterpart border-guarding forces; this would require a certain amount of diplomatic acumen on the part of border-guarding force commanders and a clear-cut mutually acceptable framework for solving problems.⁴⁶

The border has security functions as well as structures to regulate the activity of man. Frontiers and borderlands have most often been studied in relation to conflicts, separation, partition and as barriers as against the ideas of peace, contact, unification and bridges. An interpretation of what the border means or ought to vary with strategic interests, conventions, social relations and emerging circumstance. This same interpretation account for whatever management technique is in adoption in the administration of security borders.

Borders remain the most sensitive elements of territorial states; the sites where preventive actions are taken in the face of threats. Border conflicts concern tangible changes of the territory of a state and are still often construed as zero or negative sum games. Whether both states lose, or one state gains what the other loses, often depends on the power and potential of the respective states. Alternatively, border management strategies are the outcome which creates opportunities for a cooperative, positive sum game in which both sides gain. Benefits and advantages need not be

⁴⁵ Blake, Gerald H. (1998), “The objectives of land boundary management”, presented to the International Boundary Research Units (IBRU), 7th workshop: July 13-14, 1998. Accessed on March 30, 2010.

www.dur.ac.uk/ibru/publications/download/?id=137

⁴⁶ Ibid.

equal or generated concurrently, but players engaging in border management are able to negotiate how they are achieved.⁴⁷

A state's ability to manage its borders and regulate territorial access is vital to its stability. When states manage their borders well, they benefit from trade, collect lucrative customs revenues, and deter insurgents and traffickers. The international community now sees border management as a critical part of post-conflict reconstruction. From Bosnia to Afghanistan, several institutions fund, train, and equip local border authorities. These include the United States government agencies, the interior ministries of European Union member states, the European Council, the North Atlantic Treaty Organization (NATO), the International Monetary Fund (IMF), and various branches of the United Nations, including United Nations Office on Drugs and Crime (UNODC) and United Nations Development Programme (UNDP). While these organizations find themselves working side-by-side in the same state or region, they differ on methods, funding levels, and aims.⁴⁸

Border management concerns the rules, techniques and procedures regulating activities and traffic across defined border areas or zones. Most European definitions have a strongly legislative or bureaucratic flavour. Hence in the EU's sphere of influence border management is defined in terms of border checks and border surveillance; border checks on people, their possessions and vehicles are carried out at authorised crossing points, while surveillance is carried out between authorised crossing points (EU Schengen Catalogue 2002).⁴⁹

Empirical and legislative guidelines were laid down in the Schengen *acquis* that was integrated into the EU framework in 1999 when the Treaty of Amsterdam came into force. The *acquis* provides standards regarding the organisation, tactics and procedures for border authorities, as well as rules and regulations, many of which are clarified by the *EU Schengen Catalogue* of recommendations for Schengen's correct

⁴⁷ Moraczewska, A. (2005), *Game Theory in Border Security and Management*, Maria-Curie Skłodowska University, Poland. Accessed on April 2, 2010.

http://www.dur.ac.uk/ibru/conferences/sos/programme/2_april/track1_session4/#anna

⁴⁸ Caparini, Marina & Otwin Marenin (eds.) (2006), *Borders and Security Governance: Managing Borders in a Globalised World*, Zurich: Lit Verlag.

⁴⁹ Hills, Alice E. (2006), "The Rationalities of European Border Security", *European Security*, 15 (1), pp.67-88.

application and best practice. Schengen's understanding may best be categorised as a regional and time-specific parameter, and its fundamental explanatory value is best judged in relation to its transferability to non-member states on the EU's periphery.⁵⁰

Global concerns and emerging threats surrounding cross-border movement have changed irrevocably in the wake of September 11, 2001 and its aftermath. The constantly growing sophistication of transnational criminals and the search for solutions call for further scholarly investigations. Emerging scenario of global insecurities has further challenged the concepts of traditional and human securities and thus collective security. Findings reveal the global complexities that security is enmeshed in and that nations must necessarily network in diverse ways to curtail insecurities technologically or otherwise. Good border management as identified must systematically act as filters, being able to accurately and efficiently identify high-risk people and cargoes, target them for inspection and reject same without hindrance to legitimate cross-border traffic.⁵¹

As the threat level increases, so also is the pressure on border management. Borders must necessarily stop, interdict and examine people, conveyances and cargoes at points of entry or exit. This is the point where conflict arises as to better, faster and effective management of services so rendered. The border performs the dual role of a line that links as well as a line that separates.

Finally, the management of borders will be imbricated in the contemporary definition of nation state or national territory, its changing geo-political rationale, and its globalizing political economy and culture. As the latter change, border structure, management, and definition must adjust.⁵²

⁵⁰ Ibid.

⁵¹ Eselebor, A. Willie (2008), "The Challenges of Border Management and Collective Security", *Peace and Conflict Studies*, University of Ibadan, Nigeria.

⁵² Nicol, Heather N. & Julian Minghi (2005), "The Continuing Relevance of Borders in Contemporary Contexts", *Geopolitics*, 10 (4), 680-87, p. 682.

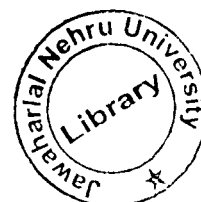
India-Nepal Border

Population movement across the international boundary has wider ramifications. Depending on the ethnic composition of the receiving society and its geographical size, the ethnic identity of the migrants have not only the potential to threaten the identity of a nation, but fear is often expressed about their tendency to pose demographic threat by swamping the indigenous people in a small nation. This has been figured out more often than not in the case of India-Nepal relations and Nepal has put forward this threat many a times. However, this statement needs to be validated aptly in the case of India and Nepal because their relationship has stood with the history and they have together observed the ups and downs of each passing day. In multiethnic societies, immigrants having socio-cultural similarities with an ethnic group of the host country are more likely to be welcomed by that group, but opposed by other groups, who do not share such an affinity. Thus, the dynamics of migration and its impact varies from group to group, and society to society.

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The border region of India and Nepal is characterized by:

- a. Unnatural frontiers;
- b. Densely populated regions;
- c. The richest agricultural belt of the Indo- Gangetic plains;
- d. An urban industrial belt;
- e. Development of transportation and communication facilities;
- f. Easy accessibility to other regions.⁵³



The India-Nepal border is an example of how geography can help in interlinking two countries. The paddy fields, sugarcane fields, orchards, industries, settlements, roads and markets stretch from one side to the other side of the border, thereby making it difficult to recognize the border unless one follows the boundary demarcation pillars. In fact, it is said that there are houses situated on the border where one door opens towards Nepal and the other towards India.⁵⁴

⁵³ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 124.

⁵⁴ Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, p. 781.



Source: <http://bordernepal.wordpress.com/tag/uncategorised/page/2/>

The following table shows the deployment of SSB para-military personnel per km and number of border check-posts in various segments along India-Nepal borderline:

- Security Sensitive Segment (9 Districts = 725 km = 181 Check-posts)*

 - 1 Check-post = distance of 3 to 5 km = 4 km on average
 - 1 Check-post = 120 to 200 SSB = 160 SSB on average
 - 1 Kilometre = 30 to 50 SSB = 40 SSB on average
- Under Observation Segment (13 Districts = 780 km = 130 Check-posts)*

 - 1 Check-post = distance of 5 to 7 km = 6 km on average
 - 1 Check-post = 80 to 200 SSB = 140 SSB on average
 - 1 Kilometre = 13 to 34 SSB = 24 SSB on average
- Normal Segment (4 Districts = 303 km = 20 Check-posts)*

 - 1 Check-post = distance of 10 to 20 km = 15 km on average
 - 1 Check-post = 140 to 180 SSB = 160 SSB on average
 - 1 kilometre = 8 to 13 SSB = 11 SSB on average¹⁸

¹⁸ Border Nepal. Accessed on May 17, 2010.
<http://bordernepal.wordpress.com/2010/04/27/insecure-border-management-of-nepal/>

Apart from this, the SSB had also been entrusted with the task of checking smuggling as well as trafficking in arms, drugs, and people. To improve its border-guarding ability, the central government has sanctioned the raising of 20 additional SSB battalions and has provided a grant of Rs. 444 crore for its modernization.¹⁹ The deployment of the SSB, in the changing times and concerns of the country gradually changed the profile of border security. Instead of the few police check-posts which earlier checked cross border movements there is increased presence of paramilitary forces maintaining a stricter vigil in the border areas. The once completely open border is gradually acquiring the image of a tightly regulated border, with security forces undertaking random checks. Joint meetings of Chief District Officer of Nepal and District Magistrate of India and Police Officers of both sides have shown their interest to control the insecure border. Indian SSB personnel have started security checking unilaterally for the border crossing passengers in security sensitive segments.

To provide border security and to fight effectively against any kind of illegal activity, appropriate legal and organizational frameworks, effective controls at the borders and increased sharing of information and intelligence are required, viz. the Treaty of Trade and Agreement of Cooperation to Control Unauthorised Trade, signed between the two countries in 1991, where there is a provision for compilation of data and exchange of information relating to unauthorised trade across the India-Nepal border. For this, the respective heads of the border customs offices of each country meet at least once in two months alternately across the border. Under the agreement, both countries have agreed to ensure that their economic interests would not be allowed to be adversely affected through unauthorised trade.²⁰

To facilitate bilateral dialogue on matters of mutual concern regarding border management, India and Nepal decided to constitute a system of institutionalized bilateral interaction through the meetings of the Home Secretaries and the Joint Working Group on Border Management in 1994.²¹ The idea behind these bilateral

¹⁹ *123rd Report on Sahastra Seema Bal Bill 2006*. Accessed on May 22, 2010.

http://rajyasabha.nic.in/book2/reports/home_aff/123rdreport.htm#a4

²⁰ Goel, Deepak "Cross-border Crime in the Indo-Nepal Border Region", p. 70, in Hari Bansh Jha (ed.) *Nepal-India Border Relations* (1995), Kathmandu: Modern Printing Press.

²¹ "Bihar Village Up in Arms against Nepal Maoists", CNN-IBN, New Delhi, January 23, 2008.

mechanisms was to prove helpful in sensitizing each other about their respective security concerns and formulating strategies for better management of the border. Both countries agreed that in pursuance of the decisions taken in these bilateral forums, they would coordinate measures to prevent the misuse of the open border. Some of the decisions taken included: introduction of passport verification of passengers travelling by air between the two countries; sharing of intelligence on the movement of Maoists, political activists, insurgents, criminals, etc. along the border; finalization of an extradition treaty and agreement on mutual legal assistance on criminal matters; settling of border disputes; and the development of infrastructural facilities in border areas.²²

In 1997, during the then Prime Minister I.K. Gujral's visit to Nepal, an expert-level joint working group was constituted by the Joint Level Technical Boundary Committee to examine the relevant facts relating to the demarcation of the boundary alignment in the western sector, including the Kalapani area, and to propose, if necessary, further measures in this regard. Later, at the invitation of the Foreign Minister of Nepal, the External Affairs Minister Shri Jaswant Singh paid an official visit to Nepal from September 8-11, 1999. The Foreign Ministers reaffirmed the commitment of their respective governments not to allow their respective territories to be used for activities prejudicial to the security of the other. They directed their Survey Officials to complete the demarcation of the Boundary in a time bound manner. The visit provided an opportunity to review the entire gamut of bilateral relations between Nepal and India. A Joint Press Statement was issued at the conclusion of the visit, announcing the various decisions taken to further strengthen cooperation between the two countries. A decision was taken to revive the India-Nepal Joint Commission and expand cooperation in development of infrastructure, including transportation and communications in the adjoining border districts of Nepal and India, exchange information and experience in the field of socio-economic development between the Planning Commissions of the two countries, and set up a Joint Task Force on Flood Control and Flood Forecasting.²³

²² "Extradition Treaty with Nepal", *Lok Sabha Debates*, March 3, 2005. Accessed on March 22, 2010. <http://mea.gov.in/parliament/ls/2005/03/021s03.htm>

²³ http://www.indianembassy.org/policy/Foreign_Policy/1999_00.pdf. Accessed on May 30, 2010.

The 10th Meeting of the Standing Committee on Inundation Problems between Nepal and India was held in Kathmandu from November 1-5, 1999. The two sides discussed measures to expedite solutions to the recurring problems of inundation along the India-Nepal border. Both sides agreed to expedite the construction of embankments on Lalbakeya, Bagmati, Kamia and Khando rivers and cooperate on preparation of a Master Plan for Basin-Wise Management of Flood and Inundation Problems in respect of Kosi and other river basins in Eastern Uttar Pradesh and Bihar, which originate in Nepal.²⁴

The 4th Director General level talks on Customs Cooperation were held in New Delhi from December 1-3, 1999. The two sides reviewed the implementation of decisions taken at the 3rd DG level meeting and agreed to further enhance the ongoing bilateral cooperation to monitor and effectively combat unauthorised trade across the open India-Nepal Border.²⁵

Major projects being funded by the Government of India in Nepal included the construction of 22 bridges on the Kohalpur-Mahakali sector of the East-West Highway, construction of an Emergency and Trauma Centre at Bir Hospital in Kathmandu, construction of Raxaul-Sirsiya Rail Link, construction of Tanakpur-Mahendranagar Link Road and several other projects that formed part of India's commitment under the Mahakali Treaty. A High Level Tasks Force (HLTF) monitors the progress in bilateral relations and oversees Indian assisted projects in Nepal.²⁶ This was further reiterated in the India-Nepal joint press statement released on August 3, 2000, which also directed that the Committee should complete its field work by 2001-2002 and final preparation of strip maps by 2003. Both the countries have already (unofficially) agreed that 98 per cent of the border is demarcated except two disputed areas in Kalapani and Susta.²⁷

The concept of border management entered the government lexicon only in the wake of the Kargil conflict of 1999, and the subsequent report submitted by the Kargil

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ *Joint Press Statement*. Accessed on June 22, 2010.

<http://mea.gov.in/parliament/rs/2000/08/august17-q2695.htm>

Review Committee. Based on the recommendations of the Review Committee, in April 2001, the Government of India set up a Task Force on Border Management under the Chairmanship of Madhav Godbole. This Task Force was part of a Group of Ministers (GoM) constituted to review the national security system as a whole and the recommendations of the Kargil Review Committee in particular. The Report of the Task Force, which was presented in 2001, is the first comprehensive document on border management. The Group of Ministers, in their report 'Reforming the National Security System' (2001), recommended that to improve security along the India-Nepal border, the existing police stations in the border areas be suitably upgraded and strengthened and the number of immigration check-posts increased to cover all the transit points.²⁸ The GoM had strongly recommended the principle of "one border one force" for better accountability. It emphasized the imperative of not deploying the border guarding forces for law and order duties and counter insurgencies. It made some recommendations specific to better management of India-Nepal border.

The report observed that the country's borders cannot be effectively managed because of certain inherent problems such as their disputed nature, artificiality and porosity, which according to it give rise to multiple problems like illegal migration, smuggling, drugs trafficking, and trans-border movement of insurgents. In addition, the multiplicity of forces employed to guard the same border, their repeated withdrawal from the borders for other duties, the lack of adequate infrastructure along the border, etc. prevent them from efficiently guarding the border. To address these problems, the GoM broadly recommended that concerted efforts be made to settle border disputes and demarcate the borders at the earliest opportunity. It also recommended that a 'Department of Border Management' be created under the Ministry of Home Affairs, which would focus solely on border issues. The Report also recommended accelerated development of infrastructure along the border, especially to wean away the border population from illegal activities.

Since then, the Government of India has been actively involved in implementing its recommendations. The approach as employed by the Government towards managing the borders has four important elements, viz. guarding, regulation, development of

²⁸ Singh, Prakash (2006), "India's Border Management Challenges", *Dialogue*, 8 (2), 90-101, p.99.

border areas, and constituting bilateral institutional mechanisms for resolving disputes and ironing out conflicts with neighbours.

The report of the Task Force on Border Management under the Group of Ministers Committee advised to adopt a three-pronged approach to deal with the multifarious problems of border management:

- a.) Demarcate the undefined borders through bilateral negotiations and resolve irritants like 'enclaves' or adverse possessions.
- b.) Enforce stringent border controls through the deployment of additional manpower, raising barriers like fencing, and utilising the latest technologies to improve surveillance.
- c.) Take appropriate measures including armed intervention, wherever unavoidable, to assert our rights and uphold our territorial integrity.²⁹

At the ground level, apart from the specific recommendations made for different borders, the following additional measures could also be considered:

- a.) There should be one force for one border. As observed by the Task Force on Border Management, "it is important in making any arrangement for the border; the responsibility of the Force deployed on that border should be clear and unambiguous."
- b.) All citizens should be given a Multi-Purpose National Identity Card (MPNIC) and the non-citizens should be issued identity cards of a different colour and design, as recommended by the Group of Ministers. The scheme should be introduced initially in the border districts or at least in a twenty km. belt along the border and progressively extended to the hinterland.
- c.) The Government should appoint a National Immigration Commission to frame a national migration policy and a national refugee policy. For effective action against the illegal migrants, Residence Records of villages in the border districts should be prepared and regularly updated. This will allow easy

²⁹ Ministry of Home Affairs, *Group of Ministers' Report on "Reforming the National Security System" 2001*, Government of India. Accessed on June 8, 2010.
<http://pib.nic.in/archieve/lreleeng/lyr2001/rmay2001/23052001/r2305200110.html>

identification and detection of illegal migrants, until such time as the scheme of registration of all nationals and non-nationals is introduced.

- d.) The border guarding forces should be given necessary additional manpower, equipment and technological support.
- e.) The growth of madrasas along the border should be checked and their activities kept under close watch.
- f.) Border Area Development Programs should be undertaken to address the special needs of the border population, particularly in respect of health and education.³⁰

On November 4, 2008, an Empowered Group of Ministers (EGOM) headed by then External Affairs Minister, Pranab Mukherji, approved the establishment of a Unique Identity Authority for all residents of the country. In the mean time, the Government of India started issuing National Multi-Purpose ID Cards from the beginning of 2005 to the people living along the India-Nepal border in a bid to check the influx of Maoist rebels from the Himalayan Kingdom. District Development Committee of Darchula, Nepal had already started to issue Multi-entry Permits to the inhabitants of the district from July 2002 to go to India.³¹ On the other side, Nepal deployed 410 Royal Nepalese Army (RNA) personnel in 12 border customs offices and 89 sub-customs points to patrol the revenue leakage and stop smuggling along the border from March 14, 2001.³² RNA was replaced by Armed Police Force (APF) from October 17, 2004. They somehow paid attention to the security of border pillars, though they have been deputed for the vigilance of revenue leakage. It is notable that in the context of changing security situation, Nepal agreed to introduce passport / ID card system for the air-route passengers from October 1, 2000 after the hijacking of Indian Airplane from Kathmandu on December 24, 1999.

Beginning in 2001, keeping into consideration the recommendations of the report of Task Force on Border Management, different border guarding forces were deployed in different borders. Sashastra Seema Bal (SSB) for the India-Nepal border was

³⁰ Ibid.

³¹ *Himal* magazine Fortnightly, Year 12, 9, p. 21, August 17, 2002.

³² *Kantipur Daily*, March 6, 2001. Accessed on June 10, 2010.

<http://bordernepal.wordpress.com/2007/04/16/current-status-of-indo-nepal-border/>

deployed. The SSB has deployed 27 battalions for guarding the Indo-Nepal border.³³ In January, 2001, on transfer of the Special Service Bureau from Cabinet Secretariat to Ministry of Home Affairs, it was assigned the new role of a border guarding force on India-Nepal and India-Bhutan Borders. The name of Special Service Bureau was changed to Sashastra Seema Bal (SSB) with effect from 27th March, 2004.

For managing the borders effectively, it is important to have better surveillance. Surveillance is carried out by conducting regular patrols by the border guarding personnel. To house these border guarding personnel, to send regular patrols and to interact with the nearby villages, border out posts (BOP) have been set up all along the borders. Presently, India-Nepal border has 436 BOPs.³⁴

Joint surveys should also be carried out on both sides of the border by India and Nepal to find out the places from where the anti-national activities are carried out. Such places should be kept under close surveillance and if required, joint operations should be carried out. Counter propaganda can be carried out by both India and Nepal to prevent any further exploitation by the ISI agents or anti national elements. The civil and military intelligence, comprising personnel of military, SSB, State Border Police (of Nepal), Customs and Intelligence Bureau should have regular periodical meeting to monitor the ISI activities along the India-Nepal border. The activities of ISI should be exposed to the local population. The Nepali government should endeavour towards strengthening the border police which should be directed to keep a close watch on the activities of ISI.

At the same time, for providing better facilities to legal movement of passengers and goods across the borders, the Government of India had decided to construct Integrated Check Posts (ICPs). According to the 2007-08 Annual Report of the Home Ministry, 13 new ICPs at major entry points on the land borders will be set up at a total estimated cost of Rs. 734 crore; seven of which would be along the Indo-Bangladesh

³³Ministry of Home Affairs, *Annual Report 2008-2009*, Government of India. Accessed on June 9, 2010.

<http://mha.nic.in/pdfs/ar0809-Eng.pdf>

³⁴Ministry of Home Affairs, *Group of Ministers' Report on "Reforming the National Security System" 2001*, Government of India. Accessed on June 8, 2010.

<http://pib.nic.in/archieve/lreng/lyr2001/rmay2001/23052001/r2305200110.html>

border, four along the Indo-Nepal border, and one each along the Indo-Myanmar and Indo-Pakistan borders. For the implementation of the decision, The Land Port Authority of India Bill was introduced and passed in 2008. The Land Port Authority of India Bill, 2008 'provides for the establishment of the Land Port Authority of India (LPAI) for the development of and management of facilities for cross-border movement of passengers and goods at designated points along the international border.'³⁵ It is expected that such posts will provide facilities for the effective security, immigration and customs on the border while also providing support facilities for smooth cross-border movement of people, goods and transport.

There is a requirement of development, as well, along the India-Nepal border areas so that the local population is not attracted towards the evil designs of the anti-national elements. The raising of economic condition of areas on the Indian side of the India-Nepal open border to the level of developed part of India would have a stimulating impact on the economy of areas on the Nepalese side. This means the emergence of prosperous markets for each other's products contributing to the improved economic lot of the people of both the countries.

Border Management and Government Initiatives

Proper border management is vital for national security and it should be viewed in its widest sense implying coordination and concerted action by political, administrative, diplomatic, security, intelligence, legal, regulatory and economic agencies of the country to secure the borders. However, it needs to be emphasised that border management is a fluid concept in the sense that the level of security arrangements along a particular border would depend upon the political relations, the economic linkages, the ethno-religious ties between people across the borders and the configuration of the border itself. In the case of India and Nepal, this mechanism of free movement of people and open borders was clearly a non military measure to meet clearly articulated threat perceptions during this period emanating from China in the

³⁵ Ministry of Home Affairs, *Annual Report 2008-2009*, Government of India. Accessed on June 9, 2010.
<http://mha.nic.in/pdfs/ar0809-Eng.pdf>

north, compounded by the specific moves it had undertaken in Tibet. The desire surely was that a breakdown of barriers between the people would assist in convergence of issues on the security front. Thus, the measure clearly had a security underpinning as far as India was concerned for meeting a specific security challenge. However, the challenges of border management acquire added dimensions due to the border being porous and thus easily negotiable and also due to the fact that there is habitation/cultivation right up to the zero line.

For meeting the security challenges and for the better management of India-Nepal border various initiatives have been undertaken by the government so far and there are some others in the process of formulation. The Government has promoted several policies for smooth functioning of the bilateral mechanisms. These mechanisms are the prerequisites for better understanding and management of the borders. Initiative like Border Area Development Programme is already being implemented taking into account various other related areas into its ambit.

Border Area Development Programme

Border areas remain inaccessible and underdeveloped due to difficult terrain and lack of facilities like proper roads, educational institutions, and hospitals. Lack of economic opportunities makes the border population more susceptible to take up smuggling and trafficking. Keeping in mind these problems, the union government initiated the border area development programme (BADP) under the Department of Border Management, Ministry of Home Affairs, as a part of comprehensive approach to Border Management in 1987. Its objective was to provide adequate social and economic infrastructure, promotion of participation in development, eliminate sense of alienation, and instilling a sense of security among the border people. BADP schemes comprise of development of community-based infrastructure like forestry, pasture land, fishery ponds, floriculture parks, community centres, mobile dispensaries, mini marketing yards, etc. Over the years, the nature of the programme has changed from a schematic one with emphasis on education to a state-level programme with emphasis on balanced development of border areas. Both the Central and State governments along with paramilitary forces, voluntary agencies and

During the dry season, the ten yard stretch of no-man's-land between the two countries is difficult to locate in many places. In populated areas, these strips are used to winnow grain, dry clothes or tether domestic animals in daytime. On summer evenings, charpoy string-beds are laid out in this peaceable frontier to catch the breeze. Indians and Nepali relatives and neighbours warm themselves around open hearths during the winter. Elsewhere, this strip is a common grazing ground, or serves as an open toilet for people whose citizenship papers may just as easily say 'Nepal' or 'India'.⁵⁵

Only a few countries in the world, other than Nepal, have such diverse extremes in topography, climate, soil conditions, vegetation cover, and land use encompassed in such a small geographical area. These factors naturally affect the population distribution and the effective relationship between man and the land in terms of the utilization of labour inputs, mobility, transportation, and social and economic interaction.⁵⁶ The geographical conditions impose such a major constraint upon land-locked Nepal that any effort on her part for opening alternative transit- routes apart from India is bound to prove of little avail.⁵⁷

Nepal can be divided into four geocological zones: the Terai, the Outer Himalaya, the Middle Mountains, and the Great Himalaya. In the Middle Mountain zone most rivers converge and form four main systems- the Karnali, Narayani, Gandaki, and Kosi- which traverse the ranges of Mahabharat via deep gorges, making east-west transportation very difficult in Nepal. In some places, in order to travel from one place to another only a few miles apart in air distance, it is still necessary to descend to the Terai, travel laterally (often in Indian territory), and then return to Nepalese territory and ascend the hills and mountains. In the west of Nepal, the Mahakali River forms a natural border between the two countries. The border region is hilly, covered by dense forests, valleys with scattered population, and small stepped agricultural fields. The western border joins the Uttarakhand state of India and the Darchula, Baitadi, Dadeldhura and Kanchanpur districts of Nepal. Whereas the Kanchanpur district is in

⁵⁵ Lal, C. K. (2002), "Cultural flows across a blurred boundary", in Kanak Mani Dixit and Shastri Ramachandran (eds.), *State of Nepal*, Kathmandu: Himal Books, p. 102.

⁵⁶ Karan, Pradyumna P. & Hiroshi Ishii (1996), *Nepal: A Himalayan kingdom in transition*, Lexington: United Nations University Press, p. 19.

⁵⁷ Baraith, Roop Singh (1989), *Transit Politics in South Asia- A Case Study of Nepal*, Jaipur: Aalekh Publishers, p. 126.

Terai, the rest of the area is hilly and mountainous. In the east, the Mechi River forms a border between India and Nepal. The bordering Indian region belongs to Sikkim and the West Bengal states while the adjoining Nepali area is Taplejung, Panchthar, Ilam and the Jhapa districts of the Mechi zone.⁵⁸ In the south, the boundary pillars and a strip of about nine meters of 'no-man's land' on either side of the sides demarcates the frontier between the Terai and the adjoining Indian states of Bengal, Bihar and Uttar Pradesh. Out of a total of 75 districts in Nepal, 26 districts lie along this open border as are 20 Indian districts out of which 3 belong to Uttarakhand, 7 to UP, 7 to Bihar, 1 to West Bengal and 2 districts to Sikkim.

Since the 1750 km long border has remained open between India and Nepal, it has been a huge factor in augmenting the socio-cultural-economic relations between the two nations. Both the countries and their people, in the past, have been seen as inclined towards each other, owing to marriage alliances and other factors. This has benefited both the countries.

But at the same time this open border has also proved to be an irritant in India-Nepal relations and popped up many issues between India and Nepal regarding the open border. It has proved to be a haven for various illegal and criminal activities across the border. Various illegal and banned groups have been active around the corner for carrying out their nefarious activities along the open border. Illegal movements of goods and people have also been an indirect implication of the open border and it has continuously remained very uneasy to control these illegal activities.

However, controls and regulations have been put at certain stages; still the border being porous provides ample loopholes to the carriers of these illegal activities. Security agencies in India say that poor border management has led to militants in Jammu and Kashmir opting for routes from Nepal to enter India. There have also been reports of counterfeit currency being smuggled in from Nepal. The movement across the border could be divided into legal and illegal. Legal movement includes people and goods, both at official and unofficial levels. In terms of illegal movement,

⁵⁸ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 124.

smuggled goods move from one side to the other. Drugs and arms along with the illegal movement of people (refugees, economic migrants and armed non-state actors) constitute illegal movements across the border. A study conducted by the World Bank shows that informal trade between Nepal and India stands at US\$ 388 million per annum. Many factions in both the countries have voiced their concerns regarding the open border as they find it to be a dangerous proposition for the internal and national security of the country.

Overall, the open border is the thrust of this study with the vantage point being the 1950 Treaty of peace and Friendship between India and Nepal. The 1950 Treaty has stood the test of time and still serves as the cornerstone in their relationship. It was itself the culmination of long shared historical and cultural past along with shared aspirations. The study will analyse how the 1950 Treaty has remained the basis of their relationship even today, ever since its fruition.

The 1950 Treaty is shrouded with lots of controversies as well. Voices have regularly been raised from some corners regarding some provisions of the treaty ever since the treaty came into existence. Many factions raise their voice against the Treaty and ask for its abrogation saying that the treaty is unequal. The study will try to present the vivid realities of the 1950 Treaty and look into the provisions which are the bone of contention between the two countries.

However, so much of debate has been going on in the political circles of the two countries regarding the status of the border and voices have been raised for the regulation of the border. Some even go to the extent of favouring a closed border. The study will try to locate those voices and will try to explore the areas and reasons for differences and will aim to identify areas where substantive efforts are needed to overcoming the existing differences. The study will, thus, contribute to an understanding of the roots of problems between India and Nepal regarding the border issues.

The study will define its range of concern- from India-Nepal border to issues around the borderlands, the voices in favour of the open border and those against it. It will try to analyse as to how people to people contact has been continuously maintained

across the border, no matter how much efforts at regulating the border is made at the official level. It will also try to analyse the regulation of the border which is a new phenomenon in India- Nepal context and will thus look into the concept of border management putting India- Nepal border in this framework. It will investigate the efforts that have been laid down so far by both the governments at effectively regulating the border.

The study operates under the assumption that although border management approach is a new concept, efficiently regulated border between India and Nepal is the need of the hour. The underlying assumption behind the hypotheses is subtle. Data will try to confirm the hypotheses. While the first hypothesis argues that keeping into consideration the misuse of open border by the forces inimical to India's security interests India will have to think over keeping its border with Nepal open, the second hypothesis supports the view that the regulated border between India and Nepal will certainly, to an extent, check the population movement across the border, thereby helping to keep at bay the illegal activities and meeting India's security interests.

The methodology for the proposed study would utilize the primary (government documents, archives, reports) and secondary (books, articles, research journals, newspaper clippings, magazines, etc.) sources and their interpretation making the research questions amply clear. It would be analytical in nature defining the approaches forwarded so far on the related topic. Variables would be refined and all the efforts for their explanatory sustenance will be made. The study would look at the problems and the prospects and would critically analyse the options available before both the governments in finding a way to the issue of border management. As the topic selected for the study is a process that is still on the move, the study would further delve deep into the issues that come up during the time period of the research. Internet sources and documents from relevant websites would also be used.

The study will also try to answer the research questions. It will see if there is any reality in the statement that the open border adversely affects the India- Nepal relations and will continue to do so? The study will try to answer whether effective border management is going to affect the interests of the people living in the border areas and whether it will take into consideration the socio-cultural linkages? It will

also examine the impact of border regulation on illegal trade. Finally, it will see to it whether India's security concerns will be met against the forces inimical to its interests?

However, the current ability to explain why open border and border management becomes a grave issue every now and then is severely limited due to many underlying factors. There is no any such theoretical framework on border and border management which can be used for the study of any particular border in any region. More so, the contexts and concept varies accordingly. Very little research exists specifically focussing on international borders, the disputes and management policies that can be applied to any contextual framework of study. There is no model available and no answer, to be precise, to address as to why some borderlands integrate economically but not politically.

The study of border and its management also requires field surveys to a certain extent. It requires regular and detailed study of border areas under study and asks for a clear vision of the area under research by noting down day-to-day events and activities in the borderlands and putting them in front of readers with enmeshed objectivity. This study will suffer a bit from this missing link.

The study will finally try to support the ground reality existing on the borders and will show the peculiarity of the border relations between India and Nepal. The study will make an effort at providing the insight on the key role the border can play in mutually benefitting each other and thereby creating an environment of greater trust and faith and developing the overall idea of 'friends in need and partners in progress.'

All these concerns and realities will be elaborated in the next chapter where India-Nepal border will be the prime focus. The next chapter will present the history behind the open border and will come to terms with the existing scenario as well. It will be drawn in the next chapter as to how India and Nepal have been sharing the profits and burdens of the open border and what exactly have been the imperatives or the forces behind the open border that pushes all the other voices on the status of the border far behind. The next chapter will deal specifically with India- Nepal border and the various issues related to it. It will try to analyse as to how the socio-cultural linkages

between people across the border have worked as the basis for the open border. The chapter will detail the 1950 Treaty of Peace and Friendship between India and Nepal and the provisions of the treaty which more often than not serve as the bone of contention between the two countries.

Chapter 3 will study the emerging challenges and the implications of the open border. It will analyse the options of an open, a regulated and a closed border and will try to understand which suits the two countries the best. It will bring to light the various positives and negatives of the open border. It will also analyse whether the open border works as a hindrance or a motivation towards better cooperation and closer ties between the two countries. What actually have been the imperatives toward the continuance of such linkages will be dealt in depth in this chapter once the implications become crystal clear in due course of the study. This chapter will also test the first hypothesis.

Chapter 4 will put forward the concept of border management and the various mechanisms that have been suggested by analysts and officials towards effective management of the India- Nepal border like deployment of security forces, development of infrastructures, etc. and that too without disturbing the existing model. It will also take into consideration views of the political parties and the people regarding the border. It will also take into account the various efforts at both, the people's level and the government's level, towards resolving the border disputes. This chapter will be testing the second hypothesis.

This study is closed with conclusion in Chapter 5 where an effort will be put towards summarizing the various findings done during the course of the study. It will test the hypotheses and will try to answer the research questions.

Chapter 2: India-Nepal Border

Borders are “the model compartment of space resulting from partitioning, diversification, and organization...endowed with two main functions: to serve on the one hand as a shelter for security and on the other hand as a springboard for opportunity.”¹

India and Nepal share exactly such a border where both the functions converge while shaping their relationship. On the one hand, while it has proved, since long time back in history, and still proving to be a springboard for opportunity, on the other hand, it has been a border with various security issues raised up every now and then. It has been a concern for both the countries regarding their security parameters and the way towards achieving them for national security perspectives. It also tries to convince that neighbouring countries usually have natural common interests and that no country can now, in this era, be absolutely isolated from its neighbour.²

India-Nepal border is a paradigm of crossing, of circulation, of the mixing of materials and of resistance. Nepal's border to India is an open border, so one could imagine that a lot of cross border transfer takes place in the border areas, especially keeping in mind the close socio-cultural linkages between them. During the last two decades of the twentieth century, Nepal opened its Terai to the traders, farmers and workers from the plains of north India to encourage the clearing of the forest for farming. This is why no difference is found in the colour, language, values and culture among the people living across the India- Nepal border. Because of the common values, culture, way of life and the availability of market for the Nepalese timber, herbs, rice, jute and other forest products the tendency of liberalisation became stronger than building restriction along the border.³ Besides this similarity there are important differences in population and development, as India has the second biggest population of the world and, even though huge parts of the population are extremely poor, it is among the most industrialized countries, whereas Nepal is rather small in population and belongs to the least developed countries in the

¹ Nicol, Heather N. & Julian Minghi (2005), “The Continuing Relevance of Borders in Contemporary Contexts”, *Geopolitics*, 10 (4), 680-87, p. 684.

² Kolossov, Vladimir (2005), “Border Studies: Changing Perspectives and theoretical approaches”, *Geopolitics*, 10:606-632, p. 614.

³ Roka, Hari (2006), “Nepal-India Border Regulation in the Context of Present Conflict”, in Shiva K Dhungana (ed.), *The Maoist Insurgency and Nepal-India Relations*, Kathmandu: Friends For Peace, p. 31.

categories of the UN. Against this background of similarities and differences the India-Nepal border becomes quite exciting research subject.

India-Nepal border is special for three reasons. At first Nepal is surrounded by land at all the 3222 km of its frontier, it has no access to any ocean. This land-locked status has great impacts on Nepal's economy, as it is dependent on its neighbours for importing goods from third countries. The second is the aspect that Nepal has only two neighbouring countries, which are the countries with the biggest population of the world, China and India. Nepal's northern Himalaya region borders on the Tibetan autonomous region of China, in the south, east and west it is surrounded by India's states of Uttarakhand, Uttar Pradesh, Bihar, West Bengal and Sikkim (from west to east). The third special aspect is the open border between Nepal and India, which allows people of both countries to cross the border without visa and to take goods for everyday usage across the border without paying customs. Besides the economic relations across the border, Nepal's and India's populations are closely linked with cultural and social ties, especially in their border areas. So the open border gives the opportunity for people to live their social life unrestricted of the frontier.⁴

The Genesis of Open Border

It is said that before the consolidation of British power in India and other parts of South Asia there existed a border between India and the nearby principalities of Nepal. It is possible that the shift in the border took place due to the annexation of territories on either side. Understandably, there was full movement of people across the border even during those days.⁵ The Gorkha rulers, the then rulers of Nepal, followed an expansionist policy after the consolidation of the kingdom of Nepal in 1769. They failed in the north but succeeded in the south and extended their rule in Kumaon and Garhwal and up to the Sutlej River in the west and Teesta River in the east. In the Anglo- Nepal war of 1814- 16

⁴ Hans, Benjamin "Nepal's Border to India- national border and identity Boundaries in South-East Nepal", p. 6. Accessed on March 17, 2010.

http://www.uni-bielefeld.de/tdrc/ag_soanth/downloads/hans.pdf

⁵ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 122.

and the subsequent Treaty of Sugauli (1816), Nepal lost the occupied territories. According to Article II of the Treaty, Nepal had to return Kumaon, Garhwal and the areas west of the Gandaki river and in Terai between Rapti and Kosi.⁶ Thus, the southern boundary of Nepal was delineated and demarcated. It was fixed between Mechi and Mahakali rivers.

Talking about the Sugauli Treaty it is worth mentioning that there are evidences which show that there was free movement of the people of India and Nepal across the boundary between the two countries even before the signing of the treaty. After the conclusion of this treaty and the delineation of the Indo- Nepal border, it was decided to continue with the open border between the two countries. An open border was preferred by the British for three reasons. First, to encourage free movement of people across the national boundary as there was the need of Nepali labour to work in tea estates, various development projects, recruitment in the armed forces, etc. Second, there were business and commercial interests. British and Indian businessmen were interested in access to the Nepali markets. Similarly the open border could facilitate the supply of Nepali raw materials, particularly forest-based ones, to India and beyond. Third, the British were also interested in the free access to the Nepal Himalayas by the surveyors, expeditions and trekkers etc.⁷

Thus, the Treaty of Sugauli proved to be a turning point in the history of Nepal as it delineated and demarcated its southern boundary. However, some territory in Terai was restored to Nepal after the revision of the treaty in 1816 and further in 1865, the British India government returned additional territory to Nepal in recognition of its support to the British government during the 1857 revolt. The East India Company delineated and demarcated the southern boundary on its own. But no demarcation was made for the Terai region lying between the Mahakali River and the Arrah Nala, which was ceded to the British India in 1816. A straight line between the two pillars was drawn for the demarcation of the border in the forest areas, while demarcation in the cultivated land

⁶ Ibid, p. 123.

⁷ Ibid, p. 124.

was made on the basis of village boundaries on the principle of mutual give and take. Major disputes and problems arose in the case of river boundary due to erratic changes in the river courses in the Terai region.⁸

After the restoration of Naya Muluk to Nepal, the India- Nepal border was finally settled. Naya Muluk comprised the Terai area from River Mahakali to River Teesta.⁹ Prime Minister Jung Bahadur tried to develop the Far Western Terai restored to Nepal by the British as his family property. In order to develop it he made provision in the first legal code of the country formulated during his time, *Muluki Ain (1854)*, in which the foreigners were entitled to purchase and sell land in the Terai. He even invited the businessmen, traders and the landlords from India. This led to the large scale immigration of the Indians into the Terai for reclamation of forests for agriculture and for trade and commerce.

In fact, after 1814-15 war with the British India, the formal entrance of Nepalese to India is believed to begin. 4656 Nepalese recruited in the British Gurkha regiment is the first accounted evidence of Nepalese employed in India.¹⁰ The period of unification and expansion of Nepal's territory during the late eighteenth and early nineteenth century was accompanied by movement and settlement of the Nepalese in Darjeeling, Sikkim, Kumaon and Garhwal. In certain areas, the Nepalese outnumbered the local population, resulting in autonomous administrative units: Darjeeling has an autonomous hill council and Sikkim is a full-fledged state. Nepal's reluctance to send Gorkhas to join the British Indian Army led to the East India Company encouraging Gorkhas to settle in the hills of India. Consequently, Gorkha colonies sprang up in Kangra, Dehradun, Darjeeling,

⁸ Kansakar, Vidya Bir Singh (2001), "Nepal India Open Border: Prospects, Problems and Challenges", keynote paper presented at the Seminar on Nepal-India Open Border: Pros and Cons, organized by Institute of Foreign Affairs, Kathmandu and sponsored by Friedrich Ebert Stiftung, Nepalgunj. Accessed on May 5, 2010.

http://www.nepaldemocracy.org/documents/treaties_agreements/nep_india_open_border.htm

⁹ Aitchison, C. U. (1983), *A Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries*, Vol. 14, Delhi: Mittal Publications, p. 63.

¹⁰ Quoted in Raju Bhattarai (2007), "Open borders, Closed citizenship: Nepali labour migrants in Delhi", in a seminar on International migration, multi-local livelihoods and human security: perspectives from Europe, Asia and Africa, 30 & 31 August, Institute of Social Studies, The Netherlands.

Shillong, etc.¹¹ At the same time large number of Nepalese migrated to India for better employment opportunity in tea-estates of Darjeeling and wood works of Assam.

Determinants of India-Nepal Relations

Jawaharlal Nehru said in the parliament in 1950:

And regardless of our feelings about Nepal, we were interested in our own country's security, in our own country's borders. Now we have had from immemorial times, a magnificent frontier that is to say, the Himalayas. It is not quite as difficult as it used to be; still it is difficult, very difficult. Now so far as the 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 the 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.¹²

India and Nepal have shared people to people relationship for ages owing to easy access of movement and it ultimately culminated into their approval for an open border arrangement. The Terai region of Nepal bordering India is an extension of the Indo-Gangetic plain.

The geographical factors have been reinforced by religious, cultural and ethnic affinities between the inhabitants of Terai region and their counterparts across

¹¹ Rose, Leo-E (1971), *Nepal: Strategy for Survival*, Bombay: Oxford University Press, p. 140.

¹² 'Speech of the Indian Prime Minister Jawaharlal Nehru in Parliament on the International Situation and the Policy of the Government of India in relation thereto, New Delhi, December 6, 1950', in Avtar Singh Bhasin (ed.) (2005), *Nepal-India Relations, Documents 1947-June 2005*, Vol. 1, New Delhi: Geetika Publishers, p. 150.

*the border. The Terai region has, therefore, remained practically an expansion of the Indian society and economy through the centuries.*¹³

The contiguity of border helped the people on one side of the border make cordial relations with their counterparts on the other side. People to people interactions and contacts; slowly and slowly, brought them even closer. When health infrastructures in Nepal were not developed, a large number of people from the Terai as well as from the hills used to go to hospitals in India across the border. The relations among the border inhabitants has had been best reflected in emergency situations. Whenever they have faced shortages of food grains or of any other commodity, people from the other side of the border have met the requirements gleefully. People from both sides of the Indo-Nepal border have lived together, survived the vagaries of nature, and prospered by cooperating with each other. They started mixing among themselves and this further led to marriage alliances, both at the elite level as well as generally, among themselves. As a result, people from India started filling the population vacuum in Terai through continuous settlements. The Terai region practically transformed into a melting pot which saw an expansion of the Indian society and economy, with economy being the real motivator behind day to day contacts and affairs.

The British further promoted this arrangement for serving their own motives of security and access to Nepal. The border was not regulated because as a British protectorate its southern border was secure. Moreover “the arrangement of open border was preferable to the restricted border because it saved the rulers from incurring the administrative expenditure necessary to check and regulate the border and the task involved in the control of movement of people through the border to and from India.”¹⁴

The British interest in Nepal, right from the beginning, like their interests in other Himalayan states, was primarily strategic. By the end of the 19th century, when British imperial strength in India was threatened by Russia and to some extent by China, the

¹³ Regmi, M.C. (1984), *The State and Economic Surplus: Production, Trade and Resource- Mobilisation in Early Nineteenth Century*, Varanasi, pp. 10-11.

¹⁴ Rajbahak, Ram Prasad (1992), *Nepal- India Open Border: A Bond of Shared Aspirations*, New Delhi: Lancers Publishers Pvt. Ltd, p. 8.

British Indian government considered it necessary to insulate India from external threats to its security. The concept of buffer states in the Himalayan region was, thus, evolved and Nepal was designated as one of them.¹⁵ Later, realizing the strategic importance of the Nepalese kingdom the British government intricately wove her in the fabrics of the British 'Two- tier Defence system.'¹⁶ In chalking out such a strategy, the underlying objective was to delimit and keep the rival powers away from its frontiers and borders. The policy was directed to secure the allegiance, integrity and neutrality of the border lands and minor states covering the land approaches to the Indian empire.

In the beginning of the 20th century, the two countries saw even closer partnerships in the wake of the two world wars. The large scale involvement of men from the hills of Nepal in the World War I led to the shortage of able-bodied youths, particularly the Magars and the Gurungs, resulting in drastic decline in agriculture activities and shortage of food grains in the hills. More than 200,000 Nepalese took part in the war with a casualty of 20,000 men or one in every 10. In recognition of this assistance the British government gave Nepal an annual gift of Rs. 100,000 in perpetuity and the amount was increased to Rs. 200,000 after the World War II.¹⁷ As the Rana rulers were very loyal and dependent on the British-India regime, the later did see no harm accepting Nepal as a sovereign state. With this mindset, they accepted Nepal as a sovereign state for the first time through a treaty of 1923. British government's formal recognition of Nepal as a sovereign independent nation under the Treaty of 1923 led to the opening of Terai for Indian traders. Lack of industrialization in Nepal provided the Indian businessmen with incentives to open up new ventures in Terai. Indian businessmen took advantage of the rail transport system built by the British and established industries in the Nepal side of the border and exported the surplus commercial goods and other agricultural products to India. In many cases, people had shops both in India and Nepal. The businessmen of both

¹⁵ Ghosh, Partha S. (1995), *Cooperation and Conflict in South Asia*, New Delhi: Manohar Publications, pp. 104-5.

¹⁶ Baraith, Roop Singh (1989), *Transit Politics in South Asia- A Case Study of Nepal*, Jaipur: Aalekh Publishers, pp. 71-72.

¹⁷ Mansergh, Nicholas and Moon, Panderel, (eds.) (1976), "Letter of Field Marshall Wavell to Mr. Patrick-Lawrence, the Viceroy House, New Delhi, 12 August 1945", in *India: The Transfer of Power 1942-47*, Vol. VI, Document No. 20, Her Majesty's Stationary Office: London.

areas constantly shuttled from one place to another, and foreign goods passed more easily from one shop to another because of the open border.

At the same time Jung Bahadur Rana was also conscious of the need to demarcate and delineate the border with India and he made some effort in this direction. In fact, the problem of border demarcation had existed ever since the Treaty of Sugauli. In 1829 it was agreed that border pillars would be re-erected whenever they were destroyed. The border pillars were destroyed with an intention to grab land by the people of both sides or by accident and because of this, every now and then there was a confusion over the line of demarcation, giving rise to disputes between the two countries. Many efforts were made to settle these disputes but they cropped up again and again. These efforts finally culminated into the undertaking of actual survey work of the border in 1926-27 by the Geological Survey of India.¹⁸ It was the first time that aerial mapping of the border took place. Boundary pillars were erected at a definite distance all over the border to demarcate it. Where there were rivers flowing on the border line, the middle of the river formed the international boundary. It was decided to supervise and survey the international border at regular intervals so as to re-erect the missing pillars and resolve if there was any dispute over the border at the local level. For the purpose of the maintenance of the boundary pillars the responsibility to maintain those of odd numbers was given to Nepal and those of even numbers to India. After the British withdrawal from the sub-continent, this arrangement with regard to the maintenance of the border between India and Nepal continued in principle.¹⁹ The withdrawal of British power from India did not alter India's security interests in Nepal. Though the political situation in the region had undergone changes with the subcontinent becoming free from British dominance, the geographical realities remained the same. Owing to the free movement of people, the emergence of anti-colonial mass politics in India helped in inspiring the struggle against the Rana oligarchy in Nepal. Since open political activity was not possible within Nepal, much of this struggle was based in Indian side of the plains. The venues for the

¹⁸ Ibid, p. 123.

¹⁹ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 123.

convention of newborn Nepali political parties were Patna, Benaras, Begusarai and Darbhanga.²⁰

Indian policy, right from the beginning, was too aimed to help Nepal in emerging as an independent and stable neighbouring state. India took a step ahead in this direction and invited Nepal for participation in the first Asian Relations Conference held in New Delhi in March 1947, as an independent state. This proved beyond doubt that India really wanted to see Nepal as an independent state by encouraging and providing such opportunities for her to come out from its isolation and establish contacts with the outside world.²¹ Politico-strategic considerations were given precedence in the new treaties and attempts were made to get the kingdom incorporated in the evolving broad security system of India. The expedient formalization of such relationships with the Himalayan kingdom became all the more important as Tibet, after the Chinese takeover, had ceased to be a valuable buffer between India and China. Therefore, Pandit Nehru made it explicitly clear when he said in the parliament on December 6, 1950:

*.....And now our interests in the internal conditions of Nepal became still more acute and personal, if I may say so, because of the developments across our borders, because of the developments in China and Tibet, to be frank. And regardless of our feelings about Nepal, we were interested in our own country's security, in our own country's borders.*²²

The 1950 Treaty of Peace and Friendship, finally, proved to be the cornerstone in India-Nepal relations and since then all the major affairs and policies have been based on the provisions of the treaty and, except for a few occasions, the treaty has been defining the course of events in India- Nepal relations. The Treaty of peace and Friendship concluded by the two countries in 1950 also reinforced the need for an open border in view of various socio-economic provisions that the Sugauli Treaty had laid down for the people

²⁰ Lal, C. K. (2002), "Cultural flows across a blurred boundary", in Kanak Mani Dixit and Shastri Ramachandran (eds.), *State of Nepal*, Kathmandu: Himal Books, p. 106.

²¹ Baraith, Roop Singh (1989), *Transit Politics in South Asia- A Case Study of Nepal*, Jaipur: Aalekh Publishers, p. 80.

²² *Ibid*, p. 88.

of the two countries, viz. encouraging free movement of people across the border, business and commercial interests like supply of Nepali raw materials to India and beyond.²³

The Treaty of Peace and Friendship, 1950

Prime Minister Narasimha Rao said in the parliament in 1989:

Indo-Nepal relations are very old and date from ancient times, long before 1950 or the Treaty of Peace and Friendship. However, the 1950 Treaty is a uniquely significant landmark in the relationship because it goes far beyond the standard diplomatic format of relationship and seeks to concretise a grand vision handed down from centuries. This was the vision cherished by the great leaders of both countries, Prime Minister Jawaharlal Nehru and His Majesty King Tribhuvan. It was a vision of a Nepal and an India, independent, sovereign and free, but indissolubly linked by unbreakable bonds.²⁴

The security matters and interests cropped up when the British left the Indian subcontinent. The Rana regime was concerned when British paramountcy lapsed in 1947 due to Chinese incursion in Tibet. Its fear, however, was temporarily allayed when the Indian government signed a “standstill agreement” in 1947 with Nepal on the same lines as those signed with Tibet and Sikkim.²⁵ According to the agreement, relations between India and Nepal were to continue on the same basis as before until a new treaty was signed. The Standstill Agreement affirmed the 1923 treaty. A tripartite agreement was also concluded between Nepal, India and Britain which allowed India and Britain to

²³ Upreti, B.C. (2009), “The India- Nepal Open Border: Nature, Issues and Problems”, in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 124.

²⁴ ‘Speech of the Indian Prime Minister P.V. Narasimha Rao in the Lok Sabha on April 26, 1989’, in Surya P. Subedi (1999), “India-Nepal Security Relations and the 1950 Treaty: Time for New perspectives”, *Asian Survey*, 34 (3), 273-84, p. 273.

²⁵ Ghosh, Partha S. (1995), *Cooperation and Conflict in South Asia*, New Delhi: Manohar Publications, pp. 104-05.

recruit Gorkhas in their armed forces. India also wanted to redefine its relations with Nepal in the changed context.

In fact, the mechanism of free movement of people and open border between India and Nepal was a non-military measure taken to meet articulated threat perceptions of the time which emanated from China in the north. The specific moves China made in Tibet only added to the concern. Thus, a general perception was made that improved relations with Nepal and a breakdown of barriers between the two countries would bring the two together on the issues of security. The 1950 Treaty of Peace and Friendship was the result of such a move and it further enhanced their cordial relationship. The provisions in the treaty were formulated as such to maximizing their benefits. The economic interests of the people of both the countries were kept in mind. {Annexure 1 }

The question that comes to mind here and is pertinent to the study is how exactly the border between India and Nepal was made open. There may be a query as to how the open border system prevailed between two countries with no treaty really speaking about its status. Even the Peace and Friendship Treaty of 31 July 1950 did not have the provision for open border system. Article-VII of the treaty says: "The government of India and Nepal agree to grant, on reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and privileges of a similar nature."²⁶ But there was no mention of the open border between two countries. It only suggested that the border management system must be reciprocated by both the countries. What it meant was that if open or regulated system was enacted by one country, the same system should be implemented by the other on the basis of reciprocity.²⁷ The answer may be that it prevailed only on the basis of mutual understanding, good neighbourly relations, religious sentiment, the same topography, social similarities, and family relationship.

²⁶ Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, pp. 779-80.

²⁷ Shrestha, Buddhi N. (2006), "Insecure Border Management of Nepal"; paper presented at the 7th International Conference of the International Boundaries Research Unit (IBRU), University of Durham, UK.

Secondly, there was a very close contact among high-ranking political leaders of both nations. While Nepalese leaders had participated actively in the independence movement of India, Indian leaders also contributed to establish democracy in Nepal. And the open border made the movement of political leaders and bureaucrats of India and Nepal easy to shuttle back and forth without any interrogation or check in the border.

The third factor is the social one. Many Indians and Nepalese share matrimonial alliances and most of them reside in the frontier. As a consequence, Indian and Nepalese parents are in-laws to each other. So the border was made open socially for frequent visits to the kith and kin on either side of the frontier. The administration did not obstruct them in practice. Thus, the open border helped in strengthening closer political and social ties between the two countries and this further showed the future course of events.

To influence the course of future negotiations India encouraged, successfully, the Nepali Congress to dislodge the Rana regime and install in its place a constitutional monarchy headed by king Tribhuvan. Earlier, when the British government sought to create a 'third force' in Indian politics by propping up a bloc consisting of the rulers of Indian 'native states' in support of the British, Congress retaliated by extending its activities to the native states including Nepal. The process ultimately culminated in the creation of the Nepal State Congress (known subsequently as Nepali Congress) in 1946 which consisted of democratic forces opposed to the Rana regime.²⁸

Through the Treaty of Peace and Friendship signed on July 31, 1950 both the states did accommodate their mutual security interests, and through the Treaty of Trade and Commerce, signed on the same day, both the states have sought such an accommodation in the sphere of trade and commerce also and through Delhi Settlement, Nepal agreed to accept and enforce India's political preferences in the kingdom.²⁹ Thus, sort of special ties were built up in the political, economic and defence spheres. Article-VI of the treaty says: "Each government undertakes, in token of neighbourly friendship between India

²⁸ Ibid.

²⁹ Baraith, Roop Singh (1989), *Transit Politics in South Asia- A Case Study of Nepal*, Jaipur: Aalekh Publishers, p. 219.

and Nepal, to give to the nationals of the others, in its territory, national treatment with regard to participation in industrial and economic development of such territory and to the grant of concessions and contracts relating to such development.” The 1950 Treaty, thus ‘binds the two countries through socio-cultural and economic linkages. Taking the open border into account, no impediment is placed on the movement of people crossing the border, availing avenues for livelihood.’³⁰

However, seeing it in the background of the close, centuries old, socio- cultural relations between the two countries, such a move would not be completely out of place. In a comparative perspective, it is interesting to note, that only of late have the members of the European Union agreed for free movement of citizens without any visa restrictions or regulations. The relevant provisions of the Treaty of 1950 thus implied that it would automatically lead to closer interaction between the peoples of the two countries. For an economically underdeveloped Nepal, the measure had clear benefits. Thus, while there are very strict regulations against the employment of foreign nationals in India, millions of Nepalese work freely in all parts of India. The Nepalese are eligible to join not only the army but also all government services in India except the very limited posts of the IAS (Indian Administrative Services), IFS (Indian Foreign Service) and IPS (Indian Police Service).³¹

This mechanism of free movement of people and open borders was clearly a non military measure to meet clearly articulated threat perceptions during this period emanating from China in the north, compounded by the specific moves it had undertaken in Tibet. The desire surely was that a breakdown of barriers between the people would assist in convergence of issues on the security front. Thus, the measure clearly had a security underpinning as far as India was concerned for meeting a specific security challenge.

³⁰ Thapliyal, Sangeeta (1998) *Mutual Security: The Case of India and Nepal*, New Delhi: Lancers Publishers, pp. 178-79.

³¹ Verma, Ram Mohan (2005), *Strategic Cultures of South Asia*, Delhi: VISTA International Publishing House, p. 179.

During the period 1960 to 1990, however, India's overbearing role and its sympathetic attitude towards the democratic forces in Nepal led to an increase in anti-Indian feelings in certain sections of Nepali population.³² The Treaty and its accommodations were flouted by King Mahendra in his regime as well. King Mahendra had reservations regarding the political preferences that were introduced in the kingdom on India's insistence. His differences with the on-going democratic experiment became sharp in the latter half of the sixties (1955-60). In 1957, an order was passed by the Government of Nepal making possession of a citizenship certificate mandatory for those working as teachers in Nepal. Many Indian teachers who did not possess the citizenship certificate were affected by the order.³³ In 1958, restrictions were imposed on foreigners, including Indians, on buying immovable property in Nepal. These measures were against the Article VI and VII of the Treaty of Peace and Friendship which provided for equal treatment to the citizens of both countries in each other's territory.³⁴

He finally enforced his own political preferences through the newly introduced system of Panchayat Democracy in December 1960. Once King Mahendra took power, he asserted Nepal's independence and followed a policy of non-alignment with its immediate neighbours while reaching out far and wide to further develop Nepal's relations with the other nations of the world. Given the cold war situation, the royal foreign policy during the Panchayat era succeeded in garnering support for the economic development of Nepal. The introduction of the partyless Panchayat system brought the system of accommodation that Nepal had earlier adopted with India under severe strain and it finally collapsed. The conflict of interests grew and spread to other aspects of their relationship. After adopting the policy of equidistance in her relations with both India and China in place of special relationship with India in political spheres, Nepal slowly parted ways with India in matters of security and defence and thus the accommodation sought and agreed in the 1950 Treaty was gradually undermined.³⁵

³² Muni, S.D. (1992), *India and Nepal: A Changing Relationship*, New Delhi: Konark Publishers, p. 70.

³³ Ibid, p. 49.

³⁴ Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, p. 782.

³⁵ Baraith, Roop Singh (1989), *Transit Politics in South Asia- A Case Study of Nepal*, Jaipur: Aalekh Publishers, p. 220.

Nepal also started to drift away from the earlier accommodational pattern in her relation to India in the economic and trade sector. In the Treaty of Trade and Transit signed in 1960 in which B. P. Koirala's government had sought for such an accommodation by enshrining the concept of common market in the treaty, was found unacceptable to King Mahendra and he accused Koirala of endangering Nepal's national interests in this regard.³⁶

However, the policies of King Mahendra failed and that was not due to its rejection of Indian guidance and influence but was inherent in the regime itself. The regime in no way represented its people and so it lacked the strength to counter any intervention. Its behind the scene policy was suspicious for India and invited negative reactions. The attempt to counter India by tilting more towards China and even to Pakistan, which many experts term as the China Card policy, turned out to be counterproductive.³⁷

Nature of Movement across the border

The movement of people between India and Nepal 'owes its genesis to the physical configuration of their border which does not present any natural barriers. Similarities in the socio-cultural identities of the two countries encouraged the movement of people. Demarcation of borders between the two countries did not stop the movement of population that continued due to economic exchanges and socio-cultural linkages.'³⁸ The mutual needs of the people across the border promoted the unrestricted flow of people over the years and led to the dissemination of ideas, culture, and settlements of people in each other's territory. Religious places and institutions in both the countries have played a very crucial role in strengthening the social and cultural relations between them. Places like Puri and Rameshwaram in India and Pashupatinath Temple in Nepal have been revered by people of both the countries. The Pashupatinath temple continues to attract devotees in hordes to Nepal while Bishwanath of Benaras and Baijnath of Jharkhand are

³⁶ Ibid.

³⁷ Wagle, Narayan Prasad, "Diplomacy Needed, Not Futile Noises". Accessed on June 12, 2010. http://www.gorkhapatra.org.np/detail.gopa.php?article_id=29705&cat_id=7

³⁸ Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, p. 779.

two very important shrines for Nepali Hindus.³⁹ Festivals and cultural practices are nearly identical in the Nepal Terai and the region to the south. This brought them closer to such an extent that they started intermingling and ‘one main factor that historically contributed to the strengthening of ties has been matrimonial alliances between the royal dynasties of Nepal and their Indian counterparts, which was pursued as a matter of policy. Marriages are not just restricted 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.’⁴⁰ Marriage across the border is so common even to this day that the Terai-centered Sadbhavana Party’s lawmaker Hridayesh Tripathi justifiably points out that the relationship between the people of Bihar and UP on the one hand and terailis on the other is that of roti-beti – bread and bride.⁴¹

The border inhabitants have continued to move freely across the border. There are three types of movements from Nepal. The first is that of people who come on a daily basis to buy goods for domestic needs. Such movement is usually confined to the border region. The second type is that of seasonal migrants, who generally travel to India to find work during agricultural off-seasons. The third type of migrants moves on a long-term basis and generally settles down in India. In the second and third cases, migrants spread out both to neighbouring areas as well as further away from the border.⁴² Similarly, the flow of economic migrants from India has been stimulated as a result of modernization and development in Nepal which has been generating demands for skilled and semi-skilled workers since early seventies. Indians have also gone to Nepal for teaching jobs and for setting-up small and medium sized business establishments.⁴³

³⁹ Lal, C. K. (2002), “Cultural flows across a blurred boundary”, in Kanak Mani Dixit and Shastri Ramachandran (eds.), *State of Nepal*, Kathmandu: Himal Books, p. 108.

⁴⁰ Nepal’s Troubled Terai Region, Asia Report No. 136, *International Crisis Group*, July 9, 2007, p. 24. Accessed on 10.04.2010.

<http://demrepubnepal.blogspot.com/2007/07/icg-nepal's-troubled-terai-region.html>

⁴¹ Lal, C. K. (2002), “Cultural flows across a blurred boundary”, in Kanak Mani Dixit and Shastri Ramachandran (eds.), *State of Nepal*, Kathmandu: Himal Books, p. 110.

⁴² Nepal’s Troubled Terai Region, Asia Report No. 136, *International Crisis Group*, July 9, 2007, p. 23. Accessed on 10.04.2010.

<http://demrepubnepal.blogspot.com/2007/07/icg-nepal's-troubled-terai-region.html>

⁴³ Baral, Lok Raj and S.D. Muni (eds.) (1996), *Refugees and Regional Security in South Asia*, New Delhi: Konark Publishers, p. 17.

Burghart draws the distinction between possession (muluk) and country (des) by citing the case of hill people emigrating east rather than turning to the nearby Terai within Nepal. Such a migration trajectory, however, had both ecological rationale and political acquiescence. The Terai then was an inhospitable land for hill migrants due to endemic malaria. And, despite the demarcation of boundary, there was no restriction on border crossing for livelihood as each state encouraged outside settlers. Thus, while Nepal enticed yeoman farmers from the Company territory to its Terai, the British welcomed Nepalese migrants in their hill domain.⁴⁴ The Terai, at that time, actually worked as a space of population vacuum.⁴⁵ Measurement of pressure of rural population on land resources showed that Bihar and Uttar Pradesh contiguous to Nepal had the highest level of over- population in India. Therefore, the demographic pressure operating in densely-populated middle Ganges plain affected Nepal Terai as its obvious extension through immigration. In fact, the India- Nepal open border has proved to be of immense help and has played a significant role in the economic development of the Terai region of Nepal. It was the Indian settlers who converted Terai into a rich agricultural belt. Thus, they became the owners of land as well as tenant farmers. This opened up a process of urbanization and infrastructural development in Terai. Indian traders also began to migrate to the Nepal Terai region and started business and trade.

The open border has provided access to specialized and infrastructural facilities on the Indian side for the Nepalese. Even today, for health services, education, entertainment and other such facilities the Nepalese people living in the border areas like Darchula, Baitadi, Dadeldhura and Kanchanpur are extensively dependent on India, especially for health-care and education.⁴⁶ Indian agricultural labourers also go to Nepal during the cultivation and harvesting seasons and there they are known as Dakshinaha (southerners). The bordering Indian market provides opportunities to the Nepalese for selling their products and for purchasing goods of daily necessity and luxury items, including petrol,

⁴⁴ Gurung, Harka (1998), *Nepal: Social Demography and Expressions*, Kathmandu: New ERA, p. 188.

⁴⁵ Gaige, Frederick H. (1975), *Regionalism and National Unity in Nepal*, Berkeley: University of California Press, p. 66.

⁴⁶ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 126-27.

kerosene, edible items, cloth, medicines and various other goods. In many areas people of the neighbouring Nepali region make their marriage and festive purchases from the Indian market. In this regard they take advantage of quality and lower cost. The Indian market facilitates the bordering people of Nepal in three ways: availability of goods in case of crisis on the Nepalese side, benefit of comparative prices and better market facilities for products including agricultural produce.⁴⁷

On both sides of the border in the Terai 'there are densely populated, industrialized and rich agriculture belts with important urban centres all along. This geographical situation has induced a particular pattern of relationship between India and Nepal. The border between India and Nepal is open and the people of the two countries have free movements across the border without any restrictions except in extraordinary circumstances, when the border is closed temporarily, as for example, during the elections due to the practices of calling upon each other for the support of a candidate or a political party. The open border has become a way of life for the people of the two countries. It has led to the development of a distinctive pattern of social and economic relations between the two countries.'⁴⁸ The open border also has important economic implications for the two countries. The rapid urbanization of the Terai region has opened up economic opportunities for the inhabitants of the border regions, as people from both the countries can cross the border and work in each other's country.

The 'pull' and 'push' factors of migration, like commonalities in physical setting, historical background, socio-cultural moorings, economic motive, repression, natural calamities and ethnicity and religion, have also been at work in India-Nepal case.⁴⁹ Lack of economic opportunities in the hilly area of Nepal, scarce arable land and population pressure worked as centrifugal and push factors in forcing the people of Nepal down from hill and settle in Darjeeling. Socio-economic condition in Nepal is bad and the Government of Nepal has been unable to provide education and health for a large part of

⁴⁷ Ibid, p. 126.

⁴⁸ Upreti, B.C. (2003), "India-Nepal Relations: Dynamics, Issues and Problems", *South Asian Survey*, 10 (2), 257-74, pp. 258-59.

⁴⁹ Baral, Lok Raj (1997), "India-Nepal Migration: Solution Beyond Formalities", in Jayanta Kumar Ray (ed.), *India-Nepal Cooperation Broadening Measures*, Calcutta: KP Bagchi & Company, p. 107.

its population. The depth of economic depression in the hill and poverty pushed Nepalese to search for new settlement.⁵⁰ Rapid growth of tea industry throughout the second half of the 19th century led to the recruitment of tea plantation workers who mostly came from Nepal. Easy crossing of border due to geographical contiguity has also acted as a pull factor for Nepalese to settle in Indian bordering states.

The differentials in wages and better employment conditions further promote migration on a massive scale. It results in a regular movement of people and goods and thus carries both, the legal and the illegal underpinnings with it. Legal movement includes people and goods, both at official and unofficial levels. The rest, movements other than these, fall in the category of illegal movement. There is no definite data about illegal trade taking place through the border but it has been estimated that the value of goods smuggled between India and Nepal may be as high as eight to ten times the official bilateral trade.⁵¹

Apart from economic and technical support from India for overall economic development of Nepal, they have very strong trade relations as well. Industrialization came as a very late phenomenon in the kingdom and Nepal had to depend even for the supplies of the essential commodities like cloth, preserved food, small tools, machinery etc. on her southern neighbour, i.e. India. Before the advent of the planned economic developments in the kingdom, trade was characterized by the export of raw materials and the imports of finished and processed consumer goods from her neighbours, especially India. In fact, throughout the fifties, around 99 per cent of Nepal's total trade was with India.⁵²

The open border also increases Nepal's economic dependence upon India to a considerable extent. The people of the Terai region are more dependent on the bordering Indian market and traders for their daily necessities and employment so that the economy

⁵⁰ Datta, Pranati (2005), "Nepali Female Migration and Trafficking", *Journal of Social Sciences*, 11 (1), 49-56, p. 52.

⁵¹ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 130.

⁵² Baraith, Roop Singh (1989), *Transit Politics in South Asia- A Case Study of Nepal*, Jaipur: Aalekh Publishers, p. 102.

of the Terai is viewed as an adjunct to that of India (Dependency Syndrome).⁵³ The economy of Terai has been viewed as an extension of the Indian economy, largely due to the nature of economic interdependence among the people of the bordering region. The annual remittance from India takes the largest share, with one estimate in 1997 being that 23 per cent of all Nepali households receive remittances, of which 33 per cent is only from India. In rural areas, 40 per cent of rural remittances were from India. In that year, Nepali Rs 40 billion were remitted to Nepal by an estimated 1 million Nepalis working in India. Most of this remittance is earned by 'unskilled', 'skilled', seasonal labour, those in military service, commercial sex workers and child labour. India is a preferred destination because of its proximity and open border, cultural affinities, easily convertible currency, easy and affordable traveling options, and histories of migration in family and village.⁵⁴

Nepal's trade with third countries is based on arrangements made in this bilateral agreement of the treaty of transit. Provision was made for freedom of transit across their respective territories through routes mutually agreed upon. Under this treaty, Port facilities at Calcutta and Haldia, 15 transit routes between Calcutta and India- Nepal border were specified. In addition 22 entry/exit points along with India-Nepal border for mutual trade and Nepal-Nepal transit have also been provided. Along the India-Nepal border, there are 22 designated land custom stations through which trading takes place, but volume of traffic is higher in Raxaul and Sunauli land custom stations. {Annexure 2} For long there has been a continuous process of Nepalese migrating to the plains of India and the open border has provided an incentive to the frequent flow of people across it. This process of migration of people has accorded such a socio-cultural complex to the entire border region that it is difficult to make a distinction between the people of the two countries. It has also given rise to a sense of cultural overlap across the border, so much

⁵³ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 132.

⁵⁴ Figures cited from the Nepal Living Standard Survey, 1996 and David Seddon, J. Adhikari and G. Gurung, *Foreign Labour Migration and Remittance Economy of Nepal*, quoted in Raju Bhattarai (2007), 'Open borders, Closed citizenship: Nepali labour migrants in Delhi', in a seminar on International migration, multi-local livelihoods and human security: perspectives from Europe, Asia and Africa, 30 & 31 August, Institute of Social Studies, The Netherlands.

so that the concept of a national boundary in the Terai region has merely a politico-legal connotation.⁵⁵

The mutual dependence of the two societies has been a clear picture in the India- Nepal border areas. The same sense of cordial feeling is observed among people living around the border from Pithoragarh in Uttarakhand to Naxalbari and Sukhia Pokhari in West Bengal and even further northward at Dentam and Geyzing in Sikkim. Besides, the mountainous and hilly people of India and Nepal have a mutual feeling of support for their counterparts across the border out of their preference for regional affiliations as well. However, spatial disparity in development among different geographical regions has led to diversity in demography, lifestyle, occupational structure and economic development.⁵⁶ So far as Sikkim is concerned, especially Dentam and Gangtok, the majority of people are Nepalese in origin. They have contributed a lot to the economic development of the area. The Nepal-Sikkim routes in higher altitudes are not being used for illegal trade, and the rate of organized crime in Sikkim is also low. Gangtok resembles Darjeeling for much of its Nepaliness. There is a cooperative environment among people of different castes and groups. Almost 50 to 60 thousand Nepali workers supply seasonal agricultural labor to Sikkim facilitating economic progress in the area.⁵⁷

The open border has greatly facilitated migration between the two countries and this has been viewed as something similar to unrestricted entry rules generally applied to transboundary ethnic groups. The Indian side of the border is greatly dominated by the ethnic groups which have considerable presence in Nepal's contiguous Terai region. This explains the close marriage and kinship relations between the people of both the countries. Apart from the economic motives which have been playing an important role in the movement of people along the open border is marriage-related migration. These migrations are a two way process. "Marriage relationship represents a continual and active reinforcement of the cultural ties between the people of Nepal and India. As per

⁵⁵ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 127.

⁵⁶ Bhardwaj, Vinod K. (2009), "Indo- Nepal Open International Border: Challenges and Management", *Himalayan Journal of Development and Democracy*, 4 (1), 54-59, p. 55.

⁵⁷ Ibid.

the 1991 Census of Nepal, Indian females are predominant in Terai towns, with a sex ratio of 62.9 percent reflecting a high prevalence of marriage migration from across the Indian border.”⁵⁸

There is no quota system to determine the number of migrants crossing the border. In fact, the number of people who cross it daily is so large that it is not possible for the authorities to regulate them on either side. These migrants have wide-ranging interaction with the people on the other side. The consequences of such migration have been felt more in the Terai region of Nepal than elsewhere as it has considerable bearings upon the population growth in the Terai as well as the socio-religious character of the region.

Similar geographical conditions, easy accessibility and employment opportunities have attracted Indians, as well, to move into the Terai. The impact of the flow of Indian labourers has been maximum in the Terai which is the most fertile and developed region of Nepal. The Terai has only 17 percent of Nepal's total land but accounts for nearly 50 percent of the population's requirements.⁵⁹

Due to high wages and highly prestigious social positions accorded by the hill society to the people working in the foreign army many Nepalese still prefer to move to India.⁶⁰ The most significant movement is the movement of Nepali students to India, particularly to Benaras where mostly Nepali Brahmins come to seek Sanskrit education. There are Indians in large numbers also who move to Nepal for different purposes. According to an observer on population migration, 'Indian contractors dominate in big contracts in governmental and non-governmental sectors because of their better organization, investment and entrepreneurial capacity....A large number of immigrants working in urban areas have a strong hold on trade and commerce, even displacing Nepalese

⁵⁸ Bal Kumar K.C. (1995), "Trends, Patterns and Implications of Rural-to-Urban Migration in Nepal", *Asia Population Studies Series No. 138*, United Nations Economic and Social Commission for Asia and Pacific, New York, UN, p.124.

⁵⁹ Jha, Hari Bansh (1993), *The Terai Community and National Integration in Nepal*, Centre for Economic and Technical Studies (CETS) in cooperation with Friedrich Ebert Stiftung (FES), Kathmandu: Modern Printing Press, p. 30.

⁶⁰ Kansakar, Vidya Bir Singh (1984), "Indo-Nepal Migration: Problem and Prospects", *Contribution to Nepalese Studies*, Kathmandu: CNAS, 11 (2), 49-70, p. 53.

traders....Their business entrepreneurship and extensive linkages in India and abroad are not matched by their Nepalese counterparts.’⁶¹

The 1950 Treaty and Open Border: Perceptions from India and Nepal

The interaction between the people of the two countries has been so widespread and deep rooted that it has added an informal dimension to their relations. The opinions from both the countries have some commonalities and some divergences.

The Nepali Congress never asked for abrogation of the treaty and said that the treaty could be revised through diplomatic consultations. The Communist Party of Nepal (United Marxist Leninist) manifesto states that ‘the unequal and derogatory treaties and agreements including the 1950 treaty, and others signed by the Nepali Congress Panchayat and earlier Governments will all be reviewed and will be modified in compliance with the principle of equality, mutual respect and benefit.’⁶²

The Communist Party of Nepal (Maoists) manifesto refers to the treaty as a black mark upon the name of peace and friendship. For Nepal it is humiliating and unequal. It is harmful to Nepal’s sovereignty, independence, security, national integrity and well being. However, none of the political parties has spelt out how the treaty has been an affront to Nepali respect and dignity.⁶³

Prachanda strongly believes that though the 1950 treaty exists, but based on the situation in the first decade of the 21st century, it would be better for Nepal and India to have a new treaty. He says that the Nepalese people have the feeling that somewhere along the line, the kind of benefit Nepal could get is not there, and so they aspire to change this. His party is in favour of reviewing all the other treaties to see what revisions or further enhancements are necessary. He says:

⁶¹ Dahal, Dilli Ram (1978), “Indian Ethnic Group in the Nepal Terai: A Study of Immigration and Socio-economic Behaviour”, mimeographed, RCNAS, Tribhuvan University, p. 233-7.

⁶² Thapliyal, Sangeeta (2003), “Contesting Mutual Security: India- Nepal Relations”, *AGNI*, Studies in International Strategic Issues, 6 (4), 39-50, p.48.

⁶³ Ibid.

What we want is new unity on a new basis with India. The truth is that the treaty- some of the features of which were a legacy of British colonialism- was concluded between two unequal partners in a world that no longer exists. Among the provisions that offend national sensibilities are those giving New Delhi a say in Kathmandu's purchase of military equipment from a third country and granting India 'first preference' for industrial and natural resource projects in Nepal. Such provisions are clearly inconsistent with the small Himalayan nation's sovereignty and have, in any case, proved unimplementable.⁶⁴

There were reports that, while he was Prime Minister, Prachanda had been seeking to agree a 'Friendship Treaty' with China, partly in order to dilute the influence of India in Nepalese affairs. The army and the National Congress, both of whom have close ties with India, were said to be strongly opposed to this development. The Maoists view Nepal's 1950 treaty with India as an unequal one and wish to renegotiate it.⁶⁵

In recent years, the Nepali ruling elite has started viewing the open border as a cause of problems and tensions. It is often viewed as a source of dominance from the south, whether it involves migrations, economic activities or political issues and at the same time as demonstrating India's 'big brotherly' attitude and attempt to erode and usurp sovereignty. The open border issue has at times been used as a political tool. The ruling elite have always been in the favour of controlling or even the closing of the border. However, the perception of the Terai people is quite different. They allege that the perception of the Kathmandu based ruling elite and intellectuals are removed from reality. They believe that the open border not only needs to be maintained but also further strengthened. This view is supported by the Nepal Sadbhavana Party which is against the regulation of the border as well. They would say, we will revolt if the border is regulated, because it is going to affect their interests.⁶⁶

⁶⁴ "India-Nepal Friendship Treaty of 1950: Prachanda's Views and Its Consequences". Accessed on June 2, 2010.

<http://cbcnn.blogspot.com/2008/05/india-nepal-friendship-treaty-of-1950.html>

⁶⁵ "Nepal on the boil again", *The Hindu*, May 14, 2009.

⁶⁶ India's South Asian Neighbours: The Options for Constructive Engagement: *Association of Indian Diplomats*, p. 70.

On the Indian side, the two largest political parties have presented their concerns differently regarding the India-Nepal open border. The BJP says it will re-craft India's Nepal policy to rid it of the UPA's biases that have influenced India's response to events in Nepal with which our country shares a common civilisational and cultural history. India-Nepal relations must be based on friendship, mutual cooperation and harmony of interests. Towards this end, existing arrangements will be reviewed and revised bearing in mind mutual interests and benefits on the basis of dialogue. The BJP would like to see Nepal emerge as a stable, prosperous country, and will strive to strengthen age-old fraternal ties.⁶⁷

The Indian National Congress, on the other hand, welcomes the return of multi-party democracy in Nepal. It will work with Nepal to deepen bilateral ties across a wide spectrum of areas for demonstrable mutual benefit. The Indian National Congress also believes that Nepal must take note of India's security concerns in a more meaningful manner.⁶⁸

According to Upreti, from the Indian point of view, two aspects are important:

- a. The open border with Nepal is in accordance with the spirit of the 1950 Treaty of Peace and Friendship. Both are supportive to each other. So as long as one provision exists, the other has its relevance.
- b. India's concern would be over the increasing security threats along the border. It is the misuse of the open border which needs to be checked with strict vigilance. It would not affect India much if the border is closed. India seems to have faith in the existing provisions. Moreover, an open border is not as debatable an issue in India as in Nepal. But the elitist and popular perceptions relating to the open border are very different in Nepal.⁶⁹

⁶⁷ Bhartiya Janata Party. Accessed on June 14, 2010.

<http://www.indian-elections.com/partymanifestoes/bjp.html>

⁶⁸ Lok Sabha Elections 2009 Manifesto of the Indian National Congress. Accessed on June 13, 2010. <http://www.indian-elections.com/pdf/manifesto09-cong.pdf>

⁶⁹ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, pp. 133-34.

On the demand of Indian Gorkhas of abrogation of treaty Mahendra P. Lama says: Interestingly the 10 million-odd Indian Gorkhas living in various parts of India have also been demanding the abrogation of the treaty and the closing down of the border. This is because their identity is being diluted by the floating population from Nepal who come to India for livelihood. As a result, Indian Gorkhas are dubbed as foreigners in states like Assam, Manipur and Meghalaya.⁷⁰

Bhardwaj says that States in India like Uttarakhand and Uttar Pradesh clearly favour the strengthening of cross border relations and making the cross border practices easier. The respondents there acknowledge the symbiotic need of the Nepalese for continuance of the open border to sustain their economy.⁷¹ So is also the opinion of the Nepalese counterparts whose need for the open border emanated from a lack of opportunities in Nepal. Transport problems within Nepal also made the border residents in Nepal feel closer and more dependent on India than on other areas of Nepal.

The people of the two regions do take interest in the political affairs of either side. The general elections are such occasions when, for the support of a candidate or a political party, they call upon each other. Any kind of disturbance in the political relations between the two countries has direct or indirect implications for the people of the bordering region. Since the border is a sensitive issue, it affects the open border most. One significant example of such a situation was the political tangle between the two countries during 1988-89. Relations had become tense over the issue of revision of the treaties of trade and transit. The border was sealed because of the expiry of the treaty and as a consequence the people of the border region had to face economic hardship. In fact, it can be said that the open border has become an instrument of mutual interdependence

⁷⁰ "The future of Indo-Nepal Treaty and Its Impact on Indian Gorkhas", *My Gorkhaland*. Accessed on June 30, 2010.

<http://mygorkhaland.wordpress.com/2008/11/05/the-future-of-indo-nepal-treaty-and-its-impact-on-indian-gorkhas/>

⁷¹ Bhardwaj, Vinod K. (2009), "Indo- Nepal Open International Border: Challenges and Management", *Himalayan Journal of Development and Democracy*, 4 (1), 54-59, p. 55.

more so for the people of the adjoining Nepali region that is less developed and where the people need alternative means of livelihood.⁷²

People who are in support of the open border (in Nepal) argue that it is no point talking about closing the border when we depend so much on India for our daily needs. They say that there is a risk of people suffering from psychological inhibition and that it may have negative impact on the cultural aspects of the society. It will also have serious negative effects on social structure and will do the nation more harm than good.

The 'haats (weekly bazaars) that take place on both the sides of the border not only provide an opportunity to exchange goods and commodities of daily local needs, but also act as the meeting ground for kins and relatives to refresh their mutual love and affection. The close interaction between the Madhesi culture group and their counterparts across the border in Mithila, eastern U.P. and western U.P. is indicative of a strong sense of belonging in regard to race, language, social and cultural values.'⁷³ According to Dor Bahadur Bista, "for marriage and other socio-economic relations the border is ignored. Social and kinship ties are much more important to them than political boundaries."⁷⁴ M. C. Regmi writes:

*[There are] religious, cultural and ethnic affinities between the inhabitants of the Terai region...and their counterparts across the border. The Terai region has, therefore, remained practically an extension of the Indian society and economy through the centuries...*⁷⁵

This reality has become a major bone of contention between the two countries with Nepal challenging that it is impacting the overall demography of Nepal. Those who do not want the border to remain open argue that it should be regulated all over again to make people

⁷² Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, pp. 127-28.

⁷³ Nepali, Gopal Singh (1995), "Nepal-India Border Social Relations", in Hari Bansh Jha (ed.), *Nepal-India Border Relations*, Centre for Economic and Technical Studies (CETS), Kathmandu: Modern Printing Press, pp. 35-36.

⁷⁴ Quoted in Perry, Cindy L. (1997), *Nepali Around the World*, Kathmandu: Ekta Books, p. 262.

⁷⁵ Ibid, p. 263.

feel that India and Nepal are separate countries and to control criminal activities taking place because of open border and to preserve the employment opportunities.

The Communist Party of Nepal (Maoists) has vehemently opposed, right from the beginning, article 2, 6 and 7 of the 1950 treaty which provides for 'special relationship' between the two countries. They argue that the implementation of these articles would allow India to inflict direct and indirect exploitation socially, economically, politically and culturally reducing the country to a semi-colonial state. That is the reason why they demand a system of work permit, closure of Gurkha recruitment centre and the annulment of the treaty of 1950.⁷⁶

Kantipur Daily newspaper made an internet poll in 2000 to know whether it is necessary to formulate a regulation on the cross border movement for the nationals of Nepal and India. As a result of internet gallop poll, 89.5 % percent (1,053 people) voted for the need of the formulation of regulation, whereas 10.5% percent (111 persons) opined as it is not necessary to change the system.⁷⁷ Similarly, Media Services International had conducted a voting survey in 15 districts of hill and Terai areas. 85.5% of the participants voted that it must regulate the border. Among them, 42.9% expressed their opinion in favour of the execution of passport system. In the voting, 44.4% mentioned that both Nepal and India are responsible for uncontrolled border system and negligence in border inspection activity, whereas 40.7% expressed as the weakness of Nepal and 3.8% have taken as India's weakness for unrestricted system.⁷⁸ With the result of these polls, we can understand that Nepalese people have expressed their desire in favour of the controlled border system between two countries.

After hearing the voices from both sides of the border one can see a clear preference of the residents on either side for status quo in border regulations although certainly favouring more effective vigilance along the border to prohibit terrorism and smuggling. However, it is quite clear that a closed border would bring more hardships to the people

⁷⁶ Shrestha, Buddhi N. (2006), "Insecure Border management of Nepal"; paper presented at the 7th International Conference of the International Boundaries Research Unit (IBRU), University of Durham, UK.

⁷⁷ *Kantipur Daily*, February 21, 2000.

⁷⁸ *Kantipur Daily*, July 3, 2000.

of the border area. In the context of increased terrorist trespassing, large-scale migration and smuggling, it is necessary to take certain long-term measures. The realities of an open border are to be reckoned with.

The open border has certainly served both the countries well. India and Nepal have accrued a lot of benefits from this open border in every aspect of the term and in every walk of life. There are a lot of positive implications that we can look towards and that further supports the notion of open border. The socio-cultural exchanges, economic benefits through trade and daily movement of people for everyday needs help strengthening the cordial relations between them. However, at the same time the border has also been an irritant in the relations between the two countries. Illegal movement of people and goods harm the relationship between them. There are border disputes between India and Nepal which have serious implications for relations between the two countries. In fact, it is very true about South Asia, as a region, itself. The fundamental conflict in South Asia is the confrontation between geographical unity and cultural harmony on the one hand and the political creation of distinctive identities on the other. According to Myron Weiner, 'what is most troubling to the governments in South Asia is the unwanted ethnic mix that migration brings into community anxiously seeking to assert their own identity.'⁷⁹ The positive and negative implications of the open border will be discussed in the next chapter.

⁷⁹ Weiner, Myron (1993), "Rejected People and Unwanted Migrants in South Asia", *Economic and Political Weekly*, August 21, p. 1731.

Chapter 3: Emerging Challenges and Implications of the Open Border

Myron Weiner¹ has suggested a framework for the analysis of international migration. He suggests that there are four clusters of variables shaping international migration. The first cluster is *differential variables*. It includes variables such as wage differentials and differences in employment rates and land prices. *Spatial variables* such as distance and transportation costs constitute the second cluster. Many geographers and demographers have emphasized those variables as well. This cluster of variables seems quite similar to what Gardner discusses as constraints and facilitators in migration.² *Affinity variables* comprise the third cluster. Religion, culture, language, kinship network are the major variables in this cluster. The fourth cluster of variables comprises the *access variables*, meaning the rules for entry and exit. Thus, large-scale population movements across borders are induced by high differentials, small distance, close affinity and unrestricted rules of entry and exit. We can easily take these factors into account while discussing the India-Nepal relations and put them as motivating forces behind the open border and population movement across the India-Nepal border at ease.

The unrestricted movement across the border has proved to be boon for the two countries and sometimes we have, in fact, reiterated the fact that it has been instrumental in shaping our friendly relations positively with time. We have responded very well to each other in times of joy and distress. We have been very delicate in threading our relationship with the socio-cultural and economic linkages at the back of our mind. Citizens of both the countries enjoy unrestricted freedom of movement through the open border in accordance with the Treaty of Peace and Friendship. Though there is no separate treaty on defining the status of the border, considering the traditional ties between the two countries and taking the geographical reality of the border into consideration which runs through plains, jungles, and mountains, the border remains open. In fact, it is said that there are houses situated on the border where one door opens towards Nepal and the other towards India and this augments the fact that we had been very close indeed.

¹ Weiner, M. (1985), "On International Migration and International Relations", *Population and Development Review*, 11 (3), 441-55, pp. 445-46.

² De Jong, G.F. and R.W. Gardner (1981), "Migration Decision Making: Multi Disciplinary Approaches to Micro Level Studies in Developed and Developing Countries", Pergamon Press: New York, in Bhim Prasad Subedi (1991), "International Migration in Nepal: Towards an Analytical Framework", *Contributions to Nepalese Studies*, Kathmandu: CNAS, 18 (1), 83-102.

However, we also witnessed some periods when our relationships received a jolt due to embedded political interests of the concerned authorities of the time. We have faced certain challenges on every front but still our relationship at the border, i.e. people to people relationship never faded away. This chapter will discuss the positive and negative implications of the open border and the emerging challenges.

Issues cropping from the open border

The implications of the open India-Nepal border and free movement across the international boundary and the issue related to them are both simple but varied and complex. It is simple because no formality is required to go over from one territory to the other and it is complex because it has become a major cause for many evils to take place in the form of smuggling of all kinds of goods, terrorist activities, migration, and citizenship problems and so on. While on the one hand, the open border regime works as a “safety valve”³ for Nepal as the landlocked country cannot absorb a 4 million-strong manpower within the country, on the other it is now been perceived as a security threat to both India and Nepal owing to the free cross border movement of all sorts of people, including terrorists, smugglers and traffickers in drugs and women.

The open border has often been misused by forces inimical to security interests of the two countries and the concerns raised over this issue has every now and then met with mixed responses from both sides of the border at both official and local level. Many concerned authorities and people, in general, have raised their voices for regulating the border or rather closing it. The extent of illegal activities across the border ranges from arms and drugs trade to trafficking of women and children. It also includes the Maoist nexus of the two countries which is really emerging as the biggest threat to the internal security of the country. However, they have their political bases in both the countries but still their real agenda is not hidden from anyone anymore. The madarsa culture spreading around the border region, more so on the Nepalese side, has also emerged as a grave security threat to both the countries, and India especially. The number of madarsas is increasing day by day and they are really surrounding India,

³ Weiner, Myron (1971), “The Political Demography of Nepal”, *Asian Survey*, 13 (6), 617-30, p. 621. He terms the movement of Nepalese to India as a movement working in favour of Nepal in the form of a safety valve for the demographic growth of Nepal.

which has been in the interest of Pakistan with Pakistan taking care of it and promoting it. However, the Nepalese authorities have time and again assured India of no use of Nepalese soil for anti-India activities but it seems that they are themselves facing crisis in government making and thus being unable to fulfilling the assurances. Overall, it is quite clear that India is facing real threat from these illegal channels and that is the reason why people sitting in the corridors of decision making are very much concerned regarding the border management plan.

The complete freedom of currency movement between the two countries facilitates illegal border trade. Some patterns of smuggling across the border are:

- a. Indian manufactured goods exported to Nepal under the 'quota system' are cheaper in comparison to their prices in India. Hence, many a time as soon as these goods reach the Nepali market, they are smuggled back into India in order to earn more profits.
- b. Some donor countries provide aid to Nepal in the form of consumer goods instead of cash grants. Since there is no or little internal market for such goods, these goods, after reaching the Nepalese market, are smuggled into India.
- c. When the prices of certain goods, particularly petroleum products differ, they are smuggled across the border.⁴

The economic insecurity posed by the Indian immigrants who have a strong hold on trade and commerce in the urban areas of Nepal can be gauged from the view of Subedi:

Indian immigrants to Nepal are engaged in the urban and industrial sector. They comprise a significant percentage of regional population (6.4 in Terai). This may further enhance Nepali dependency with India in term of skilled labourers. It might be that the productive sector of Nepali economy will remain more outside the control of natives....The situation is more exacerbated

⁴ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 130-31.

*by the control over many industries in Nepal by Indian businessmen and their preference for Indian labourers.*⁵

From 2001, as the internal armed conflict in Nepal intensified, the flow of migrants from Nepal to India has increased. This was visible to even a casual observer. According to the Asian Centre for Human Rights, from 1996, an estimated 350,000 to 400,000 Nepalis have been internally displaced from their villages, many of whom make their way into India. One record in late December 2004 puts the figure at 200 Nepalis crossing the border every hour. Had the displaced people no access to India, the IDP camps may have brought attention to the prevailing humanitarian crises in Nepal.⁶

No less serious is the problem of Nepali citizenship to the people of Indian origin in Terai. At times, the issues related to the open border are raised in order to score political gains against each other. There is an estimated strength of about four million persons of recent Indian origin in Nepal but many of them have lived long enough to obtain or aspire for Nepali citizenship, as indeed many of the Nepali economic migrants in India have succeeded in doing so.⁷

Border Disputes

The open border looks like a normal pass away road which one cannot identify if one ignores the boundary demarcation and pillars. The geographical terrain is also such that the changing courses of rivers in the Terai region running across the boundary dislocate the marked demarcations of border pillars further leading to estranged relationship between the two countries. Thus the issue of border pillars comes up every now and then.

⁵ Subedi, Bhim Prasad (1991), "International Migration in Nepal: Towards an Analytical Framework", *Contribution to Nepalese Studies*, Kathmandu: CNAS, 18 (1), 83-102, pp. 93-94.

⁶ *The Case for Intervention in Nepal: A report to the 61st session of the United Commission on Human Rights*, 14 March to 22 April 2005, quoted in Raju Bhattarai (2007), 'Open borders, Closed citizenship: Nepali labour migrants in Delhi', in a seminar on International migration, multi-local livelihoods and human security: perspectives from Europe, Asia and Africa, 30 & 31 August, Institute of Social Studies, The Netherlands.

⁷ Ghosh, Partha S. (1995), *Cooperation and Conflict in South Asia*, New Delhi: Manohar Publications, pp. 16-17.

Frederick Gaige has put forward four types of border-related problems between India and Nepal, all of which have been cropping up for at least several hundred years. The first of these concerns border demarcation. The second involves outlaws and political terrorists who operate either in the Terai or in India and use territory on the other side of the border as sanctuary. Smuggling from Nepal into India and vice versa constitutes the third problem. The fourth is the migration of settlers from one country into the other.⁸ The fourth kind of border problem, as mentioned above, which is related to migration of settlers from one country into the other, further worsens the problem through a *home vs. host* debate on refugees, thereby posing a question over demographic displacement.

The problem of border demarcation has existed since the Treaty of Sagauli. In 1829 it was agreed that border pillars would be re-erected whenever they were destroyed. The border pillars were destroyed with an intention to grab land by the people of both sides or by accident. This created confusion over the line of demarcation and gave rise to disputes between the two countries. India and Nepal have witnessed border disputes at certain point of time having serious implications for relations between the two countries.

In the 1960s the Susta border dispute came to prominence. The Communist Party of Nepal (Maoists) raised the issue of displacement of border pillars in the Tanakpur dam area along with the Tanakpur barrage controversy. Nepal had also raised the Kalapani issue by claiming that the Kalapani area belonged to it. Nepal raised its claims on Kalapani when the UML government was in power. This region forms a narrow neck along the Mahakali River in Pithoragarh and Dharchula districts of India and Nepal respectively. It is a tri-junction of India, Nepal and Tibet and Indian paramilitary forces have been guarding this region since the Chinese attack in 1962. The issue remains to be settled and Nepal has often charged India with the unilateral replacement of border pillars.⁹

⁸ Gaige, Frederick H. (1975), *Regionalism and National Unity in Nepal*, Berkeley: University of California Press, p. 47.

⁹ Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 130.

However, border pillars have been erected at various points and the boundary demarcation scheme has, once again, been rejuvenated. According to official estimates, 98 percent of this border has been demarcated and 182 border maps prepared. On that basis, 8,553 border pillars have been erected.¹⁰ And ultimately, very recently, open border was transformed into regulated system in one of the land-routes at Nepalgunj- Rupaidiya border crossing point from November 1, 2005. Both the governments have introduced regulated border management system to this point, as ID card system has been made compulsory.¹¹

On the question of extradition, both the countries agreed to re-sign the 1953 extradition treaty but it has two problems. One is that India insists on the extradition of third country criminals, to which Nepal does not agree. Secondly, India has offered one legal assistance proposal along with the extradition treaty. But Nepal has not agreed for the police investigations in other countries.¹²

Question of Demographic Displacement and emanating threat

The open border threatens the stability and harmony of a country. This has assumed significance in the context of an assumption that “...ethno-demographic trends appear to be more alarming than the perceptible threats of conventional nature. Moreover, socio-economic discrepancies might be exploited by the collusion of dissatisfied, alienated people and external forces.”¹³ The alleged discrimination against the Indian migrants can open up such conflicts. The activities of these dissatisfied groups can include “aid to the militants, mobilisation of public opinion in the country of their adoption...depending on their organisation, skill and motivation they do provide a clout to ethnic separatism...”¹⁴

¹⁰ “On Nepal-India Border Issue”, January 25, 2010.

<http://blog.com.np/2010/01/25/on-nepal-india-border-issue/>

¹¹ Shrestha, Buddhi N. (2006), “Insecure Border management of Nepal”; paper presented at the 7th International Conference of the International Boundaries Research Unit (IBRU), University of Durham, UK.

¹² India’s South Asian Neighbours: The Options for Constructive Engagement: *Association of Indian Diplomats*, p. 75.

¹³ Baral, Lok Raj (1990), *Regional Migration, Ethnicity and Security: A Case of South Asia*, New Delhi: Sage Publications, pp. 102-3.

¹⁴ Rajbahak, Ram Prasad (1992), *Nepal-India Open Border: A Bond of Shared Aspirations*, New Delhi: Lancer Publishers, p. 100.

Open borders may lead to more efficient use of labour, increasing productivity, and ultimately increasing wealth. The degree to which this wealth is equitably distributed is questionable (and debated), but overall increases in wealth are associated with greater levels of consumption per person than previously. The negative externalities of this higher level of consumption include waste and pollution and degradation of a nation-state's natural capital.

The open border has resulted in a demographic threat to a small country like Nepal. In the words of a Nepali observer, "through immigration, it is bringing another nation...immigration undermines the notion of sovereignty in political as well as economic terms." Nepal's perception of threat is not only from the Indian immigrants residing inside the country but the presence of a larger ethnic community just across the border. Given the high population density of Nepal's bordering Indian states, Uttar Pradesh and Bihar, whose population movement across the border is an integral part of the changing demographic structure of Nepal, crises of governance may well multiply.

Population in its wider ramification involves different aspects of security: food, water, crime, religious conflict and similar issues concerning mutual security. In addition, "demographic pressures in South Asia will also tell on land, air, water, energy, environment and various natural resources such as forest cover", creating a stupendous task for governments and this also seems to be true in the case of India and Nepal. A sizeable section of the Nepali press and opinion has been active in highlighting the danger of India's "demographic invasion of Nepal."¹⁵ The unrestricted movement of population has stood against the interests of Nepal. With the number of Indians moving into Nepal increasing Nepal feels unsafe in allowing this unrestricted immigration into the country owing to its size, population and the economy. Both the countries are so well intertwined that trends emanating from social, religious, economic and political dynamics has begun to stir Nepali society. Also, an open border and a sympathetic population across the border, along with repressive government measures, could lead to its spilling over into India, causing severe unrest in the border region.

¹⁵ Ghosh, Partha Sarthy (1989), *Cooperation and Conflict in South Asia*, New Delhi: Manohar Publications, p. 121.

Moreover, the security implications of the refugees in the host country are far-reaching and multi-dimensional. These implications are evident both in relation to internal as well as external security. Regarding internal security, the presence of thousands, rather hundreds of thousands and even millions of refugees create conditions for destabilisation and disruption of political, economic and social systems in the host country. The extent and intensity of this internal threat naturally depend upon the number of refugees and their demands and expectations on the one hand and the size, nature and capabilities of the host state on the other.¹⁶

Destabilising impacts of refugees is also felt in the host country as a result of tensions and conflict between the refugees and the local people. In recent years, due to the intensification of the Maoist movement and the consequent threats to their livelihood and security, the number of Nepalese migrating to India has increased.¹⁷ India has been the only destination of these refugees, particularly from the Limbuwan region because of socio-cultural identities of Rais, Limbus, Magars and Gurungs across the border in India where there is concentration of Indian Nepalis in North Bengal and Sikkim.¹⁸ The net effect of such cases is the clamour for a 'homeland', as was witnessed in the hill district of Darjeeling adjoining the Indo-Nepal border. There are many Nepalese migrants who have settled permanently in India and have enrolled themselves in the voters list. These migrants are the holders of dual citizenship, one of the country of origin and another of the adopted country, which is illegal. It also contradicts the treaty of Peace and Friendship which allows the movement of Nepalese in India and gives favourable treatment without any biases or prejudices but does not grant citizenship.¹⁹

From the Nepalese side, it has been alleged that citizens of other countries enter Nepal to avail the opportunities under the guise of Indians. Since the border is open it becomes difficult to check the flow of movement of population and to ascertain

¹⁶ Baral, Lok Raj and S.D. Muni (eds.) (1996), *Refugees and Regional Security in South Asia*, New Delhi: Konark Publishers, p. 25.

¹⁷ *Refugee Voices: Nepalese in India*. Accessed on April 26, 2010.
<http://www.refugeesinternational.org/%20content/article/detail/6306>

¹⁸ Baral, Lok Raj and S.D. Muni (eds.) (1996), *Refugees and Regional Security in South Asia*, New Delhi: Konark Publishers, p. 229.

¹⁹ Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, p. 783.

whether they are from Indian or some other South Asian country. Similarly, the open border has helped the Nepalese to move and reside not only in India but also in Bhutan from India which has brought its own problems associated with the movement of population like demographic and economic displacement of the locals.²⁰

In August 1983, the Task Force on Migration, appointed to get the exact figure and reading of Indian migrants in Nepal, presented its recommendations to His Majesty's Government on the impact of internal and international migration in Nepal. The study, under the chairmanship of Harka Gurung, suggested that the people from India were mostly skilled or semi-skilled workers who had displaced local labourers or native workers.

The Gurung Report said: "International migration has much significance in changing the composition of population in the Terai. Immigrants to the Terai have migrated from Indian side lying immediately south of the Terai....Of the total immigrants in the Terai, 97.7 per cent were born in India, 1.6 per cent in Burma and the rest (0.7 per cent) in other countries."²¹ Highlighting the problem that arose out of this Indian immigration the report noted:

Because of foreign migrants, the local labourers are facing strong competition even in unskilled sector....The international migrants have a strong hold in the commercial and industrial sector. Foreign bidders dominate big contracts....unrestricted flow of immigrants can have political implication affecting international relations.²²

The Gurung report further recommended that "Indians or other foreigners should be allowed to work in Nepal only against permits. Those who are working without such permits at present should be sent back." Citizenship was to be made more stringent:

²⁰ Thapliyal, Sangeeta (1997), "Changing Trends in India-Nepal Relations", *Strategic Analysis*, 21 (9), 1303-16, pp. 1312-13.

²¹ Ghosh, Partha S. (1995), *Cooperation and Conflict in South Asia*, New Delhi: Manohar Publications, pp. 114-18.

²² Ibid.

*No naturalized citizen should be appointed or nominated as chief of any agency dealing with political or economic affairs, nor should he be allowed to contest elections to the National Panchayat before twelve years have passed since he became a naturalized citizen of Nepal. Only Nepali citizens should be appointed as agents for the sale of Indian goods in Nepal.*²³

The study came out with recommendations on the management of the border. The Commission recommended the imposition of restrictions on the free movement of people, the introduction of work permits, granting of citizenship to persons of Indian origin, etc.²⁴ However, due to protests from the Terains, the report was not implemented. The people in the Terai feel that regulating the border would create problems for them. However, the attempt to bring in a mono-cultural ethos over the multi-cultural society was mainly because of suspicions regarding the close interactions and socio-cultural linkages between the Terains and Indians.²⁵ Since the thrust of the argument in the Gurung Report was against the people of Terai a sizeable section of which were of Indian origin the report was widely criticized in the Terai region. The Terai-based newspaper *Dainik Nepal* had already debunked the claim put forward by the Rashtriya Samaj Sudhar Sangstha (RSSS) that:

*There are 5.8 (sic) million Indians in the Terai region. This is tantamount to saying that the entire population of the Terai region consists of Indians. It is certainly a crime against the nation to label the bonafide citizens of a country as aliens. In our opinion this is part of an international conspiracy supported by persons with vested interests in Nepal with the aim of undermining Nepal's unity as well as Nepal-India relations.*²⁶

The Gurung Report was a politically motivated document. It talked much about the Indian immigrants in the Terai but is rather shaky over the migrations from the hill

²³ Ibid.

²⁴ National Population Commission, *Internal and International Migration in Nepal: Summary and Recommendations*, Kathmandu, 1983, quoted in S. D. Muni (1992), *India and Nepal: A Changing Relationship*, New Delhi: Konark Publishers.

²⁵ Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, p. 785.

²⁶ "Nepal Press Digest", 26:41, 11 November 1982, p. 270 in Partha Sarthy Ghosh (1989), *Cooperation and Conflict in South Asia*, New Delhi: Manohar Publications, p. 121.

areas into the Terai in recent years, a development which affected Terai politics to the detriment of the people of Indian origin:

Nepalese people have been emigrating since the nineteenth century and the main factors which contributed to this were: injustice and exploitation, recruitment opportunity in the British army and absence of development during the Rana regime. The process of emigration is still in operation mainly due to opportunity available for recruitment in Indian and British armies, employment opportunities in Indian cities and educational and for other purposes.²⁷

The Issue of the Treaty of Trade and Transit

India-Nepal Treaty of Trade and Commerce, 1950 governed the trade relations between the two countries till it was replaced by the India-Nepal Treaty of Trade and Transit in 1960. The 1960 treaty was later followed by a new Treaty of Trade and Transit, 1971, between India and Nepal. However, differences continued to prevail on issues relating to transit facilities and imports to India. India also complained of Nepal's misuse of Nepalese exports to India and discrimination of Indian exports in matters of duties. Nepal continuously maintained that transit facilities should be treated as a matter of right and not as a matter of concession or preference. The basic objective sought by Nepal while negotiating with India was to try and conclude a separate treaty based on the principle of free and unrestricted transit. India, on the other hand, always considered a unified treaty to be the best serving one; keeping in mind the very long open border of 1751 kms which makes trade and transit indissolubly linked matters.

Nepal is a landlocked country, surrounded by India in the east, west and south. It adds to the problem of Nepal in a way that Nepal has to depend on India for transit purposes, except for the goods that move by air. For all practical purposes Nepal is

²⁷ Ibid.

“India locked” rather than landlocked,²⁸ and thus expects India to be more and more accommodative towards Nepal’s problems of trade and transit.

Since the early 1970s, the India- Nepal trade relations reveal a consistent pattern of Nepal’s continued effort to delink the trade and transit issues and India’s persistent denial to do so. Nepal always sought to diversify its trade and reduce its dependence on India, whereas India sought Nepal’s cooperation in controlling the increasing amount of unauthorized trade along the India- Nepal border. Nepal’s continued emphasis on a separate transit treaty was based on the notion that transit was a permanent right of a landlocked country like Nepal, whereas trade was a changing phenomenon and needed adjustments at regular intervals.²⁹ Transit rights were necessary to enhance trade relationship with third countries and thus achieving the goal of trade diversification. India, on the other hand, argued that trade and transit issues were always linked and closely tied together and the separation of these two issues would harm India’s economic and security interests.

The trade relationship between India and Nepal appeared to improve in the latter half of the 1970s, especially after the change of government in India in 1977. The new Janata Party government accepted Nepal’s demand for a separate transit treaty. Accordingly India and Nepal signed two separate treaties on Trade and Transit in March 1978. India and Nepal also signed an Agreement of Cooperation in an effort to control the unauthorized trade along the India-Nepal border.³⁰

Under the Treaty of Trade, India and Nepal agreed to undertake all necessary measures for the free and unhindered flow of goods to and from each other’s territories, to accord preferential treatment to the primary products being imported on a reciprocal basis, and to exempt customs duty on imports. India also agreed to grant preferential treatment for the import of industrial commodities produced in Nepal.³¹

²⁸ Thapliyal, Sangeeta (1998), *Mutual Security: The Case of India and Nepal*, New Delhi: Lancers Publishers, p. 15.

²⁹ Upadhyaya, Devendra Raj (1990), “A Comparative Analysis of Transit treaties, Protocols, Memorandum, and Exchange of Letters in a Historical Perspective”, paper presented at a seminar on Indo-Nepal Relations held at India International Centre, New Delhi, in Ramjee P. Parajulee (2000), *The Democratic Transition in Nepal*, New York, INC: Rowman & Littlefield Publishers, p. 188.

³⁰ Muni, S. D. (1992), *India and Nepal: A Changing Relationship*, New Delhi: Konark Publishers.

³¹ Ibid.

The Treaty of Transit recognized the needs of landlocked Nepal to promote its international trade through its access to and from the sea, and granted both countries freedom of transit for their imports and exports through their respective territories. Under the Agreement of Cooperation on unauthorized trade, both countries recognized the freedom of each country to pursue an independent trade policy and agreed to share data and information about unauthorized trade for controlling it.

This arrangement continued under the Congress (I) government led by Prime Minister Indira Gandhi and was further renewed in March 1983 for a period of five years. However, Nepal violated the 1950 Treaty when, in 1987, work permit was introduced by the Nepalese authority to allow Indians to work in the kingdom. Whereas the people of hill are accepted as citizens' matter of factly, the Terai people have to go through a rigorous process to prove their citizenship. In 1988, at the peak of Indo-Nepal irritations due to the trade and transit problem, the then Minister of State for Home, Prakash Bahadur Singh stated in Kanchanpur district of Nepal that "since the pressure of external population can skew the country's economic balance, citizenship from now be available only on the basis of descent."³²

It was done primarily due to a feeling of threat to indigenous working class and employment owing to huge population movement across the open border. The justification for this work permit was referred to the provisions of the letter exchanged along with the treaty. According to this letter,

*In regard to Article 6 of the Treaty of Peace and Friendship which provides for national treatment, the Government of India recognize that it may be necessary for some time to come to afford the Nepalese nationals in Nepal protection from unrestricted competition. The nature and extent of this protection will be determined as and when required by mutual agreement between the two Governments.*³³

³² *The Rising Nepal*, May 17, 1992.

³³ Bhasin, Avtar Singh (1994), *Nepal's Relations with India and China, Documents 1947-92*, vol. 1, Delhi: Siva Exim Pvt. Ltd.

The crisis in India-Nepal trade relations deepened in early 1989, when India and Nepal failed to sign a new draft treaty of trade and an agreement on controlling unauthorized trade. India informed Nepal on February 28, 1989, that the treaties of trade and transit and the agreement on unauthorized trade would expire on March 23, 1989, and India would like to “negotiate a new single unified treaty on trade and transit and a new agreement of cooperation to control unauthorized trade.”³⁴ Finally India sought a single unified treaty in 1989 after the lapse of the separate treaties on March 23, 1989. During K. P. Bhattarai’s visit to India in 1989, the trade relations were strengthened after the ‘trade impasse’. The trade embargo was removed and the bilateral restored to the situation prevailing on April 1, 1987. The date was significant because it annulled the “work permit system” restricting Indians from seeking employment in Nepal.³⁵

There has been a tendency on the part of the Nepalese industrialists to take the benefits of protective tariff regime in India by importing raw materials from the third countries and then re-exporting them to India by value addition. Even in the matter of imports, the Nepalese can buy Indian goods with Nepalese rupees. Indian goods are still cheaper if bought with hard currency. Because of the proximity, the transport cost in exports/imports of goods between Nepal and India is very cheap and as such it is easier for the people of the two countries to trade together. While the people engaged in the unauthorised trade prefer not to make any payment to anyone, at places it is an accepted practice to pay a fixed unofficial amount while carrying goods on a bicycle from one side of the border to the other. Commodities taken from India to Nepal include readymade garments, vegetables, fruits, construction material, machinery parts, cycle and automobile parts and stationery items and those taken from Nepal to India mainly comprise luxury items or items manufactured with foreign raw materials like cloth and ghee besides spices.³⁶

In December 1991, the two countries achieved an important breakthrough when trade and transit treaties were revised during G.P. Koirala’s visit to India. India tried to

³⁴ Text of the letter sent by the ambassador of India to the Secretary of Commerce of Nepal on February 28, 1989.

³⁵ Thapliyal, Sangeeta (1997), “Changing Trends in India-Nepal Relations”, *Strategic Analysis*, 21 (9), 1303-16, p. 1306.

³⁶ Paper presented by Deepak Goel, “Cross-border Crime in the Indo-Nepal Border Region”, in a seminar on Nepal-India Border Relations, April 26, 1994, Kathmandu, p. 70.

accommodate Nepal's economic interests to the maximum extent possible.³⁷ India reduced the domestic content and labour requirement on Nepalese goods from 65 per cent to 50 per cent to provide duty free access to India.³⁸ The agreement to control unauthorised trade was also extended for five years. Nepal thus availed itself of as huge a market as that of almost 1.25 billion people of India. In October 1992 the Indian Prime Minister P.V. Narasimha Rao paid a visit to Nepal. Rao emphasised that Nepal would be the first beneficiary of India's liberalisation policy.³⁹ India had by this time already set its policy to encourage Nepal's economic development by boosting Nepal's exports to India. Rao further emphasised the need to accommodate Nepal's economic interests. He pointed out that:

*Our goal today should be to create a truly new era in bilateral cooperation that will directly benefit our people. What will this mean in practical terms? It will mean our jointly promoting the industrialisation of Nepal, our working to harness the waters of the rivers.*⁴⁰

He further said that:

*India for its part needs help in protecting ecology, for saving the Gangetic plains from the floods, caused by rivers originating in Nepal. And here too, our lands, our peoples together bear the impact of the fury.*⁴¹

India agreed to extend standby credit facility to Nepal from (IC) Rs. 35 crore to Rs. 50 crore. The term of the agreement was extended from one to three years during which period the interest rate of 7 per cent per annum was levied. Nepal's private vehicles were allowed to move from its border to Calcutta and Haldia ports and back provided the vehicles were authorised by the Nepali Transit and Warehousing Company Ltd or

³⁷ K.P.Nayyar, 'India and Nepal Pull Down Himalayan Barrier', *The Economic Times*, December 16, 1991, in B.C. Upreti (2003), "India-Nepal Relations: Dynamics, Issues and Problems", *South Asian Survey*, 10 (2), 257-74, p. 265.

³⁸ Thapliyal, Sangeeta (1997), "Changing Trends in India-Nepal Relations", *Strategic Analysis*, 21 (9), 1303-16, p. 1307-08.

³⁹ *The Times of India*, October 21, 1992, in B.C. Upreti (2003), "India-Nepal Relations: Dynamics, Issues and Problems", *South Asian Survey*, 10 (2), 257-74, p. 265.

⁴⁰ *The Times of India*, October 20, 1992, in B.C. Upreti (2003), "India-Nepal Relations: Dynamics, Issues and Problems", *South Asian Survey*, 10 (2), 257-74, p. 266.

⁴¹ Ibid.

Nepal Transport Corporation. This was agreed to facilitate Nepal's exports to India. Movement of vehicles from Nepal to India via Indian territory was allowed without any bond or cash deposit. Nepal was also allowed to import goods from India in convertible currency.⁴²

Man Mohan Adhikari, Prime Minister of Nepal, also opened his diplomatic initiatives by visiting India in April 1995. In a Press conference he said:

*I would like to review all aspects of relations as well as changes in the trade and transit agreements with India. This is in view of the changes taking place in international relations as well as in South Asia.*⁴³

He had reservations on the 1950 treaty and wanted some changes in it, specifically on clauses related to security issues. However, he reassured India that the Nepalese territory would not be used for anti-India activities. A technical committee was set up to discuss the issues regarding cross-border movement.

Indra Kumar Gujral, Prime Minister of India, gave a thrust on maintaining bilateral relations with the neighbouring countries in the spirit of non-reciprocity and non-interference in the internal affairs. India allowed Nepal to use Phulbari as a transit point to get access to Bangladesh.⁴⁴

The treaty of trade and transit was revised on March 7, 2002. Forty-four percent of Nepal's total exports are to India and 35 percent of its imports come from India. During 2000-2001 Nepal imported goods worth 47 billion rupees from India and exported goods worth 27 billion rupees in return. Thus, Nepal faced a trade deficit of 20 billion rupees in India's favour.⁴⁵ This has been a continuous phenomenon and a major irritant between the two countries.

⁴² Thapliyal, Sangeeta (1997), "Changing Trends in India-Nepal Relations", *Strategic Analysis*, 21 (9), 1303-16, p. 1308.

⁴³ Ibid, p. 1310.

⁴⁴ Ibid, p. 1311.

⁴⁵ *Public Opinion Trends (POT)*, January 2002, p. 16, in B.C. Upreti (2003), "India-Nepal Relations: Dynamics, Issues and Problems", *South Asian Survey*, 10 (2), 257-74, p. 270.

The Trade Treaty, valid for five years was modified and renewed through exchange of letters on December 3, 1996 and March 5, 2002. The Treaty was renewed automatically, without any change, in March 2007. Both sides are also engaged in mutual consultation process to amend the treaty of trade and once this process is over, the amended Treaty of Trade shall replace the existing Treaty, after necessary approval. Pending completion of the process for its renewal with certain amendments proposed, the validity of the Agreement would continue till a new Treaty comes into force. Under this Treaty, there is free trade on mutually agreed to primary products from each other as indicated in Protocol to Article IV of the Treaty. The key features of the treaty are:

- 1) Duty free access to each other's primary products;
- 2) Nepalese manufactured products are allowed access to the Indian market, free of basic customs duty, on the basis of Certificate of Origin issued by a GoN designated authority-FNCCI, if the goods are manufactured in Nepal with Nepalese and/or Indian inputs; or, with at least 30% local value addition, if third country inputs are used; and, involves substantial manufacturing process leading to change in HS classification at four-digit level;
- 3) Annual quotas have been prescribed for duty free access in respect of four items-vegetable fats (100,000 tonnes) acrylic yarn (10,000 tonnes), copper products (10,000 tonnes) and zinc oxide (2,500 tonnes);
- 4) The MFN list for Nepal has three items- cigarettes, alcohol (excluding beer) and cosmetics with non-Nepalese and non-Indian brands;
- 5) Nepalese goods attract Countervailing Duty equal to excise duty on similar products in India;
- 6) Goods manufactured by small scale units in Nepal enjoy the same benefits as SSIs in India with regard to tax exemption;
- 7) Nepal provides a small rebate of 7% in the customs duty for imports from India upto a duty rate of 25% and rebate of 5% for duty rates above 25%;
- 8) The Treaty provides duty-free access to primary products, but Nepal levies an Agriculture Development Fee (ADF) of 5% on imports from India.
- 9) Twenty two designated points on India-Nepal border have been notified for conducting bilateral trade.

- 10) The exports and imports of goods not subject to prohibitions or duties are also allowed to move through the traditional routes on common border.⁴⁶

Bilateral trade takes place either in Indian rupees or convertible currency. Nepal's central bank (Nepal Rashtra Bank) maintains a list of items that can be imported from India in convertible currency. Currently, 135 items are in the list. Since 1993, the Nepal Rashtra Bank maintains a fixed exchange rate with Indian Rupee (1 INR = 1.6 NPR).⁴⁷

The current Treaty of Transit which was last renewed in January 2006 would be in force for a period of seven years up to January 5, 2013 {Annexure 3}. The Treaty confers transit rights through each other's territory through mutually agreed routes and modalities. This Treaty provides for free movement of traffic-in-transit across territories of each other through mutually agreed routes for trade with third countries subject to taking measures to ensure that this does not infringe legitimate interests/security interests of each other. Traffic in transit is exempted from customs/all transit duties. The key features are:

1. India offers 15 transit routes from Kolkata/Haldia to Nepal for its third country trade.
2. Goods can move by road or rail. The creation of ICD in Birgunj and extension of railway line from Raxaul to Birgunj has facilitated direct movement of goods in transit by rail to Nepal.
3. A simple customs procedure has been put in place for Nepal's third country traffic.
4. Since 1993, India also allows movement of goods from one part of Nepal to another through a simple process of customs undertaking. Nepal has agreed to extend similar facility to India in the course of renewal of the transit treaty in March 2006.
5. India has extended Nepal direct transit routes to Bangladesh for bilateral and third country traffic. One road route and one rail route have been notified. The

⁴⁶ Embassy of India, Kathmandu, Nepal. Trade and Commerce. Accessed on May 24, 2010. <http://www.indianembassy.org.np/trade-and-commerce.php>

⁴⁷ Ibid.

road route is through Kakarbhitta-Panitanki-Phulbari-Banglabandha corridor. The rail route is through Radhikapur-Birol interchange point on India-Bangladesh border.⁴⁸

The Agreement of Cooperation to Control Unauthorized Trade was last revised for seven years with effect from October 27, 2009. The objective of this Agreement is to check illegal trade (smuggling) between the two countries. {Annexure 4}

Misuse of the open border and threat perceptions

The geographical proximity and concentration of migrants within the territorial confines proximate to the border of their native country, intensifies their potential for demand articulation and aggregation. In this context, “it is virtually impossible to stop the streams of ideas, information, weapons and money moving through the trans-state networks....and these networks have become more sophisticated as a result of recent development in communication and transportation.”⁴⁹ The geographically contiguous and open border in this context has serious implications. The open border has the potential to facilitate such transactions very smoothly. This is possible because diasporas often create trans-state networks that permit and encourage exchanges of significant resources such as money, manpower, political support and cultural influence, with their homelands as well as their ethnic community living in other parts of the world.

The open border between India and Nepal has been misutilised for smuggling across the border. Smuggling has been undertaken with little risk, and it has been practiced by many people living along the border. In fact, as one Terai inhabitant remarked about the people in his village, smuggling has become a habit for them. Any item that is less expensive on one side of the border is likely to turn up for sale on the other side without having followed established customs channels.⁵⁰ The difference in tariff rates that prevail between the two countries leads to smuggling of items from Nepal to India like ganja, hashish, different types of herbs, vegetable ghee, etc. Conversely,

⁴⁸ Ibid.

⁴⁹ Smith, Anthony D. (1986), *Ethnic Origin of Nations*, London: Basil Blackwell, p. 39.

⁵⁰ Gaige, Frederick H. (1975), *Regionalism and National Unity in Nepal*, Berkeley: University of California Press, p. 50.

urea, sugar, industrial explosives, gutkha, etc. are being smuggled from India into Nepal.⁵¹

The provision of free movement of people between India and Nepal has been misutilised by people from other countries also. The racial affinity between the people of South Asia makes it difficult to distinguish and identify them from the people from India and Nepal. It is said that illegal migrants from Bangladesh enter Nepal as Indians. Nearly 2.6 percent of the total population of the Terai region of Nepal consists of Bangladeshis.⁵²

The provision of free movement of people between the two countries has also been misused by countries inimical to India's security interests for their advantage. Pakistan has been continuing its operations against India through Nepal because of the strict vigilance by the Indian security forces along the Pakistan border. Financial support and transit facilities have been provided by Pakistan to the Kashmiri militants in Kathmandu. A number of Muslim organisations have come up with the aid and support of Pakistan, Saudi Arabia, Egypt, and Bangladesh to spread the cause of pan-Islamism. Many of those organizations are engaged in imparting education to the religious minorities with the help of financial aid from Pakistan or the gulf.⁵³

Apart from insurgents, many hard-core criminals pursued by Indian security forces escape into Nepal through the open border. There they set up smuggling gangs and criminal syndicates and carry out smuggling of gold, drugs, fake currency, arms, and explosives.⁵⁴

There is no denying the fact that it is not unusual from the practical point of view to have illegal smuggling of goods, trafficking of girls to brothels in Indian cities, trafficking in narcotic drugs, arms and ammunition and movement of criminals and

⁵¹ Directorate of Revenue Intelligence, Ministry of Finance, *Annual Report 2005-2006*, Government of India, pp. 30-31. Accessed on May 31, 2010.

http://www.dri.nic.in/DRI/ANNUAL_REPORT_2005-06.pdf

⁵² Thapliyal, Sangeeta (1999), "Movement of Population between India and Nepal: Emerging Challenges", *Strategic Analysis*, 23 (5), 777-89, p. 785.

⁵³ Ibid.

⁵⁴ Ministry of Home Affairs, *Annual Report 1999-2000*, Government of India. Accessed on April 26, 2010.

<http://mha.nic.in/contents.htm>

terrorists. In principle, both Nepal and India have positively agreed to control such illegal activities along the border, but there is lack of an effective and practical approach. The multiplicity of routes along the border, the existence of ready markets on both sides, and the relatively thin presence of law enforcement agencies on the ground makes the task of countering these illegal activities difficult.⁵⁵ So far as smuggling from Nepal to India is concerned, Sriman Narayan, the former Indian ambassador to Nepal, had once described it as smuggling by the Indians, to the Indians and for the Indians because of the craze for foreign goods in India and the import of Chinese goods.⁵⁶

Inder Malhotra, a noted Indian Journalist, has remarked:

*Nepal's economic needs should be treated with maximum understanding and generosity even if India has to suffer minor losses here and there, and provided no grave damage is done to the Indian economy. Some such damage has been caused in the past because of a diversion of Indian exports, smuggling into India of foreign luxury goods originally brought to Nepal under a dubious gift-parcels scheme, and the hot-house establishment in Nepal of stainless-steel and synthetic-fibre industries. Most Nepalese realize that these have done no good to Nepal or India. But this has yet to be impressed on a particularly unsavoury group of Indian businessmen in Nepal who have been the main promoters as well as beneficiaries of the various rackets. If allowed unchecked, the activities of these ugly Indians may do incalculable damage to Indo-Nepal relations.*⁵⁷

To assert Nepali national identity, Nepali language was promoted and restrictions on other languages were imposed citing the reason that other languages would hamper

⁵⁵ Directorate of Revenue Intelligence, Ministry of Finance, *Annual Report 2005-2006*, Government of India, pp. 30-31. Accessed on May 31, 2010.

http://www.dri.nic.in/DRI/ANNUAL_REPORT_2005-06.pdf

⁵⁶ Narayan, Shriman (1970), "Nepal and India: An Exercise in Open Diplomacy", Bombay: Popular Prakashan.

⁵⁷ Malhotra, Inder (1970), "India-Nepal Relations: Delhi's Diplomacy on Trial", *The Statesman*, Calcutta, June 12, p. 6, in Frederick H. Gaige (1975), *Regionalism and National Unity in Nepal*, Berkeley: University of California Press, p. 55.

the development of Nepali as a national language. Hindi bulletin on radio Nepal was stopped. This was done because the close socio-economic ties of the people of Terai with India were perceived by Nepal with anxiety. As F. Gaige has put it, “the Terai is the channel through which Indian influence can infiltrate into Nepal...some concerned members of Nepal’s governing elite look upon the Terai as their nation’s vulnerable underbelly.”⁵⁸

Arms and Drugs Trade

Smuggling of consumer goods, sold in Kathmandu shops to Indian tourists and pilgrims, from Nepal to India through misuse of trade points takes place because of the differential tariff rates that prevail in the two countries. This problem is compounded by Nepal’s decision to import these goods far in excess of its requirements. A portion of these goods get diverted to Indian consumption centres even before entering Nepal. The focal point of the illegal trade in arms and drugs is due to the open border between India and Nepal.

The international terrorists have misused Nepal’s land as a transit point, because of the open border, for arms trafficking. This land has been used as the meeting point for terrorists and extremist groups. Terrorism is interconnected with acquisition of arms and ammunition and the training for their use.⁵⁹ Nepal can become a probable international transit point for drug trafficking because of its geographical location between the Golden triangle in south-east Asia and the Golden crescent in Central Asia, and thus smuggling of arms gets related with the smuggling of narcotics.⁶⁰ The international power centres have on occasions provided arms to the Tibetan insurgents to conduct campaign against Chinese government in Tibet misusing Nepal’s land. Arms are being trafficked from one conflict ridden South Asian countries to another. The bitter reality cannot be denied that Nepalese land has been misused by international terrorists as transit point for arms and narcotics trafficking, conspiracy

⁵⁸ Gaige, Frederick H. (1975), *Regionalism and National Unity in Nepal*, Berkeley: University of California Press, p.2.

⁵⁹ Singh, K.R. (1989), “International Terrorism and South Asia”, *Strategic Analysis*, New Delhi, 12 (12), p. 1179.

⁶⁰ Shrestha, Hiranya Lal (2006), “Proliferation of Small Arms and Light Weapons in Nepal: A Discussion”, in Shiva K. Dhungana (ed.), *The Maoist Insurgency and Nepal-India Relations*, Kathmandu: Friends for Peace, p. 63.

and smuggling due to inability of Nepalese government to exercise control. Among the non-governmental users of arms, history of organised crimes is very old. It is continuing even today. The criminals, who hunt rare animals, collect important organs of musk deer, smuggle fur and tiger's bones in the northern region of Nepal have been using arms. The arms and ammunition have been sent from Nepal to India by concealing them in vehicles crossing the border. Finance required for procuring arms and ammunition are generally generated through drug trafficking.⁶¹ Thus, with the border being open, the drugs, money and arms nexus poses a serious threat to India and her security concerns. The Indo-Nepal border has become an easy route for the smuggling of arms and ammunition as well. Arms ranging from sophisticated AK47s and 56s to country-made weapons are smuggled across the border through the districts of Pilibhit, Lakhimpur Kheri, and Bahraich. Insurgencies in the two countries and the emergence of criminal gangs, especially in the states of Bihar and Uttar Pradesh, create demand for these weapons. Various Indian insurgent groups, Maoists, various criminal syndicates, and individual couriers are actively involved in such arms smuggling.⁶²

Seizures of Industrial explosives of Indian origin from several places in Nepal indicate the smuggling of such materials from India to Nepal. There are reports that surplus arms belonging to the Maoist insurgents in Nepal are finding their way to the Mumbai underworld.

At the organised level, the major modus operandi includes:

- (a) The diversion of imports in transit through India for Nepal.
- (b) The movement of retail consignments across the border which are then aggregated at convenient locations for further transportation to consumption centres.
- (c) The smuggling of prohibited goods such as Red Sanders from India to Nepal for ultimate export to third countries through Calcutta as misdeclared goods of Nepalese origin. A major impediment in countering the smuggling of third country goods from

⁶¹ Krishan Iyer, V.R. (1992), "Narcotic Aggression and Operation Counter", *Mainstream*, 30 (20), in Sangeeta Thapliyal (1998), *Mutual Security: The Case of India and Nepal*, New Delhi: Lancers Publishers, p. 163.

⁶² Ministry of Home Affairs, *Annual Report of 2002*, Government of India.

Nepal to India is Nepal's continuing import of such goods far in excess of its requirements at very low rates of duty. This creates an obvious arbitrage opportunity arising from the differential rates of duty in the two countries. The commodities particularly susceptible to smuggling across the Indo-Nepal border are:

- (a) Ganja and Hashish from Nepal into India.
- (b) Urea and Sugar from India to Nepal.
- (c) Industrial explosives from India to Nepal.
- (d) Different types of Herbs from Nepal to India.
- (e) Vegetable Ghee and small cardamom from Nepal to India.
- (f) Betel nuts of third country origin from Nepal to India.
- (g) Other third country origin goods from Nepal to India.
- (h) Gutkha in small quantities from India to Nepal.
- (i) Fake Indian Currency Notes (FICN) from Nepal to India.⁶³

The Muslim population of Nepal are concentrated in the Terai region contiguous to the Indian border where three districts of UP, Bahraich, Gonda and Sidharthnagar are vulnerable to ISI activities.⁶⁴ To quote Amar Zutshi, the ex-Indian Army head:

*With this background in view, an open border with Nepal exposes India to infiltration of spices, sabotages and illicit weapons and smuggling. One serious establishing factor and source of potential conflict is the ingress of an estimated 5 lakh Nepali every year in search of work. More than half of them settle down in India permanently.....*⁶⁵

The extent to which the open-border regime is being exploited for smuggling out drugs and women has brought to light the rationale for continuing the present nature of the India-Nepal border and it is being questioned both in India and in Nepal today. The interconnection between the alleged misuse of the open border regime and the involvement of international criminal gangs, terrorist groups and foreign powers in

⁶³ Ministry of Finance, Directorate of Revenue Intelligence, *Annual Report 2006-2007*. Accessed on May 21, 2010.

http://www.dri.nic.in/DRI/ANNUAL_REPORT_2006-07.pdf

⁶⁴ *The Hindustan Times*, January 25, 1994.

⁶⁵ Pant, Shastra Dutta (2000), "Nepal-India Relations: The Open Border Issue", in M.D Dharamdasani (ed.), *India-Nepal Partnership and South Asian Resurgence*, Varanasi: Kanishka Publishers, pp. 39-40.

activities against India has been regularly raised by the Indian side. This went to the extent of stopping the Indian Airlines service between India and Nepal after the hijacking of an Indian plane (IC 814) in December 1999, which further strained Indo-Nepal relations. It was reported by the Indian media that the hijackers, members of a Pakistan-supported guerrilla group members, used both the air and land routes to come to Kathmandu with the connivance of the Pakistan embassy in Nepal.

Madrasas Culture and ISI Nexus

A 78-page Indian intelligence report dating back to the year 2000, titled 'Pakistan's Anti India Activities in Nepal', detailed various aspects of Pakistan's 'undeclared war' and its modus operandi, including support to NGOs promoting ill-will against India among the Nepalese Muslim community by circulating propaganda material received from Pakistan and elsewhere, support to radicalization in an increasing number of mosques along the border and the use of such mosques and religious centres to facilitate the movement of subversive and terrorist cadres and material across the border.⁶⁶ According to a March 27, 2006, report, there are around 1,900 madrasas (seminaries) on both sides of the India-Nepal border, including 800 on the Nepal side. Muslims constitute just 4.2 per cent of Nepal's total population, of which 96.7 percent is confined to the Terai region bordering India, constituting some 7.32 percent of the total population of the Terai.⁶⁷

What was more intriguing was the involvement of many senior Nepali politicians, journalists, businessmen and teachers in the "game plan" of the ISI, which allegedly operated through a variety of agencies, including the madrasas whose numbers are multiplying in the Terai areas bordering India. The report, put on the internet, was an Indian intelligence investigation and was presumably deliberately leaked by the agency in order to draw the attention of the Nepalis and the world to the spreading tentacles of ISI activities carried out from Nepal.⁶⁸ Reports of the arrest of people

⁶⁶ Singh, Ajit Kumar (2006), "India-Nepal: Subversion without Borders", *South Asia Intelligence Review*, 5 (19). Accessed on May 30, 2010.

http://www.satp.org/satporgtp/sair/Archives/5_19.htm

⁶⁷ Ibid.

⁶⁸ 'It has been regularly reported that Pakistani nationals and others involved in cross-border terrorism are arrested by the Nepali Police and handed over to India. In the first week of September 2000, the

engaged in terrorist activities are frequently published by the Indian and the Nepali press in order to focus on the rise of cross-country terrorism as a menace to both India and Nepal.

The impact of such a permeable border has been felt on both the Indian and Nepal side. The ISI has used the Raxaul sub-division in Bihar as a recruiting ground for terrorists, with Birgunj (the second largest city of Nepal), allegedly, being the nerve centre of such activities. Over the years Birgunj has emerged as a major hub for the distribution of counterfeit currency, narcotics, explosives and arms into different parts of India through Bihar. In addition to the border districts of North Bihar, the Kishanganj area adjacent to West Bengal has also reported significant ISI movement. In July 2006, the Intelligence Bureau Director, E.S.L. Narshimhan, visited Raxaul to take stock of reports of growing activities of militants and smugglers along the border, allegedly patronised by the ISI. Further, agencies indicated that at least 3,000 persons residing on the Indo-Nepal border, particularly in Sikrahna and Raxaul, had been enjoying dual citizenship by registering themselves in both India's and Nepal's voters' list.⁶⁹

India's Task Force on Border Management, in its report of October 2000 also confirmed ominous developments along the India-Nepal border:

Financial assistance to these madrasas is channelized through the Islamic Development Bank (Jeddah), Habib Bank of Pakistan and also through some Indian Muslims living in Gulf countries. Pakistan's Habib Bank, after becoming a partner in Nepal's Himalayan Bank, has expanded its network in the border areas including Biratnagar and Krishna Nagar. It is suspected that foreign currency is converted into Indian currency in Nepal and then brought to India clandestinely. Madrasas and mosques on the Indo-Nepal border are

Nepali police confiscated 35 kg of RDX explosives intended to be exploded in some targets of India. In India, too, some Nepalis have been nabbed in connection with their involvement in cross-country terrorism.' in *Himalaya Times* (Kathmandu) and *Times of India* (New Delhi) respectively of September 4 and 7, 2000, in Rajesh M. Basrur (ed.) *Security in the New Millennium: Views from South Asia*, India Research Press, 2001.

⁶⁹ Singh, Ajit Kumar (2006), "India-Nepal: Subversion without Borders", *South Asia Intelligence Review*, 5 (19). Accessed on May 30, 2010.

http://www.satp.org/satporgtp/sair/Archives/5_19.htm

*frequently visited by prominent Muslim leaders, Tablighi Jamaats (proselytizing groups) and pro-Pak Nepali leaders. Officials of Pak Embassy have come to notice visiting Terai area of Nepal to strengthen Islamic institutions and to disburse funds to them. Pro-Pak elements in Nepal also help in demographic subversion of the Terai belt.*⁷⁰

The fact that Nepalese territory is being misused by external agencies is corroborated by the *Patterns of Global Terrorism 2003*, published by the US State Department in 2003, where it says:

*Limited government finances, weak border controls, and poor security infrastructure have made Nepal a convenient logistic and transit point for some outside militants and international terrorists. The country also possesses a number of relatively soft targets that make it a potentially attractive site for terrorist operations. Security remains weak at many public facilities, including the Tribhuvan International Airport in Kathmandu . . .*⁷¹

Counterfeiting of Currency

The large amount of aid coming to the Terai region of Nepal from Islamic countries like Pakistan, Saudi Arabia, Egypt and Bangladesh has promoted the extremist activities which are aggravating the situation and the security problems for India. In the past few years, there have been reports alleging the ISI's involvement in pumping fake currency notes into India to destabilize its economy. Arrests of persons involved have provided clues into how many Nepal-based criminal syndicates are used by the ISI to smuggle in fake currency through the open Indo-Nepal border.⁷² Security agencies are also concerned over the free flow of fake currency notes in the

⁷⁰ Group of Ministers' Report on "Reforming the National Security System", May 23, 2001. Accessed on June 6, 2010.

<http://pib.nic.in/archieve/Ireleng/lyr2001/rmay2001/23052001/r2305200110.html>

⁷¹ 'South Asia Overview', *Patterns of Global Terrorism 2003*, p.14. Accessed on May 3, 2010. <http://www.state.gov/s/ct/rls/crt/2003/c12153.htm>

⁷² 'ISI Stamp on Fake Money Exposed', *The Indian Express*, New Delhi, July 3, 1999. Also see Harinder Baweja, 'The Kathmandu Nexus', *India Today*, June 12, 2000; 'ISI Activities on Rise on Indo-Nepal Border', *The Tribune*, Chandigarh, July 15, 2006; 'Border Management', *Report of the Group of Ministers on National Security*, Ministry of Home Affairs, Government of India, New Delhi, 2001, pp. 60-61.

denominations of INR 1,000 and INR 500. Police reportedly seized such fake notes in more than 200 different places on the Indo-Nepal border over the past year. The printing and circulation of massive quantities of fake India currency has been an integral part of the ISI's strategy for decades now. In one of the incidents of this kind, on August 7, 2005, the Uttar Pradesh Police arrested two suspected ISI agents, Mobin Ansari of Nepal and Ashfaq Ahmed of Gorakhpur in UP, from Delhi and recovered fake currency notes with face value of INR 68,500. The duo reportedly confessed that they used to smuggle fake Indian currency via Nepal through their own agents and circulate them in the bordering districts of Uttar Pradesh and Delhi. In direct confirmation of the Pakistani role in the circulation of fake currency through Nepal, a Pakistan Embassy official, Siraj Ahmed Siraj, was detained by the Nepalese Police at Kathmandu, and counterfeit currency amounting to INR 47,000 and USD 9200 was recovered from him.⁷³

Law enforcement officials in Nepal and India admit that the long border is porous and security infrastructure weak and inadequate. Taking advantage of political uncertainty in Kathmandu Pakistan's Inter Services Intelligence has set up a large and resourceful network of agents from Kathmandu to Birgunj and all along the border to push hundreds of crores of counterfeit Indian currency from Nepal to India with their objective being to fund terror and sabotaging the Indian economy.⁷⁴

Women Trafficking

Trafficking in women and children is yet another dimension, with quite a sizeable section of Nepali women in India's brothels, especially in Mumbai, Delhi and Kolkata. The flesh trade is spreading fast in other towns, resulting in the proliferation of HIV-positive cases and in the Nepal government's reluctance to take such women back into the country. According to some estimates, approximately 200,000 Nepali women are in Indian brothels and nearly 7,000 Nepali girls are sold in India every year. This trafficking takes place especially via the border districts of Bihar and Uttar

⁷³ Singh, Ajit Kumar (2006), "India-Nepal: Subversion without Borders", *South Asia Intelligence Review*, 5 (19). Accessed on May 30, 2010.

http://www.satp.org/satporgtp/sair/Archives/5_19.htm

⁷⁴ Shashikumar, V.K., "Nepal: Export of fake currency". Accessed on May 12, 2010.
<http://www.indiandefencereview.com/2009/02/nepal-export-of-fake-currency.html>

Pradesh. The Asian Development Bank (ADB) estimates that between one and two hundred thousand Nepalese women and girls, roughly a quarter of whom are less than eighteen years old, are held against their will in Indian brothels.⁷⁵ A little over half of all girl sex workers in India are from Nepal and Bangladesh.⁷⁶ A voluntary group has mapped around 1,268 unmanned routes along the Indo-Nepal border which facilitate human trafficking.⁷⁷ The most commonly identified push factor driving the trafficking process is poverty, lack of human and social capital, gender discrimination, vulnerability, and social exclusion.

As reported by United Nations Population Fund (UNPF 2003:4), while India is a major destination for women and girls from Nepal and Bangladesh, it is also a transit and sending country for women and girls to Europe and Gulf countries. Recently, over 500 Nepalese girls were jailed in the state of Bihar on charges of using false documents to transit India in the pursuit of employment in Gulf countries.⁷⁸ Approximately 50,000, or half of the women in prostitution in Bombay, are trafficked from Nepal.⁷⁹ Radhika Coomaraswamy says: 'Brothels of India hold between 100,000 and 160,000 Nepalese women and girls, 35% being taken on the false pretext of marriage or a good job.'⁸⁰

Trafficking in Nepalese women and girls is less risky than smuggling narcotics and electronic equipment into India. In the wake of the internal crisis in Nepal, thousands of people have been displaced; the migration of population for the search of safety and livelihood has been terribly intensified. This situation has made women

⁷⁵ State of World Population 2006, A Passage to Hope: Women and International Migration: UNFPA. Accessed on May 24, 2010.

<http://www.unfpa.org/webdav/site/global/shared/documents/publications/2006/sowp06-en.pdf>

⁷⁶ 'Combating Trafficking of Women and Children in South Asia', Regional Synthesis Paper for Bangladesh, India and Nepal 2003: ADB. Accessed on May 24, 2010.

http://www.adb.org/Documents/Books/Combating_Trafficking/Regional_Synthesis_Paper.pdf

⁷⁷ 'Eyes Wide Open for Flesh Trade', *The Hindustan Times*, New Delhi, February 20, 2008.

⁷⁸ Trafficking of Women in India: Status and Challenges with special reference to Madhya Pradesh. Accessed on June 12, 2010.

<http://prativad.com/articles/Trafficking-of-Women.htm>

⁷⁹ Friedman, Robert I., 'India's Sham: Sexual Slavery and Political Corruption are leading to an IDDS Catastrophe', *The Nation*, 8 April, 1996, in Yubaraj Sangroula (2006), "Indo-Nepal Women Trafficking Connection", *South Asian Journal*, 12:65-82, p. 73.

⁸⁰ Sangroula, Yubaraj (2006), "Indo-Nepal Women Trafficking Connection", *South Asian Journal*, 12:65-82, p. 73.

trafficking easier than in the past. In 2008 alone, nearly 17,000 girls and women were rescued from traffickers as they were crossing the border.⁸¹

In 1998, Seddon reviewed the status of, and responses to, the HIV/AIDS epidemic in Nepal and speculated that AIDS was an impending crisis in this impoverished country. He noted, “The rapid spread of HIV-AIDS in India is of major significance for the future development of the epidemics in its small northern neighbour, Nepal, given the constant movement of people between the two countries and the necessity for the Nepalese economy to maintain these links at all levels- national, regional, and household.”⁸²

The Maoists and open border

The Maoist insurgency in Nepal has added new dimensions to the security risks as the insurgents began taking advantage of the open border. The security implications of the Maoist problem caused India to express its concern over the situation in Nepal. The problem has security threats for India in several ways:

- a. India’s perception has been that it cannot remain unaffected by domestic turbulence in Nepal largely due to the open border between the two countries.
- b. The Maoists use it to take shelter in Indian territory at their will. They even enter it for medical treatment of their combatants. There have been frequent visits of their leaders into the Indian territory for consultations, meetings, etc.
- c. There is large-scale Nepali migration to the bordering Indian districts in Uttarakhand and Uttar Pradesh in the wake of insurgency in Nepal.
- d. The links between the Nepali Maoists and the revolutionary groups in India such as the Naxalites, People’s War Group, etc., are well known. Needless to say that the open border made this interaction easier and frequent.⁸³

⁸¹ “Nepalese Girls Trafficked to the Gulf”, November 27, 2009. Accessed on 21 June, 2010. <http://alaiwah.wordpress.com/2009/11/27/nepalese-girls-trafficked-to-the-gulf/>

⁸² Seddon, D. (1998), “HIV-AIDS in Nepal: The Coming Crisis”, *Bull Concern Asian Sch*, 30:35-45, in Binod Nepal (2007), “Population Mobility and Spread of HIV across the Indo-Nepal Border”, *Journal of Health, Population and Nutrition*, 25 (3), pp. 267-277.

⁸³ Upreti, B.C. (2009), “The India- Nepal Open Border: Nature, Issues and Problems”, in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 129-30.

It may also be added here that in the bordering areas of Uttarakhand and Uttar Pradesh terrorist activities increased during the period of the Maoist insurgency in Nepal. Thus the open border becomes a security risk for both countries due to its porosity. The annual report of Indian Defence Ministry for 2002-03 states that “the growing influence and grip of the Maoists throughout the country, particularly the terai areas bordering India and their links with Indian left extremist outfits are a cause of serious concern.”⁸⁴

The Communist Party of India (Marxist-Leninist), People’s War and the Communist Party of Nepal (Maoists), in a joint statement released to the press on July 8, 2000 appealed “to the people of both Nepal and India to rise unitedly to oppose the fascist and genocidal policies of the Indian ruling classes and their lackeys, including the Nepali ruling classes, and fight for the freedom of both countries from the imperialists’ onslaught and against the strategies of Indian expansionism, and for the total liberation of the masses from the clutches of domestic reaction.”⁸⁵ India is being used as a sanctuary also by the Nepalese Maoists. The Indian Naxalites, on the other hand, have also been going to Nepal for acquiring weapons and ammunition from their Nepalese comrades. Their plan to carve out a ‘Compact Revolutionary Zone’ extending from Nepal through Bihar and the Dandakaranya region to Andhra Pradesh gives a sinister dimension to the Maoist threat to both India and Nepal.⁸⁶

The Maoists are found to have used the open border to their advantage since the very beginning of their People’s War. They have used the border in bringing in weapons and explosive materials, arranging training, transporting their wounded militias to Indian hospitals for treatment, collecting donation from the Nepalese working in India, managing safe passage from Indian territory when travelling from west to east and vice versa. That is why the open border has become helpful in the origin and development of the Maoist People’s War. Although Nepalese government was constantly complaining against the Maoist using India as a passage for importing arms and ammunition and as a safe haven for shelter, Indian government had not been responding and cooperating with them. It was behaving like a passive spectator.

⁸⁴ The Hindu, November 6, 2004.

⁸⁵ Singh, Prakash (2006), “India’s Border Management Challenges”, *Dialogue*, 8 (2), 90-101, pp. 98-99.

⁸⁶ Ibid.

'Look, but let it go on' was the policy of India towards the Maoist insurgency for half a decade. Former Indian ambassador to Nepal K.V. Rajan has candidly depicted the scenario and adds regarding the reaction of the Indian Government on the Maoist Insurgency, albeit self-critically:

India, too, must accept its share of responsibility- it has been a passive spectator for far too long, despite the obvious dangers it poses to its own security. There is no excuse for the fact that despite frequent communications from the Nepalese side, Maoist leaders for the past few years have been moving freely across the border, holding meetings with senior Nepalese politicians on Indian soil, without Indian agencies apparently knowing about it. To plead that it is difficult to keep track of such activity because of an open border, is to give credibility to the same argument made by Nepal in defence of its inability to prevent cross-border traffic of criminals and terrorists.⁸⁷

With the dramatic expansion of the organisational strength of Maoist insurgents in India, their unity, augmentation of their offensive capacity in recent years and cross-border movement of cadres and weapons, the bordering states have been highly alarmed. While the Maoist Communist Centre is dominant in Bihar and Jharkhand, People's War Group is influential in Andhra Pradesh, Orissa and Chhattisgarh. When the two parties got united with the leverage and linkage of Communist Party of Nepal (Maoist), they would fill many vacuum areas, too, which would create a compact insurgency corridor from Nepal to Andhra Pradesh. And this has been a matter of great worry for India. The worry has been augmented by the formation of Indo-Nepal Border Regional Committee (INBRC) between organisations of CPN-M and Indian Maoists recently. This committee coordinates all the Maoist activities along the Indo-Nepal border.⁸⁸

The Maoist insurgents of both countries have turned the Indian bordering states into a single interconnected geographical unit and they are expecting to intensify the violent activities on both sides, thereby easing the movement of weapons and ammunition

⁸⁷ Key to Maoist problem lies in India, *The Kathmandu Post*. Accessed on June 12, 2010. <http://www.ekantipur.com/the-kathmandu-post/2010/01/17/Sports/NTSC-lift-aiden-British-Gurkha-Cup/4172/>

⁸⁸ Shrestha, Shyam (2006), "India's Possible Role in the Future Peace Process of Nepal", in Shiva K. Dhungana (ed.), *The Maoist Insurgency and Nepal-India Relations*, Kathmandu: Friends for Peace, p. 186.

and making India more vulnerable to left-wing armed insurgency, which they call 'Naxalite extremism'.⁸⁹ The porous 735-kilometers Bihar-Nepal border has only 54 police stations along such a long stretch of the boundary. It is considered highly prone to infiltration by the Maoist insurgents of both countries by taking advantage of very poor law and order situation along the border. Indian government is worried that Maoists have set up bases at several places along the border.⁹⁰

The Security Challenges

The illegal activities across the India- Nepal border have posed several questions before the two countries. These illegal and inhuman activities have put up various challenges before the governments of both the countries and they are looking towards solving the issues at the earliest. They are, in fact, coming together more often these days for evolving measures that may be suitable and justified for meeting the security challenges posed by the illegal movements of goods and people across the border. There are many aspects of the migration-security link. International migration impacts on international security in three distinct ways:

- 1) International migration can be a consequence of other security threats like human rights violation, ethnic conflict, internal war; 2) International migration can by itself constitute a threat to international security when it is of massive, uncontrolled character; 3) International migration can result in other security threats (e.g. xenophobia and racial violence). International migration produces social stability risks, leads to demographic security, creates cultural identity issues and poses a threat to social security system and welfare state philosophy and generates many internal security challenges.⁹¹

In the case of India and Nepal, to prevent smuggling and other illegal activities, they have signed an agreement and instituted regular interactions between concerned

⁸⁹ Ibid.

⁹⁰ Jha, Sanjay K. (2003), "Left-Wing Terror: The MCC in Bihar and Jharkhand", *South Asian Intelligence Review (SAIR)*, 1 (40). Accessed on May 7, 2010.
http://www.satp.org/satporgtp/sair/Archives/1_40.htm

⁹¹ Syed Rifaat Hussain, "Non-Traditional Security (NTS) Challenges in South Asia". Accessed on 12 June 2010.
<http://www.rsis-ntsasia.org/resources/publications/policy-briefs/inaugural-meeting/rcss.doc>.

officials.⁹² However, the multiplicity of routes along the border, the ease with which the border can be crossed, the existence of ready markets on both sides, and the relatively thin presence of law enforcement agencies on the ground make the task of countering these illegal activities difficult. With so much of illegal activities being carried out all along the border and the misuse of the open border by forces inimical to India's security concerns India will really have to think over keeping its border open with Nepal. Security threats to India are compounding day by day and with various illegal nexuses running across the border together India needs to give the closure of border a thought.

However, as India allows the Nepalese to engage themselves in the employment market, every year hundreds of thousands of people from Nepal enter into the Indian territory for employment opportunities. Earlier, it were the people from the hills to go to India for employment. But for the last few years the people of the Nepalese border region have also started going to different parts of India for seasonal employment. The Nepalese working in India outnumber the Indians working in Nepal by at least thirty times.⁹³ The Indians are working only in the private sector in Nepal; while the Nepalese are employed in state and Central governments, the armed forces and the private sector in India without any work permit. Thus the voluminous presence of both Nepalese and Indians on both the sides of the border supports the system of open border, in spite of some negative implications.

Thus, it is amply clear now that Nepal constitutes a natural bridgehead across the Himalayas, opening directly into India's Gangetic heartland, and on its part would be expected to display an equal consideration and understanding of India's compulsions and sensitivities in the Himalayan region. The Chinese presence along Nepal's northern borders, the covert anti-Indian activities of the Pakistani intelligence establishment operating under diplomatic cover out of its embassy in Kathmandu,

⁹² 'Agreement of Cooperation between Government of India and His Majesty's Government of Nepal to Control Unauthorised Trade', New Delhi, December 6, 1991. Accessed on April 22, 2010. <http://dgicce.nic.in/indoneptreaty.pdf>

Also series meetings of India-Nepal Inter-Governmental Committee on Trade, Transit and Cooperation to control unauthorized trade are organized to widen and deepen legitimate trade relations and also to prevent illegal trade between the two countries.

⁹³ Jha, Hari Bansh (1995) "Economic Relations among Nepal-India Border Inhabitants", in Hari Bansh Jha (ed.) *Nepal-India Border Relations*, Kathmandu: Modern Printing Press, p. 45.

particularly along the Indo-Nepal border in the south and Nepal's own internal turbulence and political upheavals all raise important concerns in India.

Moreover, border controls between India and Nepal have been traditionally soft-pedalled, ostensibly in the interests of the special relationship and a barely policed border lies open, unfenced and inadequately guarded on either side. India cannot afford to further neglect this border and this is the line from where stems the need of an efficient border management which will be the theme of the next chapter.

Chapter 4: Border Management

Border Management

In times marked by trends as diverse as economic globalization, international migration as well as the fear of terrorism and organized crime, the efficient handling of borders has become an issue of political priority across the world. It is widely agreed that in a globalising world borders should be as open as possible; yet in the post-9/11 world governments are understandably more anxious than ever to ensure that their frontiers are secured against external threats. Thus, recognizing that goods, services and lawful citizens need to flow freely across borders, an increased level of vigilance and interdiction must be maintained with good border management practices in order to help ensure the sanctity and security of borders whether physical or virtual.¹

Every nation devises its own border management policies keeping the ground realities in mind. The countries who are involved at the border formulate their policies on proper management of border only after consulting each other and taking into consideration the socio-economic-cultural underpinnings at work between them. Since a country like Australia, for example, has no land borders to take care of, therefore, the concept and practice of border management varies from country to country.

The border management seeks to secure states first and then to maintain inter-state relations. However, in this era of globalization, the welfare of global / regional community receives a high priority and therefore the restricted border practices are felt obsolete by a majority of people though not by the entire world. Borderless models are being supported in theoretical frameworks, especially by economists and academicians of the developed and developing world.² And this is, to a certain extent, because of the fact that border management is not based on a coherent theoretical framework but on a number of competing assumptions, political imperatives, functional necessities, and social realities. In the European context it is a part of the

¹ Eselebor, A. Willie (2008), "The Challenges of Border Management and Collective Security", *Peace and Conflict Studies*, University of Ibadan, Nigeria.

² Bhardwaj, Vinod K. (2009), "Indo- Nepal Open International Border: Challenges and Management", *Himalayan Journal of Development and Democracy*, 4 (1), 54-59, p. 55.

process of European integration and is a competence shared by European and national institutions.³ The European nations are coming closer and opening up as they believe in the fact that they can progress the maximum by reducing the barriers to free movement of goods and people. However, there are other areas in the world also where a different kind of border management approach is undertaken. India- Nepal border management approach, as such, is quite different from the European context. Although, the two regions are very much similar in their motives behind border management, i.e. free movement of goods and people, but in India- Nepal case the legal-illegal overview and political imperatives work at a large scale. India and Nepal have shared the open border structure from long time back owing to the functional necessities and social realities which are, in this age of migration and displacement and threat emanating from it, proving to be a hindrance towards mutual peaceful co-existence. India and Nepal are fixed in a state of mind where it is not easy to decide which way to go. However, conditions in the two regions under comparative analysis are quite different, yet India and Nepal are sort of moving towards a more regulated border structure from a completely open border.

Border management concerns the administration of borders which, in international relations, run not only as a physical space but as an idea which shapes and defines the strength, peculiarities and anomalies existing in a certain region. Its precise meaning varies according to national context, but it usually concerns the rules, techniques and procedures regulating activities and traffic across defined border areas or zones.⁴

The global security discourse related to borders and border management in terms of movement of people in particular has undergone a dramatic change since the 9/11 and 7/7 terrorist attacks in the U.S. and the U.K. respectively. The security discourse has become state-centric once again and in this discourse borders and border control have

³ Trevisanut, Seline (2004), *European External Borders: Between Identity and Security Needs*. Accessed on June 1, 2010.

http://www.dur.ac.uk/ibru/conferences/sos/programme/2_april/track1_session4/

⁴ Hills, Alice (2006), "Towards a Rationality of Democratic Border Management", in Marina Caparini & Otwin Marenin (eds.), *Borders and Security Governance: Managing Borders in a Globalised World*, Zurich: Lit Verlag, p. 42.

become important.⁵ Movements generally take place in response to the circumstances, actual as well as potential and perceived, with which people are faced both in their home communities and in areas away from home. The problems, opportunities and changes associated with the development process provide the main motivation for movement in most developing countries. Several analysts have suggested that, on balance, the large-scale movement of population does more harm than good. In the context of the interrelationship between migration and development, John Connell has suggested that 'migration proceeds out of inequality and further establishes inequality.'⁶

The strategic goals for border management at the national level of a country has been to protect the border against threats to national security, to the national economy, and to public health, as well as to prevent cross-border criminal activities and lawful entries and exits into or from the state. However, in order to balance the twin goals of modern border management, which are border security and trade facilitation, appropriate equipment and well-trained and motivated staffs are important along with streamlined processes and efficient exchange of information.⁷

In India, the Task Force on Border Management under the Group of Ministers Committee (2001) defined Border Management as "co-ordination and concerted action by political leadership, and administrative, diplomatic, security, intelligence, legal, regulatory and economic agencies of the country to secure our frontiers and subserve the best interests of the country."⁸ Generally speaking, it implies a comprehensive package including:

1. Guarding the borders in time of war
2. Defending the borders in time of peace
3. Ensuring that there are no unauthorized movements of men from either side

⁵ O' Harrow Jr., Robert and Scott Higham (2005), "U.S. Border Security at a Crossroads: Technology Problems Limit Effectiveness of US-VISIT Program to Screen Foreigners", *The Washington Post*, May 23. Accessed on May 17, 2010.

<http://www.washingtonpost.com/wp-dyn/content/article/2005/05/22/AR2005052200613.html>

⁶ Parnwell, Mike (1993), *Population Movements and the Third World*, London: Routledge, p. 9.

⁷ http://www.dcaf.ch/docs/border_Nazarchuk_management.pdf Accessed on May 23, 2010.

⁸ Singh, Prakash (2006), "India's Border Management Challenges", *Dialogue*, 8 (2), 90-101, p.90.

4. Taking steps against smuggling of arms, explosives, narcotics and other contraband items
5. Using sophisticated technological devices to supplement the human effort, and
6. Promoting the socio-economic development of the border population.⁹

India-Nepal Border Management

Prior to independence, a joint team comprising officials from India and Nepal used to inspect the boundary every year to detect encroachment, ill-defined boundary, missing or displaced boundary pillars, and rectify these. Unfortunately, this practice was abandoned after independence with deleterious consequences. Tensions along the disputed tracts of the border gradually started mounting and in the absence of a bilateral mechanism to address them they began to adversely impact on bilateral relations. Earlier, the extent of illegal activities was limited but with the growing interest of China and Pakistan in the region, Nepal became a hotbed of security concerns involving India. Moreover, the wave of globalization further worsened the things and illegal activities increased, for example, increasing activities of ISI in Nepal. Thus, the border which used to be in the news for economic and socio-cultural aspects now included the security concerns under its ambit. Out of it emerged the threat to national security on both sides of the border. Thus, the dynamic nature of the problems concerning management of borders is brought out by the manner in which the sensitivity of India-Nepal border has changed over a period of time. The nature of the once open border has changed completely from being peaceful and trouble-free to being increasingly insecure with the increased activities of Pakistan's Inter-Services Intelligence (ISI) in Nepal.

Thus, a need was felt for an efficient modern management policy. It was amidst such a situation that efforts were undertaken to resolve the contentious border problems without compromising with the national security agenda. Several meetings were held between India and Nepal at official levels and they tried to resolve the border issues. In the meantime, India continued with the policy of peaceful settlement of all border related issues by entering into boundary agreements and at the same time maintained

⁹ Ibid.

its physical presence on the borders. India started establishing military check-posts on 18 points of the Nepalese frontier of the Nepal-China borderline from 1952 onwards. In each of the check-posts, 20 to 40 Indian army personnel equipped with arms and communication equipments were deployed, together with a few Nepali army and civilian officials.¹⁰ The political parties and civil society members in Nepal voiced their strong opposition to this deployment but the check-posts remained as they were till April 20, 1969 when ultimately the check-posts were removed and the Indian army personnel sent back home.

India also stationed, in 1962, para-military forces at Kalapani which Shrestha claims to be in Darchula district of Nepal.¹¹ India has, however, been moderate about it and Indian Prime Minister I. K. Gujral went to the extent of saying in 1997:

*As regards Kalapani, the technicians from both sides are engaged in the demarcation of border. If their reports conclude that the area belongs to Nepal, we will immediately withdraw from there.*¹²

In 1976 India enforced the Restricted Area Permit (RAP) in North Eastern states, thereby, debarring Nepali nationals from visiting the North Eastern states and other designated states of India. There was, thus, influx of domiciled Nepalese from North Eastern States of India. In the mean time the Government of Nepal launched Land Reform programme with the imposition of ceiling on maximum holdings so as to secure excess land above ceiling and to distribute it among the landless in the country. Moreover, after the enactment of land reform programme, the landlords started tilling their land with the help of immigrant labour from India, because foreigners were neither entitled to purchase land nor were they entitled to have tenancy rights.¹³

¹⁰ Shrestha, Buddhi Narayan (2003), *Border Management of Nepal*, Bhumichitra Co: Kathmandu. Accessed on May 22, 2010.

<http://indiamadhesi.files.wordpress.com/2008/11/border-management-of-nepal.pdf>

¹¹ Ibid.

¹² *Gorkhapatra Daily*, February 24, 1997, in Buddhi Narayan Shrestha (2003), *Border Management of Nepal*, Bhumichitra Co: Kathmandu. Accessed on May 22, 2010.

<http://indiamadhesi.files.wordpress.com/2008/11/border-management-of-nepal.pdf>

¹³ Kansakar, Vidya Bir Singh (2001), "Nepal-India Open Border: Prospects, Problems and Challenges", keynote paper presented at the Seminar on Nepal-India Open Border: Pros and Cons, organized by Institute of Foreign Affairs, Kathmandu and sponsored by Friedrich Ebert Stiftung, Nepalgunj. Accessed on May 5, 2010.

http://www.nepaldemocracy.org/documents/treaties_agreements/nep_india_open_border.htm

The problem in the pre-1990 phase was that the security concerns as faced in the 1950s which led to the adoption of open borders, to build and cement linkages were being used by non-state actors to move across India-Nepal international frontiers and create disturbances in either country. New security concerns arose not only for India which the Indian media had brought out but also for Nepal. The manner in which the ISI was using the Nepali territory to access India and create activities which were detrimental to the interests of India is a well known fact. On the other hand the Maoist problem slowly started becoming an issue of great concern for Nepal. Some sections in Nepal opine that these Maoists were and are still getting support from some such similar groups across the borders in India. They, therefore, advocated that regulation of borders would enable Nepal to deal with this challenge much more effectively. The view was that for the stability of Nepal, (not just for India) it is essential that the borders are regulated. Now for both the problems—ISI activities which were primarily affecting India and the Maoists of Nepal which grew to be a major concern for Nepal—one of the effective mechanisms it was felt would be the regulation of the border. It is clear that the intentions on both sides, however, were not to negate the close relations as symbolised by open borders and national treatment of citizens.

In the meantime, both the countries agreed, in December 1980, to set up a Joint Boundary Committee to oversee the work of restoring missing pillars along the border. In this direction, the Joint Technical Level Boundary Committee (JTLBC) was set up in 1981. It was formed to resolve any disputes over the international boundary, for completion of demarcation of the boundary and for maintaining boundary pillars. In July 1982, a meeting of the Joint Boundary Committee was held in Kathmandu which recommended that 10,000 new markers be installed all along the boundary.¹⁴

On the Nepalese side, the Committee under the chairmanship of Harka Bahadur Gurung in 1983 studied internal and international migration of population in Nepal and recommended limited number of points of entry and exit in the India-Nepal border and movement of goods and people other than from the specified points were suggested as illegal. For regulation of movement of the people across the Terai border

¹⁴ Ghosh, Partha S. (1995), *Cooperation and Conflict in South Asia*, Manohar Publications: New Delhi, p. 119.

the Committee recommended registration of names at the border check points, entry permit system and regular passports between India and Nepal.¹⁵

For effectively guarding the border and to prevent its misuse by undesirable elements, the Sashastra Seema Bal (SSB) was deployed as the border guarding force along the India-Nepal border. The Special Service Bureau (SSB) was raised in 1963 under the Ministry of External Affairs in the backdrop of the Chinese aggression of 1962 and pursuant to the philosophy that security of the borders was not the responsibility of armed forces alone and that it also requires a well-motivated and trained border population. The SSB came under the Prime Minister's Secretariat on January 1, 1965 and subsequently it was transferred to Cabinet Secretariat on September 1, 1965. It was also designated as the lead intelligence agency in the areas of deployment. This force was primarily deployed to prevent the Maoist insurgency spilling over into Indian territory.¹⁶ To prevent any transgression of the border by the Maoists, the SSB divided the entire border into three segments: *security sensitive, under observation*, and *normal*. Forces have been deployed accordingly. For security-sensitive areas, check-posts have been constructed every 4 km; for areas under observation, one check-post has been set up every 6 km; and for normal areas, check-posts have been established 15 km apart.¹⁷

1. *Security Sensitive Segment*: 725 km of 9 Nepalese districts from Dadeldhura to Nawalparasi.

2. *Under Observation Segment*: 780 km of 13 districts from Chitawon to Ilam.

3. *Normal Segment*: 303 km of 4 districts, north of Ilam and north of Dadeldhura.

¹⁵ Harka Bahadur Gurung's Report on National Commission on Population, HMG, Kathmandu, 1983, in Sangeeta Thapliyal (1998), *Mutual Security: The Case of India and Nepal*, New Delhi: Lancers Publishers, p. 164.

¹⁶ Ministry of Home Affairs, *Annual Report 2006–2007*, Government of India, 2007, p. 27. Accessed on May 30, 2010.

<http://www.mha.nic.in/pdfs/ar0607-Eng.pdf>

¹⁷ Buddhi Narayan Shrestha, *Guarding Indo-Nepal Border*, October 28, 2006. Accessed on May 1, 2010.

<http://bordernepal.wordpress.com/tag/uncategorised/page/2/>

Panchayati Raj Institutions/District Councils/ Territorial Councils can execute the schemes under the BADP. The State governments will closely monitor the schemes taken under the BADP and send them to the Ministry of Home Affairs on a quarterly basis.³⁶

The revised guidelines for Border Area Development Programme (BADP) were formulated in 2008. The BADP was started in the Seventh Plan to develop infrastructural requirements of the border people along the western border. Subsequently, in the Eighth and Ninth Plans, the programme was extended to all international borders covering seventeen states. The programme covers 362 border blocks of 94 border districts of 17 States located along the international land border. The programme is a 100% centrally sponsored scheme. Funds are provided to the States as a non-lapsable Special Central Assistance (SCA) for execution of projects relating to infrastructure, livelihood, education, health, agriculture and allied sectors.³⁷

According to the revised guidelines, BADP schemes should be designed to take care of the special needs of the border people with emphasis on remote areas. The aim is to transform the border areas by ensuring multifaceted development and to saturate the border areas with the entire essential infrastructure through convergence of schemes and participatory approach. The state government is required to devise an Annual Plan that accords priority to villages near the international border. All centrally sponsored schemes and BADP should converge for filling critical gaps in infrastructure and providing livelihood, state government should earmark resources for border area planning, and surveys should be conducted to ascertain the gaps in physical infrastructure. Greater participation of grass root institutions and local population in formulating the scheme should be ensured.³⁸

³⁶ Ministry of Home Affairs, *Border Area Development Programme (BADP), Revised Guidelines 2008*. Accessed on June 16, 2010.

<http://pbplanning.gov.in/pdf/BADP%20Revised%20Guidelines%202008.pdf>

³⁷ Ministry of Home Affairs, *Annual Report 2008-2009*, Government of India. Accessed on June 9, 2010. <http://mha.nic.in/pdfs/ar0809-Eng.pdf>

³⁸ Ministry of Home Affairs, *Border Area Development Programme (BADP), Revised Guidelines 2008*: Accessed on June 16, 2010.

<http://pbplanning.gov.in/pdf/BADP%20Revised%20Guidelines%202008.pdf>

The Annual Report of Home Ministry states that an amount of Rs. 635 crores has been released under the BADP by March 31, 2009. The funds are allocated according to the length of the border, population of the border block, and area of the block. Department of Border Management under the Ministry of Home Affairs monitors the implementation of the BADP along with the respective state governments.³⁹

The emphasis is now on specific socio-economic and infrastructure development of villages falling 'between 0 to 10 km.' from the border. The villages have been arranged in an order from the zero line to 10 km. The village development profile of each and every village is being prepared. All the major developmental infrastructure facilities like pucca road connectivity, electricity, safe drinking water, telephone facilities, primary school building, PDS shop, and community center are being developed in a planned way. Village plan and block plan of each and every village are being prepared. After saturating the villages falling between zero to 10 km from the border, the next set of villages falling between 10-15 km and 15-20 km. will be taken up for implementing the schemes under the BADP. The State Governments have been directed that ad-hoc projects should not be taken at all. The village plan should be integrated with district plan for the proper and sustainable development of the remote villages. The selection of the projects is, therefore, expected to be more organized and responsive to area needs.⁴⁰

In the 11th Plan, the emphasis would be on allocation of more resources from the Centre and dove-tailing other ongoing schemes and adopting bottom-up area planning approaches, so as to augment the resources and to upgrade infrastructure and socio-economic services. The review and monitoring of BADP is being done at the district level, State level and in the Ministry of Home Affairs. Periodical visits of the officers from the State level and Government of India are being undertaken.⁴¹

³⁹ Ministry of Home Affairs, *Annual Report 2008-2009*, Government of India. Accessed on June 9, 2010.

<http://mha.nic.in/pdfs/ar0809-Eng.pdf>

⁴⁰ Ibid.

⁴¹ Ministry of Home Affairs, *Border Area Development Programme (BADP), Revised Guidelines 2008*. Accessed on June 16, 2010.

<http://pbplanning.gov.in/pdf/BADP%20Revised%20Guidelines%202008.pdf>

Though the Government of India has accepted the recommendations of the GoM and has even begun to implement them, many problems still persist at the ground level. These include lack of coordination between various central and state agencies, uncooperative state government departments, hostile local population, vested interests, lack of political will and strained neighbourly relations. It is therefore imperative that due consideration should be given to these hurdles and adequate measures formulated to find a way out. It can be said without doubt that one area where the government needs to focus more is on centre-state relations. Most of the problems of implementation of any plan or programme stem from their mutually divergent perceptions and hence uncooperative attitude towards each other.

Bilateral Institutional Mechanisms

Bilateral mechanisms in the form of Home Secretary level talks and Joint Working Group at the level of Joint Secretaries exist between the two countries. In addition, there is a mechanism of Border District Coordination Committee Meetings between the district officials of the two countries. These bilateral mechanisms have been helpful in sensitizing each other about their respective security concerns and formulating strategies for better management of the border. These mechanisms also serve as platforms for discussing issues of mutual concern like containing cross-border crimes, smuggling, situation arising out of terrorist activities, etc. at national, regional and local levels.⁴²

One of the factors of vital importance for border management is to have a well trained and dedicated border guarding force, which also has warm and friendly relations with the local population. Presently, it is observed that Government does not have a robust holistic training programme for the border guarding personnel, which is necessary for sensitising the security personnel towards the cultural nuances of every border area and help elicit better cooperation from the local population. Proper training and incentives are essential for keeping the morale of the border guarding personnel high.

⁴² Ministry of Home Affairs, *Annual Report 2008-2009*, Government of India. Accessed on June 9, 2010.
<http://mha.nic.in/pdfs/ar0809-Eng.pdf>

Empowered Committee

The policy matters relating to the scope of the programme, prescription of geographical limits of areas in the States within which schemes will be taken up, allocation of funds to the States and modalities for proper execution of the programme are laid down by an Empowered Committee constituted under the Chairmanship of the Secretary (Border Management) in the Ministry of Home Affairs.⁴³

“Management Information System (MIS)” with village as a basic unit will be developed for generating required reports for policy decisions. The MIS will be web enabled for regular up-date by the respective States. The system would be designed in such a way that the required reports are generated for policy decision so that mid stream corrections are made wherever required. The National Informatics Centre (NIC) is preparing an appropriate MIS on BADP with the inputs of States and the same will be made available to all concerned.⁴⁴

Integrated Check Posts (ICPs) should be increased to cover all transit points. All ICPs should have Land Customs Stations (LCS) integrated with them with adequate facilities for the integrated posts to function from. Computers linked to Kolkata customs should be provided to ensure efficient recording of all movement of material and personnel, including those from third countries. This will also help in cargo profiling.⁴⁵

Facilitation of Passenger Traffic

An agreement has been signed between Nepal and India on the regulation of passenger vehicular traffic between the two countries on 14 routes from five border points. The proposal is reciprocal in nature and it allows five border crossing

⁴³ Ibid.

⁴⁴ Ministry of Home Affairs, *Border Area Development Programme (BADP), Revised Guidelines 2008*. Accessed on June 16, 2010.

<http://pbplanning.gov.in/pdf/BADP%20Revised%20Guidelines%202008.pdf>

⁴⁵ Ministry of Home Affairs, *Group of Ministers' Report on "Reforming the National Security System" 2001*, Government of India. Accessed on June 8, 2010.

<http://pib.nic.in/archieve/lreleeng/lyr2001/rmay2001/23052001/r2305200110.html>

checkpoints, including Mahendranagar, Nepalgunj, Bhairahawa, Birgunj and Kakarbhitta. The buses will connect various Terai districts with Indian cities of New Delhi, Kolkata, Patna and Varanasi among others. Maximum 53 buses were allowed to ply on the agreed routes from each side. In addition, provision was also made to provide the nationals of Nepal and India free and unhindered movement to travel either way on vehicles for specific purposes such as marriages, religious functions, pilgrimages and study tours.

The transport agreement reached between Nepal and India has added a new dimension to the bilateral relations of the two neighbouring nations. Now the only key issue is that the government of Nepal needs to take a few crucial decisions to help Nepali transport entrepreneurs reap benefits from it. Prior to this agreement, Indian vehicles were freely entering Nepal by paying certain duty at the border while Nepali vehicles were required to obtain permits from the Indian Embassy in Kathmandu by producing bank guarantees to cross the border. With this agreement, the passenger buses (53 at most from each side), tourist buses, buses carrying pilgrims and other personal vehicles can cross the major border check-points without hindrance and without having to pay any fees for the duration of five days in India.

The agreement will definitely ease the movement of people between the two countries. As there were very few Nepali vehicles crossing the border, the agreement is expected to see a sharp rise in the number of Nepali vehicles entering India in the coming days. In the case of Indian vehicles, which were already coming in big numbers due to Nepal's unilateral concession to allow them in for up to 72 hours, the agreement has provided an additional boost to them. Now Indian vehicles will be allowed to ply inside the country for five days, and will avoid the erstwhile Rs. 440 customs duty and other fees that District Development Committees and Municipalities charged.

The transport agreement has conspicuously missed out cargo transport, the area where Nepal has been losing out to Indian transporters. Nepal should, therefore, insist on India to extend the agreement to transport of goods as well. If Nepali trucks were allowed to carry Nepali exports to different parts of India and bring back Nepal's imports from Calcutta, they would be in a position to compete with Indian companies.

The transport agreement is, therefore, a positive move but needs refinement to ensure equal benefits to Nepali transporters commensurate with their Indian counterparts. The Government of Nepal should also be serious about reaping benefits from the agreement by providing necessary support to Nepal's business sector.⁴⁶

Local Population' Integration in Border Management

Border Population is one of the most important ingredients in Border Management and the integration of the local community in border management is one of the most important challenges of border management. Preventing alienation of border population, winning their hearts and minds by formulating people inclusive border management policies is of paramount importance.⁴⁷

India's border management is still emphatic to security centric border guarding system by deploying Central Para Military Forces (CPMF) specially organised as a Border Guarding Police Force (BGF). The BGF are the most visible face of governance in bordering areas. The Rule-15 of the Border Security Force (BSF) Rules also envisages that one of the important role India's largest BGF is 'to promote a sense of security amongst the people living in border areas.'⁴⁸

The people living in the border areas are crucial elements for meeting security needs. Village Defence and Development Committees at the base level with cooperation of the local populace would go a long way in enhancing security and development of the border besides providing a sense of belonging to these people. The locals can be engaged in the task of border management by training, motivating and providing them incentives with which they may manage localised problems easily.⁴⁹

Improvement of basic amenities, infrastructure and living conditions of people in border areas and generating employment opportunities for them should be the basis of

⁴⁶ *The Kathmandu Post*, February 26, 2004.

⁴⁷ Jha, Om Shankar (2009), "Community participation in Border Management: Challenges and Options", *Journal of Defence Studies*, 3 (3), 66-74, p. 67.

⁴⁸ *BSF Act and Rules, 2004*. Accessed on June 2, 2010.

http://www.bsf.nic.in/act_rules/bsfAct&Rules.pdf

⁴⁹ Jha, Om Shankar (2009), "Community participation in Border Management: Challenges and Options", *Journal of Defence Studies*, 3 (3), 66-74, p. 70.

relationship between BGF and border population. Thus, 'border guarding should make way for 'border management'.⁵⁰ The Central as well as the State Governments should share the responsibility for creating the resources and generating employment. The BADP should, thus, be exclusively border centric and people inclusive. Ways and means should be evolved so that people develop a feeling of attachment towards the BGFs. This done, the community can serve as a force multiplier in border management. Once the local population along the bordering areas is integrated in the mainstream, a certain amount of moral responsibility would automatically come in.⁵¹

Recent Initiatives

Some moves made in the recent years are:

- a. India and Nepal have agreed on the extradition of criminals and wanted persons;
- b. Verification of personnel and exchange of information about criminal activities has been agreed;
- c. It has been agreed to fence the border up to 2 km at each custom check point and there will be approximately 9 metres of no man's land on either side along the fenced border;
- d. Both countries have agreed to share information on illegal trade;
- e. A joint standing committee has been constituted to look into problems arising due to floods in the border area;
- f. The two countries have agreed to curb illegal trade.⁵²

Government of India is providing assistance for development of cross-border trade related infrastructure. It includes upgradation of four major custom checkpoints at Birgunj-Raxaul, Biratnagar-Jogbani, Bhairahawa-Sunauli and Nepalgunj-Rupadiya to international standards; laying an oil pipeline from Raxaul to Amlekhgunj, through a joint venture between Indian Oil Corporation and Nepal Oil Corporation; upgrading

⁵⁰ Ibid.

⁵¹ Ibid, p. 74.

⁵² Upreti, B.C. (2009), "The India- Nepal Open Border: Nature, Issues and Problems", in K. Warikoo (ed.), *Himalayan Frontiers of India- Historical, Geo-Political and Strategic Perspectives*, London: Routledge, p. 135.

approach highways to the border on the Indian side; upgrading and expanding the road network in the Terai region of Nepal; and, broad gauging and extending rail links to Nepal.

India and Nepal signed a **Rail Services Agreement (RSA)** in May 2004, to extend cargo train service to the Inland Container Depot (ICD) at Birgunj in Nepal. A Container Corporation of India-led joint venture is operating the ICD. The RSA was modified in December 2008 to allow oil/ liquid traffic in tank wagons and bilateral break-bulk cargo in flat wagons.

A **Motor Vehicles Agreement (MVA)** for passenger vehicles, initialled in February 2004 is awaiting formal signature. The agreement envisages bus services between India and Nepal and will facilitate individuals travelling to either country in their personal vehicles.⁵³

Prime Minister Hon'ble Mr. Madhav Kumar Nepal paid an official visit to India from August 18-22, 2009 at the invitation of the Prime Minister of India. The two Prime Ministers expressed their satisfaction on the age-old, close, cordial and multifaceted relations between Nepal and India and agreed to expand them further. India expressed full support for the ongoing peace process and the efforts to bring about economic transformation in Nepal. The two Governments decided to reinvigorate bilateral relations by ensuring effectiveness of all established institutional mechanisms. The two sides also agreed to enhance bilateral trade on a sustainable basis. To facilitate Nepal's foreign trade, India agreed to the utilization of its port at Vishakhapatnam for movement of transit traffic to and from Nepal. It also expressed willingness to favourably consider request for usage for trade purposes of an additional sea port on its western coast.⁵⁴ A number of projects with Government of India assistance with a total outlay of over Rs. 1600 Crores were agreed upon including, construction of National Police Academy in Nepal, construction of poly-technique at Hetauda, construction of two integrated check-posts, construction of 660 kilometres of roads in

⁵³ Embassy of India, Kathmandu, Nepal. Trade and Commerce. Accessed on June 21, 2010.
<http://www.indianembassy.org.np/trade-and-commerce.php>

⁵⁴ Joint Press Statement on the Official Visit of the Prime Minister of Nepal Rt. Hon. Madhav Kumar Nepal to India (August 18-22, 2009). Accessed on June 2, 2010.
<http://www.indianembassy.org.np/india-nepal-relations.php>

the Terai region, construction of two cross-border rail-lines and continuing provision of Indian faculty to B.P. Koirala Institute of Health Sciences, Dharan. The two Governments also agreed to take up preventive measures and consultations to address the problem of inundation to border areas between Nepal and India.⁵⁵ The two sides discussed security concerns relating to the open border between the two countries. It was agreed that the Bilateral Consultative Group on Security Issues and the Home Secretaries of the two countries will meet within two months to enhance bilateral cooperation to effectively address all issues concerning security, including cross-border crime, and establishing effective communication links between and along the bordering districts to further facilitate the exchange of information. The two sides agreed to consider steps to further facilitate cross-border arrangements in order to resolve border related issues and to assist local populations in the border areas on both sides. The two sides also stressed on the need for strengthening the legal framework, in order to counter their common cross border security challenges.

The two sides expressed satisfaction at the progress made by Nepal-India Joint Technical Committee (JTC) in preparing and finalizing the boundary strip maps. The Government of Nepal agreed to take further necessary steps to facilitate the early signing of the strip maps.

For implementing an effective and integrated border management system, development of border infrastructure along the India-Nepal border will be undertaken immediately. Indian side conveyed that construction of two Integrated Check Posts (ICPs) at Birgunj-Raxaul and Biratnagar-Jogbani at an estimated cost of Indian Rs.200 crores will commence soon. The early completion of these modern facilities would contribute considerably to facilitate people-to-people contact and trade.

To improve rail connectivity between the two countries, two cross-border rail links would be constructed with Indian assistance at the following two points along the India-Nepal border at an estimated cost of Indian Rs.680 crores:

(i) Jogbani-Biratnagar (18 Kms)

⁵⁵ Ibid.

(ii) Gauge conversion of Jayanagar to Bijalpura (51 kms) and extension of the same to Bardibas (17 kms).

Both sides also agreed to expedite the construction of Dhalkebar-Muzaffarpur 400 KV cross border transmission line for which the modalities are to be developed. In order to facilitate power trade in the short run, Indian side agreed to examine the Nepalese request for improving the transmission lines in three border areas.⁵⁶

Article V of the Agreement of Cooperation between Government of India and the Government of Nepal to control Unauthorized Trade, renewed on October 27, 2009, says that the Contracting Parties shall compile and exchange with each other statistical and other information relating to unauthorized trade across the common border. They also agree to exchange with each other regularly the lists of goods the import and export of which are prohibited, or restricted or subject to control according to their respective laws and regulations. Article VI further says that the respective heads of the Border Customs Offices of each country shall meet regularly with his counterpart of appropriate status at least once in two months alternately across the common border:

- (a) to co-operate with each other in the prevention of unauthorized trade;
- (b) to maintain the smooth and uninterrupted movement of goods across their territories;
- (c) to render assistance in resolving administrative difficulties as may arise at the field level.⁵⁷

India and Nepal have agreed to revamp two key border check posts by February 2011 for greater security as well as better trade and traffic. A bilateral Project Steering Committee comprising India's border management secretary Shantanu and Nepal's secretary for physical planning and works Umakant Jha met in Nepal's border town Birgunj to draw up a fast-track road map for upgrading the key check posts at Birgunj in Nepal's Parsa district and Raxaul in India's Bihar state, via which nearly two-thirds of Indo-Nepal trade takes place. To be upgraded on a priority basis, the integrated

⁵⁶ Ibid.

⁵⁷ Agreement of Cooperation between Government of India and the Government of Nepal to control Unauthorized Trade (October 27, 2009). Accessed on June 26, 2010.
<http://www.indianembassy.org.np/trade-and-commerce/trade-details.php?id=16>

check posts will cost over NRS 3.90 billion. As part of India's economic cooperation assistance, New Delhi will foot the bill, including the nearly NRS 2 billion needed for the work in Nepal. The detailed engineering report for the project has been prepared by India's RITES Ltd. India has also funded the NRS 40 million needed for the report. With the existing infrastructure at these check posts being old, the two neighbours had agreed to modernise the facilities to keep pace with the growth in bilateral trade. Last year, India's Cabinet Committee on Economic Affairs announced the allocation of Rs.8, 500 million for 13 entry points on the Indian border for better security and trade.⁵⁸

On November 6, 2009, India and Nepal began bilateral talks in Kathmandu to enhance security cooperation, focusing on the management of the open border between the two neighbours, an updated extradition treaty and training Nepal's police forces. Indian Home Secretary G.K. Pillai led a 10-member delegation of security officials while the Nepal side was headed by Home Secretary Govind Kusum. The two-day talks were the fruit of Nepal Prime Minister Madhav Kumar Nepal's official visit to India in August when during his meeting with Indian premier Manmohan Singh both sides discussed security concerns relating to the 1751 Km open border. They agreed that the Bilateral Consultative Group on Security Issues and the home secretaries of the two countries would meet soon to enhance bilateral cooperation concerning security.

It has also been assured that 'differences and divergences' over Susta and Kalapani, the two most contentious border areas, would also be resolved. An integrated check post at Birgunj on the border would come up, that is part of the IRs.8, 530 million Indian initiatives to upgrade 13 customs check points along its border with Nepal, Pakistan, Bangladesh and Myanmar.

On a visit to Nepal in the month of January 2010, the Minister of External Affairs of India S. M. Krishna and his Nepalese counterpart discussed security concerns of their respective countries and agreed that terrorism and extremism were a threat to both

⁵⁸ "Tighter India-Nepal border check posts by February 2011". January 29, 2009. Accessed on May 20, 2010.
http://www.thaindian.com/newsportal/south-asia/tighter-india-nepal-border-check-posts-by-february-2011_100148656.html

countries. They agreed to cooperate closely to end this menace. The two Ministers also discussed ways to enhance bilateral security cooperation to control cross border crimes such as smuggling of fake Indian currency, human trafficking and arms smuggling. The Minister of External Affairs of India conveyed the assurance that India was willing to provide all possible assistance to Nepalese security agencies as per the request of the Government of Nepal. The two Ministers agreed to expedite the finalization of MoU for the construction of the Nepal Police Academy at Panauti with the assistance of the Government of India.⁵⁹

The Deputy Prime Minister and Minister for Foreign Affairs of Nepal reiterated that the Government of Nepal will not allow Nepalese territory to be used for any activity against India. Both sides agreed to take all necessary action to preserve law and order and maintain peace and tranquillity along the India-Nepal border.

The visit of the President of Nepal to India helped further strengthen the friendly ties that exist between India and Nepal. The agreements, signed in the presence of Dr Yadav and Prime Minister Manmohan Singh included an Air Services Agreement between the two countries and a memorandum of understanding (MoU) for extension of railway lines to five cross-border points along the India-Nepal border.⁶⁰

During his recent visit to India, the Prime Minister of Nepal, Madhav Nepal, signed several agreements, some of them relating to extension of railway links from India. Five cross-border points, it is learnt, have been identified for the proposed facility – Biratnagar (Nepal)-Jogbani (India), Janakpur (Nepal)-Jaynagar (India), Birgunj (Nepal)-Raxaul (India), Nepalgunj (Nepal)-Nepalgunj Road (India) and Bhairahawa (Nepal)-Nautanwa (India). Of these, a railway link exists between Raxaul and Birgunj, with Container Corporation of India regularly running container trains

⁵⁹ Joint Press Statement on the official Visit of External Affairs Minister of India, S. M. Krishna, to Nepal (January 15-17, 2010), Kathmandu. Accessed on February 24, 2010.
<http://www.mofa.gov.np/pdf/Joint%20Press%20Statement%20on%20the%20Official%20Visit%20of%20External%20Affairs%20Minister%20of%20India.pdf>

⁶⁰ India says Nepal President's visit "historic", 4 agreements signed: February 18, 2010. Accessed on May 20, 2010.
<http://netindian.in/news/2010/02/18/0005413/india-says-nepal-presidents-visit-historic-4agreements-signed>

between Kolkata port and Birgunj via Raxaul. There is a proposal to examine the scope of passenger service on the route. The metre-gauge section at Jaynagar on the Indian side has to be converted into a broad-gauge and the plan is to extend it beyond Janakpur in Nepal. It is felt that with Biratnagar, being less than a km away from Jogbani, the construction of a railway line between the two should cause no problem. However, new constructions have to be made between Nautanwa and Bhairahawa and between Nepalgunj Road and Nepalgunj. Some of these projects have been under discussion for the past few years. Hopefully, work on them will now be taken up in right earnest.⁶¹

The government will soon move a proposal for a 550-km-long road along the India-Nepal border to promote trade between the two countries, Home Minister P Chidambaram said. The Rs.1,750-crore project would soon be introduced in the cabinet for its approval, Chidambaram said after laying the foundation stone for an integrated check post in the border area in Bihar. The check post - the second in the country after that at Attari along the India-Pakistan border - is being built at a cost of Rs.120 crore in east Champaran district of Bihar. The check post will be manned by the Border Security Force. He said this “will also create employment and help in development of the border areas.”⁶²

Three similar check posts will be set up along the India-Nepal border, he said, adding one of these would be at Jogbani which is about to start shortly. The other two will be at Rupaidiya and Sunauli in Uttar Pradesh. The integrated check posts are envisaged to overcome the infrastructural bottlenecks at the various entry and exit points on the country's borders.⁶³

The Cabinet Committee on Security (CCS) on June 17, 2010, decided to raise 32 more battalions of the Sashastra Seema Bal (SSB) to strengthen security along the Indo-Nepal border in context of the Maoist threat. Recruitment for half of the proposed 32 battalions (nearly 32,000 personnel) would be over in the next three

⁶¹ “More Nepal-India rail links on cards.” The Hindu Business Line: February 22, 2010. Accessed on May 17, 2010.

⁶² <http://www.thehindubusinessline.com/2010/02/22/stories/2010022250620500.html>

⁶² www.zeenews.com/news621843.html . April 24, 2010. Accessed on May 10, 2010.

⁶³ Ibid.

years. The SSB, the primary border-guarding force, has 35 battalions. Raising the proposed battalions would enable the government to reduce the distance between border outposts along the India-Nepal border, particularly in context of the 'Red Corridor' that the Maoists draw up from the north.⁶⁴ The Cabinet Committee on Security (CCS) has cleared the proposal of the home ministry and the battalions will be raised at an estimated cost of Rs 1,800 crore, official sources said. Recruitment, training, identification and procurement of lands and construction of buildings will take at least three years, they said.⁶⁵

Recommendations

Effective management of India-Nepal border becomes quite a challenging task if we take into account the difficult terrain and complex socio-economic milieu along the border. Problems like smuggling, drug and human trafficking, illegal movement of people, goods, insurgents, and criminals across the border, tensions between the border guarding forces of the two countries, etc., have further added to this challenge making border areas insecure and creating frictions between the two countries. Larger constraints like lack of political will, vested interests and lack of coordination between Centre and state governments have further augmented the problems. However, smaller issues if handled properly could definitely be resolved.

Here, some recommendations are forwarded for better managing the India-Nepal border:

Efforts should be made to identifying sensitive areas along the border and increasing the number of border posts in those areas along the India-Nepal border. What also needs to be done is the augmentation of the strength of the border guarding personnel in sensitive border out posts. Border guarding forces should be trained and equipped with modern gadgets and weapons for better surveillance of the border. An effort can also be made towards installing alarm systems to detect breach of fence and, thereby, respond quickly. We should also ensure the availability of adequate numbers of

⁶⁴ *The Hindustan Times*, June 17, 2010.

⁶⁵ *The Times of India*, June 18, 2010.

personnel for border guarding duties all the time, and at the same time, improving the working and living conditions of the border guarding personnel to boost their morale.

Better coordination should also be ensured among all agencies involved in border management such as the border guarding forces, Customs, intelligence agencies, and state police. The governments must also sensitise the people living along the borders and encourage them to work as 'eyes and ears' for the border guarding forces and enlist local people in the border guarding force as they are aware of the terrain and language of the areas.

In economic terms, legalising trade in essential items will help to prevent smuggling. Open markets should come up near the border where people can buy and sell goods without paying any duties. The Government of India is in the process of issuing multipurpose identity cards to the people residing along the borders to distinguish between Indian citizens and illegal migrants.

Work towards all round development of the border areas should also be promoted to wean away the border people from illegal activities as well as to dispel the feeling of alienation in them. Ensuring greater participation of the border population in their economic development can also help manage the border better. Meetings of concerned officials should be convened regularly to strengthen bilateral mechanisms which will ultimately help in ironing out tensions as well as resolving border disputes.

The limitations of a small state in controlling its population and cross-country migration for better opportunities are felt greatly.⁶⁶ Nepal is faced with exactly such a situation and therefore, in spite of a few pockets of dissent, most of the people at all the levels want an open but regulated border. The ties between the two countries have shown a great 'resilience' despite intermittent phase of strain and tension.

Speaking in the context of South Asian nations, Nepal's security system has become crucial for its neighbours, mainly because of its typical geographical location. Nepal

⁶⁶ Basrur, Rajesh M. (ed.) (2001) *Security in the New Millennium: Views from South Asia*, New Delhi: India Research Press, p. 63.

is situated between China and India. China is a country that is most populous, has growing influence in the world arena, occupies the largest territory in Asia, and embraces a distinct political identity. India, on the other hand, is also a large country with its huge population and territory. For all these reasons, Nepal's national security and border management, inter-linked as they are, have become a matter of serious concern to its neighbours in particular and the western countries in general, especially in the present context of global and regional security.

It has been realized that it is necessary to change the existing open border system between the two countries into the regulated border system, in order to consolidate national security and eradicate illegal and criminal activities. It is now totally on the policy-makers as to how they approach the strategic management of border, taking into account all the sums and odds that both the countries share. Community participation is also going to be of immense importance while deciding the future course of events keeping in mind at the same time that solutions need to be evolved out of the differences. We need secured border; truly, but closing the border won't be a feasible option for both the countries.

Thus, in order to balance the twin goals of modern border management, which are border security and trade facilitation, appropriate equipment and well-trained and motivated staff are important, as are a strong legal basis, a clear division of tasks and responsibilities, streamlined processes and efficient exchange of information. Taking into account the complexity of the task, cooperation and co-ordination should not be limited to the units within one ministry or agency but should also occur both between all agencies involved in border management and at an international level. Most importantly, services need to realize that they have common objectives and tasks, which can only be reached by working together. Thus, we need supportive policies and measures that could turn the India-Nepal open border arrangement into an instrument of establishing fruitful, harmonious and durable relationship between the two countries similar to that of friends in need and partners in progress.⁶⁷

⁶⁷ Rajbahak, Ram Prasad (1992), *Nepal-India Open Border: A Bond of Shared Aspirations*, New Delhi: Lancer Publishers, p. 169.

The concentration of Indian born population in the Terai region explains the present relations. The number of India born population in Terai according to 1991 census was 97.21 per cent of the total foreign born population residing in this region. Out of the total foreign citizens in Terai, the Indians, even today, constitute a healthy percentage. These people cannot be prevented from maintaining familial relations by a restricted or regulated border. This way the India-Nepal open border can be termed as a necessary evil. Movement of people can be restricted but not the emotion and socio-cultural bindings which have bound the people of both the nations since time immemorial. Thus, any restriction on the border cannot be accomplished without causing hardship to the people on both sides of the international boundary. In conclusion, one could quote Jawaharlal Nehru, a great advocate of close India-Nepal ties, "Broadly speaking, our relations depend not really on any person's goodwill, on Nepal's goodwill; on that government or this government....They depend on geography and history, which cannot be easily done away with."⁶⁸ So we can say that India and Nepal should endeavour for better management of borders and the voices raised (from whichever corner) for closing the border due to security reasons should be profoundly dealt with and be given a blow.

There is a need to ensure national security and understand the needs and problems of the residents on either side of the border. To those ends, the following steps can be recommended for effective management of the border:

- a) Casual visitors fill up a form supplying their personal details, with a digital photograph taken by a border agency;
- b) Frequent visitors (conditionally allowed for some specific purpose) be issued a separate identity card by a joint border commission;
- c) Joint responsibility of border safety be ensured by both the countries;

⁶⁸ Bhasin Avtar Singh (1970), *Documents of Nepal's Relations with India and China, 1949-66*, Delhi: Siva Exim Pvt. Ltd.

d) Mutual co-operation in desired areas be increased to strengthen bilateral relations and communal harmony.⁶⁹

To conclude, the India-Nepal border should be kept open but an introduction of effective control measures is necessary to maintain its fruitfulness. Further studies and discussions may pave the way to suitable solutions for a more effective border management.

⁶⁹ Bhardwaj, Vinod K. (2009), "Indo- Nepal Open International Border: Challenges and Management", *Himalayan Journal of Development and Democracy*, 4 (1), 54-59, p. 59.

Chapter 5: Conclusion

Borders are constructs which entail politico-socio-economic aspects of relationships between the bordering states. Different approaches are necessitated to borders with different arrangements. The status of an open border exemplifies an altogether different set of approach to the relative aspects than the closed ones. Since states are defined and created by borders and the strength of a state at its border tells the strength of the state, the general conceived idea is the presupposed notion of hardness at the borders. However, we must not forget that a state can be soft at its border keeping into consideration its relationship with the bordering state and the cultural nuances that are concomitant to them.

India-Nepal border relations are defined in the same paradigm of politico-socio-economic and cultural framework where they have been found with this open border arrangement since long time back. India and Nepal share close relations on every front owing, perhaps, to the open border system between them which is considered a legacy for the people and by the people on both sides of the border. The open border between the two countries, apart from being a political reality, is also a part of a great social and cultural continuity. Common values, culture and availability of market on both sides have been the factors behind showing liberal attitude towards each other rather than building restrictions along the border.

The Study deals with all the aspects of relationships that India and Nepal have proudly shared in the past. It brings to light the defining moments in history which were instrumental in shaping and strengthening the relationships between the two countries. The recruitment of Gorkha soldiers and the 1950 Treaty of Peace and Friendship have been seen in this light. India-Nepal border relations, particularly, have been the most comfortably placed aspect of interdependence between them. Security concerns of India, economic development of Nepal and systemic convergence between Nepal and India in terms of democratic polity are the hallmark of interdependent relationship between India and Nepal and further help in promoting it.

The study brings to light the cross-border relations between the two countries and the determinants of the existing arrangements at the border between them. It encompasses

the close socio-cultural relationship across the border and in the bordering areas, in particular. The study analyses as to how the people of India and Nepal in the border region, despite all the inconveniences and hardships, have lived and are still living closely tied together. The answer to this extent of friendship lies in the bonds of common geography, history, social traditions, religious beliefs, language and economic pursuits. Mutual understanding and cooperation are the actual hallmarks of their day-to-day activities.

However, with the wave of globalization the concerns of both the countries have multiplied manifold. The fear of illegal movements of people and goods has brought a feeling of insecurity and they have started questioning the existing systems at the border. From the national security perspectives the open border is now being viewed as a constraint towards a peaceful mutual coexistence and it is bound to have a bearing upon their relationship. The open border is now being seen as the root cause behind all the border disputes between them and that it further leads to the emanating threat of demographic displacement.

In India-Nepal relations their own set of priorities and interests come in the way of mutual understanding on security interests. While India, corresponding to its strategic requirements, has been trying to gain maximum benefits out of the open border arrangement by using a strong economic and social leverage, keeping Nepal dependent on India for transit facilities, Nepal, on the other hand, has tried to maintain closer relations with China in order to decrease the dependency on India and this has led to an environment of fear further leading to mistrust and suspicion between the two. This gives rise to various threat perceptions between the two countries.

The open border is now being misused by the anti-social and anti-national elements all along the border and various threat perceptions are visible related to them. The study puts forward the various channels of misuse of the open border and sees how it further challenges the security arrangements between the two countries. It is because of these developments that various factions on both sides of the border have started questioning the open border arrangement between India and Nepal. Various measures have been put forward for better management of border so that the relationship

remains unaffected and the movement unhindered by these impediments. It has been realised of late that the existing open border arrangement between India and Nepal needs to be changed into a more regulated border arrangement so that national security could be kept intact along with the eradication of illegal activities by nefarious elements.

Some people have also started seeing the implementation of a closed border as the viable solution to all the ills of both the countries. They have voiced for the abrogation of the 1950 Treaty as well. However, the treaty, if abrogated, would alter and strain the India-Nepal relations. The movement of the people crossing over the border and availing employment, educational, economic and other facilities would be affected leading to a situation where the closure of the border would be the last choice. However, there is no doubt that the closing of the border would affect the age old cultural, religious, and emotional ties between the people of the two countries. In fact, it would seem untenable and impractical enough to closing down the border, keeping into consideration the topography and age-old cross border exchanges. What seems more possible and tenable is the regulation of the border in such a way as to make transition people friendly with a substantial increase in the number of official crossing points.

His Majesty the King Gyanendra Bir Bikram Shah Dev remarked that:

the regulation of open border may not be that easy due to the close cultural and family ties across the border, yet if we all Nepalese demonstrate strong will and our friendly relations with India continues to improve, it would not be that impossible, too.¹

Thus, what is needed today is the proper management of borders, a prerequisite for the national security. Good border management practices are required in the changed circumstances and they must be geared towards how much has to be done to secure the borders from frequent violations. Legal movements of people and goods must end the predominance of illegal movements across the border. The problem generated

¹ *Naya Sadak Daily*, December 10, 2001. Accessed on June 6, 2010.
<http://indiamadhesi.files.wordpress.com/2008/11/border-management-of-nepal.pdf>

from the open border should be streamlined and used for the betterment of people of both the countries. A sustainable border management strategy should be developed with the consent of both the countries.

Keeping this into mind, the various stakeholders with their views on border arrangement must be consulted, and if possible be actively involved in border management and collective security. We can control our border better if the process is done cooperatively by agencies on both sides of the border. Bilateral border cooperation is the need of the hour. Efficient border regulation requires a basic trust in the willingness and capacity of the other side for ensuring effective and fair implementation of the procedures put in for the regulation.

India-Nepal relationship has long been driven by political and security considerations. No doubt both are extremely crucial drivers in the relationship between the two countries but what is also required now is a better, attentive and congenial atmosphere geared towards an economic relationship between the two countries. This will ultimately help in achieving a better respect for mutual security.

What is needed now is to make the entire border region vibrant and developed so that it could accelerate the process of economic development in both India and Nepal. In order to promote deeper friendship between the border people it is imperative on the government officials of the two countries to come to closer understanding and finally to an agreement which creates a congenial environment for free movement of the people on the border with their produce or manufactured goods, as it was there earlier and frequent exchange of socio-cultural programmes of the residents there; however strict vigilance must be kept there by security officials to forestall criminal activities of all kinds.

However, the development of the border region could be possible if the border remains open not only for the movement of the nationals but also for consumer goods of the two countries. A survey of the India-Nepal border area and its potentiality for developing small industries would go a long way in improving the income and living standards of the border inhabitants. Proper identification of the potentialities of each border district needs to be undertaken. Since the border region lies at a strategic

location between India and Nepal, any development made in this region would immediately have its impact on the two countries. This further proves the point that the border between India and Nepal needs to be regulated and not closed.

India should be, at the same time, more accommodative towards Nepal as Nepal is very small as compared to India and a landlocked country. But India should also not compromise with her own irreducible core national interests. With difficult terrain and topography of the region the open border structure between India and Nepal becomes mandatory. Also in this era of borderless world it is not a pregnant idea to close the border. The two governments, however, must convince their respective people that regulation would not affect their normal life and would rather protect them from misuse of the border by unwanted and unauthorized elements.

In fact, we should endeavour towards appropriate policies and strategies that match with the specialities of India-Nepal relationship as shaped by geography and the reality of open border arrangement. The cooperative dimensions of relationship need to be strengthened between India and Nepal. The feeling of insecurity that both the countries are grappled with can itself be utilised as a factor towards closer coordination and mutual cooperation in security related matters of the two countries.

ANNEXURE 1

TREATY OF PEACE AND FRIENDSHIP BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF NEPAL (1950)

The Government of India and the Government of Nepal,

Recognizing the ancient ties which have happily existed between the two countries for centuries;

Desiring still further to strengthen and develop these ties and to perpetuate peace between the two countries,

Have resolved therefore to enter into a Treaty of Peace and Friendship, with each other, and have for this purpose, appointed as their plenipotentiaries the following persons, namely:

The Government of India:
HIS EXCELLENCY SHRI CHANDRESHWAR PRASAD
NARAIN SINGH,
Ambassador of India in Nepal:

MOHUN SHAMSHER JANG BAHADUR RANA,
Maharaja, Prime Minister and
Supreme Commander-in-Chief, of Nepal,

Who have examined each other's credentials and found them good and in due form have agreed as follows:

Article 1. There shall be everlasting peace and friendship between the Government of India and the Government of Nepal. The two Governments agree mutually to acknowledge and respect the complete sovereignty, territorial integrity and independence of each other.

Article 2. The two Governments thereby undertake to inform each of any serious friction or misunderstanding with any neighbouring State likely to cause any breach in the friendly relations subsisting between the two Governments.

Article 3. In order to establish and maintain the relations referred to in Article 1 the two Governments agree to continue diplomatic relations with each other by means of representatives with such staff as is necessary for the due performance of their functions.

The representatives and such of their staff as may be agreed upon shall enjoy such diplomatic privileges and immunities as are customarily granted by international law on a reciprocal basis: Provided that in no case shall these be less than those granted to persons of a similar status of any other State having diplomatic relations with either Government.

Article 4. The two Governments agree to appoint Consuls-General, Consuls, Vice-Consuls and other Consular agents, who shall reside in towns, ports and other places in each other's territory as may be agreed to.

Consuls-General, Consuls, Vice-Consuls and other Consular agents shall be provided with exequatur or other valid authorization of their appointment. Such exequatur or authorization is liable to be withdrawn by the country which issued it, if considered necessary. The reasons for the withdrawal shall be indicated wherever possible.

The persons mentioned above shall enjoy on a reciprocal basis all the rights, privileges, exemptions and immunities that are accorded to persons of corresponding status of any other State.

Article 5. The Government of Nepal shall be free to import, from or through the territory of India, arms, ammunition or warlike materials and equipment necessary for the security of Nepal. The procedure for giving effect to this arrangement shall be worked out by the two Governments acting in consultation.

Article 6. Each Government undertakes, in token of the neighbourly friendship between India and Nepal, to give the nationals of the other, in its territory, national treatment with regard to participation in industrial and economic development of such territory and the grant of concessions and contracts relating to such development.

Article 7. The Government of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature.

Article 8. So far as matters dealt with herein are concerned, this Treaty cancels all previous treaties, agreements, and engagements entered into on behalf of India between the British Government and the Government of Nepal.

Article 9. This Treaty shall come into force from the date of signature by both Governments.

Article 10. This Treaty shall remain in force until it is terminated by either party by giving one year's notice.

Done in duplicate at Kathmandu this 31st day of July, 1950.

Sd/- CHANDRESHWAR PRASAD
NARAIN SINGH
For the Government of India

Sd/- MOHUN SHAMSHER JANG
BAHADUR RANA
For the Government of Nepal

**Letter Exchanged with the Treaty
Kathmandu**

Dated the 31st July 1950

Excellency,

In the course of our discussion of the Treaties of Peace and Friendship and of Trade and Commerce which have been happily concluded between the Government of India

and the Government of Nepal, we agreed that certain matters of detail be regulated by an exchange of letters. In pursuance of this understanding, it is hereby agreed between the two Governments:

1. Neither Government shall tolerate any threat to the security of the other by a foreign aggressor. To deal with any such threat, the two Governments shall consult with each other and advise effective counter-measures.
2. Any arms, ammunition or warlike material and equipment necessary for the security of Nepal that the Government of Nepal may import through the territory of India shall be so imported with the assistance and agreement of the Government of India. The Government of India will take steps for the smooth and expeditious transport of such arms and ammunition through India.
3. In regard to Article 6 of the Treaty of Peace and Friendship which provides for national treatment, the Government of India recognize that it may be necessary for some time to come to afford the Nepalese nationals in Nepal protection from unrestricted competition. The nature and extent to this protection will be determined as and when required by mutual agreement between the two Governments.
4. If the Government of Nepal should decide to seek foreign assistance in regard to the development of the natural resources of or of any industrial project in Nepal, the Government of Nepal shall give first preference to the Government or the nationals of India, as the case may be provided that the terms offered by the Government of India, or Indian nationals, as the case may be, are not less favourable to Nepal than the terms offered by any other Foreign Governments or by other foreign nationals.
Nothing in the foregoing provision shall apply to assistance that the Government of Nepal may seek from the United Nations Organization or any of its specialized agencies.
5. Both Governments agree not to employ any foreigners whose activity may be prejudicial to the security of the other. Either Government may make representations to the other in this behalf, as and when requires.

Please accept Excellency, the assurance of my highest consideration.

(Sd.) MOHUN SHAMSHER JANG
BAHADUR RANA

Maharaja, Prime Minister and
Supreme Commander-in-Chief of Nepal

To

His Excellency
Shri Chandreshwar Prasad Narain Singh
Ambassador Extraordinary and Plenipotentiary
of India at the Court of Nepal, Indian Embassy,
Kathmandu.

Source: Thapliyal, Sangeeta (1998), *Mutual Security: The Case of India-Nepal*, New Delhi: Lancer Publishers.

ANNEXURE 2

Main trade and transit points along the India- Nepal border

S. No.	Agreed Routes for Mutual Trades		Transit Points to Kolkata
	India	Nepal	
1.	Sukhia Pokhari	Pashupatinagar	1. Sukhia Pokhri
2.	Naxalbari	Kakarbhitta	2. Naxalbari (Panitanki)
3.	Galgalia	Bhadrapur	3. Galgalia
4.	Jogbani	Biratnagar	4. Jogbani
5.	Bhimnagar	Setobandha	5. Bhimnagar
6.	Kanauli	Rajbiraj	
7.	Jayanagar	Siraha, Janakpur	6. Jayanagar
8.	Bhitamore (Sursand)	Jaleswar	7. Bhitamore (Sitamarhi)
9.	Sonabarsa	Malangawa	
10.	Bairgania	Gaur	
11.	Raxaul	Birgunj	8. Raxaul
12.	Nautanwa	Bhairahawa	9. Nautanwa (Sonauli)
13.	Khunwa	Taulihawa	
14.	Barhni	Krishnanagar	10. Barhni
15.	Jarwa	Koilabas	11. Jarwa
16.	Nepalgunj Road	Nepalgunj	12. Nepalgunj Road
17.	Katerniyaghat	Rajapur	
18.	Tikonia /Sati (Kailali)	Prithvipur	13. Tikonia
19.	Gauriphanta	Dhangadhi	14. GauriPhanta
20.	Banbasa	Mahendranagar	15. Banbasa
21.	Jhulaghat (Pithoragarh)	Mahakali	
22.	Darchula	Dharchula	

Source: Department of Customs, HMG/Nepal.

ANNEXURE 3

TREATY OF TRANSIT BETWEEN THE GOVERNMENT OF INDIA AND HIS MAJESTY'S GOVERNMENT OF NEPAL

The Government of India and His Majesty's Government of Nepal (hereinafter also referred to as the Contracting Parties),

Animated by the desire to maintain, develop and strengthen the existing friendly relations and cooperation between the two countries,

Recognizing that Nepal as a land-locked country needs freedom of transit, including permanent access to and from the sea, to promote its international trade,

And recognizing the need to facilitate the traffic-in-transit through their territories,

Have resolved to extend the validity of the existing Treaty of Transit, with modifications mutually agreed upon, and

Have for this purpose appointed as their plenipotentiaries the following persons, namely,

For the Government of India
Shri Ramakrishna Hegde
Minister of Commerce

For His Majesty's Government of Nepal
Shri Purna Bahadur Khadka
Minister of Commerce

Who, having exchanged their full powers, and found them good and in due form, have agreed as follows:

ARTICLE I

The Contracting Parties shall accord to "traffic-in-transit" freedom of transit across their respective territories through routes mutually agreed upon. No distinction shall be made which is based on flag of vessels, the places of origin, departure, entry, exit, destination, ownership of goods or vessels.

ARTICLE II

- (a) Each Contracting Party shall have the right to take all indispensable measures to ensure that such freedom, accorded by it on its territory, does not in any way infringe its legitimate interests of any kind.

- (b) Nothing in this Treaty shall prevent either Contracting Party from taking any measures which may be necessary for the protection of its essential security interests.

ARTICLE III

The term "traffic-in-transit" means the passage of goods, including unaccompanied baggage, across the territory of a Contracting Party when the passage is a portion of a complete journey which begins or terminates within the territory of the other Contracting Party. The transshipment, warehousing, breaking bulk and change in the mode of transport of such goods as well as the assembly, dis-assembly or re-assembly of machinery and bulky goods shall not render the passage of goods outside the definition of "traffic-in-transit" provided any such operation is undertaken solely for the convenience of transportation. Nothing in this Article shall be construed as imposing an obligation on either Contracting Party to establish or permit the establishment of permanent facilities on its territory for such assembly, dis-assembly or re-assembly.

ARTICLE IV

Traffic-in-transit shall be exempt from customs duties and from all transit duties or other charges, except reasonable charges for transportation and such other charges, as are commensurate with the costs of services rendered in respect of such transit.

ARTICLE V

For convenience of traffic-in-transit, the Contracting Parties agree to provide at point or points of entry or exit, on such terms as may be mutually agreed upon and subject to relevant laws and regulations prevailing in either country, warehouse or sheds, for the storage of traffic-in-transit awaiting customs clearance before onward transmission.

ARTICLE VI

Traffic-in-transit shall be subject to the procedure laid down in the Protocol hereto annexed and as modified by mutual agreement. Except in cases of failure to comply with the procedure prescribed, such traffic-in-transit shall not be subject to avoidable delays or restrictions.

ARTICLE VII

In order to enjoy the freedom of the high seas, merchant ships sailing under the flag of Nepal shall be accorded, subject to Indian laws and regulations, treatment no less favourable than that accorded to ships of any other foreign country in respect of matters relating to navigation, entry into and departure from the ports, use of ports and harbour facilities, as well as loading and unloading dues, taxes and other levies, except that the provisions of this Article shall not extend to coastal trade.

ARTICLE VIII

Notwithstanding the foregoing provisions, either Contracting Party may maintain or introduce such measures or restrictions as are necessary for the purpose of:

- i) Protecting public morals;
- ii) Protecting human, animal and plant life;
- iii) Safeguarding of national treasures;
- iv) Safeguarding the implementation of laws relating to the import and export of gold and silver bullion; and
- v) Safeguarding such other interests as may be mutually agreed upon

ARTICLE IX

Nothing in this Treaty shall prevent either Contracting Party from taking any measures which may be necessary in pursuance of general international conventions, whether already in existence or concluded hereafter, to which it is a party, relating to transit, export or import of particular kinds of articles such as narcotics and psychotropic substances or in pursuance of general conventions intended to prevent infringement of industrial, literary or artistic property or relating to false marks, false indications of origin or other methods of unfair competition.

ARTICLE X

In order to facilitate effective and harmonious implementation of this Treaty the Contracting Parties shall consult each other regularly.

ARTICLE XI

The revalidated and modified Treaty shall enter into force on the 6th January, 1999. It shall remain in force upto the 5th January, 2006 and shall, thereafter, be automatically extended for a further period of seven (7) years at a time, unless either of the parties gives to the other a written notice, six months in advance, of its intention to terminate the Treaty provided further that the modalities, routes, conditions of transit and customs arrangement, as contained in the Protocol and Memorandum to the Treaty shall be reviewed and modified by the Contracting Parties every seven years, or earlier if warranted, to meet the changing conditions before the automatic renewal and such modifications shall be deemed to be the integral part of the Treaty.

This Treaty may be amended or modified by mutual consent of the Contracting Parties.

Done at Kathmandu on 5th January, 1999.

(RAMAKRISHNA HEGDE)
Minister of Commerce
For the Government of India

(PURNA BAHADUR KHADKA)
Minister of Commerce
For His Majesty's Government of Nepal

ANNEXURE 4

REVISED AGREEMENT OF CO-OPERATION BETWEEN GOVERNMENT OF INDIA AND THE GOVERNMENT OF NEPAL TO CONTROL UNAUTHORIZED TRADE

The Government of India and the Government of Nepal (hereinafter also referred to as the Contracting Parties),

KEEN to sustain the good neighbourliness through mutually beneficial measures at their common border which is free for movement of persons and goods.

Have agreed as follows:

Article I

The Contracting Parties, while recognizing that there is a long and open border between the two countries and there is free movement of persons and goods across the border and noting that they have the right to pursue independent foreign trade policies, agree that either of them would take all such measures as are necessary to ensure that the economic interests of the other party are not adversely affected through unauthorized trade between the two countries.

Article II

The Contracting Parties agree to co-operate effectively with each other, to prevent infringement and circumvention of the laws, rules and regulations of either country in regard to matters relating to Customs, Narcotics and Psychotropic Substances, Foreign Exchange and Foreign Trade and shall for this purpose assist each other in such matters as consultation, enquiries and exchange of information with regard to matters concerning such infringement or circumvention.

Article III

Subject to such exception as may be mutually agreed upon, each Contracting Party shall prohibit re-exports to the territory of the other Contracting Party of goods imported from third countries without manufacturing activity.

However, the above shall not be applicable in case of the export of Nepalese goods into India under the procedure set out in protocol V to the Treaty of Trade between Government of Nepal and the Government of India.

There will be no restriction on re-export from the territory of a Contracting Party to third countries of the goods imported from the other Contracting Party without manufacturing activity in the Contracting Party.

Article IV

Each Contracting Party will;

- (a) prohibit and take appropriate measures to prevent import from the territory of the other Contracting Party of goods liable to be re-exported to third countries

- from its territory and the export of which from the territory of the other Contracting Party to its territory is prohibited;
- (b) in order to avoid inducement towards diversion of imported goods to the other Contracting Party, take appropriate steps through necessary provisions relating to Baggage Rules, gifts and foreign exchange authorization for the import of goods from third countries.

Article V

The Contracting Parties shall compile and exchange with each other statistical and other information relating to unauthorized trade across the common border. They also agree to exchange with each other regularly the lists of goods the import and export of which are prohibited, or restricted or subject to control according to their respective laws and regulations.

Article VI

The respective heads of the Border Customs Offices of each country shall meet regularly with his counterpart of appropriate status at least once in two months alternately across the common border:

- (a) to co-operate with each other in the prevention of unauthorized trade;
- (b) to maintain the smooth and uninterrupted movement of goods across their territories;
- (c) to render assistance in resolving administrative difficulties as may arise at the field level.

Article VII

In order to facilitate effective and harmonious implementation of this Agreement, the Contracting Parties shall consult each other regularly.

Article VIII

- (a) This Agreement shall come into force on the date of its signature. It shall supersede the Agreement of Cooperation to Control Unauthorized Trade concluded between the Government of India and the Government of Nepal on 6th December, 1991, as modified from time to time.
- (b) This Agreement shall remain in force for a period of seven years. It may be renewed for further periods of seven years, at a time, by mutual consent subject to such modifications as may be agreed upon.
- (c) In witness whereof the undersigned being duly authorized by their respective governments have signed this Agreement.

Done in duplicate in Hindi, Nepali and English languages, all the texts being equally authentic, at Kathmandu on 27th October 2009. In case of doubt, the English text will prevail.

(Anand Sharma)
Minister of Commerce and Industry
For the Government of India

(Rajendra Mahto)
Minister of Commerce and Supplies
For the Government of Nepal

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