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# CHINA'S NEW LAND BORDER LAW

A COMPARATIVE ANALYSIS OF REGIONAL CONSEQUENCES

Yukti Panwar

Edited by: Akshata Satluri

**I**N OCTOBER 2021, China adopted a new land border thereby “vowing” to protect their territorial integrity. This law comes at a very interesting backdrop. China never had a “land border law” before, while having a territorial dispute with almost every neighbour it has. One of the disputed borders – the one it shares with India has become a flashpoint since 2020, which is the reason why China has felt the need to introduce this law in the first place. In this paper, we will investigate what the law entails, and how it impacts the border situation with India – along with how this law can impact the situation China has with all its territorial neighbours.

## Introduction

China’s Standing Committee of the National People’s Congress had approved ‘The Land Border Law’ in October 2021. At the closing of a legislative meeting, it specifies that the sovereignty and territorial integrity of China are sacred and unbreakable. This is the first law in China that focuses on its land borders to maintain China’s national security and territorial integrity. State-owned media house, the Global Times, has also mentioned in its report that due to the emergence of a threat to China’s national security vis-à-vis the Galwan Valley clash with India in June 2020, the legislative found it extremely crucial to formulate and pass a law like this.

Thus, it is no brainer and rather obvious that this law will have an impact on the situation of the Indo-China border and especially on the ongoing negotiations between the Indian and Chinese armies. However, before focusing on this particular aspect of the issue, we have to first see what the main components of this law are, along with how it is going to impact the situation of land borders China has with its neighbours. The countries with whom China shares a land border are – North Korea, Russia, Mongolia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, Pakistan, India, Nepal (after its annexation of Tibet), Bhutan, Myanmar, Laos, and Vietnam. Thus, as mentioned before, we will first see the main components of this law, then the border situation China has with all its members except India and how this law will impact the same in the coming time. After this, we will pay particular attention to the Indo – China border situation and the possible impact this law will have on the ongoing developments.

# The Land Border Law

The Land Border Law was adopted in October 2021 and has been in effect since 1<sup>st</sup> January 2022, with the purpose to strengthen its control over its land border. The trigger for this particular law has been the Galwan Valley clash with India in June 2020, and this law was adopted after China adopted and implemented the Coast Guard Law and Maritime Traffic Safety Law earlier last year.

Under the Coast Guard Law, the Chinese Coast Guard is given the domestic legal legitimacy to be able to claim the grey areas of the South China Sea as Chinese territory – the territory which is disputed with smaller maritime members in the region. The reason this law becomes concerning is that it legalises the Chinese Coast Guard to use force upon foreign ship operators in Chinese waters. The catch is, that there is no clear definition of Chinese waters, thereby China the leeway to claim the disputed region as their area. According to some, this model is being first implemented for disputes China has in the South China Sea, and if it works out in China's favour, China can probably apply this strategy in the East China Sea as well. This law is in direct violation of the United Nations Convention on the Law of the Sea (UNCLOS). Thus, understandably, the countries in a maritime dispute with China have heightened anxieties about how the situation will unfold ahead – for the worse.

The reason for the need for China to formulate and implement such laws is simple – to strengthen its position amid the rising tension with its neighbours. And China has many neighbours to look out for – both on the territorial and maritime front.

As mentioned before, the law entails that the national security and territorial integrity of China is of paramount importance and cannot be violated at any cost. Some of the provisions that this law emphasises are as follows - the state will take the measures to safeguard its land border security unwaveringly and will guard against and combat any acts that undermine China's territorial sovereignty. It also clarifies the system of leadership, the military tasks and activities on the territorial border and the responsibility of the government while also specifying how land borders are described, surveyed, managed, and defended along with international cooperation on land border affairs and disputes.

It also has provisions that mention that the citizens and organisations are expected to support border patrol and control activities while not allowing them to fly drones or build permanent structures near the borders without the permission and approval of the Chinese authority. It specifies that weapons can be used on those who illegally cross borders to commit assault, resist arrest, or engage in other violent activities. The law also stipulates that the national and regional governments must take measures for protecting the stability of cross-border rivers and lakes and use the water resources there in a rational manner.

Thus, essentially speaking, through this law, China is streamlining the division of labour among various administrative departments, including the public security ministry, the foreign ministry, the customs, and immigration administrations. Here, it is important to note that the law stipulates that the People's Liberation Army (PLA) and the paramilitary People's Armed Police (PAP), under the command of the Central Military Commission will bear the main responsibility of safeguarding China's land border. Moreover, involving individuals and organisations in the defence of land borders – this law is most likely the manifestation of the civil-military fusion strategy that China wants to implement within its territorial borders.

The law also clearly specifies the state's commitment and intention to open up the border areas to the outside world, improve local public service, and improve social and economic infrastructure – with the purpose and aim to balance border security and defence with the socio-economic development of these areas by essentially developing border towns as well.

According to many observers, this law seems to be Beijing's bid to signal its determinant stance on solving its border disputes in its preferred terms – even at the cost of the interests and concerns of the neighbouring nation involved in border negotiations. And this is why the ongoing border negotiations between India and China seem to be futile and a task that has only become much more difficult now – projecting the significant impact this law is going to have on the situation developing at the Indo – China border.

## Factors Behind the Implementation of the Land Border Law

There are many factors other than the border situation with India which has triggered this development. First, mainly thanks to rising tensions on the Sino – Indian border, there is a renewed concerns over China’s land border security, something which had taken a backseat in the minds of the Chinese strategic community until recent years. The demand for a land border law was rather sporadic and did not have as much momentum – as the coast guard law had, for instance, and China was seemingly prioritising its maritime security over its territorial security.

Second, COVID-19 is another factor that underscored the need for China to formulate a law for its land borders. In 2020, when the virus was spreading around the world at a very rapid pace, there were growing concerns in China that there will be a significant rise in the risk of cross-border transmission of the virus, as China has a porous land border. The breakouts in Yunnan, Xinjiang and Inner Mongolia only highlighted this problem even more.

Third, this law also shows China’s growing concerns about the stability in its lands bordering Central Asia. The withdrawal of US troops in Afghanistan and the establishment of the Taliban government only add to the worries of the possibility of growing terrorism in Xinjiang via the border China shares with Afghanistan.

Fourth, this law enshrines Xi Jinping’s signature notion for ethnic minority policy – “forging a consciousness of the common identity of the Chinese nation” – through massive waves of propaganda and ensuring the absence of opposition and criticism within the domestic societal stage. Though, it is heavily criticised as the move of homogenising the Chinese society and eventually erasing the identity of the ethnic minorities in the long term – the notion of common Chinese identity and homeland security consciousness – especially in the contexts of Tibet and Xinjiang - are yet again manifested in this law.

Now, we will briefly look into if and how this law will make any changes in the border situation China has with its territorial members other than India, followed by how this development affects the Indo – China border and what emerging security concerns does India have in this scenario.

# The Implications of the Land Border Law

While China has legitimate concerns to maintain its land border security, especially considering that it shares its land borders with 15 countries if one includes Tibet as a separate nation – and there is one issue or the other emerging in these borders from time to time. There is, however, a major issue – the Chinese style of negotiation. The wording of this law is vague, giving China even more leeway to twist the arm of its neighbour and strongly ensure that the border disputes are settled by its own terms, holding up to the reputation it is infamous for in our contemporary times. Now, we will consider the border situation and implication of this law for the border China shares with each of these countries.

## The China-North Korea Border

The China-North Korea Border runs for 1,416 km from the estuary of the Yalu River the Korea Bay in the west to the tripoint with Russia in the east. China and North Korea have engaged in border squabble during the Cold War period – especially in the aftermath of the China-USSR falloff – putting North Korea in a very tight position, along with sharing of water resources and these disputed parts have origins in the long history that China and North Korea share.

However, the major implication of China’s Land Border Law will be felt by North Koreans who cross the border to China to defect from their country and escape the totalitarian regime. China already routinely deports North Korean refugees back to North Korea, where they face serious consequences for their actions – even public execution. China also does not protect the North Korean refugees by denying them legitimate refugee status and rather labelling them as illegal “economic migrants.” This is in accordance with the 1986 bilateral agreement between the two nations which outlaws illegal border crossing to China and China is expected to forcibly repatriate North Korean refugees in hiding on Chinese soil. This is a nightmare for North Korean defectors/refugees because China border is the most preferred border for North Koreans to escape their country for various reasons, a major one being that the border with South Korea is one of the most militarized borders in the world – making it extremely difficult to cross over. This law will only add to the Chinese anti-North Korean refugee stance, making their lives even more difficult

and ensuring more intensive and extensive crackdowns and forcibly deport them back to North Korea.

## **The Sino-Russian Border**

The border between China and the Asian portion of Russia, as per the final demarcation that happened in the early 2000s, measures about 4,209 km and the majority of it starts at the eastern China – Mongolia – Russia tripoint and ends at the Tumen River, which is the northern border of North Korea. Another border section is between Russia's Altai Republic and China's Xinjiang. China and Russia have managed to settle their border issues by 2004, after years of border clashes during the Cold War era and even before that, and therefore the implications of the Land Border Law on this border would be nothing or negligible – unless either of the sides ignites the border squabble again, which is a long shot at the moment at least.

## **The China-Mongolia Border**

China – Mongolia border runs between the two tripoints with Russia for about 4,677 km. The major territorial issue between China and Mongolia in the region of Inner Mongolia and the last flare-up of border disputes happened in 2015. There are also crossings of people from the borders, especially enabling the trends of sex trafficking from both sides. The implication of the Land Border Law can be tougher circumstances for Mongolia to be able to negotiate on its terms with China, people's crossing can be severely targeted, and China can strongly claim stakes in Inner Mongolia again.

## **The China-Kazakhstan Border**

The border shared by Kazakhstan and China has been inherited from the border shared by the Soviet Union and the People's Republic of China but was fully demarcated only in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. It is about 1,782 km long. Their border disputes were resolved over the decade of the 1990s and in 2011 Kazakhstan and China collaborated to create a cross-border free

trade area to boost their trade relations, and Kazakhstan also forms an integral part of China's Belt and Road Initiative (BRI). Thus, there would be no major implications of the Land Border Law on this part of the Chinese border.

## **The China-Kyrgyzstan Border**

This border extends is about 1,063 km long and Kyrgyzstan inherited it from the Soviet Union. The two countries sat together and delimited their border in 1996 and the border agreement was finalised in 2009. Thus, again, there would be no major implication of the Land Border Law on this part of the Chinese border.

## **The China-Tajikistan Border**

This border is about 477 km long and Tajikistan also inherited its borders with China from the Soviet Union in 1991. In 2011, it ratified a 1999 agreement to cede land in the Pamir Mountains region to China and China in return relinquished claims over Tajikistani territory, thus ending the 130-year dispute. However, there was an article written in 2020, circulated widely in Chinese domestic media, claiming that Tajikistan should give more land to China – which received disapproval from both Tajikistan and Russia. If China ever starts to claim more Tajikistani territory again, that is when there will be implications for China's Land Border Law in the situation there.

## **The China-Afghanistan Border**

China – Afghanistan border is only 76 km long. Their borders, as they are now, were demarcated in 1963. Though China and Afghanistan do not have a territorial dispute, however, China has some concerns about this part of the border. The resurgence of the Taliban in Afghanistan and the withdrawal of US troops in 2021, leading to increasing terrorist activities in the country and the possible spillover to the Xinjiang region of China is something China would like to avoid at all costs. It is also believed that the main pass, the Wakhjir Pass is sometimes used as a low-intensity



drug smuggling route. Thus, the main implication of the Land Border Law will only manifest in this case when China agrees to foster and promote trade relations with Afghanistan through these passes, which seem like a slim chance at the moment.

## **The China-Pakistan Border**

China – Pakistan border is about 596 km long and their border dispute is intricately related to the border dispute between India and Pakistan and India and China, making this situation even more complicated. These disputes involve the three countries’ respective claims over the Jammu, Kashmir and Ladakh regions. Thus, the implication of Land Border Law in the case of Pakistan will be belated and indirect in manner. Seeing that these two countries are allies at the moment, the most plausible way out is that they first settle their respective disputes with India and once India is out of the picture they sit together and demarcate their shared borders. But this is a classic example of a long shot. There is, thus, no sight of a solution anytime soon.

## **The China-Nepal Border and Tibet**

China – Nepal border is between the Tibet Autonomous Region of China and Nepal and is about 1,389 km long. Trade between Nepali and Tibetan kingdoms has existed for centuries and after China annexed Tibet in 1950 – 51, it inherited a confused border since there were some vaguely defined territories between Nepal and Tibet. A border treaty was signed between Nepal and China in 1960 and the border was demarcated in 1963. However, in 2015, Nepal objected to India and China’s decision to open a trading post in Lipulekh, which comes at the tripoint of India, China, and Nepal. In 2020, Nepali politicians have claimed that China had annexed more than 150 hectares of Nepali land. In 2021, the Nepali government formulated a committee to study disputes in Limi of Humla, Nepal. The claims turned out to be true. And in 2022, a leaked government report suggested that the previously alleged buildings were on the Chinese side – but found out that China had built fences, a canal, and a road – encroaching on Nepali soil. Thus, this brewing border dispute with Nepal and the dynamics between Nepal, India and China can lead to China

implementing its Land Border Law in such a manner that it can become difficult for Nepal to defend and pursue its interests.

Tibet, on the other hand, will have a much harder time in claiming its independence from China, thanks to its new land border law and Xi Jinping's constant push towards creating a national Chinese identity – by essentially homogenising the Chinese society in the longer run.

## **The China-Bhutan Border**

The entire 477km of the China-Bhutan border is disputed. China claims major chunks of Bhutanese territory to be a part of its territory. Trouble has been looming over Bhutan especially since the Doklam crisis of 2017, which also involved India. China and Bhutan have been having border talks since 1984, and China is particularly interested in Doklam to gain a strategic advantage over India. In this situation, with the rise of an assertive China, the signing of the Bhutan-China Memorandum of Understanding (MoU) is a concerning development for both Bhutan and India. But Bhutan does not have much of a choice left now. The MoU talks about a three-step map to settle a border dispute with Bhutan, but it has either already or is about to occupy all the Bhutanese territories that it claims. The implementation of the Land Border Law over this will only put Bhutan in an even more compromising position, while possibly increasing trouble for India.

## **The China-Myanmar Border**

China – Myanmar border is about 2,129 km long. Due to border alterations made by the British, who were expanding their empire to Myanmar (then called Burma) and also the usage of parts of Burma as military bases by Kuomintang troops during the Second World War, China, therefore wanted to control the area more effectively. In 1960 a treaty was signed to enable complete delimitation of the border. The relations from here on have remained cordial, however, due to political insurgencies in Myanmar, the border has become volatile time and again. Some border towns are now centres of gambling, prostitution, and drug smuggling. Thus, the possible implication of China's Land Border Law vis-à-vis Myanmar would majorly entail the crackdown

on the movement of people from Myanmar to China – refugees, who would want to leave their country, especially since the military coup last year.

## **The China-Vietnam Border**

China and Vietnam share about 1,297 km long terrestrial border and maritime border. While the land borders have been settled, the maritime borders are still undefined, with China increasing its presence in the South China Sea and claiming Vietnam’s territorial water and islands like the Spratly and Paracel Islands. Thus, land border law does not hold much significance in the case of Vietnam. It is the Coast Guard Law and Maritime Traffic Law that can have some concerning implications in the disputes between China and Vietnam.

## **The Land Border Law, the India-China Border, and Conclusion**

The country which needs to be and is most concerned with the implications of China’s new land border law in India. India and China share about 3,488 km long border, being practically separated by the Himalayas. It stretches from the Ladakh region in the North to Arunachal Pradesh in the North-East of India. The border dispute between India and China was triggered by the Chinese annexation of Tibet in 1950 – 51 and India taking in Tibetan refugees, including the Dalai Lama. It eventually led to China attacking and invading India’s border by waging the Indo – China War in 1962. This led to the Chinese annexation of the Aksai Chin region of Ladakh and that of Arunachal Pradesh. Ever since then, for instance, in 1967 (Sikkim), there have been border skirmishes between India and China, despite gradual improvement in trade relations.

However, things took an ugly turn in 2020 with the Galwan Valley clash, which claimed the lives of soldiers on both sides. In today’s scenario, China is both a major trading partner and a major security threat to India. Since the Galwan Valley, India and China have been having rounds of talks, which are still going on, with apparent deadlock in progress. And while the armies of both

sides are trying to negotiate the terms, China is still not stopping in building infrastructure in both Ladakh and also Arunachal Pradesh, while claiming more and more parts of the Indian territory as a part of China, by using its classic salami technique. India and China also clashed in 2017 during the Doklam crisis – which is a disputed territory between China and Bhutan but is strategically detrimental for India.

While the Chinese side thinks that India is overreacting, what has made the Indian side very uneasy, and alert is the timing of this law. As mentioned before, this law is coming at the backdrop of the Galwan Valley clash, which probably came to be both because of the Chinese underestimation of Indian military might and because it withholds forces that are trained to sustain in the Himalayas. As of October 2021, India and China have been in a military stand-off for about 18 months, which will be 2 years soon, and 13 failed rounds of talks between the two countries and each of them blame the other for the same. So, the coming of a law like that, in these circumstances, is only going to make things more difficult for India. However, India won't back down to Chinese aggression so easily, so it is not going to be a cakewalk for China either.

China can – and probably will – exploit the clauses of these laws to also justify it limiting the flow of the Brahmaputra River which flows from the Tibet region into North-East India for its hydro projects. China is also increasingly becoming more and more aggressive in terms of territorial claims vis-à-vis India while accelerating the building of infrastructure in border areas, especially in Arunachal Pradesh. In this chaos, if we add the angle of Bhutan, Nepal, Myanmar, and Pakistan into the picture, with an increasing Chinese presence in all of these countries, it is essentially a bid to choke India completely on the territorial front – becoming a major part of the larger strategy of the String of Pearls, where China bids to surround India on the maritime front as well.

Thus, essentially, China's land border law is nothing more than the documentation of the reality of the Indo-China border situation, in a sense. It won't change much in terms of the on-ground military situation, but what it does is give China the "legitimacy" to encroach upon India's sovereignty. And seeing China's infamous reputation of following international resolutions only when it suits its interests and essentially making this law to do the same and twist India's arm on the negotiation front, India does not have much of a choice at the moment but to hold on and not bow down to Chinese dominance while ensuring that a war does not happen between the two Asian giants – to the best of its abilities. India's increasing diplomatic presence on the international stage

and many nations projecting India as the alternative to China as the Asian superpower is a double-edged sword. On one end, it gives India the leverage to somehow corner China diplomatically on the international forums, which has become a bit easier due to the COVID-19 pandemic, but it would also trigger China to be even more aggressive towards India. How things will evolve from now on depends on how both India and China will place themselves in the larger geopolitics which is constantly changing in ways one could not imagine as the reality they will live through.

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*Yukti Panwar is a postgraduate student at the Jindal School of International Affairs and is Publications Coordinator at the Centre for Security Studies, JSIA. All views expressed in this publication belong to the author and do not reflect the opinions or positions of the Centre for Security Studies.*

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