



Implications of China's New Border Law

Introduction

The [Land Border Law of the People's Republic of China](#)¹ (the new border law), passed on October 23, 2021, is expected to come into force by January 1, 2022. This new legislation raises concern about duality in reiterations and actions of China. The legislation poses real challenges to both outstanding and settled border disputes. Unilateral Chinese actions in the disputed regions, such as the creation of Han Chinese settlements and infrastructure development projects are arguably legally sanctioned by China under the new law.

The New Law

China's new border law consists of [62 clauses and seven chapters](#). The law asserts it shall be applicable to the delimitation and survey of land borders of China ([Article 2](#)), which includes territorial land and internal waters between China and its land-based neighbours ([Article 3](#)). The law reiterates that the sovereignty and territorial integrity of China is "[sacred and inviolable](#)". The management of land borders, defence, frontiers, and international cooperation on land border affairs is focused on the law. According to the *Global Times*, the law [emphasises](#) the leadership system, government responsibilities, military tasks in territorial border work, delineation, and surveying of land borders.

Articles 5-8 of the law deals with strengthening Beijing's leadership system. Further, articles 11- 13 have provisions for civilian authorities like individuals and organisations to assist the People's Liberation Army (PLA) to prevent illegal migration through [border patrol and control activities](#). This provision should be seen in the context of migration arising out of upheavals in Myanmar and Afghanistan. The intermixing of PLA and civilian forces in the implementation of the law with sanctions to the use of weapons can have very adverse effects.

Legitimation of Infrastructure Offensive

China has been undertaking an infrastructure offensive through the construction of settlements, the creation of artificial islands, and expanding economic activities by opening up access to public services and infrastructure in disputed regions. Such activities are being legitimised through Articles 9-10 of the law.

Article 11 focuses on the promotion of education on land borders [to forge a sense of community of the Chinese nation](#). Chapter two of the new border law deals with demarcation and survey of land borders and chapter three describes the defense in land borders and borders. The definition of borders here includes "border provinces", "autonomous region" and territorial waters. These areas are stated to be built up under comprehensive infrastructural projects.

In the three sections - general provisions, land border management, and border management, mentioned in Chapter Four of the law, there is an emphasis on monitoring and development activities in the border areas under the joint initiatives of local people, civilian authorities, and the PLA.

The law guarantees legal protection for constructions undertaken by competent authorities. Article 48 to 56 under Chapter Five deals with international cooperation in land border disputes. This is stated to be tackled through joint mechanisms like border commissions and treaties.

Hence the law in itself is a Chinese resolution on the disputed borders. The fact that these disputes involve contestations from other parties and therefore China cannot unilaterally decide the verdict as it did here in these laws, makes it confounding.

¹ The border law is translated from Mandarin to English using google translation.

The New Law and the Indo-Pacific

Even though China only has existing land border disputes with India and Bhutan, it is unwise to believe that settled disputes and borders would remain the same under the new law. This law is coming in the context of increasing Chinese unilateralism in the Indo-Pacific region. This can be seen in the Galwan valley, Gogra area, and Pangong lake border regions with India. Similarly, China has undertaken land reclamation through artificial island construction in the South China Sea, construction of canals and roads inside the Humla district of Nepal, and warplane incursions on Taiwan. With the passing of the new border law, there is hardly anything to expect on de-escalation from China, both in terms of outright military confrontation and the infrastructure offensive.

The New Law and India

China's actions have the potential to aggravate the land border situation with India. It can lead to heightened regional tensions and challenge the peaceful settlement of outstanding disputes.

India and China have a disputed land boundary of 3,488 km. These include the Aksai Chin, which India treats as part of the Union Territory of Ladakh, and which China treats as part of the Xinjiang Uygur Autonomous Region and Tibet Autonomous Region.

The second spot of conflict is along McMahon Lines. India maintains it as the legal border but China rejects this on grounds of it being a colonial agreement. While questioning the power of Tibet to enter into such a convention as it is considered as part of China.

Despite the outbreak of war in 1962 in these contested regions, both in 1987 and 2013, conflicts were deescalated. The new wave of violence has already surpassed 18 months.

There are seven boundary agreements signed between India and China. Despite all these treaties, tensions between the neighbours seem to be on the rise.

Implications

The five main implications of the law are:

- 1) The Chinese New Border Law violates international law as countries can't justify international breaches by using provisions of domestic law.
- 2) Law challenges alteration to unsettled borders and settled ones. This can convert the region into a hotspot of conflicts.

- 3) The undefined LAC places the law in a grey zone. The US Department of Defense had reported China has built settlements in the LAC. The Indian Chief of Defense Staff Bipin Rawat had rejected the claim by saying there are no constructions undertaken on the Indian side of LAC. The Indian Ministry of External Affairs had strongly condemned the passing of the new border law. In effect, the confusion is arising from the vagueness in the definition of LAC. Inhospitable geographical terrain around LAC, along with the diplomatic strategy of China to play it vague, were the prime factors in non-definition.
- 4) Many experts suggest, the law is part of a broad plan of China, which it has been envisioned to accomplish by 2030. It is commonly known that China in order to establish their claim over a region begins by the occasional showing of presence to gradual building of structures and over the years they claim it as their legitimate territory.
- 5) The law is part of the Wolf warrior diplomatic strategy, which is underlined with the duality of engagements at negotiations and on ground activities.

The Way Forward

Unilateral efforts will inevitably pose challenges to the stability in Indo-Pacific and the global community as a whole. The Indo-Pacific, as a geographically interconnected region, requires coordinated efforts in combating the crisis of the commons. Like climate change induced disasters like rising ocean levels, floods, and earthquakes.

Persistent armed confrontation isn't good for any country during these times. For Indian strategic advantage, our foreign policy should acknowledge that the decades of peaceful coexistence of neighbours are long gone and what is awaiting is a future of [armed coexistence](#). India needs to develop its capabilities along with the development of deterrence capabilities through many lateral initiatives. Focus on multiple fronts is inevitable be it land, maritime, or air defence. Maritime initiatives like the QUAD and AUKUS is a progressive move on these fronts.

This Policy Note has been prepared by Sandra George, Research Associate, CUTS International.