

Delimitation and Demarcation of the State Boundaries in Armenia

By Satenik Shahbazyan*

This paper offers a comprehensive analysis of the concepts of delimitation, demarcation, redemarcation and rectification, clarifying how definitions and demarcations relate to the larger exploring how they relate to the broader principles of territorial integrity and state sovereignty. It examines the national legal framework governing the complex procedures of delimitation and demarcation in the Republic of Armenia, highlighting the regulations that shape these processes. Additionally, the paper explores the current context of Armenia's border delimitation and demarcation, shedding light on the challenges and key considerations involved in this ongoing effort.

Keywords: *delimitation; demarcation; redemarcation; rectification; territory; sovereignty; state borders; jurisdiction; territorial integrity.*

Introduction

The borders of Armenia have historically represented a significant concern, serving as a crucial element in the assurance of national security. Currently, the political, economic, and military dimensions of this issue retain their relevance and urgency. The concentration of substantial interests within the border region highlights the necessity for the establishment of a comprehensive legal framework. Such a framework is imperative to ensure the legitimacy and effective functioning of Armenia's national security system, ultimately contributing to the stability and integrity of the nation in a context characterised by multifaceted challenges.

There are broad and narrow approaches to understanding state security. In a broad sense, state security is understood as the state of protection of both various interests of the state and human rights and freedoms from factors and conditions that create threats to them. A narrow understanding of state security involves an emphasis on certain essential features of the phenomenon under consideration, and its content depends on which characteristic is chosen as a constituent one. One of the main directions within the framework of the narrow approach can be noted as the interpretation of state security as a state of protection from external and internal threats of certain objects or their fundamental properties. In a narrow sense, state security should be understood as the state of protection of the state system, government bodies, territorial integrity of the state, as well as its sovereignty from internal and external threats¹.

*Attorney of Law, Member of Chamber of Advocates of the Republic of Armenia, Yerevan. Armenia.
Email: shahbazyan.saten@gmail.com

¹Iroshnikov (2013).

Definition of State Border

A state border is a line separating the territory of a state from the territory of another state or from a territory that has a different international legal regime than the territory of the state. Since the state territory includes land, water and air spaces, state borders are divided into land, river, sea and air. The state border of the country is the embodiment of its sovereignty, unity of territorial integrity and political independence. Borders are of great importance for each state for solving the following problems: defining the boundaries of the territory of the state; ensuring state security; control over migration flows of individuals; control over the movement of goods, cargo and other types of economic ties².

The state border regime is established in accordance with the domestic legislation of each state and its international treaties.

From the point of international legal status of state borders, the most important principles are inviolability and sanctity of state borders. In accordance with the principle of inviolability, the violent seizure and annexation of foreign territories and, accordingly, encroachment on the borders of other states are prohibited. The principle of sanctity of state borders was formed after the end of World War II and reflected the desire of European states to recognise the borders that had developed in post-war Europe. According to the Declaration of Principles of the Helsinki Final Act of the Conference on Security and Co-operation in Europe (CSCE) from 1975, "the participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers."

The principle of inviolability of state borders contains three elements: the duty of the state to respect the existing border lines on the ground; the duty to prevent the movement of the border line on the ground - border posts and other signs; the duty to prevent the crossing of the border without permission or outside the established rules for its crossing. Disputes arising in connection with the passage of borders must be resolved by peaceful means, in the same way as territorial disputes.

According to international law a change of territorial sovereign or other cases of succession do not provide legal grounds for revising borders. Article 11 of Vienna Convention on Succession of States in Respect of Treaties of 1978 explicitly states that a state succession event does not, in itself, affect the validity of treaties establishing borders or regulating border regimes. This means that international treaties establishing a border may be amended or terminated only by mutual consent of the interested parties. Unlike other international treaties, boundary treaties cannot be terminated on grounds such as the termination of the existence of the subject of the treaty, the annulment of the treaty, or in connection with a fundamental change in circumstances, as well as on other grounds provided for in the Vienna Convention on the Law of Treaties of 1969. The practice of international relations shows that in the case of succession, the successor state retains the borders of the predecessor state, and boundary treaties are usually of unlimited duration. In its decision on the territorial dispute between Thailand and Cambodia, the International Court of Justice noted that

²Egorov (2015).

one of the main purposes of establishing borders between states is to achieve stability, which is impossible if the borders are changed at any request³.

Jurisdiction, Territorial Integrity and Sovereignty of the State

Jurisdiction of the State

One of the defining characteristics of a state as a subject of international public law is its ability to extend its legal personality through the concept of jurisdiction. Jurisdiction itself can be categorised into two primary types: territorial jurisdiction and personal (or national) jurisdiction. Territorial jurisdiction refers to the state's authority to enact and enforce laws within its own geographical boundaries, covering all activities that occur within that space. This means that the state has the right to regulate the behaviour of individuals, organisations, and entities physically present within its territory. On the other hand, personal jurisdiction is based on the nationality or status of individuals or entities, granting the state the power to exercise legal authority over its nationals, regardless of where they may be located. This principle underscores the importance of nationality in international law, as it allows states to impose their laws on citizens even while they are abroad, ensuring accountability and the protection of national interests. Together, these forms of jurisdiction illustrate the complex interplay between a state's legal authority and its global interactions.

Territorial jurisdiction is understood as the jurisdiction of the state that is exercised within a certain territory. Within its territory, the state exercises full jurisdiction, except in cases where relevant international agreements provide otherwise. Full jurisdiction means the power of the state to prescribe behaviour and ensure the implementation of its prescriptions by all legal means at its disposal⁴. In matters of territorial jurisdiction, the presence of territory is crucial, but equally significant is the inviolability of state borders. State borders serve as the definitive boundaries within which a state exercises its authority, and their sanctity is vital for maintaining sovereignty. The legal regime governing these borders is established through a combination of bilateral agreements with neighbouring states, which outline the processes of delimitation (defining the geographic boundaries) and demarcation (marking the boundaries on the ground). Additionally, national legislation plays a key role in reinforcing these agreements, ensuring that the legal framework is consistent and that the integrity of the borders is upheld. This multi-faceted approach to border management not only protects a state's territorial jurisdiction but also promotes peaceful relations and cooperation with neighbouring countries.

Territorial Integrity of the State

Territory is a fundamental component of a state, serving as the spatial foundation for its sovereignty and governance. The state possesses the inherent right to exercise sovereign authority over its territory, which is intricately linked to every

³Egorov (2015).

⁴Lukashku (2005).

aspect of its organisation and functioning. This territory is characterised by a cohesive unity, encompassing geopolitical, economic, political, and legal dimensions, which collectively shape the identity and operations of the state. One of the paramount guarantees of a state's integrity is the protection of its territorial inviolability. Ensuring that a state's borders remain secure and unchallenged is vital for maintaining stability and sovereignty. The inclusion of provisions related to the protection of territorial integrity within the country's constitution plays a significant role in reinforcing this commitment. By embedding these principles in the supreme law of the land, the state preserves constitutional continuity and fortifies its resolve to uphold the integrity of its territory against any external or internal threats. This legal framework serves not only as a safeguard for the state's physical realm but also as a declaration of its commitment to maintaining its sovereignty in the face of changing dynamics.

The establishment of legal mechanisms designed to prevent the alienation of a nation's territory and the alteration of jurisdiction over specific regions reflects a commitment to safeguarding the interests of its citizens. These mechanisms not only protect the territorial integrity of the state but also restrict the circumstances under which citizens' legal status can be modified. In doing so, a sovereign state underscores its resolve to maintain control over its territory and the rights of those who reside within it. Moreover, a sovereign state emphatically asserts that it will not, under any circumstances, including those arising from international pressure, geopolitical tensions, or the necessity to enter into favourable international agreements, consent to the renunciation of its citizens living on its territory. This principle reinforces the idea that the state prioritises the welfare and rights of its citizens above external influences, ensuring that their legal status remains intact and protected, regardless of shifting political landscapes. By enshrining these protections within its legal framework, the state demonstrates its unwavering commitment to national unity and the dignity of its populace.

Modern international law imposes an obligation on states to uphold all rights that stem from sovereignty and are encompassed by it. These rights notably include the fundamental right of each state to maintain its territorial integrity, freedom, and political independence. Additionally, international law strictly prohibits the use of force or the threat of force against the territorial integrity (inviolability) and political independence and sovereignty of any state. The concept of integrity refers to the legal unity of a state's territory rather than its geographical configuration. This means that different parts of a state's territory may not necessarily need to be physically connected (for example, islands can be included within that territory). The commitment to respecting the sovereignty of states and their territorial integrity is firmly established in key legal documents, such as the Charter of the United Nations, Declaration on Principles of International Law of 1970, also known as the Friendly Relations Declaration, and the Helsinki Final Act of the Conference on Security and Co-operation in Europe (CSCE) from 1975, which formally recognised the territorial integrity of states as a distinct and independent principle. In the case of Armenia, the constitutional protection of its sovereignty and territorial integrity plays a crucial role in reinforcing its standing within the international legal framework, further solidifying its rights and responsibilities on the global stage.

Sovereignty of the State

Sovereignty is an essential characteristic of the state, deeply rooted in both political and legal dimensions. Politically, it encompasses the ability of the holder of supreme state power to independently and autonomously define and implement its will, shaping the direction of governance and policy. Legally, it manifests through the integration of sovereignty's attributes into the fabric of national legislation, outlining the structure and competencies of state authorities that uphold this fundamental principle. The establishment and safeguarding of state borders are intricate processes that necessitate a meticulous approach, involving a multitude of political, economic, organisational, and other strategic measures. Each of these components plays a critical role and warrants thorough examination. Throughout history, state borders have been a focal point of concern, serving as pivotal elements for ensuring national security and territorial integrity. In contemporary times, the political, economic, and military dimensions of border management remain as relevant and pressing as ever. The concentration of varied and often competing interests within border regions underscores the importance of creating a robust legal framework. This legal structure is vital for establishing the legitimacy of actions taken in these areas, thereby ensuring the effective functioning of the national security system and the protection of state sovereignty.

In this context, the entrenchment of the principle of protecting state territorial integrity is particularly significant. Article 14 of the Constitution of the Republic of Armenia clearly states that the armed forces of Armenia are tasked with ensuring the protection, security, and integrity of the nation's territory, as well as the inviolability of its borders⁵. This provision reaffirms Armenia's commitment to adhere to the overarching principle of international law concerning territorial integrity.

Article 53 of the Vienna Convention on the Law of Treaties of 1969 defines a peremptory norm of general international law (*jus cogens*) as a norm that is universally accepted and recognised by the international community of states, establishing it as a standard from which no deviation is permissible. Such norms can only be altered by subsequent norms of equal authority within international law. Among these fundamental norms are the basic principles of international law, which are delineated in the UN Charter and further elaborated in the Declaration on Principles of International Law of 1970, along with other significant international documents. The incorporation of these principles into Armenia's constitutional framework underscores the country's dedication to upholding its territorial integrity, aligning its national laws with established international norms, and affirming its role within the global legal community.

Definition of Delimitation, Demarcation, Redemarcation and Rectification

The terms "delimitation" and "demarcation" refer to two distinct but interconnected stages involved in defining the boundaries between neighbouring states. During the initial stage, known as "delimitation," the states negotiate and

⁵<https://www.arlis.am/hy/acts/102510>

agree upon the theoretical positions of their border, establishing where the line will be drawn on a map. In the subsequent stage, referred to as "demarcation," this agreed-upon border is physically marked and established on the ground.

The determination of a state border line unfolds through two critical phases: delimitation and demarcation. Delimitation serves as the initial and vital step, where the border line is thoughtfully articulated within a treaty and represented on a detailed map. This map, along with the precise description of the border line, assumes an essential role; when it is included as an appendix to the border treaty, it becomes a vital, inseparable element that requires ratification alongside the treaty itself. Once the treaty is ratified, the next phase—demarcation. This process is all about bringing the theoretical boundaries into stark physical reality, as the state delineates the border line right on the ground. Demarcation is not merely an act of marking territory; it involves a comprehensive and thorough description of the border line, pinpointing its exact path, and designating it with distinct, recognisable border signs. To ensure that this complex task is carried out efficiently, joint commissions are often formed, comprised of representatives from both states. These teams diligently undertake the intricate work of laying down the boundaries, navigating the terrain, and preparing the necessary documentation, typically known as border description protocols, to enshrine the agreed-upon delineations.

As a result of the activities mentioned above, comprehensive protocols are crafted, accompanied by essential additional documents such as detailed diagrams and photographs. These visual aids serve to enhance clarity and provide a tangible representation of the border's delineation. It is important to note that if the maps and descriptions of the border line are not explicitly included in the agreement, they hold no legal weight and may not be accepted as valid evidence to confirm the position of the border line. This reinforces the significance of having thorough documentation as part of the formal agreement to ensure clarity and legitimacy in border matters. An example of such a decision was the decision of the International Court of Justice of the United Nations of December 12, 1999, which considered the dispute between Botswana and Namibia regarding the border line along the Chobe River and the ownership of Kasikili Island (Sedudu). The court did not accept the map submitted by the parties for consideration, since it was not an annex to an international treaty, and therefore did not make a decision on this issue regarding the ownership of the territory.

In addition to demarcation, there exists a process known as redemarcation. This procedure occurs after a certain period, allowing the parties involved to revisit and verify the border line as it exists on the ground. During redemarcation, any boundary markers that have been damaged or destroyed are replaced, and new signs may be installed as necessary. This process is especially crucial in areas where the terrain fluctuates, such as regions traversed by rivers, where natural changes can alter the landscape significantly over time. The outcomes of redemarcation are documented in a manner similar to that of the initial border demarcation. This ensures that all adjustments and observations are formally recorded, reaffirming the accuracy of the border line amid the evolving environmental circumstances. Through this diligent approach, the integrity and clarity of the border are maintained, safeguarding both parties' interests and ensuring continued mutual understanding.

Rectification of a border is the drawing of a border on the ground with some deviation from the border line established during its delimitation, for example, the provision of a small area of territory to a neighbouring state to service a hydroelectric power station built by it on a border river, where the border ran along its fairway or in the middle of the river. The small area provided is determined by the consent of the interested parties with the new border on the ground⁶.

State borders should be distinguished from demarcation lines that appear as a result of an armed conflict and the subsequent truce. The modern history of international relations knows of several cases of establishing demarcation lines. Such lines were established, for example, in the Middle East in 1949, in Korea in 1953 and in Vietnam in 1954. In the three cases mentioned, each of the parties considered these lines not as a state border, but only as a temporary line, the main function of which is subordinated to such military-political goals as a ceasefire, the unification of peoples and states, etc. Practice shows that usually a demarcation line determines the line of separation of the armed forces of the parties to the conflict, demilitarised zones are established for them in order to prevent incidents. Another characteristic feature of demarcation lines is their temporary nature. The mentioned truce agreements were concluded with the aim of stopping the fire and creating conditions for finding a peaceful solution to contentious issues. The International Demarcation Line in Korea has existed for decades. Although demarcation lines are temporary and, as stated in the Declaration on Principles of International Law (1970), demarcation lines are without "prejudice to the positions of the parties concerned with regard to the status and consequences of the establishment of such lines," states are obliged to refrain from the threat or use of force to violate these lines⁷.

National Legislation Regulating Delimitation and Demarcation as A Legal Framework Governing the Establishment and Maintenance of Borders Between Armenia and Azerbaijan

Currently, Armenia is engaged in the processes of delimitation and demarcation of its state borders. A significant development in this process was the issuance of an internal document by the Prime Minister of the Republic of Armenia. This document, officially numbered 570-A, was adopted on May 23, 2022, and established a commission to address issues related to the delimitation of the state border and border security between the Republic of Armenia and the Republic of Azerbaijan.

Following this document, the Government of the Republic of Armenia issued a decision to approve the working procedure for organising and conducting sessions and joint working meetings between the commission focused on the delimitation of the state border and border security between Armenia and Azerbaijan and the state commission for delimitation of the border with Azerbaijan (Decision N 2154-A, December 14, 2023). This important document outlines the specific procedures for organising and facilitating meetings, detailing how minutes will be drafted to capture the results of these discussions, as well as the process for issuing press releases that

⁶Egorov (2015).

⁷Egorov (2015).

communicate the outcomes to the public. In addition, two separate decisions were made by the Prime Minister of the Republic of Armenia to establish working groups under the Commission on Demarcation and Border Security Issues. These groups are tasked with clarifying the coordinates identified through geodetic measurements conducted on-site and with drafting the corresponding Protocol-Description.

The Ministry of Foreign Affairs of the Republic of Armenia announced that on April 19, 2024, the eighth meeting of the Commission on Demarcation and Border Security took place, aimed at addressing the state border issues between the Republic of Armenia and the Republic of Azerbaijan. This meeting brought together representatives from both nations to engage in crucial discussions regarding the border line. During the meeting, the delegates reached a preliminary agreement concerning the demarcation of the border in several key areas, specifically between Baghanis and Baghanis Ayrum, as well as Voskepar and Ashagh Askipara, Kirants and Khairumli, and Berkaber and Kyzyl Hajili. This agreement seeks to align the border with the historically established inter-republican boundary that existed at the time of the Soviet Union's disintegration, reflecting a commitment to diplomacy and stability in the region.

It was decided that the description of these sections of the border line will be drawn up taking into account the clarification of the coordinates made as a result of geodetic measurements on the site, which will be formulated in the corresponding Protocol-Description, which must be agreed upon and signed between the Parties by May 15, 2024.

The parties have agreed that they will be guided by the 1991 Alma Ata Declaration in the demarcation process. The parties have also agreed to enshrine this fundamental principle in the draft Regulations (if in the future the Agreement on the Establishment of Peace and Interstate Relations between the Republic of Armenia and the Republic of Azerbaijan provides for other regulations, then the relevant provisions of the Regulations will be brought into line with the principles established by this Agreement)⁸.

On October 26, 2024, the Regulation governing the joint activities of the Commission on Demarcation and Border Security Issues for the state border between the Republic of Armenia and the Republic of Azerbaijan was ratified. This regulation establishes the framework for the collaborative efforts of both countries in addressing border demarcation and security matters. It is significant to note that prior to the ratification of this regulation, the Constitutional Court of the Republic of Armenia conducted a review and determined that the obligations outlined within the regulation are in compliance with the Constitution of the Republic of Armenia. This validation underscores the importance of adhering to constitutional principles while engaging in international cooperation and border management.

According to the press release of the Ministry of Foreign Affairs of the Republic of Armenia, on January 16, 2025, the eleventh meeting of the Commission on Demarcation and Border Security of the State Border between the Republic of Armenia and the Republic of Azerbaijan and the State Commission on Demarcation of the State Border between the Republic of Armenia and the Republic of Azerbaijan took place. During the meeting, the parties continued to exchange views on the issue

⁸ https://www.mfa.am/hy/press-releases/2024/04/19/8th_meeting/12606

of the sequence of sections/sections of the border line for the further implementation of demarcation works and agreed to begin the complex works on demarcation of the state border from the northern section, from the point of intersection of the borders of the Republic of Armenia, the Republic of Azerbaijan and Georgia, and then in the southern direction, from north to south to the border of the Republic of Armenia and the Republic of Azerbaijan with the Islamic Republic of Iran. The parties discussed the drafts of the relevant guidelines on the procedure for implementing demarcation works. The parties agreed to agree on the date and place of the next meeting in a working order⁹.

Fact-Finding Activities after the Announcement of Delimitation and Demarcation Processes in Armenia

After the government of Armenia announced the start of the delimitation and demarcation processes, several communities, including Azatamut and Kayan, were subject to fact-finding activities conducted by a private center, which resulted in a detailed report. The findings indicate that Azatamut, in particular, is likely to lose its agricultural lands as a consequence of these processes, potentially leading to the displacement of its residents.

Kayan community, located right on the border, faces a dire situation where apartment buildings in Azatamut would be alarmingly close—just 20-30 meters—to the former borders of the Azerbaijan SSR and the Armenian SSR. This scenario suggests that both communities could effectively vanish. The anticipated border changes pose a significant risk to Kayan's living conditions, eliminating proper access routes and diminishing its viability as a community.

Furthermore, Aygehovit and Vazashen, neighbouring areas, are expected to encounter serious economic and security issues due to the closure of critical roads. Aygehovit, being one of the larger communities in Tavush, stands to lose valuable land and pastures, jeopardising agricultural activities and potentially leading to either their extinction or a substantial decline.

Overall, these developments threaten the infrastructure and connectivity of the Noyemberyan community, which could be cut off from essential road access linking Tavush¹⁰. The implications of these changes highlight a critical need for careful consideration and planning in the face of potential border realignments.

Proposed Modification

The constitution of a state, as a foundational legal document, primarily embodies the legal aspects of state sovereignty. However, it also addresses the actual dimensions of sovereignty, recognising that constitutional norms are typically grounded in the prevailing principles of the existing state structure and the current state of socio-political relations. The evolution and development of constitutional norms can serve

⁹https://www.mfa.am/hy/press-releases/2025/01/16/arm_az/13039

¹⁰<https://tatoyanfoundation.org/wp-content/uploads/2024/05/TavushReport.pdf>

as a critical lens through which to observe the progression of specific institutions, including state sovereignty itself. Changes in these norms often reflect shifts in political dynamics, societal values, and governance practices, illustrating how the concept of state sovereignty adapts in response to changing conditions within the state and the broader international landscape. By analysing constitutional transformations, one can gain insights into the changing nature of state sovereignty and its implications for the governance of the nation.

The international events of recent years, coupled with ongoing socio-political processes within Armenia, have highlighted the critical importance of safeguarding the country's territorial integrity. A constitutional change would entail enshrining the principle of protecting this integrity within the nation's foundational legal framework. One proposed amendment is to add a new article to the Constitution of Armenia that states: "The Republic of Armenia ensures the protection of its territorial integrity, and any actions (apart from the delimitation and demarcation of the state border with neighbouring states) aimed at alienating part of the territory of Armenia, as well as calls for such actions, are prohibited." This proposed change underscores the importance of protecting territorial integrity in all its dimensions. Given that amendments to the Constitution of Armenia require a specific and rigorous process, this provision would serve as a long-term guarantee for preserving the nation's territorial integrity, regardless of which political forces may assume power in the future. The constitutional ban would encompass all recognised methods of territorial alienation, including the violent seizure (in whole or in part) by a foreign state, the voluntary transfer of territory to another country, and the violent fragmentation of the country leading to the establishment of new independent country within its borders. The consolidation of this norm would create a strong political and legal foundation for ensuring the independent development of Armenia and affirming its territorial sovereignty. This measure not only will reinforce the national security but also will signal a commitment to the integrity and unity of the Armenian as a country.

It should be noted that the absence of a constitutional prohibition on alienation of part of the territory in the constitution itself should hardly be perceived as an omission of the legislator. Prohibitions applicable to such large-scale political processes involving countries as alienation of part of the territory are not sufficiently effective: by the time the risk of such alienation becomes a reality, it will be too late to influence these processes by legal means. Therefore, it is entirely justified that the proposed addition to the Constitution of Armenia is of a preventive nature and is directed not at alienation itself, but at the actions leading to it.

Conclusion

Thus, protecting territorial integrity is crucial for maintaining sovereignty of the state, with international law reinforcing states' rights to safeguard their borders and political independence against external threats. Delimitation and demarcation are processes that directly affect the territorial integrity of Armenia. These processes aim to change the boundaries that separate Armenia from its neighbouring countries,

and deficiencies or ambiguities in these processes can lead to conflicts and compromise a state's territorial cohesion.

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Conventions and a Declarations

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- Declaration on Principles of International Law of 1970

