

Working Paper – 2



Tata Institute of Social Sciences
Patna Centre

Migrants, Smugglers, Traders, and Treacherous Rivers:
A Genealogy of Bihar-Nepal Border from Treaty of
Sugauli to c. 1947

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Migrants, Smugglers, Traders, and Treacherous Rivers: A Genealogy of Bihar-Nepal Border from Treaty of Sugauli to c. 1947

Mithilesh Kumar¹

In September 1903, an attempt was made to rob a runner for the postal services between British India and the Nepal Durbar. He had started his journey from Raxaul in Champaran, Bihar into the Nepalese territory. When the robbers attacked him he resisted and through the timely intervention by some villagers the robbery bid was foiled. The next day two parcels that the runner was carrying were received by traders in Kathmandu which were insured for the sum of Rs 2,000 and Rs. 1,800. The report received by the postal authorities mentioned that these packets contained nothing but waste paper and that there was no evidence that it contained anything valuable. This was a peculiar situation because packets of waste paper did not explain the need to insure those packets for such a large sum of money. The postal authorities traced the sender of the parcels. The sender was a man named Sherbahadur and in the inquiry it was found that the attack on the runner was planned and executed by Sherbahadur with the help of his two servants. The idea behind sending those parcels and attacking the runner was to take the worthless parcel from the runner and later claim the insurance money from the postal authorities. It was an ingenious plan devised to take advantage of the ease with which the border between Bihar and Nepal could be crossed but also the fact that it was indeed an international border with distinct administrative and political structures on either side of the border. The border between Bihar and Nepal created asymmetry in structures of administrative, juridical, and police powers which allowed Sherbahadur to devise a strategy that used the administrative processes of the colonial government to his own advantage. The strategy though is based on a two pronged maneuver that rests on the governmental processes of the colonial power but it can be realized only through violence. This is the leitmotif of the evolution of Bihar-Nepal border where the lines are made through war but constantly challenged through violence, capricious flows of rivers, and political subjects who simply refuse to give up their autonomy in the face of the border making and policing processes of state power. Sherbahadur was arrested and sentenced to life imprisonment while his two servants were sentenced to twelve year in prison.² However, cases like these would haunt authorities on both sides of the borders in decades

¹ Mithilesh Kumar worked with the TISS Patna Centre as Research Fellow from May 2016 to April 2017. The present paper was written as part of the fellowship and presented in a symposium in February 2017 at Patna. The author is thankful to Prof. Ashok Aounshuman and Dr. Aditya Raj for their comments on the first draft and to Prof. Ranabir Samaddar, Prof. Hetukar Jha and Shri Srikant in conceptualisation of the paper.

to come. In the case of Sherbahadur, the authorities were alarmed enough to contemplate changing the rules regarding handling of postage materials. The postal department tried to find their way around the legal mechanism that prevented post offices to open parcels that were insured and check their contents. The extant rule prevented the post office to open the parcels except on the suspicion of them containing plague germs or if they were addressed to places specified by the department.

The crime of mail robbery became more organized and expanded its scale from the time of the incident involving Sherbahadur as the movement across the borders increased in volume. The border between Raxaul and Nepal saw a surge of armed robberies which sometimes proved fatal for the runners. In a period stretching from January to March 1935, there were serious cases of violent robberies where mail runners were killed. This was happening on both sides of the border which was a cause for concern to both Nepalese and British colonial government of India. In a close and sustained investigation of one of these cases, the police found that the perpetrator identified as Bhola Kurmi was married to a woman on the Nepal side of the border and lived there. However, after he committed the robbery he fled into the Bihar territory to escape the legal repercussions in Nepal. Bhola Kurmi originally was an inhabitant of Bettiah in Bihar. This led to even more complications because Bettiah was not governed by British colonial government but was a princely estate with its own domain of policing its borders with Nepal, although the estate worked closely with the colonial government. The document does not clarify if Bhola Kurmi was found or arrested.⁵ However, the case of Bhola Kurmi not only manifests the manner in which the Bihar-Nepal border and its asymmetries and heterogeneity were used for policing and crime but his social life suggests the deep cultural and kinship bonds which exist on either side of the border. These asymmetries are a result of a historical process inextricably bound to colonial border making processes that comprised of war, geopolitics, large scale migration of workers, and ecology. A brief history of making of the Bihar-Nepal border is provided in the next section.

Making of a Transactional Border

The boundary line between Nepal and colonial India was established with

2 Government of India, Department of Commerce and Industry, Report of Certain Mail Robberies Which Were Attempted Last Year between Raxaul and Nepal. Question of the Legal Power of the Post Office to Open, and Examine the Contents Of, Articles Accepted for Insurance, Numbers 16, Part-B ed., vol. File Number 179 of '12, Serial Number 1 (1903)

3 Government of India, Foreign and Political Department, External, Mail Robbery on the Nepal Border, vol. File Number 68X, Serial Numbers 1-6 (1935)

the ratification of Treaty of Sugauli in 1816 following the Anglo-Nepal War of 1814-1816. The treaty allowed for territorial concessions in which some of the territories controlled by Nepal were given to British India, a British representative in Kathmandu was established, and it allowed Britain to recruit Gurkhas for military service. This last concession on military recruitment of Gurkhas for the colonial army was one of the chief interests of the colonial government and decided, in large measures, how border between Bihar and Nepal was governed and how movement of goods and people were controlled. However, even before the ratification of the treaty the border between Bihar and Nepal was a site for escape of peasants, organization of resistance, and political alliances. In this regard, one has to take into account that it is the terai region which forms the border between Bihar and Nepal. The geographical and ecological aspect of terai gave it the status of periphery for both the Nepal Durbar and colonial authorities much before the treaty. The terai was a region of dense and almost impenetrable forests and was notorious for deadly outbreaks of malaria and insufferable summer heat.⁴ This also meant that the terai became a frontier which could be used by the governments on either side of the border for settling populations. The desire of the governments to settle people in this inhospitable region was also used by people, especially peasants, to escape one government or the other. For example, the permanent settlement of 1793 in India was used by the then Rana government in Nepal to induce the distressed peasants of Bengal and Bihar to settle in the terai region of Nepal by giving them property rights over land.⁵ Available evidence shows that there was a large scale settlement of peasants from Bihar to take up the offer of the Ranas. In a similar manner the Tharus were settled in the terai by the Nepalese kingdom which makes this entire region a “melting pot” of several ethnic identities that informs the political contentions of the region to this day.⁶ These strategies of government induced settlement of people went for the entire period from late 19th century to almost mid-20th century. The border between India and Nepal, and Bihar-Nepal in particular, was also a result of geopolitics which, to contemporary observers of 19th century, made it a buffer zone to protect the mainland from an invasion by Russia.⁷

This combination of planned government settlements, both coerced and voluntary, the strategic importance of Bihar-Nepal border, body shopping for

4 Nanda R. Shrestha, *Landlessness and Migration in Nepal*, Westview Special Studies in Social, Political, and Economic Development (Boulder: Westview Press, 1990), 179.

5 Shrestha, 175.

6 Ulrike Muller-Boker, "Pahariya-Migration to the Tharus' Settlement Area of the Inner Terai (Chitwan)," in *Aspects of Migration and Mobility in Nepal*, ed. Susanne Von Der Heide and Thomas Hoffman (Kathmandu: Ratna Pustak Bhandar, 2001), 179-95.

military recruits, and inhospitable terrain made the border a site of intense surveillance but also a site where illegality proliferated and was accentuated. These intersections of contradicting objectives meant that the control over Bihar-Nepal border was a carefully calculated governmental task where one element was always seen in relation with the manner in which it interacted with other elements of governmental objectives. This was evident in the case of how the colonial government enforced the embargo on arms supply to Nepal and the methods through which they sought to check the smuggling of firearms into Nepal. The colonial government was extremely vigilant, as an aftermath of Anglo-Nepal war, with regards to smuggling of arms into Nepal through the Bihar-Nepal border and had set up a number of searching stations and posts along the border. By 1880, there were ten searching stations in the districts of Patna, Champaran, Muzaffarpur, Darbhanga, and Munger for preventing the smuggling of arms. However, by the 1890s the colonial government was ready to review its vigilance and surveillance measures. On the question of increasing the numbers of searching stations and posts along the border to check the smuggling of firearms because existing posts and stations were not proving effective in preventing the smuggling, the governmental response linked it to the question of ease of recruiting Gurkhas for military purposes. The question was whether it was feasible to increase the number of searching stations and posts or whether it made more sense to leave the job of vigilance and surveillance to the district police. The authorities observed that since the Anglo-Nepal War, Nepal had developed its own small firearms manufacturing facilities and they need not resort to large scale smuggling in firearms. As a matter of fact, at one point in time the colonial government in India was seriously considering the proposal of an exchange of firearms to Nepal in return for Gurkha recruits. A barter system between two commodities that could be used in war possibly between the two parties involved in that barter. This was a period when the Nepal Durbar assiduously discouraged the recruitment of Gurkhas by the British. However, by the late 1880s, things started to become favorable for recruitment as a result of change in the composition of the Durbar. In this period the British raised five battalions of Gurkhas, a number which was close to the planned full strength.⁸ It is apparent that for the colonial government of India the movement of both goods and people and the mode of control and surveillance depended on how successful it was to recruit Gurkhas into the army. The aspects of legality and illegality of a trade depended on the

7 Henry Ballantine, *On India's Frontier; Or Nepal: The Gurkhas' Mysterious Land* (New York: J. Selwin Tait and Sons, 1895), 2.

8 Foreign Department, Searching Posts on the Nepal Border to Prevent the Illicit Importation of Arms, Secret-E, Proceedings Numbers 159-161 (1891)

colonial calculation of human bodies that it could uproot and put to work. This made border flexible, stretchable, and transactional.

The transactional nature of Bihar-Nepal border was the result of the dual desire of appropriating labor for work especially for army as mentioned above but also the desire to fix a border which was regularly encroached by changing course of the river in a land that was prone to both floods and famine. The changing course of the river almost an annual basis made fixing of borders by Nepalese and colonial government in India an onerous task and resulted in several disputes. These disputes were also a result of the inherent difficulties of cartography of the region as it was difficult to fix a reference point for rivers that changed course. These changes presented a severe challenge because it was related to agricultural land and peasants on either side of the border and it was not unusual that after a river changed its course the land in Nepalese territory “became” part of the British territory and vice-versa. The Nepal-Champan (Bihar) border faced this problem almost on an annual basis:

The Nepal-Champan boundary may be divided into five sections—

- i. Muzaffarpur district up to the end of the Uriya river at the border of Bettiah and Shikarpur thanas. This section is about 70 miles long, 26 miles in Dhaka Thana, 36 in Adapur and 8 in Bettiah. For about 33 miles of this in all the boundary consists a river or stream or the old dry bed of a river. There are 14 such stretches of boundary, of which three, the Tiur, the Pasaha and the Tilawe have been constant sources of trouble owing to their shifting courses.
- ii. The Uriya river. The Uriya river, either the present course or old courses, is the boundary for about 19 miles running north in Shikarpur thana. This is a very troublesome stretch, wherever the present course of the river is still the boundary, owing to its shifts, and being further away from roads and railways than any of the first section is less often visited.
- iii. Straight line boundary from the Uriya river to Bhiknatori, through jungle.
- iv. Hill boundary through jungle along the ridge of the Sumeshwar hills and the Pachnad river to Tribeni. From tribeni to the trijunction with the United Provinces the boundary runs along the Gandak river for about 15 miles. In this stretch there was a dispute for Narsahi Tapu in 1900-1902,

8 Foreign Department, Searching Posts on the Nepal Border to Prevent the Illicit Importation of Arms, Secret-E, Proceedings Numbers 159-161 (1891)

which was decided to be in British India, and part of the boundary was surveyed and 6 or 8 pillars set up by the District Engineer of Champaran. Further disputes have occurred since 1923.

v. The Gandak boundary from Tribeni to the trijunction with the United Provinces.⁹

In this scenario of rivers abruptly changing course, any border making exercise was contingent and fraught. Drawing a straight line and fixing it meant that agricultural land on both sides of the border would be severely affected leading to loss of land for a large number of peasants. It was to circumvent this problem that there were both formal and informal methods of land exchange on either side of the border, which were not free of dispute but gave enough room for maneuver on both sides.

One of the interesting aspects of the effect on changing course of the rivers on borders, and hence, the territories of Nepal and India were that they were never fixed. Instead, they were malleable and open to negotiations. In that sense, the territories of respective governments became elastic too. In one instance, after one of the regular border making exercises the authorities on both sides realized that it entailed transfer of about 72 acres of land of Bettiah estate settled with its tenants to Nepal. The colonial government of India contemplated acquiring these land parcels under its acquisition laws before transferring it to Nepal. In the process, they found that despite the order of transfer the boundaries in effect never changed and the area remained with the local administration. As a result, the earlier agreement was cancelled and boundaries fixed temporarily based on the midstream of Pasaha river.¹⁰ Similarly, land and territories were subjected to flexibility when it came to governmental schemes to alleviate the losses due to famine. In 1904, the Kamala Irrigation scheme in the district of Darbhanga which had been sanctioned as a Famine Protection work rendered it necessary for the local colonial authorities in Bihar to acquire land in the Nepalese territory for a suitable site for a weir. The Lieutenant-Governor authorized the local officers to open negotiations with the Nepal Durbar with a view to the purchase of the tract of land required or to arrange for an exchange. The Durbar were unwilling to sell the land but had no objection

⁹ Government of India, Foreign and Political Department, Demarcation of Nepal-Champaran Boundary. Appointment of a Joint Commission to Submit Recommendations concerning the Boundary, to Assess Compensation for Wrongful Possession, to Evolve a Principle for Settling the Boundary in Riverain Areas, File No. 148-X, Serial Numbers. 1-19 (1928)

¹⁰ Government of India, Foreign and Political Department, External, Boundary between Nepal and the Champaran District along the Pashaha River, File No. 552-X, Proceedings Numbers. 1-2 (1926)

to an exchange being effected. But as the plot of land in British territory at first suggested for exchange was not approved by the Nepal Durbar, it was decided that the selection of the land to be exchanged might be made by the Collector of Darbhanga or the Sub-Divisional officer of Madhubani in personal consultation with the corresponding Nepalese authority. As a result of this negotiation, the Durbar finally suggested alternative plots of land. They asked that the boundary line along the Nepal outpost at Thori (Champaran, Bihar) should be shifted slightly to the west to give Nepal a cart track to Thori within its own border. The Durbar was keen to have this strip of land which would give the Nepalese authorities a clear right of way to Thori. The tract was a wasteland measuring about 273 bighas and formed part of a permanently settled estate in the district of Champaran.¹¹ It is apparent that both the colonial government and the Nepal Durbar perceived the Bihar-Nepal border not as fixed but a site of constant negotiation and accommodation of interests. It is also interesting to note that this flexibility in transaction of territories gave border an appearance of being an open border which is still embedded in popular consciousness. However, deeming the Bihar-Nepal border either in the colonial period or contemporary times will be erroneous. It is more fruitful to conceptualize the Bihar-Nepal border as a perforated border which allows for specific movements of goods and people from specific sites but is heavily and complexly obstructed and governed at other sites. This makes the topology of Bihar-Nepal border heterogeneous both in terms of its geography as well as power relations. This mesh of power relations in the colonial period was made up of traders, smugglers, peasants, cattle lifters, dacoits, and poachers apart from the usual legal authorities and capricious rivers. All these actors, human and non-human, ensured that the Bihar-Nepal border was a border which could be negotiated in terms of territory, economics, politics, and social and cultural relations. The next section gives a picture of legitimate trade and commerce which was carried along the Bihar-Nepal border and how in the interstices of such legitimate activities there was a vibrant “illegitimate” world of commerce, speculation, and labor.

Logistics and Trade on Bihar-Nepal Border

Trade along the Bihar-Nepal border was placed in the pincer of military objectives and commercial interests of the colonial government of India and the Nepal Durbar. The logistics for trade—roads, rail, and waterways—were developed or retarded according to calculations based on these two objectives

¹¹ Government of India, Foreign Department, External-A, Transfer to the Nepal Darbar of a Plot of Land in the Champaran District in Exchange for Land in Nepal Territory, Proceedings, September 1907, Numbers 67-72 (1907)

which were often contradictory. After the Anglo-Nepal War, the colonial government of India encouraged setting up of a robust logistical apparatus especially roads with construction of roads being taken up in earnest by both the colonial government as well as the princely estates with the help of the former. However, Nepal Durbar was wary of facilitating movement of goods and people due to the fear that the colonial government of India might use the logistical chain for military purposes.¹² As a result, roads on the Bihar side of the border were good but were in a bad condition on the Nepal side. This retarded development of legal trade along the Bihar-Nepal border. In fact, the British government did not even make an attempt to register the amount of trade traffic passing through many border posts along the Bihar-Nepal border.¹³ In this period the trade along Bihar-Nepal border was concentrated at Champaran, Muzaffarpur, Darbhanga, Bhagalpur, and Purnea on the Bihar side and Chitwan, Bara, Rauthat, Sarlahi, Mahottari, and Janakpur on the Nepalese side.¹⁴ It appears that each border post in Bihar developed a specialization in terms of the kind of commodities that passed through a certain post. For example, the post near Kutkenwa in Champaran saw rice and paddy from Nepal coming through while cotton goods, salt, sugar, kerosene oil, copper and brass goods, and betel nuts passed through from Bihar. Timber and hides became important commodities coming from Nepal in the route via Sonbarsa. In Madhubani, tobacco, silk, and English cloth became major commodities that were imported by Nepal. Rice, paddy, oil, kerosene, salt, and sugar were common to almost all border posts.¹⁵

Bihar-Nepal border trade got a major boost after the introduction of railways in strategic places along the border. The period after 1875 saw major development of railway logistics. The Muzaffarpur branch of Tirhut state railway was opened in 1877. This was extended to Supaul to Pertapganj which transformed trade in Bhagalpur district and replaced trade through river routes. In 1890, Assam-Bihar State Railway opened the Purnea section from Kasba to Forbesganj which was near the market town of Rangeli in Mornag district of Nepal. This route connected the river routes in a manner where commodities from Nepal was brought to Forbesganj through train and was then shipped through the river westward to Revilganj. In 1896, Sugauli-Raxaul line was developed along with the route of Hajipur-Begusarai-Katihar. The feeder line from Raxaul to Tirhut State Railway was constructed in 1896. As a measure to alleviate the havoc

12 Shreeram Prasad Upadhyaya, *Indo-Nepal Trade Relations: A Historical Analysis of Nepal's Trade with the British India*, Nirala Series-20 (Jaipur and New Delhi: Nirala Publications, 1992), 78-79.

13 Upadhyaya, 43.

14 Upadhyaya, 43

15 Upadhyaya, 51-52

caused by the famine of 1897, a railway line was constructed from Sakri to Jayanagar which passed through Madhubani.¹⁶ This planned connectivity of towns along Bihar-Nepal border changed the context of trade and some of the most important trade centers which continue to be so in contemporary times such as Raxaul and Jayanagar are a development of this period.

A slight digression on the issue of famine is important here because it points out the importance of both informal and formal trade between Bihar and Nepal. Also, the problems involved in the governance of disasters like flood, drought, and famine played a major role in the logistical apparatus that developed along the Bihar-Nepal border through railways. The famines of 1866 and 1874 proved to be decisive in the manner in which the governance of border, logistics, and trade evolved subsequently. There is evidence to suggest that there was both an informal and formal network of rice trade between Bihar and Nepal. This trade was important to the point of being decisive in the availability of food grains in the region. The famine of 1866 was made more severe in the Bihar-Nepal border because the rice crop in the Nepal terai failed entirely. In 1865, due to high prices of rice prevalent on Bihar side of the border the rice of Nepal was almost entirely exported. When the crop failed in 1866 there was no buffer left. At the same time the Gandak embankment was breached resulting in loss of crops. As a result, the usual network of rice supplies was severely hit and the region became depended on external supplies of food grain which in the absence of connectivity were severely hampered. In 1874, relief work in Champaran was severely restricted because the river had to be navigated upstream.¹⁷ The governmental rationale of managing the population away from military calculations is evident in the manner in which logistical apparatus developed. The colonial government seemed to have realized the necessary but precarious nature of the trade in food grains along Bihar-Nepal border which was a decisive factor in how relief operations were conducted and how far they succeeded. In the famine of 1897, the Tirhut State Railway that was extended into Champaran from Muzaffarpur in 1883 proved instrumental in the relief operations in Champaran. This line was further extended beyond Bettiah into Bhikhna Thori on the Bihar-Nepal border.¹⁸ It is apparent that logistics of Bihar-Nepal trade was developed as a result of complex relation between formal and informal trade practices, natural disasters, making and managing of a transactional border, and military

16 Upadhyaya, 59-65

17 William Wilson Hunter, *A Statistical Account of Bengal*, vol. 13 (1877), pg. 285-88, accessed August 23, 2016, <https://archive.org/details/in.ernet.dli.2015.17054>

18 Upadhyaya, 63

calculations. It is not surprising, therefore, that each place along the Bihar-Nepal border developed its own specificity with relation to the larger relations between actors mentioned above. This heterogeneity was manifested in the entire administrative set-up built around trade on Bihar-Nepal border.

Taxation on commodities passing through the Bihar-Nepal border gives an evidence of how migration around commerce took place. The first treaty of commerce between the Nepal Durbar and colonial government in India was signed in 1792. According to this treaty, a duty of two and a half percent was levied on imports on both sides and in case of loss due to theft and robbery the merchants were to be compensated. This treaty was repealed in 1804 but the arrangement continued on the ground. However, while the Nepalese goods into Bihar were charged two and a half percent, the goods from India were charged more than the treaty rate to the tune of three to four times.¹⁹ This asymmetry in taxation was a result of tax farming on the Nepalese side of the border. The Nepalese government did not have regular stations at the border to collect taxes. In the seven districts bordering Bihar (Morang, Saptari, Mahottari, Sarlahi, Bara, Parsa, and Rauthat) customs duties and other taxes were collected through contractors and their sub-lessees. The contractors had to pay a fixed amount of money to the state within a stipulated time. The two contractors who worked in these districts had several sub-lessees who had their own methods to collect customs duties on commodities. This meant that there was no uniformity in items that were taxed and it was a fact that the same commodity would be taxed at one place but would not at other.²⁰ In 1836, the colonial government of India abolished all taxes on commodities coming into Bihar from Nepal but the heterogeneous system of taxation prevailed on the Nepal side of the border. As a result, for Indian merchants of the region close to terai in Bihar it made more sense to live permanently in Nepal and export their goods to Bihar.²¹

This paper does not go into the details of the evolution of the political economy of regions around Bihar-Nepal border on both sides. The concern of this paper is more modest and concentrates on the asymmetries created by this border and how these asymmetries led to a definite kind of movement of goods and people. However, from the arguments made thus far it is quite possible to discern that the strategy of Nepal Durbar to settle population in the terai region revolved around creating and managing asymmetries of social and economic

19 Jahar Sen, *Essays in Indo-Nepal Trade: A Nineteenth Century Study* (Calcutta and New Delhi: K P Bagchi & Company, 1991), 13-14

20 Upadhyaya, 202 21

21 Upadhyaya, 191

relations along the border. Providing land to the peasants and creating a border tax regime which made merchants settle on the Nepal side of the border were two important legal ways of settling the hitherto inhospitable and malarial region. The colonial government was happy with this movement and settling of population as long as it could fulfill its target of Gurkha bodies to put them into the war efforts of the empire. In effect, Bihar-Nepal border was a site where there was a movement of goods and people but it was also a site where there was a movement of people as commodities. However, this governmental vision of creating settled political subjects out of migration was constantly challenged at every instance by recalcitrant subjects. The next section provides an account of the subjects whose desire was to escape the mesh of power knitted by the juridical and administrative powers and, in the process, assert their autonomy.

The Discontents of Bihar-Nepal Border in the Interstices of Legal Regimes

Rivers along the region of Bihar-Nepal border are notorious for changing their course altering not only boundaries but creating them where there were none. The colonial government of India made an annual survey of rivers in the region to ascertain the amount of land lost or gained on each side of the border. One such survey report records the changes in the following manner:

Following changes during 1910 in the course of the rivers forming the boundary between Nepal and frontier district of Champaran:—

1. River Teur north of Police Station, Chauradano.
 - (a) 4 Bighas of land in two plots lost to the district and added to Nepal near village Bindabasini.
 - (b) About 9 cottahs of land lost to the district and added to Nepal near the boundary pillar, No. 9 in Dharnagar village.
 - (c) About one bigha of land added to Nepal near village Lachuman-nagar and an equal area of land to the district near the same village.
2. The river Sariswa near village Parastakee has washed away two bighas of land in Nepal and moved a little to the east on the Nepal side.
3. Eight or nine cottahs of land have been washed away by the Boria river on the west of the villages Baga, Nagardehi, Inerwa, Somarbari and Bhaluahi in the jurisdiction of Police Station Mainatand (British Territory).

No Change is reported to have taken place during the year in the frontier districts of Muzaffarpur and Darbhanga.²²

In another survey report the changes were recorded in the following manner:

The following changes have taken place in the course of the rivers forming a boundary between the District of Champaran and Nepal during the year 1907:

(a) In this jurisdiction of Mainatand out-post the river Uria has cut away from the British side land measuring 316'x 302' and 193'x 53' at villages Nagardahi and Samarbari respectively. The river has added to the British side at five places in villages Bhalooyah lands measuring 104'x 56', 99'x 54', 402' x 295', 292' x 80', and 350' x 104' respectively.

(b) In the jurisdiction of Raxaul Out-post the river Sariswa has cut away from the British side lands measuring 103'x11' and 75'x15' at village Parastoka 60'x15', 195'x15', 165'x18'9" and 145'x15' at village Raxaul.²³

The reason for such careful measurement of land lost or gained due to the encroachment of several rivers flowing in the region of Bihar-Nepal border was not only a result of the desire of the colonial government of India and Nepal Durbar to preserve its territorial integrity. This anxiety to get the statistics correct was also due to the fact that inhabitants of villages in the region built embankments or dams without seeking legal permission. One such episode is recounted below:

In charge of the district of Bara reports...that inhabitants of Sirsia in British territory, have dug out a water course from the old course of the Bugri river and constructed a dam across it which caused damage to the bordering fields of the Nepalese Govt. The old stream of the Bugri river is the boundary since of both the Govts. It is improper to dig out water course and construct a dam on the boundary mark damaging the fields of the Nepalese Govt. by taking away earth.

The police have been ordered to have the Bund cut.

The Sirsia villagers cannot be allowed to construct dam which will have

22 Government of India, Foreign Department, Changes during 1910 in the Course of Rivers Forming the Boundary between Nepal and the Districts of Bhagalpur, Purnea, Champaran, Muzaffarpur and Darbhanga., Internal—B, Progs. March 1911, Nos. 149-150 (1911)

23 Government of India, Foreign Department, Changes Which Have Taken Place during the Year 1907 in the Course of the Rivers Forming the Boundary between Nepal and the District of Champaran, External—B, Progs. March 1908, Nos. 237. (1908)

the effect of injuring the Nepal Territory, and the dam now objected to must be cut. It can be constructed lower down.²⁴

There is something to be said about the notion of “damage to the bordering fields” considering that delineating river stream as a boundary had always been problematic as related above. This notion of damage for the authorities was a result of the notion of a fixed border and the refusal of Bihar-Nepal border to be fixed owing to its rivers. The practice of making small dams was common among the inhabitants of the region. And mostly, they were only temporary in nature. However, this notion of border and damage among the government authorities made criminal a prevailing practice and subject to police action. It also gave authorities the power to bring this practice under the control of the government.

One of the results of the asymmetries of the Bihar-Nepal border was the lucrative opium smuggling. The growing of opium in the Nepal terai was legal and, by all accounts, it was of good quality which fetched a high price in the market of India. The Nepal Durbar had prohibited the export of opium to India in 1852. This was done in the view of large scale smuggling of opium from India into Nepal which was then smuggled into China. This overland smuggling route into China was part of the storied opium trade through sea. The reason the Nepal Durbar prohibited export of opium to India was that the former wanted to legally supply it into China as part of their quinquennial mission.²⁵ The prohibition meant that opium farmers of Nepal with the help of village authorities developed a smuggling network through Bihar-Nepal border which ran up to Calcutta and Chandernagore and further east into Assam and to the Punjab in the west. The opium trade from Nepal into Bihar catered to both the larger global opium trade but also was meant for consumption within India and the network extended into Assam in the east and the Punjab in the west. The smuggling routes encompassed river, land, and train:

1. On River Gandak via Hazipur to Chandernagore and Calcutta
2. Buri Gandak via Raosara, from there through Ganges to Chandernagore and Calcutta.
3. By road via Shahbad, Gaya, and Raniganj (Burdwan), and from Burdwan by rail to Chandernagore and Calcutta

24 Nepal Residency, Construction of a Bund across the Burgi River by British Subjects (Champan District), File No. 3659, Serial No. 21A (1874)

25 Sen, 52

4. By road via Motihari and from there by rail to Chandernagore and Calcutta
5. By road via Srisha, Sitamarhi, Pipri, Darbhanga, and from Darbhanga by rail to Chandernagore and Calcutta.
6. By road via Madhupur to Darbhanga and then by rail to Chandernagore and Calcutta.
7. By road via Janakpur to Darbhanga and from there by rail to Chandernagore and Calcutta.²⁶

The route taken for smuggling opium into Punjab was mostly through Muzaffarpur and Sitamarhi by train. But there was one route through which opium was brought up to Hajipur and from there carried on Ganges into Patna.²⁷ In fact, it was suspected by the police that there were several warehouses in Patna that used to store opium illegally. The records used by Jahar Sen also show that there were Chinese smugglers assisting in the entire operation from Nepal into Calcutta and Chandernagore and they shipped it to Macau.²⁸ The scope of this paper does not allow a detailed history of opium smuggling on Bihar-Nepal border but it can be said on the basis of available evidence that smuggling on this border was integral to the supply chain of opium trade into China.

The Criminal Subjects of Border

The asymmetries of Bihar-Nepal border also gave rise to “crimes” that were directed against the representatives of the state (Nepal Durbar and colonial government of India), and the estates. The instance of mail robberies and manipulating the postal insurance scheme has already been dwelt upon in the beginning of the paper. Here, a detailed account of cattle-lifting and poaching is given to bring out the caste and class nature of such “crimes” and how the outlaws used the border to commit the crimes and escape the clutches of law by circumventing the juridical boundaries on either side of the border.

Cattle-lifting was viewed as a serious crime that inflicted the Bihar-Nepal border. This crime was prevalent all over India but what made it difficult to control was the question of jurisdiction between Bihar and Nepal. The criminals usually committed the crime across the border or if they committed the crime

²⁶ Sen, 60

²⁷ Sen, 61

²⁸ Sen, 57

within a territory they resided they escaped on the other side using the close kinship network developed through a prolonged and continuing process of migration. This made arrest and judicial process cumbersome and this fact was not lost on the perpetrators of the crime. Colonial records emphasize that different jurisdictions in the region along Bihar-Nepal border were used by the criminals to affect and evade crimes. The following case illustrates this point best and also shows how this crime on the border also resulted in a great deal of violence.

A case of cattle-lifting and killing of a cattle-lifter in 1864 made news along the border near Champaran. The thief identified as Bhyroo who was one of a party that was carrying off four head of cattle from a Nepalese village near the border was killed when villagers confronted and severely injured him. He was carried off by the villagers to the nearest local court along with one of his accomplices identified as Alaick Aheer who was placed under arrest by the Nepalese authorities. It was later found out that the villagers from Nepal had chased this gang of cattle-lifters into Champaran and thus the incident did not come under the jurisdiction of the Nepalese courts. There was a period of intense negotiation between the magistrate of Champaran and the Mir Soubah of the Nepal region on the basis of different testimonies provided by the arrested cattle-lifter before Alaick Aheer could be brought to trial in the colonial courts. There was a dispute between the two law officers on the different versions of testimonies given by the criminal and the latter had to decide which version was correct.²⁹

The business of cattle-lifting was a peculiar crime and was akin to kidnapping where cattle lifters demanded ransom in return for the stolen cattle. The records show that this kind of ransom was locally known as panaoni. This crime was a major challenge for the police of the colonial government. One such police record suggests that the crime of cattle-lifting was not taken seriously by the Nepalese authorities:

Cattle-lifting is most prevalent in some parts of India...in the Nepal Tarai there are very few villages and it is not the villagers, but the graziers who lift the cattle. Where the thefts take place on the borders of British territory nothing can be done unless the state concerned takes an interest in the matter. The country in the latter (Nepal) is difficult and once the cattle are across the river the owners have no option but to pay to get them back. Panaha (blackmail) variously called panaoni.

²⁹ Government of India, Foreign Political, Result of the Nepal Darbar's Investigation into the Alleged Murder of a British Subject and the Abdication of Another in the Champaran District., A 1864, Progs. Dec 1864, Nos. 46-48. (1864)

Whether the Nepalese authorities could be moved to put a stop to the disgraceful cattle-lifting on the frontier which practice has been going on for so many years, pointing that the system of “panaha” (blackmail) had become a perfect scandal and appeared to be on the increase.

Magistrates were of opinion that the sufferers would rather submit to the exaction than incur the trouble and risk of bringing a case before the Nepalese Court with the risk of the consequences attending the failure to make good their claims.

It is believed that the practice in the Nepalese Courts, of requiring the complainant to deposit security which may be forfeited on his failing to establish his claim, would deter complainants from seeking redress from a Nepalese Court in such cases; and I am quite sure that if the claimant had to produce the animal recovered by the payment of “panaoni” when making his claim and to incur the risk of its being forfeited in case he failed to prove his allegations, no one would come forward.

No complaints have ever been made in this district (Bhagalpur) regarding the exaction of “panaoni.”

This offence, more especially, where it forms a part of the black-mail system, is nowhere easy to suppress, and the ordinary difficulties are in this case much aggravated by the fact that the offenders can readily find a refuge in Nepal.

The government of India regard the matter as one of considerable importance, and that, if the Durbar are unable or unwilling to cooperate in keeping order and in repressing crime on the border, the government of India will be compelled to act independently in the matter in the way they think fit.³⁰

The reason for giving the full quote from the records is that it brings out the complexity of the situation where it appears that cattle-lifting since the time of Alaick Aheer and Bhyroo had become more organized. It is interesting to note that the burden of proving the crime of cattle-lifting was on the owners of the cattle on the Bihar side of the border failing which they had to forfeit the deposited security amount. It is apparent that the border and the asymmetrical jurisdictional mechanism resulting from that were instrumental in this quite lucrative organized criminal activity. One can even extend the point and say that the rule of the Nepalese court actually made the crime even more lucrative

³⁰ Government of India, Home Department, Prevalence of Cattle-lifting on the Nepal Border, Police B, Proceedings: October 1890; Nos.: 70-72 (1890)

as owners tried and avoided the court. In a sense then the whole “crime” of cattle-lifting revolved around the asymmetries of Bihar-Nepal border and its consequences. Also, the fact that cattle-lifting was done by gangs on both sides of the border and they took advantage of their location perhaps also points to some sort of understanding between gangs across the borders and within the border too.

There is evidence to suggest that gangs of cattle-lifters from North Bengal crossed into the Nepal border through Bihar with help of local accomplices. It is interesting to note that in the cases found in records these gang members belong to the tribal group in Bengal. In one such case where the gang members were arrested it was found that they all were from the Rajbansi community:

For the information of the Government of India, that the evidence against Bisu Lal is now reported to have been recorded by the Nepalese Court at Hannumannagar, but that Bisu Lal is himself is said to have absconded.

Four released convicts...have crossed over into the Nepal border and are believed to be engaged in cattle-lifting.

Descriptive Roll:

Bali Kant Das; caste-Rajbansi; age 32 years; residence Japibheta, Naxalbari outpost.

Kaloo Das alias Koruck Chand alias Dhamra Das; caste-Rajbansi; age over 40 years; former residence Jugabhita, Naxalbari outpost; came from Rajgunge, P.S. Jalpaiguri.

Daloo Das; caste Bajbansi; age about 30 years; former residence Dulijate, Burrogunje Mowza, Naxalbari outpost.

Petoo Das; caste Rajbansi; age about 40 years; Former residence Ragoojote, Hathighesa Mowza, Naxalbari outpost.³¹

Bisu Lal who absconded was a resident of Bihar and since the matter came to the court in Hanumannagar in Nepal which is near the Bihar-Nepal border it must be that the crime was committed along this border although the record does not specifically mentions the place. It is apparent that gangs were

³¹ Government of India, Foreign Department, Evidence against Bisu Lal, Accused of Cattle-lifting on the Nepal Border. Descriptive Rolls of Four Released Convicts Believed to Be Engaged in Cattle-lifting on the Nepal Border., External A, Pros. June 1892, Nos. 191-192 (1892)

formed across borders as well as within borders and it is highly likely that these members came largely from the subaltern classes. The aspects of class and caste relations cannot be denied in these crimes. This becomes even more apparent in the case of robberies along Bihar-Nepal border.

An excerpt from a record pertaining to a violent case of dacoity is given below:

Confessions of a dacoit to the magistrate of Champaran...Surachie Reton Chamar, Sarun Koormi, Gujadhur Ahir, Jat Koormi, Behari Ahir of Pursonena were there. There were twelve men from Pursonena there altogether. Gunput Bind of Pelkootia, Ramchurn Dosadh of Soobalia, Chutton Dosadh of Sutarariah, Lola Suleaha, Baburam Ahir of Bholeanipore, Pullock Gour of Lanekurriah, Girja Dosadh of Kohbarari were also there. There were eighteen men in all. We got some clothes, eight thans of "naen" cloth one gun and a necklace. Pollock Gour divided the spoil in the jungle of Inohader Mutth.

Several gangs operated in coordination at times.

Information of dacoity committed in Nepal by persons residing in British territory is rarely given by the Nepal authorities to him [magistrate of Champaran], or to the British officers stationed on the frontier, or, if supplied the information is usually received too late to be of any avail for securing either the arrest of the offenders or their conviction even when arrested...recommended with a view to bringing the bad character residing in the border...district to justice, that the Nepal government should be requested to cause immediate intimation of the occurrence of every dacoity committed in that country of persons from British territory to be given to the police station within our frontier nearest to the place where the dacoits are suspected or believed to be living.³²

There are several interesting aspects to this case. Firstly, the gang members were mostly from the subaltern castes. Secondly, that the colonial government was aware that the asymmetrical Bihar-Nepal border was being used not only to commit the crime but escape the law. This brings us to one other criminal activity which by its proliferation became a serious problem for both the colonial government as well as the estates and that was poaching.

Of all the crimes committed on Bihar-Nepal border, smuggling and poaching appear to be the most organized as well as prolific. With the rise of colonial administration of forests, the access to the forest produce was denied to people

³² Nepal Residency, Communication Relating to the Attendance of Witnesses from Nepal in British Courts in Dacoity Cases and Proposed Measures to Be Adopted for the Suppression of Dacoity in the Champaran District., File No. 986G of 1896 (1896)

on both side of the borders and any “trespassing” was criminalized. However, one of the interesting aspects of poaching that comes out of the historical records is its relationship with migrant labor and their need for food. But first let us see what the documents record:

Large gangs of men come down from the hills and camp just across the border, they have spies on our side and when they find the coast clear, come across very early in the morning, kill sambhar and take them over to their side if they come across a forest subordinate they do not hesitate to threaten violence if interfered with, so unless our Forest Guards are armed, and the number is increased, it is impossible to stop the evil.

It is very difficult for them (Forest Officers) to make arrests because the poachers operate in thick forest close to the frontier, they have only got to run across the frontier line to be safe from pursuit by our officials, and most of them are probably quite ready to use their fire-arms against our men if their retreat into Nepal is cut off.

The following, however, are definite instances that can be quoted if reference is made to the Nepal Durbar.

- (a) In 1930 the Divisional Forest Officer and Ranger were on inspection north of Sohelwa when they heard a shot. They went in the direction of the shot and saw a Nepalese cross over the frontier into Nepal a shot distance ahead of them.
- (b) In February 1932 the Divisional Forest Officer with some friends was following up a wounded Sambhur when they heard two shots near the frontier. On coming up to the Sambhur they found it dead with two extra gin shot wounds and indications that poachers had started to skin it.
- (c) Mr. Cole, Superintendent of Police, and Mr. Sinclair of Gonda, when sitting up for panther in April or May 1932, both saw parties of Neplaease out with guns in our forest near Pipra.
- (d) In March 1933 a report was brought to the Divisional Forest Officer at Pipra that a party of Nepalese has just shot a Sambhur near by and were in the act of skinning it. The Divisional Forest Officer with the Ranger and some men surrounded the poachers and caught three of them. These three men were prosecuted and convicted in the Gonda Courts. Their names and addresses were given as (i) Manbir, son of Chotey Gaste Kurmi, resident of Mashina, Police Station Deokot, District Dang, Nepal; (ii) Manpuri ,s/o Kalbir, of same address; (iii) Mani Ram, s/o Kamar Singh of same address.

(e) In March 1932 the Divisional Forest Officer received information that a party of 22 Nepalese with 14 guns were encamped in the Gandela Nallah just on the Nepal side of the frontier, that they were selling sambhur meat at -/4/6 a seer to men employed on Katha manufacture in Nepal, and that they were poaching on our side of the frontier.

(f) In April 1933 Moti Lal, Forest Guard, with two Fire-watchers, surprised a party of 12 Nepalese (5 with guns) in Rajjia Tal. Only one man, without a gun, was caught and the rest escaped by running away. The man who caught is Manbir s/o Hansa Ram, caste Tahakur (sic.), of Sewar, Police station Bijauli. He admitted that the party has shot 4 sambhar in the reserved forest north of Rajjia Tal and he gave the names of the party as

(i) Sasa Ram, Magar, of Sewar, Police Station Bijauli

(ii) Dhana Ram, Thakur, same address

(iii) Jangi, Magar, same address

(iv) Tilak Ram, Magar, same address.³³

The tropes are familiar by now. The sanctity of borders had been violated as governing the topography was onerous and the gang members violent. However, a more interesting aspect is that now the arrested criminals were also identified by caste and caste identities of criminals were now part of the record. It appears that the colonial government also became aware that there was an aspect of caste and subalternity involved in activities deemed criminal. Another aspect is that the game that was killed in these poaching expeditions (sambur) was meant to feed the workers of manufacturing units and that there was a flourishing albeit black market for this kind of meat. It is apparent that this "crime" was a result of the complex relation between border, migration, and question of accessibility to the forest. Bihar-Nepal border and the asymmetries of jurisdiction, administration, and policy of settling population as a result of making of the border is at the basis of all the crimes that have been recounted in this paper.

³³ Government of India, Foreign and Political Department, Poaching Raids along the Nepal Border, External, File No. 25 X (1934)

Conclusion

This brief genealogy of Bihar-Nepal border makes a few things clear about its nature. The Bihar-Nepal border although a result of a war never became rigid or impenetrable. This was due less to the desire of the respective states and more due to the topography of the region where dense forests might have been cut through but the treacherous and unpredictable rivers made any sustained border making exercise extremely difficult. However, the political subjects who challenged the borders are the ones who make Bihar-Nepal border porous despite the statist intentions. These political subjects through ingenious ways devised methods of constant movement and mobility between the borders, forming associations both horizontally and vertically. It was informed by a sense of subalternity as reflected in the composition of several criminal gangs. Also, it must be emphasized that the colonial government and Nepal Durbar did make the border transactional which was mostly the result of unpredictable rivers which over just one monsoon could transform what was Nepal into Bihar and vice-versa. Therefore, it must be said that the ontology of Bihar-Nepal border is inherently unstable and undefined and therein lies the challenge to the art of government, both colonial as well as postcolonial. The claim made in this paper is that it is fruitful to conceive the Bihar-Nepal border as a perforated border. There are myriad legally recognized spaces through which relatively free movement of goods and people are possible but it is interspersed with points where movement is restricted to the point of being blocked. It is at these spaces that the discontents of borders create their own “free” passage through which they make an escape route from the legal regimes of the border authorities. These contentious passages are site of violence, informal negotiations, and associations of subaltern subjects.

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