

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

Mithilesh Kumar

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 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 traders in Kathmandu received the two parcels the runner was carrying, 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. This was a peculiar situation: why insure packets of waste paper for relatively large sums of money? The postal authorities traced the sender of the parcels: a man named Sherbahadur. 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 was to 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 the 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 advantage. Although the strategy is based on a two-pronged manoeuvre that rests on the governmental processes of the colonial power, it can be realised only through violence. This is the leitmotif of the evolution of Bihar–Nepal border where the lines are 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 years in prison (Government of India 1903). However, cases like these would haunt authorities on both sides of the borders for decades to come. In the case of Sherbahadur, the authorities were alarmed enough to contemplate changing

Mithilesh Kumar is Assistant Professor, Centre for Development Practice and Research, Tata Institute of Social Sciences, 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, (late) Prof. Hetukar Jha and Shri Srikant for their help in the conceptualisation of the paper.

the rules regarding handling of postage materials. The extant rule prevented the post office from opening parcels and checking their contents, other than on the suspicion of them containing plague germs or if they were addressed to places specified by the department. The postal department tried to find their way around this legal mechanism. The crime of mail robbery became more organised 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 the period 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 for both the 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 legal repercussions in Nepal. Bhola Kurmi was originally 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 (Government of India 1935). 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; his social life also 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 consisted of war, geopolitics, large-scale migration of workers, and ecology. A brief history of the 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 the ratification of the 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 was established in Kathmandu, 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 measure, how the border between Bihar and Nepal was governed and how the movement of goods and people was controlled. However, even before the ratification of the treaty the border between Bihar and Nepal was a site for escape of peasants, organisation 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 the 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 (Shrestha 1990, 179). This also meant that the terai became a frontier that 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 (175). 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, and this informs the political contentions of the region to this day (Muller-Boker 2001). These strategies of the government to induce the settlement of people carried on for the entire period from the late nineteenth century to almost mid-twentieth century. The border between India and Nepal, and Bihar–Nepal in particular, was also a result of geopolitics which, to contemporary observers of the nineteenth century, made it a buffer zone to protect the mainland from an invasion by Russia (Ballantine 1895, 2).

This combination of planned government settlements, both coerced and voluntary, the strategic importance of the Bihar–Nepal border, body shopping for military recruits, and inhospitable terrain made the border a site of intense surveillance but also one where illegality proliferated. These intersections of contradicting objectives meant that the control over the Bihar–Nepal border was a carefully calculated governmental task where one element was always seen in relation with how it interacted with other elements of governmental objectives. This was evident in 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 a consequence of the Anglo-Nepal War, with regard 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 to prevent 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 enough, 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 with Nepal that involved sending firearms to that country in return for Gurkha recruits: a barter system of two entities that could possibly be used in war 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 favourable for recruitment as a result of a change in the composition of the Durbar. In this period the British raised five battalions of Gurkhas, a number that was close to the planned full strength (Foreign Department 1891). 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 colonial calculation of human bodies that it could uproot and put to work. This made the border flexible, stretchable and transactional.

The transactional nature of the Bihar–Nepal border was the result of the dual desire of appropriating labour for work especially for the army, as mentioned above, but also the desire to fix a border that was regularly encroached by the changing course of the river in a land that was prone to both floods and famine. The changing course of the river on an almost annual basis made fixing of borders by the Nepalese and the colonial government in India an onerous task and resulted in several disputes. These disputes were also a result of the inherent difficulties of cartography in the region as it was difficult to fix a reference point for rivers that changed course. These changes presented a severe challenge because they affected 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 British territory and vice versa. The Nepal–Champaran (Bihar) border faced this problem almost every year :

The Nepal–Champaran 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, 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 (Government of India 1928).

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 manoeuvre on both sides.

One of the interesting aspects of the effect of changing courses of the rivers on borders was that they were never fixed, but malleable and open to negotiations. In that sense, the territories of Nepal and India became elastic too. In one instance, after one of the regular border-making exercises the authorities on both sides realised that it entailed transfer of about 72 acres of land of Bettiah estate settled with tenants to Nepal. India's colonial government contemplated acquiring these land parcels under its acquisition laws before transferring them to Nepal. In the process, they discovered 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 the Pasaha river (Government of India 1926).

Similarly, land and territories were subject to flexibility when it came to governmental schemes to alleviate 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 a suitable site for a weir in Nepalese territory. The Lieutenant-Governor authorised the local officers to open negotiations with the Nepal Durbar for the purchase of the tract of land required or to arrange for an exchange. The Durbar was unwilling to sell the land but had no objection 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 (Government of India 1907).

It is apparent that both the colonial government and the Nepal Durbar perceived the Bihar–Nepal border not as fixed but as a site of constant negotiation and accommodation of interests. It is also interesting to note that this flexibility in the transaction of territories gave the border an appearance of being an open one, which is still embedded in the popular consciousness. However, deeming the Bihar–Nepal border open either in the colonial period or contemporary times will be erroneous. It is more fruitful to conceptualise the Bihar–Nepal border as a perforated border that 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 the Bihar–Nepal border heterogeneous in terms of both its geography and 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 that could be negotiated in terms of territory, economics, politics, and social and cultural relations. The next section gives a picture of the legitimate trade and commerce that was carried out along the Bihar–Nepal border, and shows how in the interstices of such legitimate activities there was a vibrant ‘illegitimate’ world of commerce, speculation and labour.

Logistics and Trade on the 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 which were often contradictory. After the Anglo-Nepal War, the colonial Government of India encouraged setting up of a robust logistical apparatus, especially roads; construction of roads was taken up in earnest by the colonial government as well as the princely estates with the help of the former. However, the 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 (Upadhyaya 1992, 78–79). As a result, roads on the Bihar side of the border were good but those on the Nepal side were in a bad condition. This hampered the 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 (43). In this period the trade along the 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 (43). It appears that each border post in Bihar

developed a specialisation in terms of the kind of commodities that passed through it. 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 flowed through from Bihar. Timber and hides became important commodities coming from Nepal on 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 (51–52). The Bihar–Nepal border trade got a major boost after the introduction of railways in strategic places along the border. The period after 1875 saw significant development of railway logistics. The Muzaffarpur branch of the Tirhut State Railway was opened in 1877. This was extended to Supaul and 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: commodities from Nepal were brought to Forbesganj by train and then shipped through the river westward to Revilganj. In 1896, the Sugauli–Raxaul line was developed along with the Hajipur–Begusarai–Katihar route. The feeder line from Raxaul to the Tirhut State Railway was constructed in 1896. As a measure to alleviate the havoc caused by the famine of 1897, a railway line was constructed from Sakri to Jayanagar which passed through Madhubani (59–65). This planned connectivity of towns along the Bihar–Nepal border changed the context of trade; some important present-day trade centres such as Raxaul and Jayanagar are a development of this period.

A slight digression on the issue of famine is important here because it highlights the importance of both informal and formal trade between Bihar and Nepal. Also, the problems involved in the governance of disasters such as 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 subsequent evolution of the governance of border, logistics and trade. There is evidence to suggest that there were both informal and formal networks 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 even more severe at the Bihar–Nepal border because the rice crop in the Nepal terai failed entirely. In 1865, due to the high prices of rice prevalent on the 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 further loss of crops. As a result, the usual network of rice supplies was severely hit and the region became dependent on external supplies of food grain, which were severely hampered in the absence of connectivity.

In 1874, relief work in Champaran was critically restricted because the river had to be navigated upstream (Hunter 1877, 285–288). The governmental rationale of managing the population different from military calculations is evident in the manner in which

the logistical apparatus developed. The colonial government seemed to have realised the precarious nature of the trade in food grains along the 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 (Upadhyaya 1992, 63). It is apparent that the logistics of the Bihar–Nepal trade was developed as a result of the complex relations between formal and informal trade practices, natural disasters, making and managing of a transactional border, and military calculations. It is not surprising, therefore, that each place along the Bihar–Nepal border developed its own specificity vis-à-vis the larger relations amongst the actors mentioned above. This heterogeneity was manifested in the entire administrative set-up built around trade on the Bihar–Nepal border.

Taxation on commodities passing through the Bihar–Nepal border gives evidence of how migration around commerce took place. The first treaty of commerce between the Nepal Durbar and the Indian colonial government was signed in 1792. According to this treaty, a duty of 2.5 per cent was levied on imports on both sides; 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 2.5 per cent, the goods from India were charged more than the treaty rate, to the tune of three to four times (Sen 1991, 13–14). 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 of collecting customs duties on commodities. This meant that there was no uniformity in items that were taxed; a commodity would be taxed at one place but would not at another (Upadhyaya 1992, 202). 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 the terai in Bihar, it made more sense to live permanently in Nepal and export their goods to Bihar (191).

This paper does not go into the details of the evolution of the political economy of regions around the Bihar–Nepal border on both sides. The concern of this paper is more modest; it 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 the Nepal Durbar to settle population in the terai region revolved around creating and managing asymmetries of social and economic relations along the border. Providing land to the

peasants and creating a border tax regime that caused merchants to 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 fulfil its target of Gurkhas to inject into the war efforts of the empire. In effect, the Bihar–Nepal border was a site where there was a movement of goods and people, and 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 the Bihar–Nepal Border in the Interstices of Legal Regimes

Rivers along the region of the Bihar–Nepal border are notorious for changing their courses, as we have seen, altering not only boundaries but creating ones 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 is quoted below:

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 Dharamnagar 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 (Government of India 1911).

Here is an excerpt from another survey report:

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 (Government of India 1908).

The reason for such careful measurements of land lost or gained due to the encroachment of several rivers flowing in the region of the Bihar–Nepal border was not only the desire of the colonial Government of India and Nepal Durbar to preserve their 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:

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 the effect of injuring the Nepal Territory, and the dam now objected to must be cut. It can be constructed lower down (Nepal Residency 1874).

There is something to be said about the notion of 'damage to the bordering fields', considering that delineating a river stream as a boundary had always been problematic, as related above. This notion of damage for the authorities was a result of the concept of a fixed border and the refusal of the 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 temporary in nature. However, the government's notion of the border and damage made a prevailing practice criminal 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, fetching a high price in 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 (Sen 1991, 52). The

prohibition led to the opium farmers of Nepal developing a smuggling network through the Bihar–Nepal border with the help of village authorities; this network 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 the larger global opium trade but also to consumption within India. 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
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 (60).

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 the Ganges into Patna (61). In fact, it was suspected by the police that several warehouses in Patna were used to illegally store opium. The records used by Jahar Sen also show that there were Chinese smugglers assisting in the entire operation from Nepal into Calcutta and Chandernagore, from where they shipped it to Macau (57). The scope of this paper does not allow a detailed history of opium smuggling on the 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 to China.

The Criminal Subjects of the Border

The asymmetries of the Bihar–Nepal border also gave rise to ‘crimes’ that were directed against the representatives of the state (the Nepal Durbar and colonial Government of India), and the estates. Mail robberies and manipulation of the postal insurance scheme have already been dwelt upon at the beginning of the paper. Here, an account of cattle lifting and poaching is given to bring out the caste and class nature of such ‘crimes’, and show how the outlaws used the border to commit these 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 inflicting the Bihar–Nepal border. This crime was prevalent all over India but what made it difficult to control here was the question of jurisdiction between Bihar and Nepal. Cattle lifters usually committed the crime across the border, or if they committed the crime 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 the judicial process cumbersome, and this fact was far from lost on the perpetrators of the crime. Colonial records emphasise that different jurisdictions in the region along the Bihar–Nepal border were used by the criminals to affect crimes and evade the law. The following case illustrates this point well; it also shows how this crime on the border 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 discovered 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. A dispute between the two law officers arose on the different versions of testimonies given by the criminal and the latter had to decide which version was correct (Government of India 1864).

The business of cattle lifting was a peculiar crime; it 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 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.

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.

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

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 (Government of India 1890).

It appears that cattle lifting since the time of Alaick Aheer and Bhyroo had become more organised. It is interesting 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 organised criminal activity. One can even extend the point and say that the rule of the Nepalese court actually made the crime even more lucrative as owners tried to avoid the court. In a sense, then, the crime of cattle lifting revolved around the asymmetries of the Bihar–Nepal border and its consequences. Also, the fact that cattle lifting was done by gangs on both sides of the border, taking advantage of their location, points to some sort of understanding between gangs across the borders and within the border as well.

There is evidence to suggest that gangs of cattle lifters from North Bengal crossed into the Nepal border through Bihar with the help of local accomplices. It is interesting that in the cases found in the records these gang members belong to a tribal group in Bengal. In one 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 (Government of India 1892).

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 mention the place. It is apparent that gangs were 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 the Bihar–Nepal border.

Here is an excerpt from a record pertaining to a violent case of dacoity:

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 (Nepal Residency 1896).

There are several interesting aspects to this case. First, the gang members were mostly from the subaltern castes. Second, 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 the colonial government as well as the estates: poaching. Of all the crimes committed on the Bihar–Nepal border, smuggling and poaching appear to be the most organised as well as prolific. With the rise of the colonial administration of forests, access to forest produce was denied to people on both side of the borders and any ‘trespassing’ was criminalised. One of the interesting aspects of poaching that emerges from the historical records is its relationship with migrant labour 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 Neplaese 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 (Government of India 1934).

The tropes are familiar by now. The sanctity of borders was violated as governing the topography was onerous and the gang members violent. However, a more interesting aspect is that the arrested criminals were also identified by caste and the caste identities of criminals were now part of the record. It appears that the colonial government had become 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 (sambar) 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 relations between border, migration and the question of accessibility to the forest. The Bihar–Nepal border, and the asymmetries of jurisdiction, administration and the policy of settling population as a result of making of the border, are at the basis of all the crimes that have been recounted in this paper.

Conclusion

This brief genealogy of the Bihar–Nepal border makes a few things clear about its nature. Although a result of a war, the Bihar–Nepal border 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, it was the political subjects who made the Bihar–Nepal border porous despite the statist intentions, by challenging the borders. These political subjects, through ingenious ways, devised methods of constant movement and mobility between the borders, forming associations both horizontally and vertically. The exercise was informed by a sense of subalternity as reflected in the composition of several criminal gangs. Also, it must be emphasised that the colonial government and Nepal Durbar did make the border transactional, mostly because of unpredictable rivers which could transform what was Nepal into Bihar over just one monsoon, and vice versa. Therefore, it must be said that the ontology of the 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 a myriad legally recognised spaces through which relatively free movement of goods and people is 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 the borders create their own ‘free’ passage through which they create 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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