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# The Natural Environment and the Shifting Borders of Nepal

Buddhi N. Shrestha\*

## Abstract

Nepal is bordered to the north by China and to the south, east and west by India. Nepal shares a 1,439 kilometer border with China with natural obstruction whereas there is a 1,880 kilometer long border with India that is open and porous. There is no natural obstacle on the southern border of Nepal. But it is an extension of the Indo-Gangetic Plain. Due to the non-existence of a natural barrier, some spots on the southern border of Nepal have shifted, where boundary markers have gone missing and the no-man's land is obscured. It has affected the social relationship between the inhabitants of the two frontiers. Voices have been raised often. Sometimes there are conflicts and violence against neighbours, including the staging of demonstrations and the shouting of slogans. Over time, the inhabitants of both the sides have negotiated to maintain peace and harmony by embracing and exchanging roses with each other. This story has repeated itself along the frontier. In such a situation, it is necessary to maintain the international boundary intact with vigilance from both sides. A joint mechanism should be established to prevent border-shifting activities from either side of the border.

## Introduction

This paper attempts to explain and analyze the situation behind the shifting of Nepal's international boundary. It tries to provide some stories and the prime one is political. It examines the effects of border dispute resolution and cross-border migration, especially policy preferences towards Chinese migration. Findings have implications for research on border and inter-group relations, as the analysis supports earlier research. Current information has been collected from daily and weekly newspapers and journals and past incidents have been referred to from relevant books.

The Federal Democratic Republic of Nepal is a landlocked sovereign state located in South Asia. It is situated between two emerging Asian giants, India and China. The frontier of Nepal is surrounded



Figure 1

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in its south, east and west by India; and in the north by China. Nepal runs from east to west, resembling an elongated rectangle.

The Himalayan Range, as a natural wall, is situated between Nepal and China. But there are neither natural walls nor man-made fences along the Indo-Nepal border. It is the flat Indo-Gangetic Plain that extends from India towards the Nepalese frontier. This porous borderline, unhindered by barriers, has often shifted due to human activity, changes in the river course and political reasons. It has challenged the identity of Nepal at local and national levels.

When we look at the historical background of the boundary of Nepal, it was Prithvi Narayan Shah the Great who initiated the unification of various small kingdoms and principalities of the Himalayan region in 1745. After his conquest of the Kathmandu Valley, he unified other smaller countries south of the valley to keep out of the influence and control of the British. After his kingdom spread out from north to south, he made Kantipur the capital of his expanded country, and called it “Nepal” instead of Gorkha. As a result, Prithvi Narayan Shah formally established Nepal as a Himalayan State and thus, Nepal was born on 17 November 1769.<sup>1</sup>

After the death of Prithvi Narayan Shah, his descendants Bahadur Shah and Rajendra Laxmi continued the unification movement, extending Nepal's border from the Tista River in the east to Kangra in the west in 1806. Similarly, Nepal was extended up to the confluence of the Gandak and Ganges rivers to the south; and to Shigatshe and Tashilhunpo Gomba (monastery) across the Himalayas to the north, which now falls in the Tibetan Autonomous Region (TAR) of China. That was called the “Greater Nepal.”<sup>2</sup>

In the course of time, British India began not to like Nepal as a unified and integrated country. So there were some conflicts in the territory between Nepal and British India. As a result, there was the Anglo-Gurkha War (1814-1816). In essence, the Anglo-Gurkha War was primarily a

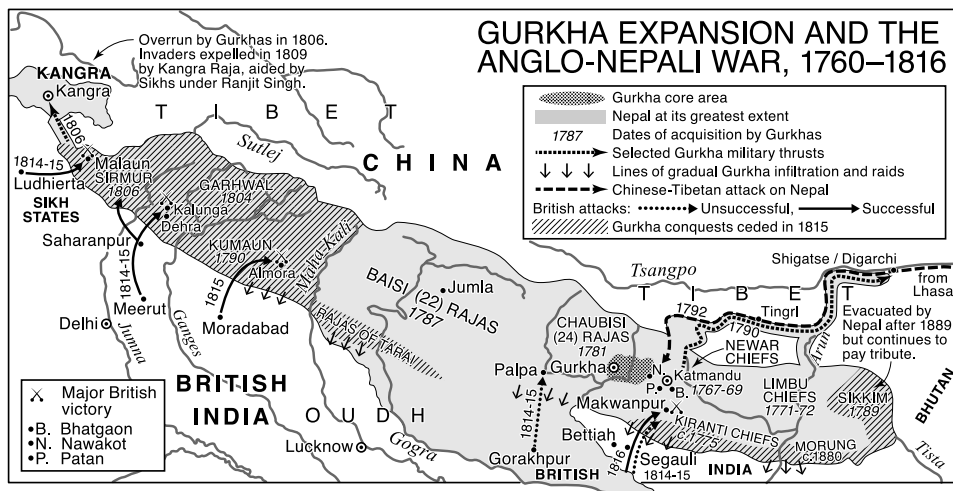


Figure 2

<sup>1</sup> Buddhi N. Shrestha, *Border Management of Nepal* (Bhumichitra Mapping Co, Kathmandu, 2003), 9.

<sup>2</sup> Fannindra Nepal, *Nepal: Tista to Sutlej* (Kathmandu: Nepal Nationalistic Front, 1998), 224.

struggle over how to disentangle these complex relationships and the underlying visions of territory the two states adhered to. And it is this colonial encounter and the subsequent defeat of Gorkha that resulted in the territorial delineation of most of Nepal's Tarai as we know it today.<sup>3</sup> Because of time, situation, environment and activities of the past, the borderline has shifted to the Mechi River in the east, the Mahakali River in the west, the watershed of the Himalayan Range in the north, and to the plains of the Tarai in the south. This is the history of the territory of present-day Nepal.

### **Case Study of Shifting Borders:**

#### **Nepal-China**

China is Nepal's northern neighbour. Nepal has had relations with Tibet that date back thousands of years, before the unification of Nepal. Although relations between Nepal and Tibet go back centuries, there were of course antagonisms and aggressions. But those hostilities were basically over trade, economic and monetary reasons. Attacks and counterattacks on each other's territory had resulted in some changes in the border. During those wars, Gorkhali had expanded their territory inside Tibet near Lhasa.

Actually, the Tibetans wanted to expand trade to India through Nepal. Responding to Tibet's proposal as an opportunity, Nepal sent a delegation to Khasa of Tibet located in the northeast of Kathmandu. Representatives of the two countries signed a trade agreement at Khasa on 5 September 1775. This trade agreement is known as the Khasa Agreement, which included a provision that left the previous border unchanged. The treaty aimed to strengthen the border between the two countries.

During the regency of Bahadur Shah, he sent a protest letter to the Tibetan government expressing dissatisfaction with them for not complying fully with the terms and conditions of the trade treaty. In their reply the Tibetan government instead, made several accusations against Nepal. Also Tibet planned to attack on the pretext that Nepal had given asylum to Shyamarpa Lama who had fled to Nepal from Tibet. So the environment was not congenial between the two countries.

In the summer of 1788, Nepal sent Gorkha troops under the joint command of Damodar Pande and Bam Shah to attack Tibet. The Nepali troops led by Damodar Pandey attacked Tibet. The Tibetans could not resist, and the Nepali troops pushed forward through Rasuwagadhi and Gorkha to the north capturing trekking passes like Kerung and Kuti and expanded Nepal's border northward and also pushed up to Sigatsche (Tashilhunpo) which is located in the southwest of Lhasa. But the Tibetans proposed a treaty thinking that the Nepalese troops would be at Lhasa. There were several rounds of talks, and finally, Nepal and Tibet entered into an agreement on 2 June 1789, which was mediated by the Chinese representatives. This agreement is known as the Kerung Agreement. The

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<sup>3</sup> Bernardo Michael, *The Tarai: A Part of Moghlan or Gorkha? Perspective from the Time of the Anglo-Gorkha War (1814-1816)*, Paper presented at the Conference 'Nepal Tarai: Contest and Possibilities' (Kathmandu, Nepal, March 2005): 2.

agreement contracted Nepal's territory to Rasuwagadhi.<sup>4</sup>

In the course of time, Tibet began to believe that the Kerung Agreement was controversial and proposed that it should be amended. They said that the treaty was still not ratified by the Lhasa palace. On the other hand, they also felt that Nepal might not agree to their reasoning and could carry out an attack again; so they started preparing for war. Nepal became suspicious. These events led to another war between Nepal and Tibet.

Then Nepal sent its forces from two sides to attack Tibet on 6 August 1791. The Nepalese forces pushed on, capturing Digarcha, the capital of Tashi Lama. In this way Nepal's border expanded to Sigatsche and Tashilhunpo. In this context, Tibet asked China for military help. The Chinese forces arrived in Lhasa to help the Tibetans. The Chinese forces attacked the Nepalese and drove the Nepalese forces back from the expanded territory. The Chinese troops pushed further south and reached just 30 kilometers north of Kathmandu, the capital city. But despite several efforts, the Chinese troops failed to cross the Betrawoti River. Taking this opportunity, the Nepalese troops launched a counter-attack upon the Chinese troops with additional forces. The Chinese side suffered heavy casualties. Weary and tired, the Chinese wanted to end the war and preferred a treaty. Talks were held between the two sides, and an agreement was reached on 5 October 1792, bringing the war to an end. This agreement is known as the Nepal-Tibet Treaty (Betrawoti Treaty) of 1792.<sup>5</sup>

Under the treaty, the border of Nepal was shifted back to the line north of Rasuwagadhi. In this way, the Betrawoti Treaty tried to keep Nepal's northern border stable under the impartiality and fairness of China that made the present border of Nepal. Likewise, the Tibetan government was disinclined to provide security, under the Betrawoti treaty, to Nepali traders living and doing business in Tibet. By 1854, differences between the governments of Nepal and Tibet further widened. This was coupled with border disputes. Nepal handed over the pastureland south of Khasa to Tibetans for cattle grazing based on annual contracts. But the Tibetans made settlements there and began collecting land tax from them. Tibetans intended to include the land within their territory. To materialize their intentions, the Tibetans dug 80 feet wide trenches at different segments one mile south of the Nepalese border and began claiming that the land belonged to them. Knowing about the nuisances of their situation, Prime Minister Jung Bahadur sent officials to recoup the land tax collected by the Tibetans, to restore Nepal's claim to the territory and to collect taxes. Tibetans did not accept Nepal's claim that they had encroached upon Nepalese territory and had shifted the borderline. However, Nepal was not satisfied, and, as a result, another war between Nepal and Tibet erupted.

In the meantime, Nepal asked Tibet to return the Kerung and Kuti areas that were previously under Nepal's control; and also to hand over the Taklakot area in the north of Darchula along the route to Lake Manasarovar. The Tibetan government responded, but did not mention anything about the demand raised by Nepal. Failing to get a clear reply, Nepal formally declared war against Tibet on 6 March 1855. Under the military plan, Nepalese troops attacked Tibet from the north and west, and

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<sup>4</sup> K.C. Surendra, *Diplomatic History of Nepal* (in Nepali) (Taplejung, Nepal: Sabina Publication 1989), 216-217.

<sup>5</sup> Kamal Raj Singh Rathaur (ed.), *History of Nepali Army* (in Nepali), (Kathamandu: Army Headquarter, Bhadrakali, 2012), 36.

pushed northward, capturing the Kerung, Digree, and Jhungagadhi areas. Nepalese forces that marched northeast captured Khasa and Kuti in the north of Sindhupalchowk on 3 April 1855, and pushed farther north to Sunagampa and remained there.

The Nepalese had remained for eight months defending the newly conquered territories. But a combined force of the Tibetans and Chinese carried out a surprise attack at Kuti on the night of 5 November 1855. The Nepalese were defeated. In the meantime, after the commander of the Nepali forces who had withdrawn from Kuti requested additional troops from Kathmandu, the reinvigorated Nepalese troops attacked Kuti from three sides. Then Kuti was restored again within Nepalese territory.

When the Nepalese troops achieved success in all sectors, the Tibetans proposed peace talks at the border. Finally, both sides agreed to resume the peace talks, and negotiations were held at the Thapathali Palace in Kathmandu. Both sides then reached an agreement for a treaty, and a treaty was signed on 24 March 1856. The treaty is known as Nepal-Tibet Peace Treaty, but is also called as the Thapathali Treaty. This contracted Nepal's border with Bhairablangur Himal and Nepal's border was fixed at Tatopani, which is also the present-day border of Nepal.<sup>6</sup>

In this way, by the time of the Thapathali Treaty, Nepal's northern border had expanded and contracted to and from the Tibetan Autonomous Region (TAR) of China and finally it was shifted to the Himalayan Range. At that time, the majority of the Himalayan Range had remained within the Nepalese frontier, and remained so for nearly a century. All of these events and incidents show that Nepal's northern border shifted seven times within a period of eighty-one years.

### *Boundary Delimitation*

The relation between Nepal and China strengthened after Tibet became an autonomous region of China. To enhance the relationship further, it was agreed that the formal settlement of the boundary between China and Nepal was of fundamental importance to the peoples of the two countries. It was believed that the formal delimitation of the entire boundary and its consolidation as a boundary of peace and friendship not only would constitute a milestone in the further development of friendly relations between Nepal and China, but also would make a contribution towards strengthening peace in Asia and the world. Both governments agreed to delineate and demarcate the customary boundary line in a scientific way.

The Nepal-China Boundary Agreement was made on 21 March 1960. After both sides finalized the details, the Boundary Treaty was made on 5 October 1961. The King of Nepal and the Chairman of the People's Republic of China signed the treaty, after the physical boundary line was delineated.<sup>7</sup> Then the actual boundary line was demarcated physically. During the joint boundary demarcation on the Sino-Nepal borderline there were disputes, conflicts, debates, controversies, claims and counter-claims in 32 places, including the question of Mount Everest (Sagarmatha).

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<sup>6</sup> Ibid, 211-212.

<sup>7</sup> *Nepal-China Treaty and Agreement* (Beijing, China, 2005), 33-36, 60-67.

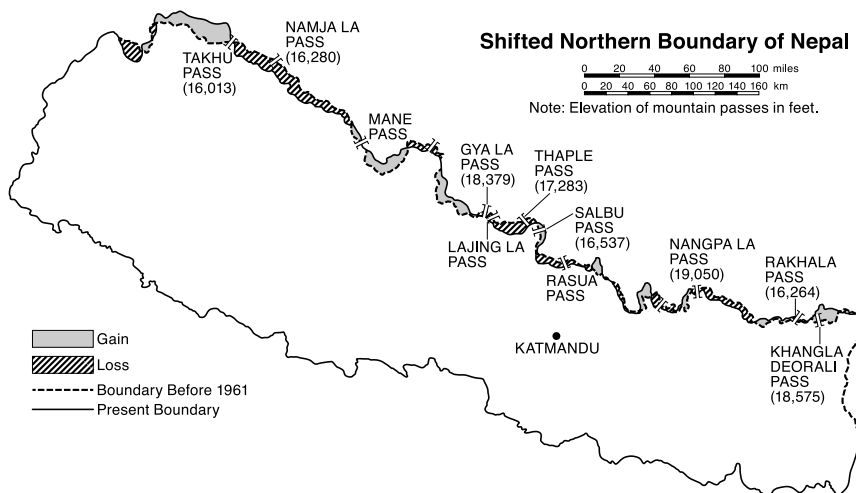
It is commendable that all disputes, claims and counter-claims were settled in accordance with the principles of equality, mutual benefit, friendship, mutual understanding and accommodation. Besides, this settlement was adopted by the parties, following the Five Principles of Peaceful Co-existence, and in the spirit of fairness, reasonableness, mutual understanding and most importantly respecting each other as equals in the international arena. Accordingly, all issues, except Mount Everest (Sagarmatha) had been settled by the Joint Boundary Committee. Regarding the question of Mount Everest, the dispute was settled, and the visiting Prime Minister Chou En-Lai made a statement in Kathmandu on 28 April 1960 that “Mount Everest belongs to Nepal.”<sup>8</sup>

### Boundary Demarcation

The demarcation of territory was made according to the treaty. Joint survey teams were formed to carry out border surveys and they started to erect permanent pillars and markers from 21 June 1962 at different points along the border.

Under the treaty, the border areas have been adjusted according to its traditional uses, possessions and convenience. This adjustment was made on the basis of “give and take” and the inclusion of some pastureland within Nepalese territory. With this principle, Nepal had given some 1,836 square kilometers of land to China, while China had given Nepal 2,139 square kilometers, adding 302.75 square kilometers of Chinese territory into Nepal.<sup>9</sup> This is, hopefully, the last border shifting between Nepal and China.

In connection to the demarcation of the boundary with the watershed principle, there were some problems of cross-holding occupation. For example, when agricultural land and pasturelands owned by a citizen of one country falls on the other side of the border, there was a question of citizenship of that owner. To solve this problem, the owners were given a choice of nationality.



**Figure 3**

<sup>8</sup> Bhairab Risal, *Patrika Weekly* (in Nepali), 9-15 September 1999, 8.

<sup>9</sup> Chitta Ranjan Nepali, *Nepal-China Boundary Treaty* (in Nepali), (Kathmandu, 1964), 69.

The joint teams demarcated and established pillars and markers, specified serial numbers 1 to 79 from west to east. Among them, there were 48 larger and 31 smaller-sized pillars. In addition, they had established 20 offset pillars, where there were possibilities of disappearance of main pillars due to natural circumstances, so that the total number of pillars and markers constructed reached 99 in total. The total length of the demarcated borderline was delineated as 1,439.18 kilometers. Erections of border pillars were completed within a year without making any discrepancy in words and actions.

The boundary treaty signed on 5 October 1961 determined the borderline in a formal and scientific manner, and was used following the traditions and conveniences of Nepal and the TAR of China. The treaty also resolved minor scuffles that were left by history, giving rise to the borderline becoming a symbol of peace and friendship. After signing the treaty, officials of both countries expressed satisfaction for resolving once and for all the problems that had remained for a long time. It was also felt that the treaty made a great contribution to the future generations of both countries.<sup>10</sup>

The northern borderline of Nepal has been fixed at almost the watershed of the Himalayan Range; as the northern border consists of many Himalayan peaks, the borderline goes through mountains, passes, *deuralis* (terminal points of up mountain), gorges and the pasturelands. Finally, the Nepal-China boundary protocol was signed on 20 January 1963. It was also mentioned in the protocol that there would be joint inspections of the entire length of the border by teams comprised of representatives from both countries every five years, but inspections may be postponed whenever agreed upon by both parties.

To renew the protocol, the border was jointly inspected and the damaged pillars were maintained and repaired. After completing all the formalities, the boundary protocol was renewed on 20 November 1979. In the same way, the third protocol was renewed on 6 December 1988. To formulate the fourth and last protocol, joint inspection and border survey mapping were started on 9 May 2005. The joint teams inspected, repaired and maintained a total of 99 pillars and markers. All the technical works, including the preparation of digital strip-maps have been completed. It has prepared 57 sheets of border maps based on GPS technology. But, minor issues remain to be tackled. Regarding boundary marker number 57, it was found slightly placed inside Nepal. It is a controversy concerning about 6 hectares of land. Therefore, a joint technical boundary committee meeting, which will prepare the fourth boundary protocol, is currently on hold.

## **Nepal-India**

### *Boundary Delimitation*

Now we come to the case study concerning the southern boundary of Nepal. Prithvi Narayan Shah the Great had started to unify 56 small kingdoms and principalities into the strong Himalayan

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<sup>10</sup> Grishma Bahadur Devkota, *Political Mirror of Nepal* (in Nepali) (Kathmandu: UB Devkota Publication, 1959), 190.



State of Nepal in 1769. His successors completed the unification campaign and the territory of Nepal was extended from Tista to Kangra as Greater Nepal by 1806. In those days, the British, who had entered into India with the intention of doing business there, were ruling India. Probably not liking the rise of Nepal, they began to turn their eyes towards Nepal. The British East India Company government was looking for any opportunity to expand trade to Tibet. But, since the border of the then Kingdom of Nepal had extended west to east covering the northern frontier of British India, Indian businessmen did not have direct access to Tibet. All easy access transit points to enter into Tibet from India were within the borders of Nepal. The British did not see any way to fulfill their wish to establish trade with Tibet through Nepal, except through military force. So they raised the issue of the boundary dispute of the Seuraj and Butawal areas of Nepal as a pretext for war. The East India Company sought to threaten Nepal with war.

The British sent a letter to Nepal in March 1814, ordering them to abandon their occupation of the territory of Seuraj and Butawal. If Nepal did not send back a satisfactory reply within 25 days, they would take these places by force. However, Nepal did not respond, and Lord Hastings officially declared war against Nepal on 1 November 1814. Then a dreadful war between the Gorkhali and the British army took place. Many fighters on both sides lost their lives during the war. In the meantime, the British proposed a treaty and the Nepalese government was also ready to negotiate peace terms. Finally, a treaty of peace and friendship was drafted and sent to Nepal by the East India Company on 2 December 1815. Nepal signed the treaty on 4 March 1816 at Sugauli. The Anglo-Nepal War was now over.

This treaty became known as the “Treaty of Sugauli” (1816). It was mentioned in the articles of the treaty that Nepal would have to give up the claim on all the territories that had become a matter of dispute before that war, accept the authority of the Company Government over the Tarai (plain area) across the Tista River in the east, and to Satlaj and Kangra in the west.<sup>11</sup> This treaty largely shrunk the border of Nepal to the Mechi River in the east and the Mahakali River in the west. The foothills of the Siwalik Range represented the southern border of Nepal with India. As a result, one-third of Nepal’s territory was chipped off.

In fact, the Treaty of Sugauli favoured the East India Company, while Nepal suffered a heavy loss of territory. Nepal was highly dissatisfied to lose a large chunk of land from Mechi to Tista, where there was no war. So, to pacify Nepal and as an indemnity, the Supplementary Boundary Treaty was made on 11 December 1816 which restored to Nepal the Tarai lowlands from Koshi to the Rapti River. Following the signing of the Boundary Treaty on 15 November 1860, as a reward for putting down the Sepoy Mutiny in India, British India returned the ceded western Tarai lowlands of Nepal from the Rapti to Mahakali as new territory (*Naya Muluk*).

The Treaty of Sugauli (1816) and Supplementary Treaty (1816) provide the bases for the delineation and demarcation of the eastern, western and a portion of the southern border of Nepal, even though the Boundary Treaty (1860) implied the southwestern portion, as the restoration of Banke, Bardiya, Kailali and Kanchanpur districts as new territory. And this became the boundary of

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<sup>11</sup> Buddhi N. Shrestha, *Border Management of Nepal*, 29.

present-day Nepal. It could be said that Nepal's southern boundary line expanded and shifted four times within a period of fifty-one years.

After the restoration of the lowlands, the southern border of Nepal with India now runs through fertile plains, jungles, rivers and settlements as well. In the east there are the Mechi River and the watershed of the Singhalila Range with hills and hillocks comprising the border. In the west, the Mahakali River runs along the border between Nepal and India.

It is interesting to mention that even after the Sugauli Treaty, there were disputes and differences at various places. But following the signing of the Supplementary Boundary Treaty, it was envisaged that such disputes would be settled with mutual understanding on the basis of exchanges of territory of equal size. It further says, as it is impossible to establish desirable limits between the two states without a survey, it would be expedient that commissioners be appointed on both sides for the purpose of arranging in concert a well defined boundary on the basis of the preceding terms, and of establishing a straight line in the frontier, with a view to distinctly separate the respective territories of the British government to the south and of Nepal to the north. In case any indentations occur that threaten to destroy the even tenor of the line, the commissioners should affect an exchange of lands so interfering on principles of clear reciprocity.<sup>12</sup>

Additionally, there were also provisions to exchange any portion that jot in or out of the straight line on the principle of clarity and mutuality. They agreed that if the land of any individual fell across the boundary line, the issue would be put before the governments of the two countries to solve the dispute. The commissioners were also given the authority to make agreements and to make exchanges of such land to allow the landowners to remain within their previous territory. It was also agreed to carry out surveys to establish border markers, and to exchange documents showing borderlines approved by both the governments.

### *Boundary Demarcation*

The border demarcation work between Nepal and India was started in the spirit of the Treaty of Sugauli. Surveying and demarcation of the border with the erection of pillars had been started just after the monsoon season of 1816. The boundary line between the two countries was surveyed and demarcated from 1816 to 1860; from 1882 to 1885; in 1906; and from 1940 to 1941. This process divided it into nine different sectors with the erection of 913 boundary pillars.

During demarcation, Nepal and the East India Company government had disputes at several places over the border. For example, it was not clear whether the borderline should be the top ridge or the southern or the northern foothills of the Chure Range. In this regard, disputes had erupted in the area from Dunduwa Range of Dang to Arra Nala and Taal Bagoda in 1817. Similarly, there was a dispute about the ownership of Antu Danda of Ilam in 1825. There was also a dispute in 1838 over whether the Mechi River originated from the northeast or the northwest.<sup>13</sup> There was also a "mine-

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<sup>12</sup> Charles Umpherston Aitchison, *A Collection of Treaties Vol. VIV* (Calcutta, India, 1929), 65.

<sup>13</sup> Amar Kaur Jasbir Singh, *Himalayan Triangle: A Historical Survey of British India's Relations with Tibet*,

and-yours” controversy regarding the border areas adjoining with Tirhut and Sarun districts of India. In 1840, there were claims and counter-claims about the ownership of several villages and settlements of the Ramnagar area.<sup>14</sup>

The above-mentioned examples illustrate that there were disputes about the border just after the Treaty of Sugauli, which showed Nepal’s disenchantment with the treaty. Disputes in several areas had been settled, but in so many other places the disputes and conflicts lingered.

During demarcation from 1816 to 1906, border pillars had been placed at a distance of one to 2.5 kilometres according to the terrain. Strip maps were prepared in connection to the border demarcation. Some segments of the borderline zigzagged, some formed triangle-shaped sharp lines, while others bent at acute angle. But no sufficient boundary markers were erected on these winding/bending lines and river courses. So the actual line of demarcation was obscure in some segments. A no-man’s land with a ten-yard width (*Das Gaja*) on both sides was not maintained in those areas. This was the cause of future disputes and conflicts in some spots.

Over time, portions of *Charkoshe Jhadi* (a dense forest) along the Tarai plain border strip were cleared to provide settlements for the hill people. Besides, some border rivers changed course during the monsoon flood season, eroding the boundary pillars. This further obscured the border, increasing the probability of the encroachment of the adjoining densely populated frontier of India. At that time, there was population pressure in Indian settlements, especially in Bihar. So the adjoining Indian inhabitants started to migrate into the Nepalese frontier for their livelihood. These were some of the causes of the shifting border of southern Nepal.

In due time, the government of Nepal became aware of Indian migration into Nepalese territory, and formed an inspection team consisting of personnel from the Ministry of Foreign Affairs, Home Affairs and Land Survey Department. They inspected the border pillars, and supervised the conditions of the no-man’s land during the dry seasons of 1965 to 1967. Finally, they submitted a report to the government mentioning that there was no clear demarcation in many portions of the border. Hundreds of boundary pillars went missing, and a considerable number of pillars and monuments were in a pitiable state, having been destroyed, dismantled or smashed. Additionally, many places in the no-man’s land had been cultivated.

The Nepalese government realized that conditions in its lowland territory, consisting of the southern belt and a portion of the eastern and western segments, were in a deplorable condition. As this may cause future problems, Nepal moved diplomatically and held talks with India to formulate Nepal-India joint border inspection mechanisms to keep the border clear and intact. Talks went on for almost a decade, and only after long consultation and conversation did the two sides finally agree on 25 February 1981 to work jointly to clear and maintain their joint border. As a result, the Nepal-India Joint Technical Level Boundary Committee was formed in November 1981.

Since then, various minor issues have been resolved, subsidiary/additional pillars have been erected, and strip-maps of the resolved areas have been drawn. But the joint committee could not

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*Sikkim and Bhutan, 1765 – 1950* (London: The British Library, 1988), 177.

<sup>14</sup> Aitchison, *A Collection of Treaties*, 48.

settle major issues of encroachment or disputed portions. In fact, the Joint Technical Committee (JTC) worked for 26 years and completed 97 percent of the boundary. The remaining 3 percent of the border in various spots was beyond their capacity. This unsettled portion of the border consists of the Kalapani-Limpiyadhura encroachment (17 km), Susta (24 km) and various other spots (15 km). There are encroachments, cross-holding occupation, disputes, conflicts, claims and counter-claims in 71 spots having approximately 606 square kilometers. The prominent areas have been identified as Kalapani-Limpiyadhura, Susta, the Mechi riverine area, Tanakpur, Sandakpur, Pashupatinagar, Hile, Thori, etc. The largest single chunk of encroachment is Kalapani-Limpiyadhura (370 km<sup>2</sup>) of the Darchula district and the smallest portion is Fatak (240 m<sup>2</sup>) in Pashupatinagar of the Ilam district. It could be said that the boundary treaty and the statement of delimitation are not clear. This has created doubt and suspicion about the mitigation of the boundary issue.

The JTC could not settle major issues of encroachment or disputed portions as there are unresolved issues in more than 71 places. The main issues regarding the disputed boundary with India are border encroachments, disputes on mostly cross-holding occupations, and divergent opinions on basic materials such as maps and old documents for demarcation. The other reason is the slackness in joint survey field teams and a lack of equal participation. Bernardo Michael commented, “Even today, the presence of boundary disputes between India and Nepal, clearly show that this project of drawing modern boundaries will always be an unfinished one, because human actions can never be fully constrained by lines drawn on a map.”<sup>15</sup>

### *Reasons of Shifting the Border*

Historically, the main reason for the shifting of Nepal’s borders was due to economic activities during Nepal’s expansion. During the eighteenth and mid-nineteenth centuries, Nepal used to export foodstuffs like rice, ghee, and dry vegetables to Tibet. Even Tibet’s monetary coin was minted in Nepal and sent to Tibet.

On the other hand there were Nepalese businessmen in Lhasa, the capital of Tibet. They used to bring merchandise to Lhasa while travelling from Kathmandu, the capital city of Nepal, to Lhasa. In return they would bring gold, raw wools, woolen materials and edible salt to Kathmandu. Sometimes Nepalese would be obstructed by Tibetans at border crossing points. So there would have been disputes, controversies and conflicts. As a result, Nepalese troops would march ahead to Tibet to settle these disputes. In connection to these activities, there were violent confrontations between Gorkhali and Tibetan army troops. Usually the Gorkhali (Nepalese) army would overrun the Tibetan army and the Nepalese borderline would be expanded towards the Tibetan frontier as a shifting of the border inside Tibet.

After the loss of territory, Tibetans would ask China for help. China supported Tibet by sending an army battalion. Then war would break out between the Gorkha army and Chinese troops. In many confrontations, Nepalese troops would retreat, resulting in the loss of the expanded territory.

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<sup>15</sup> Michael, *The Tarai*, 8.

Again the border shifted back nearly to the previous borderline before the making of a peace treaty. In such a fashion the northern border of Nepal frequently shifted to and from Tibet in the treaties of 1775, 1789, 1792, and 1855 – between Nepal and Tibet; and in 1961 with the People’s Republic of China.<sup>16</sup> One could say that a conflict of interest, misunderstanding, and the misbehaviour between the people of two frontiers created an environment that encouraged the “re-bordering” and “de-bordering” of Nepal. In the twentieth century, the borderline between Nepal and China shifted a little towards China and some portion of Chinese territory to Nepal reciprocally. It was a case of “Give and Take” in the boundary demarcation of 1961. This represents a case of the northern boundary of Nepal shifting to and from China.

So far as the southern boundary of Nepal with India is concerned, it has shifted frequently due to territorial disputes and conflicts between the two governments. After unification, Nepal was established as a strong Himalayan kingdom called “Greater Nepal” in the nineteenth century. At that time, the British East India Company government did not like Nepal as a unified and sovereign country. The reason behind this was that Nepalese territory had obstructed India from penetrating into Tibet. So India at first disputed some portions of Nepalese land that was supposed to belong to the then King and Prince of India. But Nepal protested it. The British annoyance with Nepal resulted in the Anglo-Gorkha War from 1814 to 1816. During the war, the Gorkha army would sometimes drive away the British army in some segments of the boundary, while British troops would capture some territory of Nepal in other segments. In such a situation, the war ended with a treaty and Nepal lost one-third of the territory of Greater Nepal. In this manner Nepal's southern territory shifted back in 1815, two times in 1816, then in 1860 and 1875 to Nepal’s present-day boundary.

Boundary disputes and conflicts failed to cease even after the treaties between British India and Nepal. Incidents continued even after the independence of India in 1947. The dispute was taken by independent India as a legacy from the British regime. With this sentiment, there are border encroachments, disputes, conflicts, controversies, claims and counter-claims in 71 places between Nepal and India.<sup>17</sup> There is still the possibility that the border of Nepal will shift a bit more south in some spots.

### **Nepal-India Relations**

There has been a very good relationship between the people of the frontiers of Nepal and India for centuries. Some of them have matrimonial relations with each other. Nepalese girls often become daughter-in-laws of Indians. In the same way Indian boys have become son-in-laws of Nepalese; both sides’ parents are tied as parent-in-laws. However, there have been violent incidents. This violence has touched the sentiment of the relatives in both countries, affecting the relationship of the community of the frontiers.

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<sup>16</sup> Gopal Siwakoti, *Nepal-India and China Treaty* (in Nepali), (Kathmandu: Madhuvan Publication, 2009), 486-487.

<sup>17</sup> Buddhi N. Shrestha, *Border War* (In Nepali) (Kathmandu: Ratna Sagar Publication, 2013), 275.

### *Violence and Incidents*

There have been violence and incidents between the people of two frontiers, though they have maintained friendly relations. An example of such an incident could be cited as a case study of Indo-Nepal frontier inhabitants. The Unified Communist Party of Nepal (UCPN)-Maoist displayed posters in some spots in the Nepalese frontier of the border in the third week of January 2010. The posters had a painting showing leather boot planted on the Indian national flag. The Maoist poster sparked some disputes among the people of the border area. The relationship between frontier inhabitants soured following the anti-Indian sentiment created by the poster of the Maoist Party of Nepal.

The situation at the border became volatile after Indians demonstrated against the posters and demanded an apology from the Maoists of Nepal. Indians in Jogbani, a border town, staged a protest against Nepalese Maoists on 26 January 2010 for using the Indian flag in Maoist posters in a derogatory manner. The protesters demanded that Indian authorities take up the matter with the Nepalese government. However, the Maoists refuted the Indian national allegations against them, claiming that it was not their intention to disrespect the Indian flag, but tension was caused unknowingly due to carelessness during the painting of the poster.<sup>18</sup>

### *Reconciliation*

In an effort to reduce the tensions between the two nations, civil society leaders organized a programme of reconciliation between the two sides. Hundreds of Nepalese and Indians came to the border at Rupaidiya of India and Jamunaha Nepalganj of Nepal on 30 January 2010. They hoisted the national flags of both countries in the no-man's land and sang the national anthems of both countries in respect of each other's country. Participants stressed that all sorts of disputes, including those involving the border, should be resolved through negotiations at the government level. They emphasized the need to uphold the decades of friendly and cultural relations between their two countries. Nepalese and Indians exchanged roses and embraced each other in a bid for peace and harmony.<sup>19</sup>

In the same way, people living along another border point organized a goodwill rally at the Jogbani area on 6 February 2010. Hundreds of people participated in the rally. The Nepalese carried national flags and bouquets of flowers as a gesture of peace, friendship and goodwill. People living on both sides of the border gathered in the no-man's land, shook hands, and exchanged bouquets of flowers. They chanted slogans saying "Long live Nepal-India relations." In such a way, they not only renewed old friendships but also strengthened them.<sup>20</sup>

Another event was organized by the "Peace for Nepal and Nepal-India Journalists Joint

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<sup>18</sup> *The Hindu Daily*, New Delhi, 27 January 2010.

<sup>19</sup> *Kantipur Daily*, Kathmandu, 31 January 2010.

<sup>20</sup> *Republica Daily*, Kathmandu, 7 February 2010.

Forum” at a crossing point of the Nepal-India border in Nepalganj-Rupaidiya on 2 October 2010 to celebrate the occasion of World Peace Day and the birthday anniversary of Mahatma Gandhi. At that event, Nepalese and Indian nationals held toy guns as a symbolic gesture to protest against armed violence at the border. They later burnt the toy guns in the no-man’s land as a symbolic gesture against violence and terror in the frontier area.<sup>21</sup>

### *Effects of the Shifting Borders on Social Relationships*

The inhabitants living in the borderland have been affected by the frequent shifting of borders. The border really matters to those living on it. For borderland communities, the power and violence, security and insecurity, connectivity and relationships, demonstrations and slogans are parts of the very fabric of daily life. For example, there were confrontations between the people of two frontiers in the border area at Tanakpur in January 2008. In other times, there are mutual understandings to maintain peace, tranquility and harmony through the organization of joint events for the integrated development of the border region. It has increased social relationships between the inhabitants of the two frontiers.

For a better understanding, people living in the Nepal-India border region should inspect the border areas, with the help of journalists, and try to solve the matter amicably at the local level. Nepalese parliamentarians have visited the border to familiarize themselves with border issues, especially with India. They have prepared and submitted reports to the government to take initiatives to resolve the outstanding cases.<sup>22</sup>

### *Voices of Borderland Communities*

Boundary pillars and borders are equally important for both nations, and are the common property of both countries. If some of the border pillars are missing, it affects both sides. Voices have been raised from both frontiers when the borderline is blurred. Here is an example.

An incident took place between Nepal and Indian communities on 1 January 2008 at the Tanakpur border barrage embankment. Indian inhabitants came to Tanakpur barrage and they chanted slogans against Nepal for nearly half an hour. After that they entered into Nepalese territory at Brahmadev Bazar. Neither the Nepalese police nor Indian Special Security Bureau (SSB) personnel could obstruct them. There was a hot discussion between Nepalese and Indian groups on the disappearance of border pillar number 3. There was no trace of a no-man’s land either. It was submerged under water while constructing the barrage. These were the elements of the disputed border in connection to the construction of Tanakpur barrage by India. Nepalese people claimed that India had encroached into Nepalese territory while constructing the barrage. In response, Indian

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<sup>21</sup> *Republica Daily*, Kathmandu, 3 October 2010.

<sup>22</sup> *Study Report Concerning the Border Issues with India, Vol. I-IV* (Kathmandu: Constitutional Assembly of International Relations and Human Rights Committee, 2010).

demonstrators pleaded that this was the area exchanged during the construction of the Sharada barrage during the period of British rule of India in the 1920s.

The conversation between the two groups reached a climax when Indian demonstrators threw stones at the Nepalese inhabitants. One of the Nepalese, named Gopal Singh Dhama got injured, and the Nepalese countered by throwing back stones. This incident took place for about fifteen minutes. Ultimately, security personnel from both countries defused the tension.<sup>23</sup>

### *Politics of Identity*

Political leaders used border issues to draw the attention of the Nepalese people toward their party and to win general elections. It may be relevant to cite some examples. Top leaders of the United Communist Party of Nepal (UCPN)-Maoist, including Prachanda, Babu Ram, Mohan Kiran, Narayan Kaji, Ram Bahadur Badal and others inspected the Nepal-India border on 11 January 2010 to study border problems and to build awareness of national integrity and sovereignty. They inspected the encroached Nepalese land with a crowd and chanted slogans against Indian encroachment.<sup>24</sup>

The leaders made speeches in some pocket areas where there were border disputes, disagreements, claims and counter-claims. Maoist Chairman Prachanda said: “We want relations with India on equal terms. We don’t eye even an inch of Indian territory, nor will we concede an inch of ours. The struggle for national sovereignty will go on till the very last moment, until the encroached land is returned.” Maoist Second Vice-Chairman Mohan Baidya Kiran said that an endeavour to protect Nepalese territory should not be taken as a war against India. India should not irritate its small neighbour by encroaching on its land.<sup>25</sup>

In the same way, First Vice-Chairman Baburam Bhattarai remarked that all the treaties and agreements that Nepal and India have inked so far should be based on equality and those unequal treaties and agreements need to be abrogated right away. He alleged that the Indian side has encroached upon 1,400 hectares of land in Susta.

He further said, Nepal would continue both political and diplomatic efforts to return the encroached land.<sup>26</sup> Similarly, Maoist Third Vice-Chairman Narayan Kaji Shrestha expressed that India has trampled upon the sovereignty of Nepal by constructing the Laxmanpur barrage along the border, against international norms and practices.<sup>27</sup>

These are some of the expressions of the top brass of the Maoist political party of Nepal. This party has led the government and right now Dr. Baburam Bhattarai is the Prime Minister and Narayan Kaji Shrestha is the Deputy Prime Minister and Minister for Foreign Affairs. But they have never put border issues on the agenda.

Whenever a political party is in opposition of the current party in power, they roar and draw

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<sup>23</sup> *Naya Patrika Daily*, Kathmandu, 2 January 2008.

<sup>24</sup> *Kantipur Daily*, Kathmandu, 12 January 2010.

<sup>25</sup> *Kathmandu Post Daily*, Kathmandu, 12 January 2010.

<sup>26</sup> *Himalayan Times Daily*, Kathmandu, 12 January 2010.

<sup>27</sup> *Kantipur Daily*, Kathmandu, 12 January 2010.



the people's attention toward Nepal's southern neighbour. But when they get into power to rule the country, they keep their lips tight. They never mention that Nepal's border has been encroached. This is a kind of irony of the political parties of Nepal.

Boundaries are related to the national integrity and sovereignty of a country. Encroachment of territory should be taken as a national issue. On the other hand border issues should not be raised if the border has not been violated. No one should blame a neighbour without concrete evidence. Nepalese political leaders have taken the border issue as an agenda of politics and identity for their parties while they are in opposition to the current party in power. They are silent when they get the reins of power and form a government. This shows the opportunism of the political parties of Nepal on national issues related to the border.

### *Joint Mechanism*

The Nepal-India Technical Level Joint Boundary Committee worked for 26 years and it was dissolved on 31 December 2007, having completed 97 percent of the demarcation work.<sup>28</sup> In connection to the remaining 3 percent of unresolved issues, the matter has occasionally been raised during the visits of high-ranking dignitaries. During Indian External Affairs Minister S. M. Krishna's visit to Kathmandu on 15 January 2010, Nepal voiced its concern over border issues and the encroachment of Nepalese territory. In relation to this issue, the governments of Nepal and India reached an understanding to resolve border disputes and the controversy over the alleged encroachment of Nepalese soil through mutual understanding at the political level.<sup>29</sup> In the same way, visiting Indian External Minister Pranab Mukherjee told reporters in Kathmandu on 25 November 2008, "We have agreed to resolve the long standing border disputes between the two countries at various places, including Kalapani and Susta through further discussions. Differences and divergence of view within the spectra of disputed areas are to be resolved and officers from both sides will be asked to meet and resolve this issue soon."<sup>30</sup> But the joint mechanism has not been formulated to solve this issue either at the technical or diplomatic or political level.

So far as the district level committee is concerned, the Chief District Officer (CDO) of Nepal and District Magistrate (DM) of India have a joint mechanism to discuss the problems to maintain the border. At joint meetings, they occasionally inspected the border area and the no-man's land in person, recording missing pillars and determining if the no-man's land had been encroached. But repair and maintenance have not materialized due to a lack of instruction by the central government.

### *Cross-border Governance*

Cross-border governance is essentially understood in relation to "de-bordering." The

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<sup>28</sup> *Himalayan Times Daily*, Kathmandu, 21 December 2007.

<sup>29</sup> *Republica Daily*, Kathmandu, 16 January 2010.

<sup>30</sup> *Himalayan Times Daily*, Kathmandu, 26 November 2008.

dynamics of de-bordering give way to “re-bordering.” However, the nature of cross-border relations on the basis of mutual understanding is more useful for the people of both frontiers. The divergent issue may affect the governance of cross-border regions to the extent that functional changes at the borders bring into play divergent interests, which operate at different scales and in various temporalities. Such an examination also involves questioning the changing realities of borders by paying particular attention to the practices of “borderisation” and to its underlying logic.

The spatial re-composition affects social, economic and political relations within the cross-border regions whether in terms of territorial integrity or through the articulation of different geographical scales. Despite this fact, networks of actors play a determining role within the development of a multitude of cross-border institutional arrangements; work is done within the relational approach, which seeks a re-conceptualisation of the region as structured by a variety of flows and relations. In view of this, the question is not whether the territorial approach should be replaced by a relational approach, but rather how they can be combined in a way that goes beyond the inherent limits of uni-dimensional approaches.

The emergence of cross-border regions is favourable to such an enterprise: at the first step, territories should be well defined. The multiplicity of actors from grass-root levels to central governments involved in the decision-making process should favour a governance approach based on a system of negotiable political arrangements. Next, the presence of a national border cannot be relegated to the level of a simple remnant of a past territorial order as even when open it remains a significant limitation in terms of state territoriality. Ultimately, it is because the processes of de-bordering/re-bordering bring into play different spatialities of the border that a critical re-examination of our conceptual approaches is required.

## **Conclusion**

It is unlikely that there will be a shifting of the northern border of Nepal with China, as the Himalayan Range has been demarcated as the boundary between the two countries. The border is supported through the natural environment. Regarding the mis-location of border marker number 57, on the Nepal-China borderline, there is a controversy between the two sides. The JTC has not settled this issue, though it represents only 6 hectares of Nepalese territory. This issue has been referred to higher authorities through diplomatic channels. But there has been no recent progress in terms of resolving this issue. However, it should be settled in the spirit of mutual understanding.

So far as the southern border of Nepal with India is concerned, there is no such natural environment to demarcate borders. So it is accessible for cross-holding occupations of agricultural land of the same topography and a single settlement bisected on both frontiers. If there is something else in such an environment, issues should be settled in accordance with historic maps and documents.

There must be a central level JTC to study the outstanding issues. The committee should discuss the major disputed issues and the findings should be presented with recommendations made to the respective governments. The heads of government must resolve the matter amicably in the spirit of friendship and mutual understanding. As far as the district level committee is concerned, they

should work jointly to supervise and maintain the border, restricting the cross-holding occupation by the local people. Such mechanisms will help prevent a shifting of the border between Nepal and India. The government and the people of both the frontiers must respect each other in the spirit of brotherhood, friendship and good neighborliness.