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Sanjog Rupakheti

Since the mid-eighteenth century when armies serving the English East India Company (EIC) clashed with the Gorkhali power, British officers depicted Nepal as an example of classical Hindu despotism. Subsequent scholars of the region have not quite challenged these representations, mostly taking such colonial descriptors as 'facts.'

This essay demonstrates that the Nepali state evolved through methods of rule rather than through the performance of rituals and war. It traces a brief trajectory of the development of the Gorkhali legal sovereignty by examining the processes of governance including alliance building, management of disputes, and rationalization of administrative, and judicial structures.

I argue that the frequency and volume of petitions to royal authority made by the subjects from a cross-section of Nepali population, in the attempt to redress wrongs, particularly problematizes the received notion of that society being ruled by arbitrary system. Repeated emphasis on justice administration enabled the Gorkhali state to simultaneously incorporate multifarious groups into its expanding network through grants and titles, and subordinate them to rules created at the center. The essay offers glimpses into a state that was simultaneously coercive and consensual, extractive and re-distributive.

Keywords: caste, justice, kingship, law, Nepal, state.

Introduction

Nepal's 'non-coloniality' has often precluded its comparability to the larger sub-continental historic experience in the scholarship (Des Chene 2007). Ironically, the colonial knowledge regimes operating from India were at the forefront of generating the earliest and most authoritative accounts of Nepal.[1] The military and administrative officers of the East India Company (EIC) traversing the foothills of the Himalayas provided the first paradigmatic interpretation of the modern Nepali polity (Hamilton 1819; Kirkpatrick 1971; Hogdson 1880). Borrowing heavily from the ubiquitous template of 'Oriental Despotism' in Asia, the EIC depicted Gorkhali rulers too as quintessential Hindu tyrants for whom violence was innate not instrumental.[2] Particularly, the EIC accounts emphasized the 'savage' nature and 'oppressive' violence of its emerging rival, as both competed for territory along the Himalayan corridor in the wake of receding Mughal authority. Subsequent scholars of the region have not quite challenged these representations, taking such colonial descriptors at face value.[3] Nationalist historians on the other hand have glorified the Gorkhali military conquests as constituting the fulcrum of its sovereignty, and assigned it the honorable title of 'unification'. In nationalist narratives, 'unification' appears as a logical telos uniting a fragmented nation, guiding it to modernity (Pant 1985; D. R. Regmi 1975; Shah 1990).[4] Yet this representation of the state as a sovereign historical object and a collective subject of modernity elides a rather complex trajectory of its formation and evolution. Both the nationalist and the colonial representations of Nepal do not examine state building as a process, the outcomes of which were not pre-ordained but contingent (Michael 1999; Onta 1995).

Mahesh C. Regmi, who offered the first sustained critique of the nationalist narrative, placed the land-tax nexus at the center of the Nepali state-making account (M. C. Regmi 1963; 1971). The doyen of Nepali economic history however held the 'motely character' of the land tenures and tax assessments as illustrative of a state marked by unpredictability and extractive nature (Regmi 1977: 51). Regmi argued that the lack of private property in land, arbitrary rules, and oppressive tax demands on peasantry precluded the growth of a strong state. Regmi's firm focus on land tenures and the policy driven nature of his works prevented him from evaluating differential systems of labor, dues, and rights operating under the ambit of the evolving state power to which he inadvertently imputed a despotic character.[5] An explicit economic determinism underpinning his works did not challenge the prevailing imagery of Nepal as a static society caught in tyranny and disconnected from its rulers. Few western scholars have documented the post-1816 state as a qualitatively different entity (Burghart 1984; English 1985). Notwithstanding the importance of the Treaty of Sagauli (1816), these scholars however did not fully explain (beyond theoretical speculations) as to how the Anglo-Gorkha War engendered concrete steps towards Gorkhali state-making from within.[6] Locating the agency of change in Nepali society elsewhere equally risks missing the deeper and indigenous roots of Gorkhali power extending back into the eighteenth century. Some influential bodies of anthropological works on Nepal have alternatively underscored the role of rituals in the making of Gorkhali kingship and state (Höfer 1979; Lecomte-Tilouine 2009; Michaels 2005; Quigley 2005). However, the general conclusions of these works have not moved the debate away from the Dumontian and Hocartian paradigms of power.[7] This has particularly overshadowed the study of the 1854 *Ain*, which remains prodigiously focused on caste hierarchy and its associated purity.[8] As a result, the conspicuous role played by administrative legislations in regulating wide arrays of socio-economic relations in nineteenth century Nepal remains poorly examined.

Without dismissing the role played by the early Gorkhali military success, this essay proposes an alternative narrative of Gorkhali rule wherein Gorkhali manipulation of social and cultural practices played an important role in molding the building blocks of the state alongside the management of land and rituals. It particularly sheds light on aspects of state-society relations that have hitherto warranted the least attention, especially those pertaining to the construction of early state authority. I hope to show that the foundations of the Gorkhali state were built on the projection of its legal sovereignty that encompassed both secular and religious aspects of social life. From the closing decades of the eighteenth century, the nascent kingdom expanded its judicial power to check both official irregularities and manage a gamut of social relations. Overtime, the Gorkhali emphasis on building legitimacy through deliverance of justice and regulation of intimate aspects of social lives bonded diverse populations to the state on the one hand, and became a vehicle to project power in areas controlled by competing groups on the other.

It was not simply centralization of rituals and taxes, but also of information, loyalty, and justice administration that deepened Gorkhali sovereignty in rural Nepal. For sovereignty to be effective at the grassroots it had to be relatable in everyday life and imagination. The swiftness and impartiality with which the state delivered justice rooted it in popular imagination, and the resulting order was processual—not homeostatic.

Markers of Early Gorkhali Rule: Whose Leviathan?

When the small chiefdom of Gorkha emerged into a large territorial unit during the mid-eighteenth century, it had to accommodate various local power holders (Acharya & Naraharinath 2061 VS: 44). The immense ethnic, geographic, cultural, and administrative diversity on the ground thwarted immediate Gorkhali endeavors to radically alter existing socio-economic relations.[9] Time and again, the Gorkhali state relied on different strata of society to carry out administrative and judicial functions.[10] One Bhagavantanath, who had assisted Prithvi Narayan in his various territorial campaigns, was awarded with lavish titles and land grants, including rights to judiciary functions (Vajracarya 1975: 98-101). The fact that the descendants of the several vanquished chiefs continued to receive large sums of cash pension from the state throughout the nineteenth and into the twentieth century shows that collaboration was a defining feature of Gorkhali statecraft.[11] It seems that since any larger political entity had to be built out of negotiations with hundreds of local power holders, village headmen, and revenue officials, the terms of social relations and power hierarchies largely remained embedded in the existing system (Vajracarya & Nepal 2014 VS: 25). This necessity to collaborate extended beyond the context of controlling the Kathmandu Valley (Naraharinath 2022 VS: 16-17). In the Eastern region, local village headmen and chiefs were granted considerable autonomy in return for accepting Gorkhali authority. Any attempt to undermine the existing balance of power in rural Nepal was swiftly addressed. For instance, in 1793 upon being informed of the irregularity committed by an official, Ram Das, in the registration of *kipat* (system of land tenure) holdings, the state intervened swiftly.[12] In addition to returning the *kipat* land, the *Rai* (local ruling elites) were given the authority to collect fines, and oversee general administration.[13] The Gorkhali rulers likewise brought military ascetic fraternities, *Tharus* (ethnic group) and various other groups from the old power centers in the southern plains into the ambit of their expanding network (Guneratne 2002; Shrestha 2058 VS).

Let us briefly look at some of these examples. In 1792 the Kathmandu Durbar restored the property of Jarobar Khawas who had served the Sen kings of Makwanpur.[14] Jarobar Khawas was later incorporated into the Gorkhali state as a *Subba* (governor) of Saptari and Mahottari districts in the Terai.[15] A few years later, in 1798, the state made a lavish grant of 301 *bighas* (measurement of land= 5/8 acre) in Rautahat district to *Gosain* (ascetic order) Jamuna Giri, entrusting him with settling virgin lands and overseeing judicial and administrative functions.[16] Since the success of early state-building relied on the political incorporation of multitudes of intermediaries anchored on an idea of shared sovereignty, these recipients of Gorkhali titles and grants were more than just office-holders. They were "partners and co-sharers of the realm", acting as a vital link between the state and society (Wink 1986: 187), a point aptly summarized in a letter of Prithvi Narayan Shah to the king of Jajarkot in 1769 (Naraharinath 1966: 4).[17] Through much of the eighteenth century, the Gorkhali rulers relied on many such intermediary groups to collect tax and oversee law and order (RRC 34: 295-296). And while in theory the king was supposed to be the sole owner of the land, the majority of cultivable lands were already in the hereditary possession of various social groups.[18] Any new transfer of unclaimed or forested land to groups or individuals carried the clear title of proprietorship as long as the land remained cultivated. A large chunk of the revenue thus went to various intermediaries, rural magnates, and local elites. Most administrative functions too were left to the local rulers and there is no evidence of systematic checks against embezzlement before 1780.[19] Depending on the severity of the case, the regime at most warned the accused not to repeat it. One could draw here a parallel between Guha's description of the eighteenth century Maratha state and the early nineteenth century Gorkhali system. Both were characterized by wide discretion and great latitude that was "diffused among a variety of institutions and shared by many different persons" (Guha 1995: 126).

While these structures of collaborations enabled the Kathmandu based authority to control vast territories without large administrative footprints, the system had its limitations too, namely in the state's limited control over resources and population. As Chris Bayly has perceptively pointed out in the case of India, the push and pull between centripetal and centrifugal forces soon began to confront the Gorkhali rulers (Bayly 1983: 5-11). On top of the embezzlement of resources, the state increasingly had to contend with local elites who frequently diverted labor from directly administered land to their territories.[20] Given that labor was already in short supply in the Tarai, repeated violations posed a grave challenge to expanding state power in this fertile region.[21] In the hills, indiscriminate extraction of labor by the local rulers likewise threatened the state's access to its essential labor needs.[22] The growing military threat posed by the expanding EIC and escalating inter-family power struggles only compounded the situation. Gorkhali rulers faced with such exigencies gradually initiated administrative and legal steps to assert state authority in order to mitigate centrifugal tendencies both within and outside the Durbar. King Rana Bahadur's abdication letter of 1798 offers some glimpses into one such early attempt. Outlining specific procedures for

renewing office titles and grants, the letter pressed officials to remain loyal to the dhungo (state). It specifically stipulated that loyalty and honesty be rewarded, and called on officials to administer justice only from the court in the presence of other officials.[23] The edict further entrusted loyal state officials to check irregularities, corruption and local excesses (Nepali 2057 VS: 113-114). The *Pajani* (annual review of office) system allowed to flush out recalcitrant local rulers and bring in trusted dependents and supporters. Under this system, the lands and titles assigned to every office-holder were renewed annually.[24] Herein we have evidence of an early attempt to penetrate local society not through a coercive force, but through an invocation of righteousness and justice.

As early as the beginning of the nineteenth century, the Gorkhali rulers sought to project state power through written laws.[25] The construction of the Gorkhali authority seems to have functioned along two axes. It simultaneously incorporated multifarious groups on one axis of its expanding network through grants and titles, while subordinating them to rules crafted at the center on the other. To ensure the speedy delivery of administrative orders, the Gorkhali rulers regularly dispatched trusted individuals directly from the Durbar. For instance, one Shree Ram Khatri was deputed to the region west of Marsyangdi and east of Kumaon in 1798 to record local grievances and measure the effectiveness of regulations sent from Kathmandu. Khatri was given wide-ranging powers to check tax records, judicial processes, and to measure conformity to state sanctioned rules.[26] One of his duties was to listen to people and record their grievances and complaints that were to be brought to the Palace for scrutiny, while judges who delayed passing verdicts were to be severely punished. Justice deliverance thus provided an ideological basis to re-work pre-existing relations of power, and to establish a closer relationship with rural populations.[27]

Regulating Society, Building State Authority

The extant study of the Gorkhali state is influenced by the larger corpus of historical and anthropological work on Indian kingship (Appadurai 1977; Dirks 1987; Raheja 1988; Stein 1980; Dumont 1970; Hocart 1927). These studies have underscored gift-giving and ritual performance as constitutive of South Asian kingship. A fixation with rituals and gift-giving as the defining axis of kingship has conversely limited our understanding of both state and caste formations in South Asia. Nicholas Dirks, whose otherwise influential work on the South Indian kingdom of Puddukotai that offered a critique of Dumont by interlinking political and ritual spheres, ended up emphasizing the cultural production of kingship via gift-giving at the expense of considerations of political economy. As Sumit Guha has pointed out, Dirks leaves "the social basis of the king's power unclear" despite the fact that "Indian texts from early times knew that the king was but one element of the state and could not work without others" (Guha 2013: 40). This latter point is amply demonstrated in the case of Nepal, where Gorkhali kings succeeded in projecting sovereignty through the intertwined strategies of literary and religious patronage, code promulgation, and the political manipulation of ritual and rank only by operating as the nucleus of complex and competing networks of kin, powerful individuals, sects, clients, and dependents. It was through such networks that they effectively projected power, accumulated information and resources, and ultimately secured loyalty.

State authority in Nepal, similar to the rest of pre-colonial South Asia, was not embodied in an individual monarch, who wielded and imposed pervasive power on hapless subjects. Neither did an individual ascend to the throne merely by virtue of descent.[28] Even the question of primogeniture remained a contested field.[29] An important work on gender and kinship formations in Muslim royal households also underscores this point for pre-colonial South Asia (Chatterjee 1999). State power was expressed and acted out through coalitions of individuals and groups comprising men and women from various lineages and strata of Gorkhali society. Having come to power with the help of powerful clans, the House of Gorkha since its inception in 1559 remained deeply embedded in a broad network of families (Baral 1964).

As in Mughal India, individuals who aspired to become kings could not do so without building alliances with their kin, important men, and powerful women both within and outside of royal households (Faruqi 2012). Over time, such alliances and networks became the substance and sinews of the House of Gorkha. The Gorkhali state with the king at its head and supported by a network of dependents and supporters thus oversaw the maintenance of social order by extending gifts, but more importantly also by handing out punishment, sanctioning expiations, and overseeing caste purity in its legislative and judicial capacities. Purification and expiation were however not only about meeting certain religious requirements as laid down in the classical law books, but were important sources of revenue and labor for the regime and its households, and official salaries were frequently drawn out from these fines.[30] Various edicts and orders issued by different Gorkhali rulers thus illustrate explicit political-economic considerations of projecting sovereignty, which in remote regions depended on

casting a wide network of trusted individuals and groups (secular and religious alike) both within and outside of the royal households (Wasti 2066 VS).

For example, as a part of the land grant that *Gosain* Hulas Giri received in the Bara and Rautahat region of the Tarai, he was required to build a monastery and settle people. Hulas Giri was also instructed to offer food and shelter to paupers and pilgrims.[31] The public performance of religion thus seems to have transcended the religious realm and to have been tied to considerations of state-making. In bringing previously unused land into cultivation, such grants expanded the tentacles of state power (Guneratne 2002: 56). Many state-supported pioneers in the Tarai in the process of clearing forest with new settlements fused the three separate frontiers of politics, economics, and religion into one.[32] The Gorkhali state gradually brought those ritual gifts too within its legal and administrative purview.[33] Brahmins receiving priesthood titles were subjected to the regulatory power of the state and were often required to keep detailed information on ritual expenses and to provide relevant receipts to the state.[34] The state even outlined categories of rituals, tabulating the precise amounts for procuring goods and services.[35] Nor did the one time granting of lands or titles preclude the House of Gorkha from intervening in family disputes, succession rules, inheritance, and local excesses (Bouillier 1993; 1991). While the recipients of the religious grants were allowed to oversee minor infractions, the state reserved the sole prerogatives to decide on important cases. Violations of established marriage norms and venality risked grants being taken away from their recipients.[36] To that end, even the highest ranked religious officials who failed to offer stipulated services were not spared the state's cudgel.[37]

At the same time, when secular officials encroached on religious endowments, the state intervened swiftly to protect such property.[38] Interestingly, the Gorkhali kings time and again endowed and patronized temples, monasteries, mosques, and ascetic shelters irrespective of their individual beliefs. In 1791 the state awarded a grant to one Chabang Nyamgyal Lama to perform the "daily ritual of the Lord Buddha," and also authorized him to collect different levies to maintain the monastery.[39] Similar patronage was extended to the descendants of the Kashmiri trader Sadullah Mojoamji, who were granted the authority to enjoy the property and oversee the Muslim holy shrine adjacent to Rani Pokhari (Panta 1968: 1059). The state also patronized different shamanic and animistic practices.[40] These evidences render the concept of a 'Hindu-only' system rather quixotic (Levi 2005). It speaks to a growing cosmopolitanism that marked the Gorkha kingdom where people of different cultic traditions, and traders from as far as Armenia, Tibet, and India crisscrossed the region (Vanini 1977). State authority had to encompass them all.

Building a successful network entailed more than just awarding grants and patronage; it concurrently involved a complex process of managing different groups' claims to past rights and services. For example, when Subba Jarobar Khawas took the *birta* (tax free land) grant of Shakti Balbanda Upadhyaya in 1792, the reigning king re-issued the grant and ordered Khawas to stop troubling Shakti.[41] Similarly, when Laxmi Dhar Pandit of Tanahu and Goreshwor Aryal of Makwanpur appealed to the Durbar respectively claiming their ancestral rights to the same land, the latter ruled in favor of Laxmi Dhar Pandit and ordered Dinanath Upadhyaya, an officer deputed to the region, to hand over the land and any outstanding income to Laxmi Dhar.[42] In due time, through successful management of such rights and claims, the nascent Gorkhali state expanded its reach to encompass many aspects of the socio-economic order.

By the closing decade of the eighteenth century the scope of regulatory orders and codes had increased considerably. In 1791, the state drew the attention of officers in Saptari to hardships suffered by tenants with the imposition of ritual fees.[43] The following year, the *subba* (official) of Saptari and Mahottari districts were ordered to investigate complaints against local notables and to bring back the tenants who had fled from leasehold lands.[44] When excesses committed by the local *amali* (tax collectors) led to depopulation in Tarai, the state immediately dismissed the said officials and replaced them with new *amali*.[45] Soon the Gorkhali state began regulating inheritance rules, procedures for criminal trials, caste boundaries, and labor relations. This in turn expanded the reaches of the House of Gorkha to the intimate domains of households.[46] For instance, adoption systems and marriage rules were brought under the purview of the central regime overriding customary practices.[47] The ability to shape many different social relations transformed the state into the ultimate guarantor and protector of rights against both familial and local threats in rural areas. This presented the state with a unique administrative and fiscal power to manage all kinds of socio-economic disputes. For instance, when a widowed Brahmin woman who was denied her husband's property by her brother-in-law approached the Durbar, the state ruled in her favor by stipulating that as long as the woman remained loyal to her dead husband, she alone had the right to her dead husband's property.[48] This decision, while seemingly benevolent, in fact denied the woman's right to property in case of re-marriage or a relationship with another man. Such highly gendered language and decision

vis-à-vis property inheritance was structured to maintain the boundaries of both caste and wealth, underscoring the centrality of marriage in the creation of rank and title that scholars have often overlooked (Rupakheti 2012). The growing power of the state even enabled it to gradually ignore customs and traditions as it expanded its bureaucratic and administrative muscles.[49]

Especially in cases on property transactions, which were often marked by competing claims, adjudications offered the state rare access to the inner domains of family relations, and became a major source of revenue. Caste regulations were another avenue through which the state expanded into the hinterland, where it came to control aspects of social life that had earlier been under the purview of local communities. Governing caste was invariably tied to the labor and fiscal needs of the Gorkhali state (Hamilton 1971: 218). For instance, a decision to impose fines on Bhote and Murmi castes for consuming beef meat seems hardly to have been driven by religious prejudice alone, as a large sum of revenue was passed on to the Durbar from its enforcement.[50] Not surprisingly, the state preferred imposing fines to instating a blanket prohibitory order, which remained a favored method in Bhadgaon as late as 1809. Though killing of cows were prohibited after 1806 in Solukhumbu region, the order allowed for several exceptions (Ortner 1978: 17).[51] Given the regular need of animal hides in state munitions, an absolute ban was not desirable. Thus, when the local officials punished the carrion-eating groups in the area around Rukum's munitions factory, the regime in Kathmandu reprimanded the officials. It ruled that as long as the respective groups provided hides to the local munitions factory they should not be fined and demanded that any fines collected be returned.[52] However, those failing to supply the stipulated animal products were liable to financial dues.[53]

By linking rights to perform certain labor services to a new symbolic order, the emerging state re-defined caste-state relations. One 1805 order outlined new dietary and eligibility criterion for Gurungs to participate in the military labor market.[54] In doing so, wide-ranging commensal practices were simply subsumed under a state rule thereby overriding complex internal group stratification (Pignede 1962; Ragsdale 1990). This also prevented the diversion of precious resources from adjudicating sub-*jati* (caste) disputes and conflicts.[55] Such linking of economic and political rights to certain ritual and dietary requirements soon set in process an internal regulation by the members themselves (Nepali 2022 VS: 191).[56]

Nor were higher-ranked groups exempted from such policing. When *Jaisi* Brahmins in 1812 were found to have not observed the caste and professional code of conduct (earlier legislated by Prithvi Narayan Shah), new regulations were issued detailing which segments of the community were allowed to teach the Vedas or accept religious donations (Acharya 2061 VS: 519-525; J.C. Regmi 2036 VS: 202-203). Though they were allowed to oversee ritual functions at their own homes, they were not to perform any rituals elsewhere. Likewise the *Dharmadhikari* (ritual preceptors), as salaried employees of the state, were required to follow state approved guidelines in overseeing caste related cases.

Social relations were not trans-historical fossilized entities; instead they were reshaped and sustained through elaborate legal provisions in the thick of state-making. Given the centrality of artisanal labor in the state-making process, the state often dealt with them directly. For example, some blacksmith families were given the right to collect levies on ploughs in return for offering their labor to the state-operated munitions factories.[57] In a similar fashion, one Bhaju Ram Nau was given authority to oversee all the members of the barber caste in the Gorkhali domain; in return he was required to supply barbers to the troops across the kingdom as needed.[58] Ram Din Mochi and Hima Mochi in another instance were granted authority to oversee all the leatherworkers between Bara-Parsa in the west and Bardiya in the east.[59] The two grantees were ordered to perform their traditional duty and supply hides as directed by state officials. Likewise *Chudyaras* (Muslim bangles makers) were exempted from forced labor and allotted *jagir* (emolument) land in return for pledge to supply bangles to the Palace.[60] The gift giving thus incorporated not just the powerful but also the powerless as the state was being constituted.

Technologies of Governance

The administration of justice under Gorkhali kingship has received little attention in historiography. As early as 1805, courts were established in the *mofussil* (countryside), by which time Kathmandu already had four major courts with clearly demarcated judicial and administrative duties (J. C. Regmi 1979). Following the establishments of *mofussil* courts, the judges appointed to the mid-western region were ordered to refer to royal decrees when adjudicating cases, thereby overriding the prevailing practice of letting the local potentates oversee such functions.[61] Judges were also required to bring all the disputing parties to the court and weigh their testimonies before passing verdicts.[62] By stipulating procedures and punishments in advance, the state hoped to close off the possibility of misappropriation and individual rendering of verdicts, thus limiting local officials' capacity to manipulate the outcome of judicial cases for financial and personal gains. To ensure that the

appointed judges abided by the written stipulations two additional individuals were deputed in the region.[63] This redundancy in administrative duties was an intentional and common practice that served as a check on officials.[64] From the second decade of the nineteenth century, the rulers in Kathmandu began to bar local rulers from overseeing cases of *pancha-khat* (major offenses).[65] Judges were dispatched regularly from the center to preside over and collect fines related to serious crimes. A closer examination of these administrative-legal interventions offers glimpses into Gorkhali innovations in governance. In 1811, when the state discovered that local elites in Garhwal had resorted to the extra-judicial enslavement of sexual offenders, it set new rules for handling sexual offences that disallowed local rulers to enslave offenders.[66] Only the state reserved the right to enslave people for sexual offenses, and such enslaved individuals were frequently employed for both productive and reproductive labor in the palace complexes.[67] In cases where local headmen colluded with regional officers, locals were encouraged to report the excesses at the Durbar. Thus, when the people of Theni complained against their local magistrate, the regime recalled the latter and assigned the villages in *thek-bandi* (tax farming).[68] Later when the local people again complained that the *jetha buda* (village headman) exacted more than the amount allowed in the contract, the center instructed a different judge, Hira Nanda Jaisi, to look into the matter and to report the case to Durbar through judge Jalim Singh.[69] The Gorkhali rulers likewise did not hesitate to deal with the highest-ranking officials who overstepped their official boundaries, as evinced in *Kaji* (minister) Jash Upadhyaya being warned for punishing tax-paying tenants in Chayanpur.[70] Upadhyaya had gone against convention by charging additional fees for renewing the tenants' contract, and the local collective Limbu-Subba-Rai elites had accordingly informed the state of his misdeeds. Upadhyaya was then ordered to return all the fines immediately and warned of severe punishment should complaints against him recur. In another instance, when the locals of Doti complained to the Durbar of illegal dues demanded by one blacksmith Dilyalo on the instruction of royal kin member Pushkar Shah, the state instructed Shah to replace the blacksmith and return the collected dues to the villagers.[71] Similarly, when the state discovered in 1819 that local power holders in Majh-Kirat had gone about punishing people as they pleased, it issued a detailed description to the petitioning state officials to oversee criminal cases and exact the appropriate punishment. It is worth mentioning that the key component of the order was only the state appointed judges were authorized to oversee criminal cases as outlined in the regulation.[72]

The power and the swiftness with which the regime intervened in local affairs achieved several targets. First, it allowed the ruling families to regulate and control many different aspects of society. As the frequency of such complaints increased it allowed the nascent state to expand its administrative and bureaucratic arms. Second, by frequently punishing officials, the regime was able to localize such excesses and project itself as the ultimate authority while obfuscating the structural inequality built in the system.[73] An important regulation from 1826 outlined an organized approach to check the power of the highest-ranking officials who had hitherto escaped prosecution owing to their status (HMG 2022 VS: 704-706). Dal Bhanjan Pandey was appointed to oversee the prosecution of state officials regardless of the status of the petitioner. The order tasked Pandey to weigh evidence and oral testimonies from both sides before deciding a case. In addition to the emphasis on evidence, two key features stand out in this royal regulation: the invocation of the idea of loyalty not to a particular ruler but to the state, and the reliance on non-kin members to oversee this important judiciary process (Nepali 1965: 20). This continued emphasis on loyalty and the incorporation of both personnel and regulations in the emerging state system enabled the Gorkhali rulers to bring in trusted administrators to take charge of various judicial affairs.

Another important charter that was granted to Prime Minister Rana Jung Pandey in 1837 reminded him to resist the influence of royal collaterals, priests, and high-ranking officials in judicial decisions.[74] Such legislative orders suggest the state was not likely to have been perceived as the ruthless, unapproachable power it has often been depicted as. For instance, when a dispute broke out between two Lamas over the rights to priestly functions in the region of Atharasayakhola, each called on the state to resolve the matter. After carefully examining the oral and documentary evidence, the state awarded the rights to the family of Dorje Lama.[75] The rural population frequently called on the state to protect its traditional rights and titles from attacks within and outside of the concerned families. An aggrieved party unsatisfied with the local resolution or with the verdict of court could then approach the Durbar. In this regard, one of the responses to Hogdson's questionnaire is revealing here.[76] Hogdson's Nepali informers, commenting on the authority of the judges in the Nepali court, drew an interesting contrast with the European system to highlight that the judges' decisions were not final, and could be appealed to the Durbar (Hogdson 1880: 211-250). But Hogdson and subsequent scholars failed to probe this layered aspect of the Nepali justice system. People, driven by a confidence in the power of state to right the wrong committed

by even the highest-ranking officials, often traveled a considerable distance in pursuit of justice. This is evident in the complaint of two individuals from the central Terai against Dalmardan Shah, an influential member of the Gorkha royalty, whom they claimed had unlawfully confiscated their land and manipulated local judicial process in his favor.[77] After dispatching officials from the center to look into the matter, the Durbar eventually restored the confiscated property. When another high-ranking state official encroached on *Guthi* (religious) land in 1819 and the custodians of the title travelled to Durbar seeking justice, the state looking into the matter immediately restored the property.[78] Such periodic interventions by the state gradually built its legitimacy in rural areas to project itself as the ultimate fountain of justice.

Over time, such relations became the vehicle for expanding the nascent state's power into areas that were historically dominated by competing interest groups. It was not the performance of elaborate Vedic rituals and temple building projects, but rather politically crafted legal-administrative interventions at the center that rooted the Gorkhali state in its wider social milieu. Both colonial administrators and modern scholars, in focusing on the 'Hindu' aspects of laws and polity, have missed the 'great arch' of the nineteenth century Himalayan state-making project.[79] The foregoing discussion dispels the static notion of rule in eighteenth and nineteenth century Nepal to complicate the dominant and exclusive image of the 'state' as a revenue sponge. Nepali state not only collected revenue, but also legislated, adjudicated, gathered information, and penetrated local society to build its sovereignty. A brief discussion of state-society relations addressed in this essay should allow for re-thinking colonialism or modernization (post-1951) as the only harbingers of change in Nepal. As Indrani Chatterjee demonstrates in a recent monograph on monastic governmentality, the elision of local agency from the pre-colonial period has done epistemic violence to the South Asian past (Chatterjee 2013). A careful reading of indigenous sources is one way to re-conceptualize multiple locations of change in South Asian societies.

Conclusion

The early modern Gorkha state is best understood if we move beyond the paradigms set by colonial and nationalist scholarship. It was a state built out of negotiations and accommodations with various individuals and groups that was deeply entangled with—and drew legitimacy from—local and existing relations of power. While conquests and military campaigns played a supportive role, social control and consolidation of regime power could not proceed solely on the heels of war machines. Instead, it involved a complex process of managing past claims to rights, regulating social order, and legislating a series of administrative and judicial functions. The absorption of numerous intermediaries during the formative state of the state-building process represents a range of political priorities and suggests a state being constructed from bottom up, just as several important works have illustrated for different regions across South Asia (Bayly 1983; Hasan 2004; Kulke 1995; Wink 1986; Yang 1989).

As it responded to its entanglement with internal and external social forces, the Gorkhali state put together, piece by piece, a novel Hindu polity out of a plural society along the Himalayan foothills. The management of rituals, embedded in the politico-economic imperatives of the period, was an important source of revenue and labor for the state and its households. Thus the control of that domain remained intimately tied to the regulation of social order and rank that underlay eighteenth century Gorkhali state-making, which parallels similar developments in the Maratha polity (Fukazawa 1998; Guha 2013). Like many pre-colonial societies in South Asia, the early Gorkhali state was simultaneously coercive and consensual, extractive and re-distributive, and it also incorporated lower strata of society with various incentives to tap artisanal labor, particularly echoing Sahai's work on pre-colonial Rajasthan (Sahai 2006).[80] Most importantly, the frequency and volume of complaints reaching the Durbar from a cross-section of Nepali population equally problematizes the received notion of that society being ruled by arbitrary system. State-building in Nepal, as has been demonstrated in other regions throughout the subcontinent, was marked by the expansion of both legal and moral authority of the state that came to encompass many aspects of socio-political lives (Guha 2003; Singh 2003). Gorkhali statecraft, being built on a justice administration with interventions, including but not limited to the realm of caste and rituals, was reflective of the ongoing attempts made by various regional rulers to project sovereignty in the midst of political-economic flux of the eighteenth century (Guha 2013; Peabody 2002; Rai 2004; Wink 1981). The examples explored here thus signal remarkable continuities in the social-political histories of Himalayan terrain with that of the peninsular societies. In briefly highlighting one such interconnectedness along the Himalayan foothills, the essay urges scholars of South Asia—in particular nationalist and post-colonial historians—to not treat colonial and national boundaries as being impermeable to history.

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Endnotes

1. For a broader discussion on the colonial informational regimes, see (Bayly 2007; Cohn 1996; Inden 1990).

2. HC/Vol. 1, ff: 27-29.

3. This picture of the Gorkhali state remains a dominant leitmotif in some of the recent works too. See (Riaz & Basu 2007).

4. D. R. Regmi wrote, "Prithvi Narayan Shah was a nationalist at the core of his heart. With him, if conquest was the aim of life, patriotism was the guiding factor for any action". See (D. R. Regmi, 1975: 100).

5. See (Regmi, 1963 [1977]: 10-11).

6. Richard Burghart's now widely cited work on the Nepali state-formation is one such example of theoretical speculation. Burghart's central argument that the Nepali rulers made categorical distinction between three different notions of their realm is not much supported by the administrative and legislative records.

7. It is also important to emphasize that there are notable exceptions to this, in particular the works of David Holmberg (1989) on Tamang, Arjun Guneratne (2002) on Tharus, and Nancy Levine (1987). These illustrate the political-economic forces in the formation of ethnic identities in Nepal.

8. Few works published in Nepali language have discussed the political-economic aspects of law making in the *Ain*. See (Gautam 2004; Pangeni 2007).

9. A similar motif of collaboration with local power holders of Dolkha in Eastern Nepal is evident in 1760. See (Vajracarya & Gyanmani Nepal 2014 BS: 25).

10. Even the British colonial rule in India was not an exception to this. See (Bayly 1983; Yang 1989).

11. NT/1907 BS, ff: 3-4; *Rajpatra*/2019 BS [1962], Vol.3, No: 7, ff: 2-3.

12. "Order to Ram Das to reinstate the Kipat Holdings". LM/1849 BS [1792-1793], PN. 3. For a historical discussion of *Kipat* system, see (Forbes 1995).

13. "Order to Dev Pati Rai, Sakha Rai, Jab Jit Rai". LM/1849.

14. "Order Reinstating the Ancestral Property of Jarobar Khawas". LM/1848 BS [1791-92] PN. 6, SN. 1996. Sen Dynasty of Makwanpur was a powerful chiefdom that was in competition with the House of Gorkha to control the southern territory.

15. "Royal Order addressed to Subba Jarobar Khawas of Saptari and Mahottari". LM/1848 BS [1791-92] PN. 3.

16. "Land Grant to Gosain Jamuna Giri". LM/1855-56 BS [1798-1799]. On the role of *Gosain* in South Asian state formations see (Pinch 2006).

17. "We confirm your ancestral authority within your territory, including your authority to award capital punishment, upgrade or degrade caste, collect levies to finance the sacred thread investiture ceremonies and weddings of royal prince and princess and fees for the expiation of caste offenses. We also confirm your authority to grant or confiscate birta lands and to collect judicial fines, escheats and fees for stamping weights and measures. You shall pay only Rs. 701 whenever a new King ascends our throne. When a new King ascends your throne, you shall have authority to collect customary payments from your people."

18. This parallels similar agrarian relations prevalent in the pre-colonial Maratha state (Grover 2006).

19. "Regulations for Tarai". LM/1837 BS [1780-1781], PN. 83, SN. 5175.

20. "Order highlighting the problem of labor shortage in Terai". LM/1866 BS [1809-1810], BN. 29, PN. 8, SN. 33, f. 26.

21. LM/1849 BS [1791-1792], PN 3. The order assures the tenants who have fled to return and pay a fixed tax rate with protection against future exploitations by local amalidars.

22. "Order to local potentates not to extract unpaid labor". LM/1865 BS [1808-1809], PN. 6, SN. 1996, f. 61.

23. Prithvi Narayan Shah, in his *Divya Upadesh*, had made similar pleas to his descendants and trusted officials to deliver justice through court system. To ensure state impartiality in judicial process, he even warned not to deposit the revenue thus collected to the state treasury. See (Acharya & Naraharinath 2061 BS: 47).

24. Subba Dasarath Khatri was instructed to award offices to those who took the initiative in settling virgin land. The royal order also approved the *pajani* register prepared by Khatri for the districts of Bara, Parsa and Rautahat. LM/1851 BS [1794-1795], PN. 83, SN. 5103.

25. Rana Bahadur Shah promulgated another set of extensive regulations in 1806. With forty clauses encompassing various issues from administration, corruption, caste-sexual regulation, control of slavery, the fixing of interest rates, and checks on local excesses, the code was unprecedented at the time. (See Panta 2026 BS).

26. LM/1855 BS [1798].

27. "Order granting Ijara to Darbi Singh Newar". In the contract granted to Newar the state included a provision to waive tax burden on the local peasantry in the event of natural calamities interfering with their agricultural output. LM/1850 BS [1793], BN.4, PN. 1, SN. 6.

28. Norbert Peabody, in a classical study of the Hindu kingdom of Kota, shows how claims to kingship in pre-colonial South Asia were not limited to biological descent (Peabody 2003: 37-49).

29. A long and protracted intra-family dynastic struggle that convulsed the House of Gorkha immediately following the conquest of the Kathmandu Valley, which saw its most violent apogee in Kot Massacre of 1846, was illustrative of this. For an elaboration of this theme see (Acharya 2063 BS).

30. *DNA*/11/47. Jai Nar Singh Newar was awarded an ijara (contract) to collect fines for three years between 1791-1794 in the locality of Thate mine (LM/1848 BS [1791-1792], PN. 3). Hamilton had also noted that various fines collected on bodily and ritual violations constituted a significant portion of revenue for the state (Hamilton 1971: 218). For instance, the following salary were met from the fines collected: Tahasildar, Rs. 50; Thabildar, Rs. 35; Bahidar, Rs 35; Pyadas, Rs 25 (*RRC* 38: 699-700).

31. "Land Grant to Hulas Giri". LM/1849 BS [1792-1793], PN. 3.

32. For a seminal work outlining this process in the Bengal Delta under the Mughals, see (Eaton 1993)

33. The statewide confiscation of *birta* (religious land grant) in 1805 is one such case; see (Nepali 2057 BS).

34. *DNA*/12/4; *DNA*/12/50.

35. LM/1855-56 VS [1798-1800], ff: 38-40. Bir Bhadra Pandit was required to observe the state prescribed rituals.

36. State reserved the final authority to confirm the parcellation of property as it did when Mahant Trilok Giri passed away and his property was distributed amongst his descendants taking into account that they had not violated the established code for Das Nami sect. LM/1849.

37. State astrologers who regularly failed at predicting and preventing omens were severely punished (Vajracarya 1980: 248-256).

38. Local officials who had confiscated property belonging to the monastery of one Sakhya Lama were punished and the property was restored. LM/1849 BS [1792-1793], PN 3.

39. LM/1849 BS [1791-1792], PN 3.

40. Order to Somai Dhami authorizing him to collect ritual expenses". NA/FMD/1/67

41. LM/1849 VS [1792-1793], PN. 3.

42. "Order to Dinanath Upadhyaya to reinstate the land belonging to Laxmi Dhar" LM/1851 BS [1794-1795], PN. 83, SN. 5103.

43. "Order to Indra Mani Basnet and Garva Khawas to check local exploitation". LM/1848 BS [1791-1792], PN. 3.

44. LM/1848 BS [1791-1792], PN. 3.

45. LM/1851 BS [1794-1795], PN. 83, SN. 5103

46. 'Regulations for Limbu". LM/1866 BS [1809-1810]/ BN. 29, PN. 8, SN. 33. The order warned the Limbus of Chayanpur not to collect more than Rs. 50 and demand slaves as bride price.

47. LM/1851 VS [1794-1795], PN. 83, SN. 5103. When one Chapan Singh Khatri complained that distant members of his agnatic clan had taken his ancestral property the central regime intervened and passed a verdict, which stated that as long as a son of the deceased member of the agnatic clan was alive others could not inherit the property.

48. LM/1876 BS [1819-1820], BN. 51, PN. 14, SN. 37, f. 2.

49. An 1809 royal order of King Girvana disallowed the practice of slavery in the border regions adjoining Tarai and Tibet even though such practices had been prevalent since ancient times (Naraharinath 1966: 68-69).

50. In the year 1809 between Rs 12,00 to Rs 15,000 was estimated as an income for the state from the rigorous

implementation of the ban on cow slaughter in Bhadgaon area. *RRS* 1: 16.

51. Yaks were excluded from the category of cows in extreme northern regions. In many places consumption of beef was allowed if the animal had fallen off the cliff. Local people might have utilized this exception to their advantage. Also if the cow was killed accidentally while herding, the person was only fined (Rs. 1) as long as the state was informed of the incident.

52. LM/1866 BS [1809], f. 7.

53. The fines on Cobblers were rated at 4 paisa while other carrion consuming jatis were fined 2 paisa. LM/1853 BS [1795], f. 113.

54. Gurungs partaking in beef eating were barred from military service. The order interestingly did not make reference to any past order or Shastras as a precedence for the new regulations thus being enforced.

55. In 1811, the regime ruled that all Gurungs were free to participate in commensal relations with each other and to marry freely within the jati without losing their jati status. Anyone refusing to respect these rules and asserting higher status within the jati was subject to punishment and a fine of Rs. 20. *DNA*/12/53.

56. When influential Magars requested the Durbar to have their caste rules and regulations enacted, a new rule was stipulated. It prohibited Magars from taking food from those lower in the caste hierarchy. Members found violating the commensality rule were to be ex-communicated.

57. LM/1848 BS [1791], PN. 3.

58. LM/1878 BS [1821-1822], BN. 53, PN. 14, SN. 39, f. 37.

59. LM/1883 BS [1826-1827], BN. 58, PN. 16, SN. 79, f. 18.

60. This order is from the year 1781 (RRC 5: 618-619). The state issued two separate orders in 1826 warning the local officials who had coerced Chudyaras for unpaid labor labor (RRC 37: 186).

61. Parshu Ram Joshi and Haji Ram Joshi were appointed judges with the jurisdiction to oversee the region between west of Chepya-Marsyangdi River and east of Bheri and ordered to refer to the royal decrees when adjudicating cases (*RRC* 9:323).

62. LM/1866 [1809]/BN. 29, PN. 8, SN.33

63. Krishna Kanta Lohani and Uma Kanta Jaisi Sapkota were not given any specific office titles, but the amalidars (tax officials) in the region were informed that the two were authorized to ensure the effectiveness of the royal regulations (RRC 2: 86).

64. The Ranas implemented this with even greater rigor after 1846 (Bhattarai 2059 BS; Gautam 2004; Pangeni 2064 BS).

65. Pancha khat (five major criminal offences) included: killing of a Brahman; cow, woman; infant, and unlawful sexual intercourse, such as incest).

66. *RRC* 40: 349

67. The official records speak clearly of slave girls becoming sati at the death of reigning kings. *NA/DNA*/14/41. This particular record from 1777 states that eight Palace slave women committed sati when King Pratap Singh died. Slaves at times were also handed out by the state as salary to its officials (RRC 5: 716).

68. The state's appeal to the local people to return to their village assured them that they would not be under the jurisdiction of said judge, and requested to deposit the assigned revenue directly with Subba Bhavani Dutta Thapa. LM/1866 BS [1809], f. 56.

69. LM/1866 BS [1809-1810], f. 81. The state instructed that if the case could not be resolved, the concerned parties were to be dispatched to Kathmandu.

70. LM/1878 BS [1821-1822], BN. 53, PN. 14, SN. 39, f. 36.

71. LM/1883 BS [1827-1828], BN. 58, PN. 16, SN. 79, f. 21.

72. LM/1876 BS [1819-1820], BN. 51, PN. 14, SN. 37, f. 38.

73. One of the examples of this was when the state began to disallow local officials and powerholders from extracting coerced labor without prior approval from the Durbar. At the same time, the state reserved the right to mobilize such labor as it deemed necessary for various projects of state building.

74. *FMD*/1/66, f. 2.

75. *RRC* 62: 92-94

76. The questionnaires were directed to the local informers employed by Hogdson to help him record court proceedings in Nepal.

77. Narmadeshwor Dhakal and Rupnarayan Dhakal approached the Court with a complaint against Dalmardan Shah when the latter confiscated their birta land. The regime ordered Sardar Shambhu Lal and Subedar Hansamani Khawas to look into the matter and inform the Durbar of its findings. LM/1851 BS [1794-1795], PN. 83, SN. 5103.

78. "Order to Ranbir Thapa to Restore Guthi Land". LM/1876/BN. 51, PN. 14, SN. 37.

79. I borrow this term from Corrigan & Sayer who have highlighted a similar expansion of legal and moral authority of the state in pre-modern England. See (Corrigan & Sayer 1985).

80. This characterization of the early Gorkhali state thus also elides the definition of 'feudal', for an interesting discussion of which, see (Mukhia 1999).

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