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mapping power: disputing claims to kipat lands in northeastern Nepal

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Fundamentally letters are shapes indicating voices.

—John of Salisbury (cited in Clanchy 1993:255)

Here is how I imagine Tirkasing's annual visit to the district center, a story told to me many times by villagers in Hedanga, a Yamphu Rai village in northeastern Nepal.

It was Dasain, a Hindu festival held each fall in the early 1800s in Hedangna. Tirkasing woke just before dawn. He pushed away the wool blanket and rose stiffly from the straw mat. His wife, who had woken some time earlier to start the fire for heating water, was mixing millet beer inside. On hearing him wake, she brought out a bowl of millet beer (*jad*) and then ducked back inside to fill a sack with rice and a wooden container with liquor made from millet (*rakshi*). Tirkasing leaned against a wooden post holding up the roof of the mud porch and gazed across the fields that would soon be ready for harvest. He stretched, then turned to lift the bowl off the ground. He swallowed half of the beer, spit out some millet seeds, and then rummaged through the clothing on a shelf molded into the stone and mud walls. He pulled down a cotton tunic and pants and put them on. He wrapped the sack of rice and the *rakshi* in a wool blanket and secured the bundle over his shoulder with a rope. He shouted for his wife to refill his bowl of millet beer, quickly drank it to the bottom, and set out down the trail.

Tirkasing, the only headman (*jimmawal*) in the village at the time, walked alone. After several hours, he was joined by men from neighboring communities, also barefoot and also carrying bundles over their shoulders. The men exchanged greetings, some in Yamphu, some in Nepali. They talked of the approaching harvest, the weather, and village disputes and continued walking steadily south over the rough, rocky trail. They walked through that day and the next, stopping at night to cook rice over an open fire and to sleep in the shelter of a cave.

Several mornings later, Tirkasing, now accompanied by 30 or 40 other headmen, wound his way through the terraced fields and into the bazaar of Dankuta, the district center for this region of eastern Nepal. A crowd had already gathered in the dusty courtyard before the whitewashed district offices, and a long line stretched across the center. At the far end of the line stood a representative of state. Dressed in a dark blazer and a spotless white tunic, the king's representative raised his hand over the head of a kneeling man. He chanted a few words and then pressed a splotch of vermilion powder mixed with uncooked rice and yoghurt (a *tika*) onto the man's forehead. The kneeling man, a headman, then pressed the palms of his hands together,

Through a close reading of a land dispute in northeastern Nepal, I examine broader shifts in local-national political relations as Nepal is transformed from a kingdom to a nation-state. In addition to documenting the shift from a customary to a private system of tenure, this case raises broader questions about the relationship between identity, politics, and place, and the impact of globalization on these relations. [land tenure, identity and place, narrative, national/local relations, globalization, Himalaya]

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bowed his head before the government minister for a brief moment, and stood up to make room for the next in line.

Accepting a tika is a sign of one's inferiority to and dependency on the one giving the tika, and so each Dasain, headmen throughout Nepal were required to travel to their district center to accept a tika from a representative of the king, symbolically demonstrating a dependency that was expressed materially with the annual payment of taxes. Like all Kiranti headmen, Tirkasing was proud. Unlike many Kiranti, so his descendants now say, Tirkasing was also clever. And he was getting tired of this annual show of inferiority. He waited in line, like the rest. His turn came, and he did as the man before him had done. He knelt before the minister, bowed his head respectfully, and placed his palms together to show his respect. The minister leaned forward, mumbling as he did so, and pasted the dehusked rice and yoghurt on Tirkasing's forehead. Tirkasing paused. Then, before rising and letting someone else take his place, he raised his right hand, wiped the tika off his forehead, and stuffed the rice and yoghurt mixture into his mouth. The men behind him in line gasped. Word of what had transpired spread through the line. A hushed stillness descended on the courtyard. Everyone waited, in awe of Tirkasing's audacity and in fear of what the minister would do. The minister recoiled from the man kneeling at his feet. "You *Rai* [headman]!" the minister exclaimed, "You! What have you done!" Tirkasing responded with an assurance that his descendants would later imitate. "Up where I'm from," he said slowly and loudly, so everyone could hear, "up in the Arun Valley where I live, we put rice in our mouth, not on our face. My mouth isn't up there," he said, pointing to his forehead. "My mouth is right here!"

The sun was beating on the minister's head. He had been standing at the head of this line since shortly after dawn and the line still stretched as far as he could see. He wanted to sit in the shade and sip a cup of tea. More than a cup of tea, he wanted to return to Kathmandu where people and places were clean and civilized. He had neither the time nor the patience to negotiate with an anonymous headman from an anonymous community. He scanned the crowd still waiting to receive a tika. He looked back at the villager standing defiantly before him. He sighed and waved the headman from Hedangna away. "Lo, you *Rai*, from now on, don't come back here! Don't ever come again to receive a tika—stay up there and eat your rice!" The hush broke into furtive whispers as Tirkasing strode proudly off to the shade at the edge of the courtyard. The crowd watched anxiously to see what the next headman would do. He proceeded peacefully through the tika ceremony, as did the next. After some time, the men again turned to their conversations, and the matter seemed forgotten.

Several days later, Tirkasing arrived back in Hedangna. A crowd of men from the village gathered on his porch to hear news of his journey. Tirkasing launched into an account of what had unfolded at the district center, stretching what had transpired in a matter of minutes into an hour-long tale. He described the minister's expression in intricate detail, exaggerating his own cleverness, the minister's shock, and the silence of the crowd. Other men and women, passing by on their way to the fields, gathered on the edge of Tirkasing's courtyard. Some sat on the stone wall; others squatted in the mud courtyard. They were there to listen and did not expect to be invited onto the porch.

According to Tirkasing, the minister dismissed him from the tika because he was a Kiranti and thus a descendent of an early king of Nepal. He was also a *kipatiya* (holder of *kipat*, which is now described as a customary system of land tenure). According to Tirkasing, *kipat* meant that the Kiranti could do what they wanted on their own lands; it meant having their own wish (*aphno kushi*). For the Yamphu *Rai*, a Tibeto-Burman group living in the upper Arun Valley, holding onto *kipat* thus came to mean holding onto the power of autonomy. This autonomy from the central government is now described as the *bikas* (the development) brought to Hedangna by Tirkasing and his descendants. *Bikas*, in this sense, is political; it refers to a system of governance and has nothing to do with the *bikas* or development projects of contemporary

Nepal: the water pipes, national parks, health clinics, and hydroelectric dams that are some of the primary industries in the kingdom today. The *bikas* brought by Tirkasing and expressed in *kipat* was meant to keep the central government out of local affairs. Current economic development in Nepal is, instead, meant to let in that government.

Tirkasing's behavior looked somewhat different to the king's minister on the platform in Dankuta. Dankuta, still a week's walk from Hedangna over rough terrain, was as far into the hills as this civil servant would go. His annual presence in the district center marked the edges of the government's penetration into the newly conquered communities of the Himalaya. Prithvi Shah managed to administer the vast territory he had conquered in 1776 by incorporating local headmen into the governing structure of the kingdom (see Burghart 1984:114; Ortner 1989:91). To ensure the subjects' loyalty to the kingdom and their payment of the annual taxes on which the government depended, the king of Nepal relied on the power headmen had over their tenant farmers. Yet the very power of the headmen who made this system of administration possible constantly threatened the financial and political stability of the kingdom. During the early 1800s, few headmen bothered to give the government the taxes they collected from their subjects. Wielding control over these remote regions of the country faded before more pressing and immediate demands in the Kathmandu valley itself: intrigues within the royal family, struggles for power among the nobility, and the constant threat of the British empire looming to the south (Landon 1928; Regmi 1978b; Sever 1993). From the perspective of the king and his administrators, Kiranti *jimmawals* (headmen), like Tirkasing, were left alone because, at the time, the king was too busy to intervene.¹

The link between ethnic and political identity emphasized by Tirkasing and expressed in *kipat* underlies the power and appeal that this system of tenure has had for the Kiranti into the present. This power is also why the central government has seen *kipat*-holding communities as a threat to the integrity of the kingdom and as an impediment to the creation of Nepal as a nation-state (Levine 1987). Since *kipat* tenure was first recognized in 1774, the government has tried to withdraw these rights by forcing the *kipatiya* to abide by national policies and regulations that undermine the autonomy granted in the *kipat* system (Caplan 1970, 1991; Gaenzle 1995; Sagant 1976, 1996). The cadastral survey conducted in 1994, which legally ended the *kipat* system, practically and symbolically marks the government's victory in this 200-year struggle.

In this article, I examine this broad shift in local-national political relations, a shift shaped by Nepal's transformation from a kingdom on the edge of the British empire to a nation-state on the edge of an international market economy. I analyze this shift in terms of how *kipatiya* stake claims to *kipat* lands. According to the Yamphu headmen and subjects with whom I spoke, the most important features of the *kipat* system included unmarked boundaries around fields and a system of land tenure based on the categorization of people, not land. Land was divided in the process, but that was a consequence of the prior categorization, not the cause. A close reading of a dispute in Hedangna that first occurred in 1932 and resurfaced again in the late 1980s traces the shift in *kipat* from a system that creates boundaries around people to one that creates boundaries on the land. This transformation is paralleled on a national level as Nepal moves from a kingdom, where power is expressed politically as a relationship between people, to a nation-state, where power is expressed economically as a relationship between people and a mappable area of land (see Guha 1996; Peters 1994a; Thompson 1975). Yet just as the Nepalese government is coming closer to asserting its political and cultural control over its territory, the globalization of the economy and the concurrent decoupling of the nation and the state are transforming the significance of territorial boundaries (Gupta 1998). While some scholars argue that the globalization of culture causes the detachment of identity from place, I agree with those who suggest that the weakening of national boundaries may allow for a resurgence of local identities attached to local places (for example, Mato 1996; Pavajuli 1996). That said, drawing on an extended dispute in Nepal, I argue that ultimately the porousness of

boundaries is far less important than the agency of actors seeking to attach their boundaries to the cultural, political, and physical landscape. In the case of kipat, struggles over land rights are struggles over the relationship between identity and the land, and thus my account contributes to the growing body of literature on space and place (see Basso 1996; de Certeau 1984; Cheney 1989; Feld and Basso 1996; Gupta and Ferguson 1992; Harvey 1997; Rodman 1992). While these scholars focus primarily on the interpretive relationship between stories, land, and identity, in this article, I stress that, while important, such analyses must also take into account the politics of place: who owns the lands to which identities have become attached, how claims to these lands are being contested, and how these systems of tenure are being transformed.

the place

Hedangna is the largest Yamphu Rai village in Nepal, a village of around 273 households spread out from 2,700 to 5,800 feet along a gradual, east-sloping ridge above the upper banks of the Arun River. Distant mountains encircle the village and when one is within this mountain range, it is difficult, physically and intellectually, to be anywhere else. The land itself is remote. In the mid-1990s it was a five-day walk to the nearest road and then an 18-hour bus ride to Kathmandu, the political and economic center of Nepal.² Since the early 1980s, those with money for the airfare could instead walk two days to Tumlingtar, where they could catch a plane to the Terai or to Kathmandu, but few have the money to do so. Lines of communication between Hedangna and this outside world are also tenuous. A few households have radios. Month-old newspapers occasionally arrive at the bank on the southern edge of Hedangna, but few people bother to read them. Each January, one or two members of a household take a trip south to Khandbari or Basantapur to stock up on supplies: salt, kerosene, and iron for tools. Others may go to the district court in Chainpur several times a year to plead their cases in land disputes. Brothers or sons who have emigrated to India sometimes return for a visit, to check on their land or to bring back money and Indian cloth, and families with a son studying in Kathmandu occasionally receive a letter. But most of the time, people stay in Hedangna.

The village is considered the rice bowl of the upper Arun Valley and is renowned for its stone terraced paddy fields. Villagers supplement this main crop of rice with millet and corn. While Tibetans living to the north supplement their farming with trading trips to the Terai and Kathmandu each winter and while a handful of Yamphu households receive money from the pensions or salaries of relatives working in the Indian army, most Yamphu Rai are subsistence farmers.

Hedangna has not always been this politically and economically isolated. The Arun is one of a handful of rivers cutting through the Himalaya from the Tibetan plateau, creating a low valley that was once a major trading route between Nepal and Tibet. The original inhabitants of the valley and the ancestors of the Yamphu were the Kiranti, famous hunters said to have put up a strong fight against the troops of Prithvi Shah who set out to unify the kingdom in the late 1700s. Unable to defeat the Kiranti, Shah struck a deal. As long as the Kiranti paid tribute to the king, they would be allowed to be kings in their own lands. They could settle their own disputes and claim the land north of the Sankhuwa River. These rights were embodied in the land tenure system of kipat and sealed in a royal decree (*Lalmohar*).

Though, as in most of rural Nepal, there is an increasing shortage of arable land, disputes over land rights in Hedangna are not new. Thirty or 40 years ago, when there was no overall land shortage, disputes were over the fertile, level fields that were closer to the village. Now disputes occur over any land where rice can be grown. Nor is emigration new. Since the 1800s, villagers have left for northern India for a variety of reasons. Some brothers and sons are forced to leave, either alone or with their families, because they have not inherited enough land, because they are unable to pay their taxes, or because they need to earn money for funerals

and marriages or to repay gambling debts. Some of these people return; just as many do not.³ Those who have left are not the topic of this article, but the threat of being forced to leave, as Caplan says, “provides the edge to the struggle for land” (1970:7). This struggle takes place in terms of the kiptat system.

kiptat tenure

There are no permanent fences in Hedangna, and, more significantly, under the kiptat system, which was in place until 1994, boundaries were not recorded. Each winter people build temporary fences around fields of potatoes or wheat, but they tear them down again after the crops have been harvested. Stone walls hold up the irrigated rice terraces that have been sculpted onto the landscape, but these walls do not keep things in or out; they simply make the land more level. Like bargaining over prices in the bazaar, rights to kiptat lands depended more on the relationship among users and on the resource in question than they did on any fixed rules of tenure. Edges of a land claim were always more vulnerable to encroachment than the center, and access to resources on the land became more flexible the further from the village one went. Maps illustrating individual kiptat holdings might be represented as a series of overlapping clouds fading out at the edges rather than as discrete blocks bound by the thin black lines of a surveyor’s chart.

Because property boundaries were not marked physically or legally, manipulating the gap between what was claimed orally and what was documented legally was one of the primary ways for villagers to attach boundaries to the land and increase their holdings. The victor in a land dispute temporarily secured his or her (though usually his) claim to the land until the borders were rearranged in another dispute. The better the land, the more likely it was that a dispute would arise and thus the greater the need for a plausible story that supported a villager’s claim. The better the story, the stronger the boundary; clever stories could make good fences, yet they could also bring them down. The particular connection between boundaries, disputes, and stories has unfolded as it has in Hedangna because of the kiptat system. Understanding this connection and, more specifically, understanding the details of the dispute in Golechaur, requires a clearer understanding of how claims were staked under kiptat (see Benda-Beckmann 1979, Comaroff and Roberts 1981, and Moore 1987 for other examples of the connection between claims and stories).

Kipatiya in Hedangna had the right to claim as much land as they could physically clear and farm. “Making” the land (clearing it, leveling it, and building terraces) was important to its definition as kiptat. Kiptat was land that was “made” by the ancestors, land no one could take, that no one else could “touch.” Kiranti distinguish kiptat from *raikar* (government land—since the cadastral survey all land in Hedangna is *raikar*), land that may also have been “made,” but by non-kipatiya. Once made, government land is surveyed and registered as *raikar*. Though it may be owned by individuals, if the individuals default on taxes or have no offspring, *raikar* land reverts to government control. When kipatiya default on their taxes or die heirless, the kiptat land reverts to the *jimmawal* (another kipatiya) rather than to the central government. Thus kiptat is considered one’s own (*aphno*) and *raikar* is not (see Regmi 1976, 1978a).

To make an official claim to the cleared land, a kipatiya had to register his household with one of several headmen and pay a yearly household tax (*dhuri*) to that *jimmawal*. The registration and the yearly household tax receipts gave the kiptat holder the right to use and transfer these land rights. The 1894 Revenue Settlement was the last official registration of the subjects and headmen in Hedangna. This register lists *jimmawals*, their subjects, and the amount of each household’s tax. According to the royal decree, the government could not survey kiptat land; therefore, land is not mentioned in the register. Land is legally invisible from the perspective of the central government. Some families have updated the 1894 registration by

listing themselves as separate households to protect themselves against neighbors' and relatives' encroachments (though there is still no mention of land in the registration). Updating the registration makes one's land claim more secure, but each newly registered household must then pay a separate household tax and provide an additional five days of labor to the jimmawal. To avoid such costs, most families risk not notifying the government when sons split off to form a new household. It was not until the land reforms of the 1960s that kipatiya had to list the names of their fields with the land reform office, but boundaries of these lands were not surveyed and mapped until the 1994 cadastral survey. With the survey, all kpat land became raikar in law and in practice.

Even though lands were not officially documented until the 1990s, everyone knew whose land was whose. Most landowners can recite the owners of their fields back four or five generations, and jimmawals know which fields were part of whose kpat, which fields were acquired in some other way, and who the original owners were. Regulations introduced in the 1964 Land Acts required kipatiya to list their fields in the land reform office in Khandbari, and the Yamphu, who had not previously paid a land tax subsequently had to pay five rupees per field.⁴ Regardless of these new regulations, land that had been alienated to another subject was still considered part of the original jimmawal's 1894 revenue settlement listing his kipatiya.⁵ After the field tax was introduced, taxes on these fields had to be paid to the original subject's jimmawal, not to the current landholder's jimmawal. Thus, in 1991–93, when I was there, some individuals paid taxes to two or three different jimmawals. Likewise, a jimmawal might collect taxes from his own subjects and from other subjects who held land that had originally been included in his registration. In other words, under kpat, taxes reenacted the history of a plot of land, following a maze of relationships that were stored in the memories of the headmen and their subjects rather than in the wooden cabinets at the district tax office. Although in practice kpat could be bought and sold like land held in any other system of tenure, selling it did not sever the land from its history; the sale just added another layer to that history. While the genealogy of ownership exists wherever there is the notion of title, because of the way land rights were staked under kpat, securing one's claim to that land depended, in large part, on remembering—or contesting—this history.

the community of kipatiya

Though villagers use *kpat* to refer to the specific plots of land they farm, the term means much more than that. Everyone I know in Hedangna talks about kpat with pride and possessiveness. Middle-aged men say that *kpat* means land their ancestors cleared and made, land that they did not have to buy. *Kpat* means old things (*purano kura*); it connects them to a past that is more glorious than that of other ethnic groups in Nepal. Only those Yamphu Rai who are the descendants, direct or adopted, of the original ancestors who first settled in the village can hold kpat rights to the lands in Hedangna.⁶ Kpat connects them with more than the past grandeur of their Kiranti ancestors. Anywhere they go, they are kipatiya. As kipatiya, they are from this place, Hedangna. They are unlike others, other Rai as well as Brahmans, Chetris, Sherpas, and Gurungs, who have moved to Hedangna.⁷ Kpat thus draws a conceptual boundary between those who are rooted in the land and history of Hedangna and those who are not.

The Kiranti also share a vaguely construed mythological bond as the descendants of the four (in some accounts, seven) sons of the original Kiranti king who once ruled in Kathmandu.⁸ These sons are said to have settled the various river valleys of east Nepal. This mythological link translates into the political connections expressed in the kpat system. The Kiranti of eastern Nepal are all kipatiya; they are united, if only ideologically, against all the non-kipatiya who have moved into their territory and taken away kpat lands (Ramble and Chapagain 1990).

the politics of kipat

Yet kipat is not only a narrative of community. It is also a system for controlling one of the most contested resources in the village: land. Though over time their powers have diminished, until the mid-20th century, village headmen had wide discretion in interpreting their authority under the kipat system. Until the 1960s, the jimmawals settled disputes,⁹ collected taxes from their subjects, delivered those taxes to the district office, oversaw land transactions and, in general, administered local affairs. Their rights included getting five free days of labor (*bethi beghar*) from their subjects, the right to allocate the land of their subjects who had no heirs (*aputhali*), and the right to use and transfer all uncultivated land: rivers, cliffs, pastures, and mountains.

The right of the jimmawals most relevant to this discussion was their control over the documents on which a landholder's continued claim to the land depended. These documents included both tax receipts and decisions over land disputes. Because the Kiranti were the king's family, the jimmawals did not have to give the kipatiya a receipt for their taxes until the mid-19th century. From the government's perspective, the jimmawals were collecting taxes from their own relatives, and there was no need to document transactions between relatives. In Hedangna, however, the headmen were from a clan that is notorious among the Yamphu for economically exploiting less powerful clan members and members of other clans. Without a receipt, a subject had no evidence that he had paid his taxes and hence no way of proving his claim to the land (land is usually owned by men). His economic security was completely dependent on the goodwill of the jimmawal. Jimmawals in Hedangna described the right not to give receipts as an expression of the Yamphu's unique relationship with the king and hence of the power of the kipatiya as a group. But in practice, what jimmawals claimed to be an advantage for all kipatiya simply came to represent the special relationship the jimmawal had with the king and the disregard that both had for their subjects.¹⁰

Though exploitative, subjects depended on their relationship with the jimmawals in daily struggles to make ends meet. Jimmawals could take away rights to land; they could also give those rights. They could force subjects into debt; they could also help them out of it. The headmen were far more likely to help other Yamphu Rai, other kipatiya, than they were non-kipatiya. The political relationship between village headmen and subjects was reinforced by kin relationships (cf. Scott 1985). More distant political relationships were cast in terms of an imagined community of family. Local political relations unfolded within the much tighter face-to-face community of lineage and clan relations. Perhaps like families anywhere, the ties among these individuals are more immediate, complicated and passionate than those among fictive kin, and the consequences of breaking them are more significant and long lasting. Though kipat is the political expression of these social and moral ties, divisions within kipat have undermined the strength of these bonds. Those divisions are exacerbated, villagers say, by the fact that land is not mentioned in the registration.

disputes as politics

As a system of land tenure with specific rights and regulations attached to it, kipat was the locus of considerable competition over contemporary claims to resources. The Yamphu attribute disputes in Hedangna to the kipat system.¹¹ Yet disagreements over land claims predate the kingdom of Nepal, the royal decree, and the kipat system itself. Hedangna's land is the most fertile in the region, and land claims have been contentious for as long as anyone can remember or history and legend can record. And so, before going any further, another story.

Eleven generations ago, sometime in the mid-1500s, two brothers, Minaba and Sepa, walked down the Arun Valley, looking for a walking stick and wooden bowl they had thrown into the lake at Popti La on the border with Tibet. The brothers climbed a tree in the dense forest and

looked out to see the walking stick and wooden bowl circling in the center of a deep blue lake. The land looked good, and they swore that as long as they lived, they would stay here, in what came to be known as Hedangna. Deciding to stay was one thing; deciding where to stay was another matter. There was plenty of land, but there were two of them, and each brother went off through the jungle to claim his land. Sepa found a durable hard wood to stake the borders of his claim. Though strong, this wood would look freshly cut for some time after it had been felled. Minaba, on the other hand, used wood that was not nearly so durable. It dried quickly, turning black and old even though it was freshly cut. He put his stakes next to those pounded in by Sepa.

After marking their boundaries, the brothers met at the Uling Pokhari, a lake at the top of the ridge. They sat down to eat a snack. Minaba had brought along pounded rice; Sepa had roasted corn flour. Sepa put a handful of dry flour into his mouth. Just then Minaba asked, "Where is the land you have selected?" Unable to speak, his mouth stuffed with flour, Sepa waved his hand across the land and grunted. Minaba was unable to understand his brother's gesture or his grunt. As he was eating only pounded rice, Minaba was able to speak clearly. "I want this land," he said, and pointed to the gentle slope on the eastern side of the ridge, to the land that is now the village of Hedangna. Sepa protested, claiming that that was the land he had chosen and that he had put in stakes to mark the borders. "But so have I!" Minaba exclaimed, and the two brothers went off to examine the evidence. On arriving at the posts, placed side by side, one old and dry, the other new and white, Minaba said, "Ah, you see, my posts are older. My stakes were here before yours. Clearly, this land is mine." Though Sepa had placed his posts first, he had no proof. He was unable to do anything to dispute Minaba's assertion. He sighed, finished the last of his flour, lifted his small sack of belongings, and set off to settle in the west where the land is steeper, drier, and rockier.

Each time I asked middle-aged and older men about the beginning of the kipat system, this is the story I was told. Although I found the story entertaining, it was not until I conducted interviews about land disputes over the past 100 years in Hedangna that I began to see the relevance of the story to the kipat system. Because claims to kipat lands are told, not written, what matters in these disputes is rarely what actually happened or which evidence is most valid. What is important is the persuasiveness of the story and the cleverness with which the storyteller constructs evidence. Minaba used a particular kind of wood to strengthen a shaky claim. In more recent disputes, other strategies are employed: stones and ridges are renamed, documents created, and new alliances forged with land, money, and marriage, all in the effort to spin the most compelling tale and to convince others of a rightful claim.

Local people say that the Yamphu of Hedangna are renowned in the upper Arun Valley for their pride, their quick anger, and the length and frequency of their disputes. These disputes span generations; sons inherit the anger and the evidence. An older man told me he had learned how to read during the years his father lived in the district center pressing his claim in court. When I asked a 25-year-old man about the division of labor between men and women, he said that men were responsible for ploughing the fields and waging disputes over land. "Women can't do disputes," he said. "They don't know how to talk."

Although some residents avoid disputes, the history of Hedangna seems comprised of one long struggle, with each resident trying to steal the land of a neighbor—a neighboring house, a neighboring kin, or a neighboring village. Villagers use the words *batho* and *sojo* to distinguish between those who start disputes and those who do not. *Sojo* is translated as honesty, but it implies an openness, a lack of skill in asserting one's own interests, a kind of stupidity. *Sojo* people rarely initiate disputes. People who do are considered *batho*, or clever and skillful with words. I once asked an older woman whether being *batho* was good or bad. *Batho* is good for you, she said, and bad for everyone else.

In a subsistence farming community, land is essential to a family's economic security, and the fact of disagreement over claims is not surprising. But the passion the Yamphu feel about their land and the anger that propels them through the disputes has to do with more than securing a livelihood. Holding on to inherited land is a way of carrying on a father's legacy, a way of remembering ancestors' labor on the land, a way of upholding their place in the family lineage. Land rights express the web of social relations in time and space, and the land itself expresses the character of the household members through the quality and care with which they farm. The hours and energy invested in the soil are evident in the harvest. This time and labor is invested to provide enough food for one's family, but land is also a way of securing one's place in the social and physical landscape, literally, a foothold in the world. It is the one place where villagers can do things their own way on their own time, where they can still be kings on their own land, as their ancestors were said to have once been over the entire territory north of Khandbari. It is this agency and autonomy that Tirkasing flaunted before the king's representative. It is this agency and autonomy that the Yamphu express in the concept of kipat.

the Golechaur dispute

I will now turn to the dispute over land in an area of the village known as Golechaur.¹² It was early spring in 1987. Ser Bahadur climbed the hill to the tax office, one of several long, whitewashed buildings with rusty tin roofs built atop a dusty knoll on the northeastern edge of Khandbari, the district center of Sankhuwasabha. The dried out grassy grounds were enclosed by a rusted barbed-wire fence. Small groups of middle-aged men were squatting on the edge of the cement walkway, smoking cigarettes and passing the time until the office closed. Ignoring those outside, Ser walked into the cold cement building, shivering slightly as he stepped into the shadows, and paused while his eyes adjusted to the sudden dimness. He turned into a long room cluttered with chipped tables and double-doored wooden cabinets. To a clerk seated at a wooden desk, he explained why he had come, and the clerk pulled a large cardboard notebook from one of the cupboards. He opened it and entered the information as Ser explained the land transaction he had come to register. Ser handed the clerk 50 rupees to pay for the registration and, in a matter of minutes, the mission that had brought him 14 hours by foot to Khandbari from Hedangna was complete. Leaving the book on the table, the clerk returned to his work. Ser had time on his hands, so he began to look over the land transactions registered from Hedangna. He flipped the pages out of curiosity until he came upon the name of a field he recognized as his kipat, land he had inherited from his father and that he had ploughed just before coming to Khandbari. He stopped to read the details more closely. According to the form, a villager named Jokbir had sold these fields to a blacksmith in the village. This was the first Ser had heard of the sale which, according to the document, had happened over a year ago. Ser read the document again and again to make sure it really was his land that had been sold. He then began to look more slowly through the list of land sales. An hour or more passed as he carefully made his way through the file, coming across several more records of sales by Jokbir of land that he knew other people considered still to be part of their kipat. Ser was stunned. He left the office without speaking to anyone and went directly to a tea shop owned by a Hedangna Rai. The shop was crowded. He ordered some rakshi and a plate of goat meat and then loudly began to describe his discovery at the tax office.

Let us now imagine Jokbir in Hedangna in 1985. Blackened cobwebs brushed against Jokbir's cheek as he crouched before the lock on the dusty wooden chest. He lifted a cord with keys from his neck and searched for one to fit the lock. He rarely opened this chest, and it was several tries before he found the right key. It was too dark in the corner, so he dragged the chest across the rough wooden floor into a patch of sunlight and lifted the lid. Scrolls of yellowed paper, each rolled in a tight bundle tied with string, had been jammed into the box and now tumbled

to the floor. Jokbir shoved the documents into a grimy cotton sack, shut the lid of the chest, and climbed backward down the narrow wooden ladder. He bent through the doorway and, squinting in the light, joined Samser on the porch. Samser was sitting cross-legged on a hand-woven straw mat, sipping fermented millet (*tongba*) from a bamboo container. He was waiting for Jokbir, who now handed him the bundle and sat down at his side. Samser had short-cropped hair and a long, thin face. Even while working in the fields, as he did occasionally, Samser never seemed to get dirty, and now his hands, feet, and cotton tunic were clean and white. Not one to waste words of thanks, Samser picked up a roll of documents, pulled off the string, and unrolled it slowly. Line after line of old Nepali words written in black ink stretched down a scroll of handmade paper. The document was three feet long and cracked with age; edges had been chewed away by moths, words eaten and lost forever, and water stains had smudged whole paragraphs. Samser glanced over the document, dropped it at his side and picked up another, then another, skimming each quickly, mumbling the words as he went: a dispute over land or over the father of a "forest baby" (baby born to an unmarried woman) or a receipt for a mortgage. He seemed to be looking for something in particular.

After some time, he paused to read one of the documents more carefully. He unrolled the paper to read the bottom, then looked back to the beginning. Jokbir noticed Samser's sudden interest and asked what he had found. Samser waved his cousin's question aside and continued to read. When he finally finished, he shoved the cracked paper toward Jokbir and stared silently across the mud yard, beyond the fenced-in house garden to the small jungle that was part of Jokbir's kipat.

Jokbir glanced at the document which, because it was in old Nepali script, he was unable to read. He let the document drop onto his lap and looked expectantly at Samser. But Samser was still staring across the courtyard, through the trees, trying to piece together conversations he had overheard as a child, trying to construct a story that might illuminate the past.

The story is now told among villagers as follows. One morning, in 1932, a notice appeared on a pipal tree at the edge of a stone platform located at the edge of Golechaur. It stated that a certain Danser Rai of the lower village had submitted an application for the right to allocate what Danser asserted was unclaimed land (in a procedure called *daput halnu*). No one was paying taxes on this land, Danser claimed, and so, as headman, he had the right to allocate it to six Chetri families who would in turn make the land productive (i.e., taxable). Anyone who claimed this land, the notice continued, had to present his appeal to the tax office within 30 days of this notice. Otherwise, the government would assume the land was empty and approve Danser's application.

By allocating this land to the Chetri, Danser would obtain six new subjects from whom he could claim free labor, gifts of yoghurt, goats, millet beer, and, most importantly, taxes. At the time, land was plentiful and the population was low; there was no need for families to stake claims to land that could not be used to cultivate rice. In other cases, when villagers had no use for the land in question, they ignored similar claims made by headmen, dismissing them as yet further attempts by headmen to exploit situations for their private gain. But the case in Golechaur was different. Although the land appeared to be empty and unclaimed, it was nothing of the sort. In the upper village, 30 households depended on it for pasture for their livestock. They considered these lands part of their kipat and believed that their annual household tax secured their claim. Because boundaries were not marked on kipat lands, the land was not actually marked on the tax receipt. Other than their use of the land, then, they had no proof that any of the land in Golechaur was their own. If the land went to the Chetris or if it was privatized, they would no longer have access to it. Word of Danser's intentions spread rapidly, and enraged villagers gathered that evening at a house in the upper village.

One villager described what Danser was trying to do, launching a long, loud discussion about the abuses of the jimmawals. Eventually the group selected a representative to press their claim

at the district tax office. Their first choice was Samser's grandfather, Narjit, who was both clever and an experienced litigant in land disputes. At the time, though, he was being held by the police for his suspected involvement in the theft of a pig. So they settled on Dirgising, Jokbir's great-grandfather, who was then a middle-aged, mild-mannered man who was also knowledgeable about the workings of the government. Dirgising was given money to buy millet beer and rice along the trail to Khandbari, and he left several days later to reach the tax office within the designated time. Once there, he did as he was told, claiming that the land in question was not empty, that it was already held and taxed as *kipat*. Danser failed to appear at the tax office on the specified date, evidently abandoning his attempt to claim the land; therefore, there was no need to review Dirgising's evidence or his counterclaim. The tax officer recognized that the land was claimed by others and that that claim was uncontested (because Danser had dropped his claim), and he gave Dirgising a document saying as much. Dirgising returned to Hedangna, explained what had happened, and assured the others that they need not worry. He showed them the document and said it was proof that the government recognized the land as their *kipat*. "At that time people were dumb [*lato*]," villagers said much later. "They didn't ask Dirgising what it meant when he told them that Danser had lost the case. No one even asked to see any papers." They trusted Dirgising, and the matter seemed to be forgotten.

It was this document given to Dirgising by the tax officer that Samser had discovered among the papers Jokbir brought him. As he was remembering the story of the events I have just described, Samser was also piecing together a plan. Samser was one of the wealthiest men in the village. Twice, he had been Pradhan Panch (head of Pathibhara village development committee, then called *panchayat*) in Hedangna, and he had once been district representative. Now out of office, he was still an important member in the district Congress party, of which he was the local leader. He had the reputation of exceptional cleverness; he was also known as one of the most influential and one of the least trusted men in the village. He pulled the document out of Jokbir's hands and read it again carefully. The document stated that all the land within four corner landmarks was part of Dirgising's *kipat*. This was a tremendous area of land, especially by contemporary standards when, even for wealthy villagers, land holdings had become fairly small. There was no mention in the document that Dirgising had been a representative for any other *kipat* holders, nor anything else to suggest that Dirgising was not the sole owner of the land.

Golechaur, the disputed land, had not been settled at the time the document was prepared in Dirgising's name. Now, 60 years later, it was occupied by 30 or 40 whitewashed stone houses scattered amidst unirrigated fields and towering clumps of bamboo. The government high school and a packed mud volleyball court took up much of the level ground at the base of the ridge. An additional 30 households in the upper village, a section of the village just below Golechaur, claimed fields as their *kipat*, planting them with millet and potatoes each year. Notwithstanding the fact that 70 households used these lands, Jokbir quietly began to sell the land to people who would not challenge what he was doing. He claimed the rights designated in the document and relied on the political support and guidance of Samser. He sold several plots to a blacksmith (his ritual brother), who, as a member of an untouchable caste, would probably never assert a claim to land in the Rai section of the village. He sold other plots to a relative who had moved to India and had no plans to return to Hedangna. Jokbir did not intend to make money from the land sales or to give others the right to farm the land; they were simply phony transactions to purchasers who knew nothing of the sale. He planned to use the record of the accumulated land transactions at the district office as evidence in support of his claim to the entire area within the boundaries in the document. It was these land sales that Ser had discovered that afternoon on his trip to the tax office.

After Ser's return to Hedangna, the 70 households that claimed land in Golechaur gathered in a courtyard. Led by Ser, who had been involved in his own share of disputes, they formed

their own version of what had happened in Golechaur and developed a plan for fighting Jokbir. During Dirgising's time, boundaries demarcating individual kiptat holdings, particularly to noncultivated fields, were not very important. Given the way land rights were recorded, it was possible that more than one villager could believe that the same land was within their kiptat. At that time, there was no need to work actual boundaries out on the ground. There was plenty of land, and legally the kiptat system did not require clear boundaries. Though villagers now accuse Dirgising of misrepresenting them in court, it is impossible to reconstruct his motivations. Dirgising may have claimed the land as his kiptat because the 30 households had jointly decided that would be the best way to win the case. Or the court may have recognized only individual claims to the land, thus forcing Dirgising to file the document exclusively in his name. Or, as villagers came to suspect, he may have decided to trick those he had been sent to represent. In any case, on the basis of a document prepared at a time when land and boundaries had different meanings, Jokbir was trying to assert a claim to that same land in the very different context of the 1980s.

Though Jokbir's opponents saw their own claims in terms of inheritance and use rights, they planned to present their case in court somewhat differently. As they explained it to me, their argument rested on the premises that use of the land during the past 55 years was relevant and that the document should be interpreted within that historical context. But, as one villager said, "Down at the tax office, they don't know the history. They don't know that Dirgising had been sent to represent the entire community." The villagers said that what Dirgising had or had not done in the 1930s would make little difference to the judge who would decide their case in the 1980s, and so they focused their strategy on challenging the boundaries in the document held by Jokbir.

Individuals on both sides of the dispute emphatically stated their claims to the land in terms of their rights as kiptat owners, and both sides had documents to support their case. Some of these documents listed boundaries; the documents (tax receipts) held by Jokbir's opponents did not. Though the parties disagreed on which documents should be considered and how these documents should be interpreted, they agreed that written evidence is stronger than unwritten evidence and that documents that specify boundaries should carry more weight than those that do not. Jokbir's opponents thus decided to try to convince the court clerks that the landmarks mentioned as the edges of Dirgising's land were not where Jokbir claimed they were. In court, they accepted the validity of his document and recognized his rights to land, but they asserted that the document secured his rights to a much smaller area than Jokbir was trying to claim. Rather than questioning the validity of the document or trying to place that document in a historical context, they set out to attach that document to the land in a different way than Jokbir was attempting to do.

In addition, Jokbir's opponents decided that the best strategy was to weaken him financially by taking turns at challenging him in court. Of the 75 households involved, 62 contributed 50 or 100 rupees toward the cost of the cases, and all 75 households filed complaints in the district court asserting that Jokbir was trying to steal their land. Jokbir needed to win one case to prove the legitimacy of his great-grandfather's document and thus his claim to all of the land within the designated boundaries, and so he only responded to 17 of the 75 objections. In moving forward with the dispute, Jokbir chose to ally himself with a tattered, yellowed document over the support and acceptance of his neighbors. And he assumed that the government considered old documents to be stronger evidence than active use of the land and that the indirect support of one of the most politically powerful men in the region meant more than the anger of his neighbors.

As soon as Jokbir's actions became known, villagers began to ostracize him. Though neighbors and kin would work with him when necessary, they talked about him angrily behind his back, and no one, except immediate relatives, accepted Jokbir's invitations to his daughter's wedding. The only reason they attended his mother's funeral, villagers say, was because the

funeral was for his mother, not for Jokbir. In the spring, his neighbors refused to let him celebrate the *bali puja* (ritual for rain and good crops) with them, forcing him to celebrate with another section of the village. Before leaving Hedangna, I went to Jokbir's house to ask when I could take the family photograph they had requested. His wife was outside scrubbing pots and pans. Strands of hair had fallen down around her face, and her hands were black from the ash of the fire. Jokbir was nowhere to be seen. She asked me not to send the photos to them directly because, she said, people stole their mail. She stopped scrubbing the pot and looked directly at me. She said they had to give all the rice harvested from their fields to a Chetri moneylender from a village just above Hedangna simply to pay the interest on loans Jokbir had taken for the disputes. "Why is he doing this? Why doesn't he just drop it?" she exclaimed. "I don't know! It is all according to some court document from his ancestors. Just because of that, we are losing everything!" She sighed, asked if men listened to their wives where I came from, and went back to cleaning her pots.

Even though villagers were enraged by Jokbir's actions, they could make sense of them in a way that I, as an outsider, could not. Raj Kumar, a Yamphu schoolteacher from Hedangna, explained to me that Hedangna was not like my country, or rather was not how he imagined my country to be. "People won't hurt him or chase him away. Jokbir is doing this because he believes he has a reason that will let him win. And he isn't just thinking about himself. It is a way of getting land for his children and for his grandchildren. By the time the grandchildren are farming the land, people will have forgotten how they got the land."

As in other land disputes that reach the courts in rural Nepal, after both sides had submitted a petition and a counter-petition, court clerks come out from Chainpur to map the disputed land. Two tax clerks carrying long black umbrellas and small nylon backpacks arrived in Hedangna in early December. They wore polyester pants and heavy black leather boots. They went first to Ser's house, where they were fed warmed millet beer and a bit of chutney before walking the disputed land. The clerks carried with them the original documents stating the boundaries to land held by Dirgising and asked villagers along the way where the stated landmarks were placed on the land. After sketching a map, the clerks returned for chicken and rice and more millet beer at another household opposing Jokbir. Later, the clerks climbed the hill to Jokbir's house where they were again served a snack before walking the boundaries with Jokbir. The clerks sketched this map as well. Then, they returned to Jokbir's house for a meal, and early the next morning, they began the day and a half hike to Chainpur.

Chainpur is an old Newari village stretching out along an east-west ridge rising above the Sankhuwa River. Two three-story whitewashed buildings with hand-carved porches holding pots of red geraniums are built on either side of the wide path that winds through the center of the village. The bazaar had been the district headquarters until the 1970s when, despite the protests of Chainpur residents, the headquarters were moved to the more centrally located town of Khandbari, a five-to-six hour walk to the north. In a spirit of compromise, the district court was kept in Chainpur. The court stands at the end of the crowded market section of the village: one more government office building set in the middle of a treeless and dusty plot of land, surrounded by a rusty barbed wire fence. Weeds cluster around the fence posts and men mill around outside, smoking store-bought cigarettes, reading the list of cases to be heard that day, gossiping. Inside the smell is of dust and mildew. The air feels heavy and time moves slowly, its passage marked only a clerk bringing another glass of milk tea.

The two clerks returned to their desks on the first floor of the courthouse. They compared notes and sketched what would become the official map of the land, based on Ser's statements as to the location of the boundaries. Because Ser's claim was the basis of the legal map drawn by court clerks, Jokbir lost 17 of the 19 cases in the Chainpur court. Though some villagers are convinced that the maps drawn by court clerks are based solely on which side gives the clerks larger bribes, the clerks defend their maps and their own impartiality. They admit that the

accusation made by many villagers that the decisions of court officials can be influenced by millet beer and chickens is sometimes accurate, but in the case of Golechaur, the clerks dismissed this accusation of bribery.¹³ From their perspective, the case is clear. According to the clerks, the outcome of the dispute has little to do with the historical document to which Jokbir clings so adamantly and of which his opponents are so fearful. Nor does it have to do with the kipat system, the tax receipts, or even the history of land claims in Hedangna. Though Jokbir lost the case based on the boundaries accepted by the court clerks, the clerks explained that the real reason for accepting Ser's claims and not Jokbir's was that there were 30 or more houses on the land that Jokbir claimed. If the land were really Jokbir's, the clerks asked rhetorically, why would he let others use it for building houses, and why would he let them grow crops there, year after year? If Jokbir had won the dispute, those living on the land would have to leave. The government, I was told by government employees, will not make a decision that will create landless people.

Ser and other villagers told me that Jokbir wanted to drop the case, but Samser urged him to appeal. Though everyone knew Samser was behind the dispute, Samser's own reputation or economic and political position in the village had not suffered from his involvement. Jokbir, on the other hand, went even further into debt and was increasingly ostracized in the village. He appealed the case in Biratnagar and spoke angrily to me about the injustices he felt he was suffering. In early 1994, when the cadastral surveyors came to Hedangna to survey the land for the first time in the history of the village, Jokbir was offered 8,000 rupees from those claiming land in Golechaur (villagers say he has not actually received this money), and he finally agreed to drop his appeals of all the disputes except the one with Ser. Because there were no longer any pending court cases on the Golechaur land, those living on the lands Jokbir had tried to claim were able to have the land surveyed and registered in their own names. The survey cancelled the claims to which Jokbir had clung for many years, and in letting the land be surveyed in other people's names, he thus abdicated any future rights to that land.

By 1997, the case with Ser was the one dispute still in court. The outcome had yet to be decided, but the dispute in Golechaur, which had once threatened to disrupt land claims for one-fifth of the village, no longer captured the imagination of the villagers. What was considered more worthy of gossip was Jokbir's economic predicament. The previous year he had mortgaged his house and the land on which it stood to a Chetri in the village above Hedangna to try to pay off his debts. In a subsistence-farming village, mortgaging one's land is the first step to becoming landless; mortgaging one's home is unheard of. Villagers look up the ridge toward his house, shake their heads, and wonder, not very sympathetically, what Jokbir and his family will do.

disputing claims to kipat lands

In the 1930s, Danser was one of the most powerful and influential people in the region. He was counting on his status as headman, political leader in the village, and representative to the national government to secure his claim to allocate land to others to settle. By giving land to the Chetris, Danser would acquire more subjects. In this instance, land was valuable not as a direct source of livelihood but because of the supporters Danser could acquire by giving it away. His interests were political and only indirectly economic. The villagers disputing his claim valued that same land as a way to secure their livings. Though the disputed land did not belong to any one of them individually, by virtue of their membership in a particular residential and social category (as kipatiya living in the upper village), these villagers could claim rights to graze their animals on the land. Though Dirgising went to the tax office to have these claims recognized by the government, by not showing up at the district center by the specified date, Danser had already abdicated his claim to the same land. In giving the document to Dirgising, the tax office simply reinforced a decision that had already been reached on the village level. Use rights superceded administrative rights, and the authority granted to jimmawals by the king had limits.

Ironically, the document used to seal a claim that had already been settled by the villagers themselves enabled Jokbir to rekindle the dispute in the context of a different system of government. Even more ironically, Jokbir misinterpreted this system. Like Danser, Jokbir saw the land as a source of prestige, but for Danser, that prestige would come from having more subjects while for Jokbir, it would come from the financial gain that winning rights to a large chunk of land would bring. While both claims were perhaps equally audacious, Jokbir was not a headman and thus rather than depending on his political and economic status in the village, his case rested entirely on the premise that a court document would carry more weight than the 75 individually owned houses and fields on that same land and that his connection with someone of political stature would compensate for his own lack of stature. "Everyone says that I shouldn't get to eat all this land," Jokbir said. "They say I won't be able to do war with so many of them. But I have the papers. People will die," he continued, "but the paper never will."

Until the 1960s, negotiations over land rights in Hedangna were largely face-to-face and oral. The increasing, if unsystematic, penetration of the national judicial system (the in-court system) into the local out-of-court context can be traced in the shift from the way the Golechaur dispute was settled in the 1930s to the way it was settled 60 years later (cf. Moore 1992:15). Claims to any particular piece of land have little meaning unless they are recognized by others (Cronon 1983:58; Guha 1996; MacPherson 1978; Peters 1994a, 1994b). In practice, an individual's acceptance of another's claim to the land depends on the intersection between what the government declares to be legal and what a given community believes to be legitimate claims to the land at any point in time.¹⁴ Boundaries around fields are only as secure as one's neighbors believe them to be. In the 1930s, the decision of the tax office made little difference in determining who had a legitimate claim to the land in question; local uses of the land were what mattered. Since the land reforms in the 1960s, claims that are recognized and can be enforced by the court are stronger than those that are not. Disputants do what they can to present their cases in terms that will be recognized by the court, and so, in most cases, documents play an increasingly important role in villagers' strategies. In most disputes in Hedangna, the court places less value on the context within which these documents are prepared and obtained than it does on the actual claims specified in the documents. The Golechaur dispute is interesting, however, in that it shows the limits, not the extent, of the power of these documents. Like the earlier decision concerning Danser's claim, and unlike many contemporary disputes, in this dispute, local land-use practices ultimately determined the outcome of the case, not the document obtained by Dirgising from the tax office. Unlike the earlier decision, and like most disputes today, government officials had to recognize those local practices for them to be considered legitimate by the local community.

Though considered equally important by villagers, all documents are not weighted equally in a court of law. Those claims that get translated into a written document in a process recognized by the government as legal now have a stronger chance of standing up in court than those prepared by villagers whom the government does not recognize as having that authority. The map prepared by the clerks attached the boundaries in Jokbir's document to the landmarks claimed by Jokbir's opponents not the ones claimed by Jokbir. The boundaries that were fixed in writing by the government clerks became nonnegotiable, unlike those—also written—claimed by Jokbir. It is not that oral claims are not recognized—it is that some oral claims are considered more valid than others and that government civil servants play an increasingly important role in deciding which claims will be validated. Yet despite the increasing emphasis on written evidence and the growing role of the central government, local politics—the voices behind the words—still determine what emerges as evidence and what does not.

That said, there are fundamental differences between oral and written claims and between surveyed and unsurveyed land (Clanchy 1993; Connerton 1989; Goody 1986; Halbwachs 1992; Moore 1992). Inscribing claims or surveying plots of land does not necessarily close

negotiations over the location of the boundaries. But writing changes the terms of a dispute. Once a boundary has been mapped by a court clerk, the document subsequently becomes the point of departure for future disputes. Though the 1894 survey will continue to be important for historical purposes, the 1994 survey will be the basis for evaluating all subsequent land claims. Any claims based on oral testimony or documents prepared in the village had to be presented at the time of the survey. Those that were not became invalid. Documents prepared by court clerks and government surveyors can fix the past in a way that stories, shifting political alliances, and documents prepared on the porches of village headmen cannot.

In 1994, the survey reached the upper Arun Valley, and in Hedangna, all kpat lands were re-registered as raikar. In the past, membership in a particular political and cultural community was defined by kpat and the *tsawa* (the sacred spring from which the ancestors first drank on arriving in Hedangna).¹⁵ Membership in this community gave individuals the right to as much land as they could physically and legally hold. Now under raikar, they can claim legally only what has been registered in their names. Forests and grazing lands that had been considered part of an individual's kpat were not surveyed and are now considered government land. For the time being, villagers continue to use these lands according to previous conceptions of ownership, but individuals no longer have any legal claim to them. Through the recently created Makalu-Barun National Park and the Department of Forests, the central government (not neighbors and other users of the resource) is now the community that will determine the conditions under which these individuals will be able to continue to use these unsurveyed resources (Keiter 1995; Makalu-Barun 1990).

Again and again in discussions with the clerks and civil servants at the district court and in government offices, I was struck by the disparity between the Yamphu people's depictions of the place of kpat in Nepal's history and that of the government employees. What goes on in Hedangna does not matter to Nepali history and has probably never much mattered. Yet, despite the irrelevance of the Yamphu in the eyes of district and national offices, the Yamphu continue to tell a different story about kpat's demise and, with it, their fall from power.

My discussions about history with older men in Hedangna always followed the same pattern. They begin by describing the royal decree written on copper 200 years ago by Prithvi Narayan Shah, the young prince of Gorkha. They repeat the king's oath, passed down generation to generation, that "until cats grow horns, until the snow on the mountains melts, and the water in the rivers runs dry" the king would not take these lands away from the Kiranti. The Kiranti could be kings on their own lands. The old men quickly gloss over the intervening years and end their tale in the 1980s on a windy, cold day on a ridge a half-day's walk north. The king had flown by helicopter to make a brief (several hours at the most) visit to the upper Arun Valley. Village leaders came to the meeting once again to express their concerns about the imminent survey and to remind the king of his oath and the oaths of his predecessors. A Bhoté headman displayed his copy of the royal decree to support the Kiranti's plea that these lands not be surveyed. The king, so the story goes, asked to take a closer look. Once he had the paper in his hands, he quickly slid the document into his inside pocket, boarded the helicopter, and was gone. This story seems to illustrate a local misunderstanding of the power of paper since the king could have ordered a survey without the paper in his pocket. "See," the older men told me, "the king went back on his promise. He stole the document, stole our land, and now the survey is coming." They would then nod knowingly: "For this reason, because he broke a promise sealed on his own fall from power, he too fell from power."

Later, in Kathmandu, I asked Mahesh Regmi, Nepal's leading economic historian, about the king's trip and where the royal decree might now be. Bemused, Regmi dismissed my question with a shrug. "I don't remember ever hearing about such a trip," he said. "And I can't imagine the king is worried about old promises made to the Kiranti over two hundred years ago."

creating places in the nation-state

In the same way that the villagers in the Golechaur dispute in the account above misinterpreted the power of paper, Tirkasing, the first headman of Hedangna incorrectly equated the symbolic power of not having to accept a tika from the king with actual power, which would have meant he was free to ignore the tax and land regulations of the central government.¹⁶ As a written document sealed on the oath of the king, the royal decree granting the Kiranti kipat rights certainly gave kipat holders a unique place in the kingdom of Nepal. It gave them a kind of autonomy that was unusual in the kingdom and created the context in which local and national political relations unfolded in Pallo Kirat. Ultimately though that document was only as powerful as those in power made it to be.

Local meanings and practices of kipat may have been invisible to the central government in Kathmandu and even the district center a day's walk to the south, but this account of a changing land tenure system in one corner of the world has relevance outside Hedangna; it suggests a different way of thinking about rhetorical power and its relationship to place. In this case, perhaps, the power of Tirkasing's story—like the power of claims staked in the Golechaur dispute—had little to do with its truth value. Tirkasing's account of kipat created lines between those who were the descendants of Tirkasing, those who could claim to be a beneficiary of his cleverness, and those who could not. He created a narrative that shaped the cultural, if not the political, future of Hedangna, turning the space of the village into a place with a deep historical and mythical past, a past that was reenacted each time a claim to land was staked in terms of kipat. As long as kipat was also the framework within which physical claims to the land were secured and contested, its rhetorical power—the power of a good story—was not just a “nostalgic interlude” (Steedly 1993:207). It was part of a strategy for securing a place in the historical and contemporary landscape of Nepal. This strategy was at once social, cultural, political, and economic.

In their discussion of the importance of developing a theory of place, Gupta and Ferguson argue that the fiction of cultures as “discrete, object-like phenomena occupying discrete spaces becomes implausible for those who inhabit the borderlands” (1992:7). This case from north-eastern Nepal demonstrates that it is implausible to assume a link between identity and place *even* in communities where identity appears to be inextricably attached to the land. The land of Hedangna is integral to conceptions of individual and collective identity *because* of the way villagers use and conceive of the land in the present, not because of some inherent relationship between identity and the land. These disputes are examples of what Appadurai calls “techniques in the production of localities” (1996:55). In the process of securing their claim to the land, disputants also create a particular “phenomenological property of social life, a structure of feeling that is produced by particular forms of intentional activity and that yields particular sorts of material effects” (1996:182).

While a “structure of feeling” may have strengthened the relationships between the Yamphu and the land, this very feeling was often antithetical to the project of the nation-state. In an article describing the process by which the idea of the nation-state took root in the governmental discourse of Nepal, Burghart (1984) identifies three indigenous territorial concepts: possessions, realm, and country. The king's possessions were delimited by the political authority of the king and marked by the payment of taxes. Within the area under the king's authority, relationships were defined by the tenurial system that shaped the political hierarchy of the kingdom. The king's realm was delimited by his divine authority as the son of Vishnu, the Hindu god, and demarcated by temples that did not lie at the borders of the kingdom but were instead situated at sacred sites, some within the territory of his possessions and some outside (Burghart 1984:104). Within the realm, the caste system ordered the social universe. Finally, the third concept of territory was *des*, which translates as “country” but refers more specifically to a “unique people who experience a common moral and natural identity by virtue of their living

and interacting in the same region" (Burghart 1984:106). Burghart argues that these indigenous concepts of a nation-state were at odds with the western concept that he defines as a culturally unique and politically sovereign people living in a delimited territory recognized by its neighbors (1984:101).

During the 18th and 19th centuries, the government of Nepal set out to construct a sense of national identity among the recently conquered inhabitants by legally severing relations between ethnic identity and local places and by redefining these identities according to an inhabitant's rank in the national legal code (English 1985; Hofer 1979). In other words, the rulers of Nepal needed to bring these three different conceptions of belonging [namely caste membership (belonging to the realm), domicile (belonging to the country), and tenure (being a possession of the king)] into alignment so that a modern sense of nationhood could take root (Burghart 1984:122). In most parts of the country, there was little overlap between the different categories of belonging defined by each of these concepts. Kipati was the one exception to this. To be a kipatiya, an individual had to have a tsawa, which meant they had to belong to one of the five springs from which the ancestors first drank on settling in Hedangna. The tie to the land of their ancestors expressed in the tsawa was sanctioned by the kipati system, and local categories of identity were reinforced by the national political framework. This overlap between ethnic and political identity was the basis for Tirkasing's claims that as kipatiya they were outside the political and cultural authority of the king.

The legitimacy and integrity of a modern nation-state, Appadurai argues, rests on its ability to establish "its meaningful presence in a continuous body of bounded territory" and to "define all neighborhoods under the sign of its forms of allegiance and affiliation" (1996:189). This is accomplished by policing borders, creating a conception of citizenship that transcends regional ethnic and political alliances, "defining its capitals, monuments, cities, waters and soils, and by constructing its locales of memory and commemoration" (Appadurai 1996:189). Local conceptions of identity and place are "more pressing, more continuous, and sometimes more distracting than the nation-state can afford" (Appadurai 1996:191), and thus from the beginning kipati posed an indirect threat to the political and cultural integrity of the nation-state of Nepal. With the end of kipati, land disputes will no longer necessarily challenge the Yamphu's identification of themselves as citizens of Nepal. When Yamphu stake claims to raikar lands, they will still be disputing particular lines on the ground. They will still be agents generating the context in which they live, but they will be doing so within a narrative in which they, as the Yamphu descendants of the Kiranti, have no place. Under raikar, the Yamphu are indistinguishable from all other inhabitants of the kingdom, and the localized attachments created and reinforced by kipati will be replaced by "a generalizable mode of belonging to a wider territorial imaginary" (Appadurai 1996:191).

Though it is too soon to predict what the outcome of this shift will be, the Golechaur dispute and the end of kipati suggest ways of thinking about the production of place: the processes by which spaces come to be inhabited by and imbued with the meanings of a particular group of people and the place of these attachments in the construction of the nation-state. In closing, I will explore this link between land and identity by discussing the place of maps and boundaries in the nation-state.

mapping power

Walls, no less than writing, define civilization.

—*Forests*, Robert Pogue Harrison (1992)

Different conceptions of borders clashed when the Gorkhas came up against the British in the south in the early 1800s. The British wanted a fixed border set along a permanent surveyed line. The Nepalese, on the other hand, understood national boundaries differently than they understood boundaries around plots of government land or raikar (Burghart 1984). With raikar,

subjects controlled their land, and boundaries, however they were staked, were important in determining the edges of that control. National boundaries, on the other hand, were more like kipat boundaries. Subjects, not land, were the primary “possessions” of the king, and loyal taxpayers, not land, thus defined the king’s domain. The borders of the king’s political authority shifted depending on his ability to assert his power over the headmen who collected taxes from his subjects. The British, on the other hand, interpreted the constant movement of the boundary between India and Nepal as evidence of Gorkha efforts to encroach on territory already relinquished by the Gorkhas to the British. What Gorkhas saw as an ongoing process of maintaining a fluid border, the British represented as a Nepalese violation of an agreement—a justification for war. This struggle continued until the Gorkha defeat by the British in the war in 1816 (Stiller 1973). In the subsequent treaty, the Gorkhas were finally forced to recognize the European model of boundaries and maps, one that “worked on the basis of a totalizing classification, in which space [was put] under the same surveillance which the census-makers were trying to impose on persons” (Anderson 1991:173). The map—not the stones that physically marked the frontier line—subsequently became the legitimate boundary between the two territories.

Different ways of using, claiming, and mapping the land reflect deeper conceptual differences:

The “warp” of this thinking was a total classificatory grid, which could be applied with endless flexibility to anything under the state’s real or contemplated control: peoples, regions, religions, languages, products, monuments, and so forth. The effect of the grid was always to be able to say of anything that it was this, not that; it belonged here, not there. It was bounded, determinate, and therefore—in principle—countable. [Anderson 1991:184]

Definite lines and boundaries are based on ways of knowing that depend on the ability to distinguish between what is knowable and what is not, between what something is and what it is not, who is “in” and who is “out.” This “warp” of thinking clashed with more fluid, open-ended modes of thought most visibly and most violently in the colonial encounter when, backed with tremendous political and economic power, the colonists or settlers were able to redefine the space and re-map the reality within which the colonized or indigenous people lived their lives. The Nepalese came up against the British along their southern border and, more importantly, the political and economic policies of the Rana government were shaped in large part under pressure from the British in India (cf. English 1983, 1985). Even so, Nepal itself was never officially or completely colonized. With only a few exceptions, foreigners were forbidden to enter the country until the 1950s. As in the case of Pallo Kirat, there were struggles between ethnic and political groups to assert their own control within the internal borders of the kingdom. But, in Nepal there is no moment when the colonists arrived, no specific date when a different system of organizing rights and meanings of the land, backed by tremendous political and economic power, was imposed on the lands of Pathibhara. Moreover, there has been no dramatic shift in production systems; villagers of today more or less continue to farm as their ancestors did 100 years ago. In Hedangna, as in much of rural Nepal, the clash between different ways of knowing and organizing the land has thus unfolded more gradually, more haphazardly, and in time, rather than across space. By the time Jokbir staked his claims to the land in Golechaur, rights to lands that had in the past been held in common had already been privatized; even though unwritten, the boundaries around fields had already become more rigid. It did not take an outside government mapping the land to introduce this shift. The significance of the end of kipat is less that there will be a transformation in how land rights are staked and more that future struggles between the center and the periphery will take place within a new idiom, a new narrative which may or may not be an extension of local struggles over the land.

Ironically, just as the central government is finally able to “touch” the land of an area that, for many years, it had been prevented from touching, the international economy is undermining

national boundaries and thus delinking the nation from the territory on which it has depended. Though globalization is often described as bringing about the deterritorialization of identity (Appadurai 1996:54; Robertson 1992), my discussion suggests thinking about this relationship of identity to place in a different way. Until the Nepalese government had the authority and the ability to impose a collective identity of citizenship on the people living within the boundaries of its territory, kipatiya were free to believe more or less what they wanted to believe about their material and symbolic power. Under a weak nation-state, ties between identity and place were particularly strong. As that nation became more powerful, these local loyalties became a threat, something that had to be eradicated directly or indirectly through government legislation.

My account of the disputes in Hedangna suggest two things about understanding the impact of a weakening nation-state on local conceptions of identity and place. First, it could be that the deterritorialization of the nation will be mirrored by a reterritorialization of local identities. Rather than being overwhelmed by a global culture, under a weaker nation-state with less ability to assert its meanings over a bounded territory, the mobilization of identity claims and their attachment to place may become stronger and more active on a local and regional level¹⁷ (Beckett 1996; Mato 1996; Parajuli 1996). Second, in my account, I suggest that analyses of this more recent transformation should focus on the actions and relationships between actors struggling to improve their lives with the tools they have available. Boundaries, fixed or not, open or closed, are one tool among many used in this process. As the Hedangna dispute makes clear, what then matters is the agency of the actors involved: the ability of some individuals to attach their boundaries around people and the land, while others are forced to act within lines created by others (Gupta and Ferguson 1992; Moore 1987). For the Yamphu, this agency has always been how they have understood struggles over land rights. So it seems appropriate to end, as we opened, with a story from Hedangna.

In 1950, a popular democratic revolution with the active participation of King Tribhuvan brought the 104-year Rana rule to an end. He regained control of the kingdom, opened the country's borders to foreigners, and began to introduce a number of democratic reforms. Some of the most important programs and the most difficult to implement were a series of land reforms in the 1960s in which the kpat system again came under the scrutiny of the central government.¹⁸ In the mid-1960s, regulation number seven (*satnam* form, literally the "number seven" form) required jimmawals to list the names of the fields held by their subjects. At first, no one heeded the regulation. This form then became required for a land transaction to be recognized by the government. Land transactions not registered in the tax office could easily be disputed. And so the jimmawals dutifully took down the lists of fields to the district office. The significance of this regulation for the kpat system was not lost on the headmen. As Chakra Bahadur said, "Everyone already had their land; the fields were already divided, and the jimmawals and their subjects knew which fields belonged to whom. But even so, the government had to make their own list. They had to prepare these documents, simply so that they were the ones to say that this is so and so's land." Even if the boundaries of kpat land had been unwritten and thus invisible to government civil servants in the past, the kipatiya who used and claimed those lands clearly understood and recognized those boundaries. The issue was not how or whether kpat lands were divided. What mattered, as Chakra pointed out, was who did the dividing.

notes

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1. See Forbes 1996 for a more detailed discussion of the impact of this history on the political economy of Hedangna.

2. The controversial Arun Dam was to have been built at the base of Hedangna, which would have brought a road to within a half hour walk of the village. Though during the early 1990s, the dam was a common topic of conversation, this conversation focused on the advantages that would come with the road; villagers did not think that the dam and the road would have much impact on land ownership and land rights (see Forbes 1999). Regarding the latter, the cadastral survey was of much greater immediate concern, and, more abstractly, villagers worried about the impact of the policies of the newly created Makalu-Barun Conservation Project on land rights, particularly on grazing and forest lands (see Forbes 1993; Ramble and Chapagain 1989).

3. In 1876 in Darjeeling alone, 27 percent of the population was Nepali-speaking; by 1936, this figure had increased to 86 percent (English 1985 as cited by Pigg 1990:60). Rais outnumber other Nepali ethnic groups in Darjeeling. In 1901, there were 33,000 Rais living in Darjeeling. And the 1961 Indian census shows that 56,794 Rais lived in India at that time. This is nearly one-quarter the estimated total Rai population in Nepal (English 1983:268; Sagant 1976 as cited in Pigg 1990:60).

4. In 1992–93, each registered household paid one rupee for the household tax and an additional five peysa for each field listed on the number seven form. This was a flat rate and had nothing to do with the productivity of the land.

5. When there were no heirs for the land, an individual would be adopted by the jimmawal. The adopted kipatiya subject would move out from his father and grandfather's registration and assume the registration of the heirless landowner. He would pay the household tax to his new jimmawal.

6. From a Yamphu's perspective, to be a kipatiya an individual must be associated with a *tsawa* (water spring where the ancestors first drank on arriving in Hedangna) and thus be an original or an adopted descendant of the ancestors who founded the village on the ridge of Hedangna. Even if an individual is a Kiranti and a kipatiya, without a *tsawa* in Hedangna, he (until recently only men could hold land) could not hold kipat rights to the lands in the village. Political boundaries designating who could and could not hold land in the village thus coincided with the cultural boundaries delimited by the *tsawa* (see also Gaenszle 1995; Hardman n.d.).

7. Interestingly, the tax distinction between non-kipatiya and kipatiya is largely ideological. Gurungs and Chetris in Pathibhara Village Development Community (VDC) say that there is no real difference between kipat land and their land, which, because it is unirrigated, has not been surveyed. Taxes are reckoned in the same way, and all of these taxes are taken by Rai headmen to the district center. Yamphu men, however, place a lot of significance on the fact that their lands are kipat lands.

8. See Gaenszle for a thorough discussion of the origins and contemporary significance of the term *Kiranti*: "The Kirata to a certain extent straddle myth and history. And since by virtue thereof they embody—no matter how nebulously—the beginning of historical time, they have generously come to occupy a special place in the Nepalese scheme of history" (1995:5). He cautions against assuming an actual ethnic link between the Kiranti of east Nepal and the Kirata of ancient texts. My point is that regardless of whether such a connection can be made, the Yamphu conceptually link their ancestors with the original Kirata of the Mahabharata and the kings in Kathmandu.

9. During the Rana period from 1846–1951, decisions by the jimmawal's local court (*amal*) were recognized in the district court. Bhotas, Rais, and Sherpas would come from villages to the north to have their cases settled by the *amal* in Hedangna. People believed they would get better decisions in Hedangna. During the early 1900s, as many people came to Hedangna to have disputes settled as went to Chainpur. Subjects could go to any jimmawal they pleased. They usually went to those who could read; those who were considered to be more clever were the ones who settled the most disputes. At any given time, three of the most active jimmawals would have seven or eight cases in their court. The jimmawal received money for his work. Whether the subjects took their cases beyond the local courts depended on their economic and political resources and the depth of their anger.

The jimmawals' authority no longer includes the maintenance of law and order. Local courts are no longer legal, and local disputes are mediated informally by individuals whose age and literacy earn them positions as mediators (Caplan 1970:139). Disputes that cannot be resolved locally are taken, as they were in the past, to the district court in Chainpur.

10. Non-kipatiya who were not members of the king's family needed a receipt for taxes paid on raikar lands. By law, they were given a document that gave them some protection against the arbitrary power of the jimmawals.

11. In this article, I discuss only land disputes. Most disputes in the village were over land, but some concerned the post of jimmawal and grievances voiced by women against the fathers of "forest babies" or *ban choura* (illegitimate children) who failed to acknowledge their social and economic responsibilities. Because I am interested in the political and economic history of the kipat system, I do not discuss these types of disputes. (See Forbes 1995 for a discussion of disputes concerning the post of jimmawal.)

12. The following information is compiled from interviews conducted with villagers involved in the dispute as well as from interviews with other villagers who have observed the dispute from a distance. As in the opening account of Tirkasing, I have combined information collected from interviews with my own

observations in Khandbari and Hedangna. While I have created some of the details myself, all of the facts of the case were provided by villagers.

13. Though the judge makes the final decision, clerks play an important role in determining the outcome of disputes. They visit the villages to speak with those involved; they make maps of the disputed lands; they sift through all of the written and unwritten information to decide what is relevant. The clerks also play an important role in determining the timing of cases that are heard in the court. If they like the disputants, they can make sure the case is heard quickly. The clerks can also postpone the hearing by moving the case to the bottom of the pile of disputes to be heard (Mendocal, personal communication, November 1992).

14. Regarding colonial courts in Africa, Moore writes,

Certainly the difference between the designed judicial institution and the "event-evolved" set of neighborhood institutions is very great. In many respects, the court is being directly and continuously stage-managed by the state. . . . The other, the neighborhood social field, while shaped and affected by the state, by policy, by the market, by political events, is neither as tightly managed nor as fully planned and designed as the operation of the local court. But that does not make the neighborhood less powerful when it comes to controlling witnesses and the outcome of litigation. The local court escapes its designers in a thousand ways. [1992:38]

15. See Forbes 1995 and 1996 for a more detailed discussion of the link between the *tsawa* and *kipat*. 16. Villagers tell other tales about how later headmen similarly confused symbolic power with political power. Chakra Bahadur, one of the most politically astute *jimmawals* in the area VDC, told the following story.

Once Prithvi Shah conquered the country he had to come up with a way to rule it. Of course, at that time, he had his own military, but he soon realized that he had no money to pay them. He said to the Rai, "I need to maintain this army. But the army is not only for me. You all are also kings. You all also need an army. Are you going to take turns in the army? Of course not! So help me, survey a field, turn one field [*khet*] into government surveyed land [*raikar*] and then from those taxes I will have the money I need to pay the military." Sometime later, the king again contacted the Kiranti. "Oh, younger brother, we need a postal system," he said. "A nation needs a postal system, but I can't pay for it. I don't have enough money to pay the workers. Are you going to take turns carrying mail around the kingdom? Of course not! Instead of providing labor, survey just one *khet*, have it made into *raikar* and help me pay to bring postal service to the kingdom."

Then the king had to build the Bagmati bridge in the Kathmandu valley. "But," he said, "I can't build it myself. I can't do it on my own. I need some help. All of you *jimmawals*, my younger brothers, please help me. All of you each turn one field of *kipat* land into *raikar* and then I will get the money I need to build this bridge."

At that time, Chakra said, the *jimmawals* and their subjects did all of their own blacksmithing and tailoring. Once again the king approached the *jimmawals*, "You all are big people, you are kings, like me. You shouldn't be doing this kind of work, it is for small people to do. You should call on those who are suited for this work." Until then, the Kirantis had refused to allow any outsiders onto their *kipat* lands. After thinking about the king's words, they saw his point. And so they began to encourage the tailors and blacksmiths into their area.

Several years later, the king again approached the *jimmawals*, "You all are kings, you are rulers like me. But you are stupid. How can you be big people if you have so few subjects? The more subjects you have, the bigger you will be. How can a king be a king if he has no subjects?"

Chakra paused to emphasize this point. "The king was right," he said. "A king, a *jimmawal*, needs subjects. The more subjects he has, the more powerful he is." And so the *jimmawals* gradually began to let Brahmans and Chetris move into the area and settle on what had once been Kiranti *kipat* lands. Once settled by non-*kipatiya*, these lands also became *raikar*.

Finally the king said to all of the Kiranti in the region, "You would probably all like to be *jimmawals*, wouldn't you? You can. All you need to do is survey 30 *muri* [unit of measure—2.4 bushels, also 1,369 square feet] of soil, turn 30 *muri* of *kipat* land into *raikar*, pay a 15 rupees tax, and then, you too can become a *jimmawal*, a six *anna* [an amount of money] king" (see Caplan 1970:58, italics in original).

As Chakra succinctly describes, the *jimmawals* thought they were outsmarting government officials as their predecessor Tirkasing had done, but in the end they gave up real power—dividing the land—for the perception of power. Despite what they say about what they were doing, the *jimmawals*, Chakra concluded, brought about the end of the *kipat* system themselves.

17. With the rise of the Janjati movement in urban centers in the early 1990s, ethnic nationalism in Nepal has taken a new direction (see Deschene 1996; Fisher 1993). This movement has been embraced unevenly in the hillsides, and, though the Yamphu are Kiranti and thus ethnically connected to those who have launched the movement, they have not yet publicly identified themselves with the movement.

18. The *kipat* system had been ignored by the central government since the 1930s when an effort to have it surveyed failed under Chandra Shumshere.

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