

THE DISCOURSE AND PRACTICE OF KIPAT

ANN ARMBRECHT FORBES

Introduction

For God's sake, let us sit upon the ground
And tell sad stories of the death of kings.

— William Shakespeare *Richard II*

This paper examines the contradiction between the politics and poetics of a 'customary' system of tenure, *kipat*, that was in operation in Hedangna, a Yamphu Rai village in the upper Arun valley, until the cadastral survey was conducted in 1994. The 1894 Revenue Settlement in Nepal and the last revenue settlement conducted in Pathibhara VDC registered people, not land. The cadastral survey registered land not people. This shift reflects the more general transformation from Nepal as a kingdom where people were the primary resource to Nepal as a modern democratic nation where land is the primary resource. This broader shift is grounded in the micro-politics of *kipat* tenure and its meanings.

Kipat symbolically and legally marked the point of intersection between local and national systems of governance. 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. As a symbol expressing the past glory of their ancestors, *kipat* was part of a narrative that links the Yamphu Rai to their past and to the lands on which that past has unfolded. While villagers in Hedangna waxed poetic about the importance of their identity as *kipatiyā*, in the next breath they said it would be good when

the *kipat* system ended once and for all, then their land claims would be more secure and there would be fewer disputes over landed resources.

This paper examines the national policies toward *kipat* and the ways these policies have been implemented in a remote region of the country. My primary source of information is the work of Mahesh Regmi (1974, 1976, 1978a, 1978b), an economic historian who has written extensively on the land tenure systems of Nepal. His points are supplemented with information from ethnographies of *kipat* among the Limbu of Pallo Kirat (cf. Caplan 1970, 1991; Sagant 1983, 1985). While the purpose of this paper is to provide a view of *kipat* from the center, at certain points in this discussion I suggest a different interpretation of these 'official' versions of *kipat* in light of information collected in Hedangna.

The discussion of *kipat* is extremely complicated. Understanding how *kipat* operated in its final years depends on understanding its meaning and practice in the past. Understanding the past depends on the material available: documents, ethnographies from other regions, and villagers' own interpretations and memories. Some government regulations have been implemented, other have not. Different villagers have adhered to these regulations in different ways at different times over the past two hundred years. Villagers themselves often emphasized different and conflicting aspects of *kipat* at different times. Information from land disputes and the actual administration of *kipat* by the *jimmawals* in Hedangna is needed to provide a more thorough understanding of this particular system of land tenure (see Forbes 1995).

After briefly discussing why the Kiranti were granted *kipat* rights, I compare *kipat* to other systems of land tenure in Nepal, particularly *raikar*. I then outline Regmi's account of how *kipat* works as a system of land tenure. While the documents used by Regmi provide a wealth of information on national policies toward *kipat* and on particular problems that reach a national level, these documents do not explain or even acknowledge local variation and particularities. Though historically an important political and economic center on the upper Arun, the Yamphu are notably absent from Regmi's account. There are a number of important differences between the ways *kipat* has been administered among the Yamphu Rai in Pathibhara and the ways it has worked in the more commonly cited case of the Limbu in Terathum and Taplejung Districts. This material provides an additional perspective on the political economy of *kipat*. It also suggests points where the

view from the center has obscured, rather than clarified, the workings of *kipat* as a system of land tenure.

What is *Kipat*?

The Kirats, being vigorous beef-eaters, did not readily submit to the Rajputs. — Hamilton 1819 [1971]

The Kiranti eventually settled in eastern Nepal, in the land that the Khas invaders in Kathmandu referred to as Majh (middle) Kirat and Pallo (far) Kirat.¹ Because Pallo Kirat fell on the border between Sikkim, Tibet and India it was an area of tremendous strategic importance for Prithvi Narayan Shah, the Gorkha leader who set out to conquer the kingdoms of the Himalaya in the late 18th century.² At the time, this region fell under the jurisdiction of the Vijayapur Kingdom that was ruled by two branches of the Sen dynasty of Makwanpur. The Kiranti had paid taxes either to Sikkim or Tibet or the Vijayapur kingdom, and were unwilling to commit their loyalty to any of these groups (Hamilton 1819 [1971]). Afraid of angering their neighbors or inciting rebellion among the inhabitants of the desired territory of Pallo Kirat, Prithvi Narayan Shah decided to strike a deal with the Kiranti rulers, to bring them under the general rule of the Gorkha dynasty rather than under the direct control of the king. He recognized the local chiefs and guaranteed the security of the rights and privilege they had enjoyed under the Sen kings; they were granted *kipat* rights to large tracts of land in Pallo and Majh Kirat (Regmi

¹ These terms, Burghart explains, are from the point of view of Gorkha at the end of the 19th century. He writes, 'the area further east was inhabited by people who called themselves Khwombo and Limbu, but whom the Khas, following Sanskrit usage, called Kirant (Hodgson n.d. 254). Kirant was subdivided by the Khas (but not by the 'Kiranti') into hither, middle and further Kirant, depending upon the distance of each from Khas country' (Hodgson *ibid*, M.C. Regmi 1963-68 (1978a): 3, 27 as cited in Burghart 1984:107).

² Though most descriptions of *kipat* lands describe the Limbus of Pallo Kirat as the last remaining *kipat* holders, Hedangna and all of the communities north of the Sankhuwa River at the southern edge of Tamkhu fall into Pallo Kirat. *Kipat* continued to operate in all of these communities until the arrival of the cadastral survey in 1993/94.

1978a:539). The conditions of this incorporation were documented in a Royal Order from the king.³ Burghart writes:

In sum, the king did not bring the diverse countries of his possessions into relation with one another, for they were unique; nor did he assimilate them one to the other, for they were naturally different. Instead he respected the customs of different countries and registered the fact of this difference by means of the common *kipat* category, thereby bringing diverse peoples under the proprietary authority of Gorkha (1984:109).

Kipat provided a framework within which the Kiranti were able to retain a degree of local autonomy that was unique in Nepal. Regmi writes:

The Gorkhali rulers did not achieve political unification solely through military conquest, and often political compromises with various communal groups, as well as with the rulers of different principalities. The *kipat* system in the eastern hill region provides the most conspicuous example of political compromise with a communal group (1984:28).

It follows, then, that if granting *kipat* was the most striking example of a deal struck between the central government and local autonomy, the end of *kipat* is one of the most notable examples of state intrusion on a local level.

Even after the initial Royal Decree, Pallo Kirat continued to pose problems for the government in Kathmandu. Regmi describes how during the Nepal-Tibet war of 1791-93, 'Chinese and Tibetans visited Sikkim and Pallo Kirat to clandestinely finance the Limbus and Lepchas and incite them to revolt (1978a fn p. 540). The revolt, which was suppressed with great

³ Regmi cites the official version: 'All of you who fled to foreign territory during the disturbances of yesterday are hereby pardoned... for your crimes... your kinsmen who are living here have been confirmed ... on their lands and homesteads... according to the privileges granted by the Makwani Kings. Return [to Pallo-kirat], all of you, and we hereby guarantee the same privileges for you. [This order is quoted in *Order Regarding Restoration of Kipat Lands in Pallo-kirat, Poush Sudi 8, 1945 (December 1888)* and cited in Regmi 1978a:541].

severity, emphasized for the Gorkhas the need to develop good relations with the Limbus (*ibid.*:540).⁴

Land tenure in Nepal: A view from the center

The land tenure scheme was the framework within which communities were incorporated into the political structure of the Nepalese kingdom. Stiller (1975) explains that the primary principle underlying the land tenure system in Hindu-dominated areas of Nepal during the pre-Gorkhali period (pre-1769) and throughout the country in post-Gorkhali Nepal was that all land was understood to be the property of the king. All the land that fell under the sovereign authority of the crown was considered *raikar*.⁵ At his discretion, the king could in turn give grants of *raikar* lands as *birta*, *jagir*, and *guthi*,⁶ the other land tenure systems⁷ that existed until Land Reform in the 1960s.

⁴ Regmi also refers to an order from the government much later, in 1883, that stated that 'Pallo Kirat is a border area which has been administered since early times through a conciliatory policy.... If the customs and traditions of the Limbus are violated, they will leave the country and the government will lose thereby' (In *Order Regarding Tare Subbas in Pallo Kirat*, Aswin 1940 (September 1883) as cited in Regmi 1978a:577).

⁵ Regmi defines *raikar* as 'lands on which taxes are collected from individual landowners, traditionally regarded as state-owned' (1976:235).

⁶ The king did not have any authority over *kipat* land, thus he could not give these lands away for military (*jagir*), political rewards (*birta*), or to set up institutions (*guthi*).

⁷ Though it is not stated how this data was obtained, Zaman (1974) provides an estimation of the agrarian structure prior to and post 1950:

Tenure	Pre-1950		Post-1950	
	Area (ha)	Percent	Area (ha)	Percent
1. <i>Raikar</i>	963,700	50	2,083,000	95
2. <i>Birta</i>	700,000	36.3	abolished	
3. <i>Rajya, Jagir, Rakam</i> and others	146,000	7.7	abolished	
4. <i>Kipat</i>	77,000	4	77,000	3
5. <i>Guthi</i>	40,000	2	40,000	2

Zaman writes: 'Heterogeneity of tenure, a good part of which was exempt from payments of land revenue, was the prominent feature prior to 1950. The

Because these lands also fell under the control of the king, they are subsumed under the general category of *raikar*. *Kipat*, on the other hand, was land that falls outside the sovereign authority of the crown and was thus described by Regmi as the other main system of land tenure. In describing *raikar* and its offshoots in 19th and early 20th century Nepal, Burghart says:

the tenurial scheme was applied exhaustively and exclusively to the land, not to the subjects of the king. The subjects were not exclusively classified in tenurial schemes, for any subject could have multiple tenurial statuses, and therefore different rights and duties vis-a-vis the king with reference to different tracts of land (1984:103).

This was not the case with *kipat* tenure. As a classificatory system reproduced by the government, *kipat* organizes people into relationships with each other and the government. Under *kipat*, people, not land, are registered and people, not land, are taxed. *Kipat* specifically refers to regions of the country over which the government had no control, land the government could not touch. More specifically, Regmi explains that 'the government had no power to impose taxes and rents on *kipat* lands; it only exercised its sovereign power of taxation of individual *kipat* owners' (1978a:34).

In Hedangna, all land unless designated otherwise is *kipat* land. The entire area included in the Royal Order granted in 1774 that has not subsequently been made into *raikar* (either by being given to a non-*kipatiyā* or surveyed) is considered to be owned by some *kipat* holder (waste lands etc. are held by the *jimmāwāls*). From Regmi's perspective in Kathmandu, on the other hand, all land other than what the king or subsequent Rana rulers gave away is *raikar*. In Hedangna, *kipat* is the backdrop; in Kathmandu, the backdrop is *raikar*. The more land that is in *kipat* tenure, the greater the power held by the Kiranti. The greater the area of *raikar*, the greater the authority of the central government. At different points in time each side has

conversion of *birta*, *rajya*, *jagir* and *rakam* tenures into revenue-paying *raikar* land and the extension of agriculture, mostly in the Terai region (which accounts for the increase in area) are the major post-1950 developments. The other developments are the liability of *kipat* land-owners to pay land revenue at the rate applicable to *raikar* land, and the provision for registration of the transactions in *kipat* land' (*Report to the Government of Nepal on Land Reform and Land Administration* based on the work of M.A. Zaman, Land Reform and Land Administration Adviser. FAO, Rome 1974, pp. 3).

alienated its absolute hold on the land, trading in one kind of power - possessing land - in exchange for another kind of power--political support and/or tax revenues. In the long run, as symbolized by the recent cadastral survey, the central government got control over both: the people and the land.

Though, as Burghart says, *raikar* and its offshoots were systems for categorizing and classifying land, like *kipat*, these land tenure systems were first and foremost political systems and they were responsible for shaping the agrarian relations of rural Nepal until the land reforms of the 1960s. Regmi writes:

Although *raikar* was a reflection of the unlimited prerogative of an absolute government which identified landownership with sovereignty, its secondary forms were basically a response to the need to adapt the land system to different economic, political, social, religious, and administrative requirements. The *birta* system thus helped to create a feudalistic class that gave social and political support to the rulers; the *guthi* system contributed to the satisfaction of religious propensities of both the rulers and the common people; and the *jagir* and *rakam* systems enabled the government to support an administrative structure without the use of much cash in a situation where an exchange economy had not yet fully developed (1976:20).

Kipat, and *raikar* and its offshoots, mark the intersection of local and national systems of governance. With *kipat*, ties with the central government are the loosest and it allowed for the greatest amount of local variation and autonomy. I want to look at the gradual tightening of this connection, a tightening that has taken place through the extension of government control over *kipat* lands.

Land Tenure in Nepal: *Raikar*

Before going into the particular features of *kipat* outlined by Regmi, it is important to see with what Regmi is contrasting *kipat*. Regmi classifies *raikar* as a statutory system of land tenure, by which he means that the basis of one's claim to a particular plot of land is a grant from the state. *Kipat* is described, in contrast, as a customary system, by which he means the history of land use and the identity of the land users are the basis of *kipat* rights. Regmi elaborates on this distinction:

The *Birta*, *Jagir*, and *Guthi* systems... emerged from grants made by the state. Landownership rights under these tenure forms stemmed from the statutory authority and were based on documentary evidence. They had no reference to the ethnic or communal origin of the landowner, nor to the location of the land in any particular geographical area. They reverted to the state if the owner died without leaving an heir, or relinquished his lands for any reason. In the *kipat* form of landownership, on the other hand, the communal authority superseded any claim the state might extend on grounds of internal sovereignty or state landlordism. Rights under *kipat* tenure emerged not because of a royal grant, but because the owner, as a member of a particular ethnic community, was in customary occupation of lands situated in a particular geographical area (1976:87).

Rights to *raikar* lands were granted by the state and were secured by documents designating this grant. The right to farm the land (*raikar* rights only included the right to the 'use and fruits' of the land) was made regardless of the cultivators' origin or ethnicity (*ibid.*:17). Though Regmi also notes that in the central hill regions, grants of *raikar* land were generally made to those already living on (and, one would presume, using) those lands, Regmi's point is that the source of a cultivator's rights to that land was the state, not any preexisting use of the land. 'Use and fruits' of the land meant that they had the right to cultivate the land and a right to a share of the produce but that they did not have the right to sell or alienate the land in any way, including mortgaging the land.⁸ A cultivator retained his rights to cultivation only as long as he occupied the land and paid the necessary taxes on it. Regmi writes, 'rights on *raikar* land are limited to occupancy rights vis-a-vis the state.... The rights of the cultivator are secure only as long as he pays the taxes regularly' (1978a:19). At the early part of the 19th century, cultivators were giving as much as half of their produce as taxes⁹ to landlords (who kept the tax as part

⁸ Land claims that exceeded a particular ceiling based on the number of family members could be redistributed to other cultivators by the state at any time, and the state was under no obligation to compensate the original cultivators. This regulation, called *raibandi*, was originally established on *raikar* lands. Later *raibandi* was extended *guthi*, *kipat*, and *jāgir* lands, but I never heard of it actually being implemented in Hedangna (Regmi 1978a:200).

⁹ Regmi explains how taxes worked under these systems: 'The nature and level of taxes on *khet* lands were governed mainly by the tenorial policy of the government. During the nineteenth century, agricultural lands in the

of a grant of *birta* or *jagir* from the king) or to tax collectors who then distributed it directly to the state. Taxes on *raikar* lands are assessed according to the quantity and grade of the land held. A claim to *raikar* land could not be retained simply by meeting one's fiscal obligations; continuous occupation was equally important. A cultivator forfeited these rights if he left the plot or if he defaulted in his payments. On this latter point, Regmi writes,

This [restriction] precluded individual control over lands that could not be kept under cultivation. *Raikar* land was therefore used primarily for subsistence, not as a field for monetary investment. Rent-receiving landownership was not permitted under the *raikar* system (1976:172).

Finally, the government, at its own discretion, could make *birta* or *jagir* grants of *raikar* land to anyone it chose. These grants usually had little direct impact on the actual cultivator who continued to hold use rights to the land, however. They simply paid the taxes sealing their claim to someone else. Stiller writes,

In itself the conquest of new lands and the assignment of these lands ... have no direct effect on the peasants' right of tenure on these lands. It was not the object of the Gorkhali conquest to deprive the simple people of the land, their livelihood, or the means to achieve it. It was the *revenue* of the land that was at stake. The peasant had inevitably to surrender half of his crop in taxes, regardless of the government that actually ruled the land. What the Gorkhali conquest gave to the government in Kathmandu was the right to appropriate the revenue or to assign it either to the army, to an official of the state, or to a citizen in reward for services he had rendered to the state (1975:278, emphasis in original).

midlands rarely contributed revenue to the public exchequer, but consisted for the most part of *Birtā*, *Jāgir*, or *Guthi* grants. Accordingly, the form and amount of payments that the peasant was obligated to make depended primarily on the consumption requirements of *Birtā* owners, *Jāgirdārs*, and *Guthiyās*. In the central and eastern midlands, including the Kathmandu Valley, taxes on *khet* lands were usually collected under the *adhiyā* system, under which the cultivator paid half of the paddy crop as tax, retaining the balance for himself. This system helped the government to avoid complicated methods of tax assessment and remission and eliminated the need to measure the land' (1976:127).

This brief summary of *raikar* makes it seem like a fairly clear and straightforward system of land tenure. In practice, it is nothing of the sort. The permutations of this system across various regions of the country and under different rulers, however, are beyond the scope of this paper.¹⁰ The main point to draw from this is that all of the the land tenure systems of Nepal are perhaps most significant for how unsystematic and outdated they are. Regmi cites a report from Doti District:

The records maintained by *Mal* [Tax] offices and *Tālukdārs* [headmen] are all jumbled up. It is difficult to identify any holding. Land is registered in the name of one person but is being utilized by several others, who have often no documentary evidence entitling them to such possession. Litigation is the invariable result (Government of Nepal, *Report of the Land Reform Commission*, p. 57 as cited in 1978a:159).

As Stiller points out in his comment on taxation, this disorder is because, from the government's point of view, land revenues were what was at stake, not the security, or insecurity, of tenure. Stiller suggests that the government did not intend 'to deprive simple people of their livelihood' (1975:76). But the reason the government did not want to deprive people of their land was not necessarily concern over their well-being. Rather, the government was worried that if the cultivators lost their land they would migrate to India (cf. English 1985; Regmi 1978b; Stiller 1976) which would mean that the government would lose the source of revenues.¹¹ The land tenure systems, then, were not at all intended to safeguard the rights of landholders; they were simply to enable the government to extract as much revenue from the cultivators as possible without forcing them off their lands. From the perspective of the government, as long as it got some revenues there was no real motivation for making the investments needed to ensure that land rights were secure and that land tenure records were not antiquated and outdated.

Given the objectives of the Gorkha kings and, particularly, the Rana prime ministers, the lack of attention applied to organizing these systems is

¹⁰ For those interested, see Regmi (1978a).

¹¹ Regmi writes that 'even the desire to avoid hardships to the people was motivated not by a sense of accountability for their welfare, but by the realization that it might be difficult to collect taxes from a dissatisfied peasantry' (1978b:26).

understandable. It is only with the transformation of the government's purpose from extraction to development that more systematic land tenure policies and practices have become necessary. As Regmi points out in his discussion of the failure of these policies, particularly the cadastral survey, previous practices are thus far proving to be too deeply entrenched to bring the practice of administering land closer in line with the reforms that have been legislated.

***Kipat* as a system of rights to the land**

With *kipat*, like *raikar*, there has been tremendous local variation in how it has been implemented and interpreted. The primary distinction is between the administration of *kipat* in Majh Kirat and in Pallo Kirat.¹² Even so, there are certain distinctions between *kipat* and *raikar*. I will outline these differences as they are described by Regmi, but then at certain points suggest a different interpretation or a clarification in light of information collected in Hedangna.

Though both *raikar* and *kipat* are based on grants from the state, the rationale for this grant differs. *Raikar* is given at the prerogative of the state. *Kipat*, on the other hand, is an official recognition of a claim to a large tract of land that existed before the Gorkha State. The 1774 Royal Decree gave the Kiranti of Pallo Kirat rights to an area defined loosely as the land that had been cultivated by their ancestors. According to Regmi, the granting of *kipat* rights to these lands depended on two factors: the ethnic identity of the landholders and the customary occupation of the land. *Raikar* simply meant government land and could be allocated to anyone living anywhere. The other main difference between *kipat* and *raikar* is that from 1883 to 1968, it was prohibited to alienate *kipat* lands (i.e. what was included in the original tract of land) outside the community of *kipatiya*. I will examine both of these points in some detail.

Ethnic identity as a basis of land rights

Kipat rights depended on the 'customary' occupation of the land that was designated by Prithvi Narayan Shah in the 1773 Royal Order. *Kipatiyās*

¹² Most likely drawing on the work of Caplan, Regmi attributes this variation in large part to the degree of Indo-Aryan political and economic control in a particular *kipat* owning community (1976:88).

could not claim land as *kipat* if that land had not originally been included within the boundaries of the lands designated in the Royal Decree as being 'under this form of landownership during the time of the Sen kings (pre-Gorkhas, pre-1174)' (Regmi 1976:89). The original grant proclaimed that *kipatiya* needed to have held the land continuously 'from the time of [their] ancestors' (Rajvamshi, Puratattwa-Patrasangraha, II, 38 cited in *ibid.*:89) in order for their claim to be legitimate in the eyes of the state. No *new kipat* can be created outside of this original tract of land. Though there are exceptions, *kipatiyā* from one village cannot move into a new area and hold land as *kipat* (cf. Caplan 1970:49; Gaenszle 1995, n.d.). In Hedangna, only those with a *tsawa* (sacred water spring, a term that also denotes clans), only those who are the direct or the adopted descendents of the original ancestors in Hedangna, have *kipat* rights to the lands of Hedangna. While few other Rai groups have moved into Hedangna itself, Waling Rai from Majh Kirat moved to Mangsima, a village to the east of Hedangna, across the Arun. They settled on Hedangna's *kipat* land but, because they are outsiders (*dhākre*), they hold the land as *raikar*.¹³ Similarly, if *kipatiyā* from Hedangna move into other *kipat*-holding communities, they would also be considered outsiders and could not claim land as *kipat*.

The 1774 Royal Decree sanctioned and legitimized an 'original' claim to the land that is expressed in the *tsawa*. Unlike *raikar*, only people with a particular ethnic and geographic identity can hold *kipat* rights to the land. *Kipat*, as an official category within the national government, politicized cultural and geographic ties. The web of cultural, political, economic and geographic relations expressed and re-enacted in *kipat* reinforces a conception of the Yamphu identity that is different from that of *raikar*. I will return to this point after briefly considering the implications of this distinction between *kipat* and *raikar*.

¹³ Gaenszle (n.d.) describes a different situation in Majh Kirat in the western Arun Valley. The original settlers, the Mewahang, hold *kipat* rights to their land (this land, he says, was originally their ancestral territory, *ca:ri (M)*, and was later held as *kipat*). Seven or eight generations ago, the Khambuhang, mainly Kulunge Rai, have migrated into the Mewahang *kipat*. The Khambuhang got rights to the land from the Mewahang *kipatiyā*, but they were never *kipatiyā*. Even though *kipat* was abolished in Majh Kirat in 1940 and the Khambuhang were able to register their land in their own names as *raikar*, the difference in land ownership and political dynamics created inequities between the two Rai groups that continue into the present.

Regmi explains that the requirement of 'customary' occupation is one of the main differences between *kipat* and *raikar*, not the traditional occupation of the *raikar* land holders. Though the basis of *raikar* claims was the state, these lands were generally allotted to those who already lived in the village or area where the fields were located (1976:54). The impact of *raikar* and *kipat* grants on who farms the land were likely the same: whoever was farming the land at the time Prithvi conquered the nation got rights to that land. The important difference is the source of the right to continue farming that land. With *kipat*, those rights were granted because a particular ethnic community was using the land. The royal decree seals this claim. Individuals get grants of *raikar* because the state decides to grant them; the fact that they were already cultivating this land simply makes it easier for the state to decide to whom to give them.

This distinction is important because it affects the security of continued claims to *kipat* or *raikar* lands. If the state was responsible for granting rights to the land, it could withdraw those rights with little explanation. If customary occupation was the basis of these rights then withdrawing those rights would force the state to engage in a debate over the meaning of those customs and to make a case for why those customs were no longer recognized by the state. Until the 1960s, the government was unwilling, or incapable, of entering into such a debate with the Kiranti of Pallo Kirat. As a result, *raikar* claims, which lacked the weight of custom, were far more tenuous and insecure than were *kipat* claims. The state could, and according to Regmi and others, often did, change the landlords of *raikar* lands whenever it chose to do so. Though this change might not immediately displace the cultivators, they were now dependent on the arbitrary power of another absentee landlord for their continued right to farm the land (Regmi 1978a, 1978b; Stiller 1976). The economic insecurity of *raikar* in turn generated a tremendous degree of political insecurity. Most *kipatiyā raiti* have a *jimmāwāl* who is a descendent of the *jimmāwāl* of their grandfather or great-grandfather. Though this continuity has not necessarily provided any greater degree of equity, the relative predictability in local politics of Hedangna has had consequences to be explored in later chapters.

As in all of rural Nepal the most important link is between an individual and the land from which he produces grains to feed his family. Land is the basis of economic and, increasingly, political security. In the 1800s, when land was plentiful and people, as a source of taxes, as laborers, and as allies, were scarce, people were the primary source of political power. The importance of

people is expressed in the registration system of *kipat*. Under the *kipat* system, a household tax (*dhuri*) was paid, not a land tax. The Revenue Settlements of *kipat* land in 1869, 1881, and 1894 listed individual households of *kipatiyā* and their *jimmāwāl*. Until the Land Reforms¹⁴ in the 1960s, when land is first mentioned in government registrations, *kipatiya raiti* paid a household tax to the *jimmawal* each spring. They paid the same tax, regardless of how much land they held. Once the tax had been set in the revenue settlement (see next section), the *jimmāwāl* had to pay that amount to the tax office each year. Even if his *kipatiyā raiti* moved away, which they did, the *jimmāwāl* was responsible for the tax. Thus, both to meet their tax payments and to enhance their position in the village, *jimmāwāls* were constantly looking for new *raiti*, *kipatiyā* and non-*kipatiyā* alike, to settle on abandoned or unclaimed land. An individual's claim to the land was almost entirely dependent on his relationship with a particular *jimmāwāl*. This dependency is the most important dimension of *kipat* as it unfolded in the particular context of Hedangna.

Inalienability of *kipat* lands

The other main difference with *raikar* is the inalienability of *kipat* outside of the community. Regmi explains:

The exclusive character of *kipat* landownership in relation to specific ethnic groups was manifested in practical form in the nonsalability of land to members of other groups. In other words, *kipat* land generally could not be sold outside the community (1976:89).

I would add to this description, that *kipat* could not be alienated *and* still be considered *kipat* land. This caveat alters the understanding and meaning of *kipat* tenure and is worth looking at more closely. In this quotation (and throughout his discussion), Regmi's description of *kipat* land

¹⁴ The Lands Act and the rules framed under it has been considered to be the first piece of agrarian legislation in Nepal (FAO 1966:5). This report concludes that these reforms are 'primarily a tenancy reform and undertaken to give a fair deal to the tenants so that they may be willing and capable to take farming as a business rather than a mere means of survival' (1966:17). In other words, though the reforms were political in that they set out to create more secure rights for landholders and tenants, they were objective, to generate a profit from the primary resource in the kingdom of Nepal.

implies that particular plots of land carried the label of *kipat*. Though, as just mentioned, land is the important link and though all villagers know which lands are *kipat* and which are not, it is more useful and accurate to think of *kipat* as a collection of rights that can be drawn on by *kipatiyā*, by individuals bearing a particular identity, rather than as an object to be possessed in a particular way. *Kipat* categorizes people, not land. Land becomes divided in the process, but that is a consequence of the prior categorization, not the cause. This point and its significance for understanding *kipat* will become clearer by examining the ways in which land has been alienated from the original tract of land and registered as *raikar*.

Before the restrictions introduced in 1883 restricting the alienation of *kipat* lands, Hedangna *jimmāwāls* granted rights to *kipat* lands to non-*kipatiyā* who moved into Pathibhara (these grants were made as *soranna patta*, a transaction that will be examined in greater detail in chapter 6). Land in Uwa, across the river in Mangsima, and an area of land in the Hedangna Gadi were given to Chetris and Gurungs during this period. Land granted to non-*kipatiyā raiti* (*dhākre*) was immediately surveyed and registered as *raikar* with the tax office. Though boundaries on particular *kipat* lands themselves were not officially documented, these land grants created physical boundaries on *kipat* by designating which lands were not *kipat*. These boundaries marked the ethnic and political boundaries between Yamphu *kipatiyā* and non-*kipatiyā*.

Within the community of Yamphu *kipatiya*, lands were also alienated and turned into *raikar*. *Kipatiyā raiti* and *jimmāwāls* chose to turn their *kipat* into *raikar* for a number of reasons. In the first place, a land claim that was surveyed and registered was more secure than one that was not (this will be discussed in greater detail in subsequent chapters), so individuals who were particularly suspicious of their relatives' intentions occasionally chose to survey their lands. Land that had been acquired in a not entirely fair way was also registered as *raikar* to make the claim stronger. Finally, when an aspiring *kipatiyā raiti* decided to break off from his *jimmāwāl* and create a new *jimmāwāl*, he had to 'show' thirty *muri* of khet to the government, which meant surveying and registering the land *raikar*.

There are various explanations for why restrictions were introduced on the alienation of *kipat*. During the period before there were restrictions on alienating *kipat*, large areas of land were alienated by Limbu *kipatiyā* to Hindu settlers that moved into the southern regions of Pallo Kirat, in what is

now Terathum and Taplejung Districts (cf. Caplan 1970, 1991; Sagant 1983, 1985).¹⁵ Because they were losing all of their land, Limbus¹⁶ in southern Pallo Kirat are said to have pressured the government to introduce regulations restricting the permanent alienation of *kipat* lands and requiring that all alienation made in the past be regarded as mortgages (Caplan 1970; Regmi 1978a:549). Dhondhoj, a *jimmāwāl* in Uwa, gave a rather different explanation for this legislation.¹⁷ Before the restriction was introduced, he told me, people were selling their land and leaving for Assam because they could not afford to pay the taxes. When *kipatiyā raiti* sold their land and left the community, the *jimmāwāls* were still responsible for the set amount of tax owed the government (see subsequent discussion of *thekkā thiti*). The *jimmāwāls* were unable to make these payments, and so they submitted an application to prohibit the alienation (*rājināma*) of *kipat* land. Finally, a Gurung living to the north of Hedangna explained that after requesting the restriction on alienating *kipat* lands, the headmen realized that they were no longer able to sell any land. 'They lost their business,' this Gurung said. So the *jimmāwāls* submitted another application to the government asking for the right to alienate non-irrigated lands. The government agreed and introduced an addition to the restriction on selling *kipat* lands. The government vacillated over introducing the legislation, what type of lands should be included, and whether it was to be retroactive or not.¹⁸ Once, when

¹⁵ As mentioned in the introduction, migration patterns were different in the Rai areas of Pallo Kirat. Though, as the previous discussion illustrated, *kipat* lands in Hedangna have been alienated to non-*kipatiya*, the effects of this alienation did not create the level of indebtedness among the Yamphu that Caplan describes among the Limbu.

¹⁶ I follow Caplan and Regmi in referring only to the Limbus here because the number of Hindus moving into the Rai communities of the upper Arun is insignificant compared with the Limbu communities to the southeast (see also Gaenszle 1995).

¹⁷ It isn't clear why Dhondhoj has this different explanation. It may have been that there were different reasons why the Kiranti requested this legislation, and this is the one that was relevant in Pathibhara. Or it may simply be that, because they were not losing their *kipat* to Hindu settlers, the *jimmawals* in Hedangna had to come up with an explanation that fit their circumstances.

¹⁸ Regmi describes the shifts in policy in greater detail. He writes: 'The Limbus resented the growing encroachment on their traditional *kipat* landownership rights, and at the same time non-Limbus felt that their rights over the lands they controlled were insecure. In this struggle for land, the government

discussing these regulations on *rājīnāma*, Mardhan Rai, an older man in Hedangna, sighed and said, 'Who can understand the laws of this country? It's like children playing. They make one law and change it and then change it back again.' Regardless of the particular chain of events that led to the regulations or their inconsistency, Rai communities in Pallo Kirat also benefited from a restriction that has been instrumental in defining the way land in Hedangna is obtained and transferred.¹⁹

Land that is held by a *kipatiyā raiti* is considered *kipat*. If the same land is held by a non-*kipatiyā raiti*, it must be surveyed and registered as *raikar*. Though everyone clearly knows who owns which *kipat* lands, legally, the link between an individual and his land is much looser than the tie between a *jimmāwāl* and his *kipatiyā raiti*. People would tell me that they should not alienate their *kipat* land to members outside of their lineage. But, in the course of these conversations, it became clear that though in theory *kipat* land should not be alienated, if it were advantageous to do so, land could and would be alienated. The connection between the *jimmawal* and his

generally sided with the non-Limbus. In May 1886, legislation was enacted prescribing that all *kipat* lands that had been or might be sold or otherwise transferred to non-Limbus would be converted into *raikar*. The Limbus therefore remained in control of only such *kipat* lands and homesteads as they were actually using at the time' (1976:9).

There was confusion over this regulation and lands continued to be alienated and turned into *raikar*. On August 1901 (*Shrawan Sudi 9*, 1958), another order was issued that prohibiting the alienation of *kipat* land and its conversion into *raikar* (1978a:550). Regmi writes, 'two years later, in 1903, orders were issued to permit the alienation of *kipat* waste of non-cultivated (*pākho*) lands to non-Limbu settlers, on condition that they reclaimed or converted them into paddy fields utilizing artificial irrigation facilities' (*ibid.*:550). Regmi goes on to say: 'The new policy was intended to counteract the tendency toward land hoarding under the *kipat* system, under which the Limbu owners did not cultivate large areas themselves nor allow others to cultivate it' (*ibid.*:550).

Regmi attributes the inconsistencies in the *kipat* system during this period to changes in the prime ministership in Kathmandu at the time.

¹⁹ Gaenzle suggests that even though Regmi cites 1883 as the date when the inalienability of the land was enforced: 'inalienability was always an integral part of the *kipat* system, even if the rule was not always strictly adhered to' (1995:51).

raiti which is officially documented and stored in the dusty volume in the tax office in Khandbari, is one that cannot be easily severed.

Since the restrictions on alienating *kipat* land were lifted in 1968, *kipatiyā* have begun to alienate their land (though this does not mean it is turned into *raikar*). Even so, there is still a lingering sense that an individual should not sell *kipat* lands outside of one's immediate lineage. Even this interpretation, though, depended on the context and on the speaker. Some actors emphasized the symbolic aspects of *kipat*, while others focused on the political and economic. Dhanbar Rai, one of the most politically active *jimmāwāls* in Hedangna, a tiny old man who was said to have been involved in more land disputes than anyone else, rarely emphasized the symbolic connection between an individual and the land.²⁰ Mohansing's mother, on the other hand, bitterly told me about how her sister-in-law had sold her *kipat* land to a member of the Prithyadengsa clan, alienating it from the Yungsaba clan (and from Mohansing's mother's family). 'You shouldn't do this,' she said, and she called the sister-in-law a witch.

Rather than creating an anchor securing an individual to a particular plot of land, *kipat* is a fluid web of relationships in which individual *kipatiyā* are linked to each other and to a story, a historical and cultural rationale for why the web is shaped the way it is. Land that fit into this constellation is considered *kipat*. Land that is not embedded in this political and symbolic web is *raikar*.²¹ The shift from seeing *kipat* as an identity to be enacted rather than an object to be possessed may be subtle but it is not inconsequential. It underscores the importance of agency in defining the meaning and practice of *kipat* and thus shifts attention to the processes of administering rights of *kipat*. Among other things, this distinction allows for a more nuanced understanding of how particular *kipatiyā* negotiate the gap between the political and the poetic meanings of *kipat*.

Until 1921 there were similar restrictions on the permanent alienation of *raikar* lands. Officially, cultivators of *raikar* could not sell or even mortgage their lands (Regmi 1976:176). Regmi points out that regardless of this legislation, people did alienate their land. Because the government still got

²⁰ Though he did emphasize the symbolic importance of *kipat* as a marker of their glorious past.

²¹ I will continue to speak of *kipat* lands in order to refer to those lands that are enmeshed in this web of relationships.

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taxes for this, it did not try to enforce this legislation. The government's main concern was that cultivators did not sell their land, move to India and leave their taxes unpaid. In 1868 legislation was introduced allowing for the alienation of *raikar* land through tenancy or mortgage only if 'the registered landholder continued to reside in the same district' (*ibid.*:176).

With both *raikar* and *kipat*, those who wanted to get around these regulations were able to and the existence of this restriction is itself not that significant of a difference between the two. The reason for the regulations on alienating *kipat* lands, namely to prevent lands from being alienated outside the Kiranti community and the fact that the regulation was introduced at the request of the Kiranti themselves, is different from the regulations on *raikar*. Sales on *raikar* land were restricted not as a way of protecting the cultivator, but as a way of circumscribing the rights of tenants over their land and of ensuring that the government always had a steady income from land tax revenues and a population to pay those taxes. The effects of this legislation were equally significant. With *raikar*, these restrictions accomplished what they were intended for, namely to limit the rights of the cultivator over his land. With *kipat*, on the other hand, these regulations provided a buffer between going into debt and becoming landless. In order to understand this point, it is necessary to say something about mortgaging *kipat* land.

Indebtedness

Kipatiya in Hedangna often went into debt paying taxes, borrowing rice to feed their family, paying for weddings and funerals, or playing cards. From 1883 to 1968 when it was prohibited to alienate *kipat* lands, those who went into debt would pledge their land, move to Assam or Sikkim to earn money, and return a generation or two later to return the loan and get their land back. This practice of usufructory mortgage is referred to as *bhog bandhaki*.²² As long as the loan on this mortgaged land has not been repaid, the creditor is entitled to all of the produce from the field.²³ A loan guaranteed by usufructory

²² Any pledge that is taken on a piece of land is designated by the word *bandhak*. In one group, rights of usufruct to the land are not assigned, and these are called *drsti bandhak*. The others, which are most common in Hedangna, are usufructory and are called *bhog bandhak* (Sagant 1983:183).

²³ Sagant distinguishes between two types of mortgages operating in Limbuan, one from 1883 until 1948, and the other from 1948 until 1960-1970. The former placed the debtor under the obligation of a very long-term mortgage. He writes:

mortgage is fixed in a contract, called a *tamsuk*. No interest is specified in the contract; the creditor instead gets the right to the produce from the land.²⁴ As long as the debtor continues to pay yearly taxes on the land, he retains the right to return the loan whenever he wishes. At that time the creditor is obligated to relinquish the land. Until that time, the debtor has the right to obtain new loans on the same mortgage. If the creditor agrees to loan additional money, the contract is updated, and the debtor simply has to pay back the entire sum when he decides to reclaim the land. When the creditor or debtor dies, the obligations of the usufructory mortgage form part of the estate and are divided equally among the heirs (Sagant 1983:185).

In Limbu communities, Limbu *kipatiyā* commonly went into debt to Indo-Nepalese castes immigrating into the region (cf. Caplan 1970; Forbes 1995; Sagant 1983). This debt is cited as the reason for the breakdown of their 'ancient tribal structure' and their transformation from 'tribe to ethnic minority and from Tibet-Burman to Nepalese citizen' (Sagant 1983:180). Sagant continues,

[The moneylender] alone is the explanation of how the Indo-Nepalese castes were able to establish themselves in the heart of Limbu territory. Although two-thirds of the Indo-Nepalese are just as poor as the Limbu poor and there are but a handful of moneylenders in the whole valley capable of challenging the *subbās* (Limbu headmen), it is nonetheless true to say that usury is the motive force behind the rise of the castes and the fall of the Limbu (*ibid.*:219).

In Hedangna, Yamphu in the lower village have recently begun to go into debt to Chetri shopkeepers, but this is because they have taken financial

'Only after a period of a hundred years, or in some regions a hundred and twenty-five years, could the debtor regain his rights of usufruct in the fields... if a man mortgaged his land, he knew that he was doing so for life. The fight to buy it back would belong to his heirs, on condition that they had not failed to pay the taxes on it' (1983:183). I never heard of a mortgage that was set by any fixed time frame outside the wishes of the interested parties in Hedangna.

²⁴ The produce from the land is often quite advantageous, and, as Sagant notes, 'it often happens that in the long run usufruct in a field is, indirectly, a more profitable source of income than any form of interest' (1983:184). See Sagant for a thorough discussion of these types of usufructory mortgages on *kipat* lands in Limbuan.

loans, not because they have mortgaged their lands. Far fewer members of Indo-Nepalese castes have immigrated into Pathibhara. When Yamphu *kipatiyā* go into debt, they usually go into debt with relatives or their *jimmāwāl*.

The patterns of indebtedness have had different political effects in Limbu and Yamphu communities. Among the Limbu, mortgaging practices created a conflicting basis of power between the Limbu headmen and the Indo-Nepalese moneylenders (*ibid.*). In Hedangna, economic indebtedness was to other *kipatiyā*, usually *jimmāwāls*, rather than to another caste, and mortgaging practices simply reinforced the political power of the *jimmāwāls*. Whereas Sagant and Caplan cite the immigration of outsiders into Limbu territory as the reason for the Limbu's political integration into the Gorkha state, among the Yamphu,²⁵ economic and political inequities *within* the community of *kipatiyā* have had a far greater effect in undermining the strength of the community of *kipat* than have any processes of Hinduization. While an important economic strategy in Hedangna with significant political effects, usufructory mortgages have *not* been responsible for the Yamphu's political integration into the Gorkha state.

The removal of restrictions on alienating *kipat* land in the land reforms of the 1960s has complicated land rights and has altered lending strategies in the village. Yamphu *kipatiyā* are increasingly only willing to give usufructory mortgages to relatives and neighbors whom they can trust, and whom they are sure will return the land when the money is returned. Moreover, since *kipat* lands can now be purchased outright, it is much more difficult for those in need of money to find creditors willing to provide usufructory mortgages; people who want land, want to buy it outright. Those who have land and need money are increasingly forced to sell all rights to their land.

***Kipat* as a source of taxes**

Land, as a source of tax revenue and political loyalty, has been the primary resource for the government since the unification of Nepal in the late eighteenth century. The entire land tenure system described so carefully by Regmi is largely a complicated apparatus for ensuring that the government

²⁵ Sagant writes, 'One thing seems to be clear: the member of a tribe who gets into debt soon becomes a Hindu, but he rarely becomes a high caste Hindu' (1983:223).

maximized the political and financial benefits of this resource. Collecting taxes was the primary rationale for administering rural areas in the first place, and tax regulations, at least initially, were the means by which this administration was carried out. An understanding of how *kipat* was administered depends on understanding how taxes were assessed and collected in Pallo Kirat.

Villagers in Hedangna point to the tax policies applying to *kipat* holders as the most significant differences between *kipat* and *raikar* lands, and they say that these differences in tax policies, regardless of actual monetary differences which they were usually unsure about, are the primary practical advantage to retaining the *kipat* system. For *raikar* lands, tax rates are assessed according to the quality and the amount of land used by the cultivator.²⁶ *Raikar* holders pay their taxes directly to the tax office or, in the case of non-*kipatiyā raikar* holders in Pathibhara who originally acquired rights to the land from the *jimmāwāls*, pay the tax to a *tharei*, who in turn pays the *jimmāwāls*. Taxes are set and claims are secured in a transaction between the *raikar* landholder and the tax officials; the relationship between a non-*kipatiyā raikar* holder in Pathibhara and his land is not mediated by the *jimmāwāls*.

Because the government had never asserted its sovereign authority over *kipat* land, however, it had no right to tax that land and could only extend its taxation regulations over people. Regmi says that the government had 'no power to impose taxes and rents on *kipat* lands; it only exercised its sovereign power of taxation of individual *kipat* owners' (1978b:34). As mentioned previously, individual *kipatiyā* paid a household tax (*dhuri*) instead of a land tax. Fields were completely tax exempt.

On a village level, taxes were collected according to a system, called *thekka thiti*, that was based on a settlement between the government and the community as a whole, as represented by the *jimmāwāl*, to collect the revenue for a particular period of time. 'The entire village was treated as one unit for purposes of taxation, leaving it to the headman to apportion individual shares of the total revenue assessment' (1978b:74). Any shortfalls in revenue were to be borne by the entire community as represented by the *jimmāwāl*. This was

²⁶ *Raikar* land is divided into four categories: *awal*, *doyam*, *sim* and *chahar* and tax rates are set accordingly.

one of the only ways the government could impose a taxation system on Pallo Kirat without directly conflicting with the terms of their incorporation in the Nepalese kingdom, terms that Regmi summarizes in the term 'communal'. He explains:

Under the *kipat* system of communal land tenure, a regular land tax system based on a cadastre of land ownership and direct relations between the taxpayer and the State would have dealt a virtual deathblow to the communal authority. The government sought to avoid this by vesting the Talukdar with contractual obligations for revenue collection in his capacity of leader of the community (1978a:562).

This system of collecting taxes based on a fixed contract (*thekka* means contract) is not unique to *kipat* and was practiced in other parts of Nepal. The circumstances for administering taxes in this way and the identity of those who paid taxes according to this contract is what differs. In Pallo Kirat, the government allowed the *jimmawals* to mediate land/people/tax relations because this enabled the government to achieve its two-fold political objectives on *kipat* lands. These objectives were to avoid angering the Kiranti of Pallo Kirat and simultaneously to bring them more closely under government control. Regmi writes:

As elsewhere, the imposition of the Thekka Thiti system in Pallo kirat may also have been prompted by the administrative problems involved in the collection of taxes in a remote and turbulent area. By making collections an individual responsibility on the part of the Limbu *talukdar* while at the same time vesting him with power and privilege in the community, the government strengthened its overall administrative authority in the area (*ibid.*:563).

Though tax collection in Hedangna was never specifically described as *thekka thiti*, villagers always introduced the first two *jimmawals*, Jaborsting and Saiputta (this was six generations ago), as a seven hundred and a five hundred *jimma*. Villagers were vague when I asked what these numbers meant; they suggested that these amounts referred either to the amount of tax collected, to the number of households included within their jurisdiction, or to the area of land. Most likely, as Regmi explains, the numbers specified the

amount of revenue agreed upon between the headmen and the government.²⁷ Once this amount was fixed in the Revenue Settlements (the last one was in 1894), the *jimmāwāl*, as contract holder, was under an obligation with the government to pay that amount of money each year. Only when the revenue settlements were revised could the *jimmāwāl* have this fixed amount adjusted to account for a decrease in his *kipatiyā raiti* and thus in his tax liability. As long as a *jimmāwāl* paid the taxes (the specifics of this will be discussed in the next chapter), he cannot be alienated from this contract. His position in the village can be undermined if he loses *raiti*, if, as described in chapter 6, his *raiti* choose to break off from his power and create a new *jimmāwāl*, but there is nothing the *kipatiyā* or non-*kipatiyā raiti* can do to remove a *jimmāwāl* from power.

Another important distinction between taxes on *kipat* and *raikar* lands concerned the delinquency of tax payments. If a *raikar* cultivator defaults on his tax payment, the state has the right of foreclosure. With *kipat*, this was not the case. Regmi explains:

a number of safeguards were provided to insure that the rights of the community were not violated through individual delinquency. It was only when the community failed to protect these rights by assuming liability for the arrears that the state exercised its right of foreclosure (1976:91).²⁸

Villagers in Hedangna pointed this out as well. If they were to default on their taxes, they are given a number of notices for repayment. Finally, if they fail to pay, the *jimmawal* allows anyone who will pay the tax (which would be the household tax that gives anyone the right to farm the land) to

²⁷ As the next chapter outlines, the government at this time, the late eighteenth century, was the 'go-ba in Saksila, a day walk north along the Arun. The *jimmawals* negotiated the tax rates with the 'go-ba, their 'district' government of the time, rather than with the king in Kathmandu.

²⁸ Regmi writes: 'The process [of] tax collection under the *kipat* system in Pallo Kirat is thus essentially the same as under the *raikar* system, with the sole difference that necessary safeguards have been imposed to prevent the alienation of *kipat* land to non-Limbu communities. At the same time, it is clear that the government retains the ultimate right to convert any *kipat* holding into *raikar* in the event of tax delinquency, if the community itself fails to undertake the liabilities of the delinquent' (1978a:564).

assume title of the land. Moreover, as long as *kipāt* holders continue to pay their taxes, they can still claim their land. This claim is not dependent on whether or not they are actually using the land. If a lineage was without heirs, the land reverted to the *jimmāwāl* of the household who had died. The *jimmāwāl* in turn allocated these lands to someone else. With *raikar*, if the cultivator leaves, the land reverts immediately to the state (or to the *birtā* owner or *jāgirdār* to whom the state had already granted rights to the land).²⁹

The keepers of *kipāt*

Though the existence of a buffer between holding land and becoming landless is an important distinction between *kipāt* and *raikar*, it reveals nothing about the politics of administering *kipāt*. Another impact of the *thekkā thiti* tax system, Regmi points out, was the emergence of the *jimmawāl* as 'a pivot of the local administrative set up,' and as an intermediary between local and national systems of governance (1978a:564; 1978b:74). The role of these headmen, more than whatever buffer might have existed, has shaped the form that *kipāt* has taken in Hedangna.

Regmi writes that under the customary practice of *kipāt*, 'communal authority supersedes any claim that the state extends over the land.' He continues to describe *kipāt* as a communal system throughout his discussions of land tenure in Nepal. He defines communal by drawing on a definition by W. Lewis which says that in communal land ownership 'each person has a right to exclusive use of a particular piece of land, but... his rights to dispose of the land are restricted on the theory that the land belongs to the chief or to the tribe'.³⁰ While this definition as it stands could apply to *kipāt* in Hedangna, Regmi uses communal in a more specific way. He explains:

²⁹ Though this may well be the regulation, it is extremely unlikely that anyone in Hedangna would simply leave his land for several years without giving it out as *adhiyā* (sharecropping) or *bandhaki* (possessory mortgage). This transaction would be documented and witnessed. Even when (or perhaps, especially when) such transactions occur between brothers or close relatives, villagers are suspicious that people farming will use these use rights as a basis for claiming fuller rights to the land.

³⁰ W. Arthur Lewis, *The Theory of Economic Growth*, London: George Allen and Unwin, 1963, p.121, cited in Regmi 1976:87.

... if any member of the *kipat*-owning community ceased to exercise his right to own and cultivate his ancestral plot of land, the right to determine the nature and extent of its use by others was enjoyed not by him, nor by the state as on *raikar* lands, but by the community. Such vacant lands were then reallocated to a suitable applicant within the community by the headman in his capacity as representative of the community. Village headmen exercise a similar right with respect also to vacant *raikar* holdings, but in such cases the ethnic status of the applicant is not a factor that governs reallocation (*ibid.*:90).

In this description Regmi does not explain what this community meant in practice nor does he describe the ways in which the headmen represented the community. Without an explanation, one is led to assume that *kipat*-owning villages must have had some mechanisms for reaching decisions on a communal level and that the village headmen were considered, by themselves and/or by the *kipatiyā raiti*, to be representatives of that community.

Regmi implies that just because the *jimmāwāls* represented and made decisions in the eyes of the state, they also represented and made these decisions in the eyes of the *kipatiyā raiti*. This assumption leads him to certain conclusions about the administration of *kipat* rights that are not borne out in practice. His comments about the division of particular claims to the land illustrate this discrepancy. Although he does not have specific documents describing how unclaimed land was divided among *kipatiya*, Regmi offers some suggestions, based on the system for collecting taxes. He says that because *kipat* rights included claims to wastelands and forests as well as cultivated lands, they 'emerged not as a result of reclamation by voluntary individual effort, but of apportionment of the existing area on a communal basis' (1978a:535). This conclusion follows from Regmi's depiction of *kipat* as a communal system of land tenure, a usage which leads him to find 'communal' decision making processes in administering this system. No one in Hedangna mentioned any kind of 'communal' distribution of the land, now or in the past. An individual's *kipat* consists of land that was cleared and claimed by an ancestor. After clearing the land, the individual would go to a *jimmāwāl* to have the land registered in his own name. It is unlikely that anything as contentious as dividing up land claims could be decided and agreed upon in any communal way in Hedangna.

Later, in *Thatched Huts and Stucco Palaces*, a work that focuses on the agrarian relations implicit in the different types of land tenure, Regmi points out that this idea of community needs a bit more examination. He writes:

Earlier studies on the *kipat* system have mainly stressed its communal aspect, and described its customary characteristics vis-a-vis the statutory forms of tenure such as *raikar* and *birta*. From the viewpoint of the local agrarian community, however, it appears necessary to lay equal emphasis on the intra-communal aspects of *kipat* tenure, that is to say, the relationship between the headman, in whose name royal orders confirming the customary occupation of lands under *kipat* tenure were usually issued during the 18th and 19th centuries, and the ordinary members of the *kipat*-owning community who subsisted on allotments of *kipat* lands made by the headman (1978b:110).

This statement seems to be made more as a caveat since in the same book he still describes *kipat* as a form of 'communal landownership'. From the perspective of the government documents, Regmi sees *kipatiya* as a community over which the central government had no authority. At one point, Regmi compares *kipat*-owners with resident *birtā*-owners, describing them both as 'islands of autonomy,' i.e. as pockets where local authority more or less ruled beyond the reach of government officials or the absentee landowning elite (*ibid.*:110). As long as the representatives of this community fulfilled their obligations to the government, what happened on these 'islands' was of little concern to the government. And so, on one level, from the government's point of view, the description of local politics as communal is not necessarily inaccurate. Perhaps the confusion has arisen because other commentators draw on Regmi's use of the term communal and assume that it refers to political relations in *kipat*-holding communities.

In fact, those intra-communal aspects of *kipat* tenure referred to but not explored by Regmi have undermined the very safeguards that were created to protect *kipat* holders. As much as the government regulations cited by Regmi, *jimmāwāls* have shaped *kipat* in Hedangna and, in turn, the politics of the *jimmāwāls* has contributed as much to the downfall of *kipat* as has government legislation. Overlooking local politics greatly distorts the practice of *kipat* in Pathibhara and, I would suggest, all of Pallo Kirat. The activities of the *jimmāwāls* in Hedangna leveled out many of the advantages of *kipat* referred to earlier. In some senses, life for *kipatiyā* was more secure than it was for peasants in other parts of the middle hills of Nepal. The community of

kipatiyā did provide a buffer that was sanctioned by the government and that protected them from losing their land and thus from starving. However, the administration of rights within this community ensured that, for the *kipatiyā raiti* at least, their ability to survive, politically and economically, was always at risk.

Jimmāwāls in Hedangna had responsibilities that are shared by many village landlords in rural Nepal, regardless of the land tenure system being administered. The village landlords' (they have a variety of names) primary responsibility was to collect taxes. In exchange for this work, they had the right to claim up to five days of free labor per year from each tax-paying household (*beti beghar*) and had judicial authority over all disputes except murders and caste violations (cf. Caplan 1975:150; Regmi 1978b). In western Nepal, Caplan explains that rights of headman were initially granted by the Gorkhas as a way of winning the support of Thakuri royal families who had established petty kingdoms throughout western Nepal.

In these ways, the role and history of the *jimmāwāls* in Hedangna is not different. The significant difference, a distinction that underlies what is unique about the administration of *kipat* tenure, is the ethnicity of these headmen. In most communities in rural Nepal, village landlords or headmen were often government appointees or members of higher castes, such as Chetris, Thakuris, and Brahman. In Pallo Kirat, on the other hand, all of the *jimmāwāls* and *subbās* (Limbu headmen) of *kipat* lands are members of the same ethnic group as their *kipatiyā raiti*. *Kipatiyā raiti* and *jimmāwāls* in Pathbhara are all Yamphu. They all have a *tsawa*, they intermarry, some are members of the same clan, they worship the same ancestors and they worship them together, and they share the same *mindhum* (oral traditions). *Kipatiyā-raiti* and *jimmawāls* alike--are embedded in a web of social, economic, cultural and political relations. Some of these connections join them as a community; others undermine that community.

The *jimmāwāls* of Pathibhara were members of the same ethnic, economic, and social community; they shared the same moral community as the *kipatiyā raiti* whom they governed (cf. Peters 1994; Scott 1976, 1985 among others). In addition to their administrative responsibilities, *jimmāwāls* in Hedangna played a role in the community that was like that played by many village landlords in the Middle Hills. Regmi explains:

Although village landlords were usually able to accumulate resources in excess of their actual consumption needs, available evidence suggests that they used this surplus primarily for moneylending, acquisition of lands, often through the foreclosure of mortgages, financing of land reclamation and irrigation projects, and trade in agricultural produce. Village landlords were thus an important source of credit supply and capital investment in the village. They comprised a part of the local community whose needs and problems colored their relations with the outside world in substantial measure. In contradistinction, the interest of the non-resident landowning elites was confined to the amount of income they could collect from the lands granted to them by the state (1978b:39).

The *jimmāwāls* in Hedangna similarly took advantage of the system in similar ways to landlords across the country. Regmi, again, outlines some of these abuses:

Revenue regulations provide insights into the various questionable practices adopted by *Jimidārs* to increase their landholdings and augment their income. A common practice was to refuse to accept payment of taxes, or to withhold receipts, with the apparent intention of penalizing landowners for default. The regulations prohibit the exaction of fees while recording land transfers, thereby implying the existence of such a practice. There were also complaint that *Jimidārs* often exacted extra amounts when receiving land-tax payments from landowners. Moreover, as tax collector, the *Jimidār* was responsible for the maintenance of land records and the registration of land transfers. A frequent complaint was that the records were so confused that it was not possible to identify individual holdings. The confusion was apparently deliberate, for *Jimidārs* often took advantage of it to claim lands as their own and force the cultivators to pay rents to them in the capacity of tenants (1976:117).

This does not surprise Regmi. He concludes the above description with the observation that 'in resorting to such malpractices and underhand methods to augment his income, the *Jimidār* was only following in the footsteps of the government' (*ibid.*:118). The exploitative and underhanded behavior of local landlords, behavior that was repeated all the way up the hierarchy to the prime minister himself, is considered to be the main cause of the economic and political stagnation of Nepal (cf. Regmi 1978b; Stiller 1975

among others). The land tenure systems provided the conditions that furthered the malpractices characteristic of Nepal's government. This behavior fed into and shaped these land tenure systems. Though outside some of the rules of *raikar*, *kipat* was not an exception. Because these abuses and the systems that allowed them to occur were seen as part of the overall exploitation of Nepalese subjects by the Rana government, when King Tribuvan was finally returned to power in 1951, it was only a matter of time before these land tenure systems were abolished. Though *kipat* proved to be more resilient than the other systems, it too is finally on its way out.

The demise of *kipat*

In a Royal Edict of 1774, Prithvi Narayan Shah swore that 'in case we confiscate your lands, may our ancestral gods destroy our kingdom' (Royal Order to the Limbus of Pallo Kirat 1774, Regmi 1976:93). This oath was restated during each regime following that of Prithvi Narayan Shah. This was done, Regmi says, 'even though the specific privileges and obligations attached to *kipat* landownership underwent divergent interpretations and recurrent vicissitudes' (*ibid.*:93). Every new king promised to maintain *kipat* rights, but they never specifically stated what exactly these *kipat* rights meant at any given point in time. This distinction between the promise of perpetual rights to the land and modifications of that promise touches on the central tension in the meaning of *kipat*: namely the tension between *kipat* as a narrative linking the Kiranti with each other, their lands and their past, and *kipat* as a system of land tenure that attaches specific rights to people and the land. As mentioned earlier, for much of the past two hundred years, the cultural meanings of *kipat* have been at odds with the politics of *kipat*. Administratively, the *kipat* system of today bears little resemblance to the system originally granted by Prithvi Narayan Shah.³¹ Even so, villagers continue to describe *kipat* in terms of the promises made over two hundred years ago. Each new regime affirmed the symbolic significance of *kipat* in the Royal Orders, even as national policies simultaneously undermined the meaning of the very promises that were being made. I will now look, again

³¹ Regmi writes that, due to these changes 'the *kipat* system in Pallo Kirat, on the eve of the downfall of the Rana regime, bore little resemblance to the traditional customs and privileges of the Limbu community as originally guaranteed in 1774. A taxation system, accompanied by practices designed to bring about the progressive reduction of the area under *kipat* tenure, had been built into the structure of the traditional *kipat* system in the region' (1976:94).

from Regmi's point of view, at the administrative dismantling of *kipat* as a system of land tenure.

Even in the beginning government policies toward Pallo Kirat and *kipat* were ambivalent. Prithvi Narayan Shah wanted to extend control over eastern Nepal but the region was located at a strategic juncture between Nepal, Tibet and Sikkim, and was inhabited by the Limbus, 'a turbulent community that long remained unreconciled to Gorkhali occupation and rule' (Regmi 1976:93). Some compromise had to be made to ensure the support of the Limbus while also keeping them under control. From the government's perspective, *kipat* was never a very satisfactory compromise. Areas under *kipat* tenure were outside the direct administrative control of the government and large tracts of land were lost as a source either of revenues or as a basis of political support through allocations of *birtā* and *jāgir* (*ibid.*:92). Almost immediately from the time *kipat* rights were recognized, the government sought, indirectly, to reclaim control of these lands.

Regmi elaborates on the problems of *kipat*, criticizing it from the point of view of a government seeking to establish social cohesion, create a sound national financial base, and develop its economy. *Kipat*, he argues, undermined all of these goals: it split Pallo Kirat into two social segments, Limbus and non-Limbu,³² it reduced revenues from the land,³³ and it prevented the full utilization of landed resources. He claims that *kipat* tenure was 'precarious' for non-Limbu creditors because Limbu *kipat* owners could redeem their mortgages whenever they wanted to. He only considers the precariousness of *kipat* from the perspective of non-*kipatiyā*, however. And he even states that this precariousness 'has had disastrous results on the productivity of land and the conservation of soil and forest resources in Pallo Kirat' and 'discourages efforts to improve the land and raise its productivity' (1976:102). Regmi does not discuss the land-use information on which he bases this conclusion nor does he consider whether there have been different impacts on the productivity of land and the conservation of resources on *kipat* and on *raikar* land in Pallo Kirat. Instead, he simply assumes that, as a 'communal' system of land tenure, *kipat* tenure necessarily undermined the

³² Regmi makes no mention of any Rai groups in Pallo Kirat.

³³ To illustrate this point, Regmi cites Caplan who noted that in 1964-65 39% of land in Ilam district was in *kipat* tenure, but *kipat* owners contributed only 10.6% of the total land revenue from the district (Caplan 1970 as cited in 1976:101).

productivity of the land. Most importantly, he overlooks the fact that for *kipatiyā*, rights to hold some land were extremely secure.

In general, Regmi concludes that it is an anachronism to pay attention to the traditional rights of one portion of the country at the expense of the interests of the nation as a whole. 'Communal privilege, regressive taxation, and tenurial insecurity, which were characteristic features of this system,' he writes, 'conflicted with the need for social and economic change' (1976:102). As the objectives of progress and development have become priorities of the government, Regmi explains that it has been necessary to remove those systems that obstruct this modernization. *Kipat* was finally legally abolished in Pallo Kirat in October 1968 when legislation was implemented removing all restrictions on alienating *kipat* lands.³⁴ These changes would only take effect upon the completion of the cadastral surveys and the compilation of land tax assessment records (*ibid.*:103), a process that is taking far longer than anticipated. Because of these delays, the cadastral survey only reached Hedangna in 1994.

According to Regmi, the end of restrictions on alienating *kipat* and the government's increasing emphasis on documents to legitimize *kipat* claims were the main processes undermining the *kipat* system. He explains that 'statutory confirmation of *kipat* tenurial rights should therefore be regarded as an adjustment between the customary rights of the community and the state authority' (1978a:546). Between 1854 and 1868 there were revisions of revenue settlements throughout the kingdom in order to compile fresh records of individual rights in land. These records were considered to be the 'ultimate evidence of land-holding rights, superseding all other claims' (1976:174). During this period, the government went back and forth in determining whether documents would be necessary as a basis of *kipat* claims. In 1870, Prime Minister Jang Bahadur decreed that *kipat* lands held as *kipat* 'from former times' and with documentary evidence would be confirmed as *kipat*. If documents only referred to a portion of the land, land outside this area would not be *kipat*, 'since this would be a clear case of encroachment upon *raikar* land.' Later, legislation was introduced stating that if there were no documents to support a claim to land as *kipat*, the land should be regarded as 'equal to *raikar*' (Regmi 1978a:546). Regmi then refers to court records from Ilam, in Pallo Kirat, stating that:

³⁴ With this change, Regmi writes, 'all tenurial distinctions between *kipat* and *raikar* have thus been obliterated' (1976:103).

In their present form... *Kipat* landownership rights are based exclusively on documentary evidence within carefully demarcated boundaries. There have been innumerable cases where the absence of such evidence has resulted in the loss of *kipat* rights on the concerned land on the basis of information supplied by local landowners belonging to non-*kipat* communities.³⁵

In fact, the need for documentary evidence and the demarcation of boundaries were not as easy to implement in Hedangna as the previous quotation suggests. Boundaries and documents were and continue to be highly contentious matters in Hedangna and throughout Pallo Kirat, even in areas where the survey is complete (cf. Forbes 1995). Regardless of whether these divisions are strictly adhered to, marked boundaries express a rational, systematic and centralized government that has the authority at least to assert its lines across the land. Clear mapped borders reflect a strong nation state. Unmarked boundaries, on the other hand, symbolize personal relationships and ambiguous, overlapping ties. According to villagers, the basis of their *kipat* rights is a personal relationship with the king: they are not citizens, like everyone else--they are the younger brothers of the king. The lack of systematic maps expresses this relationship, a relationship that is characteristic of feudal states and monarchies across the world. The struggle between surveying and not surveying *kipat* lands is a very physical manifestation of the larger struggle between local and national political control over the lands of Pallo Kirat and the Kiranti's struggle to hold on to a place in the historical and contemporary landscape of Nepal. Because of the political significance of mapping the land, it is useful briefly to review the history of surveys in Pallo Kirat.

Revenue settlements in Pathibhara

In the early nineteenth century, the government sent out an order for an annual revision of revenue settlements in order to assess new *kipat* holdings. Because of complaints by Limbus this order was subsequently revised in January 1834. The new order stated that tax records in Pallo Kirat should be adjusted on a decennial basis. Limbus, as Regmi writes, (though Rais of Pallo Kirat were also included) benefited from this arrangement because revenue settlements were done so rarely that new *kipat* holdings went

³⁵ Ilam Regional Court Records, *Dilli Ram Upadhyaya vs. Mahavarna Limbu*, Marga 11, 1970, November 26, 1913, as quoted *ibid.*:613).

unregistered for long periods of time. This is not unusual; surveys were rarely updated in most regions of the country. Regmi even goes so far as to say that 'the most conspicuous feature of the system of land survey and assessment records in Nepal is its outmoded character' (1978a:160).³⁶

The most widely known survey in Pallo Kirat was in 1938 when the government is said to have planned to survey *kipat* lands in order to turn them into *raikar*.³⁷ According to villagers in Hedangna, there was resistance to the survey in the village even before the land surveyors, headed by a government civil servant known as Bibya Bikram Shah, arrived.³⁸ Once they arrived, Bibya and his assistants began to survey the land, measuring the area with the distance from the surveyor's elbow to the tips of his fingers. After half the survey had been completed, Bibya was called back by government officials because of accusations by villagers of bribery.³⁹ Bibya eventually arrived in Dankuta, where he came before Bahadur Samsar (son of Juddha Samsar, the Prime Minister) to explain the problems with the survey. The government official is said to have reprimanded the head of the survey for giving 'the *raiti* trouble' and to have fined him one rupees as punishment. That night Bibya went to his tent where he slept surrounded by guards. The following morning he was found dead. A man in Hedangna who told me this story suggested that such a small fine, only one rupee, was an embarrassment

³⁶ Regmi writes: 'The existing assessment records do not constitute a reliable index either of the total area under cultivation or the total land revenues that should accrue to the state, or even of the total number of taxpayers. Because of the long intervals between surveys in some districts, it is likely that a considerable amount of cultivated land has remained outside the ambit of land taxation' (1978a:160).

³⁷ Dik Bahadur said that at this time the king also sent out an order for all Royal Decrees to be submitted to the government.

³⁸ On hearing that the lands were going to be surveyed, Danser Rai, the most powerful *jimmāwāl* in the lower village, sent a letter to a *jimmāwāl* in Walung stating that because they were Kiranti their *kipat* lands should not be surveyed. The messenger delivering this letter was intercepted by government employees who gave the letter to Bibya Bikram Shah. On arriving in Hedangna, they immediately arrested Danser. Danser was taken to Num but when Bibya was accused of bribery, Danser was released.

³⁹ If a villagers gave Bibya a large amount of money, he is said to have agreed to write down that they had to pay a small tax; villagers who gave him no money, ended up being registered for a larger tax.

for such a rich man, and so he killed himself rather than bear the humiliation. This villager dismissed Bibya's death, 'He was a useless man,' they say. 'He had been given the responsibility of collecting taxes according to the Royal Decree, but he didn't do good work, he took too high a tax.' Others suggest that Bibya was killed by the subjects whose money he had tried to steal. In any case, they told me, his body was cremated and, more importantly for Hedangna's history, the survey was canceled.

Regmi presents a rather different interpretation of this survey. He mentions that initially there was opposition to the survey, though he does not mention Hedangna. In light of this opposition, the government sent a letter to reassure the Kiranti of Pallo Kirat, promising that:

The present survey of *kipat* land is not intended to abolish the *kipat* system and impose taxes on *kipat* land.... It is being held in order to ascertain the extent of increase or decrease in the area of *kipat* khet land and to compile accurate records of *kipat* lands... Such a survey is not inconsistent with the *kipat* system... and, in fact, existing laws and regulations provide that *kipat* lands be surveyed [quoted from 'Government of Nepal, Law Ministry Records, *Order Regarding Survey of Kipat Lands in Pallo Kirat*, Magh 17, 1995 (January 30, 1939) as cited in 1978a:560].

Eventually the survey was canceled, though Regmi suggests this was not, as villagers told me, because the Prime Minister was concerned over the exploitation of his subjects. Rather, it was withdrawn in yet another attempt to appease the Limbus:

Although surveys were finally completed in both Chhathum and Terathum, the opposition from the Limbus grew to such proportions that the government was finally compelled to reject the survey reports. Probably as a face-saving device, it ascribed its action to allegations of corruption among the survey officials and deputed high-ranking officers to investigate the matter. Eventually the survey was revised in Chhathum, but abandoned in Terathum, with the result that the 1893 settlement continues to apply to the latter area.⁴⁰

⁴⁰ Quoted from Government of Nepal, Law Ministry Records. *Order Regarding Cancellation of Land Survey Operations in Chhathum and Terathum*, Baisakh 3, 1996 (April 15, 1939) as cited in *ibid.*:560.

Whatever the actual reason, since this time, the late 1930s, there has been no full-scale government survey of the lands in the upper Arun Valley. As a result, the 1894 registration continues to be the basis of all claims to the land in Hedangna.

Land Reforms

At this time, the 1930s, there was enough organized opposition to the surveying of *kipat* lands, opposition that the government heard and was concerned about, that Regmi can suggest that the government changed its policies to avoid trouble.⁴¹ The political concerns that led Prithvi Narayan Shah to grant *kipat* rights in the first place were still salient enough for the government to abide by some of the administrative promises it had made. More recently, these concerns have been less relevant, and the government has made less of an effort to cover up the fact that it is reinforcing an oath while simultaneously legislating changes that undermine the very meaning of that oath.

One hot summer afternoon, Dhondhoj, a distinguished looking *jimmawal* in Uwa, brought out a batch of documents which he thought depicted the political history of the Yamphu Rai of Pathibhara. Dhondhoj explained that each time a new King was crowned, a group of Kiranti headmen from Pallo Kirat (mostly Limbu, but some Rai too) would go to Kathmandu to submit an application reminding the king of his promise. They would say, 'In the original Royal Decree you said that we could eat our own land, be our own king, keep doing whatever it was we were doing before. These rights you gave our ancestors, please also give them to us.' Chakra showed me copies of each of new Royal Decree that he kept wrapped in a neat little bundle. He also showed me an application submitted in 1965 by sixteen Limbu and Rai *jimmawāls* and *subbāngis* (Chakra was the only Yamphu to go) to King Mahendra to remind the new king of the promises in the original Decree. The Kiranti were concerned about the Land Acts proposed in 1964 by the new government which involved, among other things, a cadastral survey of all the lands in the kingdom. The Kiranti objected to the survey, saying that since Prithvi Narayan Shah's time, the king had sworn that the government would not survey their lands. They submitted an application and, at the time of Tihar, they had a brief audience with the King Mahendra. King Mahendra said, 'I am your Royal Decree (*Timiharuko Lālmohar ma chu*). Don't worry.

⁴¹ The last survey conducted in Illam was in 1936 (Caplan 1970).

Although the survey is coming, I won't snatch your rights.⁴² The King referred to the oath taken by Prithvi Narayan Shah and convinced the Kiranti that he would uphold the promise. Dhondhoj said, 'We believed him. We said thank you, thank you. Our time was finished and we just left, without getting anything written down, no stamp no seal or anything.' Dhondhoj paused. 'And then Mahendra died.' He laughed. 'We left, without getting a signature. All we got was the king's sanction. We thought that would be okay. But, what to do? *Ke garne?* The king died and now the government is surveying the land and the *kipat* system is about to end.'

Under the new governments established during the 1960s and 1970s, a series of reforms aimed at creating a uniform system of governance and land tenure were instituted for the entire country. Under item number seven (referred to as the *satnam* form) of the Land Acts, everyone had to list the lands he held on a form stored in the Land Reform Office in Khandbari (*Bhumisudhār*). At the same time restrictions on alienating *kipat* lands were lifted.

In the beginning few villagers in Hedangna bothered to register the names of their fields in the office as required under item number seven. They soon discovered that they were unable to sell their lands (*rājināmā*) unless those fields had previously been listed in their names in the Land Reform office. Consequently, almost everyone in Hedangna provided their *jimmāwāl* with the necessary information. This action was as important symbolically as it was administratively. With the listing of the field names the government was extending its authority more completely across the lands of Pallo Kirat.

The Land Acts also removed most of the power of the *jimmāwāls*. Disputes settled by the *jimmāwāl* were no longer considered legal, and disputes and land transactions which had previously been settled in the villages had to be taken thereafter to government offices in Chainpur and Khandbari. *Raiti* no longer had to provide five days of labor for the *jimmawāl* nor did they have to bring them the hind leg of whatever meat they hunted. Once the kings of the village, the *jimmāwāls* became nothing more than tax collectors.

⁴² Mahendra said he wouldn't do anything to disturb their position as *badho* (pledge).

The Land Reforms have fallen short of their stated objectives. Of the cadastral survey, Zamen (1974) reported that by 1974 the survey had been completed in twenty-three out of seventy-five districts but that 203,000 complaints had been filed against the records of the survey, based on disagreement over area, ownership or classification of land. '[The survey's] shaky foundation, slow disposal of cases and issue of an insignificant number of permanent tenancy certificates have earned the department a poor reputation amongst the households in the sample area' (Zamen 1974:6). Regmi similarly comments on the ineffectiveness of the survey:

Although the cadastral survey has been completed for over a million acres, particulars of land rights have been recorded only in respect to... roughly one third of the total area survey.... In addition, even when such particulars have been compiled, no attempt has been made to make adjustments on account of land mutations during the pendency of the survey. As a result, [the survey] is considerably outdated by the time it is completed (1978a:163).

Regardless of its flaws, the survey is significant in Hedangna as much for what it undoes as for what it does. Understanding the significance of the survey, however, depends on a clearer understanding of the community of *kipatiya*, the boundaries and significance of which, with the end of *kipat*, will no longer be officially sanctioned by the central government.

Stories about *kipat*

For the Yamphu, *kipat* can be called communal, in that it provides a narrative within which they have a shared view of the past and their role in that past. This past is important and it is important in large part because it embeds them in a cultural and political geography. Equally important, *kipat* provided *jimmāwāls* with a loose structure that enabled them to exploit the *raiti*, politically and economically, in ways that continually divided that community. Regmi's discussion fails to capture these dynamics, largely because of his definition of property and his conception of how the concepts - 'communal' and 'customary' - fit into this definition. I will first consider the question of what can be said to be communal about *kipat*.

As suggested earlier, *kipat* is first and foremost an identity. This identity consists of a matrix of geographical, historical and social ties; an individual assuming the identity of *kipatiyā* is by definition enmeshed in this

web of relationships--to the past, to the places where that past took place, and to the descendants of the ancestors who were part of that past. Symbolically, *kipat* links this constellation of identity, history, and place to the lands of Pallo Kirat. Caplan in particular has emphasized the cultural dimension of *kipat*. In 1970, after his initial field work, he described the Limbus' struggle to retain *kipat*, saying that 'what is in essence a confrontation over land comes to be seen as a battle for the survival of a way of life' (1970:188). In their struggle to prevent their lands from being surveyed, he writes that what is seen to be at stake is not only a politico-economic interest-- in, the Limbu case, *kipat* land--but the very survival of the community as a cultural entity' (*ibid.*:195). Even Regmi, who in general emphasizes the political economy of land tenure, points out that the Limbus probably resisted dissolution of the *kipat* system, even when it became a tax liability 'because they were aware that this would be the first step towards a fusion of the Limbu way of life into the mainstream of Nepali national life.' In turn the Limbu have resisted the gradual Hinduization that most other ethnic groups in Nepal have undergone. 'All this has given them an ethnic and cultural unity which has resisted, with a considerable degree of success, the withering away of their traditional customs and institutions, including the *kipat* system' (1978a:547).

Similarly, speaking generally of *kipat*, Gaenszle (1995) writes:

In spite of such feudal structures one may say that the *kipat* system brought decisive benefits to the Kiranti in east Nepal. The fundamental inalienability of *kipat* land and the strong position of the village headmen provided the *kipatiyā* an advantage over immigrants and protected them against unrestricted encroachment on their land. Thanks to the *kipat* system the autochthonous Kiranti preserved their cultural and to a certain extent also their political autonomy (n.d.:54).

He notes that 'even if, as Regmi says, the struggle to preserve the *kipat* system was instigated principally by the headmen, who feared for their privileges, it nevertheless had a broad base of support and doubtless strengthened Limbu ethnicity.' And he then discusses why these points do not exactly pertain to the Rai communities of Pallo Kirat where the struggle to preserve *kipat* did not 'lead to an all embracing solidarity on the part of the entire group (*ibid.*:56).' He attributes the lack of mobilization among Rai groups to the fact that they were never one ethnic unit in the way the Limbu were. He also suggests that intra-Rai tensions between *kipatiyā* and non-*kipatiyā* (between Kulunge and Mewahang in the area where he conducted his

research) undermined any sense of solidarity. This second point was not so decisive in Hedangna where instead inter-Yamphu tensions between *kipatiyā raiti* and *jimmāwāls* undermined any strong sense of solidarity.

The various taxation policies and other regulations reinforce *kipat* as a marker of relationships. With *raikar*, on the other hand, the claim of an individual to the land does not in any way depend on his ethnic or geographical identity. This is not to say that cultivators of *raikar* land do not have an historical and cultural relationship to their land. The point is that this connection is not embedded in the particular system of land tenure, and thereby is not sanctioned by the central government.

The significance of the symbolic dimension of *kipat* is hard to assess. It is difficult to measure what impact it had in the past, and it is even harder to suggest what its absence might mean in the future. After a follow-up trip to east Nepal, Caplan (1991) describes *kipat* as a 'form of 'inalienable wealth', a possession which serves 'to define who one is in an historical sense'. It stood for their way of life, and thus symbolized the cultural vitality and continuity of the community' (Weiner 1985:210 as cited in Caplan 1991:312). Caplan suggests that with the loss of *kipat*, the cultural vitality of the community has somehow been undermined. Do the Yamphu Rai speak of it in these terms? When they do speak of it in this way is it simply nostalgia for a remembered past that is now lost to them? When they do not speak of it in this way is it that they don't have the language to express such changes, or because the changes do not matter? The fact that *kipat* is more than a system of land tenure, that it is important culturally, says something about why the Kiranti have struggled to retain it for so long. It says nothing, though, about why in Hedangna, they are now willing to let *kipat* die.

The government's struggle to gain control of *kipat* land has shaped the political economic history of the village. From the perspective of *jimmāwāls* in Hedangna the end of *kipat* is about the end of their political autonomy. This end is expressed in who divides the land. Within the category of *kipat*, the government had no authority over boundaries. With the cadastral survey, government officials are the ones mapping the lands. The significance of this shift is not lost on the Yamphu. In discussing the number seven regulation requiring that *kipatiyā* list their fields at the tax office in Khāndbāri, Dhondhoj, the *jimmāwāl* from Uwa, said that these lists were not necessary. 'All of the people already had their land,' he said. '*Kipat* lands were already divided. We knew which fields belonged to whom, there was no need to make

another list. But then the government made these lists. They had to prepare these documents, simply so that they were the ones to say that this is your land.' The point is not how or whether the land is divided and used. What matters is who does the dividing.

References

- Burghart, Richard, 1984. 'The formation of the concept of Nation-State in Nepal.' *Journal of Asian Studies* 44(1):101-25.
- Caplan, Lionel, 1970. *Land and Social Change in Eastern Nepal*. Berkeley: University of California Press.
- _____. 1975. *Administration and Politics in a Nepalese Town*. London: Oxford University Press.
- _____. 1991. 'From tribe to peasant?' The Limbus and the Nepalese State.' *Journal of Peasant Studies* 18(2):305-21.
- English, Richard, 1983. 'Gorkhali and Kiranti: Political Economy in the Eastern Hills of Nepal', PhD Dissertation, New School for Social Research, University Microfilms.
- _____. 1985. 'Himalayan state formation and the impact of British rule in the nineteenth century.' *Mountain Research and Development* 5(1):61-78.
- Forbes, Ann Armbrrecht, 1995. 'The Boundary Keepers: The Poetry and Politics of Land in Northeastern Nepal', PhD Dissertation, Harvard University.
- Forbes, Ann Armbrrecht and Basundhara Bhattarai, 1995. 'Yak herders and *kipat* holders: report on changing land use and rights on the Milke Danda.' Nepal UK Community Forestry Project Working Paper Series.
- Gaenzle, Martin. n.d. *Kinship and Mythology among the Mewahang Rai of East Nepal*. In press. Kathmandu: The Makalu-Barun Conservation Project Working Papers. English translation of *Verwandtschaft und Mythologie bei den Mewahang Rai in Ostnepal: Eine ethnographische Studie zum Problem der 'ethnischen Identität'*. Stuttgart: Franz Steiner Verlag, 1991.
- Hamilton, Francis, 1816 [1971]. *An Account of the Kingdom of Nepal*. New Delhi: Manjushri Publishing House.
- Höfer, András, 1979. *The Caste Hierarchy and the State in Nepal: A Study of the Muluki Ain of 1854*. Innsbruck: Universitätsverlag Wagen.
- Jones, Rex, 1976. 'Sanskritization in Eastern Nepal.' *Ethnology* 15(1):63-75.
- Levine, Nancy, 1987. 'Caste, State and ethnic boundaries in Nepal.' *Journal of Asian Studies* 7(1):71-88.

- Lopez, Barr, 1976. *Winter Count*. New York: Avon Books.
- Nepali, R. and K. Sangam, 1990. 'Status of Community Needs, Resources and Development: Sankhuwashabha District.' MBCP Working Paper 7, Kathmandu, Nepal.
- Regmi, D. R. 1961. *Modern Nepal: Rise and growth in the 18th century* vol.1. Calcutta: Firma K.L. Mukhopadhyay.
- Regmi, M. 1974. 'Notes on Kipat System V.' *Regmi Research Series* 6 (9): 167.
- _____ 1976. *Landownership in Nepal*. Berkeley: University of California Press.
- _____ 1978a. *Land Tenure and Taxation in Nepal*. Kathmandu: Ratna Pustak Bhandar.
- _____ 1978b. *Thatched Huts and Stucco Palaces: Peasants and Landlords in 19th Century Nepal*. New Delhi: Vikas Publishing House.
- _____ 1984. *The State and Economic Surplus: Production, Trade and Resource Mobilization in Early 19th-Century Nepal*. Varanasi: Nath Publishing House.
- Sagant, Phillipe, 1983 [1976] . 'Moneylenders and clan headmen.' In *Debts and Debtors*. C. Malamound, ed., Delhi: Vikas Publishing House.
- _____ 1985. 'With head held high: the house, ritual and politics of East Nepal.' *Kailash* 12(3&4):161-221.
- Stiller, Ludwig, 1975. *The Rise of the House of Gorkha*. Ranchi: Catholic Press.
- _____ 1976. *The Silent Cry: The People of Nepal, 1816-1839*. Kathmandu: Sahayogi Prakashan.
- Zamen, M.A. 1974. Report to the Government of Nepal on Land Reform and Administration, FAO, Rome, 64 pages.