

NEPAL-INDIA BOUNDARY ISSUE: RIVER KALI AS INTERNATIONAL BOUNDARY

*Mangal Siddhi Manandhar
Hriday Lal Koirala*

INTRODUCTION

The western boundary of Nepal with India was determined by the Segowlie (Sugauli) Treaty of 1815. There is no known record of another treaty changing the western boundary except for some exchange of land in 1920 for Sarada Barrage Construction. The Fifth Article of the Treaty states, "The Rajah of Nepal renounces for himself his heirs, and successors all claim to or connection with the countries lying to the west of the river Kali and engages never to have any concern with those countries or inhabitants thereof".

The Sugauli Treaty was reconfirmed by the treaty concluded between Nepal and British India in 1923. The Article II of the Treaty states, "All previous treaties, agreements and engagement, since and including the Treaty of Sugauli of 1815, which have been concluded between the two governments are hereby confirmed, except as far as they may be altered by the present Treaty."

The Letters of Exchange that took place between the East India Company and Nepal in December 8 and 11, 1816, restored to Nepal the low-land lying between river Rapti and Kosi. Similarly, the Treaty between the Government of Nepal and India signed in Kathmandu on November 1, 1860 returned all the low-land lying between river Rapti and Kali. There was no change regarding the Kali River as the boundary between Nepal and India. The present dispute however, arose regarding the correct identification of river Kali and its place of origin since 1960s when India stationed its troops in Kalapani as a result of Indo-China war.

WHICH RIVER IS KALI?

Since no map attached with the Sugauli Treaty counter signed by both the agreeing parties has come to light the only way to ascertain the correct location of Kali is to examine the existing available maps of the period. Maps published between 1816 to 1856 clearly establish beyond any doubt that the river coming down from Limpiyadhura is the river Kali agreed upon in the Sugauli Treaty.

The map published by Arrowsmith No. 10 Soho Square-Hydrographer to His Majesty, on January 2, 1816 from London titled "Improved Map of India" clearly identifies the river emanating from Limpiyadhura as the river Kali- "Kalee R. Western branch of Gogra or Sorjou" (Map – 1).

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Another map published by "The survey of India office" in 1819, prepared by Captain H.S. Webb Surveyor titled "Sketch of Kumaon" also names the river coming down from Limpiyadhura as the river Kali (Map - 2).

The map titled "Gurwal Kumaon" which was prepared and published according to Act of Parliament by James Horst Surgh Hydrographer to the East India Company on February 1, 1827, clearly identifies the river coming down from Limpiyadhura as "Kalee R." This is also a large-scale map with a scale of one-inch equals four miles (Map - 3).

Again, a map published by the Surveyor General of India on April 24, 1856, titled "Preliminary Sketch of Nepal and the Countries adjoining in the South, West and East" also identifies Kali River as in the previous government publications (Map -4).

Several other maps published by different publishers in the period between 1816 and 1856 also show the river originating from Limpiyadhura as the river Kali. There is no room for confusion that the river flowing down from Limpiyadhura is the river Kali.

But in the period between 1857 and 1881, a subtle but deliberate attempts to misname the river Kali got under way. The map published by Survey of India titled "District Almora" as a product of surveys conducted in 1865-69 and 1871-77 named the river Kali as Kuti Yangti for the first time, and a small stream coming down from Lipu Lekh nameless in previous maps was named Kali river (Map - 5).

A large-scale map of one inch equals one mile published under the direction of the Surveyor General of India in 1879, follows exactly the nomenclature as in "District Almora" map. Although names were changed, the conventional cartographic symbols representing the main river and small tributaries were still left undisturbed. The main river coming from Limpiyadhura was shown by double lines whereas the small stream coming from Lipu Lekh was shown by a single line (Map - 6). The 1881 map published by the Surveyor General of India titled "Nepal, Tibet and United Province" names the river from Limpiyadhura as "Kuti R." but leaves the river from Lipu Lekh nameless as in maps published before 1857.

The third groups of maps published after 1882 were a confusing lot. The Surveyor General of India published map of 1930-31 followed basically the same name scheme as that of 1879 map with a slight changes. The river Kuti Yangti became Kuti Yanti (Map - 7).

The Survey Department of Nepal, for the first time came out with its own map publication in 1975. The map did not follow the international boundary as confirmed by Sugauli Treaty nor seems to have consulted maps of the treaty

period (Map – 8). The map showed Lipu Khola as Mahakali in 1979. A map showing the delimitation of Nepal-China boundary also named the Lipu Khola as Kali River further compounding the confusion (Map – 9).

INTERNATIONAL BOUNDARY- THE KALI RIVER

Let us now examine how the international boundary along the Kali River has fared. It is extremely strange that the western boundary of Nepal has shifted in steps towards east and in the process crossed even Lipu Khola well inside the Nepali territory in total and absolute disregard of the existing treaty.

Until 1850 maps published seem to confirm to the Sugauli Treaty. Map titled "Western Provinces of Hindoostan" 1830, (Map – 10); India XII Index Map, 1835 published by Baldwin and Cradock 47 Pukrruster Row, (Map – 11); J.B. Tassin Map of 1837; (Map – 12) and London: Charles Knight and Co. 22 Ludgate street published map "The Atlas of India, 1846", (Map – 13) all showed Nepal's western boundary with India following Kali all the way up to Limpiyadhura.

By 1850 cartographic manipulation with a sinister motive was initiated. A map published by surveyor to India in 1850, purposively did not give any name to rivers coming down from Limpiyadhura and Lipu Lekh. The map published by the Surveyor General of India in 1856 shifted the international boundary to Lipu Khola from the river Kali flowing down Limpiyadhura. The move was unauthorized, unilateral and without any agreement with the Government of Nepal. The map, however, left the name "Kalee" to the river flowing down Limpiyadhura. The boundary still has not crossed Lipu Khola and followed the river all the way to Lipu Lekh (Map – 4).

The map "District Almora" published by the Survey of India for the first time shifted the boundary further east beyond even the Lipu Khola (Map –5). The new boundary moving away from Lipu Khola follows the southern divide of Pankhagadh Khola and then moves north along the ridge. The map published in 1879 by Surveyor General of India followed the boundary exactly as in the "District Almora" map. The shifting of the boundary encroaching upon more Nepali territory seems to be motivated by strategic reasons. To have control on both sides of the river gives British India total control of north-south movement in the area and the inclusion of the highest point in the region with an elevation of 20,276 feet provide unhindered view of the Tibetan Plateau. With the publication of 1879 map all other maps that followed, first during British India and later independent India stuck to the unauthorized version. There was an exception, the British Residency in Kathmandu published a map showing Lipu Khola as the boundary as late as 1905 (Map – 14). The Government of Nepal is no less responsible in compounding the confusion by its incompetence. The Survey Department of Nepal published a map in 1975 showing Lipu Khola as the international boundary. Nepal-China boundary map in 1979 also follows Lipu

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Khola as the international boundary but delimitation stopped short of establishing Tri-Junction point as India was absent (Map – 9).

WHAT ABOUT KALAPANI?

The place name Kalapani came into prominence with the stationing of the Indian troops here since 1960s. Kalapani is located east of Lipu Khola-Mahakali. The Survey of India map of 1856 shows Kalapani on the west of Lipu Khola. But with the publication of 'District Almora' map Kalapani has been shown in the eastern side of Lipu Khola. The issue here is not Kalapani. It is the boundary alignment- the real Kali river Kalapani. Of course, symbolizes insensitivity of a big neighbour and the blatant violation of Nepali sovereignty in total contravention of international norms.

SOME DOCUMENTS

The documents belonging to the time period immediately after Sugauli Treaty clearly show that all land east of river Kali belongs to Nepal. The design on Nepali territory seems to have started only much later.

The letter wrote by Acting Chief Secretary J. Adams to Edward Gardner, the British Resident in Kathmandu in February 4, 1817 states: With respect to the track on the Eastern side of Kali, the Governor General in council is of opinion, that according to the Letter of the Treaty, the Government of Nipaul is entitled to the restoration of it, not withstanding its hither to having been regarded as annexed to the British province of Kumaon. I am accordingly directed to intimate to you that the acting commissioner for Kumaon will be instructed to surrender it to the officers of the Nipaulese Government.

Accordingly another letter was written to G.W. Trail Acting Commissioner, of Kumanon, on March 22, 1817 in which instruction was given to handover to Nepal "all land situated to the eastward of the Kali . . . Whether here to fore forming part of the province of Kumaon or not"

The present boundary claim by India is quite untenable even if Lipu Khola is regarded as Kali River. The statement "all lands situated to the eastward of Kali" precludes any claim east of the river Lipu Khola.

CONCLUSIONS

The Sugauli Treaty of 1815 has determined the river Kali as the western boundary of Nepal with India. No other boundary treaty with India has taken place changing the river Kali as the boundary except for some land exchange for Sarada Barrage Construction. The boundary decided by Sugauli Treaty remains valid as long as it is not changed by mutual agreement. Maps published unilaterally not in confirmation with the treaty carry no validity. It is beyond any

doubt that the river flowing down Limpiyadhura is the Kali River. No cartographic manipulation and misnaming can hide the truth. Attempts to claim the land based on continued use has already been rejected by joint agreement between India and Nepal in the process of demarcating boundary in the east. Inability of the Government of Nepal to establish an effective administrative set up in all the land east of Kali inspire of the treaty provision should not be made the basis for further encroachment of Nepali territorial space. Relation between friends should be based on the principles of international law and mutual respect for each other's sensibilities.

WORKS CITED

All the maps listed below the river coming down from Limpiyadhura as Kali River (i) Western provinces of Hindoostan (Constructed from the most recent Surveys), 1830, Parbury Allen and Co, London, (ii) Vorder-Indien Orderdas Indo-Britische Reich. 1834, Steilers Hand Atlas. Germany, (iii) India XII, Index Map, 1835, Baldwin & Cradock 47 Pukrruster Row, London, (iv) J.B. Tassin, Anglo Asian Map, 1837, Calcutta, (v) Map of India (Drawn and engraved by J.C. Walker). 1841 John Murray Albermale Street, London, (vi) The Atlas of India, Plate X and XI. 1846, Charles Knight and Co., 22 Ludgates Steet, London.

Letters of Exchange between the East India Company and Nepal, December 8 and 11, 1860.

Please see the attached transcribed letters from the original hand written copy.

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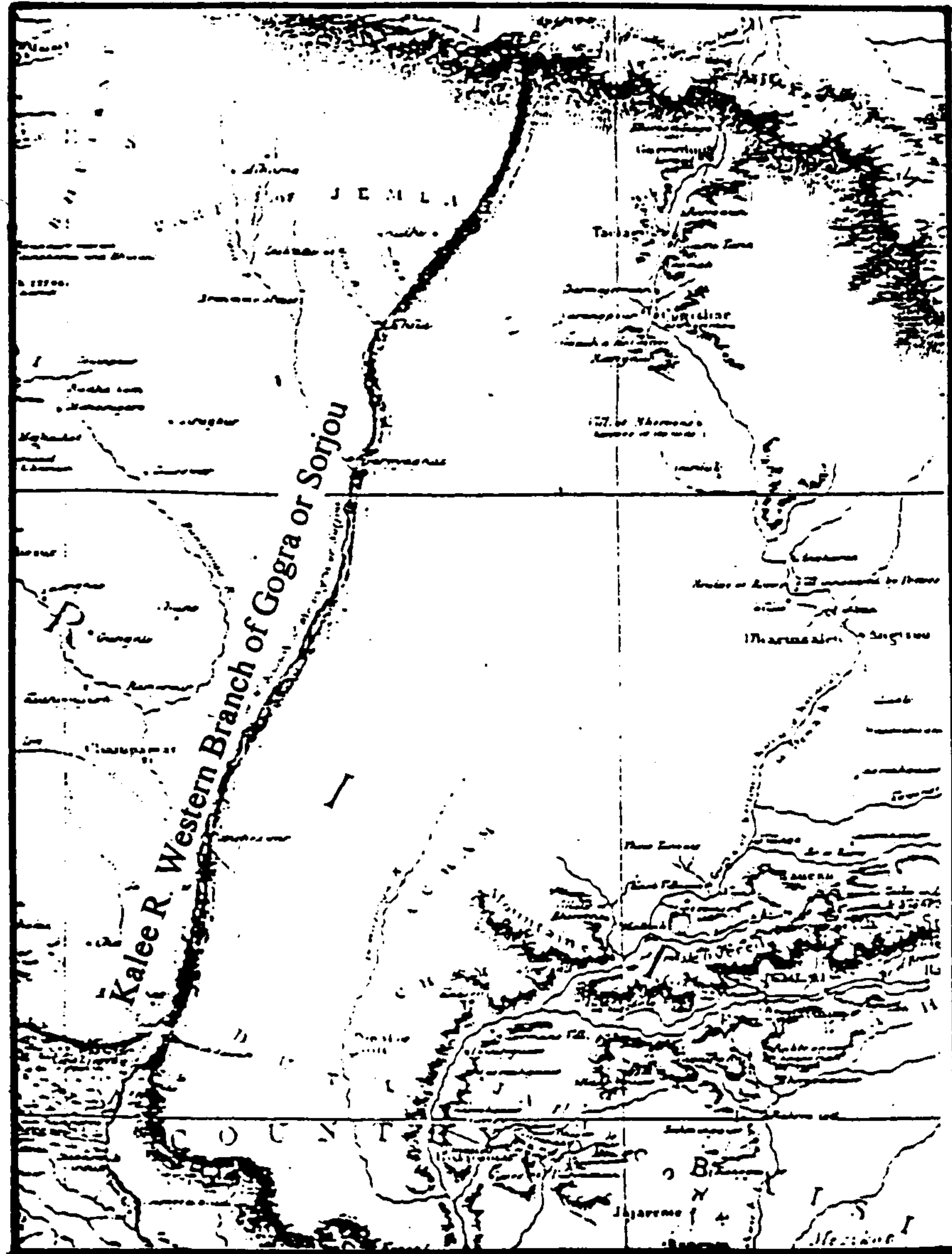
Treaty between the Government of India and Nepal, Kathmandu, November 1, 1860.

Treaty of friendship between Great Britain and Nepal, Kathmandu, December 21, 1923.

Treaty of peace between East India Company and Nepal, Sugauli, December 2, 1815.

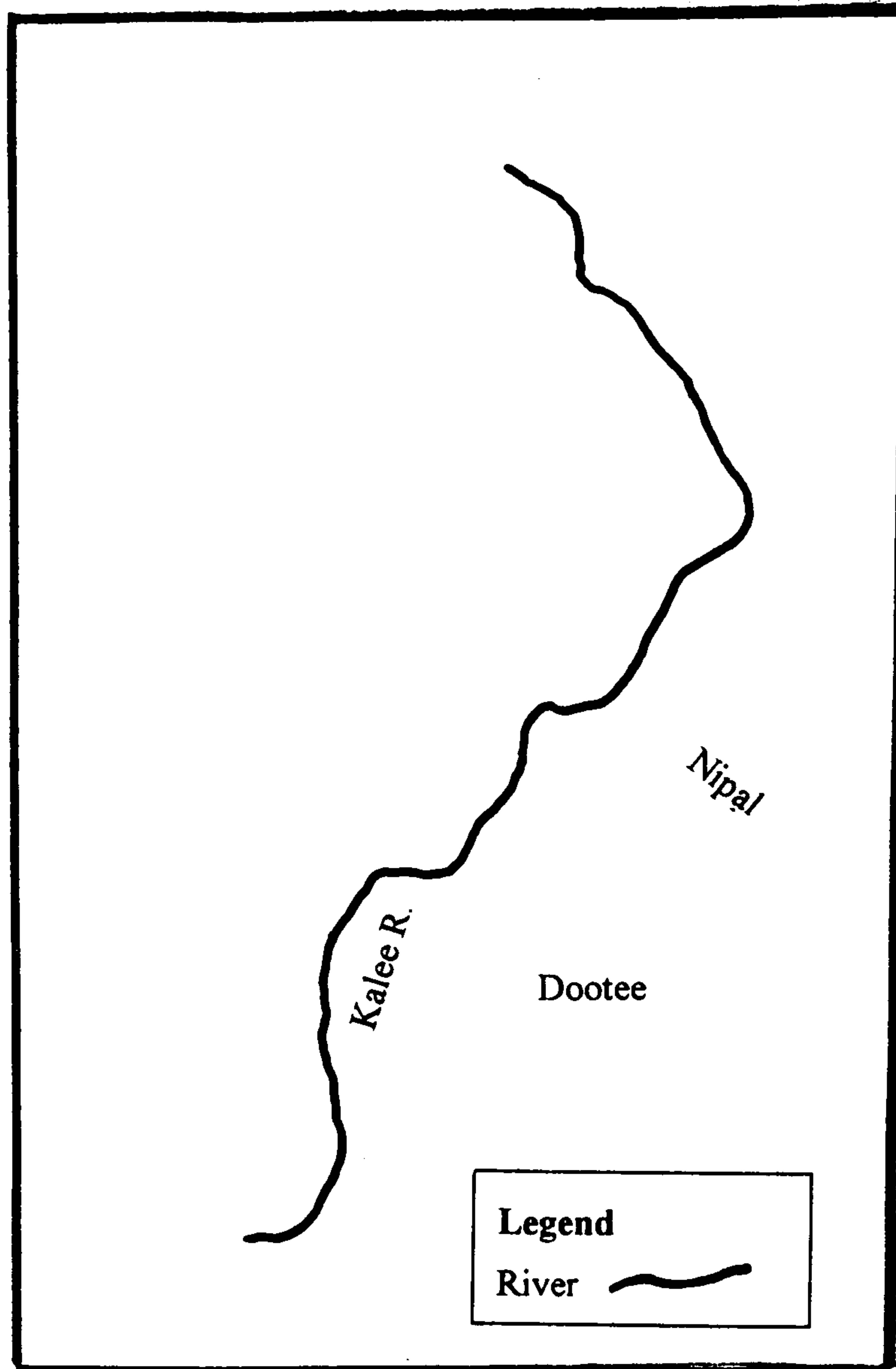
Map No.1

According to Map Published by A. Arrowsmith 1816



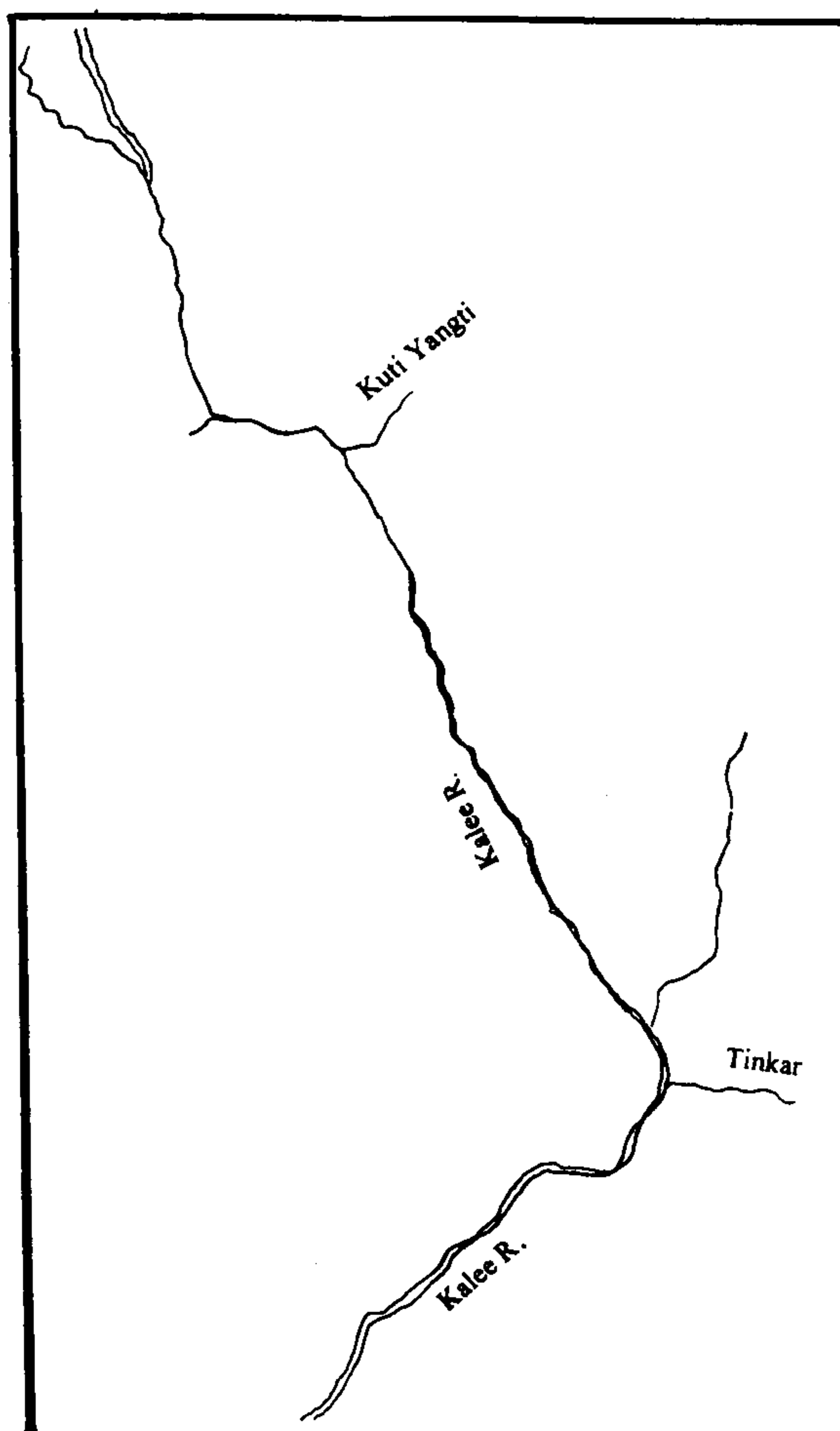
Map No.2

According to Map Published by Survey of India 1819



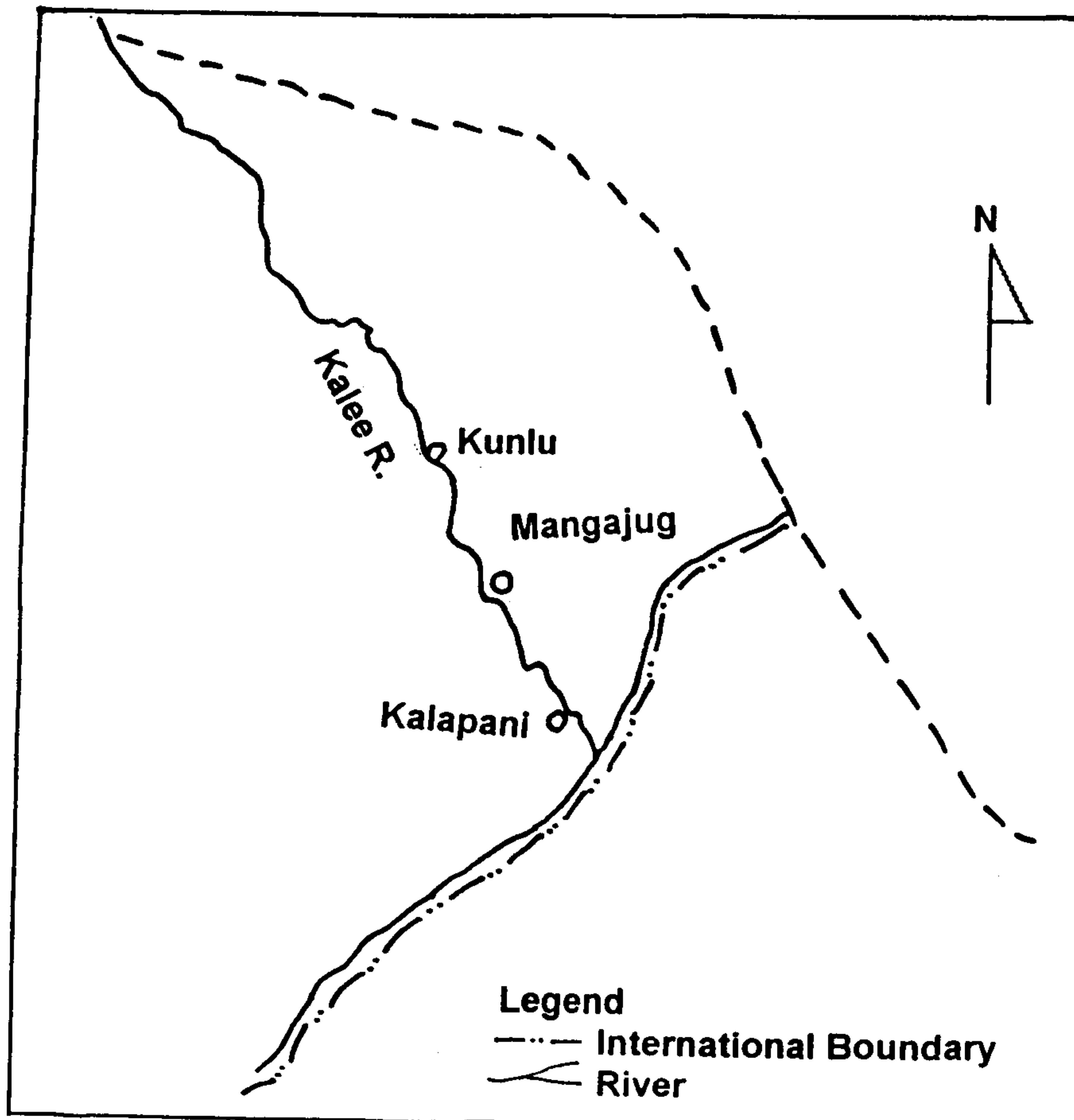
Map No.3

**According to Map Published by James Horst,
East India Co. 1827**



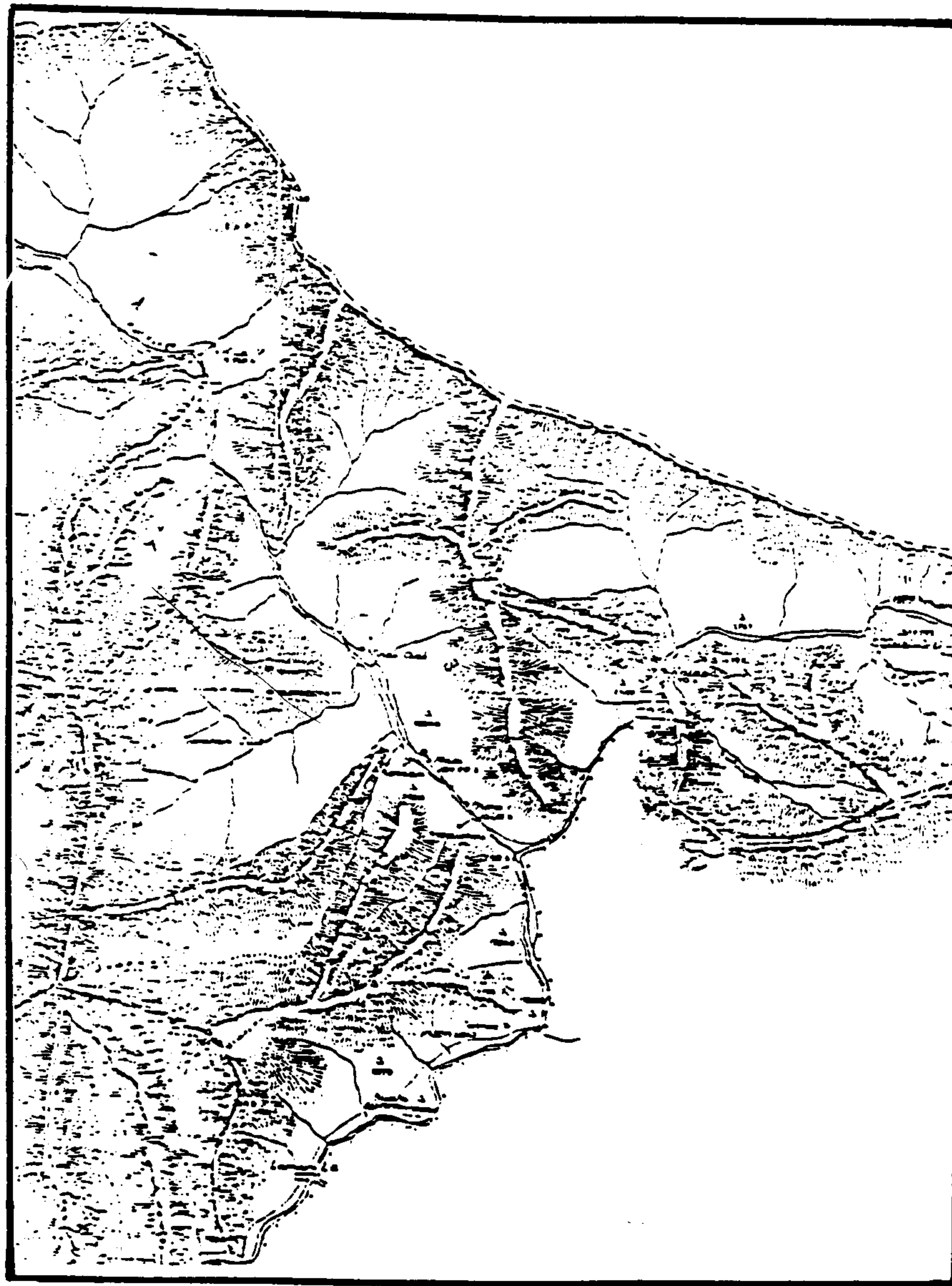
Map No. 4

According to Map Published by Survey of India 1856



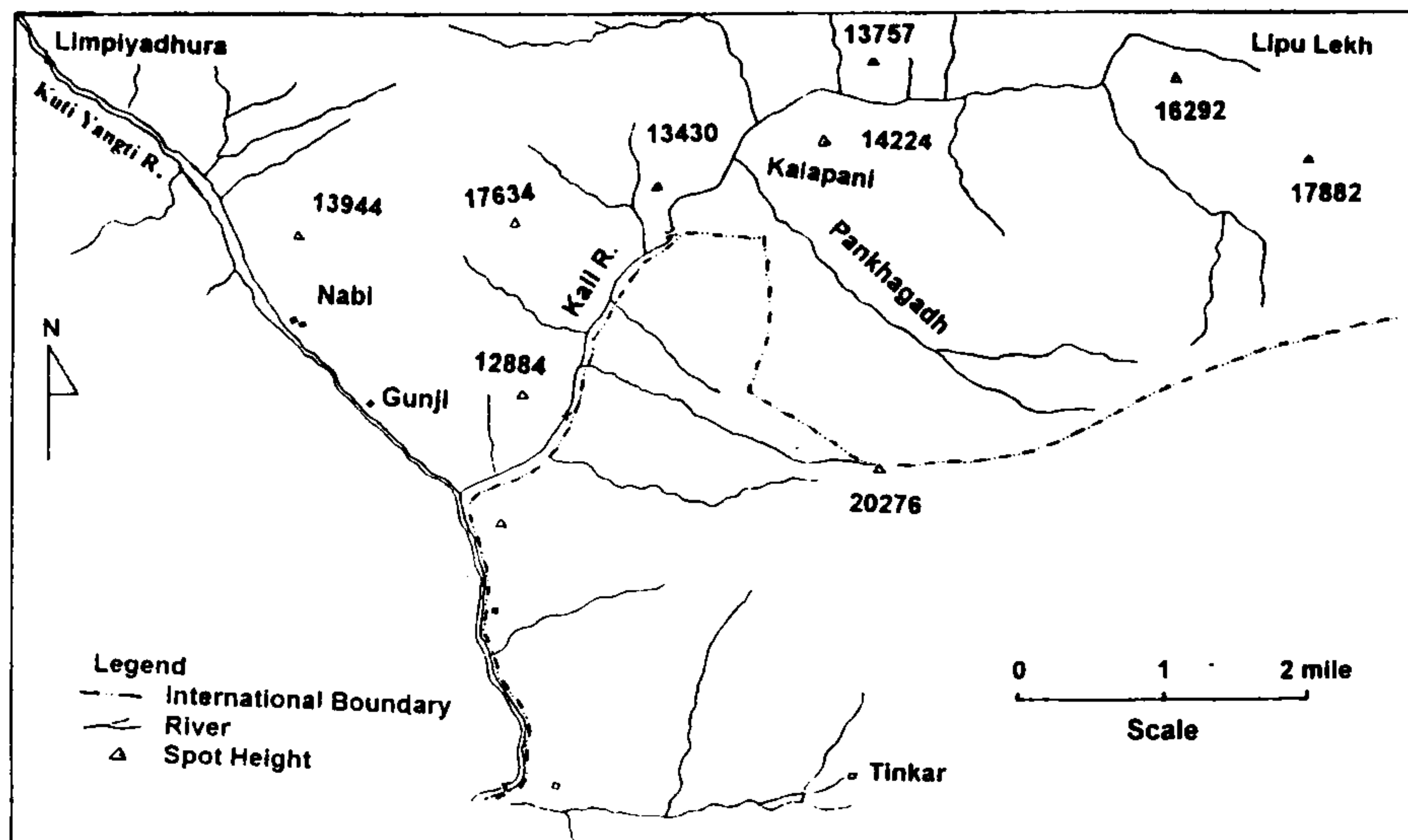
Map No.5

According to Map Published by Survey of India 1865-69



Map No.6

According to Map Published by Survey of India 1879



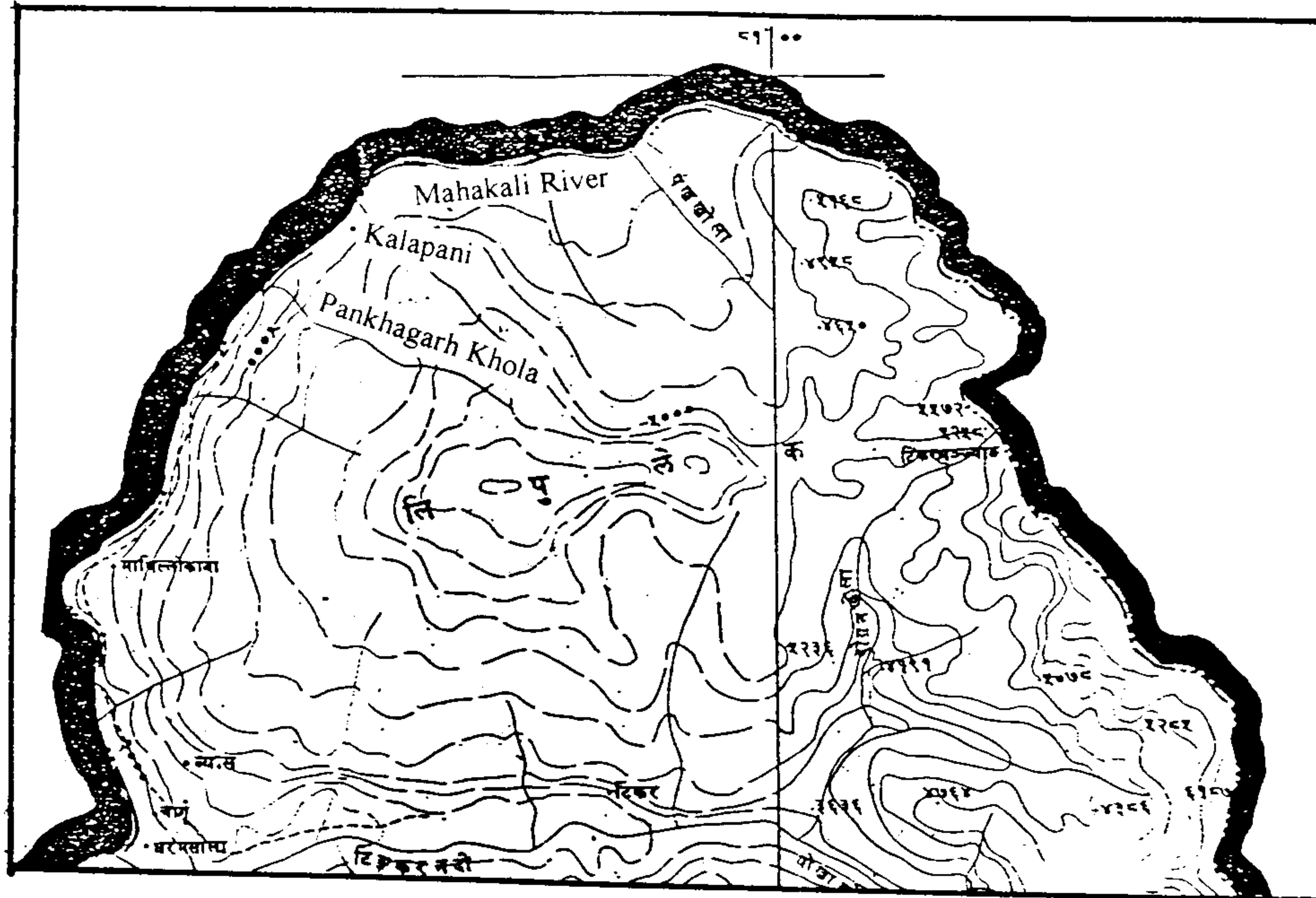
Map No. 7

According to Map Published by Survey of India 1881



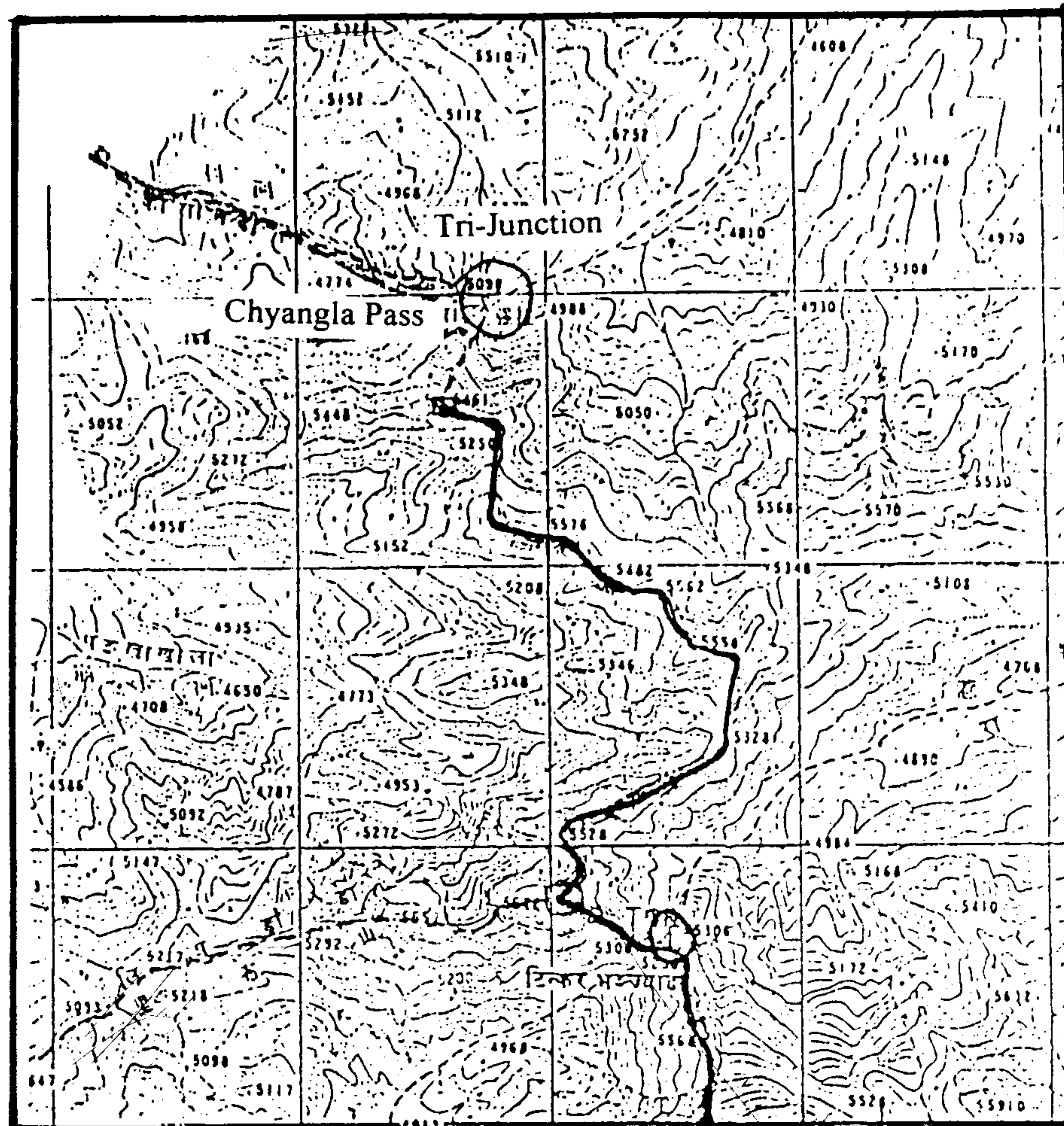
Map No. 8

According to Map Published by Topographical Survey
Dept/HMG Nepal 1993



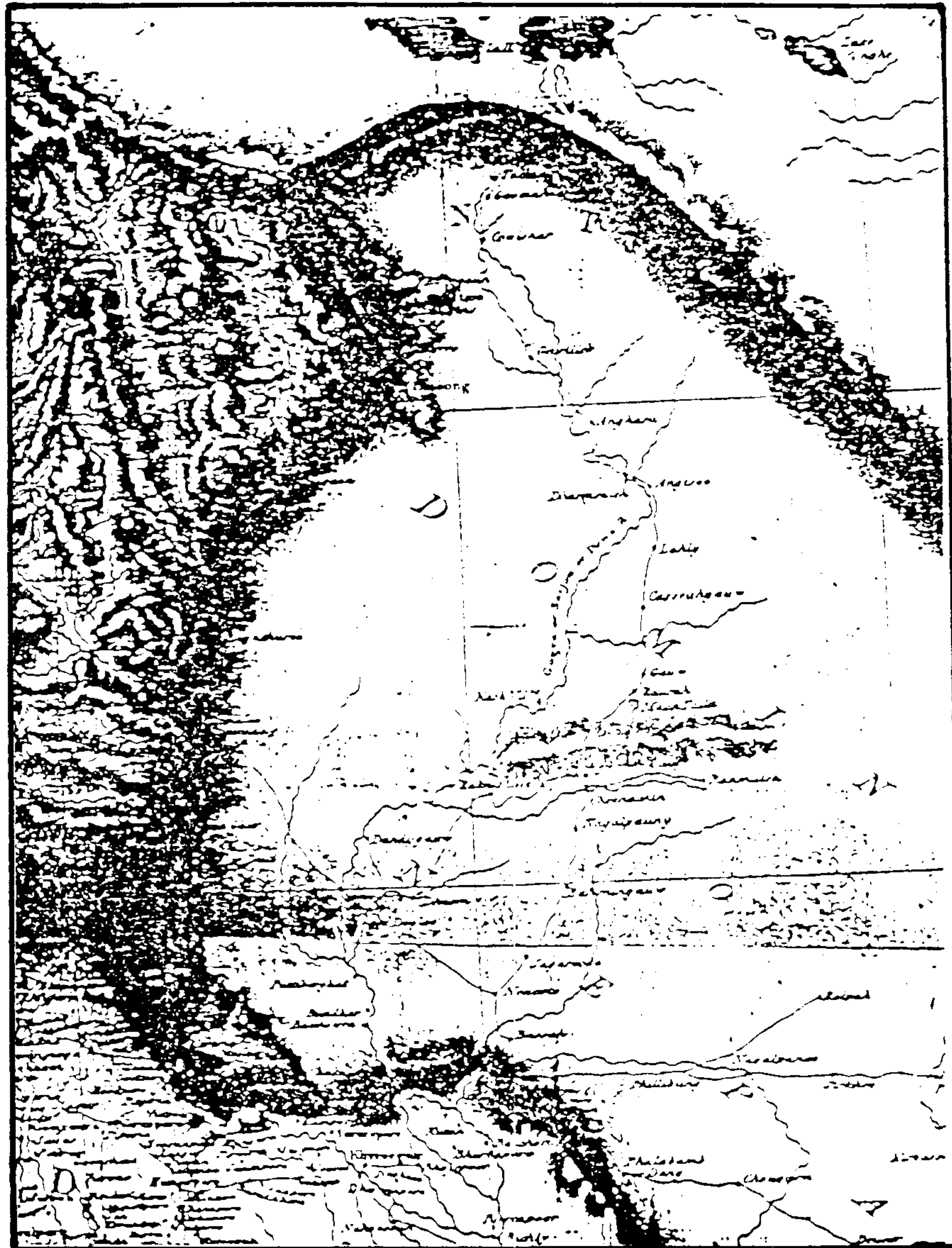
Map No. 9

According to Map Published by Nepal China
Boundary Treaty Protocol 1963



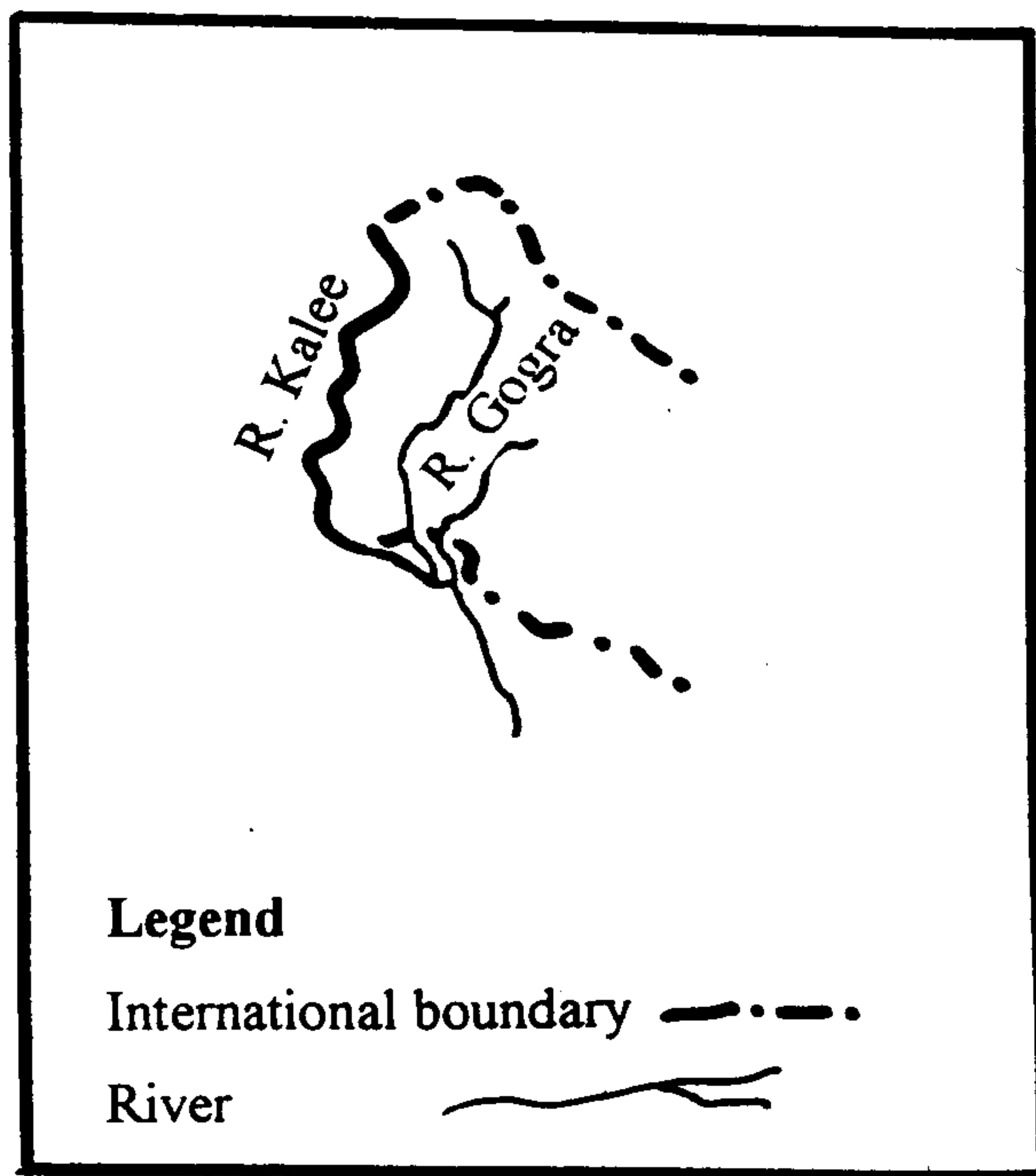
Map No. 10

According to Map Published by Parbury
Allen & Co., London 1830



Map No. 11

According to Map Published by Baldwin & Cradock 1835



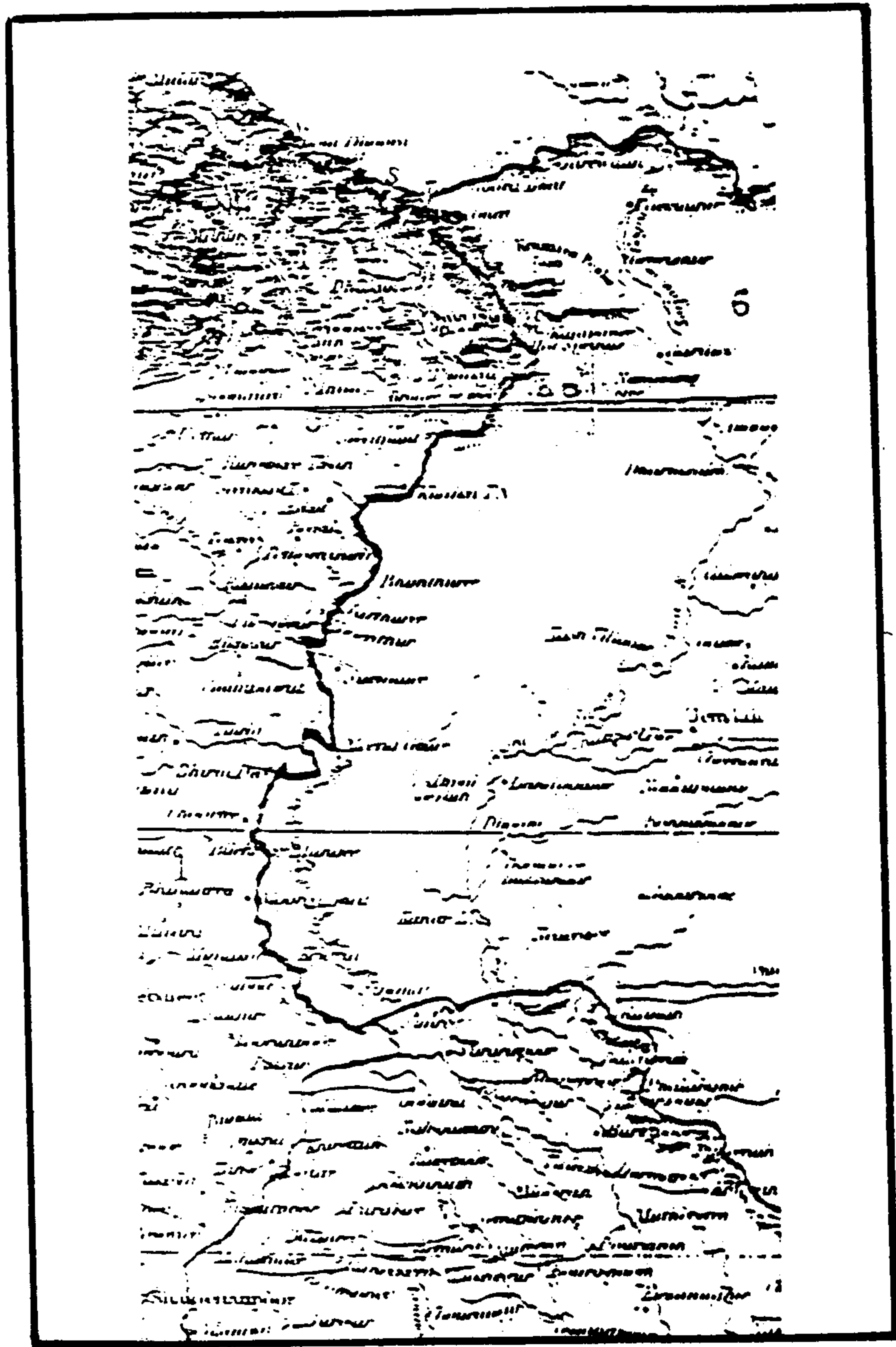
Map No. 12

According to Map Published by J. B. Tassin, 1837.



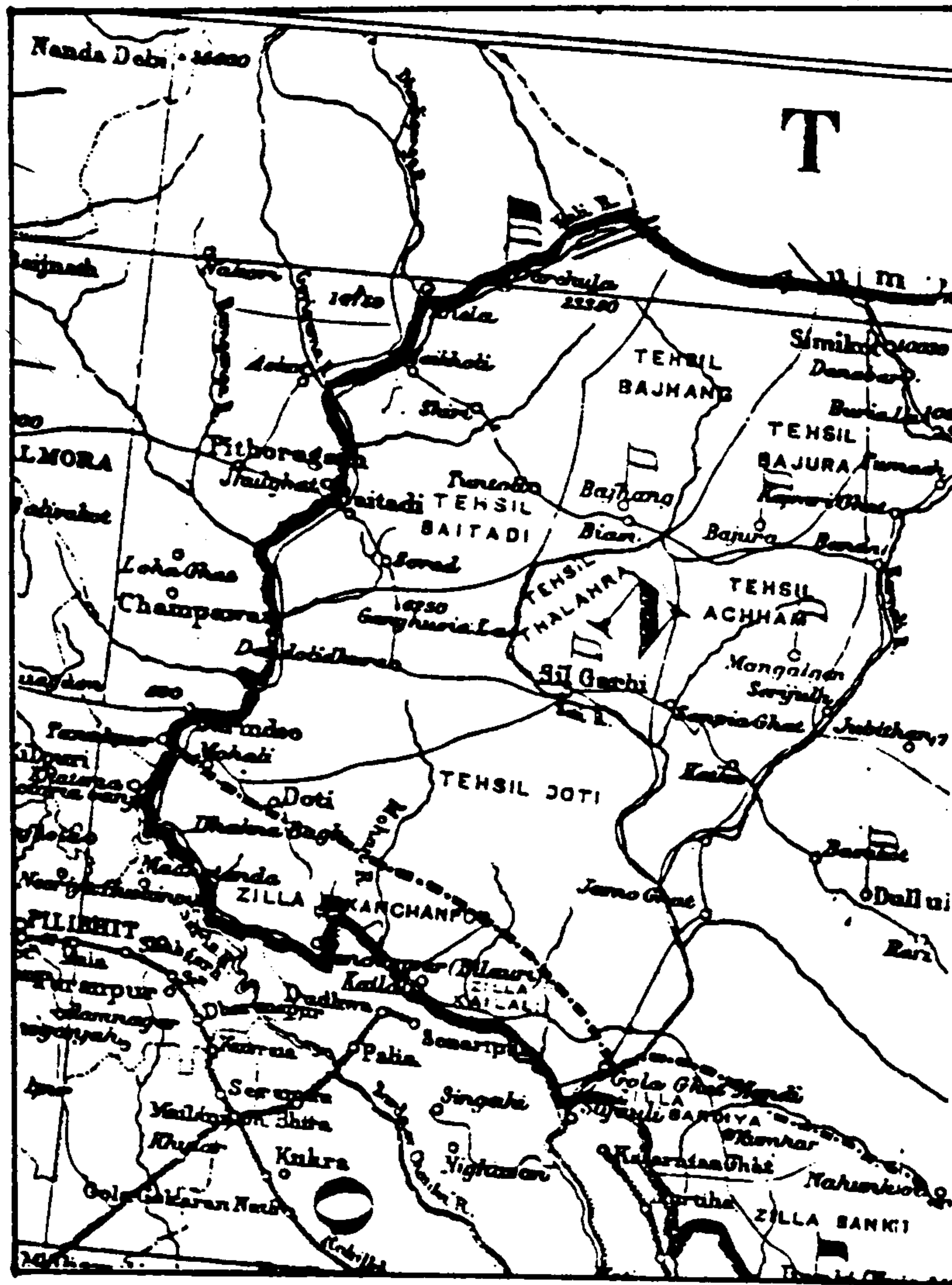
Map No. 13

According to Map Published by Charles Knight & Co. 1846



Map No. 14

According to Map Published by Residency
Kathmandu 1905





G.W. Traill Esq.
Acting Commissioner in Kumaon

Dear Sir,

I am directed to acknowledge the receipt of your dispatch of 8th instant related to the villages of Pergunnah Byaus situated to the Eastward of the Kali and enclosing a petition from the Booteea Zimeendars of that Pergunnah.

2. The letter and spirit of the Treaty fo Peace give to the Nipaulese Government the undoubtable right to all lands situated to the Eastward of the Kali and whether here to fore forming part of the province of Kumaon or not and on the other hand it is extremely undesirable to manifest any reluctance to give prompt and full effect to those stipulations of the Treaty by which the extent of the remaining possessions of the Nipaulese is defined. There is little reason to support that the Nipaulese Government would consent to relinquish the land in question for a precursory payment and on the whole the Governor General in council has determined to proceed at once to the restoration of Nipaulese Villages and lands in question, which you will accordingly be prepared to make over to the officers of that Government on their application.

3. In reply to the petition of the Bhuteea Zemeendars, you will be pleased to explain to them the necessity of adhering to the conditions of the Treaty which all lands situated Eastward of the Kali were secured to the Nipaulese and that the occupation of the Villages and lands of Pergunnah Byaus on that side of the river, having taken place under erroneous view of the questions, they must now be transferred to the Nipaulese, however desirous, the British Government may be to retain under its own away the Zimindars and Inhabitants of those villages.

4. With regard to the annual depredation stated to be committed in the province of the Kumaon by the Inhabitants of the Goorkah Pergunnah of Joomlee, I am directed to desire that you will report more, particularly on that subject, in order to that such representation as may be deemed proper may be made to the Government of Nipaul with a view to present the renewal of those outrages.

5. A copy of your letter of this dispatch will be transmitted to the Resident at Catnandhoo.

Fort William
The 22nd March, 1817

I have the honor to be
John Adam
Acting Chief Secretary to the Government)

To,
The Honourable
Edward Gardner
Resident at
Catmandhoo

Sir,

I am directed to acknowledge the receipt of your dispatch of the 12th Ultimos, enclosing of your letter to the Resident at Lucknow, respecting a spot on the left bank of the Gogra which Chautrea Bum Sah is anxious, should be left within the Nepalese Frontier, and responding for the consideration and order of Government a calim prepared by the Chautrea to that portion of the Pergunnah of Beasse (Byas), which lies East of the Kali and which is at present in the occupation of the British Government, as an appendage of the province of Kumaon.

2. The tepor of your letter to Resident of Lucknow is entirely approved.

3. With respect to the Bum Sah's claim to the track on the Eastern side of the Kali, the Governor General in council is of opinion, that according to the Letter of the Treaty, the Government of Nipaul is entitled to the restoration of it, notwithstanding its hither to having been regarded as annexed to the British province of Kumaon. I am accordingly directed to intimate to you that the acting Commissioner for Kumaon will be instructed to surrender it to the officers of the Nipaulese Government.

His Lordship in Council approves at the same time of the caution observed by you in declining to take any steps at the instance of the Nipaulese Minister on this affair, until you had referred the question for the decision of your Government and should receive its order.

Fort William
4th Feb, 1817

I have the honor to be Sir
Yours most obedient
Humble Servant
J. Adam,
Acting Chief Secretary of Govt.)