

Regmi Research (Private) Ltd
Kathmandu: May 1, 1977

Regmi Research Series

Year 9, No. 5.

Edited by

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Regmi Research (Private) Ltd

Lazimpat, Kathmandu, Nepal

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On Sati

1. The married wife of any person, or a girl belonging to a caste from whose hands he can or cannot take rice or uncooked food, and whom he has taken up as a wife, shall not be allowed to become a sati, if she is below sixteen years of age, even if she is so willing.
2. The married wife of any person, or a girl belonging to a caste from whose hands he can or cannot take rice or uncooked food, and whom he has taken up as a wife, shall not be allowed to become a sati even if she is above sixteen years of age and is so willing, in case her youngest son has not attained the age of sixteen years.
3. The married wife of any person, or a girl belonging to a caste from whose hands he can or cannot take rice or uncooked food, and whom he has taken up as a wife, shall not be allowed to become a sati even if she is above sixteen years of age and is so willing, if she has a daughter who has not reached the age of five years.
4. A woman who has lived with two or more husbands shall not be allowed to become a sati even if she is so willing.
5. Slaves and servants shall not be allowed to become satis on the death of the queen of the reigning king, or of the wives of members of the nobility, officers, or common people, even if they are so willing. The chief person responsible for permitting such persons to become satis shall be punished with a fine of five hundred rupees, and the other accomplices shall each be punished with a fine of two hundred and fifty rupees.
6. A woman who is pregnant at the time of the death of her husband shall not be allowed to become a sati even if she is willing to do so after the child is born.
7. A pregnant woman shall not be allowed to become a sati after she comes to know of her pregnancy, even if of one month only.
8. A woman shall not be allowed to become a sati on the death of her son. Any person who permits her to become a sati on the death of her son shall be punished with death, or with confiscation of property and life imprisonment, according to his caste status. His accomplices shall be acquitted after their property is confiscated according to the law.
9. If a married wife, or a girl belonging to a caste from whose hands rice or uncooked food can or cannot be taken, and whom (the deceased person) had taken up as his wife, wishes to become a sati of her own accord, and in case she is above sixteen years of age, and her youngest son also has reached the age of sixteen years irrespective of whether he is living jointly or separately, she shall be persuaded as far as possible to change her mind. If she remains adamant, she shall be allowed to become a sati. The persons who set fire to her body and burn her shall not be held guilty of any crime.

10. If a married wife, or a girl belonging to a caste from whose hands rice or uncooked food can be taken, and whom (the deceased person) had taken up as his wife, wishes to become a sati of her own accord, and in case she is above sixteen years of age, and her daughter also has reached the age of five years, she shall be persuaded as far as possible to change her mind. In case she remains adamant, she shall be allowed to become a sati. The persons who set fire to her body and burn her shall not be held guilty of any crime.
11. If the husband of any woman is killed in war, or dies abroad while on official or private business, his wife may become a sati if she is so willing, and is so permitted by the law, except in the case of Brahmins, because once the dead body of a Brahmin has been cremated, another funeral pyre cannot be set up.
12. If any person has taken up a slave girl as his wife, and in case she is above the age of sixteen years, and her son too has attained the age of sixteen years, and her daughter the age of five years, she shall be allowed to become a sati if she wishes to do so of her own accord, even if she is a slave-girl.
13. A woman who may become a sati according to the law, and who belongs to caste from whose hands (the deceased person) could take rice, shall be set on fire separately.
14. If a woman who is entitled by the law to become a sati on the death of her husband intends to do so, throws water over her head, mounts the funeral pyre, and performs all the prescribed rituals such as the worship of Goddess Gauri, she shall be granted expiation according to the law, so that rice and water can be taken from her hands. If she persists in her resolve (to become a sati), she shall be persuaded to change her mind while there is yet time. If she does not change her mind, no crime shall be deemed to have been committed in cases where a woman can become a sati according to the law.
15. If a woman who had intended to become a sati, and had, therefore, thrown water over her head, mounted the funeral pyre, jumps out after it has been lit and runs away, and if any person, without catching hold of her or hitting her with stones and sticks, tells her that she will be burnt only with her consent, and that otherwise she will be looked after and treated well at his home, and also granted expiation, and if the woman wishes of her own accord to become a sati and to be burnt accordingly, a written statement to that effect shall be obtained from her and signed by witnesses, and she shall thereafter be burnt. No crime shall be deemed to have been committed. If it is proved that the woman has been burnt without obtaining a statement from her, and having it signed by witnesses, the persons who light the funeral pyre and burn her shall be punished according to the law. If the woman does not want to become a sati, she shall be looked after and treated well, and granted expiation only for water. She shall not be granted expiation for rice because she had survived even after being set on fire.

16. If a woman wishes to become a sati and accordingly throws water over her head and mounts the funeral pyre, but changes her mind before it is lit, or if she jumps out of the funeral pyre and runs away, and if any person hits her with stones and sticks with the intention of killing her, capture her and burn or kill her, the person who first commanded that she be killed, the person who first hit her, and the person who first caught hold of her shall be punished with confiscation of property and life imprisonment according to the law. Other persons associated with the crime shall be punished with a fine of twenty rupees, fifteen rupees, ten rupees, or five rupees according to the gravity of their crime.
17. If a woman who wishes to become a sati and accordingly throws water over her head and mounts the funeral pyre, but changes her mind before it is lit, and jumps out of it and runs away, or appeals that she should not be burnt, and that she is afraid, she shall not be burnt. She shall be granted expiation for rice and water according to the law.
18. No woman who is below the age of sixteen years, or who is prohibited by the law from becoming a sati even if she is more than sixteen years of age, shall be allowed to become a sati under the influence of narcotics, or through persuasion, or through her own consent.
19. If a woman who wishes to become a sati and accordingly throws water over head and mounts the funeral pyre, but changes her mind before it is lit, and jumps out of it and runs away, or appeals that she should not be burnt, she shall be granted expiation for water on payment of a godan fee to the dharmadhikar amounting to five rupees, three rupees, two rupees, or one rupee, according to her status.
20. If any person extracts a statement from a woman who is entitled to become a sati according to the law that she is willing to do so, through the use of force or of narcotics, and accordingly burns her, or instigates such an act, he shall be punished according to the law, and his share of the woman's property, if any, shall accrue to the adalat or the amal if the woman was a resident of raikar land, or to the birta-owner if she was a resident of birta lands of any category. Only a relative who was not present at the place (where the woman was forced to become a sati) shall inherit her property.
21. If any person extracts a statement from a woman who is entitled to become a sati according to the law that she is willing to do so, through the use of force or of narcotics, and accordingly burns her, and if the persons who lights the funeral pyre is her own son, he shall be punished with a fine of forty rupees. If he is her step-son or any other person, he shall be punished with a fine of thirty rupees. The persons who carry the woman (to the place of cremation) and the mourners shall each be fined twenty rupees.

22. If any person burns a woman who is entitled to become a sati through the use of force or of narcotics, and if such person is her own son, his share in the property of his parents shall be confiscated, and he shall be imprisoned for six years. The term of imprisonment may be commuted to the payment of a fine amounting to double the value thereof. If the (guilty) person is someone other than the sati's son, he shall be punished with confiscation of his share of the ancestral property and life imprisonment, or with death, according to his caste status. Other accomplices shall each be punished with a fine of twenty rupees, fifteen rupees, ten rupees, or five rupees, according to their status. If they do not pay the fine, they shall be imprisoned according to the law. If the (guilty) person is the sati's step-son, only nine-tenths of his share of the ancestral property shall be confiscated, and he shall then be released.
23. If a woman who wishes to become a sati and accordingly throws water over her head and mounts the funeral pyre, but changes her mind before it is lit, and jumps out of it and runs away, or appeals that she should not be burnt, and that she is afraid, is granted expiation for rice and water, and if her relatives refuse to take rice and water from her hands, they shall each be punished with a fine of five rupees.
24. If a woman who wishes to become a sati and accordingly mounts the funeral pyre, but runs away after it is lit and thus survives, is granted expiation for water, any person who refuses to take water from her hands shall be punished with a fine of five rupees. But rice cannot be taken from the hands of such woman.
25. If the husband of any person dies, and his wife refuses to become a sati, and breaks her bangles and observes mourning for the prescribed period, but later changes her mind throws water over her head, and decides to become a sati, and if any person burns her accordingly, he shall not be deemed to have committed any crime if he is her own son of below twelve years of age. If he is her own son but above twelve years of age, or any other person, the chief persons responsible for burning the woman or granting permission for doing so shall be punished with confiscation of their ancestral property according to the law. Other accomplices shall each be punished with a fine of ten rupees, seven and a half rupees, five rupees, or two and a half rupees, according to their status. If the sati possessed any property, and if her heir was the chief person responsible for burning her, his share in her property, as well as in his ancestral property, shall be confiscated according to the law. If the chief person responsible for burning the woman is not the heir entitled to a share in her property, such property shall not accrue to the government but to her coparceners.

26. If the husband of any woman dies, and she drinks water after washing his feet on the day of his death, and continues to do so afterwards also, she shall not be deemed to have committed any crime, nor shall she be under any obligation to undergo expiation.
27. No woman who is not entitled to become a sati according to the law shall be allowed to do so even if she is willing and throws water over her head accordingly, but shall be granted expiation according to the law. If any person burns such a woman, on the plea that he cannot bear any liability because the woman has herself expressed willingness to become a sati, such person shall not be deemed to have committed any crime if he is her own son and below twelve years of age. If he is her own son and above twelve years of age, or any other person, the chief persons responsible for burning her or granting permission for doing so shall each be punished with confiscation of their share in the ancestral property according to the law. Other accomplices shall each be punished with a fine of ten rupees, seven and a half rupees, five rupees, or two and a half rupees, according to their status.
28. A sati shall be granted expiation according to the law. Any sati who allows other persons to take rice and water from her hands without undergoing expiation when necessary, or the persons who do so, shall each be punished with a fine of five rupees, granted expiation, and allowed according to the law to offer rice and water to other persons.
29. If a woman sees any person dead, and thinks that he is her own husband, and then throws water over her head in order to become a sati without ascertaining the truth, and if subsequent inquiries reveal that her husband is not dead, but is still alive; the foolish woman who throws water over her head in order to become a sati without ascertaining the truth, thinking that the dead man is her husband, shall be punished with a fine of twenty rupees and granted expiation. If she does not pay the fine, she shall be imprisoned at the rate of one month for each five rupees of the fine.

Source: "Sati Janyako" (On Sati), in Ministry of Law and Justice, Shri 5 Surendra Bikram Shahdeva Kalama Bane ko Muluki Ain (Legal Code enacted during the reign of King Surendra Bikram Shah Dev). Kathmandu: the Ministry, 2022 (A.D. 1968), 421-25 pp. The law on sati in the 1955 edition of the Muluki Ain has been translated in Regmi Research Series, Year 2, No. 7, July 1, 1970, pp. 152-53.

Swayambhu Ghyang

Cheniya Lama Buddhavajra signed a bond with the following contents at the Jaisi Kotha Office of the government of Nepal on Baisakh 31, 1974 Vikrama (A.D. May 12, 1917):-

The government of Nepal had granted lands to the Deva Dharma Raja for endowment as Guthi for the Swayambhu Ghyang. Cheniya Lama Buddhavajra, priest of the Swayambhu Ghyang, then executed a bond stipulating the payment of Rs. 375 to Yejen Raja Urgen Dorje.

Under the provisions of that bond, payment of Rs. 375 for the year 1970 Vikrama (A.D. 1913-14) was collected from Cheniya Lama Buddhavajra by the Guthi Lagat Janch Office of the government of Nepal. Income from the lands was then sequestered from the following year.

Cheniya Lama Buddhavajra was subsequently reinstated as priest of the Swayambhu Ghyang on payment of Rs. 150 every year. Payment was collected at the old rate of Rs. 375 per year from the sequestered income for the Vikrama years 1970 through 1973 (A.D. 1913-16). Orders were issued to hand over the surplus amount to Cheniya Lama Buddhavajra to meet the expenses of religious ceremonies at the Swayambhu Ghyang.

The total payment for the Vikrama years 1970 through 1973 (A.D. 1913-16) amounted to Rs. 1,500 at the rate of Rs. 375 per year. The amount was appropriated for repairs at the Kindol Bahal under the personal supervision of the Cheniya Lama .

Source: "Bond Executed by Cheniya Lama Buddhavajra Regarding Conditions of Reinstatement as Priest of Swayambhu Ghyang." Baisakh 31, 1974 (May 13, 1917). Regmi Research Collections, Vol. 37, p. 135.

Raj Guthi Endowment in Sitapaila, Kathmandu.

In the Vikrama year 1986 (A.D. 1929) Her Majesty the Queen endowed lands as Raj Guthi in the name of Sadanand Kumari, a nurse at the royal palace, for constructing a water-spout as well as an inn at Sitapaila in Kathmandu. The endowment was registered as Sri Pancha Sarkar Guthi, that is, lands endowed as Guthi by members of the royal family, at the Guthi Lagat Janch Office on Shrawan 10, 1984 Vikrama (A.D. July 25, 1932) &

The endowment consisted of 7 ropanies, 4 annas, and 2 paisa of rice lands, on which 11 muris and 6 manas of paddy, 17 pathis, 5 manas, and 3 muthis of wheat, and Rs. 4.78 in cash were payable as rent.

The yearly emoluments of the caretaker were fixed as follows: 5 muries, 11 pathis, and 3 manas of paddy, 8 pathis, 7 manas, and 2 muthis of wheat, and Rs. 1.78 in cash.

The balance of the rents were converted into cash at the following conversion rates:

Paddy - 5 pathis per rupee.

Wheat - $3\frac{1}{2}$ pathis per rupee.

The total value of the in-kind rents left after meeting the emoluments of the caretaker amounted to Rs. 22.88 $\frac{1}{2}$. Along with the balance of Rs. 3 from the cash rent, the total amount was Rs. 27.39 $\frac{1}{2}$.

Of this amount, Rs. 2.11 was allocated for the purchase of brooms, buckets, and spades, and Rs. 25.28 $\frac{1}{2}$ for financing necessary repairs.

Source: "Raj Guthi Endowment for Water-Spout and Inn at Sitapaila in Kathmandu." Shrawan 10, 1989 (July 25, 1932) & Regmi Research Collections, Vol. 3, pp. 1-3.

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The Shrine of Baudhanath
(Abstract Translations)

Ban on Slaughter of Animals

In A.D. 1942, the four Chief Kajis of Lhasa sent a petition to the Government of Nepal through the dhewa of kuti, requesting that a ban be imposed on the slaughter of animals within the precincts of the shrine of Baudhanath.

The petition showed that it had been sent at the initiative of a Newar monk who was living in Lhasa under the name of Ngawang Dorje.

Prime Minister Juddha Shumshere ordered that the following reply be sent to Lhasa: "The Buddhist religion is followed in Nepal also. A ban has already been enforced on the sacrifice or slaughter of animals within the precincts of the Buddhist shrine in a manner which may cause any harm or impediment to the Buddhist religion. No such sacrifice or slaughter is done there. We need not reiterate that the Buddhist religion will not be harmed if animals are sacrificed at the shrines and temples of different deities according to tradition and custom."

Source: "Draft of Reply to the Four Kajis of Lhasa." Shrawan Sudi 5, 1994 (July 1942), Regmi Research Collections, Vol. 37, pp. 133-34.

Appointment of the Cheniya Lama

(1). In the year 1894 Vikrama (A.D. 1857), the following order had been issued to Rikhang Chhewang Namgyal Lama by King Prithvi Bir Bikrama:

Our grandfather (King Surendra) and our great grandfather (King Girban) had reconfirmed the Guthi lands of Sri Baudhanath and Milanchi Gumba, directing that income from taxes and other impositions, unpaid labor services and judicial fines and escheats be used to perform regular and ceremonial functions at those shrines as well as to keep the eternal lamp burning, and that disciples and tenants undertake necessary repairs. We hereby reconfirm these arrangements on Sarbakara-Akara-Sarbangamafi basise

(2). In 1911 Vikrama (A.D. 1854), during the Nepal-Tibet War, Chhewang Chhitar Lama defected and went over to the Tibetan side. He was also charged with having mortgaged the Guthi lands. In 1914 Vikrama (A.D. 1857), therefore, Chhewang Chhitar Lama and Rikhang Pasang Lama were dismissed.

(3). Cheniya Tefi Sim Lama was then appointed as priest of the Shri Bauddhanath shrine and Milanchi Gumba. A royal order to that effect issued in his name on Kartik Sudi 4, 1916 (A.D. October 1859). The order also placed him under the obligation of marrying and settling down in Nepal, and running a Chinese language school.

(4). On the death of Cheniya Tefi Sim Lama, his son, Buddhavajra Sange Dorje Cheniya Lama, was appointed to succeed him on the same terms and conditions according to a royal order issued on Magh Sudi 11, 1936 Vikrama (A.D. February 1880). This royal order was subsequently lost, and a new one was issued on Magh Badi 11, 1954 Vikrama (A.D. January 1898).

Source: "Royal Order Regarding Appointment of Buddhavajra Sange Dorje Cheniya Lama as priest of Sri Bauddhanath and Milanchi Gumba." Regmi Research Collections, Vol. 37, pp. 136-38.

Guthi Lands of Sri Bauddhanath

On Kartik Badi 2, 1912 Vikrama (A.D. October 1955), Prime Minister Jang Bahadur made a grant of 14½ ropanies of land under a Raj Guthi endowment to Sri Bauddhanath in the name of Tefi Sim Lama for use as an orchard. Subsequently, Kalu Lama complained that the land had not been used as an orchard, but had been let out on rent. The Sardar Jangi Kotwali Thana referred the complaint to Prime Minister Chandra Shumshere. The Prime Minister, in an order issued on Aswin 3, 1962 Vikrama (A.D. September 18, 1905), dismissed the complaint on the ground that fruits required for religious functions at the shrine had been procured from other sources. The priest of Sri Bauddhanath was, therefore, permitted to appropriate the surplus income of the Raj Guthi lands as before.

Source: "Order Regarding Raj Guthi Lands of Sri Bauddhanath." Regmi Research Collections, Vol. 37, pp. 138.

Repair of Sri Baudghanath Shrine

In the Vikrama year 1959 (A.D. 1902), subscriptions were raised in Lhasa to finance repairs at Sri Baudghanath shrine in Kathmandu. The sponsors and contributors included the Potala Lama, the Amba stationed in Lhasa, and Lhasa Sekusyo, brother of the King of Sikkim.

According to a letter sent on Baisakh Sudi 2, 1959 Vikrama (A.D. April 1902) by the Commander-in-Chief, Lobsang Lama of Lhasa was permitted to visit Kathmandu along with his entourage for that purpose.

The repairs were completed and consecrated by Syak Tekhul Beku Lama, and Incarnate Lama, in the night of Magh Badi 6, (1959 Vikrama) (A.D. January 1903).

Sources: "Documents Regarding Repair of Sri Baudghanath Shrine." Regmi Research Collections, Vol. 37, pp. 382-85.

Industrial Development in Nepal

By

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Chapter 11.

(Continued)

In addition, a proposal prepared by the committee for the organisation of Air Nepal is understood to be receiving Governmental consideration. The proposal envisages the set-up of a temporary construction agency for the construction of aerodromes, runways, airstrips, and buildings. The administration and commercial organization would be controlled and staffed by the Nepal Government with planes hired on a charter basis from, and operated and maintained by, the Indian Airlines Corporation (ibid, p. 45)c

The total allocation for various forms of transport under the Five Year Plan is as follows:-

Table XV 56

ALLOCATIONS FOR MEANS OF TRANSPORTATION

| | |
|--------------------|------------------------|
| Roads | Rs. 500 lakhs. |
| Railways | Rs. 330 lakhs. |
| Ropeways | Rs. 150 lakhs. |
| Airways | Rs. 60 lakhs. |
| <u>Total</u> | <u>Rs. 1040 lakhs.</u> |

CAPITAL

"During the preceding century and more a growing population pressed ever more heavily against the means of subsistence, and the living standard of a majority of the people suffered an appreciable decline. In the absence of any substantial compensating economic development, low level poverty became the lot of a large proportion of our citizens" (Draft Five Year Plan of Nepal p.2). All this made formation of capital difficult.

To be sure, much of the national revenues during the preceding regime swelled the coffers of a few members of the ruling family, but beyond the construction of a number of palatial villas inside the valley of Kathmandu, the country, at least until comparatively recent times saw little of this money, which was largely invested abroad. Moreover, that capital which was accumulated in the hands of a few merchants and landowners was characterised by an inordinate reluctance to utilise it for investment purposes. In a country where life and property belonged proverbially to the state, such circumstances should hardly cause any surprise.

Even after the formation of the interim Government in 1951, the semichaotic conditions of law and order as well as administration proved a strong deterrent to investment of capital in the domestic sphere. The position has been aggravated by the fact that most of the leading members of the Rana family, who provided an appreciable percentage of funds for industry in the post 1930 period, have since left the country.

It is also worth mentioning that the conservative attitude of the people has been responsible for channelling the investment of whatever capital is available to relatively secure and traditional avenues like imports and retail trade of manufactured goods from India and overseas. Local merchants have satisfied their profit motive by earning money in commercial enterprise as distinct from manufacturing enterprise. Nor has the recent set-back suffered by joint stock industry in the country been conducive to the amelioration of this state of affairs.

Another reason why private capital has not been available to organised industry is that there exist no financial institutions to attract the savings of the people, howsoever meagre they might be. The banking habit has not developed among the people, and this is hardly surprising in view of the fact that only a few centres in the country are served by branches of the Nepal Bank Limited, the sole commercial bank in Nepal, while liquidity preference is high. Nor do there exist savings bonds and certificates of national loans. Whatever organised savings facilities there are, for the most part centred in the activities of Indian life insurance organizations, have only contributed to the exodus of the savings of the people from the country.

Since early times a Government Employees' Savings Fund has been in operation, but contribution to it is optional and the low scales of pay have been another negative factor. Nor has this fund so far been invested for development, and applications from certain industrial concerns for loans from this fund have not been considered favourably. The Draft Five Year Plan envisages compulsory savings amongst Government employees, with assurance of a reasonable rate of interest. As the plan recognises, however, such savings must be preceded by such salary increases as are necessary to fundamental security, dignity, and efficiency in Government service. The plan provides for a total of Rs. 120 lakhs of funds for the implementation of the plan from this source.

In addition, the Draft Five Year Plan provides for the flotation of development bonds or certificates, as a normal and desirable method of channelling private savings into the financing of the country's basic development. These are expected to provide a total of Rs. 140 lakhs during the period of the plan.

It is however difficult to believe how such a policy can be successful to any appreciable extent. For one thing, distrust of the stability of the Government is sufficiently widespread to be conducive to any whole-hearted response to such public floatations. Moreover, apart from a restricted class of land and property-owners who might not be unwilling to invest in bonds or certificates for the sake of small but secure return, the people in the main, would feel more attracted towards investment in land, either in mortgage or outright purchase, which yields an incomparably higher return, even though it is more hazardous than the former mode of investment. In a country where current income is hardly, if at all, sufficient to meet current expenses, it cannot be surprising that fixed or long-term investment should be at a discount. Investment in land accordingly is more popular, for land rights can be sold or mortgaged at any time. On the whole, it is the desire of people to invest their hard-earned savings in the maximum profitable lines of investment, which should also ensure reasonable liquidity, even though such investment might not be absolutely first rate from the point of view of security. The following lines, written with reference to another underdeveloped country, appear to apply admirably to existing conditions in Nepal:-

"The investments of the wealthy are largely in land, revenue producing real estate, or relatively small privately controlled businesses. Trained for generations, as traders and merchants, they do not seem to have confidence in long-term investments, and the practice of investing in the shares of enterprises controlled by others is practically non-existent. A sense of responsibility normal to those answerable for the safety and the gainful employment of the investments of others, such as is common to the managements of western industrial enterprises, has not been developed."

(Overseas consultants Inc: Report on Seven Year Development Plan for the plan organisation of the Imperial-Government of Iran. New York: Overseas Consultants Inc. Vol. 1, p.4. Quoted in Eugene Staley: the future of under developed countries, New York. Council on foreign relations, 1954, p. 207).

An important source of capital, so far immobile, could be the funds of big temples like that of Pashupatinath. The income of the temple lands and the offerings of devotees have, throughout the decades, augmented these funds to a considerable extent. Though it is difficult to ascertain the exact amounts of the funds, yet it appears safe to presume that they are substantial. As a rule, these funds have been utilised only in times of national emergency. It is recorded that the last Newar King of Kathmandu, Jaya Prakash Malla, drew considerable amounts in his struggle against Prithvi Narayan Shah. (Balachandra Sharma: Outlines of Nepali History, pp. 173-79). Chandra Shamshere in 1924 drew Rs. 3,67,00,00 from the Pashupatinath Temple Fund for compensation to slave owners for the abolition of slavery (ibid, p. 354). Judda Shumshere in 1934 also utilised Rs. 2,9,80,000 from the same source during the earthquake.

So far the profits of corporate enterprises have not been a major source of capital. In 1938 the Judda Match Factory Limited in Birgunj was able to set up a branch factory at Biratnagar with Rs. 50,000 capitalised out of the reserve funds. Similarly in 1952 the Biratnagar Jute Mills Limited was able to execute an extension program after issuing bonus shares capitalised out of the reserve funds, with equal contributions from the share-holders. In general, however, profits have been dissipated in the form of dividends, the highest percentage being issued by the Biratnagar Jute Mills Ltd., when in 1943 it declared a dividend of 111 percent. Company directors have found it difficult to resist demands for high dividends. In a number of cases, no allowance has been made for depreciation in the fixed assets of the company, because the profits would thereby have been too insufficient for dividend payments. It is only the Judda Match Factory Limited which has been able to keep a tradition of high dividends, seldom going below ten percent, while at the same time making significant investments for the development of the company from out of profits. Of late, in other companies, there have been very little or no profits, and the question of utilization of profits has therefore not assumed any importance. The chief patterns of formation of industrial capital in Nepal may be indicated as below:-

a. The individual entrepreneur

Before the emergence of the modern type of joint stock companies, the individual entrepreneur was the most important source of capital in Nepal. Necessarily however, the pattern of industry was primitive, and in general, a man who used his small savings to purchase the simple

Contd...

tools and materials required for his craft could expect to carry on. Sometimes however, it was a merchant or wholesaler who supplied the raw materials and made advance payments, as is done even now by the metal merchants in Kathmandu, or the handloom cloth merchants of Banepa in East No. 1. (cf. Government of Nepal, Department of Statistics: Industrial Survey Report for the district of East No. 1). For the requirements of modern organised industry, however, this source of capital is obviously of little importance, and except for a small number of rice and oil mills in the Tarai districts, its contribution to industry has been relatively insignificant.

b. Share-holders

The flotation of shares and debentures of joint stock companies has been a feature of the post-1936 period. The government took steps to encourage joint stock enterprise, and the new industries that began to be set up were required to organise themselves on joint stock lines. Special rates of royalties were charged on joint stock rice and oil mill companies.

It was indicative of the low investment capacity of the people, coupled with distrust of the methods and procedure of the limited company, that, at least in the initial stage, the investment in shares and debentures on the part of the public was not very significant. People were in general highly suspicious of investing their money in the new companies. It was only during the war and immediate post-war years, when a number of limited companies had been fairly well established, and had begun to pay handsome dividends, that people began to feel enthusiastic about investment in shares and debentures.

But even then, no significant progress in the operation of joint stock companies could have been made, had it not been for the fact that the members of the ruling Rana family led the way in making subscriptions to shares and debentures. As a matter of fact, a big percentage of the total subscribed capital of the joint stock companies that were set up during this period came from the Ranas or their clique.

It is doubtful whether at present shares can be a major source of capital required for the industrial development of the country. The spectacular development of joint stock enterprise during the war and immediate post war period was nothing more than a temporary phenomenon, and over-confidence was naturally followed by distrust. The great number of companies that have gone into liquidation has been a severe blow to the confidence of the investor and the instability of the political and economic situation after the advent of the interim government, together with the vagaries of the industrial policy of the government, has made matters worse. In many cases, managing

agents and directors have been guilty of gross mismanagement of the shareholders' money, and the government has appeared to be hardly capable of dealing satisfactorily with the situation. Moreover, especially in the case of Shri Raghupati Jute Mills Ltd., the Government itself has been guilty of ignoring the rights and the interests of the shareholders and of acting in a high-handed fashion. Another reason why people have been distrustful of shares in limited companies is that according to the Companies Act of 1951, large investments are held at a discount because of the unusual voting procedure, which has already been described. Control, therefore, is by no means commensurate with investment.

Last but not least, is the fact that since the new regime came into power, most of the Ranas have left the country and there has been a serious flight of capital. Recently there has been talks of forcing such emigrant capital to come back, and probably the owners of such capital also might not be unwilling to consider the proposal seriously, faced as they are with drastic taxation measures in India and elsewhere. Absence of investment opportunities in Nepal, together with general political and economic instability however appears to have so far stood in the way of giving concrete shape to these proposals. It is interesting to note that recently, (10 June, 1957), the conference of the Party in power, the Nepal Praja Parishad, has resolved that all those who have invested their capital abroad should bring it back to Nepal, failing which they should be deprived of their citizenship, and their property in Nepal confiscated. (Tri-Weekly "Gorkhapatra", 10 June, 1957)8.

On the whole it appears safe to conclude that it may take quite a long time, and much concrete progress, before share capital in Nepal can be expected to be a major source of industrial capital8.

Statistics regarding the amount of capital invested8 each year since 1936 in joint stock companies are not available, but the following table, which gives the amounts of capital paid up in such companies registered in each successive year, should prove interesting.

TABLE IV

Paid-up share capital of joint stock companies

| <u>Year of registration</u> | <u>Total amount</u> (000's omitted) |
|-----------------------------|--|
| 1936-37 | 49,33 (Indian Currency) |
| 1937-38 | X " " |
| 1938-39 | 395 " " |
| 1939-40 | 1277 " " |
| 1940-41 | 100 " " |
| 1941-42 | 161 (Nepali Currency) |

| <u>Year of registration</u> | <u>Total amount</u> (000's omitted) |
|-----------------------------|--|
| 1942-43 | { 3285 Indian currency |
| | { 329 Nepali " |
| 1943-44 | 863 Indian " |
| 1944-45 | { 528 Nepali " |
| | { 300 Indian " |
| 1945-46 | X |
| 1946-47 | 8826 Indian " |
| 1947-48 | 1228 " " |
| 1948-49 | 797 " " |
| 1949-50 | 59 " " |
| 1949-51 | X |
| 1950-52 | X |
| 1951-53 | X |
| 1952-54 | X |
| 1953-55 | X |
| 1954-56 | X |

c. The managing agency system

The Companies Act of 1936 made no provision for the operation of managing agencies and directorships. But neither did it prohibit them, and accordingly the first joint stock company registered under this Act, the Biratnagar Jute Mills Ltd., was operated by a managing agency.

In spite of the fact that the managing agency had been copied from India, more importance was attached to the management aspect of the system than to its financial aspect. In general, the financial obligations of managing agents were nowhere defined, and it was only in the case of Indian managing agencies that the quota of shares to be subscribed by them was fixed by charter. This usually varied between 40 and 60 percent, and it was not even obligatory on the managing agent to subscribe to these shares in his own name. Once however the quota of shares had been taken up, no financial obligations vested on the managing agent.

It was evident that such inadequate provisions would be much abused. Anybody could have a limited liability company registered with himself as managing agent, and utilise the managing salaries and commissions. Since a few companies like the Biratnagar Jute Mills Ltd. and the Judda Match Factory Ltd. had proved successful, there was no difficulty during the war and immediate post war years. But the money that was collected was more often than not expended in defraying the expenses of the staff, of which the salaries of the managing agent were a substantial item. In a number of cases the business of the company was never taken up, or there was gross mismanagement of the affairs of the company.