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Industrial Development in Nepal

By

Mahesh C. Regmi.

Chapter 11.

(Continued)

Markets

All these factors have also affected rural industries and handicrafts inasmuch as many of the products of such industries are not available to prospective purchasers in the towns.

Half a century back Tibet provided an important outlet for the products of the Nepali cottage and small scale industries. In addition, Kathmandu was an important centre of entrepot trade between India and Tibet. With the opening of alternative routes through Kalimpong and the Chumbi Valley, however, between India and Tibet, Nepali trade with Tibet has dwindled to a trickle. Recent developments, however, should be expected to revive much of the lost trade between these two countries. Projects designed to establish a direct road link between Lhasa in Tibet and Kathmandu have already been described to necessitate re-iteration here. The 1956 agreement between Nepal and China, according to which the Government of Nepal has been permitted to establish trade agencies at Shigatse, Kerung, and Nyalam in Tibet, and Lhasa, Shigatse, Gyantse and Yatung have been specified as markets of trade, is another notable development in this connection. (Government of Nepal Department of Publicity: Nepal News Bulletin, Volume III, No. 3, September 30, 1956). That the Tibetan market is potentially of great importance for Nepal can be realised from the fact that petrol imported from India used to be smuggled in large quantities to Tibet through Kathmandu. A recent Government announcement has lifted all restrictions on such exports to Tibet. (Nepal Gazette, Volume VI, No. 46, March 15, 1957).

Jute manufactures have also been shipped to overseas markets like Singapore, the United States, and so on. Proper exploitation of these markets have however not been possible because of the fact that exports from Nepal have mostly been handled through Indian intermediaries. Direct connections have been hitherto hampered by the absence of appropriate banking facilities as well as by the existence of various customs and exchange restrictions. The low quality of the products has been another factor that has hampered better exploitation of this market. With the proper development of industries in Nepal, especially the processing and extractive industries, this market may prove to be of great importance.

Assessment of the Industrial Potential of Nepal

On conclusion which the foregoing account will make inevitable is that the transport system of the country provides a tremendous handicap for economic development of all types. As the Draft Plan puts it:- "People living

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in small and isolated rural communities are cut off from each other. Each isolated region tends to follow a pattern of subsistence economy of the most primitive and rudimentary type, the lack of communication handicapping all prospects of development. In some localities there are soils and climate suitable for raising cash crops of comparatively high value. In others there are mineral deposits. And some places are very suitable for the development of cheap electric power. But the lack of a transportation system is the great barrier to putting these natural resources to use for the benefit of all. Without transport, administration is costly and the Government cannot fulfil affectively its role of promoting the people's welfare; the existing exploitation of resources is inefficient and potential resources cannot be developed." (Draft Five Year Plan, p. 39)a.

Another study notes, "In many of the less developed countries, Afghanistan, Ethiopia, Nepal, New Guinea, S.W. for example, transport difficulties have been a major force tending to inhibit industrialization altogether." (United Nations, Department of Economic and Social Affairs: "Processes and Problems of Industrialization in Underdeveloped Countries" 1955, p. 12)a.

The lack of an adequate internal transport system and the geographical contiguity of the country to India, as well as the use of the Indian currency over a large part of the country has aligned trade and industry more to the Indian than to the indigenous economy. Consequently, one of the factors that will have to be duly recognized while framing any programme for the industrial development of Nepal, is the virtual impossibility of supplying the products of indigenous industries to the internal markets on a country-wide basis, and the possibility of catering to the various regional markets more cheaply from the better equipped and well-established industries of India.

In these circumstances, any programme for an all out large scale industrial development of Nepal can be virtually ruled out at least for the immediate future for all practical purposes.

The Draft Five Year Plan attempts to remedy this situation by giving prime importance to the development of means of transportation, and allocating Rs.1040 lakhs out of a total expenditure of Rs.3300 lakhs, or 31.4 per cent on this category alone. It is obvious, however, that much time will have to elapse before the transport system of the country can be remodelled on any adequate footing.

As regards the much-talked-of forest wealth of the country, it is the opinion of experts that "the Tarai forests are fairly intensively cultivated and hence these forests are practically all ruined and can no longer contribute to the country's economy." (Ernest Robbe: Report to the Government of Nepal on Forestry, FAO, 1951, p. 119 quoted in Y.P.Pant: Planning for Prosperity, p. 7). Attempts to conserve forest resources, even if commenced early, can be at best a long-term objective.

Besides this, scarcity of power constitutes in itself a major hindrance to a program of rapid industrial development in the immediate future. The Trishuli hydro-electric project, for instance, cannot be expected to provide power before a period of five years. The development of the hydro-electric resources of the country requires considerable amounts of time and funds, and lack of capital constitutes another impediment to the growth of large scale industry in the country. The extent of the problem can be measured from the fact that out of the total outlay of Rs.3300 lakhs. in the projected Five Year Plan, internal sources of capital are expected to provide only Rs.950 lakhs, or 28.8 percent, and even that would appear to many people as too optimistic an estimate.

In view of the fact that agriculture constitutes the major industry of the country, it is quite obvious that this should be given primary emphasis in any overall scheme of national economic development. In comparison, industry has to be relegated to the background. Accordingly, the allocation for agriculture and allied development is nearly five times the allocation for the development of industry in the Draft Five Year Plan. Though the specific figures involved might be the subject of controversy, the relative emphasis will assuredly be beyond debate.

More than on any physical factor, industrialization depends upon the skills, the industrial enterprise, and the business managerial talent of the people. And it is in this sphere that Nepal faces the greatest handicap. It has already been mentioned above how lack of specific types of skills has kept the percentage of Nepali labour in the mills of Biratnagar to a very low figure. Nor has a long tradition of autocratic regime and arrested economic growth contributed to the development of a spirit of enterprise and initiative among the people. The absence of business managerial skills has been one of the main factors leading to the chaotic conditions existing at present in the industries set up during the previous regime, and there is little evidence to show that more than half a decade of political, administrative and economic instability has materially altered the situation for the better.

The Draft Five Year Plan admirably sums up the situation in the following words:-

"Our country is critically short of administrators, technicians, and many types of skilled workers. Our material resources, unmeasured and in large part unexplored, are certainly considerable. We know that, apart from the land itself, we have rich forests, some mineral deposits, great water resources, genial climate, and mountains of unmatched grandeur. But the transport facilities, capital equipment, and electric power needed for the development of these latent assets are almost wholly lacking. And our financial resources are slender. To marshal the energies required for a program of internal development, and to procure what is most needed from abroad, we must have, in substantial amounts, both domestic revenue and foreign exchange. Both, however, are in short supply." (Draft

On the whole, therefore, there appears little in the situation that should justify faith in the view that Nepal is on the eve of an Industrial Revolution. For a long time to come, it seems possible that agriculture will continue to be the mainspring of the economic activity of the country, and to provide solutions for the majority of its economic problems. Industry will necessarily be confined to a role subsidiary and supplementary to agriculture. To the exclusion of the development of big plants for the mass production of consumer goods, the sphere of processing for export of the various raw materials for which the country is famous, and possibly, the extraction of minerals. Manufacturing industry as such will best concentrate on the development of small scale and cottage industries, especially in the hilly districts. Such industries would not only require relatively insignificant amounts of power and capital, but would also be able to build up on the traditional background of cottage industries and handicrafts for which the country has long been famous. Moreover, as a means to mitigating the seasonal agricultural unemployment in the country, this line of development would be eminently effective. For some time to come, at least, therefore, the pattern of industrial development in Nepal appears likely to proceed along these lines.

That, at present, the pattern of industrial development, will be, in the main, restricted to small scale and cottage industries is a fact emphasised in official pronouncements also. Speaking before a meeting organized by the Nepal Cottage Industries Workers Association on April 13, 1957, the Deputy Minister for Industries and Commerce expressed the view that only by the development of cottage and small scale, as well as rural industries, can be proper and speedy development of the country be brought about. And he went on to say, "In view of the geographical and economic conditions of the country, the development and encouragement of cottage industries will be of immense benefit to the country... At this moment, the development of large scale industries will be neither timely nor possible." (Gorkhapatra, 16 April, 1957).

Subjective and Institutional Factors

Industrialization is a process whereby profound changes result in the physical environments of a community concomitantly with changes in social institutions and social outlook and way of life. The experience of other countries has shown that it is a mistake to regard industrial development simply as a question of setting up a number of mills and factories throughout the country. "Industrialization is not merely a technological revolution; it involves profound social changes which must be fully taken into account if the process is to result in higher material standards and a greater degree of human welfare." (U.N. Department of Economic and Social Affairs: Processes and Problems of Industrialization in Underdeveloped countries, New York, 1955, p. 24). Another writer says, "Economic development is a whole complex of interdependent changes

Industrial activity, will, in all likelihood be restricted to avenues like the

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manifested simultaneously in the physical environment (new roads, buildings, harbours, machines, implements, chemicals), in the forms of associations by which men live and work (growth of cities, changes in government, factory organization, business corporations, banking, readjustments in land tenures, family practices, even religion), and in the skills, habits, and thought patterns of millions of individuals (literary, technical specializations, respect for scientific methods, ambition, the idea of progress). (Eugene Staley: The future of underdeveloped countries, pp. 202-3). Thus industrialization required something more than the mere presence of physical resources, and it is, therefore, intended to analyse the subjective and institutional factors that are so essential in the context of the efficient exploitation of these resources for the welfare of the community.

It is evident that the most important factor in this connection is the will of the community to develop. Industrial development is something which can be seldom forced from without unless the members of the community ardently desire for a change in the existing conditions of life, and are willing actively to work for the consummation of this goal. In the context of an underdeveloped country like Nepal, it means the inception of some force which can infuse vitality and dynamism in the still atmosphere of the static and stagnant economy.

In the case of Nepal the overthrow of the century-old Rana regime and the establishment of an Interim Government pledged to democratic objectives, as well as hopes for free elections and a constitutional democratic political life have been an important change. Increasing contacts with the western world as well as with India, and the acquisition of foreign aid have further contributed to the acceleration of the tempo of change. All this has resulted in the hope, best expressed in the words of the Draft Five Year Plan, that "... experience has repeatedly shown that centuries of relative immobility in the economic life of a nation may be followed by an era of new vitality." (Draft Five Year Plan, p. 2).

"But", again in the words of the Draft Plan, "It cannot yet be claimed that the economic status of the country as a whole has altered notably, or that a new, progressive trend has been established." (Ibid, p.2). Illiteracy, absence of a national spirit, lack of geographical cohesion consequent to inadequate development of means of transportation and communication- these have been some of the factors that have hitherto led to an absence of the desire to develop as a nation, and there is little to show that in this respect the situation has altered materially for the better. Nor is the genesis of whatever change that has occurred to be traced to the overthrow of the autocratic regime. It is a fact that for the first five years after the formation of the Interim Government the political and economic situation was too disturbed to admit of any concerted action for economic development. It is only with the assumption of power by King Mahendra that the will to develop was manifested on a concrete basis- the outline of the Draft Five Year Plan having been announced during the period of his

direct rule-but it is even now more a series of paper plans and pronouncements than any real trend towards harder work and realization of social and economic responsibilities on the part of individual members of the public or of the government.

Much of the apparent change has been due to the activities of foreign aid personnel in connection with the various foreign aid programs. As a matter of fact the criticism that the Draft Plan is too much dependent upon foreign aid has a certain amount of justification. Without detracting from the unquestioned advantages and necessities of foreign aid, it cannot be overemphasised that without a suitable background of local effort, such aid can be more harmful than conducive to the advancement of a nation. And it is this local effort that appears conspicuous by its absence in Nepal today.

The Draft Five Year Plan of Nepal has been intended to constitute an example of democratic planning. A democratic plan necessitates a large degree of public cooperation. As the Draft Plan puts it, "To be successful, such an effort must be rooted in the real wants and aspirations of the people and must enlist their full and active support. These needs also to be widespread agreement that the objectives in view are right for the country; that in addition to being desirable, they are also sensible, just, and attainable, and, therefore, deserving of support by citizens and Government alike." (Ibid, p.).

So far, in the absence of a representative government, elections, and the consequent non-participation of the people in the national affairs, it is difficult to see how full and active support on the part of the public can be envisaged towards any program of industrial development of the country launched by the de facto government of the moment. Nor has half a decade of unstable governments and the frustration in the public mind that followed in the wake of the apparent incapacity of these governments to give a concrete shape to the high hopes and expectations of the people after the overthrow of the Rana regime been conducive to the growth of a spirit of full and active public support for measures initiated by the government.

In the present situation it goes without saying that the ushering-in of an era of new vitality after centuries of relative immobility in Nepal must be initiated and fostered by the Government in large measure. At present, over and above the defects inherent in the interim political set-up that has prolonged its existence more than necessary or desirable, are to be reckoned serious defects in keeping with the primitive type of public administration obtaining even at present in the country. The following observation made with reference to another area describes the current situation in Nepal quite succinctly, "An underdeveloped country often has an underdeveloped government. By this I mean that it

lacks an effective civil service system for selecting and training personnel; it lacks an effective budgetary control, it lacks a sound fiscal policy; it lacks a governmental structure which clearly divides responsibilities among the ministries. (Willard L. Thorp: quoted in Eugene Staley: the Future of Underdeveloped Countries, P. 234) Moreover, a state of affairs in which even high court judges and senior members of the civil service have been dismissed without notice and without charges, is but ill-calculated to make the administration a source of initiative and leadership. What is more, the people at present in Nepal appear to have no faith in the officers of the government; they do not seem to expect integrity from them. As a matter of fact, integrity and devotion to duty appear to be at a discount both high and low. In these circumstances, the fact cannot be gainsaid that this constitutes the most serious drag on the capacity of the Nepali community to develop in the economic sphere, and materially hampers the constructive role of the government in industrial development. Attempts at raising the calibre and integrity of the public administration are too recent and still on their way to admit of any assessment of the results.

In this connection, the following comment which appeared recently in Kathmandu daily, should prove interesting:-

"It has been learnt from reliable sources that the first installment of the loan from the Chinese People's Republic, which had been obtained recently, is being utilized for irresponsible government departmental expenditure.

"As India, Britain and America are empowered to scrutinize all expenditure incurred under their aid programs, the Government of Nepal is spending the Chinese loan, which does not necessitate any scrutiny of expenditure, as if it were a boon.

"On one side the Government of Nepal is engaged in holding meetings of the Planning Commission in the name of the Five Year Plan, while on the other hand the facts that funds received for national development are being spent wantonly, and that the accounts are not presented before the public, have lent widespread support for the suspicion that manoeuvres with a view to victimizing the unofficial members of the planning commission as well as the Commission itself are being undertaken with the object of hiding the black spots of undue nepotism, favoritism and corruption within the administrative machinery.

"Friends and relatives are getting contracts for the supply of materials under the plan. It is, therefore, natural for the public to feel suspicions about the honesty in the handling of governmental expenditure." ("SAHI SANDESH," 18 April, 1957).

The Draft Five Year Plan envisages the industrial development of the country in two sectors, public and private. Private enterprise undoubtedly has an important part to play in a democratic economy. In Nepal, however, in addition to a long tradition of autocratic regime, which went against the free play of private enterprise for the industrial development of the country, the fact has to be recognised that business managerial skill and integrity are largely absent. This has been amply demonstrated by the history of joint stock enterprise in Nepal. Business management has so far been a quite neglected field, and even the Draft Five Year Plan fails to make any provision for the training of such personnel. What is more, the free-for-all which unscrupulous adventurers indulged in, in the post-1936 period, has shaken public confidence in the integrity of the managers of corporate enterprises too much to enable it to come around without some examples of concrete success. It is taken for granted that corporate funds will be misused, and the shareholders cheated of their legitimate dues. The emergence of an industrial society depends in large measure upon the establishment of large scale corporate enterprises, and a state of affairs in which investor-management relations are bereft of a minimum degree of confidence, such as characterises the position in Nepal at present, is but ill-suited to the free development of private enterprise in the field of organized industrial development.

Judicial Regulations

On Marga Sudi 8, 1864 (November 1807), identical judicial regulations were promulgated separately for the following regions. The names of judges (bichari) deputed to each region are also given below:-

- (1) Dudhkosi - Tista region in eastern Nepal.
Bicharis: Krishna Man Khatri and Gopi Krishna.
- (2) Bheri - Mahakali region in western Nepal.
Bicharis: Brahma Adhikari and Birabhadra.
- (3) Mahakali - Jamuna region. Bicharis: Maniram Pantha and Srikrishna.
- (4) Chepe/Marsyangdi - Bheri region. Bicharis: Karunanidhi Tiwari and Tularam Dahali.

Regmi Research Collections, vol. 6, pp. 952-53.

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An abstract translation of these regulations is given below:-

1. If a complaint is received that the Amali has committed injustice, and if it is proved after hearing both sides that the complaint is correct, the Amali shall be punished according to the nature of his offense. If the complaint cannot substantiate his complaint, the punishment inflicted on him by the Amali shall be increased by fifty percent. If the Amali does not come forward to defend his action, the fines and penalties collected from the complaint shall be transmitted to the government.
2. If a disputed land has been reconfirmed in favor of both parties through separate royal orders, the matter shall be investigated in the presence of Panchas, and the claim that is legitimate shall be upheld. In case you cannot arrive at a decision, in any case, withdraw the order and refer the matter to us.
3. If a complaint is received that any moneylender has charged interest in excess of the prescribed rates of ten percent on cash loans and twenty-five percent on loans in kind, hear both sides and punish the moneylender if he is guilty, and direct him to refund the excess amount collected. A commission of ten percent of that amount shall be deducted.
4. Hear Panchakhat cases and inflict punishment on the criminal if he confesses his crime. Put him in fetters, if so necessary. Refer the matter to us and act as ordered.
5. Hear complaints, if any, regarding the collection of revenue by the appropriate officials and functionaries in excess of the statutory rates. If they are found to have oppressed the people, punish them according to the nature of their offense, and have the excess collection refunded to the people.
6. In the future, punish all those soldiers at the district headquarters who indulge in gambling, except during the fifteen-day period from Kartik Badi 3 to Kartik Sudi 3.
7. If a complaint is filed at the Adalat, the Amali shall present himself before it and state his case. If he does not do so, he shall not prevent the complainant from presenting himself before the Adalat. In that case, he shall be entitled to claim the income from fines, etc. collected from the litigant.
8. If information is received that any person has discovered and appropriated buried treasure, investigate the matter and punish him severely if he confesses his guilties. Recover the treasure. If the information is not substantiated, punish the informant.

9. In case any person indulge in lawlessness or rebellion, investigate the matter in the presence of Panchas, arrest the guilty persons, and put them in fetters if they confess their guilt. Refer the matter to us and act as ordered. If the Bichari does not have sufficient men to do so, obtain necessary assistance from the local Amali.
10. Punish those persons who perform the traditional rituals during births and deaths through persons other than Brahmans, if they have been customarily utilizing the services of Brahman priests. Arrange for expiation in consultation with the Dharmadhikar.
11. In case Raiker lands are sold or purchased anywhere, the seller shall be punished with a fine three times the value of the transaction, the purchaser two times, and the witness one-fourth of the latter.
12. Punish those moneylanders who have taken up Kipat lands on mortgage but refuse to restore such lands to their debtors even after the loans have been repaid. Have the lands restored to the debtors, and collect a fee of one-tenth of the annual yield on the lands.
13. Pay salaries to the staff employed for discharging these functions with the income collected while doing so. The total salary bill shall be as follows:
- | | | | |
|---------------|---|----|-----|
| 2 Bicharis | - | Rs | 350 |
| 1 Tahabildar- | | Rs | 60 |
| 1 Bahidar | - | Rs | 60 |
| | | Rs | 470 |
14. One Patti of troops, including a Jamadar, shall be obtained for the work of the Adalat by rotation from the Sridal and Bhagawatidal companies.

(The salary of two Bicharis amounted to Rs 400 in the Bheri-Mahakali region, Rs 500 in the Mahakali-Jamuna region, and Rs 350 in the Chape/Marsyangdi-Bheri region).

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Adalat in Bara, Parsa, and Rautahat

In Jestha 1862 (May 1805), an Adalat was constituted for the districts of Bara, Parsa, and Rautahat, consisting of two judges, Tularam Bishta and Mana Ojha. A royal order issued on that date in the name of local functionaries in these districts stated, "We have constituted this Adalat in order to ensure justice, because we have received reports that Amils (i.e., the local administrator and revenue-collector) commit injustice in different matters. Report any case of injustice to which you may be subjected to the chief (dittha) of the Adalat, and (the judges) will dispense justice."

Regmi Research Collections, Vol. 20, p. 198.

Law on Land-Holding, 1854

(Government of Nepal, "Jagga Pajaniko" (on land-holding), in Rin (Kathmandu: Manoranjan Press, 1927 (A.D. 1870), pt. 1, pp. 1-67).

1. Only rice-lands of Raj Guthi, Raikar, and Kipat tenure shall be redistributed under the Raibandi system. Tax-free (mafi) lands belonging to individuals, such as Birta, Bekh, Manachamal, and Guthi, shall not be so redistributed. In case any persons redistributes lands belonging to these categories under the Raibandi system, and a complaint is received accordingly, the Raibandi allotments shall be cancelled, and restored to the owner. The person who has redistributed the lands under the Raibandi system shall be punished with a fine equal to one year's rent on the lands.
2. While redistributing Raj Guthi, Raikar, Kipat, and Jafate lands among the people, only such rice-lands as are actually available in any area or district shall be redistributed according to the size and physical capacity of each household, in such a way that each allotment comprises both good and bad lands. If it is proved that the lands have not been redistributed equally, and if this has been done on payment of a bribe, the amount of the bribe shall be realized, and a fine of an equal amount shall be imposed. If it is found that no bribe has been obtained, a fine ranging from one rupee to twenty rupees shall be imposed at the discretion of the Mukhtiyar, and the Raibandi allotments shall be cancelled. The lands shall be redistributed again in an equitable manner.

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3. If waste and uncultivated lands reclaimed and cultivated by any person through his own physical labor after digging irrigation channels and clearing forests exceed the Raibandi share, the excess shall not be taken away from him, but shall be confirmed in his possession. If any person redistributes such lands under the Raibandi system, a fine equal to one year's rent thereon shall be imposed, and the lands shall be confirmed in the possession of the person who reclaimed them.
4. If the lands reclaimed by any person are less than the Raibandi share, the shortfall shall be met from other cultivated rice-lands.
5. If the lands reclaimed by any person through his own physical labor correspond to the Raibandi share, additional rice-lands shall not be allotted to him.
6. Even if another person offers higher payments on Raikar lands which any person has reclaimed and irrigated through his own physical labor, and which he has been cultivating on payment of the prescribed dues, the area of land, or the amount of rent (kut) shall not be increased, and the existing occupant evicted, until the next revenue settlement. He shall be allowed to retain the lands in his possession on payment of the prescribed dues.

If anybody increases the area of land, or the amount of rent, and evicts the existing occupant for this or any other reason, he shall be punished with a fine equal to one year's rent on the land, whether he is a jagirdar, a government officer, a mohinaike, a jimmawal, or any other functionary. The land shall be reconfirmed in favor of the existing occupant.

7. No person who has reclaimed waste and uncultivated lands under Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, Peliya-Kharcha, or other tax-free (mafi) tenure through his own physical labor shall be evicted from such lands. The prescribed serma, kut, and other payments shall be collected from him every year.

If the owner of such lands desires to cultivate them himself, he may resume them, even if (the tenant) has not defaulted in payments, or had reclaimed the lands himself. But the owner shall not be entitled to evict the existing occupant by enhancing the kut and other payments, or without any reason, and reallocate the lands to another person.

If any person evicts the existing occupant, he shall be punished with a fine equal to one year's rent on such lands. The lands shall then be restored to the person who had reclaimed them. He may be evicted, and the lands may be reallocated to another person, if he defaults in the regular payment of serma, kut, and other payments.

8. If the owner of rice-lands or homestead or pakho lands under Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, Petiya-Kharcha, or other tenure desires to cultivate them himself, he may evict the tenant during the seasons when eviction is permitted by the law, and occupy the homestead, or cultivate the rice-lands or pakho lands himself, even if the tenants had reclaimed the lands (through his own physical labor), or has not defaulted in payments.

In case the tenant complains that he has been evicted, even if the lands are being cultivated by the owner himself, he shall be punished with a fine of Rs 2½, and told that he cannot get back the lands.

9. If any person wants to use the rents on lands endowed by him or by his ancestors as Guthi or Sadavarta for performing the prescribed religious functions, and to cultivate the lands and appropriate for himself the tenant's share of the crops, during the time when he is responsible for managing the Guthi by rotation among his relatives according to the law, he shall be entitled to evict the tenant during the seasons when eviction is permitted by the law, and occupy the homestead or cultivate the rice-lands himself. He shall not evict the tenant during the seasons when eviction is not permitted by the law.

If such person evicts the tenant during the seasons when eviction is not permitted by the law, he shall be punished with a fine amounting to five percent of one year's rent on the lands, which shall then be restored to the tenant for that year. (The owner) may evict the tenant during the proper season the following year.

10. On homesteads, and rice or pakho lands under Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, Petiya-Kharcha, or other tenure, a tenant who has been regularly paying the customary kut and other dues may be evicted only if the owner wants to occupy or cultivate such homesteads and lands himself, to let them out to other persons at enhanced rates of rents and other payments according to the law. The existing tenant shall not be evicted, and the homestead and lands given out to another person, on the existing payments. If any person does so, and if the evicted tenant submits a complaint, the former shall be punished with a fine equal to one year's rent on the lands, which shall be restored to the usual tenant.
11. The umrao, bhardar, or other person who owns lands under Duniya Guthi, Matti, Sadawarta, Bekh, Birta, Phikdar, Marwat, Chhap, Manachamal, Jiuni, Petiya-Kharcha, Mayau, Mohariya, or Farnaisi tenure may compel the tenant who cultivates his lands to work for him. He shall not be deemed to have committed any offense if he does so. If while being so employed under oral or written agreement, the tenant submits a complaint to the effect that he has

been overworked, he shall be punished with a fine of one rupee for having complained against his landlord, and compelled to work as stipulated. If the tenant says that although he had stipulated to work for the landlord previously, he is unable to work any longer, and that he is willing to relinquish the lands, he may do so during the appropriate season.

12. If any tenant or other person has occupied any land under Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, Petiya-Kharcha, or other tenure under a written agreement with the owner in the presence of witnesses, the Adalat, Thana, or Amal shall settle (disputes, if any), according to the terms of such agreement.
13. If any tenant or other person who has occupied lands under Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, Petiya-Kharcha or other tenure under a written agreement with the owner, defaults in the payment of the stipulated rent or other dues, or does not perform the stipulated work, and if the owner submits a complaint, the stipulated amount of rent or other dues which have not been paid, and the wages of laborers who have not been made available, shall be realized (from the tenant), and a fine of an equal amount shall be imposed. It shall lie at the discretion of the owner whether or not to let such tenants occupy the lands.
14. If the owner of any Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, Petiya-Kharcha, or other land who has given such land for cultivation to a tenant under a written agreement enhances the rent or other dues without receiving a higher offer from another person, or enacts labor services from the tenant in excess of what has been stipulated in the agreement, or evicts the tenant, and if the tenants submits a complaint, the excess amount that has been collected from the tenant shall be refunded to him, and a fine of an equal amount shall be imposed on the owner. If the owner has evicted the tenant even while the latter was paying the stipulated rent and other dues, a fine equal to one year's rent on the land shall be imposed, and the land shall be restored to the tenant under the terms of the agreement.
15. No person shall evict any occupant from his homestead on Raikar, Jafati, or Kipat land, unless the latter has defaulted in the payments due thereon every year. If any person does so, he shall be punished with a fine of twenty rupees, and the land shall be restored to the usual occupant.
16. No person shall evict any occupant from his homestead on Raikar, Jafati, or Kipat land, unless the latter has defaulted in the payments due thereon every year. If any person has only threatened to do so, but has not actually evicted the occupant and replaced him by another, he shall be punished with a fine of two and a half rupees.

17. No person shall threaten to evict from his homestead and rice-lands at the time of sowing crops the occupant of a homestead on Raikar and Kipat lands if he has not defaulted in the payment of the stipulated rent and other dues every year. If he does so, with the result that the occupant is not able to sow crops and the lands remain uncultivated, the value of the crops shall be realized from him and a fine of an equal amount shall be imposed. The homestead and rice-lands shall be reconfirmed in the possession of the occupant.
18. Except in the case of persons who occupy homesteads on rice or pakho lands under Raj Guthi, Raikar, or Kipat tenure, no person shall evict existing tenants so long as they pay rents, serma, and other stipulated dues from time to time. If any person does so, the Adalat, Thana, Anai, or other government office shall punish him with a fine amounting to five percent of the rent for one year due on the land from which the tenant has been evicted. The land shall be restored to the tenant for that year. The tenant may be event during the appropriate season the following year.
19. If another persons offers to pay higher rent and other dues, or provide more laborers, than what is being paid or provided by the existing tenant on rice or pakho lands under all categories of tax-free (mafi) tenure, including Guthi, Birta, Bekh, Phikdar, Marwat, Manachamal, Chhap, Jiuni, and Petiya-Kharcha, and if the existing tenant matches the offer, the lands shall not be reallocated to the newcomer, but shall be reconfirmed in the possession of the existing tenant. If the existing tenant does not match the offer made by the newcomer, the lands may be reallocated to the latter. If the lands are reallocated to the newcomer even when the existing tenant is willing to match his offer, and if the existing tenant submits a complaint, a fine amounting to five percent of one year's rent on the lands, from which he has been evicted shall be imposed, and the lands shall be reconfirmed in the possession of the existing tenant at the enhanced rates offered by newcomer.
20. Once any land which has been assigned as jagir to any civil or military official, or which is under Raikar or Jafati tenure but has not been assigned as jagir, or is lying vacant, has been redistributed under the Raibandi system in the course of a revenue settlement (mahajanch) and registered in the name of any individual, and percent fees have been collected accordingly, he shall not be evicted from such land on the ground that the area of the land is higher than what has been recorded, or that the rent should be higher, or any other ground, until a fresh revenue settlement is hold. If any person evicts a land-

holder in this manner, he shall be punished with a fine amounting to one year's rent on the land, which shall then be reconfirmed in the name of the existing landholder. The area may be increased, rents may be enhanced, and landholders evicted in the case of lands which are being used without registering them during revenue settlements.

21. Except in the case of lands on which house has been constructed, if another person offers to pay a higher rent on Raikar or Kipat lands which are being cultivated by a non-resident person, and if such lands have not been registered in the name of such non-resident person during a revenue settlement, he shall be reconfirmed in his possession if he matches the offer. If the existing landholder does not match the offer made by the newcomer, he shall not be allowed to retain the lands, which shall then be reallocated to the newcomer.
22. Except in the case of lands on which a house has been constructed, if another person offers to construct a house and live therein on Raikar or Kipat lands which are being cultivated by a non-resident person, and if such lands have not been registered the name of such non-resident person during a revenue settlement, then the existing landholder shall be allowed to retain possession of the land if he too is willing to construct a house thereon. If he does not do so, he shall not be allowed to retain possession of the land in a non-resident capacity. The land shall be reallocated to the newcomer who offer to construct a house and live there.

(To be continued).

Corrigendum

Regmi Research Series, Year 9, No. 8, August 1, 1977,
P. 124. Line 14: read "1850s" instead of "1805". Fourth
column of table: read "Amount of Arrears Collected"
instead of " ... areas collected"
