

Regmi Research (Private) Ltd,
Kathmandu: June 1, 1970.

Regmi Research Series

Year 2, No. 6,

Edited By:

Mahesh C. Regmi.

Contents

	<u>Page</u>
1. Property Rights of Widows ...	127
2. Royal Dynasties During The Lichchhavi Period ...	135
3. Remarks On A Tour Through Nepal In May, 1876 ...	136
4. Judicial Customs In Nepal ...	144
5. A Glossary Of Revenue, Administra- tive And Other Occurring In Nepali Historical Documents ...	148

Regmi Research (Private) Ltd,
Lazimpat, Kathmandu, Nepal.

Compiled by Regmi Research (Private) Ltd for private
study and research. Not meant for public sale or display.

Property Rights Of Widows

Traditionally, in Nepal a widow was entitled to inherit her husband's property as long as she remained chaste. The deceased husband's relatives were entitled to inherit only "whatever, is left of the property after the widow's death."¹ This suggests that there was no restriction on the right of a widow to sell the property left by her husband.

Legislation relating to the property rights of widows was codified for the first time in 1853. A full translation of the "Law on Inheritance and Property Rights of Widows", contained in the 1866-67 edition of the Muluki Ain (Legal Code) is as follows:-²

1. In case a widow had remained chaste and maintained her livelihood through agriculture or otherwise (subsequently) starts living as the wife of another man, she shall not be entitled to take away property, goods, cash, cattle, slaves, etc acquired during the period when she had remained chaste to her former husband. The entire property shall accrue according to law to her legitimate children (by her former husband) and other coparceners.
2. In case a woman who has become a prostitute has one or two children from her first husband, as well as from her second and third husbands, and similarly has children from other men also, such children shall be entitled to a share in the property (in the case of sons) and marriage expenses (in the case of daughters) of their respective fathers according to law. Any (property) acquired by the mother after she became a prostitute shall be shared as inheritance or marriage expenses by her children from all her husbands. The court shall charge a fee of ten per cent of (the value of the inheritance) thus realized.

¹Regmi Research Collections, Vol. 38, P. 540 and Vol. 43, P. 40.

²His Majesty's Government, Sri 5 Surendra Bikram Shah Dev Ka Shasan Kalma Baneko Muluki Ain (Legal Code Enacted During The Reign Of King Surendra Biram Shah Dev). Kathmandu: Ministry of Law and Justice, 1965. "Bidhuwa Ka Amsha Dhan Ko." (Property And Inheritance Rights of Widows). PP. 128-130.

Contd...

3. In case women who have not attained the age of 45 years have committed illicit sexual intercourse or been degraded from their caste, and have sold, gifted or donated lands, money, goods, slaves and other property, realizing that they will not get anything if the matter was reported, such transactions shall not be regarded as valid even if these had been concluded before their illicit sexual intercourse was reported. In case such sale was witnessed by a coparcener and by either the (local) court (Adalat), the (local) police station (Thana) or the (local) council (Amal), it shall be regarded as valid even if the fact that the woman had started living as the wife of another man had not been reported. In case none of them had witnessed the sale, and in case it is proved that (the woman) had sold, gifted or donated (the property) and then started living as the wife of another man, the transaction shall not be regarded as valid.
4. If the husband of a woman dies and the widow has remained chaste, then, irrespective of whether she has obtained her share (in the husband's property) and is living separately or is living in the joint family without subdividing (the property), she shall not be entitled to sell or otherwise dispose of her share of houses, lands and slaves until she attains the age of 45 years. Sale or mortgage of houses, lands and slaves concluded because she does not possess sufficient means of livelihood shall be regarded as valid if it has been witnessed by coparceners. In case coparceners do not (agree to) become witnesses (to such transactions), she shall be entitled to sell such property only to the extent necessary to enable her to maintain herself, or to make reasonable gifts or donations, with the Adalat, Thana or Amal as witness. Women of above the age of 45 years shall be entitled to sell, gift or donate their share (in the husband's property) or Jiuni (property bequeathed to her for maintenance) and Pewa (personal property given to her by her husband) as well as their share houses, lands, money, goods, jewelry and other property as she likes. (Such transactions) need not be witnessed by her coparceners and by the Adalat or the Amal.
5. Women of any caste who have no husbands and have not attained the age of 45 years shall be entitled to gift their share (in the husband's property) or their Jiuni or Pewa in the form of land, cattle, slaves and other property after allocating 10% thereof to finance her funeral expenses in the event of serious illness or while becoming Satis. Such gifts, as well as the title of the recipient (to the gifted property) shall be regarded as valid. They may, if they so like, allocate more than 10% (of such property) to finance their funeral expenses. Even if they remain alive, such gifts shall not be invalidated.

Contd...

6. In case widows who have no sons are living in the joint family without subdividing the property do not want to live in this manner and demand their share of the property, and in case their fathers-in-law, mothers-in-law, brothers-in-law, co-wives, sisters-in-law, nephews and sons of co-wives ask her to live in the style in which they are living and make gifts or perform religious functions as they do, and have actually been fulfilling such assurances, such widows shall not be entitled to obtain her share and live elsewhere. They must continue to live in the joint family. But if (the relatives mentioned above) have not maintained her in the same style as they themselves are living in, and have not let her make gifts or perform religious functions as they themselves have been doing, or have already subdivided the property and been living separately, or in case there are only co-wives, (such widows) may obtain their share of the property according to law and utilize it in living separately.
7. In case the fathers-in-law, mothers-in-law, brothers-in-law, co-wives, sisters-in-law, nephews and sons of co-wives of widows who have no sons ask her to live in the joint family and make gifts and perform religious functions in the same manner as they have been doing, and not so leave the joint family to live with their parents or other relatives, and in case (such widows) do not agree to do so, (but) leave the joint family to live with their parents or elsewhere, they must hand over (to the joint family) whatever goods, jewelry or other property they have taken away. If she incurs debts while living elsewhere, the joint family need not repay such debts.

The 1952 edition of the Muluki Ain contains the following law on this subject:-³

1. From Tuesday, Shravan Sudi 5, 1957 (August 5, 1900) a widow shall be entitled to dispose of property to which she has a rightful claim as follows:-

³ Government of Nepal, Muluki Ain (Legal Code), Kathmandu: Gorkhapatra Press, 1952. "Bidhawa Ka Amsha Dhan Ko." (Property And Inheritance Rights of Widows). Part III, PP. 98-99.

- (1) A widow who has attained the age of 40 years may dispose of as she likes without the consent of sons one-third of movable property to which she has a rightful claim, as well as immovable property of the time of her husband if she has her own or co-wife's son or any brother-in-law born of her husband's own mother, and she has been maintained by them in the same style as in the days when her husband was living. In case she has not attained the age of 40 years, she may do so only with one-fourth of the property. In case she can secure the consent of sons, she may do so with the whole of the property. In case she has not been maintained in the same style as in the days when her husband was living, and in case she has attained the age 40 years of age, she may dispose of the entire movable property and half of the immovable property, or else with half of the movable property and one-third of the immovable property even without the consent of co-parceners.
- (2) In case there exist only coparceners within three generations and in case her own or her co-wife's sons do not exist, and the coparceners have maintained her with respect in the same manner as during the life time of her husband, she cannot, if she has attained the age of 40 years, dispose of the entire property without the consent of such coparceners. She shall be entitled to dispose of only nine-tenths of movable property and half of the immovable property without their consent. In case she has not attained the age of 40 years, she may thus dispose of half of movable property and one-third of immovable property without the consent of coparceners. In case she has not been properly maintained, she may, irrespective of whether or not she has attained the age of 40 years dispose of the entire movable property and nine-tenths of the immovable property as she likes. In case coparceners within three generations do not exist, then, irrespective of whether or not she has attained the age of 40 years, she may dispose of (movable and immovable property) as she likes without having government offices or courts witness (the transaction).
- (3) In case there is any movable property earned by the grand-father, she may dispose of half of the immovable property which she is entitled to dispose of under the foregoing provisions. Movable property may be disposed of as provided for therein. In case she has Daijo or Pewa property, she may dispose of both movable and, immovable assets without the consent of coparceners, even if she has sons.

Contd...

- (4) In case income from immovable property is sufficient to maintaining her all the year round, she may dispose it of only after fulfilling the legal conditions prescribed in the foregoing clauses. In case income from immovable property is not sufficient to maintain her all the year round, she may, dispose of all movable and immovable property as she likes, provided she has attained the age of 40 years otherwise, she may dispose of only the entire movable property and immovable property to the value of Rs 500 without the consent of coparceners.
- (5) In case, after the disposal of the property with all legal formalities completed, it is reported that she has started living as the wife of another man, the provisions of Section 9 of the law on Gifts and Donations shall be applicable.
2. In case a widow starts living as the wife of another man, she shall not be entitled to take with her any of the movable or immovable property which had accrued to her when she was chaste to her former husband as well as that earned by herself. It shall accrue to coparceners.
 3. In case any person refuses to give what is due from him and uses force, he shall be liable to pay the amount involved and charged 10% or 5% thereof.
 4. In case a person claims what is not due and forcibly appropriates it, he shall be liable to pay the amount involved and fined with 10% thereof.
 5. In case a person claims what is not due, he shall be fined with 5% of the amount claimed.
 6. Where a fine is imposed, the 5% charge shall not be collected. In case a person wins the case without having to pay a fine or 10% or 5% charge, he shall be granted a judgment in his favor on payment of Jitauri fee amounting 1% of the fine according to the nature of the case.
 7. Any person who claims more or offers less than what is due, shall be fined with 10% of the amount so claimed or offered.
 8. Where a time-limit is prescribed in the law, action shall be taken accordingly. In case anything is given or accepted in contravention of this law, no complaint shall be entertained unless filed within 2 years.
 9. The term of imprisonment under this law shall not exceed 6 years.

Contd...

The 1952 Muluki Ain contains the following provisions relating to the property rights of widows:-⁴

23. A married wife who becomes a widow and is entitled by law to a full share of property because she has remained chaste shall receive the share due to her husband.
31. A childless widow who is living in a joint family without subdividing the property shall not be permitted to obtain her share and live separately as long as her relatives maintain her in the same style and let her make gifts and perform religious functions in the same manner as themselves, unless she is more than 30 years of age. In case (her relatives) do not do so, she may obtain her share of the property and utilize it living separately even if she has not attained the age of 30 years. (But) she shall not leave the lands accruing as her husband's share and live at her paternal home or elsewhere.
32. In case a widow who is maintained by her relatives in accordance with the provisions of the law does not accept this and, instead of living at her home, lives at her paternal home or at the home of any relative, she shall not be entitled to her share of the property unless she comes back to live in the home of her husband, even if she has attained an age when she is entitled to obtain such share according to law. The debts incurred by a widow during the time she was living elsewhere need not be paid off by the persons who are entitled to inherit her property. A widow who has not attained the age of 45 years may take away goods, slaves and other wealth to her parental home only if she signs a document stipulating that she will hand them over whenever her coparceners so desire and not claim that she has spent them. Otherwise, she shall not be permitted to take (such goods, slaves and other wealth) away. She shall leave them in the custody of her coparceners.

The 1963 Muluki Ain does not have a separate law on the property rights of widows. It has, instead, a law on the inheritance rights of women, which is as follows:-⁵

⁴Sectionse 23, 31 and 32 of "Amshabanda Ko." (On subdivision of prop. PP. 85 and 87.

⁵His Majesty's Government, Muluki Ain (Legal Code). (1963 ed.). "Stri Amsha Dhan Ko." (On Inheritance Rights of Women), PP. 138-139.

1. Girls, married women or widows may use movable or immovable assets acquired by them in any way they like.
2. Girls, married women or widows may use the entire movable assets, and half of the immovable assets, acquired by them as inheritance, as they like even without the consent of anybody. The entire immovable assets may be used as they like, with the consent of the father, or else of brothers living in the undivided family in the case of girls, of the husband in the case of a married woman, and of the sons; if any, in the case of a widow. A girl who has no father or brothers living in the undivided family, and a widow who has no sons, shall not use more than three-fourths of the immovable assets as they like, without the consent of a relative within three generations, if any.
3. Unsecured loans contracted by such women shall not be realized from out of immovable assets which cannot be used as they like in accordance with the provisions of Section 2 of this law.
4. Movable or immovable assets gifted to women by their friends and relatives on the father's or maternal grandfather's side, and any increment made or occurring thereto, is considered Daijo. Movable or immovable assets gifted in writing by the husband or by relatives on the husband's side with the consent of all co-parceners, or by other friends and relatives on the husband's side, and any increment made or occurring thereto, is considered Pewa.
5. A woman may use her Daijo and Pewa assets as she likes. After her death, in case she has willed (such assets) to any person, the provisions of the will shall be complied with. In case there is no such will, the assets shall accrue to sons living jointly with her, if any; or else sons who have separated from her; or else to the husband; or else to her unmarried daughter; or else to her married daughter; or else to the sons of her sons; or else to her daughters' sons; or else to the nearest relative.
6. In case conjugal relations are broken in accordance with the provisions of the Law On Conjugal Relations, or in case a widow fails to remain chaste to the (deceased) husband; the share obtained by her from the husband's side and any increment made or occurring thereto shall not accrue to the woman, but to the nearest relative.
7. In case a woman gifts, donates or sells, or otherwise transfers property which she is entitled to, other than her Daijo and Pewa, to any person, and subsequently spoils herself through illicit sexual intercourse with such person, the transaction shall not be recognized as valid. The person who has a valid claim thereto may have it restored.

Contd...

8. Complaints shall be entertained only if filed within two years after illicit sexual intercourse is exposed in matters pertaining to Section 7 of this law, and after performance or occurrence, in other matters.

Contd...

Royal Dynasties During The Lichchhavi Period¹

By

Jagadish C. Regmi.

Nepal was under Lichchhavi rule from the beginning of the Christian era to the 8th or 9th centuries. The Lichchhavi royal dynasty occupied the throne nearly the whole of this period. However, available inscriptions also mention the Gupta, Mundri and Dakshin royal dynasties having ruled over Nepal during this period.

The sole reference to the Mundri royal dynasty is contained in the Changunarayan inscription (circa 604 A.D.)² of Shiva Deva. This is an order addressed to the inhabitants of Gundimaka village, which was probably located in the Changu area where the inscription was first discovered. It describes the boundaries of the local Kotta.³ The boundaries mention lands belonging to the Mundri and Dakshin royal dynasties in the east and the north respectively. There is no doubt that the Mundris royal dynasty was different from that of the Lichchhavis and that it ruled over Nepal at one time. On the basis of phonetic similarity, it may be speculated that King Aramudi, who once fought against Kashmir, belonged to this dynasty.

The Changunarayan inscription also refers to the Dakshin royal dynasty, as we have already mentioned above. The Jyabahal (Jaisidawal) inscription of 613 A.D.,⁴ and the Gnyaneshwar inscription of King Jaya Deva II (?) dated circa 733 A.D.⁵ contain references to this dynasty. The latter inscription mentions administrative offices maintained by it, thus possibly indicating that this dynasty was ruling at that time. It appears that the term Dakshin (south) was used to indicate the area where a royal dynasty different from that of the Lichchhavis was in power. It is noteworthy that references to this dynasty are available for a 130-year period between 604 and 733 A.D.

¹ Jagadish C. Regmi, Lichchhavi Samskriti (Lichchhavi Culture) Kathmandu: Ratna Pustak Bhandar, 1969, PP. 10-12. The section dealing with the Gupta royal dynasty will be translated in the next issue of Regmi Research Series.

² R. Gnoli, Nepalese Inscriptions, P. 46.

³ i.e. local administrative headquarters. Jagadish C. Regmi, op. cit. PP. 377-380.

⁴ Gnoli, op. cit. P. 55,

⁵ Abhilekh Sangraha, Part 5, PP. 16-17.

Contd...

Remarks On A Tour Through Nepal In May, 1876¹

Travelling by palanquins one day in May, 1876, from the British boundary of the Champaran district of Bihar, during the night, we reached the edge of the belt of the Nepali Tarai forest, at that point just ten miles broad; then, mounting horses, we rode through the forests and valleys of the lower range of hills, a distance of thirty-five miles, by an excellent cart road, to the foot of the Sisagarhi Hill, which we immediately ascended by an extraordinarily sharp and difficult incline, and on the crest found ourselves on a fortified hill-top, where we stopped for the night. Next morning, crossing the Sisagarhi Range, we descended into a valley, and then ascended the Chandragiri Range, which commands a view of the valley of Nepal, the surrounding mountains, and the snowy ranges beyond, - altogether a noble prospect. Then we descended into the valley, and were thence driven in a carriage to Kathmandu and the Residency.

The thirty-five miles of distance through the Tarai and the low hills must be done at one march, between sunrise and sunset, in order to avoid the malaria, which is much dreaded, especially in the hot season. With the ponies we had it took us seven hours; but, if one had time to lay out one's own horses, it might be done in four and a half hours. The Nepali Government took great pains with the road as far as the foot of the Sisagarhi Hill; but they, no doubt purposely, left the road over the hills of Sisagarhi and Chandragiri as difficult as possible, regarding the very stiff ascents and descents as part of their natural fortifications, on which they so much rely.

In Nepal itself we stayed a full week; rode all about the valley; visited the several cities and the numerous Hindu and Buddhist temples and other architectural remains; saw the King, the Minister Jang Bahadur, the principal officers, and the troops; and ascended two of the neighbouring mountains, from the summit of one of which we were rewarded, after some hours of hard walking in heavy weather, by a view of the snowy ranges, of which there were actually counted no less than ten! We received the most hospitable kindness and much interesting and useful information from the Resident, Mr. Girdlestone, and the greatest civility and attention from the Nepali Government. Indeed, Mr. Girdlestone's political ability and special experience rendered his conversation most interesting and instructive.

¹ Sir Richard Temple, Journals Kept In Hyderabad, Kashmir, Sikkim And Nepal. London: W. H. Allen & Co, 1887. Vol. II, 249-262 PP.

The valley scenery of Nepal is, of course, very pretty and good, but it is not at all comparable to that of Kashmir, the glory of Nepal being in its architecture rather than in its scenery. Still the scenery sets off and enhances the effect of the architecture by affording a blue background tipped with everlasting snows. The Nepali Hindu temple architecture is strikingly picturesque, - perhaps uniquely picturesque in India, - being modelled on that of the Chinese pagodas, - storey piled upon storey, with copper-gilt finials, minute wood-carvings and purple-enamelled bricks. It is all the work of the original Mongoloid Newar dynasties, violently displaced a century ago by the semi-Aryan Gorkhas, whose modern temples are only a feeble reflex of the structures at Benares. The typical Buddhist buildings are second-rate specimens of the northern Buddhist architecture, without any of the character and originality we are accustomed to admire in the Sikkim-Bhutan-Tibetan style.

The cultivation of the Nepal Valley is blessed with unequalled advantages, and is carried on with the utmost industry. In May we found a waving harvest of wheat awaiting the sickle, and I was told that almost all these lands had already yielded an equally good rice harvest within the agricultural year, and that many of the fields would yet yield special crops, - pepper, vegetables, and the like ! In short, most of the lands yield two harvests in the year, and some yield even three ! The chemical quality of the soil must be excellent, but one special cause of the fertility is the artificial irrigation from the countless streams and streamlets from the neighbouring hills. There are, however, no lakes, such as those which adorn Kashmir.

The houses of the people - even of the rural peasantry - have brick walls and tiled roofs, being altogether much more substantial than the dwellings of the corresponding classes of the plains of India.

The surface of the valley is difficult for roads, and consists of layers and plateau-like platforms, one above or below the other; nevertheless it is traversed by many strongly-made causeways radiating from Kathmandu in all directions.

The champaign area of the valley is taken to be 250 square miles, the length being twenty-five miles, with an average breadth of ten miles.² Its population is very dense, the whole country-side being dotted over with villages and cottages. The number is not really known, but has been estimated to be 400,000 souls, - an apparently impossible number. That, however, it must be very large, is borne out by the fact that, excellent as the cultivation is, the land does not afford food enough for the people, a considerable

²This would seem to be about the true area, though every writer varies. Brian Hodgson has 16 by 16=256 sq. m.; Dr. Oldfield, 15 by 14=220 sq. m.; Dr. Wright, 16 by 9=154 sq. m.; Dr. Allen and Mr. Fergusson, 12 by 9=108 sq. m.

food supply having to be yearly imported from the plains, - an important circumstance politically, of which the Nepalis are well aware. There is, indeed, the suburban population of four cities, including Kathmandu, which cannot be less in all than 120,000 souls;³ and if from 250 square miles, one-fourth, - say sixty-five square miles, - be deducted for streams, roads, ravines, &c., there are left 185 square miles, on which it is possible that a dense suburban and rural population of 800 to 1,000 to the square mile may subsist. Altogether it is probable that the population of the Nepal Valley can hardly be less than 300,000 souls.

The valley is destitute of the superior kinds of manufactures, save those which pertain to weapons of war; but there are all the signs of health, vigour, contentment and alacrity in the general aspect of the people; and altogether, if its cultivation, irrigation, communications, habitations, works of art, and social organization be taken into consideration, the Nepal Valley affords a monument of what can be accomplished by the unaided genius and industry of the natives of India.

It will have been observed that Nepal has been above treated as a small valley, and this is strictly and accurately the case; though, from being the military and political centre, it has given its name to a great Himalayan dominion adjoining British territory for over a length of 500 miles. This great territory, inhabited mainly by aboriginal or Indo-Chinese races, was originally ruled by a number of petty dynasties springing out of them. Some of these dynasties, however, were of a mixed race, coming from Ayran Rajput fathers and aboriginal mothers, and among them was the dynasty of the Gorkha tract.

The Gorkha district, for "Gorkha" is the name of a place rather than of a nation, is situate near the junction of several branches of the well-known river Gandak within the Himalayan region, there called collectively the Trisulganga. It is inhabited, as above described, by half-caste Rajputs, who have the hardihood of their maternal ancestors, inhabitants of the hills, together with the higher qualities of their paternal ancestors the Rajputs of the plains. They do little in the way of cultivation, but are addicted to martial pursuits, and thus the Gorkha dynasty gradually beat down, or absorbed, all the surrounding dynasties, and overran all the mountainous country which now constitutes the Nepali dominion.

Among the first of the defeated dynasties was that of the Newars of the Nepal Valley itself, which is quite the gem of the whole country; and it was the Newar rule that made the valley what it is. The Newars were much

³ Often estimated, indeed, at 165,000: thus, Bhatgaon, 50,000; Kathmandu, 50,000; Patan, 60,000; Kirtipur, 5,000.

/Kathmandu, the capital of Nepal
but Gorkha

superior to the Gorkha people in culture and civilization, though inferior in organization and arms. They made, however, a protracted resistance to the invaders from Gorkha, during the course of which they asked aid from the British. This was in the early days of our rule, and a British expedition was sent, which became prostrated by Tarai fever and failed. After that the Newars succumbed, and Nepal became Gorkhali, as the phrase is, meaning dependent on Gorkha. The seat of Government was transferred from Gorkha to/ continues to be the patria-i.e., the mother state, from which the principal men still come, and the best troops are still drawn. Hence it is that, though the military and administrative centre is in Nepal, the political centre is still at Gorkha; and, if the Nepal Valley were to be occupied by an enemy, the heart of the dominion would be untouched until Gorkha was taken. This is an important political consideration.

In scientific circles, the jealousy with which the Nepali Government guards its territory against the approach of knowledge has long been notorious. Nothing, however, will dissuade the Nepalis from the belief that topographical surveys, geological examinations, and botanical collections, are either the precursors of political aggression, or else lead to complications which end in annexation; and so the exclusion of the Nepali dominion from the gaze of science is religiously maintained.

The Nepali Government is fond of stating its subject population at five millions of souls, including all the hills and the strip of plains along their southern base; but there are no data for such a statement, which, according to our general knowledge of the Himalayan regions, must be greatly in excess of the truth. Besides Nepal itself, there are valleys in the territory, such as those of Gorkha, Pokhri, and so on, which are well inhabited, and so is a portion of the submontane strip; but with these exceptions the area is very thinly populated.

In the trade between Nepal and British territory the former sends articles which either are luxuries or of secondary necessity, whereas she receives either food-supply or other necessities, a fact to be noted.

The revenues are stated by the Nepali Government to be one hundred lakhs of rupees, or one million sterling. In this there is probably some exaggeration. The Resident, however, seemed to think that the expenditure could not be less than three-quarters of a million, and might have been more; and as there was no debt, some inference may hence be drawn as to the fiscal resources.

The army serving with the colours has an effective strength of 20,000 men. We saw 12,000 men reviewed at Kathmandu, but there are irregular troops scattered in the interior; and as the military system is one of very short service, it happens that nearly all the able-bodied men of the whole country have been trained to arms. Under certain circumstances, the military strength, represented by 20,000 men, might be multiplied many times.

Contd..!

In the valley near Kathmandu there are arsenals and magazines, with ordnance, including siege guns, stores, thousands of stands of arms, small arm ammunition, and the like. It is remarkable that for all this they depend on indigenous manufactures, a circumstance which, however creditable to their patriotism, must detract greatly from the military value of these things.

There are no fortresses in Nepal, and the Government says that its trust is not in fortifications made by mortal hands, but to the natural fortresses with which the Maker of the mountains has endowed the country! How far this trust is justified by topographical fact is a point on which I shall have some remarks to offer presently.

As to the effective value of the Nepali troops, I may say that it may be at once allowed that they are much the best troops possessed by any native state in India!

Of the infantry, the material, as regards fighting men, is excellent, hardihood, endurance, activity, cheerfulness in emergent trouble, being their known qualities, and such being the case, it is probable that they would display a high degree of courage. In mountain warfare their national qualities, with the addition of what may be termed their foreign drill and discipline, would make them admirable troops; but they are inefficiently officered in the higher grades, all the military commands, divisions, brigades, and even colonelcies being given away to the relations and adherents of the Minister. Not only in general respects, but also in details of newest improvements, an imitation, or attempt at imitation, of the British system is made: and the drill and exercise - as seen on a parade ground, are truly excellent. Field exercises and manoeuvres, too, are much attempted, but it is doubtful whether they are efficiently performed. As already stated, the rifles are manufactured in Nepal, and are made after the Enfield model, by hand not by machinery. Thus manufactured, they cannot be really efficient.

As regards the mounted branch of the service, there is absolutely no cavalry worthy of the name, and a regimental mounted officer rides a pony, not a horse; nor could the Nepalis ever command the supply of any appreciable number of horses. This is an important circumstance, if ever the military strength of Nepal has to be measured!

In the artillery the guns are mainly dragged by men, which is much the best plan for service in the hills. I saw the men mounting and dismounting their little guns, which they did in a very smart and handy manner. The very small amount of artillery drawn by horses is a circumstance to be borne in mind, if Nepali power is ever to be exerted in the plains, for the absence of horses for artillery would appear at first sight to be a fatal defect. The Nepali Government has, however, a very large stock of elephants, and doubtless would reckon on that for the carrying of guns. There is a large supply of ordnance of various calibres, also made in Nepal.

Contd...

In every infantry regiment a certain number of the men are trained to gunnery, but this would not avail in action according to modern warfare.

The Nepali Contingent, in the support of the British troops in the Oudh Campaign of 1858, did fairly well, and the native infantry regiments of our own, which are recruited within the Gorkhali dominions, have always been famed as among the very best troops in our service. In the war with Nepal in 1815 the bravery and stubbornness of the Nepali soldiery called forth the respectful commendation of the British officers, but in their last war with Tibet, the Nepalis by no means got the best of it, as the Tibetans were assisted by the Chinese, and the exhaustion of Nepali resources, which occurred on that occasion is still greatly remembered. They, indeed, still speak with respect of some branches, at least, of the Chinese army, and that does not indicate a very formidable standard of military prowess.

On the whole, it is probable that, notwithstanding all their merits and their aptitude for particular sorts of warfare, the Nepali army would be quickly destroyed if opposed in the open field to a civilised enemy. If the present army of Nepal, 20,000 strong, were to be drawn up in the open country, adjoining their own Tarai, in front of a small mixed British force of, say 5,000 men, armed and equipped with the newest appliances, and led by a commander who was at once a tactician and a strategist, they would be routed in a few hours. The fortitude of these mountaineers, and their tincture of foreign discipline, would be of no avail against military skill and science, and the resources of modern armament. I mention this latter point because, however absurd the idea may appear to some, the Nepalis imagine that they would hold their own in the hills against the British, and think that they might not improbably be successful in a general contest, and, in the event of the British power being shaken, could press onward across the plains of Bengal to the seaboard. Their trust is in their natural fortifications of mountains; their ambition towards the rich plains and the sea-borne commerce.

The Nepalis regard themselves as a Himalayan power placed between two Empires, the Chinese and the British, and except by general report, they do not seem to take any special cognizance as yet of other powers. It is to be hoped that we may never allow them to have occasion for doing so; for, though externally they are very polite to us, it is a different sort of politeness from that of the ordinary Native States, and one cannot help seeing that they have what Shake speare would have called "a high stomach". It is nearly certain, as a matter of historical retrospect, that, if it had not been for the rise of the British power, the Sikhs and the Gorkhalis would have divided between them the vast territory now comprised under the designation of the Bengal Presidency, and the Nepalis are doubtless aware of this.

Contd...

The Minister, Jang Bahadur, created a Maharaja by the King of Nepal, was thoroughly loyal to us from conviction, from personal sentiment, from the teaching of experience, and from associations in the past; and, although plots were now and again hatched against him, he was universally believed to have a life-tenure of supreme power in Nepal, as the Gorkhali King, styled Maharajadhiraja, or Independent Monarch, did not take part in public affairs though his person and office were regarded by the nation as sacred. Jang Bahadur quite commanded the devotion of his relatives, and they had the chief appointments in the army. He, however, retained in his own hand the ultimate control of the military as well as the civil administration. His civil government was reported to be vigorous and successful and generally just, but it was nevertheless understood that he was incessantly obliged to take care of himself against intriguers and murderers. /cultivated and partly

If a revolution in Nepal were to occur, I hardly see how it could affect British interests, provided that there were general peace in India at the time: but if we were ourselves in difficulty at such a moment, or if there were disturbances going on elsewhere a revolution in Nepal might, perhaps, be awkward. It is to be remarked, however, that if we were to be under the necessity of punishing the Nepali Government, which we may trust will never occur punishment could be easily inflicted; for between our frontier and the lower ranges of the Nepali Himalayas there intervenes a long strip of flat territory, some 500 miles in length and of varying breadth, but never exceeding twenty-five miles perhaps. It is partly covered with rich forests and could be easily seized and held by us. Indeed it affords from its situation, extraordinary facilities for such an operation, and the blow would be immediately and severely felt by the Nepalis. Besides their distress at the loss of territory in the very quarter where they most desire expansion, they would fear the cutting off of some of their food-supplies, and of many necessities which they receive by trade. It is to be hoped that such a decisive stroke would suffice as a demonstration of British power, even in grave contingencies. Moreover, it is probable that the Nepalis, who must be well aware of all this, would never provoke it.

If, however, it were to become necessary to approach Nepal itself, that would be a much more serious business.

Situated as we are in India, it is necessary for us to think of these possibilities beforehand, though we hope that they may never be realized, and it is far more pleasant to think of the loyal conduct of Nepal for many years, the useful assistance she rendered in 1857 and 1858 affording an example of the good service she may yet render us, and to mark the good character which her people bear in British territory, whether serving in the army, or whether emigrating as colonists and labourers into our hill districts, where new industries are springing up.

Contd...

The relations of Nepal with Tibet form a constant subject of conversation with the Nepali officers. There is some trade with Tibet, not apparently of much importance, either as regards the articles of commerce or the routes traversed, and there are disputes on the border constantly occurring, the nature of which is not precisely ascertainable. For some years an agent of the Nepali Government was stationed at Lhasa, but having, it was alleged, been much ill-treated, he was withdrawn shortly before 1876. It is, however, indirectly advantageous to British interests that a Nepali Agency should be maintained at Lhasa, as by means of it we could obtain information. On the whole, I could not make out that the situation of Nepal with respect to the eastern part of Tibet, which is the really important part of that country, is at all dominant, or even influential. The Tibetans would not probably mind the Nepalis in the least, except as dependants of ours. There are at least two passes practicable for troops between Nepal and Tibet, but, as lines of political and commercial communication with Lhasa, they are not nearly so important as our own routes by Sikkim nearer home.

Contd...

Judicial Customs In Nepal

Brian H. Hodgson writes:¹

"The law of caste is the cornerstone of Hinduism. Hence the innumerable ceremonial observances, penetrating into every act of life, which have been erected to perpetuate this law; and hence the dreadful inflictions with which the breach of it is visited. Of all breaches of its, intercourse between a Hindu and an outcast of different sexes is the most enormous; but it is not, by many, the only one deemed worthy of punishment by mutilation or death. The codes of Manu and other Hindu sages are full of these strange enormities; but it is in Nepal alone ... that the sword of public justice is now wielded to realize them. It is in Nepal alone, of all Hindu States, that two-thirds of the times of the judges is employed in the discussion of cases better fitted for the confessional, or the tribunal of public opinion, or some domestic court, such as the Panchayat of brethren or fellow-craftsmen; than for a king's court of justice."

If the accused person did not confess his guilt, and circumstantial evidence was lacking, the case was disposed of through Nya, or trial by ordeal. Hodgson's description of this system is as follows:-²

¹Brian Houghton Hodgson, "On The Law And Legal Practice Of Nepal, as regards Familial Intercourse between a Hindu and an outcast." The Journal Of The Royal Asiatic Society Of Great Britain And Ireland, Vol. I, 1834, 47-48 PP.

²Brian Houghton Hodgson, "Some Account Of The System Of Law and Police, as recognized in the State of Nepal." Ibid, PP 221-222.

Contd..

"The names of the respective parties are described on two peices of paper, which are rolled up into balls, and then have puja offered to them. From each party a fine or fee of one rupee is taken; the balls are then affixed to staffs of reed, and two annas more are taken from each party. The reeds are then entrusted to two of the havildars of the court to take to the Queen's Tank; and with the havildars, a bichari of the court, a Brahman, and the parties proceed thither, as also two men of the Chamakhalak (or chamara) caste. On arriving at the tank, the bichari again exhorts the parties to avoid the ordeal by adopting some other mode of settling the business, the merits of which are only known to themselves. If they continue to insist on the ordeal, the two havildars, each holding one of the reeds, go, one to the east and the other to the west side of the tank, entering water about knee deep. The Brahman, the parties, and the Chamakhalaks all at this moment enter the water a little way; and the Brahman performs puja to Varuna in the name of the parties, and repeats a sacred text, the meaning of which is that mankind know not what passes in the minds of each other, but that all inward thoughts and past acts are known to the Gods Surya, Chandra, Varuna and Yama and that they will do justice between the parties in this cause. When the puja is over, the Brahman gives the tilak to the two Chamakhalaks, and says to them, "Let the champion of truth win, and let the false one's champion lose." This being said, the Brahman and the parties come out of the water, and the Chamakhalaks separate, one going to each place where a reed is erected. They then enter the deep water, and at a signal given, both immerse themselves in the water at the same instant. Whichever of them first rises from the water, the reed nearest to him is instantly destroyed together with the scroll attached to it. The other reed is carried back to the court where the ball of paper is opened and the name read. If the scroll bears the plaintiff's name he wins the cause; if it be that of the defendant, the latter is victorious. The fine called Jit-houri is then paid by the winner, and that called harouri by the loser; besides which, five rupees are demanded from the winner in return for a turban which he gets, and the same sum, under the name of Sabhasuddha (or purification of the court), from the loser. The above four demands on the parties, viz, jithouri, harouri, pagri, and sabhasuddha are government taxes; and, exclusive of these, eight annas must be paid to the mahamas of the court, eight annas more to the Khardar or registrar. In this manner multitudes of causes are decided by nyaya (ordeal) when the parties cannot be brought to agree upon the subject matter of dispute and have neither documentary, nor verbal evidence to adduce."

Contd...

Edwin T. Atkinson has described several other forms of trial by ordeal in Kumaun and Garhwal during the period when these areas were under Gorkhali rule. He writes:³

PP. 26-628:-

The administration of justice was on no regular system, each of the officers exercising jurisdiction according to his position and the number of men at his disposal to ensure his orders being obeyed. Throughout Kumaun and Garhwal all civil and petty criminal cases were disposed of by the commandant of the troops to which the tract was assigned, while cases of importance were disposed of by the civil governor of the province assisted by the military chiefs who happened to be present at his headquarters.⁴ But the commandants were frequently absent on active duty and delegated their powers to Becharis, as their deputies were styled, who either farmed the dues on law proceedings at a specific sum or remained accountable for the full receipts.⁵ Their method of procedure was that common to their predecessors and most Hindu states and was simple in the extreme. A brief oral examination of the parties was conducted in presence of the court, and in case of doubt the section of the Mahabharata known as the Harivansa was placed on the head of the witness, who was then required to speak the truth. Where the evidence of eye-witnesses was not procurable or the testimony was conflicting as in the case of boundary disputes, recourse was had to ordeal. Three forms of ordeal were in common use: (a) the gola-dip, in which a bar of red-hot iron was carried in the hands for a certain distance: (b) the karai-dip, in which the hands was plunged into burning oil, and like the former the evidence of innocence was that no harm resulted; and (c) the tarazu-ka-dip, in which the person undergoing the ordeal was weighed against a number of stones which were carefully sealed and deposited in some secure place and again weighed the next morning, and if the person undergoing this ordeal proved heavier than on the preceding evening, his innocence was considered established. Even the mahant of the sacred temple of Ram Rai at Dehra had to submit to the karai-dip ordeal when charged with murder, and being severely burned was obliged to pay a heavy fine. The judgment was recorded on the spot and witnessed by the by-standers and then handed over to the successful party, whilst the other was mulcted in a heavy fine proportioned more to his means than the importance of the case. Panchayats or councils of

³Edwin T. Atkinson, The Himalayan Districts Of The North-Western Provinces Of India, Allahabad: North-Western Provinces And Oudh Government Press, 1864, Vol. 2, PP. 626-628.

⁴Trail in Kumaun Memoir, 27.

⁵Garhwal was divided into three commands, As. Res, XI, 499.

Contd...

arbitrators were frequently had recourse to, especially in cases of disputed inheritance and commercial dealings, and these, too, were frequently disposed of by lot. The names of the parties were written on slips of paper of equal size, shape and material, and were then laid before an idol in a temple; the priest then went in and took up one of the papers, and the name recorded therein was declared successful. Many matters were simply decided in a somewhat similar way by the claimant proceeding to some well-known temple and there swearing by the idol that his statement was the true one. To the present day several temples are celebrated in this respect.

The following forms of ordeal are also noted by Trail :- "The tir-ka-dip, in which the person remained with his head submerged in water while another ran the distance of a bow shot and back, was sometimes resorted to. The Gorkhali governors introduced another mode of trial by water, in which two boys, both unable to swim, were thrown into a pond of water and the longest liver gained the cause. Formerly poison was in very particular cases resorted to as the criterion of innocence; a given dose of a particular root was administered, and the party, if he survived, was absolved. A further mode of appeal to the interposition of the deity was placing the sum of money, or a bit of earth from the land in dispute, in a temple before the idol; one of the parties volunteering such test, then with imprecations on himself if false, took up the article in question. Supposing no death to occur within six months in his immediate family, he gained his cause; on the contrary he was cast in the event of being visited with any great calamity, or if afflicted with severe sickness during that period."

To Be Continued

A Glossary Of Revenue, Administrative And Other
Terms Occurring In Nepali Historical Documents

Dafdari	...	A revenue functionary in western Nepal and Kumaun. The duties of the Dafdari were "not to let lands assigned to the Army remain uncultivated, correct double entries of such land assignments, ... collect revenue and transmit the proceeds to the local administrator ... reclaim waste lands and submit accounts every year."
Dahi Bhansar	...	Revenue from curd vendors in Kathmandu Valley. In Kathmandu, it amounted to Rs 201 in 1794, Rs 250 in 1805, Rs 321 in 1833 and Rs 420 in 1906, when the tax was abolished. A tax called Dahi-Dastur was levied in some parts of the eastern hill region also.
Dalali	...	Duties collected on goods when they reached the market. Such duties were collected in some parts of India also during the mid-18th century.
Danda-Kunda	...	A generic term used to denote judicial fines.
Dhalwa	...	Care-takers of State irrigation channels in Kathmandu Valley. Their emoluments, called Dhalwa-Pathi, consisted of a levy of 4 manas of paddy per ropani of irrigated land.
Dhami	...	A Shaman or medicine-man. They were appointed by the State in some Tarai and inner Tarai districts to look after the people and keep the gods satisfied. Their main function was to check the depredations of wild animals, particularly tigers. Danda Danda was a fine imposed on a Dhami whose god (Devata) caused suffering to others.
Dokan	...	Shop; a levy of shops.

Contd...

Dware	...	<p>(1) A local revenue collection official, in Salyan, Lamjung, Manang and elsewhere.</p> <p>(2) An official appointed at the royal palace to collect certain levies.</p> <p>(3) A village headman in Kathmandu Valley.</p>
Fakirana	...	A levy collected in Kathmandu Valley and elsewhere, the proceeds of which were assigned to Fakirs (Muslim mendicants).
Fattemubarak	...	A tax collected from traders in Kathmandu Valley to commemorate its conquest by King Prithvi Narayan Shah in 1768-69. Fatah means victory and Mubarak means felicitations in the Arabic language. In 1903, Foreign commercial houses in Kathmandu Valley were exempted from payment.
Fouzdar	...	A district or local functionary responsible for revenue collection and other functions in the Tarai. In Saptari and Mahottari district administration appears to have been in the hands of Fouzdars until 1785! They were responsible for the appointment of local and village level revenue functionaries. They allotted waste lands for cultivation and provided loans and other facilities to settlers. They made necessary disbursements in the district and submitted accounts to Kathmandu. They had authority to recruit troops in the event of foreign aggression and to keep military installations in a state of constant preparedness. They often discharged these functions in the capacity of contractors. They were replaced by officials called Subbas. Dang was under a Fouzdar until 1816.
Gadimubarak	...	A levy collected on a country-wide basis to finance the expenses of a royal coronation.

Contd...

Ganjahar	...	An official appointed to collect market and customs duties in the market towns of the Tarai.
Ghargani	...	A generic term used to denote taxes and levies collected on homesteads.
Ghiyai	...	A tax levied on cows grazed in the forests of Sheoraj in the western Tarai. It was abolished in 1808 on the ground that it was collected nowhere else in the kingdom.
Ghiukhane	...	A tax assessed and collected in cash on Khet (paddy) lands in Kathmandu Valley and some hill districts.
Ghod-Mahal	...	Duties charged on the purchase, import, export or registration of horses.
Godan	...	(1) A tax levied all over the country to finance the ritual gift of cows on special occasions at the royal palace. Such a tax had been levied at the time of the assassination of Ran Bahadur Shah in 1806. (2) The fine paid by a person who committed an offense involving loss of caste to the Dharmadhikar (Chief Religious Authority) as a token of expiation.
Goddhuwa	...	A tax levied to finance the wedding of a royal princess.

To Be Continued

(S.B.M.)