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Akademie der Wissenschaften  
des Landes Baden-Württemberg

Rajan Khatiwoda · Simon Cubelic · Axel Michaels

# The Mulukī Ain of 1854

Nepal's First Legal Code



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on the History of Religion and  
Law of Premodern Nepal”

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# The Mulukī Ain of 1854

## Nepal's First Legal Code

Introduced, translated and annotated  
by  
Rajan Khatiwoda, Simon Cubelic  
and Axel Michaels

With Forewords  
by  
Patrick Olivelle  
and Saubhagya Pradhananga

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## Foreword by Patrick Olivelle

The publication, a complete translation of the Nepali law code, the *Mulukī Ain*, is indeed a milestone in modern scholarship into traditional South Asian law, especially the law encoded in the Sanskrit Dharmaśāstras. There has been a long-standing debate whether laws spelled out in these ancient codes were purely theoretical constructs or constituted the ‘law of the land’ and actually applied in courts of law. The truth lies somewhere in the middle, and this Nepali code shows how these ancient Sanskrit treatises influenced modern jurisprudence as a traditional 19th century society attempted to write a comprehensive code of civil and criminal law.

For scholars of Dharmaśāstra, simply reading the Contents of this long and detailed code reminds them of the topics of the Sanskrit treatises: partition of property, adoption, legal procedure, theft, debts, deposits, slaves, and marriage, and over two hundred pages on sexual offenses. As in the Sanskrit texts, gambling is controlled—profitably no doubt—by the state. As opposed to the Dharmaśāstras, which generally approve of and give detailed rules with regard to ordeals, the *Ain* disapproves of this practice as a legal means of dispute resolution.

The scholarly community owes a debt of gratitude to Rajan Khatiwoda and Simon Cubelic and especially to Axel Michaels, who started working on this project thirty years ago, for their diligence and persistence in translating this long and complicated text. This legal code is, as Professor Michaels says, ‘a text at the confluence of Indology and Anthropology,’ and, indeed, a text that bridges the ancient Brahmanical legal treatises and the needs of a society in the process of becoming a modern state.

*Patrick Olivelle*

*Professor Emeritus*

*University of Texas at Austin*



## Foreword by Saubhagya Pradhananga

The National Archives of Nepal, established in 1967, is the government body authorised to manage and preserve the country's archival documents. It operates according to the Archives Preservation Act of 1989, and its functions as a repository of government records are to collect and preserve manuscripts and other significant documents and to facilitate public access to them. It collaborates with both national and international organisations in pursuit of its goals, and has thereby created a network of partnerships.

The National Archives of Nepal has enjoyed a number of long-term collaborations with Germany. It successfully partnered with the Nepal-German Manuscript Preservation Project, founded in 1970, and its successor Nepalese-German Manuscript Cataloguing Project. In 2018 the research unit Documents on the History of Religion and Law of Premodern Nepal of the Heidelberg Academy of Sciences and Humanities commenced a publication series titled *Documenta Nepalica*. The first volume of the series, *Studies in Historical Documents from Nepal and India*, demonstrated the significance of Nepal's document heritage for historical studies on South Asia and beyond and sparked further scholarly interest in our country's rich archival sources.

I am convinced that the second volume of the series will attract even more attention. The present translation and study of the *Mulukī Ain* is an important contribution to the study of Nepalese legal history and will help to disseminate knowledge about this foundational text of modern Nepal. The National Archives of Nepal is preserving not only the oldest extant manuscript of the *Ain*, but also manuscripts or prints of all its subsequent amended versions. Even though these manuscripts date from relatively recent times, as noteworthy facets of Nepal's constitutional development they still figure prominently among our collection. I am confident that this book will become a key publication for anyone interested in the complex and at times complicated role law played in the formation of the modern nation state of Nepal.

*Saubhagya Pradhananga*

*Chief*

*National Archives of Nepal*





# Preface

The (*Mulukī*) *Ain* of 1854, Nepal's first legal code, is a book that is more quoted than understood. So far, only a few Articles have been translated (see Table 1, pp 10–11). This is all the more astonishing as the text is a unique testimony for South Asia, bringing together and recording predominantly Brahmanical social ideas, legal concepts and local practice. Moreover, it captures the richness of life in Nepal in the mid-19<sup>th</sup> century – with all its social, religious and economic problems and conflicts.

I had always wanted to translate this important code, considering it a wonderful example of a text at the confluence of Indology and Anthropology (cp. Michaels 2020)—and, in fact, started to do so almost at the beginning of my academic career. In 1990, I was granted a 5-year Heisenberg Fellowship by the German Research Council (DFG) for this task. However, I could enjoy the fellowship only for a few months, because I was then offered the chair for Religious Studies at Berne University in Switzerland. Afterwards, my obligations at Berne and later Heidelberg did not allow me to pursue the translation project.

I was all the more delighted when, in 2015, I was awarded the Lautenschläger Research Award. With the prize money, I was able to employ Rajan Khatiwoda and Simon Cubelic, both at that time my PhD students, meanwhile post-docs at Heidelberg University, for a couple of years.

In our weekly meetings we discussed and reviewed jointly all chapters of the *Ain*, for most of which Rajan had prepared an initial translation. We have endeavoured to make this first full translation of the *Ain* of 1854 readable, which is not always easy with legal texts and their technical terminology.

I am extremely grateful for Rajan's and Simon's relentless work, as well as their genuine concern to disentangle the intricated language of the *Ain* and to pursue every detail. Without them, my dream of a translation of the *Ain* of 1854 would not have come to fruition 30 years after its inception.

I would also like to thank Manfred Lautenschläger, himself a jurist by training, for the award and his interest in the project and support throughout the years.

Thanks are further due to Douglas Fear and Philip Pierce, who both copy-edited the English and suggested many valuable improvements. Manik Bajracharya was an everlasting source of inspiration; thanks also to him. We are grateful finally to Nutan Sharma and Rajendra Shakya, who helped with preliminary translations of some Articles.

The Heidelberg Academy of Sciences and Humanities made it possible to include the book in the *Documenta Nepalica Series*, which we gratefully acknowledge.

We wish to thank the excellent team at Heidelberg University Publishing—Maria Effinger, Daniela Jakob, Anja Konopka, Frank Krabbes and Jelena Radosavljević—for bringing the book manuscript into a printable form.

A special thank goes to the artist group ArTree with Lavkant Chaudhary, Hit Man Gurung, Sheelasha Rajbhandari and Subas Tamang for their interest in and inspiring art on the *Mulukī Ain*. A part of Hitman Gurung's installation *How many times I had to burn it?* (2018) is used for the cover page. It depicts a leather-bound copy of the first Ain of 1854 as used in the field, the cover page of the first printed edition and the Constitution of Nepal from 2015 thus demonstrating Nepal's long and hardous way from tyranny to democracy. Subas Tamang's etching with the title 'Study of History' on p. xix is another example for the great interest that contemporary Nepal still shows for this key text in its history.

I hope that this translation will be well received and critically studied by scholars in Nepal and abroad. It deserves a prominent place in the histories of law, society, politics and religion in South Asia and in Comparative Law Studies.

*Heidelberg, December 2020*

*Axel Michaels*

Postscript: While handing this book over to the press, the sad news arrived that my Nepālī teacher Laxmi Nath Shrestha died on 3 September 2020. I met Laxmi-ji in February 1981 and since then he became a close friend of my family and my colleagues at Heidelberg whereto he regularly came for crash courses in Nepālī and Nevārī. In fact, I started reading the *Ain* with him in the early 1980s. We will miss him a lot.

## Abbreviations

AB	<i>Aitareyabrāhmaṇa</i>
ĀpDhS	<i>Āpastambadharmasūtra</i>
Art.	Article
DNA	Documents of the National Archives (Nepal)
GDhS	<i>Gautamīyadharmasūtra</i>
HAdW	Heidelberger Akademie der Wissenschaften (Heidelberg Academy of Sciences and Humanities)
JBS	<i>Jaṅgabahādurīsthiti</i>
MA	<i>Mulukī Ain</i>
MDh	<i>Mānava-Dharmaśāstra</i> alias <i>Manusmṛti</i>
Medh	<i>Manubhāṣya</i> of Medhātithi
MsA/B	Manuscripts of the <i>Ain</i> of 1854 (for details see pp. 4–9)
NārSm	<i>Nāradasmṛti</i>
NBhV	<i>Nepālikabhūpavaṇśāvalī</i>
NBS	<i>Nepālī Bṛhat Śabdakośa</i> , see Parājulī et al. VS 2067 (2010)
Nev.	Nevārī
NGMPP	Nepal-German Manuscript Preservation Project
Nir	<i>Nirṇayasindhu</i>
NS	Nepāla Saṃvat
NyāV	<i>Nyāyavikāsinī</i>
Om.	Omitted
RŚE	Edicts of Rāma Śāha
RSR-Ain	<i>Ain</i> promulgated by Raṇoddīpa Siṃha Rāṇā
Skt.	Sanskrit
TND	Turner's Nepālī Dictionary ( <i>A Comparative and Etymological Dictionary of the Nepali Language</i> ): see Turner 1931
Uj-Ain	<i>Ujīra Siṃhako Ain</i>
VS	Vikrama Saṃvat
§	Section (§§ = plural of §)





Subas Tamang, *Study of History I*, Etching Aquatint on paper, 2017

The image depicts Jaṅga Bahādura Rāṅā and the transport of a Mercedes-Benz 230 Pullman-Landaulet from the construction period 1937–1939, which Adolf Hitler allegedly gave to King Tribhuvan. It is likely that the limousine was carried through the grounds by members of those Enslavable castes mentioned in the image—at a time when there were no motorable roads to Kathmandu. The text in the top right refers to the concept of enslavability which is crucial for the caste hierarchy in the *Ain* and lists the following caste groups ‘Enslavable Alcohol-drinking castes (*māsinyā* [*matuvālī*])’: ‘Bhoṭe (Tāmāṅga, Śerpā), Thakālī, Cepāṅga, Ghartī, Hāyu, Kumāla, Thāru’ (cp., for instance, § 86.4). However, in the *Ain* of 1854, Thakālī and Thāru are not categorised as Enslavable caste groups and the Tamang and Sherpa will not accept to be called ‘Bhoṭe’.



# Introduction

(...) if we wish to enquire what are the features of the Hindú system of jurisprudence, it is in Nepál we must seek for the answer (Hodgson 1836: 94)

## The Configuration of the *Ain*

The 19<sup>th</sup> century is the century of state bureaucracy and administration. The state started defining itself through the notions of ‘imagined communities’ (Anderson 1983), freedom and equality, public order, and by legitimation through elections, and the offering of public service and goods (schools, hospitals, traffic and telecommunication infrastructure etc.). The decline of patrimonial monarchies and nepotistic autocracies went hand in hand with the development of the idea of a (nation) state resting on the rule of law that binds even the most powerful rulers and unites people into a legal body. It is a process that culminated in the division of legislative, executive and judicial powers, independence of the judiciary, and a more or less transparent form of procedures, including a graduated court system reaching from district to provincial high court and the possibility of complaints against the state.

Most modernisation theories cannot adequately expound specific developments in smaller states and must therefore be supplemented or revised. Nepal, which belonged to the few non-European kingdoms that were not colonised and could maintain its ground against (British) India and China, is such a case. It developed forms of social coherence different from colonial or post-colonial ideas of governance. It was a state that did not define itself through the categories of modernisation packages such as common culture, common language and common economic area. On the contrary, Nepal was and is religiously, ethnically and linguistically a highly fragmented and diversified country. According to the Census of 2011, Nepal has more than 70 mutually incomprehensible languages or dialects, 126 recognised castes and 123 national languages, with Nepālī being the only official language. Its political and administrative segments—for instance, the 22 and 24 pre-unification principalities or petty states of the Karnali basin—were not consistent and firm enough to either separate into stable and strong states or jointly build a modern secular state.

It seems that the autocratic introduction of a unique Hindu civil code like the *Ain* of 1854, together with administration and jurisdiction, fostered a constant negotiation of the frames for a modern state. It also seems that this process helped to overcome the country’s fragmentation and strengthened traditional social structures. Similar to the transfer of the *divānī adālat* (civil court) of Bengal into the East India Company (1765), the usurpation of executive power by the

Rāṇā aristocracy in Nepal (1846) marked a watershed in the legal history of South Asia. Both these establishments of centralised systems of judicial administration replaced more fluid forms of legal pluralism and the dominance of religious laws with a state-led form that introduced positivistic notions of legitimacy for legal norms. The projects of codification of Hindu Law as a (religious) system of personal law initiated by the British on the basis of orientalist representations of civilisation, literate culture and religion, and the codification of Hindu customary law by Prime Minister Jaṅga Bahādura Rāṇā, not only affected demarcations between the private and the public and the formation of religious identity, but also placed legal texts centre-stage of the judicial process and thus gave trans-local and transcultural norms of the scholastic-judicial discourse precedence over local customs. The legal processes in South Asia have to be seen in these contexts and the flows within South Asia and between South Asia and Europe.

### The Ains

In Nepal, the history of the written and codified law<sup>1</sup> can be divided into three phases:

- a) the law of royal decrees (i.e. the pre-Rāṇā period before 1846 when Jaṅga Bahādura Rāṇā became Prime minister and *de facto* ruler of the country);
- b) the law of the old (*Mulukī Ain*) (i.e. the Rāṇā period, 1846–1951); and
- c) constitutional law, based on the Panchayat (1963–1990) or multiparty and federal republic system (since 1990).

Alongside the written law, customary laws of the castes and various ethnic groups had been, and are still, widely applied throughout the kingdom. Although some Śāha rulers, for instance, Rāma Śāha of Gorkha (r. 1606–1636) or Pṛthvīnārāyaṇa Śāha (r. 1742–1775), issued royal decrees on the behaviour of their subjects, the law had not yet been fully systematised. Except for these decrees, some edicts, inscriptions and paper documents, nearly all written legal texts can be assigned to the body of Dharmaśāstra literature. Even the extant *Nyāyavikāśinī* (14<sup>th</sup> cent.), a Nevārī commentary on the *Nāradaśmṛiti*, can be seen more as the translation of a Sanskrit commentary than an original work.

The *Mulukī Ain* (MA),<sup>2</sup> or—until 1952—simply *Āin* or *Ain*,<sup>3</sup> changed the legal situation dramatically. This is the Legal Code of Nepal enacted during the reign of King Surendra Vikrama Śāha (r. 1847–81) and promulgated on 6 January 1854 (the 7<sup>th</sup> day of the bright half of Pauṣa, VS 1910)<sup>4</sup> under the red seals of King Surendra Vikrama Śāha (r. 1847–81), crown prince Trailokya

1 For a short summary of the legal history, see Michaels forthc. a (with further references) and Khatiwoda forthc.; for the situation before the promulgation of the *Ain* of 1854, see Hodgson's summary of the 'Administration of Justice' (1836), based on his own records from 1830–31 (Cambridge mss. EUR, Hodgson/54).

2 The following is partly based on Michaels 2005: 5–9.

3 The so-called *Mulukī Ain* was called *Āin* or *Ain* until 1927 or 1952 (cf. Michaels 2005: 7). MA<sub>1</sub> and MA<sub>2</sub> mostly spell *aina*, but since this is a Persian term and the spelling in the various *Ains* is not consistent, we prefer to follow the convention of not writing the final (inherent) *a*.

4 Fezas (2000b: xxvii) dates the year of promulgation to 1853 CE. However, according to the Preamble (*lālamohora*) and calendric calculations, such as the online *pañcāṅga*, the *Ain* was promulgated on January 5 or 6, which is also supported by Adhikari (1976: 176), although the weekday (Friday) does not match.



Vikrama Śāha and the yellow seal of ex-king Rājendra Vikrama Śāha, father of Surendra. It was prepared at the initiative of Prime Minister Jaṅga Bahādura Rāṅā (r. 1846–57). Thereafter it was amended and enlarged several times. The name of this code itself reveals the influence of its ultimate sources, namely, the Persian word *ā'in* together with the later addition of *mulukī*, ‘royal’ (Adhikari 1976: 106).

The significance of the *Ain* may be seen alone in the fact that it was among the first books ever printed in Nepal. It was printed (not before 1870<sup>5</sup>) because Jaṅga Bahādura Rāṅā, during his trip to London and Paris (15 January 1850 until 29 January 1851), came to esteem printed books with an almost magical sense as the expression of Western superiority.<sup>6</sup> It is said (but remains to be verified) that he took the Code Napoléon as the model for the *Ain*. Within a month after his return from Europe, he appointed a Law Council (*ain kausala*) to bring the various legal documents already existing into a homogenous form.

The Council (*kausala*) consisted of 219 members who are listed in the Preamble: Rāṅās (i.e. Jaṅga Bahādura Rāṅā’s brothers, sons and nephews), royal priests (*rājaguru*) and a religious judge (*dharmādhikāra*), men of the nobility (*cautariyā*), civil and military officers, e.g. *kājīs*, captains and lieutenants, *vakilas* (Nepal’s diplomatic envoys to British India and Tibet or other Asian countries and cities such as Calcutta, Patna, Lucknow and Lhasa), *subbās*, *mīra munsī* (executive head of the Foreign Office), *diṭṭhās* (judicial officers), *mukhiyās*, *subedāras*, *vaidyas*.<sup>7</sup> The Kausala worked for three years.

In the preamble of the *Ain*, it is clearly stated why this code was regarded as necessary:

Since there have been dissimilarities in punishment imposed in [lawsuits] with the same particulars until today, therefore, in order to achieve uniformity of punishment in accordance with the crime committed, this is the *Ain* prepared (...). All officials (*kāriṅdā*), including the venerable prime minister, shall carry out their duties in accordance with this *Ain*.<sup>8</sup>

However, the text reflects a far more ambitious project. Jaṅga Bahādura Rāṅā’s goal was to establish a national caste hierarchy for the multiplicity of Nepal’s ethno-cultural units, to bring about homogeneous legislation as well as a uniform system of administration, and, through such legal measures, control over remote areas and separate ethnic groups, to strengthen Rāṅā rule, to reinforce Hindu law in contrast to the British influence in India, and to point out that Nepal is ‘the only Hindu kingdom left in the Kali age’ where cows, women and Brahmins are especially protected.<sup>9</sup> On an international level, the *Ain* served as a symbol that Nepal had joined ranks with the advanced nations which adopted constitutions and codified laws.

5 Fezas 2000b: xxvii.

6 Whelpton 1983: 123; Fezas 1999: 1283 and 2000b: xxiv.

7 For a list of the signatories, see the end of the Preamble.

8 *ajasamma* (read *ājasamma*) *maramāmilā garda ekai bihorāmā kasailāi kami kasailāi baḍhatā sajāya huna jānyā hudā tasartha aba uprānta* (...) *ṣata jāta māphika ekai sajāya havas* (...) *banyākā ain*. (...) *śrī prāim miṅṣṭara laḡāyata yasai kājakāma garnyā kāriṅdākā yasai aina bamojim kājakāma garnu* (MA<sub>2</sub>: Preamble, p. 2, ll. 3–4, 8 and 24–25).

9 *hidūh rāja gohatyā nahunyā strīhatyā nahunyā brāhmahatyā nahunya* (...) *kalimā himduko rāja yehī muluka mātraī cha* (§ 2.1 ll. 19–20).

## Introduction

The *Ain* is unique insofar as it ‘has the great advantage of offering the representation of an entire traditional society—not as a utopia of the moralists and not as reflections of the learned, but as law for immediate application’ (Höfer 1979: 37f., 2004: xxxvi). The 163 (MA<sub>1</sub>) or 167 Articles (MA<sub>2</sub>) and nearly 712 (MA<sub>1</sub>) or 841 (MA<sub>2</sub>) pages form a kind of constitution, a code of civil and penal regulations dealing with landownership, revenue administration, hereditary matters, marriage regulations and purity rules (particularly regarding commensality and illicit sexual intercourse), murder and killing (not only of humans, but also of cows), thievery, witchcraft, slavery etc., but also dealing with such odd acts as passing wind and spitting in public, or throwing chili into people’s eyes or onto their genitals.

The *Ain* is based on a ‘centralized agrarian bureaucracy’ (Regmi 1976a: 225), defining a specific national caste hierarchy which places the various castes and ethnic groups into different categories. In this system, the caste status determines the individual’s juridical status. However, the *Ain* was probably applied more in regions where dominant Bahun (Brahmin) and Chhetri (Kṣatriya) castes had settled than in the remote areas of the Himalaya.<sup>10</sup>

The *Ain* was repeatedly amended and supplemented and is still in use today, even if in a form that is totally different from the first version. It was continually revised and amended. According to the Preamble, the *Ain* was understood as a process, rather than as a fixed code:

When it is necessary [for a portion] to be corrected or rejected by order of the Kausala and witnessed by us, it should be corrected or rejected and should be added as a new law, and all should act and render court decisions as written in this code. (...) If a law laid down in this code needs to be corrected or expanded, our prime minister shall convene with the Kausala and the *diṭṭhā* official of the Law office (*ainkhānā*) shall add, erase or correct [the regulations accordingly].<sup>11</sup>

## Editions

Our translation is based on the two following editions:

**MA<sub>1</sub>:** *Śrī 5 Surendra Vikrama Śāhadevakā Śāsanakālamā baneko Mulukī Aina*. Kathmandu: Śrī 5-ko Sarakāra, Kānūna tathā Nyāya Mantrālaya, VS 2022 (1965), 712 pp. (includes amendments and additions made until VS 1922–24)<sup>12</sup>.

MA<sub>1</sub> was prepared by H.M.G Nepal, Ministry of Law and Justice, under the guidance of Sūrya Bahādura Thāpā (who later became prime minister).<sup>13</sup> The editors were aware of a manuscript

10 However, Ramble 2018 provides an account of how the legal language of the *Ain* penetrated the local idioms, even in distant Tibetan-speaking communities in Highland Nepal, from the late 19<sup>th</sup> century onwards.

11 *kausalakā tajabījamā sacyāunā śāreja garmyā ṭhaharyākā sacyāi śāreja garī nañā bhayākā aina thapi sabāile yasai ainamā leṣiyā bamojīm kājakāma nisāpha garnu. (...) kitābamā leṣiyākāmā ain sacyāunū thapanu pardā hāmṛā prāim miniṣṭara kauṣala basi aina śānākā diṭṭhāle thapanu meṭnu sacyāunu huṃcha* (Preamble, p. 2, ll. 10–12 and 14–16).

12 See MA<sub>2</sub> (Preface), p. 6.

13 An online version of MA<sub>1</sub> was also published by the Central Law Library in 2015: <http://cll.org.np/images/muluki-ain-1910-BS.pdf> (last accessed 30/03/2021).

from 1854 but they decided to base their edition on an amended manuscript copy prepared between 1865–67 (VS 1922–24):

[...] The ministry received the original copy [of the *Ain*] which was written in 1854 and another copy [of the *Ain*] which was written around 1865–67. It seems the later copy incorporated the deleted and the added provisions during that time. [...] For the publication of it [the *Ain*], the later copy is considered.<sup>14</sup>

The main manuscript on which MA<sub>1</sub> is based could not be traced. Fezas (2000b: xlvi–xlix) mentions that this manuscript might belong to the C series of the NGMPP microfilms. Since this edition of the *Ain* is widely circulated, we considered it the basic text for our translation. However, we have incorporated additional articles or sections from MA<sub>2</sub>, i.e. Jean Fezas’ edition, which are missing in MA<sub>1</sub>. Moreover, wherever the readings of MA<sub>1</sub> are distorted or wrong or the text was obviously left out, our translation follows the readings of MA<sub>2</sub> which are given in the respective footnotes.

Whenever we use ‘Art.’ and the §-sign without any additional siglum, it refers to our present translation. If not otherwise stated, all references and citations are from MA<sub>1</sub>, which is called *Ain* throughout. If another *Ain* is meant, it will be specified. Since the text is predominantly written from an androcentric perspective, we use the generic masculine in most cases, except when women are explicitly referred to. Offices are written with an initial capital letter only in the case of proper nouns. The often-used numeric frame of ‘2–4’ we did not understand literally, but as an idiomatic expression for ‘a couple of days or people’.

**MA<sub>2</sub>:** *Le Code Népalais (Ain) de 1853*. Edited by Jean Fezas. 2 vols. Turin: Comitato per la Pubblicazione del Corpus Juris Sansciticum, 2000.

This edition is based on the following manuscripts:<sup>15</sup>

- MsA: probably from VS 1912–18 (1855–1861).<sup>16</sup> The manuscript is kept in the National Archives Kathmandu under the Subject Number (*viṣaya na[mbara]*) Ca.La.Na. 28/17. There is no title page, but the catalogue card bears the title ‘Aina’. The manuscript is written with often faded black ink in Devanāgarī script on fragile so-called Nepālī paper bound in book form (size 34 × 25.5 cm). It is numbered and starts on p. 34<sup>r</sup> and ends on p. 856<sup>v</sup> with a hardly readable table of contents of the different chapters. However, several pages are missing in between. There are several additions by different scribes;

14 [...] 1910 mā lekhiēko mūla prati sāthai tyo bhandā pachi lagabhaga 1922–24 tira lekhiēko arko prati pani yo sāthai yasa mantrālayalāi prāpta bhaeko thiyo | tara yasa pratimā so avadhi bhitra thapiēkā ra khāreja bhaekā sameta milāi lekhiēko dekhincha | [...] yasa prakāśanako lāgi pachillo pratilāi lieko cha. (MA<sub>1</sub> Preface, p. 6).

15 For a description of the sources and various editions of the *Ain*, see below and Fezas’ Introduction to his edition of the MA<sub>2</sub>, as well as Fezas VS 2047 (1990), 1986a and 1986b; for an overview of editions of other *Mulukī Ains*, see also Regmi 1976b.

16 Cf. Fezas 2000b: xxxii and xxxiii.

apparently, this book was used for formulating another amended version. Each paragraph has a stamp at the beginning and the end: *Śrī jaṅga bahādura kūvar rāṅāji sadara*, from which it can be concluded that, at the time of its composition, Jaṅga Bahādura Rāṅā had not yet received the title *prāima miniṣṭara* (Prime Minister). It seems certain that this manuscript predates the manuscripts used for the edition of MA<sub>1</sub>.

- MsB: dated ca. VS 1933 (1876).<sup>17</sup> The manuscript is kept in the National Archives Kathmandu under the Subject Number (*viṣaya na[mbara]*) Ca.La.Na. 28/18. This manuscript is very similar to MsA. It contains 678 pages, with an appendix of 32 pages titled Dhanakuṭā[-]aḍḍāke, ‘To the *aḍḍā* (court) of Dhanakuṭā’. On its handwritten front page, it is confirmed that Yakṣa Bikrama Rāṅā (illegitimate son of Bam Bahādur Rāṅā, who was one of the brothers of Jaṅga Bahādura Rāṅā and prime minister from 1856–57) used this copy in Dhanakuṭā, one of the major frontiers during the Rāṅā and Śāha periods in the east of Nepal.
- A manuscript from Gorkha (NGMPP, reel number F 20/3), which Axel Michaels got microfilmed in 1983 during the first microfilming expedition of the NGMPP outside the Kathmandu Valley. Fezas, who has edited and translated it (into French), calls it the oldest recension of the *Ain* (Fezas 2001: 11). However, this manuscript has many similarities to MA<sub>1</sub>.
- Two smaller manuscripts containing Art. 0.1–0.3: NeBhā. 618, which contains only 135 pages and begins on page 11 with the first section of the Article ‘On Guṭhī Endowments’, and NGMPP Reel number E 1940/3 which is kept in a private collection and contains three articles on the throne, royal affairs and ammunition.<sup>18</sup>

### Amendments

The (*Mulukī*) *Ain* was regularly amended and expanded after its first promulgation in 1854. The following major amendments have been consulted in the present study:

**MA<sub>3</sub>:** *Aghi aghikā mukhatyāra bhaibhārādāraharule (...)* 1908 *sāla dekhi banāi bak-syāko Āin*. Kathmandu: Nepāla Manorañjana Yantrālaya (press), VS 1927 (1870). 5 pts.: I (248 pp.), II (200 pp.), III (232 pp.), IV (426 pp.), and Addenda (132 pp.)

The *Ain* was first circulated in handwritten form before the *editio princeps* of VS 1927 (see below). A printing press, maybe the one Jaṅga Bahādura Rāṅā allegedly brought from Europe,<sup>19</sup> was used for this first printing of the *Ain*, which appeared 17 years after its promulgation (Fezas 1999: 1283). The edition contains a handwritten document (*lālamohora*) with the seals of the Śāha kings Rājendra (r. 1816–47), Surendra (1847–81) and Trailokya (son of Surendra who did not rule), as well as seals of Jaṅga Bahādura Rāṅā and other members of the Rāṅā clan. Each of the 31 paragraphs bears a seal (1,5 × 1 cm) of Jaṅga Bahādura Rāṅā at the beginning and end in

17 Cf. Fezas 2000b: xxxv.

18 Cf. Fezas 2000b: xxxix and xl.

19 Kumar Pradhan (1984: 45) reports that this press was called Giddhe Press, because an eagle (*giddha*) was engraved on it. It was exclusively used for government publications.

order to avoid unauthorised alterations or additions. For this edition, the *Ain* of 1854 was reorganised and shortened or paraphrased, but some changes turned out to be quite crucial. In order to safeguard parity before the law, for example, the *Ain* of 1854 had explicitly strengthened the position of judges by extending their authority to even allow them to sentence the prime minister himself to prison, were he to issue unlawful orders or indulge in nefarious activities (see § 45.3).<sup>20</sup> Yet, MA<sub>3</sub> retracted much of the authority and immunity of the judiciary by adding a new contradictory section which elevates high-ranking government officials above the law. The following section demonstrates this clearly:

If the king, minister, general, *cautarīyā*, royal priests or colonel, *kājī*, *sardāra*, *bhāradāra* and so forth gives an order to the chief, *ḍiṭṭhā*, *bicārī*, *amālī* or *dvāre* and so forth of an *adḍā*, *gauḍā*, *adālata* or *ṭhānā* office to reverse the court decision (lit. to let the winner lose and to let the loser win) that is not in accord with the *Ain*, they shall request [the one who gave the order] saying: ‘we have taken the oath of *dharma*, therefore we cannot do such injustice such as will lead us to hell’. If the order is given even after such a request is made to [reverse the decision], in spite of the fact that it does not follow the *Ain*, the [chief etc.] shall request [the following]: ‘[give the order] by issuing a *lālamohora* or *sanada*, I shall do accordingly’. If the *lālamohora* or *sanada* is issued, he shall do as written in the *sanada* [or *lālamohora*]. [...] . (MA<sub>3</sub> § 84.2).<sup>21</sup>

The history of amendments of the *Mulukī Ain* is thus not to be understood as one of linear progression towards more legal security and rights, but rather as a contingent process dependent on historical configurations of power and the ideological orientation of state elites.

**MA<sub>4</sub>:** *aghi āina bandā sāhrai lambāyamāna bhāi ra dobharā tebharā smeta parī sajāya smeta namilyāko yakai muddā sajā <...>nāmā 2|3 mahala lāgnyā hunāle śrī 3 mahārāja bīrasamsera jaṅga rāṅṅā bhāhādūra [...] bāṭa choṭakarī tavarasaga sabaikurā pugnyā yekā mahalkā māmālā dośrā mahalko āina nalāgnyā garī banāibaksyāko āin. Kathmandu: Nepāla Śrī Bīra Deva Prakāśa Yantrālaya, VS 1945 (1888). 5 Pts. (pañjikā): I (100 pp.), II (80 pp.), III (144 pp.), IV (95 pp.), V (144 pp.)<sup>22</sup>*

This is one of the major amendments of the *Ain* carried out under the prime-ministership of Vīra Saṃsēra (r. 1885–1901) and published in 1888. His seals are at the beginning and end of

20 For more changes in the MA<sub>3</sub> see Khatiwoda forthc.

21 *aḍā gauḍā adālata ṭhānākā hākima ḍiṭṭhā bicārī amālī dvāryā gāihralāi sarkāra laḡāeta miniṣṭara janarala cautarīyā gurū prohiṭa karṇailā kājī sardāra bhāradāra gāihrale kasaikā jhagaḍā māmīlāmā hārnīyālāi jītāi jītanyālāi harāideu bhāni ainamā namīlnyā kurāko hukuma marjī ājñā diyā bhānyā hāmīle dharmā bhākyāko cha annyāe garī āphu naraka parnyā kuro hāmī garna saktauna bhāni binti garnu so binti gardā ainamā nisāpha naparnyā bhayā pani esai garideu bhānyā huñcha bhānyā mohora daskhatako sanada garibaksīyosa ra sohi bamojīma garuṃlā bhāni binti garnu ra mohora daskhata garidīyā so sanadamā lekhyābamojīma garidīnu mohora daskhata nagari ainamā namīlyākā annyāekā kurā garideu bhānyā āphule khāyāko mān chādānu kacahariko kāma nagarnu.*

22 Microfilmed by NGMPP (reel no. E 1214/3).

## Introduction

each paragraph. On p. 2 are also the seals of the brothers Deva (prime minister 1901), Candra (1901–29), Bhīma (1929–32), Phatya and Lalita Śamaśera Rāṇā. This amended version was valid until VS 2020 (1963). The amendment was undertaken owing to the fact that the older version was verbose and cumbersome to read and understand, leaving room for ambivalence in a multiplicity of instances. Many provisions of the *Ain* were not stated clearly once, but instead repeated throughout the trajectory of the work, stifling any claim to user-friendly practicability in its nascent stages. It is these very drawbacks which the MA<sub>4</sub> sought to correct, stating boldly on its very title page:

With the earlier *Ain* being rather protracted, [many] of it[s provisions] having been unnecessarily reiterated twice [or even] three times, resulting in disparities of applicability of penal measures—two to three [incompatible] provisions could be implemented in the same case; [therefore] Prime minister Deva Saṃśera had [this] *Ain* issued, which, being to the point, covers all the matters [as it was in the previous *Ain*] and wherein one provision does not contradict another.

The amended version has been divided into five simplified chapters with briefer articles and a more compelling sub-structure. Semantic departures from the 1854 version, however, remain minimal, at least with regard to the section on homicide. In other instances, emendations testify to the growing experience and process in legal practice of the contemporary political culture. The notion of ‘divine kingship’ is a case in point. While the *Ain* of 1854 rhetorically provides the king with an important role as ‘Hindu king’ within the given legal framework by defining the country as the only remaining Hindu kingdom in the Kali era, which symbolizes the purity and uniqueness of the polity, the *Ain* of 1888 (MA<sub>4</sub>) specifies the country only as the ‘meritorious land which has Paśupati’s [*jyotir*] *liṅga* and the venerable Guhyeśvarīpīṭha’.<sup>23</sup> Poignantly, the king does not wield any religiously or culturally derived legal privileges. At the same time, the prime minister’s position, as delineated in the 1870 version, was significantly strengthened, since he was granted the authority to overturn court decisions—even if the principles on which they are founded are in clear accordance with the *Ain*.

MA<sub>5</sub>: *Ain*. Kathmandu: Gorakhāpatra Press, VS 1992 (1935). 5 Pts.

In 1935, a new amendment of the MA was prepared during the prime ministership of Juddha Śamaśera Rāṇā. This edition was in effect until the end of the Rāṇā regime (1950). One of the major amendments of this edition was the incorporation of the abolition of slavery. Compared to the two aforementioned editions of the MA, this edition introduced ever more practical court procedures which again separated the court from any kind of possible unlawful influence through the authorities and reinforced the autonomy of the judiciary.<sup>24</sup> The role of king was more strictly

23 [...] *śrī pasupati liṅga guhyeśvarīpīṭha bhayāko yasto puṇyabhūmī* [...] (MA<sub>4</sub> § 3.1, in NGMPP reel no. E 1214/3).

24 For an overview of this see MA<sub>5</sub>; pt. 1, pp. 1–129, in NGMPP reel no. E 1415/3.

restricted by empowering the prime minister as a court of appeals.<sup>25</sup> The *Bintīpatraniksārī Aḍḍā*, a department responsible for petitions directly under the prime minister, was given authority to evaluate petitions submitted to the prime minister.

**MA<sub>6</sub>:** *Mulukī Ain*. Kathmandu: Kānūna tathā Nyāya Mantrālaya, VS 2022 (1965). 2 Pts.

The MA of 1963,<sup>26</sup> proud project of King Mahendra, was based on the first constitution of the country and eventually came to replace prior editions of the MA that had been prepared and operative during the Rāṇā regime. The new MA, which introduced the formal abolition of the caste system, child marriage or polygamy, was a landmark in the legal history of Nepal, because its main objective was to establish equality before law to all citizens, irrespective of caste, religion and colour. The repellent system of judgment based on the caste status of the litigants and defendants ended with the new MA, which ‘marks the culmination of Nepal’s transition into the modern world’ (Kumar 1967: 11) and also ended Rāṇā rule in the field of law. Ironically, a textual tradition associated with the assertion of Brahmanical orthodoxy metamorphosed into a manifest of social emancipation. The *Mulukī Ain* revised by King Mahendra in 1963 was amended more than twelve times and completely replaced in 2017 by the new constitution of the Federal Republic of Nepal.

### Translations

The *Ain* has only partly been translated, in varying quality. In Table 1 we have listed the translations of individual articles and sections known to us.

### The Structure of the *Ain*

It was Jaṅga Bahādura Rāṇā, the 19<sup>th</sup> century Nepalese *de facto* ruler, who conceived of and initiated the formulation of a standardised, binding national code that was to replace the unregulated and arbitrary, locally diverse legal practices of the contemporaneous period by placing the administrative, social and legal practices within a single governing framework. The *Ain* was the textual medium by which reform was meant to be brought to the farthest corner of the kingdom and to contribute to the unification of the country. However, the composition of the *Ain* is not very clear. It is obvious that it was composed by a council and not by a single mastermind.

Brought into another structure, the topics as listed in Table 2 are dealt with in the MA<sub>1</sub>.<sup>27</sup> The bulk of the articles concern caste and family law, which also includes laws on purity and punishments for illicit sexual relationships, with the forms of punishment such as execution, *dāmala*, branding, enslavement and so forth (§ 161.1), but a major part also deals with laws related to land disputes and labour, as well as criminal law and administrative or legal procedures.

25 See MA<sub>5</sub>; pt. 1, pp. 139–45, in NGMPP reel no. E 1415/3.

26 This *Ain* came into force on the first day of the month of Bhādra in VS 2020 (MA<sub>5</sub> § 1.2).

27 For another table of contents (‘table analytique’), see Fezas 2000b: l–lxiv.

## Introduction

*Table 1: Published translations of Articles<sup>i</sup>*

<b>MA<sub>p</sub>, Article</b>	<b>Reference<sup>ii</sup></b>
Preamble	Fezas 1985
1. On Guṭhī Endowments	Fezas 1985 (§ 1), Regmi 1972a
2. On Land	Fezas 1985 (§§ 14, 16)
11. On Forced Labour	Regmi 1971b
14. Recovering a Loan by Seizing Standing Crops	Mühlich 2001
15. On Creditors and Debtors	Mühlich 2001
16. On the Repayment of Debts	Mühlich 2001
17. Repayment of Debt from Dowries	Fezas 1985
22. On a Father's Division of Property among Sons	Fezas 1985
23. On Partition of Property	Fezas 1983a (§§ 29–30), Fezas 1985
24. On [Conflicts between] Husband and Wife	Fezas 1985
25. On Widows' Property Rights	Fezas 1985, Regmi 1970c
26. On the Partition of [Seized Property] Returned as a Gift [by the Government]	Fezas 1985
27. Women's Personal Property and Dowries	Fezas 1985
28. On Property Passed On in the Absence of a Son as Heir	Fezas 1985, Fezas 1986b (§§ 1, 2, 19)
29. On Adoption	Fezas 1983a, Fezas 1985, Regmi 1970d (§§ 1–3)
49. On Trial by Ordeal	Regmi 1970b
51. On Serving a Prison Term in Place of Another Person	Regmi 1970b (§§ 1–2)
55. On Fights during the Siṭhi Festival	Regmi 1972b
59. On Beating between Father and Son	Fezas 1985 (§§ 1–2, 11–12)
66. Killing a Cow	Fezas 2009 (§§ 1–9, 11–12), Regmi 1969, Michaels forthc. b [1991]



Table 1: Published translations of Articles<sup>i</sup> (continuation)

<b>MA<sub>1</sub>, Article</b>	<b>Reference<sup>ii</sup></b>
71. On Quadrupeds	Fezas 2009 (§§ 7–13)
74. On Witchcraft	Macdonald 1976
81. On the Sale of Male and Female Slaves	Regmi 1979b
82. Enslaving or Selling a Person	Regmi 1979a
84. Selling a Wife	Fezas 1985 (§§ 1–5)
89. On the Religious Judge ( <i>Dharmādhikāra</i> )	Fezas 2009 (§ 49), Gaborieau 1977 (§ 1), Michaels 2005, Regmi 1979c, Regmi 1979d, Regmi 1979e, Regmi 1979f, Regmi 1979g, Regmi 1979h, Regmi 1979i, Regmi 1980
94. On Widow Burning ( <i>Satī</i> )	Michaels 1994, Regmi 1977
95. On Carrying a Corpse	Michaels 2014
97. On Observing Impurity	Fezas 1983a (§ 28), Fezas 1985 (§§ 4–6, 9), Fezas 2009 (§ 97.45)
115. On [Incest among] Jaisī Brahmins	Regmi 1970e
119. On [Incest among Water-Unacceptable but] Touchable Castes	Gaborieau 1977 (§§ 3–4, 6–9)
126. Miscellaneous Provisions Relating to Illicit Sexual Relations	Fezas 1983a (§ 3)
156. On Illicit Sexual Intercourse with Members of Untouchable Castes	Gaborieau 1977 (§§ 4, 6,13)
159. Illicit Sexual Intercourse with Water-Unacceptable but Touchable Caste Members	Gaborieau 1977 (§ 4–6, 8)
163. Sexual Intercourse with Animals	Fezas 2009 (§ 4)
164. (= MA <sub>2</sub> 166) On Anal Sexual Intercourse	Fezas 1983b

i Some sections, which are identical with or similar to the Gorkha recension have also been translated by Jean Fezas (2001); see his synopsis on pp. 155–6.

ii If no section numbers are given after the reference, the entire Article is covered by the translation.

## Introduction

Table 2: Content and topics

<b>Laws</b>	<b>Topics</b>	<b>Articles</b>
<i>State law</i>	The constituting body	Preamble
	The throne	0.1 (1 in MA <sub>2</sub> )
	Royal affairs	0.2 (2 in MA <sub>2</sub> )
	On Madhesa	165 (167 in (MA <sub>2</sub> ))
<i>Civil law (i.e. laws related to caste, family, kinship and purity)</i>	Conjugal relations	24
	Adoption	29
	Drinking liquor and Untouchability	87
	Investiture by mendicants	88
	Purification and expiation by the <i>dharmādhikāra</i>	89
	Contamination in commensal relations	90
	Investiture with the sacred thread	91
	Widow burning ( <i>satī</i> )	94
	Carrying corpses to the cremation ground	95
	Reporting deaths	96
	Observing impurity regulations	97
	Ritual obeisance and gifts	98
	Marriage, forced marriage, betrothal	99–103
	Divorce	24, 144
	Fornication	104–106, 126
	Molestation and rape	107, 109, 112, 132–3
	Illicit sexual intercourse	108, 110, 128, 131, 142, 145–160
	Incest	113–125
	Prostitution	127, 130
	Adultery	134–8, 141
	Elopement	138–9, 141
	Voluntary caste degradation	157
	Anal sex	164 (166 in MA <sub>2</sub> )

Table 2: Content and topics (*continuation*)

<b>Laws</b>	<b>Topics</b>	<b>Articles</b>
<i>Criminal law</i>	Rioting against bailiffs	41
	Fights during the Siṭhi Festival	55
	Assault and physical injury or abuse	56, 57
	Verbal abuse	57
	Brawling	58
	Physical clashes between parents and children	59
	Forced feeding of human excrement, semen, etc.	60
	Farting	61
	Spitting	62
	Drawing of weapons with intent to kill	63
	Murder	64
	Manslaughter	65
	Cow slaughter	66
	Throwing chilli powder in eyes, mouth, genitals, etc.	67
	Burglary, theft, robbing, looting	50, 68
	Arson	73
	Witchcraft and sorcery	74
	Setting traps	77
	Killing the wife's paramour	140
	Infanticide	143
Bestiality	163	
<i>Labour law</i>	Forced labour	11
	Professions	31
	Employment of convicts in road-building	53
	Aiding the escape of slaves and bondservants	80
	Sale of slaves	81
	Enslavement and traffic in human beings	82
	Sale of slave mothers separately from their children	83
	Sale of wives	84
	Dismissal of sick servants	85
	<i>Amālī</i> 's right over persons who are to be enslaved	86
	Keeping slave women as wives	129
	Illicit sexual intercourse with slaves or bondservants	161–162

## Introduction

Table 2: Content and topics (*continuation*)

<b>Laws</b>	<b>Topics</b>	<b>Articles</b>
<i>Land and property rights</i>	Guṭhī endowments	1
	Conflicts concerning land rights	2
	Conflicts between tenants and landlords	3–4
	Sale of rents	5
	Creditors & debtors, inheritance	14–20
	Insolvency	21
	Property rights, dowry	22–23, 24–28
	Confiscation of property	43
	Trusts and deposits	69
	Finding lost or ownerless property	70, 78
<i>Public, administrative and fiscal law</i>	On the Toṣākhānā and Mulukīkhānā offices	0.3
	Revenue collection contracts	6–8
	Remissions, defaults in payments of arrears	9–10
	Payment of cash salaries	12
	Appointment and dismissal of officials	13
	Currency and weights	30
	Felling trees	32
	Official documents	33–34
	Dispute between courts and local functionaries	46
	Medical practice	54
	Traffic regulations, especially for horses and elephants	72
	Gambling	75
	Construction of houses	76
	Cleaning of lanes and streets	79
	On poor and indigent persons	93

Table 2: Content and topics (*continuation*)

Laws	Topics	Articles
<i>Punishments and procedural law</i>	Deprivation of caste status and life imprisonment	42
	Judicial procedure	35
	Summoning of prisoners	36
	Confessions	37
	Guarantees	38
	Suppression of information relating to crime	39
	Aiding the escape of prisoners	40
	Collection of fees	44
	Judicial complaints	45
	Statutory time limits	47
	Punishment of judges and officials	48, 52
	Ordeal	49
	Fines and imprisonment	50, 52
	Serving a prison term in place of another person	51
	Juvenile delinquency	92

The structure of the *Ain* is by no means coherent. Quite a few articles actually could have been better subsumed under one heading (for example, Art. 3 and 4, 61 and 62, 131 and 133). There are additional laws, sometimes also called *aina*, within Articles<sup>28</sup> or incorrect sequences (e.g., Art. 48). Contradictions, for instance between § 59.1 and § 59.2 remain unnoticed as well as doublings (§§ 76.2 and 15–16). There are also stylistic discrepancies. Art. 1, for example, substantiates its prohibition of investment in foreign countries in an anecdotal style through cautionary tales. The vocabulary is not standardised either. For one reference object, often two terms, one derived from Sanskrit and one from Persian, are used, as in the case of ‘king’, interchangeably referred to as *rājā* or *sarkāra*.

### The Sources of the *Ain*

‘The *Ain* has been prepared in accordance with the scriptures (*śāstra*), policy (*nīti*) and customary practices (*lokakā anubhāva*)’ (§ 1.1).<sup>29</sup> Among the three sources of law from which the *Ain* itself claims to be derived, the influence of the Dharmaśāstra on the *Ain* is not evident as far as direct quotations from the Dharmasūtra, Dharmaśāstra or Nibandha texts are concerned. Nowhere

28 §§ 1.26–27; 18.21; 23.31,35, 38; 27.14; 33.16–17; 35.34–38; 38.9–11; 50.31–35; 69.11–12, 107.9–12; 114 and 116–121; 132–133, 146–150, 160, 167.

29 Cf. Hodgson (1836: 123): ‘Custom or precedent is the law in many cases; the Dharmashāstra, or sacred canons, in many more; and the decision of numerous cases depends almost equally on both.’

do such texts seem to have been used as a reference. However, rules and principles from the Dharmaśāstra are indirectly applied,<sup>30</sup> shown, for instance, by the fact that religious matters had to be decided by (learned) Brahmins, as the institution of the *dharmādhikāra* evinces. Given the wealth of empirical cases dealt with in the *Ain*, it is also widely a codification of customary law (*ācāra*) rather than a deducted application of Hindu, Islamic or Western law. Despite the strong influence of Persian legal terms stemming from the Moghul administrative system and occasional English loan words, the legal norms, especially in the fields of private or religious law, are mainly grounded in local practices.

The question of the implementation of the Brahmanical legal scriptures in social and legal practice and its codification has long been discussed.<sup>31</sup> R. W. Lariviere (2004: 615) aptly points out that the Dharmaśāstra was never supposed to be codified law, but only to provide guidelines for legal practice, and Davis (2008: 317) concludes that ‘(s)acred texts were not normally sources of positive law, but rather of jurisprudential training’. In Nepal, too, many normative texts have been transmitted, but almost no historical material on the legal practices has survived (Michaels 2010: 61). However, certain norms from the Brahmanical legal texts have been incorporated in the *Ain*. For example, the *Ain* defines the protection of Brahmins, women and cows as directive state principles and Nepal as the only remaining Hindu kingdom in the Kali era, where Brahmins, women and cows are protected—in contrast to Hindustan, which is polluted by the British and Muslims in the eyes of the Nepalese Brahmanic orthodoxy. Moreover, following Brahmanical norms and practice, e.g. *Gautamīyadharmasūtra* (GDhS) 21.1-3, *Manusmṛti* (MDh) 11.55-9, the *Ain* exempts Brahmins, women and a certain category of ascetics from the death sentence, regardless of what crime they commit (§§ 64.1 and 3–4).<sup>32</sup>

A comparison between the *Ain* and the *Manusmṛti* as an example of a Dharmaśāstra text reveals similar findings for death and mourning regulations. The *Ain* focuses on the death and mourning rituals in Articles 95 ‘On Carrying a Corpse’ (*murdā uṭhānyā*), 96 ‘Reporting a Death’ (*maryo bhani sunānyā*) and 97 ‘On Observing Impurity’ (*āsauca vārnyāko*). The rules regarding the carrying a corpse can be summarised as follows (see the Table 3).

It is obvious that the Nepalese law-givers used the *Manusmṛti* or similar texts, although they did not mention them verbatim. It appears that Manu’s norms of mourning became almost completely valid in the *Ain*. These formed the models for extensive legal application of mourning rules. The principles of purity and impurity were enforced by the *Ain*, and perhaps the dharmashastric norms have never before as intensively become a real law text, i.e. codified and applied law. Thus, the principles of mourning in the *Ain* are certainly dharmashastric, but the *Ain* is much more detailed in its regulations. To mention just a few instances: the observances for the subjects after the death of a king (§§ 97.1–2); observances after the death of second wives, concubines, female slaves and maids (§ 97.3); refusal to perform the death rites (§ 97.4–5, 8, 10, 64); death of stepmothers (§ 97.21), affine relatives (§ 97.22), half sisters and half brothers (§ 97.9, 23),

30 For example, someone who unintentionally kills a cow is instructed to undergo penance in accordance with the customs and holy scriptures (*nīṭismṛti*) (§ 66.4).

31 See, for example, Rocher 1993, Lariviere 2004, Davis 2008 and Michaels 2010.

32 Cp. also RŚE 15 and NyāV, p. 189.

Table 3: Rules regarding mourning in *Manusmṛti* and the *Ain*

Topic	MDh, ch. 5	Ain, Art. 97
Equation of death and birth impurity	58	13–16, 34–35, 39
Mourning periods of 1, 3, or 10 days depending on kinship ties	59	22–32 <i>et passim</i>
Burial of children before name-giving ceremony ( <i>nāmakaraṇa</i> )	68–70	12, 17
Impurity at the death of a guru or teacher	65, 80–82	27
Low impurity after touching the corpse at the cremation	64, 85, 87, 91	32
Difference between a death and the receipt of the news of death normally does not extend the mourning period	75	20 ff.
Additional death or birth in the mourning period does not extend the mourning period	79	36 ff.
No impurity for kings and warriors	93–98	43–45
Restrictions regarding food, bathing and sleeping on the ground during the mourning period	73	56–57, 62
Days of mourning in the case of the death of a pregnant woman	66	11
Taking food in a house affected by death impurity	101	56

wives of low caste, remarried women or wives taken after adultery (§ 97.25), family priest, fictitious kinsman (*mīta*), step-daughter or -son (§ 97.27); adopted son or foster parents (§ 97.28), slaves and bondservants (§ 97.30), and family members who have become or are renunciators (§ 97.32–33); death impurity for the king, ministers (§ 97.43), soldiers (§ 97.44) physicians and other professionals (§ 97.46); pregnant women: burial of the child (taken out of the womb) and cremation of the woman (§ 97.52 and 65); assumed death of missing persons (§ 97.53). The *Manusmṛti*, on the other hand, lists only a very few cases that are not also dealt with in the *Ain*: loss of semen (§ 5.63), miscarriage/abortion (§ 5.66), the death of a fellow student (§ 5.71), and the death of an *ācārya* or *śrotriya* (§ 5.80–82). How detailed the regulations of the *Ain* are becomes evident when one looks at the mourning periods for kin and other persons. In this regard, the *Ain* not only incorporates norms from the Dharmaśāstra tradition, but also systematically enlarges their scope to hitherto unregulated cases.

References to dharmashastric norms and institutions can be found in several other instances. The usages of the term *dharma* or *jātako dharma* (*dharma* of one's own caste) in the *Ain* are examples of transferring established Brahmanical *varṇāśramadharmā* norms into the *Ain* without directly quoting the sources involved. For example, MA<sub>2</sub> § 0.1.24 and § 0.1.26 regulate that a king or prime minister who deviates from his caste's *dharma* should be dismissed from his throne or post. Section 89.36 directs persons who are in householders' (*gṛhastha*)-*dharma* and belong to the Brahmin, Rajapūta, Sacred Thread-wearing or Kṣatriya castes not to hear the initiatory mantra from an ascetic. Moreover, the *Ain* encourages the subjects (§ 97.32) to collect

religious merit<sup>33</sup> by voluntarily carrying, disposing of or burning the dead bodies of those who die without leaving any heir or property behind. The *Ain* emphasises that such a voluntary act gives a person religious merit equivalent to that gained by performing a huge fire-sacrifice (§ 97.32). Even the daily code of conduct introduced in the *Ain*, such as paying obeisance (§ 98), is indirectly based on the shastric injunctions that a younger person should greet an elder person in the prescribed manner (cp. *Āpastambadharmasūtra* 1.13). Similarly, the food regulations extensively dealt with in the *Ain* (§ 87) reflect the *bhojyābhojya* (edible and prohibited food) concepts laid down in the Brahmanical legal scriptures (see for example, *ĀpDhS* 1.16 and 1.17 and *MDh* 4.207–17).<sup>34</sup> Moreover, the *Ain* (§ 51.2)—in line with the injunction of the *Dharmaśāstras*<sup>35</sup>—bans women from touching a statue of Viṣṇu.<sup>36</sup> The examples given suggest to us that the authors of the *Ain* consulted the *Dharmaśāstra* texts, without specifically referring to them, mostly the articles dealing with caste, purity and pollution.

Nevertheless, the *Ain* demonstrates that the political actor(s) who commissioned the law code thought beyond the deeply-rooted Brahmanical legal scriptures and customary practices when they drafted certain parts of the law code (especially those concerning land, taxation, civil administration, and occupational choice) in an attempt to attain a homogeneous legislation which was unanimously applicable to the subjects. For example, the *Gautamīyadharmasūtra* (*GDhS*) specifies certain duties for all four classes: all Twice-Born classes have to fulfil the duties of carrying out studies, sacrifices and oblations, whereas Brahmins have the additional duties of teaching the Vedas, sacrificing for others and accepting gifts (*GDhS* 10.1–2), and the King and Kṣatriyas should fulfil the duties of protecting all creatures, imposing punishment in order to maintain justice, and supporting Vedic Brahmins, those who are not able to work, novice students and those who are exempt from taxes (*GDhS* 10.7–12). *MDh* (3.64 and 4.11) emphasises even more that respectable families quickly lose status if they practice crafts, engage in trade and so forth, and it prohibits Brahmins from following any worldly occupation, other than the pure and upright things proper to them. Similarly, the caste reformation of King Jayasthiti Malla (r. circa 1382–1395) follows the Brahmanical *varṇa*-system described above.<sup>37</sup> However, the *Ain*—unlike the *varṇa*-system of assigning profession according to the caste status of a person—explicitly states:

33 For example, *MDh* 4.239–42 explains why it is important to collect merit (*dharma*) which is not only useful for this world but will be an ‘escort in the next world’.

34 See Olivelle 2002 for a comparative study of the shastric concepts of prohibited food.

35 See for example, Nir pp. 240–1.

36 It seems that such a ban on women from touching a *śivaliṅga* and (statue of Viṣṇu) started an intense discourse in the Nepalese royal court after the *Ain* was put into effect. Since the issue possibly could not be resolved by the pundits in the royal court, it was forwarded to a *dharmasabhā* in Benares (a major hub for interpreting the Brahmanical texts at that period). A report-letter sent from one of the pundits of the Nepalese royal court who brought the issue to the *dharmasabhā*, to Prime Minister Jaṅga Bahādura Rāṅgā from Benares in 1863 tells us how vigorous the debate was to give a decision on ‘whether a woman can worship a *śivaliṅga* by touching it or not’. The pundits in the *dharmasabhā* could not unanimously agree on a decision thus, one group decided that a woman is allowed to worship a *śivaliṅga* by touching and the other group decided against it. At the end, the issuer of the letter recommended the prime minister not to believe the ‘corrupt pundits’ but to continue what has been so far practised in Nepal (this topic has been extensively dealt with in Michaels 2018: 271–92).

37 *NyāV*, p. 269, see parallel in *NārSm* 18.47.



Occupation is not governed by caste [membership]. [The members of] all Four Varnas and Thirty-six castes may sharpen tools, make shoes and clothing, work in mines, refine gold, fire brick kilns, pursue the potter's trade, prepare leather for *mādala* drums or do any [other] work as a profession, or earn a living by engaging in commerce. Nobody shall lose his caste status. (§ 31.7)

What is striking in the above passage is that, contrary to both shastric and customary practices, professions such as cobbling, tailoring and blacksmithing used to be carried out by Water-unacceptable and Untouchable castes in Hindu customary practice (§ 160). It shows that the *Ain* is fundamentally liberal in terms of letting people choose or change their profession at their own wish, although the profession (*jīvikā*) used to be one of the essential elements of protecting the social and religious purity of a person in the Hindu scriptural and customary context.

The changing notation of divine kinship in the *Ain*<sup>38</sup> suggests that the Rāṇā rulers displayed a certain openness to Western forms of polity. Jaṅga Bahādura's visit to England and Paris in 1850 shows his desire to understand Western ideas and political practices, which led not only to a certain legal reform, but also to certain administrative and economic reforms (Regmi 1988: 77–179). The *Ain* does not directly refer to any British or other western legal system, but how the idea of drafting such a code emerged in an isolated place like Nepal needs to be examined. The legislative checks and balances between the monarch, prime minister and the Kausala are clearly demarcated in the *Ain*. On the one hand, any form of executive power has been removed from the monarch; on the other hand, the prime minister can still be checked by the king in case of any deviation from the *Ain*, and the *bhāradāras* in their turn by the prime minister (§ 0.2.21).

It can therefore be argued that one of the indirect sources for the emergence of the *Ain* was Jaṅga Bahādura Rāṇā's inspiration through the British parliamentary system, which he had looked at quite closely on his state visit to Europe. For example, in the account of Jaṅga Bahādura Rāṇā's journey to Europe,<sup>39</sup> it is recorded how the Nepalese delegation understood the contemporary British political institutions which resemble the provisions in the Article 'On Royal Affairs' in the *Ain* (§§ 0.2.1–2). It is clear that Jaṅga Bahādura Rāṇā did not directly borrow provisions from the British legal system for the *Ain*, but he was visibly inspired by the concept of the British rule of law in preparing its overall framing.

Another major source of the *Ain*, as declared in the Preamble, is customary practice and previous legislation.<sup>40</sup> One of the remarkable examples of consideration of the changes in customary practice in the *Ain* is the raising of the status of Meciya caste from Water-unacceptable to Water-acceptable. Since the subjects of the Gorkhā realm previously did not accept water from the members of this caste, considering them Water-unacceptables, the issue was brought before, and decided by, the Kausala. The verdict of the Kausala raised the status of the Meciya caste by referring to the following customs: (1) water from Newar, Magara, Guruṅga, Bhoṭe and Lāpacyā is also accepted in the country, although they, too, consume buffalo, pig, chicken, cow

38 See Cubelic/Khatriwoda 2017.

39 See Whelpton 1983: 177–88.

40 See also Adhikari 1976: 107, Höfer 1979: 41 (2004: 4) and Michaels 2005: 7.

and elephant meat; (2) earlier water was accepted from Mecyā caste members and their sons and daughters were brought to the palace as slaves; (3) they do not accept water from the members of the Water-unacceptable and Untouchable castes and Muslims, they respect Śiva as their God, therefore they are the caste whose path is Shaivism (§ 89.49).

Another example is the extensive inclusion in the *Ain* of the customary practices of Newars with regard to illicit sexual intercourse and divorce (Art. 144–5). And several instances allowing a guilty person to purify himself or herself or to carry out a funeral ceremony, or mourning or marriage rites of his or her kinsmen, following his or own caste's customs,<sup>41</sup> give a clear picture of the extent to which the *Ain* was based on the customs practiced.

Additionally, the *Ain* includes several pre-existing sets of legislation among its sources. For example, the *Ain* refers to the land measurement units and the system set up by King Jayasthiti Malla<sup>42</sup> as the standard (§§ 2.38 and 40). It also gives some direct references to the regulations promulgated by King Pṛthvīnārāyaṇa Śāha in 1768 (VS 1825) on treason (§ 0.2.23) and confiscation of land grants such as *sadāvarta*, *guṭhī*, *birtā* or the like, and reconfirms them (§§ 33.16–17). Similarly, it includes the regulation laid down in one of the previous *lālamohoras* in 1822 (VS 1879), through which the Magara caste group is upgraded from Enslavable status to Non-enslavable (Rājendra Śāha VS 1879).

It is probable that the administrative manual of Ujīra Siṃha, nephew of Mukhtiyāra Bhīmasena Thāpā and governor of Pālpā, of 1822, served as another source for the codification of the *Ain*. This *Ain* of Ujīra Siṃha (Uj-Ain) prepared the intellectual ground for legal codification in that it not only records local customs, but also formulates advice for the reform of the judicial system.<sup>43</sup> Since the regulations are formulated as recommendations without any binding legal force, the text is to be considered an administrative handbook, rather than a proper legal code (Fezas 1999: 1281–1282).<sup>44</sup> Many of the rules of Uj-Ain had a direct influence on the *Ain*; for example, the Uj-Ain proposed to strengthen the law of evidence during the judicial procedure and to enhance the independence of court decisions, directing the government employees to understand fact, investigate the case, let offenders confess their crimes before imposing punishments (Uj-Ain 1.3–5 and 4.1–4). In the *Ain* we find the same provisions for the interrogation of accused persons and the procedures for the imposition of punishment (§ 2.37). The drafter of the Uj-Ain, Ujīra Siṃha, explicitly indicated that he had observed the British court system before preparing his code-like legislation. This indicates that he must have been influenced by the colonial legal system.

The *Jāṅgabahādurīsthiti* (JBS) is not explicitly mentioned in the *Ain*, but it seems that its Brahmanical norms have been considered. Thus, it chiefly topicalizes rituals of initiation (*vratabandha*), marriage (*vivāha*), annual death rituals (*śrāddha*), adoption (*dharmaputra*), the reception of inheritance by a widow (*bidhuva aṃśadhana*), property partition (*aṃśabaṇḍā*),

41 § 87.17–19, 21, § 90.6, 12, 13, § 94.14, § 97.20, 40, 64, 66, § 103.1, § 104.1, 3–6, § 105.18, § 127.4, § 139.5, § 145.34, § 154.3 and § 160.7–8

42 Cf. Slusser 1998: Appendix III.

43 An edition of the Uj-Ain was prepared by D. Panta (VS 2048 [1991]). An edition and French translation can be found in Fezas 1999–2000.

44 The regulations of Uj-Ain on homicide are discussed below in the section ‘Murder’ under ‘Criminal Law’.

penal taxonomies, purity regulations and adultery. It also regulates the act of widow burning (*satī jalānuu*) and the related annual death ritual. The JBS was drafted and actuated roughly three months before the initial publication of the *Ain* by the order of Jaṅga Bahādura Rāṇā<sup>45</sup> for the specific applicability of the document contents to the Mithilā migrants inhabiting the southern part of Nepal and India, who later migrated to the Kathmandu valley (Bista 1972: 21). Since the JBS declares that Nepal was viewed as a ‘foreign land’ by Maithili Brahmins whose social and ritual regulations are presented as different from—if not incompatible with—contemporaneous Nepalese Brahmin groups, we can safely assume that the JBS was issued with the particular aim of preventing unfamiliar customs gaining a foothold in the region.<sup>46</sup> A similar development is traceable in the *Ain*: the judges stationed at the courts in Tarai are exhorted to carry out judgement in accordance with the customs practiced in the respective places, provided that the dictum of the *Ain* is not directly contradicted (§ 165.2). The *Ain* also recognises extradition treaties concluded between the Nepalese and foreign governments as legally binding (§ 68.23). Verdicts delivered before the promulgation were still considered valid and could not be repealed on the basis of the new legal framework (§ 45.7).

## State Law and State Formation

The history of modern state formation and legal codification are inextricably connected. It is through the legitimacy of legality that the state is able to constitute itself as a sovereign entity which is formally detached from the wider society (Jessop 2016: 8). The *Ain* fits into this pattern. The preamble elevates state legislation to the sole source of legal authority and mandates all government representatives, including the king and prime minister, to adhere to the political procedures enshrined in the *Ain*. On a conceptual level, this is not only a major departure from the legal cosmology of Dharmaśāstra, where royal legislation played a comparatively marginal role among the sources of law (Davis 2010: 25; Lingat 1993: 256) and law in general is considered a derivative of the residual, all-pervading category of Vedic authority (Davis 2010: 28), but also from the relations of mutual legitimation between king, deity, Brahmin and ascetic which shaped the pre-modern Nepalese polity (Burghart 1996). It is, therefore, tempting to approach the *Ain* as a decisive step in the emergence of the modern Nepalese state; an interpretation, however, which would obscure the fact that legality in the *Ain* is much more an instrument of consolidation of traditional institutions and sources of authority than one of restraining them. It is the infusion of ‘legal-bureaucratic rationality’, to put it in Weberian terms, into the existing

45 See the opening stanza: ‘After having bowed down [my head to the feet of] both Jānakī and Rāmacandra, resemblances of clouds and lightning and the remaining Maithilī [population], I shall explain the regulations decreed with regards to them. [It is executed] in the language of the country (i.e. Nepālī) for easy understanding by the order of Jaṅga Bahādura, who is the Indra of Gorakṣeśvara (i.e. King Surendra), who has manifested as a *dharmā*-statue, who is born into royalty (lit. born of prince), who is a creature of all cast-specific duties (*varṇadharmā*) and who is great and excellent.’

46 It has been explicitly stated: ‘The settlement of the Maithili Brahmins in the kingdom of Nepal constitutes an alien influx. Since there is concern that there might appear irregularities in the customs practiced by Maithili Brahmins by the adoption of the customs of the alien people [...]’ (JBS, colophon).

relations of caste, kinship, gender and surplus appropriation which gives the legal regulations in the *Ain* their characteristic shape. In the *Ain*, it is legal modernity that is traditionalised, and not tradition that is modernised.

Furthermore, there is a considerable hiatus between the *Ain*'s normative promises and the socio-legal realities: Jaṅga Bahādura Rāṅā's state was not a constitutional state based on a civil society. There was neither a legal citizenship nor political freedom or political parties. It was essentially a patrimonial state, in which the Rāṅās had a *de facto* private right of ownership over land and people. In this sense, Jaṅga Bahādura was not primarily concerned with its subjects, but with benefices and the increase of state income, which at the same time was essentially his income and that of his clan. Jaṅga Bahādura did not do very much for the people in his state. Despite some attempts, there was no system of social welfare supported by the state. There were neither public schools nor hospitals. The following brief analysis reads the *Ain* as the crystallisation of socio-political struggles surrounding the Rāṅā state-forming project in terms of four dimensions: the state apparatus, the population, the territory and the idea of the state as such.<sup>47</sup>

### State Apparatus

As the embodiment of the Rāṅā state project, the *Ain* evinces two different, but interrelated strategies of state formation. On the one hand, the regulations reveal an attempt to institutionalise a highly bureaucratised and impersonal nucleus which is depicted as being separated from society and following an autonomous set of norms and interests.<sup>48</sup> On the other hand, outside of this 'core state', the *Ain* recognises and co-opts the authority of a wide array of social groups and actors, ranging from landowners to local judicial bodies.

The inner layer of 'autonomous' statehood is created through the following measures:

- Institutionalisation of authority: office and office holder were separated and legal boundaries drawn for both the king's and prime minister's powers. Overstepping these boundaries could be punished by being relieved of office (§ 0.1.34). Additionally, the *Ain* refers to a roll of succession for the monarch (§§ 0.1.1–11, 17) and prime minister (§ 0.1.26) which was intended to guarantee a peaceful transfer of power. Legal legitimacy, therefore, was supposed to supplement legitimation on the basis of birth rights or charisma.
- Separation of powers: the *Ain* undertakes initial steps to establish a conceptual separation between legislature, executive and judiciary. Amendments or modifications to the *Ain* required the approval of the Kausala (see Preamble). Furthermore, neither king nor prime minister was allowed to intervene in the judicial decision-making process (§ 45.2) or corrupt the judgements (§ 0.2.16). Verdicts were supposed to be based only on the authority of the *Ain*. If that was not possible, the case had to be referred to the Kausala and the *Ain* was to be amended accordingly (§§ 35.11–12).

47 These four elements are taken from Bob Jessop's theory of state, by which the following brief analysis is informed (see Jessop 2016).

48 For the Rāṅā bureaucratic system, see Edwards 1977.

- Restriction of royal powers: even after the usurpation of Jaṅga Bahādura Rāṇā, the Nepalese state remained formally a kingdom, although the king's power was considerably reduced. Throughout the *Ain*, the prime minister's position is stronger than that of the monarch; he is even entitled to dethrone the king under certain circumstances. Without the advice of the prime minister, the king is, for example, not allowed to breach agreements with British India or China. If he does so or is otherwise found guilty of seditious actions, he is to be dethroned (§ 0.1.17). The same applied when the king became mentally ill or suffered from other serious diseases (§ 0.1.24). The royal right to pardon was dependent on the consent of the Kausala (§ 0.1.20). Prime minister and *rājaguru* could even give an official reprimand to the king for inappropriate actions. (§ 0.1.21). Nonetheless, the king retained a protected position. In contrast to the prime minister, he and his family were exempted from capital punishment, whereas the prime minister could still be executed, for example for an attempt to usurp the throne (§ 0.1.31) or in the case of treason. Interestingly and in deviation from Dharmaśāstra rules, a Brahman who killed a king could be sentenced to death (§ 0.1.25).<sup>49</sup>
- Definition of a *raison d'état*: In terms of foreign policy, the *Ain* formulates higher state interests. Friendly relations with Great Britain and China, a necessary precondition for Nepal's survival as an independent state, became a directive of state policy (§§ 0.1.17, 0.2.10). Moreover, selling land to non-Nepalese residents, which would have endangered the country's territorial sovereignty and integrity, was highly restricted, even for the king (§ 0.1.34).
- Recognition of the exclusive territorial sovereignty of other states: the state relinquished the authority for criminal persecution in the case of homicide if it was committed by the British resident or Chinese envoy (§ 0.2.17) or else committed by anyone inside their residences (§ 0.2.18). Nepalese subjects found guilty of a crime on foreign territory were to be extradited (§§ 30.15, 68.23). It suggests that basic norms of the emerging international state system—the acknowledgment of the territorial principle of criminal persecution and the extraterritoriality of embassies—were enshrined in the *Ain*.
- Allocation of exclusive resources to the state: the *Ain* tries to establish a more secure and independent resource basis for the state. It was prohibited to convert land reserved for government officials (*jāgira*) into donations to private persons or religious endowments (§ 2.58), and the state treasury was explicitly protected from the private enrichment of the prime minister (§ 6.1). Refined bureaucratic procedures in rent and tax assessment, monitoring and collection were put into force to increase the state income (Art. 6–7). However, all these measures by no means posed a major challenge to the overall patrimonial framework controlled by the Rāṇā family.<sup>50</sup>
- Creation of a hierarchical, impersonal and routinised bureaucracy (see Public, Administrative and Fiscal Law): elaborated control and supervision mechanisms were established

49 The changing notion of kingship in the *Ain* is explored in more detail in Cubelic/Khatriwoda 2017.

50 For example, § 0.2.12 indicates that the members of the Rāṇā family were entitled to receive newly conquered territories at least partly *birtā* if given by the order of king.

to prevent the misappropriation of funds. Additionally, several regulations explicitly prohibit the misuse of authority, corruption, and favouritism of state officials of all ranks and offices (§§ 8.10, 9.6–7, 37.6, 39.14, 40.13, 45.17, 48.22, 50.9, 53.1).

However, contrary to these attempts to impersonalise state power, local authorities played a vital role in the state's government strategy. *Birtā* holders and trustees enjoyed considerable judicial autonomy (§ 45.1), noble subjects were empowered to carry out state functions on the basis of *ijārā* and *ṭheka* contracts (§ 6.2), councils of elders were recognised institutions in legal proceedings (§ 35.16) or commercial transactions (§ 18.1), household heads could exercise disciplinary powers over their dependants (§§ 80.7 and 11) and family members (§ 59.1) and local community leaders were co-opted by the bureaucracy through the official appointments as *tharī*, *mukhiyā* or *nāike* and the transfer of tax collection rights and judicial competences. The state apparatus as envisioned in the *Ain* could be read as the attempt to reach an institutionalised compromise between various antagonistic internal and external socio-political forces: a weak monarch, who is nevertheless formal head of the state, a powerful prime minister who is eager to give the impression that the exercise of his broad powers is restricted by law, a feudal land-holding class which strives to put its privileges on a solid legal foundation, a political elite which tries to strengthen the state in order to guarantee Nepal's autonomy and the pressure from the hegemonic British colonial state in India for consolidated borders and Nepal's integration into the colonial state system.<sup>51</sup>

### Population

The rise of modern state power is associated with the homogenisation of the pre-modern patchwork of communities and overlapping loyalties into monolithic nations, the production of individualised, self-regulating subjects and the neutralisation of mediating social or religious authorities which obstruct the state's comprehensive control over its subjects. Although the *Ain* as a legal code is a strong manifestation of the modern juridical power which is connected to the state's growing assertion of sovereignty, the formation of the Rāṇā state took a different path with regard to the practices of governing its population. It is not the individual as bearer of universal rights who is the target of state policies, but the person as part of his or her caste group, kinship networks and household structure. In its Preamble, the *Ain* guarantees legal certainty, but not legal universalism. Laws differ according to one's caste status, but are the same for all members of a particular caste. This unique blend of legal relativism and legal uniformity, which departs both from the context-sensitivity of the *jāti*- or *deśadharmas* of the Dharmaśāstra tradition and the formal universalism of 'Western' legal modernity, is captured in the phrase of the Four *Varnas* and Thirty-six castes (e.g. §§ 1.13, 6.8, 25.5) which addresses the population as a social totality internally differentiated along caste lines.<sup>52</sup> This observation requires clarification in three respects:

51 On the external pressure to define state borders, see Michael 2012.

52 The structure of the caste system envisioned in the *Ain* and the social codes it rests on are presented in detail below in the section on 'Caste and family law'.

First, the validation of caste groups as legal categories does not imply that the state withers away in the face of an overly powerful society and that the legal recognition of social institutions is a concession to said society's predominance. In the *Ain*, social codes of purity serve rather as an entry point through which state power is channelled.<sup>53</sup> Pollution is put to work in favour of the government in several regards. The transgression of purity rules empowered the state to extract considerable fines (Rupakheti 2016: 76), to enslave people, thus supplying state authorities with cheap labour, and to subject the population under a disciplinary regime. The state also reserved the right to change the status of certain caste groups. In such cases, manipulating the caste hierarchy became a tool for the state to integrate ethnic groups or gain access to their services. A prominent example is the elevation of the Limbus to the rank of a Non-enslavable caste to ensure that they remained available for military recruitment (Höfer 1979: 182/2004: 164; Rupakheti 2017: 184).

Second, the state also reserved the right to exempt certain social practices from purity considerations, such as vocational choices (§ 31.7). In this case, its deep involvement with the internal workings of the caste structure enabled the state to redraw the boundaries between economic activity and religious or customary law.

Third, the establishment of a 'national' caste system does not imply that the norms of the Brahmanic orthodoxy were imposed on the diverse and multireligious society in every respect. Except for certain offences against Brahmanic values, such as killing cows, which were universally punishable, the *Ain* explicitly protects even the customs and beliefs of the country's religious minorities:

All Sacred Thread-wearing castes [such as] Upādhyāya Brahmins, Rajapūta, Jaisī, Kṣatriya etc., Non-enslavable Alcohol-drinking, Enslavable Alcohol-drinking castes, as well as the European and Muslim castes, Water-unacceptable but Touchable, or Untouchable castes, [all these castes] may, in the entire Kingdom of Gorkhā, perform any act that is in accordance with their family traditions and beliefs and leads to the *dharma*, except for cow slaughter. Nobody shall be enraged about such matters. If somebody becomes enraged or quarrels and comes to complain in a *kacaharī* office about such matters, this person who is thus disturbing the religion of others shall be fined 100 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If a clash occurs, leading to the death of any person, [the culprit] shall be executed—taking life for life, provided the guilty person belongs to a caste that can be sentenced to death. If this is not the case, his share of property, in accordance with the *Ain*, shall be confiscated and he shall be punished by *dāmala*. (§ 89.1)

The second major institution which is validated through the *Ain* is the household with its varying legal statuses for legitimate and illegitimate wives, offspring or servants. On an ideological level, consolidating the micro-household as the societal core unit reinforced the idea

53 On the instrumentalisation of orthodox social regulations for political and fiscal ends in early modern Indic polities, see Guha 2013: 130. The legal system of 19<sup>th</sup>-century Nepal fits well into this pattern.

of the state as a macro-household, along with the socio-economic hierarchies and modes of exploitation attached to it.<sup>54</sup> The codification of the joint family as a property-holding unit, too, served the fiscal interests of the state, especially by defining the liability for defaults in rent payments (§§ 7.5, 7, 9; 52.35) or the state's entitlements to escheatable property (§ 28.9). Furthermore, the household was also obliged to take care of the maintenance of its members and dependents and thereby contribute to overall social cohesion, welfare and order (§§ 101.7–8 and 107.4).

The state in the *Ain* appears as an institutional ensemble which is deeply embedded in its wider social environment.<sup>55</sup> It is, therefore, a difficult analytical task to differentiate those constellations where social conflicts and structures translate into the state apparatus from those where the state acts as a semi-autonomous entity, appropriating or manipulating social institutions to extend its sway over society.

### State Territory

The state territory in the *Ain* is envisioned as a spatiotemporal unity whose geographical extension is often expressed in the formulaic phrase 'from the east of the Mahākālī to the west of the Mecī river, in Madhesa and the hill region'. In the *Ain*, jurisdiction is claimed for even distant territories such as Madhesa or Tibet (§ 35.23). This spatial unity is clearly demarcated from other sovereign political entities. The acknowledgement of borders and thereby of the sovereignty of other states is evident in several regulations which, for example, prohibit the establishment of endowments or discourage other investments abroad (§ 1.1) or forbid land sales to foreigners. The state territory was not only integrated in a spatial, but also in a temporal sense. The time within which documents (§ 7.14) had to reach the capital was regulated in detail, which is an interesting indicator for the speed of inter-bureaucratic communication and information flows that the Rāñā state aimed to establish.<sup>56</sup>

Spatiotemporal integration did not mean that there was free circulation of people or goods. A person who wanted to settle in the Tarai was required to obtain a travel permit beforehand (§ 33.14) and certain goods were only to be sold in government granaries (§ 6.17). However, the territory governed did not form a homogeneous legal and jurisdictional space. Separate regulations for the different provinces of Madhesa, Tarai (Art. 165) and Nepāla, including the cities of Kathmandu, Bhaktapur and Patan, existed. In many cases, these plural legal arrangements were an instrument of territorial integration, especially in border territories. For the Tarai, the legal differences were substantial. The judges stationed at the courts of Tarai were exhorted to carry out judgement in accordance with the established customs, provided that the provisions of the *Ain* did not directly contradict these.

54 The manipulation of kinship ties was also instrumentalised for the consolidation of Rāñā rule (Rupakheti 2017: 182).

55 Rupakheti (2016: 80) argues that the combination of both variables—the accommodation of local power relations and the socio-legal control exercised by the government—were crucial for the constitution and consolidation of the sovereignty of the Gorkhali state.

56 On the *Ain* as an attempt to centralise information next to other resources, see also Rupakheti 2017: 177.



However, such legal pluralism was mainly confined to minor offences. With regard to commercial and criminal law, the general regulations were enforced, even in the Tarai:

Throughout the districts of Madhesa and Terai, east from the [river] Mahākālī and west from the [river] Mecī, legal cases concerning anyone from Madhesa or the hill region in matters relating to incest, enslavement, sexual intercourse between persons from superior and inferior castes, or in caste-related issues, or matters pertaining to contamination through cooked rice and water, shall be settled for people from Madhesa according to what has been practised from earlier times to the present day. If a legal case arises which [can neither be settled] according to [the customs] practised from earlier times, nor can it be settled according to the *Ain*, it shall be referred to [the Kausala] in writing, as shall all such cases. [The Kausala] shall investigate the [matter] of the written document and shall introduce [any required new law]. Action [regarding such a case which is referred to the *Ain* Kausala] shall be taken according to the instructions given [by the Kausala]. (§ 165.2)

In Surkhet or Morang, special laws for government loans, subsidies and tax exemption were enacted to attract farmers for the cultivation of these districts (§§ 2.64–65). Under certain conditions, even fugitive slaves became free once they settled there. For the cities of Kathmandu, Patan and Bhaktapur, detailed building regulations are laid down which indicates a stronger state presence and claim of governmental regulation for Kathmandu Valley than for other provinces (Art. 76). Also within the different provinces, the degree of stateness varied considerably, depending on the division of the territory into different categories of land rights, which in turn entailed varying degrees of state control. The legal recognition of *guthī* land can even be read as the integration of different (divine) forms of spatiality embedded in the state space. These divine spaces consisting of pilgrimage places, temples, monasteries and seats of deities were interwoven into a sacred topography which became the foundation of a religiously grounded patriotism. Even though state territory in the *Ain* is constructed as a bounded unity, it is not conceptualised as a linear, flat, uniform space, but rather modulated by different scales of stateness, pervaded by networks of alternative spatialities and fractured by the power of societal groups or divine agencies.

### The Idea of the State

Even though the *Ain* reflects aspirations to create more autonomous statehood, the state as a coherent concept is only partially consolidated. The text displays semantic slippages and ambiguities between 'older' regicentric and more recent state-centred notions. The three major terms referring to the polity are *sarkāra*, *muluka* and *rājā/rājya*. Whereas in *rājya* the constitutive role of the monarch for the state is still expressed, the other two terms are more ambiguous in that regard. *Sarkāra* designates both king and government and it is, in many instances, difficult to decide to which of the two entities the term actually refers.<sup>57</sup> The same holds true for the term *muluka*, which in the Nepalese governmental discourse refers to the royal possessions

<sup>57</sup> It is an indication that the king is meant if the honorific *śrī*-5 is prefixed to the term.

and reflects the monarch's tenurial sovereignty (Burghart 1984: 103). In the *Ain*, *muluka* is not only employed in a more general sense referring to the state territory as a unity over which the government exercises legislative powers, but appears also in combination with the first-person possessive pronoun *hāmrā*, 'mine' (majestic plural, the Royal 'we') or 'our' (§ 33.14) which adds another layer of ambiguity concerning the locus of political sovereignty. Does the pronoun refer to the ruling king or the three representatives of the royal family who enact the *Ain* in the Preamble, and does it still express royal sovereignty? Does it refer to the members of the *Ain* Kausala, the representative body of the state elite, and therefore implies the nobility as the true sovereign? Or does it even refer to the kingdom's people as a collective entity which would hint at an embryonic form of popular sovereignty?

There is, indeed, reason to assume that the *Ain* articulates attempts to create a more cohesive 'state population' which is bound to the government through exclusive moral ties. All inhabitants of the country, including the king, are expected to be loyal to the state and protect its higher interests, as the existence of crimes like sedition and treason suggests (§§ 0.2.5–6, 8, 10). Furthermore, a legal distinction is made between 'foreign' and 'native' subjects. For example, a person is required to live on Nepalese soil to acquire land (§ 0.1.34). Even among the Muslim minority, the legal status differs depending on whether a Muslim belongs to the native community of *Curaṭe* Muslims, or comes from abroad (§ 159.8). The Maithili Brahmins seem to have occupied an intermediate position between 'insiders' and 'outsiders'. Although they were perceived as a 'foreign' element, they received legal recognition through the promulgation which accommodated the Maithili Brahmins within the legal system and accommodated their cultural distinction at the same time.<sup>58</sup>

The *Ain* backs the Rāṇā state project not only by establishing legality as a major source of legitimation, but also by formulating a moral vision for the state's nature and purpose: the state becomes the guarantor for Nepal's special status as the only remaining Hindu kingdom in the Kali era, for the integrity of her sacred topography, for the observance of Brahmanical norms and—by overseeing the *guṭhī* system—for the country's collective spiritual and material flourishing (§ 1.1). Even though initial attempts to create a 'proto-national' state population are discernible, the moral authority for state power is established through weaving together multiple other sources, such as religious patriotism, monarchical attachments, the attainment of an earthly and other-worldly commonweal, anticolonial sentiments and the establishment of rule of law.

The absence of a codified vocabulary of statehood underlines the transitory moment the promulgation of the *Ain* represents for Nepal's political history. As an institutional compromise under the hegemony of the Rāṇā family, the *Ain* reflects a polymorphous, only partially autonomous institutional ensemble which combines bureaucratic patrimonialism, prime ministerial autocracy, monarchy and legality, and which rests on tributary-feudal economic relations, caste and kinship structures, and religious networks. The semantic ambiguities in the text are, therefore, a condensation of the political struggles, negotiations and social relations out of which the Rāṇā state emerged.

58 See JBS, colophon.

## Caste and Family Law

One of the main topics of the *Ain* is to strengthen the hierarchy of the caste system.<sup>59</sup> Nearly one-third of its Articles deals with problems of caste and family and is concerned with (illicit) sexual relationships, legal or appropriate forms of marriage and the status of the offspring, as well as forms of acting against legitimate relations, e.g., adultery (cp. Fezas 1993), prostitution, rape, incest, sodomy, elopement, etc. Questions of purity and impurity through consuming alcohol, violating rules of commensality, death or birth impurity or misuse of the sacred thread also feature strongly in the *Ain*.

### Caste Hierarchy

Nepal was a Hindu kingdom, but not entirely a Hindu society. The caste hierarchy of the *Ain* reflects the ethnic diversity of Nepal in the 19<sup>th</sup> century, that, more often than not, was different from the norms of the *varṇa* model of a caste society bound together by the Brahmanical governing notion of pure/impure. However, caste hierarchy is not the only mode of social stratification the *Ain* validates. Men who bear the right to kill their wives' paramours are super-ordinated to those not allowed to do so; 'honourable' ritually married wives to 'dishonourable' common women and prostitutes (*veśyā*)<sup>60</sup>; masters to slaves and other dependents, landlords to tenants, and the local nobility and other state officials to ordinary subjects. Of course, patriarchal codes of gender and age seniority were other criteria for social hierarchisation. These different modes reified each other and created intersectional forms of discrimination.

Moreover, ethnic groups have their own social distinctions and differentiations. They define themselves more in distinction to other ethnic groups than through an internal notion of hierarchy. This makes them, in principle, socially equivalent and their integration into the hierarchical caste system difficult. However, the *Ain* tried to do precisely this, although its norms were certainly not accepted by most ethnic groups.

The *Ain* considers these differences between castes and ethnic groups through the correlation of caste and status. It refers to the caste system by the phrase *cāra varṇa chattisa jāta*, 'Four Varnas and Thirty-six castes'. As Höfer rightly remarks, '(t)he number 36 stands symbolically for the multitude of individual castes and certainly lacks empirical evidence' (Höfer 1979: 115, 2004: 88). In fact, 63 castes (without Newar castes) and circa seven ascetic groups are mentioned in the *Ain*.

This means that most ethnic groups in Nepal are not mentioned in the *Ain*. In the *Nepālika-bhūpavaṃśāvalī* and other texts of the 19<sup>th</sup> century, 64 castes are listed. In 1966, one researcher counted 26 castes among the Newar alone; in the census of 1991, 60 castes and ethnic groups

59 The structure and complexity of the *Ain*'s caste system has been dealt with by the anthropologist András Höfer in his brilliant study *The Caste Hierarchy and the State in Nepal: A Study of the Muluki Ain of 1854* (1979, reprint 2004). For the role of the caste system in the state's strategies of population governance, see above the section on 'Population' under 'State Law and State Formation'.

60 In Nepālī, this term is used both for women who have had sexual intercourse with more than two different men and for prostitutes. Whenever the former are referred to, we have translated the term as 'common woman'.

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were counted, and in 2011 it was already 125.<sup>61</sup> This differentiation is a result of changes in profession and migrations, as well as status demands, as Rajendra Pradhan aptly remarks:

The ethnic groups, speaking Tibeto-Burman languages such as Gurung, Tamang, and Limbu, migrated at different times from regions across the Himalaya far to the north and east, with the Sherpa and some Tibetan-speaking groups having arrived more recently from the same general direction. The Nepali-speaking Bahun (Brahmin), Chhetri (Kshatriya) and Thakuri as well as the service caste dalits, collectively known as Parbatiya ('hill people'), migrated in from the west and south. The ethnic group known as the Newar is a composite of several communities such as the formerly forest-dwelling Tharu, Sattar, and Santhal [and] have probably been around for over two millennia as well, whereas others such as the farming Maithili-speakers of the eastern Tarai arrived later (Pradhan 2002: 1).

Altogether, then, the country is one of ethnic diversity. Chhetri and Bahun are the largest caste group (31 percent according to the Census of 2011) followed by Magar (7.1), Tharu (6.6), Tamang (5.8), Newar (5), Kami (4.8), Muslims (4.4), Yadav (4.0) and Rai (2.3). The identity of the people of Nepal, however, is not only orientated toward caste (*jāta/jāti*), but also toward region (*deśa*), religion, and social status, even though the *Ain* was not so much interested in specifying the individual customs and laws of the various castes and ethnic groups. Instead, it brought them into five caste groups based on categories of purity and impurity:

- (1) Sacred Thread-wearing castes (*tāgādhārī*): mainly Bahun and Chhetris including high Newars;
- (2) Non-enslavable Alcohol-drinking castes (*namāsinyā matuvālī*): privileged ethnic groups, predominantly Magars and Gurungs, both entitled to join the army;
- (3) Enslavable Alcohol-drinking castes (*māsinyā matuvālī*): ethnic groups who speak mostly a Tibeto-Burmese language such as Bhoṭe, Cepānga, Mājhi, Danuvāra, Hāyu, Darai, Kumāla, Paharī, etc.;
- (4) Water-unacceptable but Touchable castes (*pāni nacalnyā choi chiṭo hālnuna parnyā*): castes who deal by profession with impure substances; into this category also fall Muslims and Westerners;
- (5) Water-unacceptable and Untouchable castes (*pāni nacalnyā choi chiṭo hālnuparnyā*): castes who are so impure that they cannot be touched by higher castes and if accidentally touched, the members of higher castes need to purify themselves through expiation or penance.

This system is based on four symbolic items determining higher and lower status: the Sacred Thread, alcohol, water (Fig. 1) and cooked rice (see below), which is a social marker within the groups.

61 Cf. Rosser 1979 [1966] and B. G. Shrestha 2007 for the counting of castes and social groups.

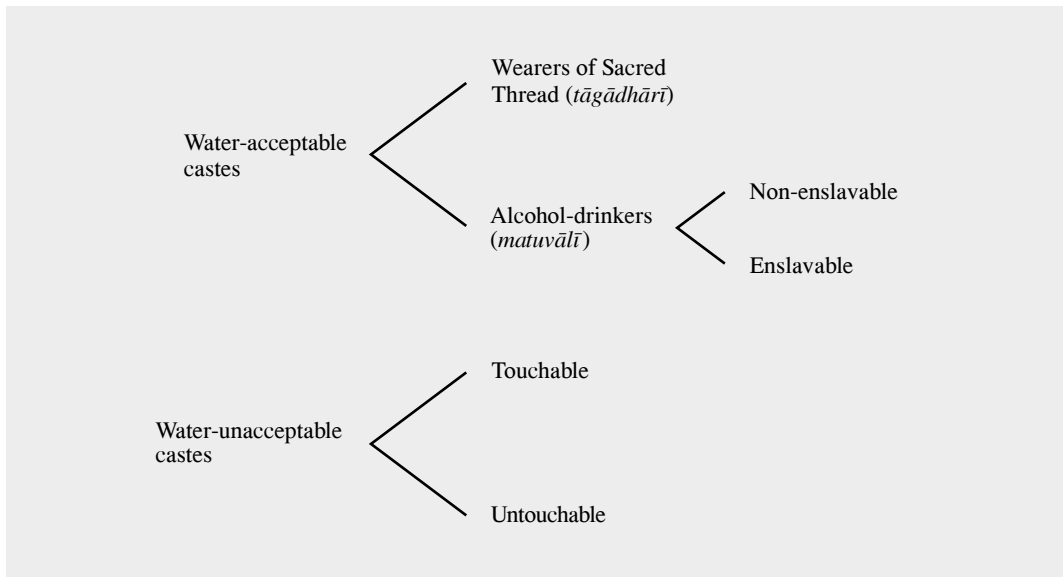


Fig. 1: Symbolic order of the caste system

On the basis of such categorical differentiations, the caste hierarchy of the *Ain* looks roughly as follows (Table 4) even though the position of some ethnic groups is not always clear.

With a few exceptions, the *Ain* does not specify which caste group (*jāta*) falls under which caste class (*varṇa*). This would have created a number of particular problems. For example, the alcohol-drinking Kṣatriyas in the western Himalayas do not fall under any caste category laid down in the *Ain*. Since they consume alcohol, they actually could not keep their caste status as Kṣatriyas wearing the Sacred Thread; nevertheless, they were still regarded as Kṣatriyas by birth in customary practice and the *Ain* is silent about this issue.

### Purity / Impurity as a Status Marker

Interestingly, cooked rice (*bhāta*) is not reflected in Höfer's scheme of the caste hierarchy, although he is fully aware of the significance of this social marker:

In principle, the following rules are applicable: 1. The groups of persons from whom Ego may take *bhāt*, on the one hand, and water, on the other, need not be identical. 2. *bhāt* can be accepted only unilaterally; water either unilaterally or reciprocally. That is, a) there are people from whom Ego accepts *bhāt* and water and who also accept them from Ego; and b) there are others from whom Ego only accepts without being allowed to give them. 3. A prohibition of acceptance may be effective either for a limited period or permanently. Only between persons belonging to the same caste can a prohibition be short-termed, f.i., in the case of a temporary defilement caused by death or childbirth. Permanent prohibitions prevail; the latter instance concerns people who exhibit a slight decline in status compared to that of other 'normal' members of their caste (Höfer 1979: 56, 2004: 21).

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Table 4: The caste hierarchy<sup>iv</sup> (\* = Ethnic group)

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### 1. Caste group of the ‘Sacred Thread-wearers’ (*tāgādhārī*)

Upādhyāya Brahmin

Devabhāju (Newar Brahmins)

Brahmins of foreign kingdoms: Terhaūte Brahmin, Bhaṭṭa Brahmin, Marhaṭṭā Brahmin, Nāgara Brahmin, Gujarātī Brahmin, Mahārāṣṭrīya Brahmin, Tailāṅgī Brāhmin, Dravidian Brahmin, Brahmin of Madhesa

Asala Rājapūta, Rājapūta, Chetri/Kṣatriya (‘warrior’)

Asala Jaisī Brahmin, Jaisī Brāhmin, Dotyāla Jaisī, Jumlī Jaisī, Duī-Liṅga-Jaisī, Tīna-Liṅga Jaisī

High Newar castes such as Tharaghara, Asala Śreṣṭha<sup>i</sup>

Hamāla

Bhāṭa/Bhāṭa Jaisī

Some ascetic sects (such as Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Kanaphaṭṭā, Udāsī and Baghara, etc.)<sup>ii</sup>

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### 2. Caste group of the ‘Non-enslavable Alcohol-drinkers’ (*namāsinyā matuvālī*)

\* Guruṅga

\* Magara

\* Ghale

\* Sunuvāra

\* Limbu, Kirātī<sup>iii</sup>

\* Newar castes from whose members water is acceptable

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### 3. Caste group of the ‘Enslavable Alcohol-drinkers’ (*māsinyā matuvālī*)

\* Bhoṭe

\* Cepāṅga

\* Danuvāra

\* Hāyu

\* Darai

\* Kumāla

\* Paharī

Ghartī (descendants of freed slaves), also called Pāre Ghartī

\* Lāpacyā (Lepcha)<sup>v</sup>

\* Mājhi

\* Ṭhokryā

\* Galahatyā

\* Newar castes from whose members water is unacceptable

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### 4. Water-unacceptable but Touchable castes (*pāni nacalnyā choi chiṭo hālnunaparnyā*) according to § 160.17

Muslim (Musalamāna)

Telī of Madhesa (Oil sellers)

Kasāī (butchers)

\* Kusle (Newar caste who brush and sweep the courtyards of the palaces, of the houses of high-ranking officials or in the temples, and play musical instruments in the temples)

Dhobī (washermen)

\* Kulu (leather-workers)

Christians, Mleccha (European)

Curauṭe (Muslim bracelet sellers, mainly in the Kathmandu Valley)

Kalavāra (brewers, merchants)

\* Mecyā<sup>vi</sup>

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Table 4: The caste hierarchy<sup>iv</sup> (\* = Ethnic group) (continuation)**5. Untouchable castes (*pāni nacalnā choi chiṭo hālnuna parnyā*) according to § 160.17**

Sārki (tanners, shoemakers)  
 Kāmī (blacksmith)  
 Cunāro/Cunāra  
 Hurkyā  
 Damāī (tailors and musicians)  
 Gāine (singers, players of musical instruments and beggars)  
 Bādi Bhāḍa (singers, dancers and beggars)  
 Cyāmakhala (Newar scavengers)  
 Kaḍārā (stemming from unions between Kāmī and Sārki)

- i The *Ain* does not extensively classify caste hierarchy amongst Newars. It puts the Hindu Newar priests (Devabhāju) and foreign (i.e. Indian) Brahmins in the same rank (§ 146.3) and presents a brief hierarchy among the other Hindu Newars (§§ 145.7, 8, 9, 10); Tharagharas and Asala Śreṣṭhas are placed at the top of the hierarchy after Devabhājus. Śreṣṭhas are classified as inferior to Tharagharas and Asala Śreṣṭhas and superior to Jyāpu, Bāḍā and Udāsa. Sālami, Nakarmī, Chipā, Mālī, Khusalamusala, Ḍuī, Citrakāra and so forth are considered inferior to Jyāpu, Bāḍā and Udāsa. Only Kasāī, Kusle, Kula and Ḍoma are recognised as Water-unacceptable but Touchable, whereas Poḍe (Poḍhyā) and Cyāmakhala are considered Water-unacceptable and Untouchable. The *Ain* does not deal with the Buddhist Bajrācāryas and the rest of the Buddhist Newars.
- ii They are ranked equal to Tina-Liṅga-Jaisī, Doṭyāla or Jumli Jaisī (§ 151.1).
- iii The caste status of these two groups, which are mentioned only once in the *Ain* (§ 124.5), is not very clear, as they originally seem to have been grouped as enslavable. Cp. Höfer 1979: 124 (2004: 98).
- iv Cf. Höfer 1979: 45 (2004: 9), Khatiwoda forthc.; cp. § 89.17.
- v The caste status of this group, only mentioned in § 89.49, is not clear.
- vi The members of the Mecyā caste were upgraded to a Water-acceptable caste in 1860 (§ 89.49).

True enough, the *Ain* differentiates between edible (*bhakṣya*) and inedible (*abhakṣya*) food. Nonetheless, edible objects for the lower caste groups may be inedible for the upper caste groups. For instance, chicken is not edible for the Sacred Thread-wearers, but edible for the Water-unacceptable castes and Untouchables. Several sections deal with what can and cannot be accepted from the impure and lowest caste groups. Raw grain including rice, everything which has not been washed or mixed with water, raw fish, meat, tobacco for the hookah, perfume, spice, fruits with a sweet scent, etc. are classified as pure, even if they have been touched or kept by impure caste groups. A clay vessel is not considered impure unless it is filled up with water. Similarly, Chinese pots, bottles, glasses and pots made out of wood are pure. Liquor, chicken-meat, beef and buffalo meat are forbidden for Sacred Thread-wearers. This excludes he-goat which may be eaten by Sacred Thread-wearers in Nepalese customary law. If an untouchable touches certain objects, the transfer of his impurity to the receiver can be averted either by throwing the object away, if it cannot be purified, or by purifying it ritually. Several objects are acceptable even from the Untouchable caste groups if the object has not come into contact with water.

In general, the caste status determines the individual's juridical status, and generally the rules and regulations of the *Ain* are valid for all castes within a particular caste group. Only for the Untouchable caste group is an internal caste hierarchy based on customary distinctions discernible. The following table presents the internal hierarchy among the Untouchable caste groups (Table 5).

## Introduction

Table 5: Internal hierarchy among impure castes<sup>i</sup>

Caste group and its hierarchical order	Customary reason
Kasāi	since they do not accept food from all other Untouchable castes and the high caste members accept milk from them (§ 160.11)
Kusle	since they do not accept food from the Cyāmyakhala, Poḍe, Bādi, Gāine, Damāi, Kaḍārā, Sārki, Kāmī, Kulu and Hindu Dhobi and they clean the temple premises and courtyards of high officials (§ 160.10)
Hindu Dhobi	since they do not accept food from the Cyāmyakhala, Poḍe, Bādi, Gāine, Damāi, Kaḍārā, Sārki, Kāmī and Kulu, and they do not wash the laundry of Untouchables (§ 160.9)
Kulu	since they do not accept food from the Cyāmyakhala, Poḍe, Bādi, Gāine, Damāi, Kaḍārā, Sārki and Kāmī (§ 160.8)
Sārki and Kāmī	since they do not accept food from the Kaḍārā (§ 160.7)
Kaḍārā (mixture of Sārki man and Kamī woman)	since they do not accept food from the Damāi, but the Damāi accept food from them (§ 160.6)
Damāi	since they do not accept food from the Gāine and do not accept their offspring as their fellow caste members if they are born to a Gāine woman (§ 160.5)
Gāine	since they do not accept food from the Bādi (§ 160.4)
Bādi	since they do not accept food from the Cyāmyakhala and Poḍe (§ 160.3)
Poḍe	since they do not accept food from the Poḍe, who consume others' leftovers (§ 160.2)
Cyāmyakhala	since they accept leftovers from the high castes down to the Poḍe (§ 160.1)

i From Khatiwoda forthc.

The *Ain* is strictly hierarchical. The punishment is the greater, the higher the caste status of the victim. It does not place any caste outside the gradation of pure-impure, but the grade of impurity depends on the substance, caste status, consuming and/or touching the impure substances or the persons offering them and malice, i.e. the question of whether one has consciously or unconsciously been defiled, and more criteria. Art. 87 ('Drinking Liquor and Untouchability') is typical for these distinctions (Table 6). The basic rule is:

If someone belonging to a Sacred Thread-wearing or a Non-enslavable Alcohol-drinking caste knowingly, by force, or for no reason (*usai*) makes a person belonging to a Sacred Thread-wearing caste consume alcohol etc. or any other forbidden substance which leads to his caste degradation, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be imprisoned for 1 year. If he pays the fine in lieu of his prison term, it shall be accepted and he shall be set free. If a person belonging to an Enslavable caste has made [the victim] consume such things, his share of property shall be confiscated and he shall be enslaved. Someone who has consumed such things by deception or force shall



Table 6: Punishments for making somebody consume alcohol etc. according to Article 87<sup>i</sup>

Section	Culprit	Victim	Punishment
15	Sacred-Thread-wearing castes or Non-enslavable Alcohol-drinking castes	Sacred-Thread-wearing caste	confiscation of property, imprisonment for 1 year and enslavement
16	Sacred-Thread wearing castes, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes	Non-enslavable Alcohol-drinking caste	50 Rs
17	Sacred-Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes	Enslavable Alcohol-drinking caste	25 Rs
18	Sacred-Thread-wearing, Non-enslavable Alcohol-drinking, Enslavable Alcohol-drinking or Untouchable castes	Water-Unacceptable but Touchable caste	12 ½ Rs
19	Sacred-Thread-wearing, Non-enslavable Alcohol-drinking, Enslavable Alcohol-drinking, a Water-unacceptable but Touchable or Untouchable castes	Untouchable caste	6 Rs, 1 <i>sukā</i>
20	Untouchable or Water-unacceptable castes	Sacred-Thread-wearing or Non-enslavable Alcohol-drinking castes	caste degradation and 3 years imprisonment
21	Untouchable castes	Sacred-Thread-wearing, Non-enslavable or an Enslavable Alcohol-drinking caste	caste degradation and enslavement

i Cp. Khatiwoda forthc.

be granted expiation. If the Sacred Thread-wearing caste member has lied about his caste and consumed such things, the person who has made him consume such things without knowing [his caste status] shall not be accused. The caste status of the person who has consumed such things shall be degraded to a Non-enslavable Śūdra caste. He shall not be granted expiation. (§ 87.15)

These prohibitions are then varied according to the caste status summarised in Table 6.

These instructions show that impurity does not lie in the defilement itself, but depends on the agents and their caste status. The closer culprit and victim are in their caste status, the lesser is the punishment. The higher the caste status of the victim and the lower the caste status of the culprit, the more severe the punishment and *vice versa*. However, if expiation has been granted by any court of justice or royal order and executed by the *dharmādhikāra*, or any other judge, everybody, independent of his or her caste status, becomes pure (*śuddha*).<sup>62</sup>

62 Cf. Höfer 1979: 97 (2004: 69); on purification measures and rituals, see Michaels 2005.

A symbol of the highest status is the Sacred Thread. No wonder, then, that the *Ain* protects it in a special way and punishes those who rip it violently off or order it to be removed (§§ 91.5–8). According to § 91.1, it is punishable to bestow it on somebody ‘who belongs to a caste whose members are not entitled to receive the Sacred Thread’.

The social hierarchy was not only based on the purity/impurity notion, but also on paying respect within the family. Art. 98 states that one should pay obeisance by putting one’s head at the feet of, and lying flat on the ground before one’s parents, paternal and maternal grandparents and the guru and his wife. Women had to greet persons to be respected by placing their heads at the feet of such persons.<sup>63</sup>

Naturally, death implied impurity, and a number of Articles of the *Ain* deal with this topic, especially the Articles on carrying a corpse (95), mourning (97) and making a death known, as well as widow burning (94). The case of *satī* is especially worth examining in a more detailed form, because it shows again how the *Ain* indirectly considers norms of the Dharmaśāstra and at the same goes far beyond them.

Nepal not only has the oldest inscription mentioning widow burning in South Asia, the Mānadeva inscription dated Śaka 386 (= 464 CE) at Cāṅunārāyaṇa,<sup>64</sup> it also preserved in Article 94 of the *Ain* the most detailed regulations, far beyond what is known from Dharmaśāstra sources. Many historical documents testify that widow burning was quite widespread among the ruling clans of Nepal. These regulations can be summarised as follows (Table 7):<sup>65</sup>

Table 7: *Satī* regulations in Article 94

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*Satī* is permitted for married women or women who have been brought into a household without marrying them ritually (§§ 1, 12), if:

1. they are over 16 years old (§§ 1–3),
  2. their sons are over 16 years old (§§ 2, 3),
  3. their daughters are over 5 years old (§ 3),
  4. they have no other husband (§ 4),
  5. they are not pregnant (§§ 6–7),
  6. their decision is freely taken and immediately carried out (§§ 9–10, 12, 27), i.e., (a) no force (§§ 16, 20, 22), (b) no narcotisation (§§ 18, 20–22) or (c) persuasion (§§ 18–20, 21) is used,
  7. but rather an attempt is made to change her mind (§§ 9–10, 14–15).
- 

Moreover, *satī* is forbidden:

8. if ‘only’ the son has died (§ 8),
  9. in the case of female slaves and servants (§ 5),
  10. if the husband of a Brahmin woman has died abroad or far away (§ 11), i.e. no second pyre is allowed.
- 

Two stages of immolation are legally pertinent in assigning punishment:

11. a ritual stage, namely the bath (*snāna*), by which *satī* is initiated, and for which an expiatory payment (*patiyā*) is necessary in cases of retraction; or the breaking of the bracelets (§ 25), by which the ritual decision to commit suicide is confirmed, and
  12. a factual stage, namely the igniting of the fire (§§ 11 and 13).
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63 Cp. Michaels 1997a.

64 Edited by Vajrācārya VS 2030: 9–30.

65 For a detailed analysis of the Article on *satī* and versions in other *Ains*, see Michaels 1993 and 1994 (with further references).

Table 7: *Satī* regulations in Article 94 (continuation)

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Thus, in the case of an abandonment of intent it is a matter of importance when this has occurred, i.e.:

13. after the bath, but before igniting the fire (§ 14),
14. after the bath and after igniting the fire (§ 15), or
15. after the breaking of the bracelets (§ 25).

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16. Further, the distinction is made between the main culprit, instigator and accomplice: the main culprit is the person who lights the fire, the instigator the one who gives permission for *satī* to be performed, and the accomplices are those who carry or merely accompany the widow to the pyre. The degree of punishment consequently depends upon the part played, and also upon nearness of kinship, age and caste status. Whether the son is punished, for example, when he allows an illicit *satī* to be performed on his mother depends upon whether he is over or under 12 years old, and whether or not he is a stepson (§§ 25 and 27).
17. The *Ain* also regulates questions of the widow's hereditary rights when she lets herself be immolated, particularly with regard to land and personal property (§ 20).
18. Interestingly, the text betrays no knowledge of the legal concept of error that serves to mitigate or cancel punishment: If a woman mistakenly supposed that her husband had died and prepared to have herself immolated, she would still, after the misunderstanding had been cleared up, be fined a penalty of 5 rupees a month or 4 months in prison (§ 29).
19. The types of punishment include: capital punishment, incarceration for life or for a limited period, fines, confiscation of property (both real estate and personal property); and expulsion from the caste. Whoever, for example, incites a mother to perform *satī* at the death of her son is given a life-term jail sentence or even the death penalty, if his status is that of a slave (§ 8). Particularly harsh punishments are meted out to those who narcotize a widow before her immolation, or use violence to force her (§§ 16, 18, 21–22), or in cases where *satī* is performed for a man who is not her husband (§ 8: death of a son).

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## Criminal Law

The *Ain* makes the violation of several 'universal' rights a punishable offence. To a limited extent, this holds true for the right to life and security of person as well as property. However, there are considerable exceptions: no freedom, inhuman punishments, degrading treatments, slavery, no equality before the law and much more. True, the *Ain* punished cases of murder, assaults or theft, but it did not protect the individual against despotism and humiliation.

### Murder

The Śāha administrations produced a considerable amount of legal testimonies during the late post-unification period in the form of *lālamohoras*, *rukkās*, *sanadas*, *pūrjīs* or the like, which consequently paved the way toward the legal unification of the country. However, as these documents mostly dealt with economic and religious activities, caste and family issues, and social order and customs, it is hard to undertake a comprehensive study of law on homicide for that time. A more extensive document which records legal regulations of homicide during the post-unification period is the Uj-Ain, prepared in 1822. The criminal section of Uj-Ain (5.1–10) basically deals with the following main areas: offences committed against a person's body, offences against the sovereignty of the state and crimes relating to incest. What is striking here is that the Uj-Ain played a trick to alter the ancient and pre-MA practice of exemption of capital punishment for Brahmins and women. The first section of Article 5 of the regulation reads:

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If somebody commits the crime of taking another's life, a situation ensues wherein there will be injustice lest [the offender] is executed; [therefore] the latter shall be either decapitated or hanged, if he is from a caste that may be executed by force or a martial instrument. If a Brahmin and so forth<sup>66</sup> or a woman—[both of] whom may not be executed by force of a martial instrument due to the sinfulness of killing them—has committed the grievous sin [of manslaughter], they shall be enchained [and left to perish] or, if they have to be executed promptly, they shall be sent [to an area] where Malaria epidemics are prevalent during the rainy season or shall be sent to the northern borderland (Bhoṭa)<sup>67</sup> during wintertime and [the authorities] shall not let them free before they die. (Uj-Ain 5.1)

Such pre-existing documents certainly served as a basis for preparing law on homicide in the *Ain*,<sup>68</sup> which lists three different rubrics on homicide: 1. on taking out of weapons for murdering, 2. on a murderer and 3. on unintentional homicide. Broadly speaking, the *Ain* divides homicides into the following major categories:

- 1) Accidental homicide: a) if a person who is past the age of 12 dies by one or two hand blows on the back or cheek, but not on sensitive body parts (§ 64.1), b) upon falling into traps set up in or around a redoubt, path, fortress or fort closed down earlier by a royal decree or set up with prior notice for certain animals (§§ 77.5, 6), c) because of a human error or accident (§ 65.12), d) during lawful interrogation (§§ 68.1, 2) and e) in lawful captivity (§ 50.15),
- 2) Lawful homicide: a) killing for the protection of sovereignty of the kingdom (§ 0.1.33), b) in self-defence (§ 63.4), c) while protecting private property (§§ 68.5, 6, 10, 22), d) while guarding government property or while patrolling by royal decree or other authorised command (§ 64.27), and e) while exercising the right of killing a spouse's paramour (§ 135.7)
- 3) Excusable homicide: killing by a minor (§ 92.9)
- 4) Attempted homicide: a) capturing or holding captive without authorisation with the intent to kill (§ 64.18), b) assaulting a sentry with a weapon, such as a bow and arrow (§ 64.24)
- 5) Unlawful homicide: killing by one or more person(s) with the intent to do so, out of greed for property or out of any other form of envy, is defined as unlawful murder (§§ 64.8–12).
- 6) Infanticide and abortion: killing a newborn child or casting it out with the intention of killing it constitutes homicide, thus is punishable by execution (or *dāmala* if the perpetrator cannot be sentenced to death) (§§ 143.1–2), and concealing the infanticide results in a fine of 30 rupees (§§ 143.1–2). Abortion is not permitted by the *Ain* and therefore, whoever aborts a foetus or contributes to such an act is to be punished (§ 143.3).

66 This indicates various categories of Brahmins and also some sects of ascetics who may not be executed, such as Jaisī Brahmins, Newar Brahmins or non-household ascetics.

67 Lit. 'Tibet', however, this does not mean Tibet in the strict sense, but any uninhabited snowy region along the Tibetan border.

68 This topic has been dealt with in Khatiwoda forthc.

- 7) Homicide during the ritual process of self-immolation (*satī*): the forced immolation of a woman is a murder. A woman who first decides to self-immolate, but during the process of burning reconsiders and leaves the funeral pyre should neither be killed nor be brought back to the funeral pyre and immolated. The ones who gave the order to kill her, the ones who captured the woman and those who struck her with the intention of killing her are all to be held accountable for committing murder (§§ 94.15–16).
- 8) Homicide by quadrupeds: murderers include animals which kill their owners or others: ‘If a cow or an ox kills its owner’s family members or its own herdsman by attacking him, trampling or crushing him, such a cow or ox is a murderer (*jyā*). It shall not be kept at the village.’ (§ 71.7) There are special rules for sacrifices, especially that no female four-footed animals may be killed (§§ 71.15–20).
- 9) Killing a cow:<sup>69</sup> the law is particularly harsh if somebody hurts or kills a cow, as this can be treated on a par with murder, thus is punishable by *dāmala* (§ 166.1) and anyone killing the killer of a cow at the scene is not held accountable (§ 166.7).
- 10) Regulations regarding the killing of foreign envoys and diplomats. The *Ain* foresaw that the Chinese and English envoys did not fall under domestic regulations on homicide if charged with murder. Not only were foreign envoys exempted from the domestic regulations on homicide, but also their residences in Nepal were granted the status of special zones of immunity, in effect recognised as their autonomous territory (§ 0.2.17).

The *Ain* mainly refers to offenders by *kāṭṭinyā jāta* and *nakāṭṭinyā jāta* (those who may be executed and those who may not be executed). The Brahmins, the king, certain groups of ascetics, women, and persons of unsound mind fall under the categories that may not be executed. The overall caste representations and the punishments dealt in consequence of the law on homicide are presented in Table 8.<sup>70</sup>

A king, a prince listed on the roll of succession, Brahmins, certain groups of ascetics, and women cannot be executed, but are to be punished by *dāmala*. The *Ain* recognizes the king as one of the state agents and accords him the position of a ritual focal point; for example, incest results in a *rājakhata*, thus, it is theoretically punishable by the king (§ 122.6). However, if the king commits homicide, he has to be imprisoned for his lifetime. This shows that the *Ain* attempts to establish equality before the law on the basis of the policy of ‘sin and crime should be punished’, irrespective of the position or rank of the culprit. By such provisions, the *Ain* distances itself from the shastric practice in which the king is considered to be an embodiment of Viṣṇu, and no worldly agency can hold a king accountable for any crime he commits, since his sins will be avenged by the laws of karmic retribution. At the same time, the *Ain* partially elevates the position of the king and does not condemn him to death if he is found guilty of homicide. Following the shastric principle that ‘the king should not be killed’, it instead punishes him with life imprisonment. Similarly, Brahmins, ascetics, and women are also exempted from the death penalty, but should be punished by *dāmala*. Everyone else, however, can be sentenced to death if

69 This topic has been extensively dealt with in Michaels 1997b.

70 Cp. Khatiwoda forthc.

Table 8: Punishment for homicide

Punishment	Not applicable to		Applicable to
Death penalty	rank	the king	the rest, and also to Brahmins if charged with regicide
	caste	all categories of Brahmins	
	group	certain ascetics	
	gender	women	
	health	insane or dull persons	
	age	anyone below the age of 12	
Confiscation	rank	king	the rest
	gender	women	
	group	slaves	
<i>dāmala</i>			all
Imprisonment			all
Imprisonment in Golaghara			women
Fine			all
Fine in lieu of imprisonment			only women

guilty of murder. The exemption from capital punishment of the above-mentioned groups is in accordance with normative ideas based on Dharmasāstra (cp. Fezas 2000a). However, *dāmala*, too, refers to a form of death sentence, which replaces the physical death of a culprit. Although the punishment of branding, which was adopted from the dharmashastric practice, avoids physical killing of them, it is equivalent to death, because those who are branded are considered to be socially and morally dead.<sup>71</sup> Moreover, the *Ain* recognises the natural law of self-defence. In such cases it is permissible even to kill Brahmins and women. For example, following shastric practice, the emphasis on not killing Brahmins and women (§ 64.1) is not applicable to cases of self-defence. Irrespective of caste status, rank and position of an attacker, one is allowed to kill him in self-defence. This does not result in punishment. This also shows the alteration of shastric ideals and a growing awareness of the positive nature of law on homicide.

### Physical Injuries

Physical injuries—such as tearing off the nose or ear, twisting fingers, biting, breaking limbs, inflicting bleeding wounds—are punished according to their severity. An exception is formed by corporal punishment by a father, which are tolerated if the children are beaten ‘in such a way that

71 See RŚE 15.

their hands or legs have not been sprained, the body has not received any bruises and no blood has been drawn' (§ 59.1). The next section in this Article, however, says:

No father or mother shall beat their sons or daughters. If [the son or daughter] has made a mistake or does not obey and, thus, has to be punished, [the son or daughter] shall be locked in a dark room or shall be verbally threatened. No other punishment shall be given. (§ 59.2)

Conversely, children must not physically attack or verbally abuse their parents, grandparents or gurus. Violations may result in imprisonment, depending on the nature of the injury. This holds true for servants, bondservants and slaves, too.

Another exception is torture performed by officials to convict a suspect. For example, if the suspect is suspected of theft, he may be beaten or flogged in such a way that he does not die (§ 68.1). If the culprit dies as a result of his injuries in the event of a repeat offence, the officers are not threatened with any punishment (§ 68.2). 'Then the case has been settled by force majeure' (§ 68.4). Moreover, the pre-MA barbarian forms of punishment, such as mutilating the hands, fingers, noses or ears of a culprit is not accepted by the *Ain* (§ 68.65).

Assaults resulting in death lead to the death penalty (§ 62.16) of the offender. Drawing a weapon with the intention of killing is likewise punishable (Art. 63). As causes of bodily injuries are mentioned brawling (Art. 58), clashes at festivals (Art. 55), family disputes, land disputes or riots against civil servants (Art. 41).

Violent conflicts within a family could even lead to the death of a family member. This is especially mentioned with regard to women:

Amongst the women from a single household, if a wife beats her co-wife, or the mother beats her daughter or the daughter beats her mother, or the elder sister beats her younger sister or the younger sister beats her elder sister, and if the person who is beaten becomes ill and dies... (§ 39.4).

Not all physical attacks were regarded as a criminal offence liable to public prosecution; only cases where someone beats a person in such a way that the victim becomes 'maimed, lame, mute or mentally deficient, or [the attacker] draws blood from a person, or breaks his limbs, or verbally abuses him' (§ 46.8).

### **Thievery**

Besides homicide and physical injuries, theft is a major crime that is especially dealt with in the 79 sections of Art. 68 ('On Theft'). It is impossible to summarise here all the details, but in general the following can be said.

Minor forms of theft in a house could exempt one from punishment (§§ 68.32–33). Degrees of theft are also mentioned in §§ 50.31–32. In the case of recidivists, the Article differentiates between a) a first time or single thief who was not to be punished at all if he returned the stolen goods, and b) a recidivist who had to compensate the owner for the stolen goods and was to be

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punished with imprisonment of up to 12 years, depending on how often he had committed the offence (§§ 68.9, 13), and with branding after the seventh case. In some cases, the thief could even be executed (§ 68.67). If the thief could not compensate the owner for the stolen goods, he was imprisoned. Dealing in stolen goods (§§ 68.7, 41) was punished by the obligation to compensate the owner for the items.

The *Ain* considers the factual circumstances. If the thievery entailed physical injuries, the thief was sentenced to 6 years' imprisonment, while in the case of recurrence he was treated like a murderer (§ 68.11). It also mattered whether the burglary was carried out by breaking into a house by force (§ 68.17), during the day or night, inside or outside, and especially the stolen goods:

If a thief past the age of 16 does not even break in, bursting through a wall, picking locks or using keys, also does not enter through a window and does not enter the house during a day or night either, but steals cash or goods [worth] less than 20 rupees from the roadside or cowshed, or steals clothes kept outside or hung out to dry, or steals birds and animals like sheep, goats, ducks, chicken or the like, or steals the quadrupeds which are brought to pasture for grazing, then a first-time thief shall be made to pay damages for the stolen goods and be fined an amount equal to the damages. (§ 68.13)

Aggravating circumstances were the theft of 'an idol of any deity, effigy or a statue established by the government or anyone else' (§ 68.53), weapons (§ 68.64), or inscriptions or documents (§§ 68.57–58, 63). A minor case was the theft of flowers (§ 68.69). Embezzlements (§§ 68.25–29) or theft of government property (§§ 60–61, 71–76) was also severely punished. Kidnapping led to the confiscation of property and imprisonment or enslavement, depending on the culprit's caste status and gender (§ 68.39). As a finder's reward, 20 % were fixed (§ 68.45), or 10 % in the case of lost animals (Art. 70). If the owner did not answer, the finder could keep what he found. Special cases were false accusation (§ 68.35), failure to render assistance (§ 37) and self-defence in cases of thievery (§ 68.6), the latter of which was not punished even if the thief died.

## Insults and Lewd Behaviour

Insults (Art. 57), lewd behaviour such as showing the genitals (§§ 57.2–7) and other forms of non-physical attacks are also dealt with in detail. An insult is, for example, when someone untruthfully says: 'You are from a low caste' (§ 56.5), 'You are a freed slave' (§ 56.6) or 'If your hair above the lips is a moustache, go on; if not, it's pubic hair and you cannot go on' (§ 57.1). A drastic form of injury and a severe form of making someone impure is the forced feeding of human excrement, urine or semen or putting one's penis into somebody's mouth (Art. 60).

Criminal law can hardly be separated from customary law and the underlying purity laws. Flatulence (Art. 61), spitting (Art. 62) or throwing chilli powder in the eyes, mouth, or on the genitals (Art. 67) are not only bodily injuries, but also the infliction of impurity associated with the substances.

Again, the pollution is dependent on the status of the offender and the victim. As Table 9 shows, in the case of intentionally passing wind in the face of another, who is then temporarily rendered impure by this, the punishment is the greater, the higher the caste status of the victim.



Table 9: The punishment for public flatulence according to Article 62

§	Offender	Victim	Rupees	Fee for expiation in <i>ānā</i> (16 <i>ānā</i> = 1 Rupee)
1	Every caste ( <i>jāta</i> )	Same or lower caste	5	4
2	Rajapūta, Sacred Thread-wearers	Higher caste	7,5	4
3	Non-enslavable alcohol-drinker	Sacred Thread-wearers	10	8
4	Enslavable castes	Sacred Thread-wearers	15	1
5	Enslavable castes	Non-enslavable alcohol-drinker	5	4
6	Impure, but touchable or untouchable castes	Higher castes from whom water can be accepted	20	1,5
7	Untouchable castes	Impure, but touchable castes	5	4

## Compulsory Labour and Slavery

In contradistinction to Dharmaśāstra rules, the *Ain* allows the free choosing of one's profession (§ 37.1). It allows members of all Four Varṇas and Thirty-six castes to refine 'gold and silver' (§ 31.1) as well as gunpowder (§ 31.2), to trade whatever they like or to plough by yoking 'cast-rated bulls, he-buffaloes or horses to the plough in order to earn a livelihood' (§ 31.5)

This freedom in the choice of profession is, however, severely restricted in everyday practice. If an orphan is found, the officials should first carefully identify the caste from which the child comes and then have him or her trained in the respective caste profession. If no relatives can be found, the child is to become member of the Khāna Khavāsa caste (§ 31.11). This shows that people were still more or less bound to their traditional caste profession.

The main reason for enslavement was cheap labour.<sup>72</sup> This was accompanied by a sophisticated system of impoverishment and indebtedness of the peasantry. From an economic point of view, however, the benefits of slavery were doubtful, for the state could easily resort to labourers and day labourers through a system of forced labour (*jhārā*, *beṭhī*, *begārī*) and then did not have to provide for the front workers for life, and the enslavement of peasants led in large part to a lack of harvest yields and thus to tax losses.

Article 11 legitimises and regulates this forced labour, by which tenants and peasants were widely used to cultivate land or work as porters. They were paid for this work, and in cases where a landlord did not pay the fixed sum—generally 4 *ānās* per day—, he was punished.

72 The following section is partly based on Michaels forthc. a. For a more elaborate treatment of this topic, see M. Bajracharya forthc. with further references.

Apparently, this custom was widely abused, because the *Ain* explicitly mentions a number of officials who were not entitled to demand such labourers, among them ‘generals, colonels, *cautarīyās*, *kājīs*, *sardāras*, *bhāradāras*, [royal] gurus or priests’ (§ 11.3).

Forced labour in parts of Nepal resulted in farmers leaving their land to find a new livelihood elsewhere in the country or abroad. These people were among the first migrant workers in Nepal. In 1872 Nepalis already formed the majority of the population in Darjeeling, at the end of the 19<sup>th</sup> century also in Sikkim, not to mention the countless Nepalese workers in India or the Gorkha soldiers recruited during the First and Second World Wars. It is well known that the problem of such migrant workers has spread, as it is estimated that in 2019 more than seven percent of the population worked abroad as migrant workers, mainly in India and the Gulf States.

Slavery and unfree or bonded labour laws in the *Ain* (Art. 80–86) are an attempt to unify and clarify various existing customs and regulations as well as to limit the abuse of this widespread form of exploitation. Enslavement was one of the usual forms of punishment in cases of adultery or illicit sexual contacts. The fact that the *Ain* differentiates between Enslavable and Non-enslavable castes speaks for itself.

The fate of the slaves in Nepal was indeed full of regrettable circumstances. Female slaves were often sexually abused, small children, even babies were snatched from their parents and sold, the use of violence was often the order of the day, accommodation and care were reduced to a minimum. How far the humiliation of slaves could go is illustrated by the following regulation:

If a master has put human excrement into the mouth of his male or female slave, the master shall not be entitled to get such a slave back. An *adālata*, *ṭhānā* or *amāla* office shall emancipate such a slave and set him or her free after taking 10 rupees from him. (...) If [the master] has put human excrement on other body parts except the mouth, he shall not be accused and held accountable. (§ 60.4)

Slaves had to work around the clock, till the land, herd animals and fetch water or firewood. However, they had some basic protections; for example, if a sick slave was abandoned without care (§§ 85.1, 3), and if the slave survived under these conditions, he or she was to be freed (§ 85.1). Even a servant who worked only for daily food was not allowed to be abandoned when ill (§ 85.3). Servants had it a little better, but the boundaries between these categories blurred in everyday practice. In principle, the *Ain* differentiates between several forms of slaves and bonded labourers (Table 10).

Enslavement meant social death. Even though the former caste still played a role in the imposition of punishment and residues of caste could not be eradicated, the slaves were alienated from their families and home towns, and lost their ritual status and became underage ‘children’ of their master. It was not so much the loss of freedom that was the dramatic aspect as the loss of kinship. Although slaves could be inherited and thus become part of a family, especially if they were married to a slave and had children, and although, in exceptional cases, slave women could become part of the family through marriage with the master, this was no substitute for the loss of their families of origin. And yet the status of a slave integrated into the family was ‘better’ than, for example, the status of a pure labour slave who was more or less treated as a commodity—on a par with four-footed animals, together with which slaves are often mentioned (cf. §§ 81.1–2).

Table 10: Types of slaves and bonded labourers

<i>cākara</i> (servant)	A generic term for a servant attached to the master's household, probably on a long-term basis. There are two different types of <i>cākara</i> to be distinguished, those working for wages ( <i>darmahādāra cākara</i> ) and those working only for their maintenance (§ 97.30). The rarely used term <i>batuvā</i> (a servant working only for food) seems to be a low category of the latter (§ 85.3). In contradistinction to a bondservant ( <i>bādhā</i> ) and slave ( <i>kamāro</i> ), a <i>cākara</i> can neither be pledged nor sold and their subordination to the master is of a contractual nature.
<i>keṭī</i> (maid)	Often understood as a synonym for a female slave (see e.g. Hamilton 1819: 23). However, in the <i>Ain</i> , this term without any qualification seems rather to be a generic term for any kind of female servant or maid. Thus, if the slavehood of a maiden is to be expressed, the term <i>kamārī keṭī</i> is used (§ 97.30). The otherwise frequently used term <i>keṭī</i> occurs only in a few instances in the <i>Ain</i> , which indicates that the legally more precise term <i>kamārī</i> was preferred.
<i>bādhā</i> , <i>badhetyānī</i> (bondservant)	A servant who comes under the possession of his creditor on the basis of a loan contract. There are two forms of bond servanthood: the first results from a non-usufructuary mortgage agreement ( <i>dr̥ṣṭi-bandhaka</i> ), according to which a pledged person enters only into the employment of the creditor as soon as the debtor fails to pay back the loan. The second results from a usufructuary mortgage agreement according to which the pledged person has to work off the credit amount or interest. A bondservant can be redeemed by paying off the debt. He or she can be pledged by the creditor, but not sold.
<i>kamāro</i> , <i>kamārī</i> (slave)	A 'full' slave who is treated as a commodity and can be bought, sold, or otherwise commercially disposed of. There are only a few ways for a slave to become emancipated ( <i>amalekha</i> ) or a free person ( <i>ajāputra</i> ): either being freed at the will of the master or, for a slave woman, giving birth to the offspring of the master or any other free person.
<i>khavāsa</i>	There seem to be two definitions of this term. First, a <i>Khavāsa</i> is the illegitimate offspring of a slave woman and a man from a noble family, and is either technically still considered a slave, or freed, i.e. one is born as a <i>Khavāsa</i> . Second, <i>Khavāsa</i> is a social group formed out of slaves in noble households or the illegitimate children from the union of slave women and the masters of such households, i.e. one could also become a <i>Khavāsa</i> ; <i>Khavāsa</i> would then be similar to <i>Pāre Ghartī</i> (emancipated slaves), a heterogeneous social category of people who have a slave background.

Article 83 deals with the question of how to treat minors or children born of slaves. Thus, for example, in the case of an inheritance division among brothers, it was not possible to separate the children of a slave from the mother, as long as they were under 11 years old. A minimum age for serfdom had also been established. Anyone who took or offered slaves under the age of 16 had to pay 10 rupees each. Another section prohibited the sale of children under the age of 11 and separating them from their mother (§ 83.4); until that age one was considered a minor.

The *Ain* legislates on slavery to the extent that a person, if he belongs to an Enslavable caste, could only become a slave as a state-imposed punishment. Otherwise it was actually forbidden. In a private context you became a bondservant (*bādhā*). The reasons for enslavement in this broader sense were manifold. One of the most frequent causes was the failure to repay debts, but also pledges, which led to debt bondage and serfdom. Non-payment of debt 'only' resulted in bondservanthood, which was, at least from the legal point of view, a better status. However,

## Introduction

according to the *Ain*, the word ‘body’ (*jyū*, *jūū*) was often used for the human pledge, i.e. the slave (§§ 19.1–2). In addition, there were offences against morality, in particular sexual offences, for example incest. In such cases, the ones punished had to belong to the Enslavable castes. This punishment was severe, corresponding approximately to capital punishment, and indeed sometimes explicitly imposed as a substitute when capital punishment did not come into question. Equally, under certain circumstances the offering of alcohol could lead to enslavement (§ 87.16), whereas the consumption of alcohol would lead to caste degradation:

If someone makes a Sacred Thread-wearing caste member consume an alcoholic drink, knowing that he is from such a caste, his share of property shall be confiscated and he shall be enslaved. If he does so unwittingly, having been deceived into letting [the other] consume [the drink], [that is,] if the Sacred Thread-wearing caste member has lied about his caste status [in order to] consume it, the one who let him consume shall not be held accountable. The one who consumed shall be degraded into an Alcohol-drinking Śūdra caste. (§ 31.9)

In individual cases, people were taken into slavery through coercion or tricks, for example as prisoners of war or rebels, but also by exploiting evil machinations. The most frequent reason, however, was as a punishment for offences and crimes. These rules are preserved in remarkable detail in the Articles 60, 87, 110 and 111.

The *Ain* deals with how to treat sick and disabled slaves (Art. 85), with those who have run away and are returned (5 rupees finder’s fee was then due, § 80.3), or with those who help them to escape. If a slave ran away and hired himself out elsewhere without the new master knowing his history, no compensation had to be paid to the previous owner, but the slave had to be returned to the actual master (§ 80.5) But if a slave was sold, even though he did not belong to the seller, the seller had to pay compensation and penalties (§ 80.6).

The state also took care to recover slaves who ran away (§ 80.3). It established the inheritance rights of slaves and the sexual relations between the slaves and their masters. Thus, children who were born after sex with a slave received the caste status of the master, provided the slave belonged to the pure castes (§ 91.2).

The state played an important role in the internal slave market (Art. 86), e.g., by regulating the slave traffic (Art. 80) or fixing prices for slaves when slave-related legal disputes arose (§ 82.4). The sale of slaves and the payment modalities for serfdom are also given precisely in the *Ain*. Thus, it was determined that the price for a male slave between 12 and 40 years of age was 100 rupees and for a female slave 120 rupees. The prices for child slaves were as such:

Concerning a dispute [on the price] of a male or female slave, if an *adālata*, *ṭhānā* or *amāla* orders someone to pay the price [for a male or female slave], it shall be determined as follows: [1] 20 rupees for a slave boy below the age of 3 years, [2] 25 rupees for a slave girl [of the same age], [3] 30 rupees for a male slave from 3 to 6 years of age, [4] 35 rupees for a female slave [of the same age], [5] 50 rupees for a male slave from 6 to 12 years of age, [6] 55 rupees for a female slave [of the same age], [7] 100 rupees for a male slave from 12 to 40 years of age, [8] 120 rupees for a female slave [of the

same age], [9] 60 rupees for a male or female slave from 40 to 50 years of age, and [10] 50 rupees [for a male or female slave] from 50 to 60 years of age. (§ 82.4)

If the work performance of a slave or bondservant had to be compensated, it was calculated per day at 1 *ānā* ( $\frac{1}{16}$  rupee). Food expenses for a slave were calculated at 1 *ānā* per day (§ 80.10).

The state guaranteed, with such regulations, a legal security of the slave owner and the slave. It prescribed penalties for the officials of the various magistrates and district offices if they unlawfully tolerated or even practised enslavement (§ 82.1). It was also forbidden for anyone to manipulate the caste status in order to make enslavement possible. Even the distinction between Enslavable and Non-enslavable castes in the *Ain* caste hierarchy was an instrument of oppression and exploitation mainly of the peasantry and the impure castes or caste-less.

In some cases, slaves could be liberated by sporadic acts of pardon by different kings and prime ministers,<sup>73</sup> by liberating slaves for merit, which often happened in front of temples or deities,<sup>74</sup> or by a personal liberation through the master during his/her lifetime or after death.<sup>75</sup> In some of these cases, the slave took a traditional basket (*doko*) on his back and fastened it with a rope stretched over his forehead (*nāmlo*). As soon as the master cut it, the slave was free.<sup>76</sup>

## Land and Property Rights

The political-economic system of 19<sup>th</sup>-century Nepal was predominately determined by the coercive appropriation, distribution and consumption of agrarian surplus in the form of tax or rent.<sup>77</sup> It seems as if the drafters of the code were aware of the central role of land for the political, economic and social order and put the respective Articles (Art. 1–10) right at the beginning of the *Ain*, immediately after propounding the basic constitutional principles of the state. The access to and control over the agrarian surplus was dispersed among a complex network consisting of the crown, state and military elite, feudal nobility, priestly class and fiscal intermediaries, though in reality these different socio-economic roles often overlapped in a single person. The *Ain* gives us a detailed insight into the manifold judicial and institutional forms through which these tributary relations of production were reconfigured. The different legal categories of land—distinguished by the degree to which ownership rights or entitlements to its agricultural produce were transferred to its holder—were the cornerstone of the economic regime. These land categories can be classified according to the extent to which the state maintained control over the agrarian surplus appropriation, the duration for which possessory titles were granted to beneficiaries, and (to a lesser degree) whether they served an extractive or rather a redistributive function. Among these categories, the following types are especially noteworthy.

73 See, for example, Document ‘Girvāṇayuddha VS 1858 (1813 CE)’.

74 See Document ‘Sundara Giri and his wife VS 1869 (1813 CE)’.

75 See Document ‘Rājakumāri Pāḍenī VS 1887 (1943 CE)’.

76 See, for example, the above-mentioned copperplate inscription from 1813.

77 The following account is informed by John Haldon’s theoretical elaborations on the tributary mode of production (see Haldon 1993, 2013, 2015).

### **Raikara Land (State-owned Land)**

Land within this category remained in the possession of the state. Peasants cultivating such plots entered tenure contracts and submitted their payments directly to the state. Common tenurial arrangements were the *adhiyā*,<sup>78</sup> *kuta*<sup>79</sup> or *tihāu*<sup>80</sup> systems (§ 8.20). However, the government not only assigned the task of rent and tax collection for such land to salaried revenue officials (*amānata*), but relied also on non-governmental fiscal intermediaries on a contractual basis (*ṭhekadāras* and *ijārādāras*) for that task. These contractors had to be solvent and of good reputation, and it was desirable that they should have their households, wives and children in Nepal (§ 6.2) to reduce the risk of any default in payment. The contracts were awarded after a competitive tender process (§ 6.7) from which the prime minister and his close family members were excluded (§ 0.2.15), probably meant to give the impression that the Rāṇās were hindered from enriching themselves at the expense of the state treasury. These revenue-farming arrangements also seem to have been an attractive object of capital investment, since the *Ain* even addresses issues of commercial partnerships for that purpose (§ 6.9). However, to make revenue collection a profitable enterprise for both state and the intermediaries, the financial burden was necessarily passed on the peasants. *Ṭheka* and *ijārā* contracts were not only granted for land, but also for monopolies, such as the revenue generated from mines, mints, tolls, customs, trading posts or the exclusive trading rights for certain goods (§ 6.8, 8.20–21). This underlines the fact that the *Ain* consolidates rent-seeking as the dominant economic mode in the spheres of manufacturing and commerce, too. At least, peasant communities were provided with the opportunity to prevent the appointment of a *ṭheka* or *ijārā* holder for the collection of their rent payment as long as they agreed to pay the same amount as offered by the highest bidder. Such tenurial arrangements between communities and the state were called *lokābhāra* contracts (§ 6.3). It seems that tenants on *raikara* land benefitted from stronger safeguards with respect to the continuation of their tenure or eviction from the land they tilled (§ 3.15) in comparison with those tenants farming land in the possession of feudal landlords (§ 3.1). A subtype of *raikara* land was *serā* land (royal demesne). These plots were mainly reserved for the provision of services for the royal household, but also for the government in general. Tenants received *serā* land for their subsistence as revenue assignments (*rakama*) in exchange for their labour as couriers, gardeners, gunpowder factory workers, lumbermen, grass cutters or charcoal burners (§ 2.57). Distributing *serā* land was a method for the state to gain access to labour resources in the context of a less-monetised economy.

### **Jāgira (Prebendal Estates)**

*Jāgira* is the temporary assignment of revenue for specified plots as an emolument for state service. Under the *jāgira* system, the state temporarily yielded land-taxation rights to office holders in lieu of salaries for the duration of their tenure. By taking recourse to this method of in-kind

78 A system of share-cropping in the central hill region, under which the cultivator paid half of the rice-crop as rent.

79 A system of tenancy under which a cultivator paid a fixed quantity of produce or a fixed amount of money as rent to the owner of the field.

80 A system of tenancy under which a cultivator paid one-third of the produce as rent to the owner of the field.

payment instead of payments in cash, the state avoided the logistic and administrative difficulties which a centrally organised collection, storage and distribution of the agricultural rent would have entailed (Regmi 1971a: 39). *Jāgiras* were assigned to both civil and military personnel (§ 12.1). As proof of a *jāgiradāra*'s right to collect the rent from his tenants, a specific authorisation letter called *tirjā* or *purjā* was issued by the local land registration office (*daphadara*) (§ 34.10), in which the amount of rent the *jāgiradāra* was entitled to receive was specified (§ 4.5). A *jāgiradāra* was also allowed to sell his rent collection rights, put them up as collateral in loan agreements (§§ 5.1 and 5.5) or exchange them with another *jāgiradāra*. The mention of grain speculators (*dhokryā*) in this context (§ 5.3) hints at the existence of an entrepreneurial class who acquired such rent collection certificates and sold the agrarian produce with profit at the market.<sup>81</sup>

Nevertheless, the *Ain* also puts restrictions on the commercialisation of these rights. For example, a *jāgiradāra*'s private loans were not allowed to be recovered from the rent assigned to him (§ 14.1), probably to ensure that the *jāgiradāra* was always equipped with the means of subsistence necessary to carry out his government assignment. The state also tried to assert its supremacy vis-à-vis the *jāgiradāra* class itself. The *jāgira* assignments were only given on an annual basis, which allowed the government to discontinue the service of unreliable *jāgiradāras* or to transfer them regularly in order to keep potential centrifugal aspirations in check. Additionally, the *Ain* subjected the *jāgiradāras* to a tight bureaucratic control to prevent the misappropriation of government resources: their assignments, for example, were centrally registered (§ 33.2), the execution of the rent collection certificates had to be witnessed (§ 12.2) to guarantee their authenticity and conformity with the government provisions, their assignments were regularly audited (§ 3.26), and the rent they were entitled to collect was exactly recorded (§ 4.5), they were not allowed to demand forced labour from their tenants for private purposes (§ 11.3) and a *jāgiradāra* convicted of the embezzlement of government revenue was immediately dismissed and fined (§ 8.19). A special type of *jāgira* was the *nānakāra* assignment, which was handed out to *caudharīs*, *guraus* or *kānugois* in the Tarai districts as allowance for their service.

### **Birtā ('Feudal' Estates)**

In contradistinction to *jāgira* assignments, where the state transferred specified taxation rights only for a limited period of time, in the case of *birtā* holdings the state relinquished most, if not all such rights on a long-term or even permanent basis. Grants of this type usually were given for life; sometimes they were even inheritable. Additionally, the beneficiaries were often empowered to exercise sovereign rights in the fields of jurisdiction and the utilisation of unfree labour. Except for certain heinous criminal offences which had to be forwarded to a state court (§ 36.6), *birtā* holders were granted judicial authority over their land (§ 45.1) and entitled to collect court fees or fines resulting from litigation (§ 46.7). Even offenders punished by enslavement became property of the *birtā* holder (§ 86.2). In addition to such slave labour, they could also take recourse to compulsory labour services from their tenants as far as contractually agreed upon

81 Maybe a phenomenon comparable to the 'portfolio capitalists' described by Subrahmanyam/Bayly 1988, a socio-economic class doing business at the intersection of state and market (Ludden 1999: 159).

(§ 11.1). Under certain conditions, a *birtā* holder was also entitled to the escheats incurring on his land (§ 28.17). The property rights attached to a *birtā* grant were especially favourable to its recipient. Unlike *jāgira* assignments, *birtā* grants could not be re-allotted or seized, unless the holder committed a serious crime (§ 33. 17). If *birtā* land was required for infrastructural or military purposes, its holder had to be adequately compensated (§ 2.6). A *birtā* holder was also allowed to sell (§ 2.14) or mortgage (§ 2.24) his land and evict tenants from there if he wanted to use the land for private purposes (§ 3.1), which implies that *birtā* land was considered its owner's private property. Section 2.57 explicitly protects the property rights of *birtā* holders from any state incursion. However, all these measures might have been not only an attempt to secure the privileges of the feudal class at the expense of the central authority, but also a strategy to support the creation of a market in secure land rights and thereby to increase the country's agricultural productivity. That *birtā* grants were also perceived as a threat to the fiscal status of the state can be inferred from § 2.58, which orders that only state-owned land, unclaimed land, and reserve land shall be handed out as *birtā* and under no circumstances land reserved for *jāgira* assignments, which would diminish the state's ability to pay government servants. Interestingly, private property rights of the *birtā* type do not only emerge through a government grant, but also through labour. The cultivator of barren land received part of the land he made arable as *birtā* (§ 2.3); similarly, the erection of a house could vest *birtā* rights to the building and the building plot with the owner (§§ 76.1–2). Therefore, *birtā* rights as exclusive, alienable property rights did not solely serve as a legalisation of feudal land holdings, but, to a lesser extent, also provided incentives for activities increasing productive economic activities. The following *birtā* types, which are not always clearly distinguishable from each other, are mentioned in the *Ain* (Table 11).

Many economic, social and political privileges were attached to a *birtā* grant. Yet, the *Ain* remains silent on the social profile of the *birtā* holders. M. C. Regmi argues that in the pre-Rāṇā period, *birtā* land was partly given to the members of the leading families of the Gorkhali kingdom to create a loyal feudal nobility (Regmi 1971a: 38), partly to Brahmins, priests and members of religious groups (Regmi 1971a: 29). Whereas in the first case the grants served the accommodation of (potentially rival) elite groups, in the second case they allowed the Gorkhali state to integrate alternative (divine) centres of sovereignty (Burghart 1996) into the polity and to draw on networks of spiritual patronage and legitimation. With the emergence of Rāṇā rule, *birtā* holdings became increasingly subjected to state control, and the judicial autonomy and political significance of the *birtā* holding class were successively reduced (Regmi 1976a: 36–37). In later times, *birtā* estates served as a major source of enrichment for the Rāṇā oligarchy (ibid.). The regulations in the *Ain* concerning *birtā* grants support this interpretation. Every *birtā* grant had to be approved by the prime minister (and thus by a member of the Rāṇā family) (§ 33.18), which institutionalised the Rāṇā family's sway over the most important economic and political resources of the country, that is land. On the other hand, however, the *Ain* contains sections which, at least on paper, ought to have hindered the members of the Rāṇā family in using this authority for their personal benefit. Section 33.18 directs that all *birtā* grants for the prime minister or his family required the consent of the *kājīs* or *bhāradāras*. If the prime minister, his brothers and sons accepted a *birtā* grant made by the king out of favouritism, it was even



Table 11: Types of *birtā* grants.

<i>bekha</i>	an inheritable <i>birtā</i> grant
<i>birtābitalapa</i>	an often tax-exempted land grant made by the state instead of pay or wages
<i>chāpa</i>	land granted by the state to individuals on a life-time basis in return for service
<i>kuśabirtā</i>	land grant made to Brahmins with regard to the usage of <i>kuśa</i> grass out of religious motives
<i>marauṭa</i>	land grant endowed to the family of a person who lost his life for the welfare of the kingdom, especially in a war
<i>mānācāmala</i>	land grant given to a <i>bhāradāra</i> or a high-ranking officer in order to provide him with daily supplies of food, under the condition that the plot turns into state-owned ( <i>raikara</i> ) land upon his death
<i>mayāyu</i>	land grant to a person out of affection or love
<i>peṭiyākharca</i>	a category of governmental land grant endowed for maintaining the recipient's livelihood
<i>pharmāisī</i>	a <i>birtā</i> grant to members of the royal or Rāṇā family, valid only during the lifetime of the recipient
<i>phikadāra</i>	inheritable <i>birtā</i> grant made to persons lower in status than the Brahmin castes in appreciation of services for which the <i>lālamohora</i> bore the mark of betel juice spat by the king
<i>sevābirtā</i>	a category of <i>birtā</i> grants made to individuals for the performance of specified services, especially in the Kathmandu Valley
<i>sunābirtā</i>	<i>raikara</i> land bought by a private person which was liable to the <i>potā</i> tax

considered treason (§ 0.2.11). It seems, then, that these regulations were designed to maintain the illusion that there was still a clear demarcation between government resources and the dynastic patrimony of the Rāṇā clan.

### **Guṭhī (Religious, Charitable and Public Endowments)**

The Art. ‘On Guṭhī Endowments’ is one of the beginning chapters of the *Ain* which underlines the importance attributed to *guṭhīs* for the maintenance of the socio-religious order and the spiritual infrastructure of the country. In the *Ain*, a flourishing *guṭhī* system is not only envisioned as the guarantor for earthly and otherworldly prosperity, but the government is also directed to expand the resource basis of the system by donating uncultivated state-owned land to these endowments (§ 1.1). Just as *jāgira* land was assigned for the performance of state functions, *guṭhī* land formed the economic basis for temples, shrines and ritual associations, but also for charitable activities and even the maintenance of public facilities. In the *Ain*, the following three purposes are highlighted: religious and ritual purposes, such as the maintenance of Śiva temples, pilgrim's refuges (*dharmasālā*) and the performance of compulsory, occasional or annual worship of deities (*nitya-* and *naimittika-pūjā*) (§ 1.1); welfare purposes, such as the daily distribution of meals to orphans, elderly people without family or disabled persons (§ 93.6) or the arrangement of funeral ceremonies (§ 95.5); and, finally, the

maintenance of public facilities, such as wayside shelters, fountains, bridges, *ghāṭas*, wells, ponds, paths, resting places or gardens (§ 76.9). The welfare-oriented *guṭhīs* were also designated *sadāvartas*. Similar to *birtā* grants, *guṭhī* land was endowed on a permanent basis and the state transferred its taxation rights on that plot to the *guṭhī* trust. Consequently, in many cases the same regulations apply to *birtā* and *guṭhī* land and the trustees in possession of *guṭhī* land enjoyed in many respects privileges comparable to that of *birtā* holders, as for example in terms of judicial autonomy. However, the trustee's property rights on the endowed land were far more limited than in case of a *birtā*. The trustees were not allowed to sell or mortgage *guṭhī* land (§ 1.10) and their possessory rights depended on their ability to fulfil the mission of the endowment (§ 1.4). The endowment was under state supervision and monitored by a special accounts office, the Guṭhī Jāca Aḍḍā, and a special court, the Guṭhī Kacaharī (§ 93.6). Since the property rights lay with the trust and not the trustees, the *guṭhī* was, in contrast to a *birtā* grant, protected from state confiscation, even if the trustees were found guilty of capital crimes (§ 1.2). In such cases, the trustees were dismissed, but the trust itself was preserved and given into the hands of other trustees. *Guṭhī* endowments were considered sacred institutions and committing crimes against them were severe offences. Thus, a king or minister who laid a hand on *guṭhī* property was threatened with damnation (§ 1.1), and stealing the charter of a *guṭhī* was punishable by imprisonment (§§ 68.57–58). In the *Ain*, *guṭhīs* are classified into two categories, *rājā-guṭhīs* (royal *guṭhīs*) and *duniyā-guṭhīs* (commoner's *guṭhīs*). Royal *guṭhīs* are those trusts set up by a reigning king or queen of Gorkhā following the performance of a *saṃkalpa* (§ 1.5). They were managed through the Guṭhī Kacaharī (§ 8.21). It seems that land endowed as a royal *guṭhī* still remained to a certain degree at the disposal of the state, since § 2.57 empowers the government to give such land out under *rakama* contracts. Commoner's *guṭhīs* were founded by private persons through the dedication of *birtā* land in their ownership. They thereby became trustees (*guṭhīyāra*) of the *guṭhī* who were obliged to use the endowment fund to carry out the mission of the *guṭhī* and to maintain its facilities. In return, they were entitled to the enjoyment of the surplus of the income from the *guṭhī* land (§ 1.3). Trusteeship for a *guṭhī* was inheritable on the condition that the customary obligations of the *guṭhī* were continued and the heirs showed reputable behaviour (§ 1.10).

Regulating and supporting the *guṭhī* system had two advantages for the Rāṇā government. First, by investing in and administering the dense endowment network, the state was embedded into a ritual system which bestowed it with divine support and the legitimacy of righteous rulership. Secondly, the *guṭhī* system functioned as a decentralised framework through which crucial political and social tasks in the areas of welfare and infrastructure could be accomplished without direct state involvement. Through the combined promise of soteriological reward, material compensation and social prestige, the subjects were activated to allocate resources for local needs themselves. Therefore, *guṭhī* endowments differ from the land categories hitherto presented in that they were not only a mechanism to appropriate agrarian surplus from their actual producers (the peasants) and to channel this into the hands of ritual specialists, priests and trustees, but that, to a limited extent, this surplus was also redistributed to the lower classes in the form of public goods, welfare provisions and regular assignments for ritual service castes.

### **Kipaṭa (Communal Land Tenure)**

Originally, *kipaṭa* represented a communal land tenure system which restricted access to land by the membership to a certain ethnic group, such as the Rāi and Limbus (Regmi 1971a: 27 and Adhikari 1984: 14). However, in the course of the Gorkhali conquest, the state steadily brought land being held under this form of tenancy under its control. Headmen of communities with a *kipaṭa* landholding system were selected as representatives to whom property titles on *kipaṭa* land were granted (Regmi 1971a: 49–50). The regulations in the *Ain* concerning *kipaṭa* land support this characterisation. According to § 2.23, tenants cultivating *kipaṭa* land were not allowed to mortgage their land, which shows that they had no ownership rights to it. Their tenancy rights were also dependent on tax payment. If they defaulted in payment, their land was redistributed by *amālīs*, *dvāres*, *tharīs*, *mijhāras* or *gauruīs*. Especially the latter three posts clearly refer to local elites which were co-opted by the state for the sake of land administration and tax collection.

In many of the regulations concerning landownership, the conflict between the central authority on the one side and the various political, social and religious elite groups on the other side becomes evident. Though the state resigned taxation rights, judicial sovereignty or landownership in order to pay government officials, win over local elites, organize tax collection, maintain infrastructure, provide welfare to subjects or support temples and monasteries, the *Ain* also establishes a set of institutions and bureaucratic mechanisms to keep the state in control of the resource flow to elites and intermediaries on whom the state had to rely so as to function.

### **Landlords and Tenant Farmers**

But the *Ain* not only regulates the antagonisms among the surplus-dependent classes, but also those between these classes and the surplus producers, that is the peasants. Considering the dependency of the state and all elite groups on agrarian rents, it does not come as a surprise that the *Ain* enforces rent and taxation rights with draconian measures. Irrespective of the land category for which a tenurial agreement exists, a default in payment of rent, levies or taxes was not only a reason to discontinue the contract with a tenant and to evict him from the land (§ 3.15); in such a case it was even legitimate to seize all his belongings as compensation for the outstanding rent or to incarcerate him (§ 4.9). The pressure on peasants was even further increased by instigating competition among them. If another peasant was ready to pay higher rent for a plot than the current tenant, the land could always be reassigned to the newcomer with the better offer (§ 3.12), except when the current tenant managed to increase the amount of cultivatable land during his tenancy (§ 3.19). Even in the case of natural calamities, it was first the tenant who had to bear the damage: for a loss up to one-fourth of the total crop yield, the tenant was not entitled to any waiver on the payable rent (§ 4.7). In addition to rent and tax payment, tenants were also compelled to carry out government works on request, but were protected from serving office holders for their private purposes (§§ 11.2–3). Tenancy contracts with private landlords demanding compulsory labour services, however, were permissible (§ 11.1). Nevertheless, the *Ain* provided peasants also with a few safeguards. Most importantly, it was not allowed to evict peasants within the planting and harvest seasons (§ 3.1), probably to guarantee that they were

not deprived of the fruits of their work. Furthermore, tenancy agreements with orphaned children or widows of government servants who died on duty could not be cancelled, albeit only on the condition that the regular rent and taxes were paid (§§ 3.20–21). Peasants might also have benefitted from the larger state policy to expand agricultural production, especially in the Tarai region. Subjects who made barren or forest land arable were entitled to permanent ownership (*birtā*) of a certain portion of that land, which provided a legal foundation for independent peasant landholding (§ 2.3). No one could force a tenant to expand his farmland by declaring it a precondition for the prolongation of tenure agreements (§ 3.17).

To sum up, the *Ain* is not only the expression of the tributary economic relations within Nepalese society, but tries to shape them by defining legitimate modes of surplus appropriation through different forms of landownership, by channelling the (re-)distribution and investment of the agrarian surplus, and by regulating the inherent social antagonisms emerging from the struggle over that surplus.

### Property

Besides land (*jagā, jamin*), the *Ain* mainly distinguishes between substantial property (*jinsī*), monetary property (*nagada*), livestock (*caupāya*) and human chattel (*kamāra*) as the major forms of property (e.g. § 2.17). Among these categories, land and slaves as the foundational forms of societal wealth and value remained under state control and transactions involving them required special documentation and registration at government offices (§§ 15.12 and 82.1). The nature of landownership with its varying degrees of entitlement to agrarian produce reveals a more general pattern of the *Ain*'s property concept. Property is not constituted through an individual's absolute ownership over an object, but determined through tiered and partly overlapping claims of enjoyment (*bhoga*) shared among kinsmen, contract partners, tax collectors, the king and even deities.<sup>82</sup> In that regard, property in the *Ain* is closely related to the premodern Indic concept of property, though in a codified form.<sup>83</sup> Although property remained embedded within social, ritual and religious structures, the *Ain* also attempts to create a more standardised and formalised property regime based on contractual notions, especially by regulating the property relations and liabilities within the joint family. This served several purposes. First, it facilitated the expropriation of rents, taxes and dues to the state, government officials and the land-owning classes. In these cases, the joint family was unconditionally liable for restitution with their entire property (§ 16.1). A family was considered as undivided as long as its members shared the kitchen and formed a commensal community (§ 23.17). The state also profited handsomely from court fees which both the winning and the losing party in a court case had to pay in relation to the amount in dispute (e.g. § 15.2). The extraction of these fees was only possible because ownership was legally defined and mechanisms for determining the value of possessions were put into practice (§ 43.5). There also existed several offences which were punishable by confiscation of property (Art. 43). To guarantee an orderly implementation

82 For example, trustees are only entitled to the surplus that remains after the offerings to the deity were properly made (§ 1.26).

83 For the overlapping entitlements in the dharmashastric concept of property, see, for example, Derrett (1962: 9) or Sontheimer (1977: 121).

of such punishments, detailed legal specifications of the perpetrator's latent claims on the joint family property were required.

Second, it allowed the state to regulate potential conflicts from loan agreements or other commercial transactions. Debts were a continuous source of socio-economic instability. Defaulting debtors were exposed to the threats of impoverishment, violence, abuse or enslavement. On the other hand, creditors ran the risk of their debtors absconding before repayment or it being impossible for them to recover their loans owing to ill-defined possessory rights within the debtor's family or potential claims by other creditors. The *Ain* tried to mitigate such frictions by defining elaborate criteria for the documentation and validation of loan agreements, collaterals or sureties (Art. 15–20). Although the satisfaction of creditor claims was given priority in the *Ain* and entire families could be held accountable for the debts incurred by individual family members (§ 15.4), there were still a few safeguards for debtors. Indebtedness could no longer lead to slavery (§ 82.1), ceilings on the maximum payable interest were defined (§ 15.13), and excessive loan recovery practices by creditors were declared illegal and punishable (§ 18.3). Moreover, parents were not liable for loans taken by their sons without their consent (§ 16.3), and a son could avert the liability for his parents' debts by relinquishing his right to inheritance (§ 16.2). Despite the pervasive nature of caste structures throughout the whole text, the caste hierarchy or Brahmanical theological concerns influence the contract law in the *Ain* only marginally. In contradistinction to the Dharmaśāstra tradition, interest rates, for example, were not considered dependent on caste status and no direct reference to the soteriological importance of debt clearance can be found.<sup>84</sup> The contract law in the *Ain* is predominately articulated in a secularised idiom. However, in one important respect caste status still played a role for loan agreements. Members of higher castes were not allowed to offer themselves as collateral (§§ 82.7 and 129.10). This was meant to protect such persons from the degradation to the status of bondservants, which would have subverted the hierarchical caste order.

Third, the property relations of the household, next to the caste system the second major pillar of the social order, required regulation for the maintenance of overall socio-ritual cohesion and the reproduction of patriarchal dominance. The latter was achieved by vesting the full rights to enter into contracts and dispose over the joint property only in free men who had reached the age of maturity (§§ 15.1 and 5). Without the consent from her husband or son, a woman was neither allowed to sell family property nor take any loans secured by it. If she had entered any such agreement, she was liable only with her dowry or personal property (§ 18.12). The varying statuses for ritually married wives, co-wives, concubines, mistresses, slave girls and the legitimate and illegitimate offspring born from them inevitably elicited familial conflicts concerning the entitlement to inheritance, maintenance or relationship between the personal property of women and coparceners and the joint family property. The *Ain* grants illegitimate sons a diminished right to the inheritance of their father's estate (§§ 23.5–6). Abandoned illegitimate wives (§ 24.2) and children (§ 23.29), too, were entitled to a share of the joint estate. The individual property received as dowry upon their marriage

84 For the role of debt in Brahmanical thought, see especially Malamoud 1983.

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was removed from the access of the male family members, including the husband, and from any claims laid by the state or creditors (§ 17.1), the only exception being that it was required for the maintenance of the family in times of distress (§ 17.2). A son who was given into bondservanthood to work off family debts and who redeemed himself from his personal property, was no longer liable for any family loans (§ 82.15). In the context of inheritance law, the nexus between ritual obligations and inheritance is still visible. An heir was obliged to clear the deceased person's debts and to cover his or her funeral expenses (§ 28.5). In the Newar community, it was permissible to abstain from the mourning obligations for distant relatives upon the payment of a fee, but this entailed the loss of all claims on the inheritance (§ 28.33).

Fourth, the property regime in the *Ain* was not exclusively an instrument to increase state income, but was supposed to bring private ownership under state protection. The violation and restitution of private property rights are a major concern throughout the text. Separate Articles are devoted to deposits and pledges (Art. 69), the illegal appropriation of lost animals (Art. 70) and especially theft (Art. 68). However, the theft of government property was considered a more serious offence than stealing from private persons. In some instances, the perpetrators were even sentenced to death (§§ 68.25–26). Private property was not only protected from thieves, but also from unlawful state incursion: Art. 0.2.22, for example, prohibits any arbitrary confiscation of property. Ownerless items were assigned to the possession of their finder and not to the government (§ 78.1).

The property regime in the *Ain* did not entirely serve the interests of the state treasury and the property-owning classes, but also made a few concessions to ameliorate the situation of the debt-ridden lower classes and to disenfranchised members of the household. Through the process of codification, sacred notions of debt, intergenerational liability and ritual obligations became increasingly articulated through the more secular idiom of law and contractuality.

## Public, Administrative and Fiscal Law

The state apparatus of Jaṅga Bahādura Rāṇā could only be developed and maintained through a network of subordinate civilian and military authorities with their respective officials and orderly written procedures. This apparatus was responsible for collecting taxes, maintaining public order and organising some kind of social welfare. The *Ain* mentions in the Preamble to whom the legal code was addressed:

To the *bhāradāras* and *kāmadāras* stationed in the capital or provinces of our entire realm, the *hākimas* of all *gauḍā*, *adālata* or *ṭhānā* offices, the Kausī or Kumārīcoka office, the religious court (*dharmādhikāra* office), Mulukīkhānā, the Sadaradaphadara, the record offices of the *kampu*, *paṭṭana*, *kampanī* or the like and all *kacaharī* offices, to the *kāmadāras*, *amālīs*, *dvāres*, *ijārā* and *ṭheka* holders, the holders of *guṭhī* land exempted from all taxes, *birtā* holders, the heads of monasteries (*maṭha*), the virtuous *mahantas*,

*mukhiyās, jimmāvālās, chaudharīs, tharīs*, village headmen (*mahatau*), *mijhāras*, peasants or the like.

This passage shows that the state not only relied on bureaucrats and security forces, but rested on a wide network consisting equally of local or religious elites. There was no standardised nation-wide designation of posts, but local variations were preserved within the state structure.

### Government Authorities and Officials

Four offices are usually addressed in the *Ain*: *aḍḍā*, *adālata*, *ṭhānā*, and *amāla*, and this seems to be a hierarchical order, because *adālata* and *ṭhānā* were superior to the *amāla*. *Aḍḍā*, too, was a kind of appeal court, sometimes, and later, even called this: *apīla aḍḍā* (Kumar 1967: 164). The supreme authority was the Kausala (cp. §§ 35.11 and 23). However, it is not always possible to see the different duties of the offices, because they are often jointly mentioned without different tasks being distinguished. They were certainly all central institutions for judicial administration, but were also responsible for other tasks relevant to public order. Apart from this, the *adālata* was a court of justice superior to the other offices. There were two categories of *adālatas*: (1) *gaudā-adālatas* (or just *gaudā*) situated in the frontier areas, Dhankuta in the east and Palpa and Doti in the west, and (2) *jillā-adālatas*, which were located in the various administrative regions. The *aḍḍā* was any governmental post or station, a *ṭhānā*<sup>85</sup> was a kind of police office or headquarters, and an *amāla* was a village-level revenue collection office with semi-judicial functions (Adhikari 1984: 344). Besides these, there were a number of offices with more specific tasks (cp. Sever 1993: App. 5):

*Juridical offices (courts)*:<sup>86</sup> Under Jaṅga Bahādura Rāṅā, the Kausala developed into a committee for legal affairs. It was responsible for formulating, emending and supplementing laws, especially the *Ain* of 1854, functioning as the supreme court, with the absolute power of investigating and overruling the court decisions in civil and criminal cases. The Kausala was usually presided over by the prime minister; its members consisted of high-ranking Rāṅā, the royal priest (*rājaguru*), the religious judge (*dharmādhikāra*), and various high officials and military. The Kausala for the *Ain* of 1854 was made up of 38 Brahmins, 34 Kūvara-Rāṅā, 94 Chhetri and 52 other caste members, among them 13 Newars. In the pre-Rāṅā period, there were also councils consisting of members from noble or high-ranking families (*tharaghara*, *cautariyā*). The Preamble of the *Ain* also mentions an Ainkhānā, which should regularly ‘add, erase or correct’ the regulations. The central district courts were called Iṭācapali, responsible for all cases involving loss of life or limb or the confiscation of entire properties (Hodgson 1836: 98), Koṭīliṅga or Koṭasiṃha (the supreme civil court), Ṭaksāra, and Dhanasāra. *Kacaharī* seems to be a ‘term invariably used to refer to an office or a court of justice’ (Adhikari 1984: 350). The Mulukī Aḍḍā was the office for interior and legal matters and was placed directly under

85 The supplementary code of the main (*baḍā*) MA codified in VS 1935 (1878 CE) and promulgated in VS 1936 (1879 CE) defines that an office (*aḍḍā*) which is headed by a *subedāra* is called a *ṭhānā* (RSR-Ain of 1879, section 1, see in NGMPP reel no. A 1375/5).

86 For the many central and local courts before the promulgation of the *Ain*, see Hodgson 1836: 105–9.

the orders of the prime minister. It published the laws and regulations, processed petitions and analysed the reports of the district administrations. It was also responsible for tax collection. The Ainakhānā, introduced by Jaṅga Bahādura Rāṅā, was active in a supporting role in similar activities.

*Land and property registries:* The Sadaradaphadara(-khānā) or the Cyāṅgrākausī were a kind of central land and property registration office, in which state land was registered and administered. Here were kept the land donation documents, the lists of the land users (*jāgi-radāra*), here the land use permits were issued, cash payments received from the tenants of *raikara* land, and new tenants assigned. It was led by a jurist (*diṭṭhā*). Similar offices, e.g. the Kampu Daphadara, dealt with land belonging to members of the army (*kampu, palṭana, kampanī*). Chebhaḍela was a government institution responsible for building and renovating state houses and properties and for the settlement of all disputes relating to houses and so forth, which did not possess criminal jurisdiction (§ 76.7). It was also the responsibility of this office to measure land granted by the government to state functionaries or private persons (cf. Adhikari 1984: 83).

*Finance offices:* The Kumāricoka was a kind of Office of Finances and Controlling, directly subject to the prime minister, that did the complete state accounting and bookkeeping. The tax and duty statements of the districts were sent in to this institution at least once annually, with a deadline of 35 days from receipt according to the *Ain*. It accepted the cash payments from the districts, and it was like a tax office in that it had certain legal competencies. For example, it could dismiss unreliable officials or tenants. It sometimes paid the members of the military. The Kumāricoka was led by a colonel, assisted by further officials (*subbā, mukhiyā*) and scribes. It consisted of sub-departments (Kumārī Coka Śreṣṭhā Adālata, Kumārī Coka Gośvārā Aḍḍā), which were occasionally responsible for certain districts or tasks. The treasury, which received state income and paid salaries to the civil servants, was called Kausītoṣākhānā (abbr. Kausī, also called Tahabila). Jaṅga Bahādura Rāṅā created, in addition, a Mulukīkhānā, which took over the tasks of the Kausī and received others too. Thus, it received one hundred thousand rupees annually for bridge-building and other public tasks, administered the royal household and that of the prime minister, and kept the blank decrees (*lālamohora*) of the king, gifts for foreign representatives and the official clothing (*khillat*).

*Police and jails:* Until VS 1910 there was no police force in Nepal; such tasks had been taken on by the military or other forms of state security personnel, such as sentries, watch guards, bailiffs etc. Prisoners were kept in the local offices or, in severe cases, brought to the central jail in Kathmandu (cp. § 35.13). In cases of cruel murders, for example that of one's own child or husband, or of robbers, the prisoners were brought to a cage-shaped house called Golaghara (lit. 'round house', § 64.7) in the central jail (in Kathmandu) where they were kept in isolation from other prisoners and visitors. In charge of the jails were various officials (*diṭṭhā, rāṭhara, huddā, sipāhī* or *mahāne*, § 50.28), who had to record the prisoners' attendance register. The prisoners had to work—mostly excavating or building roads (Art. 53). If they did not work, they were fettered. Pregnant women were released in the sixth month of their pregnancy and imprisoned again 6 months after the delivery. The Toṣākhānā office would pay for the expenses. Prisoners had the right to receive a simple meal (§ 53.3) but they also had to work 'irrespective of whether



he is of high or low rank' (§ 53.6), for instance, on 'road excavation'. Prisoners who had been sentenced to life imprisonment with branding, or to execution or other serious punishments were to be shackled (§§ 50.20–21). If prisoners fled and were captured again, their penalty was increased or doubled (§§ 39.8–9). Officials who did not handle a case or allowed bribery to happen or unlawfully released a prisoner were, in some cases, to be severely punished (§§ 40.13–17, 50.30, 53.4).

*Porterage service (rakama) and post office (hulāka)*: The porter service was a part of the work duties (*jhārā*) owed by mostly male persons, or whole villages, with the exception of Brahmins, old and sick people, and some others. In the *Ain*, the postal service (mail running) was not arranged through forced labour, but the mail runners were assigned land (§§ 4.4, 7). The *hulāka* system, as it was called from 1791 onwards, was a system of mail runners, bearers or porters (*halkārā*), which, in the beginning, was based on compulsory labour. It included the transport of weapons and ammunition, for the most part. The *Ain* mentions that the government documents from various places had to be delivered through the mail runners (§ 7.14). Especially in the west of Nepal, it was a *mukhiyā* in a fixed network and had fixed routes, so that the porters each had only to manage the distance between their village area and the next, where they could pass on the loads. In this manner, a fast, twenty-four-hour service could be set up, which was one of the reasons for the military strength of the Gorkhali.

### Government Officials

As with the offices, officials (*kāringā*) are often named in groups in the *Ain*, e.g.:

If they have issued and signed the statement of confession, each *mukhiyā*, *tharī*, *jim-māvāla*, *mijhāra*, *gauruñ*, *chaudharī*, *mahatau*, *ṭheka* or *ijārā* holder, *thāni* or *tharī* shall be fined 100 rupees after the amount of the bribe has been confiscated. (§ 89.61)

If venerable ministers, generals, colonels, senior captains, *kājīs*, chamberlains (*kapardāra*), treasurers, *sardāras*, captains, lieutenants, *subbās*, *subedāras*, *ḍiṭṭhās*, *khardāras*, *jamādāras*, managers of the elephant stables (*dāroga*), the majors of the *koṭas*, adjutants or the like, subjects and nobles are house owners, they shall arrange for the cleaning of the premises of their houses. (§ 79.2)

Often the precise tasks of such officials are not clear. In general, they had following responsibilities (Table 12).<sup>87</sup>

### Correspondence and Files

At the latest with the appearance of the *Ain*, the Rāṇā started to register the country and to bring everything to paper. The rapid growth in issuing documents is shown by the fact that the Nepal-German Manuscript Preservation Project (NGMPP) has microfilmed more than one hundred thousand such documents, of which the project 'Documents on the History of Religion and

<sup>87</sup> The table lists only the officials mentioned in the *Ain*; for more officials, see Hodgson 1836: 99–104.

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Table 12: Administrative and judicial posts

<i>amālī</i>	Chief of an <i>amāla</i> office, a revenue functionary of a regional administrative unit with judicial powers
<i>bajira</i>	(Prime) Minister
<i>bhāradāra</i>	A generic term for a member of the royal family or high-level state functionaries
<i>bicārī</i>	A royal land grant with far-reaching privileges in terms of tax-exemption, revenue collection and judicial authority
<i>chaudharī</i>	A headman or landlord vested with revenue collection rights, especially in the Tarai
<i>cauriyā</i>	A high-ranking title with no specific functions attached, granted to several male descendants of the Śāha kings at a time
<i>dharmādhikāra</i> ( <i>dharmādhikārin</i> )	Chief judge in a religious jurisdiction whose main duties are to grant expiation and rehabilitation to polluted individuals. The term is exclusively used for Brahmins
<i>ḍiṭṭhā</i>	A civil servant serving in courts or account offices; he is ranked above a <i>mukhiyā</i> and lower than a <i>subbā</i>
<i>dvāre</i>	A local revenue collection official with minor police and judicial powers
<i>gauruñ</i>	Village agent
<i>huddā</i>	A low-ranking military or police functionary who could also be assigned to civilian offices
<i>insāyena</i>	A junior military officer (from Engl. ‘ensign’)
<i>ijārādāra</i>	Holder of an <i>ijārā</i> (a revenue collection contract), a tax collector
<i>jamādāra</i>	A low-ranking commissioned officer in the army who could also be assigned to civil offices
<i>janarala</i>	‘General’, responsible in the provinces
<i>jethā-buḍhā</i>	A village headman responsible for local affairs, such as the maintenance of law and order
<i>jimmāvāla</i>	A revenue collection functionary in the hill districts
<i>kājī</i>	An official of ministerial rank in the civil and military administration
<i>kāmadāra</i>	Steward, manager, agent
<i>kaṣṭādāra</i>	Chief of the royal household, chamberlain
<i>kharadāra</i>	Writer, secretary, official scribe
<i>koṭavāla</i> , <i>koṭapāla</i>	Chief police officer of a town or a district
<i>mahāne</i>	A local revenue functionary in the Kathmandu Valley
<i>mijhāra</i>	A headman of ethnic groups of low caste status; responsible for the collection of levies, fines or escheats from the families falling under his jurisdiction
<i>mukaddama</i>	Headman of a village, caste or corporation, usually charged with the realisation of revenue
<i>mukhiyā</i>	A village headman
<i>mukhtiyāra</i>	In the pre-Rāṇā period: prime minister; in the Rāṇā period: prime minister and <i>Kamāṇḍara-ina-cīpha</i> (Commander-in-Chief), also the title of a regent

Table 12: Administrative and judicial posts (*continuation*)

<i>munsī</i>	Translator, teacher and scribe in the Munsikhānā or Jaisīkoṭhā. Munsīs were responsible in particular for translating documents and texts in Persian, English and Chinese; <i>Mīra Munsī</i> was the head of the <i>munsīs</i> .
<i>nāyaba</i>	Regent
<i>pradhāna</i>	A low-ranking local state functionary or community headman
<i>prāīma miniṣṭara</i>	Prime minister, from Jaṅga Bahādura Rāṅā onward the prime minister also took the title <i>Śrī Mahārāja</i> (of Kaski and Lamjung)
<i>rājaguru, rājapurohita</i>	Royal priest and councillor, functioned also as <i>dharmādhikārin</i> ; usually a hereditary post of a Brahmin
<i>sardāra</i>	A top-ranking official next in the hierarchy to a <i>kājī</i>
<i>sipāhi</i>	A soldier or a non-combatant person employed as a policeman or office attendant
<i>śrestā(dāra)</i>	An accountant, registrar
<i>subbā</i>	Governor or chief administrative officer of a province or district
<i>subedāra</i>	A military official, incharge of a <i>ṭhānā</i>
<i>tahabiladāra</i>	Government treasurer, cashier
<i>ṭahaluvā</i>	Aide, guard
<i>tharaghara</i>	1) A member of one of the six ruling clans of Nepal (the Pāḍes, Panṭhas, Aryjālas, Khanālas, Rāṅāa, and Bohorās); 2) Nev. Syasyah, the highest group among the Śreṣṭha castes
<i>tharī, thāni</i>	A clan elder or headman functioning as tax collector
<i>ṭhekadāra</i>	Contractor, tax collector, farmer who rents his land
<i>umarāu, umarāva</i>	High-ranking (military) official
<i>vaidya</i>	Physician, naturopath, usually on an ayurvedic basis
<i>vakila</i>	Envoy in the rank of a <i>kājī</i> or <i>sardāra</i>

Law of Pre-modern Nepal' of the Heidelberg Academy of Sciences and Humanities is currently preparing a detailed online catalogue (<https://www.hadw-bw.de/nepal/>). Primarily, the *Ain* deals with the following categories of documents (cp. Table 13): Orders and edicts of the king which bear a red seal (*lālamohora*), missives signed by the prime minister (*daskhata, daskata*), order or authorisation letters from the king or a high-ranking government official such as the prime minister (*pramāṅgī*), other orders (*sanada, rukkā*), mostly from the prime minister, which often bear a sword symbol (*khaḍganisāna*), land grants or land sales (*bhūmidānapatra, bhūmikrayapatra, vikrayapatra, dastābeja*), other donations and deeds of beneficiary foundations (*dānapatra*), pawn obligations (*bhogabandha*), debt obligations (*bharpāi*), balance sheets and information lists (*bahī, vyaya, sucīpatra*), contracts and receipts (*tamasuka*) or lease-deeds (*paṭṭā*), travel documents, passports (*gacchamapatra, rāhadāni, bahirpatra*), for instance, for women on pilgrimage (§ 33.13), letters and petitions (*patra, bintīpatra, nivedana, arji*), writs (of rehabilitation) (*pūrjī*), certificates or letters of authorisation (*tirjā, sirabandī*), exoneration (*jītāpatra*) or

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Table 13: List of document types

<i>ahada</i>	(international) treaty
<i>akarna(-nāmā)</i>	evidence report
<i>akrāra</i>	written acknowledgement of rights
<i>alipatra</i>	deed of relinquishment of title
<i>āmadānikā syāhā</i>	income ledger
<i>āvarje</i>	abstract account
<i>bahī, bahīpatra</i>	account, balance sheet
<i>dānapatra</i>	deed of gift; founding charter of charitable endowments
<i>daskhata</i>	missive signed by the prime minister
<i>dastābeja</i>	legal document, producible in evidence
<i>dhapoṭ</i>	personal account entries
<i>dharmapatra</i>	religiously solemnised document or deed
<i>dharmaputrako kāgaja</i>	deed of adoption
<i>dharoṭa syāhā</i>	deposit ledger
<i>hukuma</i>	order, especially of the king or members of the Rāṇā family
<i>istihāra</i>	public proclamation
<i>jabānabandī</i>	written statement of the acceptance of a court decision
<i>jamānipatra</i>	declaration of suretyship
<i>jītāpatra</i>	certificate of court victory, certificate of exoneration
<i>kaḅuliyata</i>	written agreement, contract or consent
<i>kāgaja</i>	document, file, record
<i>kaḅāli tamasuka</i>	deed for an unsecured loan agreement
<i>kāyelanāmā</i>	written confession
<i>khātā</i>	account book, ledger, especially of a creditor
<i>lagata</i>	register
<i>lekhata</i>	document, written statement
<i>(lāla-)mohora</i>	royal order or decree bearing a red seal
<i>liḅhā</i>	blank documents bearing a client's signature, thumbprint or seal
<i>marjī</i>	(prime ministerial) order
<i>mañjuranāmā</i>	letter of consent
<i>milāpatra</i>	deed of settlement
<i>mohoratāmrapatra</i>	royal copperplate deed
<i>muculkā</i>	report, witnessed written declaration

Table 13: List of document types (*continuation*)

<i>paraṃbhaṭṭā</i>	a deed, prepared by the seller, formalizing the sale of a slave
<i>patiyāpurjī</i>	certificate of expiation
<i>patra</i>	letter, document
<i>paṭṭā</i>	deed of lease
<i>phārakha</i>	written receipt or acquittance
<i>phārakatī</i>	quitclaim deed
<i>phārchyāpatra</i>	quitclaim deed
<i>pramāṅgī</i>	order or authorisation letter from the king, prime minister or a high-ranking government official
<i>purjā</i>	rent collection receipt
<i>pūrjī</i>	writ, a written notice
<i>rāhādāni</i>	travel permit, passport
<i>rājīnāmā</i>	deed of relinquishment of rights; declaration of will
<i>rasīda</i>	receipt
<i>rola</i>	role of succession (for the royal and prime ministerial family)
<i>rukkā</i>	missive of the prime minister
<i>sādhaka</i>	written verdict
<i>sāhipāṭā</i> (var. <i>sāhipatra</i> )	marriage contract
<i>sanada</i>	grant, charter, appointment, endorsements, often signed by a ruling authority
<i>savāla</i>	ordinances, a set of directives issued especially for administrative purposes
<i>silāpatra</i>	stone inscription
<i>sirabandī</i>	written authorisation
<i>sirako banda</i>	compilation of account headings
<i>śrestā</i>	account book, ledger
<i>syāhā</i>	account book, ledger
<i>tamasuka</i>	loan agreement
<i>tārapatra</i>	palm-leaf deed
<i>tīrjā</i>	rent collection certificate
<i>ujarāta</i>	suspense account
<i>urdī</i>	official written order
<i>vaṃśāvalī</i>	chronicle
<i>vāsila bāki</i>	collections and balances, total account
<i>yādadāsta</i>	memorandum

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acquittance (*phāraka*), blank documents bearing a client's signature, thumbprint or seal (*liphā*), and verdicts or letters of acceptance of a legal decision (*jabānabandī*).

The *Ain* also mentions a number of registers and lists, for instance, of government employees (§ 33.2) or prisoners (§§ 39.9, 50.28), but mainly for taxes, levies and land, and rarely records of ordinary court cases. Everything had to be written down in account books or ledgers (*syāhā*), which had to be submitted to the treasury. Government employees needed a written confirmation of employment (§ 33.3), which had to be renewed and recorded in lists, a process called *pajanī*. If government employees were not registered, the registrar had to be severely punished:

The registrar responsible for the preparation of the register of government employees shall report accordingly to the *mukhtiyāra* and record their names in the register. If the registrar who is responsible for the preparation of the register of the government employees does not record their names in the register, the authorised person responsible for recording [the assignments] in the register shall be made to compensate [the income from] the crop yield [which the *jāgira* holder had lost because his land assignment was not registered] to this *jāgira* holder. (§ 33.2)

Land transactions, too, had to be recorded in writing, passing through different hands, in the case of *mukhtiyāras* and their close relatives, through the hands of *kājīs* or *bhāradāras*, for example. Otherwise such a document was invalid (§ 33.18). The same holds true for most financial transactions. If it was, for instance, proven that some payments, including fees and fines, had been enjoyed by the person responsible, he or she was fined the same amount as was owed to the government (§ 8.20). Similarly, the officials had to register court exhibits and governmental property (§ 35.18).

The *Ain* takes care that misuse of such documents is reduced to a minimum. If a document was issued that could harm the state and some clerk reported it to an authority, he was not to be blamed, whereas the chief of such a document was held accountable and fined (§ 33.4). Almost all documents had to be affixed with a seal or stamped by various offices, or both, otherwise they were not valid. The theft of documents was severely punished and the thief had to pay compensation for the damage (§ 86.57).

Likewise, forgery or alteration of documents or seals was severely punished (Art. 34). Here, too, the principle of 'an eye for an eye' was often applied. Thus, the punishment or the corresponding detention time was often equal to the sum which was demanded with the falsified document. If a *lālamohora* of the king or *daskhata* of the prime minister was forged, almost the entire property of the forger could be confiscated; in addition, he was punished by *dāmala*, in severe cases even executed (§§ 33.19–21).

Most of the documents were kept in certain offices, such as 'government treasuries, in the Tahabīla, in the Toṣākhānā, Mulukīkhānā, in the Sadaradaphadara, *daphadara*, Kumārīcoka, Iṭācapali where account or treasury records are stored, and in the *aḍḍā* or *gauḍā* offices where treasury records and other documents are stored' (§ 73.1). In these offices, oil lamps were only allowed to be used with caution.

## Public Order

According to the *Ain*, the state was not a surveillance state, even if it ruled in questions of family law right down to the bedroom. With regard to public order, it regulated only a few areas: traffic, street cleaning, and, in one case, avoiding brawls. Cutting or felling trees, or laying out traps was also partly punishable. The use of alcohol or the carrying of corpses and the impurities associated with this, are also separate Articles for the *Ain*, as is the abuse of witchcraft. The state took care of the welfare of the sick, the elderly, the orphans and the poor people only to a limited extent.

The regulation of traffic was mainly concerned with the question of compensation for accidents involving caravans of elephants, horses or pack animals. It was also necessary to clarify who would clear the way. Thus, a rider of low rank must clear the way for the rider of higher rank, and both must do so, if they meet a carriage (§ 72.7). As a rule the carriages had the right of way (§ 72.12). If a person died of injuries incurred from a carriage horse, the victim's family was to be paid for the cremation (§§ 72.8–9). There were also penalties for reckless or high-spirited riders.

The *Ain* also regulated the cleanliness of the streets and alleys (Art. 79). It was forbidden to cut down the trees along the roads (§ 32.2). Cutting down trees in the forest to build houses or stables only was allowed (§ 32.3). Anyone who defecated in front of the house of another had to pay the home-owner 2 *ānās* penalty. If an official did not ensure the cleanliness of his home and the surrounding area, the door or stairs were to be removed and thrown in the dirt. If the official did not clean the door or stairs, he must pay a fine. It was forbidden to throw water or indeed urine or faeces out of the window. The streets had not only to be kept free from dirt and refuse, but also from impurity. Therefore, the carrying of corpses also had to be regulated.

The construction of houses (Art. 76) was promoted by the fact that the builder received the land as *birtā* if it was barren *chāpa* or *raikara* land. This was confirmed by Sadaradaphadarakhānā in writing. If it was to be built on cultivated land, a corresponding area of the land had to be surrendered. There was also a kind of urban concept, at least for Kathmandu, Patan or Bhaktapur. Thus, if houses collapsed, they had to be rebuilt within four months, excluding the rainy season. If the owner could not rebuild the house by that date, his neighbours could be ordered to rebuild the house, with a 35-day deadline. If the neighbours, too, could not rebuild it by the deadline, anybody could rebuild it by permission of the concerned office (§ 76.2, cf. §§ 76.15–16).

Article 76 also regulates the sale of houses, conflicts between neighbours and compensation for wilful destruction including arson (Art. 73). Special mention is made of the construction of a 'wayside public shelter, fountain, rest house, resting place, water fountain, well, plank bridge, road bridge, or track' (§ 76.9), which had to be rebuilt by *guthīs* or the persons who built it. Interestingly, one could take the material (bricks and timber) and rebuild at another place in the same city, but one could not take it to another city (§ 76.11). Prior to the *Ain*, it was not allowed to erect a hut with tiled roofs without permission of the government, but § 76.13 then continues: 'From now onwards, to erect such a hut with a tiled roof, one neither needs permission from the government nor is one required to pay any fee.'

### **Gambling**

The *Ain* regulates deviant behaviour such as gambling (Art. 75).<sup>88</sup> Historical sources suggest that the widespread gambling habits within Nepalese society plunged many families into poverty and indebtedness (Tevārī VS 2031: 216). However, gambling was also a vital part of Nepal's ritual life, especially during the Tihar festival. Therefore, the laws of the *Ain* strike a compromise. On the one hand, the ritual importance of gambling during certain festivals is recognised, on the other hand social discipline is maintained as far as possible. The individual regulations of the Article mirror this balancing act. Gambling was prohibited except for the five days of the Yamapañcaka festival (§ 75.7), a few other regular festive occasions (§§ 75.11, 15) and after public announcements (§ 75.4). Selling valuables (§ 75.4), advancing loans (§ 75.5) or borrowing money (§ 75.8), oral wagers (§ 75.3) and minors as gamblers (§ 75.6) were prohibited at gambling venues. Only money at the disposal of the gambler at the gambling venue could be used to bet (§ 75.9). This excluded immovable property, but also credit and other stakes secured by sureties. The rationale for these rules was to prevent the financial ruin of gamblers and their families—especially important in contexts of shared property and collective liability—and the outbreak of violence between gamblers and the licensees of gambling venues (Cubelic 2018: 297).

### **Social Welfare and the Health System**

Jaṅga Bahādura Rāṇā Rāṇā's state was not a welfare state, yet initial efforts were made to care for the poor and needy, the sick and the disabled. The state school system also dates back to this time, but is not mentioned in the *Ain*.

When a child was abandoned, the entire property of the parents, if they could be found, was confiscated and handed over to the foster parents and the child was later handed over to someone from his or her caste (§ 93.1). In the case of orphans, the entire assets of the deceased parents were held in trust until they reached the age of majority (§ 93.2). In the case of orphaned girls, the responsible office was even supposed to pay for the costs of the marriage (§ 93.3). In the case of infants, the costs for a nurse were paid (§ 93.7).

Lepers were not allowed to enter the city, but were cared for by the state, as were the handicapped (lame people are expressly mentioned) or the destitute, when no one could be found to care for them. A trust (*sadāvarta*) was set up specifically for this purpose. The same applied to those who fell ill with cholera, Āṭhyā fever, emaciation or smallpox (§ 93.8).

The health system was not supported by the state, but there were separate rules for medical treatment and doctors (*vaidya*) (Art. 54). They risked their property being confiscated if they 'killed' a patient by treating him improperly. Worse still, if the patient died after being administered certain substances without first being purified, the doctor had to swallow the same medicine. If he died, this was considered an indication that he was acting out of malice. But if someone died after the necessary amputation of limbs, the doctor was not to blame.

88 A case study of how legal regulations concerning gambling played out at the market square of Asan at the beginning of the 20<sup>th</sup> century is provided by Cubelic 2018.



Witchcraft, a kind of indigenous healing system (cf. Macdonald 1976), was forbidden for the most part by the *Ain*. Article 74 makes clear that the wrong accusation of someone being a witch (*bokṣī*) was often made in connection with disputes over land or money. Such accusations were punished:

If [two parties] abuse each other verbally in a dispute over land, cash or commodities, and if one comes to complain that the other called her a witch, the person who called her a witch shall be fined 5 rupees. If they first abuse [each other] verbally and later one person calls the other a witch, he or she shall be fined 2½ rupees. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned. (§ 74.1)

It is not denied that witches exist, for only unjust accusation is punished. At the same time, certain tests are laid down in the *Ain* for recognising a witch: for example, when a shaman manages to make a witch dance with a mantra, or when he brands the witch instead of the patient and when, after this, the patient dies, the witch is to be driven from the village:

If, while a patient is being branded, [instead of the patient] the witch is branded, or if [the witch] dances when she is made to dance through a mantra, or if, while the head of a patient is being shaved, [instead] the witch's head is shaved, such a witch shall be exiled and chased away from the village. Persons who exile such a witch shall not be held accountable. (§ 74.3)

## Procedural Law and Punishments

Conflicts that led to criminal acts are listed in § 50.13 (and repeated in subsequent sections): 'disputes concerning gold, silver, utensils, cash, commodities, kinds, jewellery, land, cattle, male or female slaves, illicit sexual intercourse, caste-related issues, contamination through cooked rice, or real property or trade'. As seen in the previous sections, there were many more offences, which had to be punished through various legal measures such as the confiscation of property, imprisonment, caste degradation, enslavement and, in some cases, capital punishment, fines and fees (Art. 50) but also through forms of expiation and purification, mainly through the *dharmā-dhikāra* (Michaels 2005).

This list of punishments (Table 14) is complemented by a number of religious obligations and punishments. Broadly speaking, a religious punishment is usually a kind of imposed atonement, for example, a vow or commitment (*vrata*) to fast, a pilgrimage, prayers, or various gifts. In contrast, a secular punishment usually takes the form of prison, fines, confiscations, and so forth. Expiations involve absolutions and the relation of the sinner to god and society; punishments involve public order and the rights of others. Atonement involves another life, the next life; punishment mostly this life. Atonement is voluntary up to a point; punishments are not.

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Table 14: Forms of punishment

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Capital punishment: execution (if the sentence of death is allowed) or *dāmala* (if the sentence of death is not allowed)  
Imprisonment (*kaida garnu*), life imprisonment (*dāmala*)  
Branding on the left cheek with the initial letter of the name of a lower caste with the member of which one has had illicit sexual intercourse or to which one has been degraded to.  
Whipping: § 68.1  
Caste degradation (*tallo jātamā milāunu*) by shaving and branding: Art. 42  
Enslavement (*masi dinu*)  
Confiscation of property (*aṃsa sarvasva garnu*): Art. 43  
Exile (*deśa nikālā garnu*)

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### Penances and purifications:

- *patiyā*: Penalty through which one keeps or regains one's caste status; *bhor-ko patiyā* is a sanction for purification from unwitting contamination (Art. 89)
  - *prāyaścī[ta]*: Ritual of penance undertaken by a polluted person for absolution
  - Cow offering ritual (*godāna*) to the *dharmādhikāra* (Art. 89)
  - Cow offering ritual for purification to a Brahmin (*prāyaścitta godāna*)
  - Ordinary bath (*nityasāna*)
  - Performing a purification ritual according to the tradition of one's own caste (*jātako rīta gari śuddha*)
  - Rice defilement (*bhātabāheka*)
- 

Fines and fees (cp. Hodgson 1836: 115–7)—the generic term is *daṇḍa(kuṇḍa)*—to be paid to the government including compensation depending on the damage caused (*bigō barābara jarivāna*), and which are:

- *baksāunī* fee: A government fee for settling a case between two parties; a fee charged for granting a permission
  - *bisauda*: A court fee of 20 percent of the amount involved in litigation, mostly to be paid by the losing party of a lawsuit
  - *chaiṭī*: A court fee of 6 percent of the amount involved in litigation (§ 50.8)
  - *dasauda*: A court fee of 10 percent of the amount involved in litigation, mostly to be paid by the winning party of a lawsuit
  - *jītaurī*: A fee to be paid by the winning party in a legal *casepānaphula*: A small fee (lit. for *pāna*, i.e. paan, a preparation combining betel leaf with areca nut) offered in compensation (§§ 50.5-6)
  - *patiyā*: Also an expiatory fine (Art. 89)
  - *pyāja khāni* (lit. '[a fee] in order to consume onion'): A fee to be paid to the soldiers or bailiffs who are deployed to arrest the defendant (§§ 41.6-7)
- 

## Atonement and Punishment

But the *Ain* hardly distinguishes between atonement and punishment.<sup>89</sup> Both were prescribed in certain cases. Caste degradation or the exclusion from the community meal both had social consequences. And yet there were cases in which the *Ain* says *khata lagdāina*, 'no punishment is to be imposed', even though certain measures of expiation were foreseen: for example, rehabilitation (*patiyā*, *prāyaścī[ta]*); fines of atonement (*dastura*, *godāna*), that generally had to be paid to the *dharmādhikāra*; monetary fines (*daṇḍa*) paid to the government; pardons (*taksīra māpha*) or certificates of indulgence (*pūrjī*). But in truth, such a certificate could only be issued if previously there had been a punishment imposed (imprisonment, confiscation of property, branding), especially in

89 The following is partly based on Michaels 2005: 35–51.

cases of illegitimate sexual intercourse or offences against the food rules, i.e. eating together with casteless or impure persons. Atonements (*patiyā*) could then be required in full or in part. If they had been imposed for cooked rice and water, then this signified a full re-integration into the caste. If they had been imposed only for water, then this meant that the guilty party was partly re-integrated into the caste, so that he or she is forbidden to share cooked rice with his or her fellow commensals.

The Nepālī word *patiyā* derives from Skt. *prāyaścīta*(*ta*), which, in traditional law, comprised expiatory measures, such as sacrificing, praying, ritual bathing, the cleansing use of bovine products, fasting, going on pilgrimage, or chastity. In the *Ain*, the word *prāyaścīta* also refers to the expiatory aspects of rehabilitation, while the word *patiyā* usually refers to the social aspects of the rehabilitation. Briefly put, *patiyā* means social cleansing, and *prāyaścīta* means religious cleansing. *Patiyā* is intended to soothe or eliminate the consequences of a misdoing; *prāyaścīta* is intended to do this for the consequences of evil—including those in the next life. *Prāyaścīta* was, then, a sort of voluntary supplement to the *patiyā* ordered by the state.

The re-integration into a caste can best be explained by referring to a certificate of indulgence (*purjī*). It was issued by the Dharmādhikāra Kuvalaya Rāja Paṇḍita in the year 1900 and carries his seal.

(Seal:) Śrī (venerable) *dharmādhikāra* Śrī Kuvalayarāja Paṇḍita-jyū. Year 1951 B.S.

By order of the venerable king of Gorkhā in congruence with the *smṛti*(*s*). Perform the following *prāyaścīta* which is a remedy to wipe away (your) sin:

Having shaved your head, having smeared (your body) with mud (and) ashes (and having taken) *pañcagavya* (five holy products of the cow), take a bath on the first day. On the same day, eat 15 handfuls of *haviṣya*; eat in the night of the second day twelve handfuls. On the third day, eat without asking; if anybody offers (you) something to eat, eat 24 handfuls. On the fourth day, fast. On the fifth day, eat *pañcagavya* (and) give *sīdhā* (1 leaf plate of raw vegetables, lentils, etc.) as well as *dakṣiṇā* (sacrificial fee) to the Brahmins.

(By doing this) the house of Naradeva Paṁta shall be pure from the simple (type of) contamination (caused by contact with) a man who had committed the crime of having had sexual contact with women from castes such as Kulu (makers of musical instruments, like drums), Dhobi (washer-men), Sārki (shoe makers), Damāi (musicians) and also women who had committed the crime of having had sexual contact with men from castes like Kasāi (butcher), Musalman (Muslims), Kāmī and Sārki.

(Vikrama) Saṁvat, the 9<sup>th</sup> day of the bright half of the lunar month of Bhādra, Monday. Hail! (ed. Michaels 2005: 41)

The punishments were partly based on the *abbala*, *doyama*, *sima* and *cahāra* categories of land, which, however, were also used to differentiate degrees of crimes (§ 68.20) or culprits according to their degree of purity, physical strength, financial status, qualities, productions and other circumstances (see, for example, §§ 64.21, 65.2 and 89.7).

The most severe crimes were certainly homicide, theft or illicit sexual intercourse. Heinous crimes (*rājakhata*) such as the killing of a Brahmin (cf. § 67.5) or incest (cf. §§ 141.23 and 25) could be considered a crime against, or punishable by, the king.

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If a convict could not pay the fine to which he had been sentenced, he had to be imprisoned 'at the rate of one month for every 9 rupees of the due amount', but not longer than 12 years (§ 50.37). Likewise, it was possible to give a guarantee for a convict, which could be 'cash, male or female slaves, cattle or the like' sufficient to cover the total amount of the fine or debt to the government (§ 38.1).

The *Ain* also uses the legal principle *ne bis in idem* ('Not twice with regard to one and the same (crime)', i.e. the prohibition of double jeopardy (see §§ 35.2 and 68.23).

### Complicity and Abetment

The *Ain* does not treat complicity or abetment in separate Articles, but it devotes itself to this question, especially in Art. 68 on theft. Accordingly, accomplices are liable collectively. Thus, if, in the case of a joint theft, a perpetrator kills a resident of the house which the perpetrators had broken into, all the accomplices are to be executed; on the other hand, those who were not involved in the murder will be punished more mildly (§ 68.19). Joint murder is regulated in §§ 64.8–10, multiple perpetrator rape is regulated in Art. 133. Abetment is only dealt with in the case of somebody helping prisoners (Art. 40) or bondservants to escape (§ 80.1).

### Penalty-reducing Circumstances and Mitigation

Suspects were punished only when they had criminal responsibility and acted with intent. Offenders therefore had to be categorised: (a) one who knowingly, deceitfully and forcefully commits a crime, (b) one who deceives himself and commits a crime, (c) one who commits a crime while intoxicated, (d) one who commits a crime by mistake or under some compulsion and (e) one who commits a crime because of certain circumstances. This means that suspects should not have been 'intoxicated, ignorant [of the details of the transaction], mentally retarded, minor and also not lunatic' (§ 33.25) during their criminal acts. This also holds true for witnesses and officials:

If the signatures were obtained through an intervention [from the *kacaharī*] or [the signatories] were ignorant, mentally retarded, minor or lunatic, and if a signatory lodges a complaint within 4 months after giving his signature, or others come to lodge a complaint claiming that the signature of such a [non-eligible] person has been obtained, the case shall be investigated and decided according to the *Ain*. (§ 33.25)

The age of majority was 12 years. 'No punishment or imprisonment shall be required for children below the age of 12', declares the *Ain* with respect to theft (§ 68.7). However, for written loan agreements the child must have been 16 (§ 92.2). And there were different ages of majority for boys and girls:

If a minor boy below the age of 11 and a girl who is past the age of 10 from a Sacred Thread-wearing caste have illicit sexual intercourse, the girl shall not be granted expiation. She is excluded from her caste. The boy requires neither royal punishment (*rājadaṇḍa*) nor a fine. (§ 92.8)

The *Ain* also declares an ‘age of having [real] sexual intercourse’:

If a boy below the age of 11 and a girl below the age of 10 have sexual intercourse, it shall not be considered that the hymen is ruptured, because they have not reached the age of having [real] sexual intercourse. They retain their caste status and they do not need to undergo penance. Such a boy and girl shall be scolded and be let off. Neither a fine nor a fee is required. (§ 92.10)

According to Article 51 it was possible to serve a prison term in place of female culprits. However, this was only possible when the woman had not been accused of a crime punishable by *dāmala*.

In cases of homicide and theft, self-defence was permitted even if the attacker died in the process (§ 68.6). No expiation ritual or fee was necessary.

### Judges

Except for crimes that mandated the death sentence or, in case of Brahmins, who were exempted from capital punishment, the shaving of the head (Art. 42), *dāmala*, life imprisonment, caste degradation, and the removal of the Sacred Thread, all cases were tried at the central and regional offices (§ 42.4), but as there were almost no written laws before the *Ain*, judges versed or educated in jurisdiction or jurisprudence were the rare exception, as were professional prosecutors and lawyers. It mainly was a decision by elders or noblemen. With the *Ain*, however, certain officials also became judges. The text mainly mentions *ḍiṭṭhā* and *bicārī* for the local level, *bhāradāra* for appeal courts and the *dharmādhikāra* for cases of impurity. Naturally, the *mukhtiyāra* or prime minister also had the right to decide cases. The king, however, was only involved in signing verdicts in severe cases, such as those mandating execution (§ 42.4).

Except for the *dharmādhikāra*, who was to have been a learned person and knowledgeable in the Dharmaśāstra, the only required qualification for these ‘judges’ was that they could read:

When persons are being appointed as a *ḍiṭṭhā* or *bicārī* at an *adālata*, someone who is not able to read out the text of the *Ain* shall not be appointed as either. Someone who appoints a person who is not able to recognise letters or read out the text of the *Ain* shall be fined 20 rupees. (§ 35.15)

Even though the *Ain* became the final authority in deciding cases, the rule of law was not always in practice. But it gave considerable authority to the judges. No officer had henceforth to consult the Kausala ‘as long as the matter is regulated in the *Ain*’ (§ 35.11). If the case was not regulated in the *Ain*, he, however, had to consult the Kausala.

In land disputes, officers could only act when they had received an official letter of authorisation (*pramāṅgī*, § 35.16) from a higher office. If a chief officer had to summon an official higher in rank than himself, he was to place him at the right side of his seat.

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If he is of the same or a lower rank, he shall place him to his left and discuss what needs to be discussed. If it is ascertained that [the official summoned] has carried out his tasks in an excellent manner, say, ‘You did a great job!’ If it is ascertained that [the official summoned] has carried out his tasks in an improper manner, say, ‘This matter needs to be clarified.’ (§ 35.23)

Except for crimes pertaining to homicide, punishable by *dāmala*, pertaining to illicit sexual intercourse or cooked rice and water, high-level functionaries (*bhāradāra*) could authorise somebody else to represent them in court, giving that person the power of attorney in writing. The *bhāradāra* was then not allowed to revoke the representative’s decision: ‘Whatever is decided in accordance with the *Ain*, I will accept. I will not lodge a complaint.’ (§ 35.24).

Judges and officials who did not follow the rules prescribed in the *Ain* had to be punished: ‘(...) if it happens that a *hākima* has so done out of favouritism, bias, or after accepting bribes, he shall be fined an amount equal to the amount in question of the case, having obtained a declaration of consent [for his sentence] from him.’ (§ 48.22). In many instances, the *Ain* makes clear that officials or judges are not above the written law.

## Court Instances

A widespread form of punishment was in the form of vigilante justice, that happened quite often and not seldom in a cruel way, as is evident from § 50.13, which prescribes punishments for those who in such cases pour [boiling] ghee, oil, vegetable stock, water, beeswax, milk, liquor over a person or throw burning wood, embers or ashes on the body of the other party. Vigilante detention was tolerated under certain circumstances (§ 50.15).

The legal responsibilities and procedures of the various official courts and offices (see above p. 58–62) are mentioned at different places in the *Ain*. For the trial of homicide, for example, the following procedure was prescribed:

*A lālamohora* ordering a death sentence for homicide shall not be dispatched if it has not passed through the hands or was attested by the following four officials: The venerable chief judge of the *adālata* (*adālatkā mālika śrījaj*), the venerable guru *dharmādihikāra*, the *mālika* of the Kausī office, and the state treasurer (*khajāncī*). If the chief of the Kausī and the state treasurer are not available, [the *lālamohora*] shall be dispatched to the places where it is necessary, receiving [the confirmation on its reverse] that it has passed through the hands of the *kājī* and colonels. (§ 33.8)

To what extent cases had to go through such official channels or instances was perhaps clear in severe crimes such as ‘cases concerning homicide, or a crime punishable by *dāmala*, or concerning illicit sexual intercourse, or concerning the crime of contaminating a person through cooked rice or water, or concerning theft, or concerning the crime of accepting bribes or concerning the crime of hiding governmental revenues’ (§ 46.4), but many other cases could be decided by the parties, i.e. plaintiff and defendant, even after they had been brought to an office. If they failed to find an agreement and returned to an office, they had to be punished or fined (§ 46.6).

In cases connected to the death penalty, *dāmala* and degradation of caste, and crimes connected to defilement through cooked rice (*bhāta*) and water after committing a sexual crime with a member of the Water-unacceptable castes by a member of the Water-acceptable castes, the local administrative offices were not to hear them, but to forward them together with the letter of confession of the offender and other documents to the higher court of justice (§ 36.6).

In minor cases, the court of the first instance was the *amāla*, where the *amālī* or land holder decided. Legal disputes concerning *jāgira* land, for example, could be investigated and decided by the holder of the *jāgira* land. Complaints on unjust decisions by the *dvāre* of the *jāgira* land holder could be forwarded to an *adālata* or *ṭhānā* office, which then had to bring the *dvāre* and tenant together to decide the case (§ 46.1). These courts could also refer the case back to the *amāla* (§ 46.3). The court of the next instance was generally the *aḍḍā* or the central courts of justice, Iṭācapali, Koṭīliṅga, Ṭaksāra, and Dhanasāra. The higher court, which decided only on severe cases, was the *kacaharī* or, as the highest instance, the Kausala. Cases could not be brought to different courts; if this happened, the higher court could appropriate the procedure (§ 46.5).

### Court Procedures

Courts, which according to Hodgson (1836: 98) were always sitting and had neither vacations nor terms, could summon suspects or offenders at any time. Even in cases punishable by life imprisonment or caste degradation, the regional courts had to have the minister sign the document first, and then summon the culprits, arranging that they could not ‘escape on the way’ (§ 36.1).

Normally the defendants were confronted with their accusers in criminal cases, and the judges tried to reconcile the parties. In higher courts, cases were often decided without the culprit being present. If then the court decided that the culprit was to be punished by death, confiscation of property, life imprisonment or caste degradation, the master of the court had to write an authorised letter to the local office concerned, telling it to take the necessary action (§ 36.4).

The main form of evidence was witnesses and documents in civil law cases (§ 35.25). Oaths (§§ 2.33–35, 21.3) were apparently less often used, often in the form of an ‘oath on the dharma’ (§ 35.34) and only when no other form of evidence was possible. For Hindus, an oath on the *Harivaṃśa* was taken (§ 82.5), for Buddhists on the *Pañcātakaṣa* and for Muslims the Quran (Hodgson 1836: 118). Within Dharmaśāstra literature, according to Richard Lariviere, the oath during which the *Harivaṃśapurāṇa* is put on the oath taker’s head is only mentioned in the *Smṛticintāmaṇi*. He observes that ‘this ordeal was devised particularly for settlement of boundary disputes. It involved the threat of the loss of offspring and the end of the family if the swearer was untruthful’ (Lariviere 1981: 52). Hodgson gives a description of an oath being taken on the *Harivaṃśa*:

The *Bichāri* of the court, having caused a spot of the ground of the court to be smeared with cow dung, and spread over with *pīpal* leaves, and a necklace of *tulsi* beads to be placed on the neck of the witness, places the witness on the purified spot of ground, and causes him to repeat a *sloka* of which the meaning is ‘whoso gives false evidence destroys

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his children and ancestors both body and soul, and his own prosepriety', holding the *Hari Vansa* all the while on his head, and thus prepared he deposes. (Hodgson 1836: 118)

Verdicts could be reached by 'considering the documents and actors mentioned therein, endorsements, witnesses, testimonies and rights (*bhoga*)' (§ 49.2) or forcing the suspect otherwise to confess (Art. 37). If the suspect was beaten to death, the official himself could be killed, 'taking life for life' (§ 37.7). The *Ain* clearly forbids ordeals, which previously had been practiced (Hodgson 1836: 120–1):

It has been brought to attention that, in some places, trial by ordeal is carried out upon someone's request, by putting [the defendant] into a jute bag (*dhokro*) and plunging him under water. From now on, no such trial by ordeal in violation of the *Ain* shall be carried out. If [the defendant] who has been plunged under water dies, [the official] who ordered such a trial by ordeal—irrespective of whether he is a *ḍiṭṭhā*, *bicārī*, *amālī* or *jimmāvāla*—shall be put into a jute bag and plunged under water. The trial by ordeal shall be nullified. (§ 49.1)

Persons who concealed information relating to a crime could be punished, in severe cases, by confiscating their property or imprisonment or both, or, if the man belonged to an Enslavable caste, by enslavement (§§ 39.1-2). If a wife did not reveal such crimes of her husband, she was not blamed and let off (§ 49.3).

Confessions were made by letting the offender touch a holy stone (§§ 35.6, 44.1), the procedure of which is described by Hodgson (1836: 126):

When a cause is decided the *Bichāri* orders a stone (any one) to be brought, and upon it a few blades of *Dūb* [*dubo*] grass to be put. He then commands the loser of the cause to put a rupee and four dams on the stone and to touch it, observing to him 'you have committed an offence against the *Mahārāja* as well as the other party: that stone is the symbol of the Rāja's feet, touch it, thereby acknowledging your offence, and be freed.' The rupee put on the stone is the *Bichari*'s prerequisite, and the four dams, that of the *Mahāniah*. This usage is not observed in every cause decided, but only when it is held that sin (*pāp*) is necessarily attached to the losing party, and never in cases of ordeal. Others say that the stone has the 'charan' or foot mark of the God Vishnu graved on it, (the *Saligrām*) and this account is more in harmony, with the usage of making atonement by an offering to it, than if it represented the sovereign of the state.

Often the offender was also asked to write down what he confessed. Hodgson (1836: 96) even regards 'compelling the convicted criminal to confess' a feature in which Nepal differs from Europe.

There was also a hierarchy of pending cases, stating that first the cases of children, elderly people and women should be decided, then those of poor and weak people (§ 35.17). There were a number of deadlines—generally within 35 days—for making complaints at the court (§Art. 47).



## Verdicts

Strangely, only a very few court verdicts from the 19<sup>th</sup> century have so far come to light. Given the fact that verdicts in severe cases required the written form, one would expect a great number of this document type. The *Ain* clearly prescribes a written verdict in most cases:

When a written verdict for the victorious party to a case is issued, it shall be issued by the *ḍiṭṭhā* or *bicārī* of an *adālata*, *ṭhānā* or *amāla* office, or by the owner of a *birtābitalapa*, *guthī*, *phikadāra* or *mānācāmala* land, if the written verdict involves an amount of less than 500 [rupees]. If the written verdict involves an amount of more than 500 rupees, the written verdict shall be issued by putting the stamp of the *mukhtiyāra* or the *mālīka* of the *adālata* or *ṭhānā* on it. (§ 35.1)

It also states that the *Ain* should be mentioned in the verdicts: ‘This was done in accordance with such and such a section of such and such an Article of the *Ain*.’ (§ 35.19). In the case of a death sentence, for instance, ‘(T)he *mālīka* of the Iṭācapali shall relate the written confession of the person to be executed with [the respective regulations of] the *Ain* and inform the Kausala. If an official at the Kausala ascertains, upon his own deliberation, that the person is to be executed, he shall have a *lālamohora* issued ordering the execution and shall forward it [to the authority concerned]. When an execution is to be carried out, no one shall be executed in any *aḍḍā* or *gaudā* from east to west without [the sanction of] a *lālamohora*.’ (§ 36.2). The following is such a verdict from 1880 in the case of a homicide:<sup>90</sup>

(...) Regarding the trial of Hari Goḍīyā, residing in the maujye of Bajhahī, Pallāpura, Baharāica, Mogalānā: On Thursday, the 7<sup>th</sup> of the dark fortnight of Phālguna in the [Vikrama] era year [19]35 (1879), [the accused] confessed his guilt in writing at the Aminī, Adālata and Kacahari [courts], stating: ‘It is true that on Sunday, the 1<sup>st</sup> of the bright fortnight of Śrāvaṇa in the [Vikrama] era year [19]34 (1877) I, a member of the Goḍīyā caste, killed Vadala Siṃ Thāpā, residing in Sīmala Ṭola, Pāhāḍapokharā, during the night while he was sleeping by stabbing [him in] the throat twice with a *khukurī* and then fled with 1 *tolā* of gold and [East India] Company Rs. 40 which he had at his waist.’ On Saturday, the 30<sup>th</sup> of the dark fortnight of Śrāvaṇa in the [Vikrama] era year [19]36 (1879), Lieutenant (text: *lephten*) Bālanarasim Svāra Chetrī and Bicārī Kāśinātha [...]ri of the Kailali Aminī, [in] the new territory, submitted the following report through the Iṭācapalī Court [to the king]: ‘Since Hari Goḍīyā, out of greed for property, killed Vadala Siṃ Thāpā at his place of residence by stabbing [him in] the throat twice during the night while he was sleeping, we have determined to sentence him to death: to take him to the grounds called Pāhāḍapokharā where the public can witness his beheading—of taking life for life—at the hand of a local Untouchable caste member in accordance with the following law: “[1] Section 9 of [the article] on homicide: If a person kills another person out of greed for property or for any other reason by striking or stabbing him with a weapon

90 Document ‘Surendra Śāha VS 1937 (1880 CE)’ (edited in Khatiwoda 2018: 255–261).

or the like, the offender—if he is a man from a caste whose members cannot be put to death—shall, in accordance with the *Ain*, have all his property confiscated and undergo the *dāmala* punishment; whilst if the offender is a woman, she shall undergo the *dāmala* punishment, but without having her property confiscated; whilst if the offender is a man from a caste whose members can be put to death, he shall be executed.” [2] Section 7 on “Shaving and *Dāmala*”: ‘When the law calls for putting an offender guilty of homicide to death, from now on a *lālamohora* shall be issued stating that such and such a person who has committed the crime shall be executed by beheading or hanging in such and such place, [the place] where he took [the other’s] life. The offender shall be taken to the place mentioned in the *lālamohora* and executed by beheading or hanging at the hands of a local Untouchable caste member.’

[Then] Subbā Paṇḍita Candrakānta Arjyāla (text: Caṇdrakāṁta) on behalf of the Itācapalī Court submitted a request to ---1--- (i.e., Prime minister and Commander-in-Chief Raṇoddīpa Siṃha) and Venerable Prince born of a prince and Commander-in-Chief Dhīra Śamśera Jaṅ Rāṇā Bahādura, stating: ‘[The above-mentioned] report has been approved by order [of the king], so that we have decided that a *lālamohora* shall be issued to the chief of the Māla [Aḍḍā], Captain (text: *kaptāna*) Mvāna Siṃ Svāra Chetṛī, and to send it off. Whatever you wish, [please] order.’ [Deciding upon the request submitted,] they too have ordered as follows: ‘Regarding the trial which has come to our attention [through the request sent by the [Itācapalī Court], we have given the order to sentence Hari Goḍīyā to death as punishment for his having committed the crime: to take [him] with sounding cymbals throughout the new territory of Kailali district and to the grounds called Pāhāḍapokharā and [there] to behead him at the hands of a local Untouchable caste member in accordance with Sections 9 on homicide and 9 [*sic*] and 11 on “Shaving and *Dāmala*” – Hari Goḍīyā, who out of greed for property killed [Vadala Siṃ Thāpā] unlawfully during the night while he was sleeping by stabbing him twice in the throat with a *khukurī*.’

## The Application of the *Ain*

Scholars of the *Ain* have always asked whether the text was really ever made the basis of legal practice. It has often been argued that the *Ain* did not bring any fundamental change to the courts of law of 19<sup>th</sup> century Nepal owing to the Rāṇā aristocracy ignoring whatever court procedures were written down in this text. Thus, H. N. Agrawal (1976: 12) argues that the Kausala was used only once in 1847 by Jaṅga Bahādura to declare ‘the abdication of King Rajendra Bikram Shah’. Similarly, M. C. Regmi writes:

Legislation alone could not circumscribe the reality of the Rana Prime minister’s absolute authority. There were no constitutional safeguards to ensure that he actually complied with the spirit of the restrictive provisions of the code. A tradition gradually evolved

according to which the Rana Prime minister's word was regarded as above the law. (Regmi 2002: 4)

Such arguments are made by the scholars without paying enough attention to the large corpora of documents available in private and public institutions of Kathmandu valley and beyond. These mostly unstudied documents are a basis for the still largely unexplored history of the practice of the *Ain* in Nepalese jurisprudence of the mid- and late 19<sup>th</sup> century.<sup>91</sup> Thus, the following document edited by T. R. Manandhar (VS 2056 [1999]: 27) records the carrying out of punishments by the Criminal Court (Itācapali) on seven criminals in 1861—two of them sentenced to death for committing homicide:

Lachimanyā Jiryāla, living in Listi Kokarthali,<sup>92</sup> was sentenced to death in accordance with [section] 15 of [the Article] 'On Homicide' after he confessed [his crime] and wrote a note of confession saying: 'On Tuesday, when the 20<sup>th</sup> day of the month Maṅsira in the year [VS 19]18 had passed, I was at [my] cowshed in Japhebyāṃsi. In the morning, I had started doing [my] work in the cowshed after I freed the cattle (lit. cows and buffalo) [for grazing]. It became apparent that the cattle ate [grain or grass] from the *kunyā*<sup>93</sup> [made] on the rice field. The son of Naina Siṃha Basnyāta, [born] to [his] Bhoṭe wife, chased the cattle and scolded me. Keeping in mind that he had scolded me, I pushed him away and he fell down. When he struck me twice with a stalk of maize, I became angry and struck him, who is named Meher Siṃha Basnyāta, on his head with a stick of *kholamyā* wood. He fell down on the spot (*tāhi*) and could not stand up. He even could not even gulp down water, also did not speak and did not stand on his feet either. I beat him up on Tuesday when 3 or 4 *ghaḍīs* of the day had passed. It is true that he, Meher Siṃha Basnyāta, died on Thursday night when 10 or 11 *ghaḍīs* of the day had passed by [the effect] of my strike by the stick'.

As stated in the document, the murderer Lachimanyā Jiryāla was executed after the pertaining section and Article of the MA had been referred to:

If somebody strikes a person either with his foot, a stick, or a stone, and that person falls sick, becomes unable to walk and dies from the pain [resulting from the injury] within 22 days, it is understood that the person who struck has killed the victim. The murderer shall be executed... (§ 64.15)

The victim, Meher Siṃha Basnyāta, died of the injury within two days after he was struck with a stick by Lachimanyā, therefore it was considered in accordance with the *Ain* that the offender had killed the victim, even if he had no such intention. If the victim had died after twenty-two days, the offender would have been only fined 60 rupees instead of suffering death penalty.

91 Some documented evidence relating to the implementation of the MA in mid-19<sup>th</sup>-century Nepal is provided by Khatiwoda 2018.

92 This probably is a village in Sindhupalchok District in the Bagmati Zone of central Nepal.

93 The terms designate a large heap of grain or straw, stack of hay.

Similarly, Gaja Keśara Ṭhakuri, too, was excuted after the pertaining Art. 64 and section 12 of the respective Article, which had been referred to (§§ 64.2 and 12). Section 2 allows the authority to impose the death punishment on a member of royal descent, saying: ‘... If a Rajapūta kills a person, he shall be executed’ (§ 64.2). This ensured that the offender Gaja Keśara Ṭhakuri, who belonged to a Rajapūta caste, could be put to death when found guilty of homicide. Section 64.12 allowed the authority to impose the death penalty, since the accused had killed a person with the intention to kill. Even if the victim had not died, he would have been punished with the death penalty in accordance with the same section of the *Ain* regulating attempted murder.

Further, a letter from Jagat Śaṃśera to the *dvāres* of Aṭhāra Saya Kholā on the Nepal-Tibet border<sup>94</sup> and the above-mentioned royal order (*rukkā*)<sup>95</sup> issued by King Surendra to Captain Mvāna Siṃha Svāra Kṣatrī in the western Madhesa stand as exemplary documents which tell us that the *Ain* was circulated not only in the capital city, but also in far distant territories. Jagat’s letter directs the *dvāres* not to bother the subjects with the same issue again, which had already been resolved. If they do not comply with the order, they will be punished according to the *Ain*. Surendra’s above mentioned *rukkā* lays out the formal procedures for carrying out the death penalty on Hari Goḍiyā, who had been found guilty of committing a homicide. The offender, Hari Goḍiyā, a resident of Maujye Bajhahī Pallāpura, Baharāica, Mogalānā, killed Vadala Siṃha Thāpā and then fled. After more than a year, he was arrested and brought before a court, where he confessed his guilt in writing at the *aminī*, *adālata* and *kacaharī* courts that he, a member of the Goḍiyā caste, had killed Vadala Siṃha Thāpā, at night while he was asleep, and then had fled with gold and money which he had carried around his waist. Half a year passed, and on Saturday, the 30<sup>th</sup> of the dark fortnight of Śrāvaṇa in VS 1936 (1879), Lepṭena Bāla Narasiṃha Svāra Kṣatrī and Bicārī Kāśinātha of the local *aminī* court submitted a report to a higher court, the Itācapali, that Hari Goḍiyā, out of greed for the property, had killed Vadala Siṃha Thāpā at his place of residence by stabbing him in the throat twice during the night. Therefore, it was ruled that ‘he has to be sentenced to death; by taking him to the ground called Pāhāra Pokhara and beheading him at the hands of a local untouchable caste member—the taking of life for a life—according to the § 9 on “Homicide” and § 7 on “Shaving and Dāmala”.’

Moreover, a *lālamohora* issued by King Surendra in VS 1927 (1870)<sup>96</sup> testifies that the *Ain* was consulted not only on criminal cases, but also on civil matters. This *lālamohora* gives final approval to the decision made by the Kausala regarding a court case. The court case is between Kāsīdāsa and Bālādāsa about the succession of Mahanta Mohanadāsa of the Basahiyā Monastery in the Muhattari (Mohattari) district of Madhesa after his death, and about the property of that monastery. As stated in the document, Mohanadāsa had ritually and lawfully granted the succession and the property of the monastery to Kāsīdāsa in 1863 (VS 1920), which was witnessed by the village notables and his four disciples: Bālādāsa, Sukharāmadāsa, Jīvanadāsa and Prāṇadāsa. However, Bālādāsa took over the succession in the monastery by force one year later in 1864 (VS 1921), accusing Kāsīdāsa of having acquired the succession on the basis of

94 See Document ‘Jagat Śaṃśera VS 1912 (1855 CE)’.

95 See Document ‘Surendra Śāha VS 1937 (1880 CE)’.

96 Edited in Khatiwoda forthc.

forged documents. The *lālamohora* recounts the procedures required for a court decision. The local court first investigates the lawsuit and a decision is made only after careful consultation of the pertinent sections and Articles of the *Ain*. This decision is afterwards sent to the Kausala by the court, which investigates anew the decision of the court on whether the matter conforms to the regulations of the *Ain* and adds its own observations. It is then approved by the Kausala and forwarded to the commander-in-chief and prime minister, who issued a *rukkā*. Afterwards, it is sent to the king and a red-seal document (*lālamohora*) is issued by him to the winner of the lawsuit, i.e., to Rūpalāladāsa in the present document.

Not only the court verdicts, but also the supplementary legislation to the main *Ain* of 1854 are worth discussing so as to understand the growing necessity of more precise laws for better applicability. For example, one such supplementary legal document promulgated by Raṇoddīpa Siṃha Rāṇā in VS 1936 (RSR-Ain) and intended to help train judicial officials not only defines what criminal and civil cases are, but also clearly explains the hierarchy of the judicial offices and officials, something which is not clear in the *Ain* of 1854. RSR-Ain §§ 6 and 7 read:

... an *aḍḍā* office headed by a *lepḥṭena*, *subedāra* or *jamādāra* or *havalḍāra* is to be called *aminī kacaharī*, *ṭhānā* or *cauki*, respectively. The officials of such offices who have been given the right to decide legal cases are to be called *hākima* and the rest are to be called clerks (*kārindā*).

Moreover, this legislation also introduces, probably for the first time in pre-modern Nepalese administration, uniformity in the script of the legal documents. It directs the officials to send the reports and documents to the prime minister only in Devanāgarī script (RSR-Ain § 3). It further prescribes how to write legal documents, such as a litigant's application to file a court case, documents for accepting bail or surety, letters of witnesses, confessions, the written format of taking an oath on dharma and the like.

These documents tell us that the *Ain* was not simply a theoretical and scholarly work, like the Dharmaśāstra or -nibandha texts, but was indeed down to earth and reflected current realities. The MA is thus not simply a rewriting of Brahmanical moral values. It has a stronger conceptual leaning towards positive law than the Sanskrit legal tomes of this period.

## Conclusion

Since there have been dissimilarities in punishment imposed in [lawsuits] with the same particulars until today, therefore, in order to achieve uniformity of punishment in accordance with the crime committed, this is the *Ain* prepared in response to the following order to the thrice venerable Mahārāja Jaṅga Bahādura Rāṇā (...). (Preamble)

These words from King Surendra's *lālamohora*, functioning as a kind of preamble, promise legal security and uniformity. The *Ain* thus shows decisive improvements in the rights of the people: for example, the cutting off of the nose, ears and other parts of the body (Hodgson 1936: 126),

which had apparently been customary before, no longer appears. There was a separation of political powers. Offices and office holders were separated and legal boundaries were drawn for the powers of both the king and the prime minister. Exceeding these limits could be punished by removal from office (§ 0.1.34). The rules for the role of succession for the monarch and the prime minister also ensure a peaceful transfer of power. Legal legitimation therefore complemented legitimation, based on birthright or charisma. Moreover, the *Ain* is taking the first steps to establish a conceptual separation between the legislative, executive and judicial branches. Additions or amendments to the *Ain* required the approval of the Kausala, and neither the king nor the prime minister was allowed to interfere in the judicial decision-making process (§ 45.2) or to corrupt the judgments (§ 0.2.16). The judgments were to be based solely on the authority of the *Ain*. If this was not possible, the case had to be referred to the Kausala and the *Ain* had to be amended accordingly (§§ 35.11–12). The usurpation of the throne by the prime minister (§ 0.1.31) or in cases of treason would lead to capital punishment. And the state treasury was explicitly protected from the private enrichment of the prime minister.

In reality, however, Jaṅga Bahādura Rāṅā's *Ain* cemented the social order as a basis of a 'centralised agrarian bureaucracy' (Regmi 1976a: 225) and fortified the privileges of the aristocracy and other state-bearing elites (cf. Höfer 1979: 39 and 2004: 2). In doing so, the *Ain* presented a complex caste system in order to internally hinduise society, subsuming all ethnic and mostly non-Hindu groups. The same cannot easily be found in India, as B. H. Hodgson, British Resident in Nepal during the years 1829–31 and 1833–1843 had already noted by introducing his article 'On the Administration of Justice in Nepal' in this way:

This subject is one that possesses much interest whether for the legislator, the historian, or the philosopher. In Hindustán we look in vain for any traces of Hindú legislation or government. The Moslem conquerors have everywhere swept them away, and substituted their own practices and doctrines for those conquered. Even in Rájputána, it may be doubted whether we have the pure and unmixed practices of Hindu legislators and judges, or whether their necessary connection and intercourse with Muhammedan governments have not more or less modified their notions on the subjects, and introduced changes more or less considerable. But in Népal at least we may be sure that nothing of this kind has occurred. Separated till very recently from any intercourse with Hindustán, shut up within their mountain fastnesses, the Népalese have been enabled to preserve their institutions in all their Hindú purity... (Hodgson 1836: 94; the passage ends with the motto that we have placed at the beginning of our present book.)

This is, of course, an exaggeration, a neglect of other legal cultures in Nepal and the declaration of Nepal as a Hindu Shangri La—an image that Nepal has cultivated up to the recent present by declaring herself the last Hindu kingdom in the world (cp. Michaels forthc. a). Nevertheless, its core statement is true, because the policies of the Śāhas and Rāṅās were based to a large extent on the Hinduisation of Nepal and the *Ain* was a major part of this.

The legitimacy in the *Ain*, based on a shared collective (Hindu) identity which established strong moral-affective ties between the state territory and subjects, became subsequently

a milestone for the further development of the succeeding *Ains*. Therefore, the *Ain* cannot simply be taken as strengthening the dictatorial power of the Rāṇā regime. On the contrary, it was the institutionalisation of the new political culture under Jaṅga Bahādura Rāṇā, who had been provided with the executive power by restricting the political influences of other domestic institutions, such as the monarchy.

Despite the significant changes, substantial reforms and, to a certain extent, the approaches to legal security for the population, law in Nepal, as it is presented in the *Ain*, differs considerably from Western or Roman law—especially in the fact that the individual can hardly be separated from his or her social group. This is particularly true in cases of ritual impurity, but equally so for the liability of the joint family in property cases. Whoever makes him- or herself impure, for example, through illegitimate sexual intercourse, can be forbidden to have sexual intercourse or a meal with his own wife and other family members. In addition, these persons, too, are affected by impurity.

Equally, the legal foundation of subjectivity in offences, for instance the motive for a deed, counts for less than the objective consequences of the deed. This has its effects on legal criteria such as intention, guilt, responsibility, reduction of sentence, or aiding and abetting. But, above all, the law of the *Ain* is not founded on natural law, i.e. law not based on consent, but on universal principles. It is above all the (Brahmanical) law of castes. What for one was punishable, was not necessarily so for another. Law and morals were not distinguished, either. With the dominance of Hindu dharmashastric norms, the *Ain* remained religious law (as distinct from customary and state law).

The *Ain* further strengthened the caste system in its function of enabling and legitimising the economic exploitation and political marginalisation of lower caste groups, through taxation, compulsory labour obligations, lack of participation in the administration, unfavourable tenure policies and money-lending.

In contrast to many law texts commissioned by the British in India, the *Ain* cannot simply be understood as a restoration of Brahmanic moral law. On the contrary, the text seems to be more ‘modern’ than the 18<sup>th</sup>-century Sanskrit law texts in India. The juridical situation in India was in, fact, split between British Law and the traditional Dharmaśāstra. In Nepal, however, though not directly influenced by the British, the emergence of constitutional ideas is evident, even though not clearly visible. It seems that there are hidden transcultural flows.

In other words, the introduction of a written law such as the *Ain* worked to cement traditional society through ‘modern’ methods that would additionally claim for this small nation a place in the community of modern states. It thus was a strategy of ‘traditionalising modernity’ rather than ‘modernising tradition’. The modernisation process in Nepal, then, was neither adaptive of nor an alternative to the modernisation process in India. It included an advanced homogenisation of law practice, which, however, did not transform Nepalese society comprehensively into a form of ‘Western’ modernity.





# Translation



## Preamble (Lālamohora of VS 1910)

Hail! [A decree] of him who is shining with manifold rows of eulogy, [such as] ‘The venerable crest-jewel of the multitude of mountain kings’ and Naranārāyaṇa etc., high in honour, the venerable supreme king of *mahārājas*, the thrice venerable Mahārāja Surendra Vikrama Śāha, the brave swordsman, the divine king always triumphant in war.

Hail! [A decree] of him who is shining with manifold rows of eulogy, [such as] ‘The venerable crest-jewel of the multitude of mountain kings’ and Naranārāyaṇa etc., high in honour, the venerable supreme king of *mahārājas*, the thrice venerable Mahārāja Rājendra Vikrama Śāha, the brave swordsman, the divine king always triumphant in war.

Hail! [A decree] of him who is shining with manifold rows of eulogy, [such as] ‘The venerable crest-jewel of the multitude of mountain kings’ and Naranārāyaṇa etc., high in honour, the venerable supreme king of *mahārājas*, the thrice venerable Mahārāja Trailokya Vīra Vikrama Śaṃśera Jaṅga Bahādura, the brave swordsman, the divine king always triumphant in war.

*Āge*: To the *bhāradāras* and *kāmadāras* stationed in the capital or provinces of our entire realm, the *hākimas* of all *gauḍā*, *adālata* or *ṭhānā* offices, the Kausī or Kumārīcoka office, the religious court (*dharmādhikāra* office), Mulukīkhānā, the Sadaradaphadara, the record offices of the *kampu*, *paḷṭana*, *kampanī* or the like and all *kacaharī* offices, to the *kāmadāras*, *amālīs*, *dvāres*, *ijārā* and *ṭheka* holders, the holders of *guṭhī* land exempted from all taxes, *birtā* holders, the heads of monasteries (*maṭha*), the virtuous *mahantas*, *mukhiyās*, *jimmāvālās*, *chaudharīs*, *tharīs*, village headmen (*mahatau*), *mijhāras*, peasants or the like. Since there have been dissimilarities in punishment imposed in [lawsuits] with the same particulars until today, therefore, in order to achieve uniformity of punishment in accordance with the crime committed, this is the *Ain* prepared in response to the following order to the thrice venerable Mahārāja Jaṅga Bahādura Rāṇā G. C. B.<sup>97</sup> Prime Minister and Commander-in-Chief: ‘Call a Kausala meeting including the *bhāradāras* specified in the list and prepare a law code as ascertained by that Kausala.’ It is declared on Thursday, the 7<sup>th</sup> of the bright fortnight of the month of Pauṣa in the year [VS] 1910 with the approval of us, [the members of] three generations (i.e. King Father Rājendra, King Surendra, Crown Prince Trailokya). When it is necessary [for a portion] to be corrected or rejected by order of the Kausala and witnessed by us, it should be corrected or rejected and should be added as a new law, and

97 Title of a member of the first class (Knight Grand Cross) of ‘Honorary Knights Grand Cross of the Order of the Bath’, founded by King George I in 1725, restructured in 1815 and in Nepal first bestowed on Jaṅga Bahādura Rāṇā.

Preamble (Lālamohora of VS 1910)

all should act and render court decisions as written in this code. Whoever does not render court decisions and oversteps bounds in rendering court decisions or in other acts shall be punished as written in the *Ain*'s [regulation] on the same subject. If a law laid down in this code needs to be corrected or expanded, our prime minister shall convene with the Kausala and the *diṭṭhā* official of the Law office (*aīnkhānā*) shall add, erase or correct [the regulations accordingly]. If it is ascertained that except for these, anyone else adds or erases [a regulation] in the law codes distributed to the central or provincial *kacaharī* offices or charges higher or lower fees [than prescribed], the land assigned to him shall be seized and he shall be imprisoned for 8 years, if he is a *jāgira* holder; if he is a *dhākre*, he shall be imprisoned for 8 years. The amount set in lieu of the prison term shall not be accepted. Furthermore, the minister, the members of the Kausala and the *bhāradāras* shall continue to consider, expand, add and write down laws on matters which serve our well-being and the comfort and protection of the subjects. Once a year, the various law amendments shall be put together, the venerable prime minister's seal shall be affixed to them and they shall be circulated throughout the country. Having declared this, we three generations have ordered that we shall obey this *Ain* along with our subjects. All officials (*kāriṇḍā*), including the venerable prime minister, shall carry out their duties in accordance with this *Ain*.

### ***Signatores (tapasīla)***<sup>98</sup>

Approved by:

The venerable prince born of a prince, venerable Prime Minister and Commander-in-Chief General Jaṅga Bahādura Kūvara Rāṇājī

The venerable prince born of a prince, venerable Commander-in-Chief General Bam Bahādura Kūvara Rāṇājī

The venerable prince born of a prince, venerable General Kṛṣṇa Bahādura Rāṇājī

The venerable prince born of a prince, venerable General Raṇa Uddīpa Siṃha Kūvara Rāṇājī

The venerable prince born of a prince, venerable General Jagat Śamśera Jaṅga Kūvara Rāṇājī

The venerable prince born of a prince, venerable General Dhīra Śamśera Jaṅga Kūvara Rāṇājī

The venerable prince born of a prince, venerable General Bhakta Vīra Kūvara Rāṇājī

The venerable prince born of a prince, venerable Commander Colonel Bakhata Jaṅga Kūvara Rāṇājī

The venerable prince born of a prince, venerable Senior Colonel Bakhat Jagat Jaṅga Kūvara Rāṇājī

The venerable prince born of a prince, venerable Colonel Bhīma Jaṅga Kūvara Rāṇājī

The venerable prince born of a prince, venerable Colonel Jīta Jaṅga Kūvara Rāṇājī

The venerable prince born of a prince, venerable Colonel Khaḍga Bahādura Kūvara Rāṇājī

The venerable prince born of a prince, venerable Colonel Kṛṣṇa Dhvaja Kūvara Rāṇājī

The venerable prince born of a prince, venerable Colonel Kedāra Narasiṃha Kūvara Rāṇājī

The venerable prince born of a prince, venerable Junior Colonel Pṛthvī Dhoja Kūvara Rāṇājī

98 The following list comprises the members of the Kausala who all endorsed (*rājī*) the promulgation of the *Ain*.

Kājī Raṇa Sera Śāha

The venerable Guru Rājapaṇḍita venerable Dharmādhikāra Vijayarāja Paṇḍitajyū

The venerable Rājapaṇḍita venerable Nagendrarāja Paṇḍitajyū

Purohita Tīrtharāja Paṇḍita

The venerable Cautariyā Śamśera Jaṅga Sāha

The venerable Cautariyā Kulacandra Sāha

Kājī Hemadala Thāpā

Kājī Kulmāna Siṃ Basnyāta

Kājī Dilli Siṃ Basnyāta

Kājī Umākānta Upādhyā

The venerable prince born of a prince venerable Senior Kaptāna Makaradhvaja Kūvara Rāṇājī

The venerable prince born of a prince venerable Senior Kaptāna Toranadhvaja Kūvara Rāṇājī

Senior Kaptāna Sanaka Siṃ Khatṛ

Kaptāna Harimāna Siṃ Basnyāta

Khajāncī Śiva Prasāda Arjyāla

Kaptāna Dalajīta Viṣṭa

Senior Sardāra Kirtavīra Kārki

Kaptāna Surata Jaṅga Kūvara Rāṇājī

Kanaka Siṃ Mahat

Kaptāna Jagya Bahādura Ghartī

Sardāra Ceta Siṃ Basnyāt

Kaptāna venerable Bhakta Khaḍkā

Kaptāna Juddhavīra Adhikārī

Kaptāna Bhakta Kesara Pāḍe

Valabhadra Mājhi

Kaptāna Lālasim Khatṛ

Kaptāna Satarāma Khatṛ

Kaptāna Sujāna Siṃ Basnyāta

Kaptāna Javara Khaḍkā

Kaptāna Dalamardana Thāpā

Kaptāna Javara Kārki

Kaptāna Śamśera Jaṅ Khatṛ

Kaptāna Haribhakta Kūvara Rāṇājī

Kaptāna Jasdhīra Siṃ Basnyāta

Lephtāna Phatte Bahādura Kūvara Rāṇājī

Kaptāna Varphānasim Basnyāta

Kaptāna Kālidāsa Thāpā

Kaptāna Bhīmala Āle

Kaptāna Dīpa Bahādura Kūvara Rāṇājī

Envoy (*vakīla*) Haribhakta Khatṛ

Kaptāna Babara Jaṅga Kūvara Rāṇājī

Envoy (*vakīla*) Subbā Viṣṇu Prasāda Paṇḍit

Kaptāna Pratimana Kūvara Rāṇājī

Amīra Subbā Siddhimāna Siṃ Rājabhadāri

Kaptāna Rāmu Āle

Mīra Subbā Ratnamāna Siṃ Rājabhadāri

Kaptāna Tekā Bahādura Kūvara Rāṇājī

Subbā Viśveśvara Upādhyā

Kaptāna Śamśera

Subbā Kāśinātha Upādhyā

Kaptāna Kṛṣṇa Sāhī

Subbā Viśvanātha Upādhyā

Kaptāna Rana Siṃ Khatṛ

Subbā Isvarī Prasāda Arjyāla

Kaptāna Buddhimāna Siṃ Basnyāta

Subbā Hṛdaya Ratna

Kaptāna Pahalmāna Siṃ Basnyāta

Subbā Meheramāna Siṃ Rājabhadāri

Kaptāna Madanamāna Siṃ Basnyāta

Subbā Viṣṇu Dāsa Vairāgī

Kaptāna Prasāda Siṃ Bhamḍāri

Lephtāna Gumānsim Kārki

Subbā Dhanasundara

Lephtāna Gajarāja Thāpā

Subbā Cetanātha Upādhyā

Lephtāna Amṛta Siṃ Adhikārī

Subbā Vrajamohana Upādhyā

Lephtāna Devīdāsa Pādhyā

Subbā Lakṣmīpati Jaisī

Lephtāna Bhadravīra Khatṛ

Subbā Tārānidhī Puḍāsainī

Lephtāna Karavīra Khatṛ

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Subbā Padmanātha Josi  
Subbā Sivanarasiṅ  
Subbā Bakhata Siṃ Khatṛ  
Amīra Munsī Lakṣmī Dāsa  
Lepṭena Bhimasena Rāṇā  
Lepṭena Bhairava Siṃ Kūvara Rāṇājī  
Lepṭena Ranasura Khaḍkā  
Lepṭena Virudhoja Bhaḍāri  
Lepṭena Prabhu Adhikāri  
Lepṭena Indra Vīra Khatṛ  
Lepṭena Sanmānasim Khatṛ  
Lepṭena Bhairava Siṃ Ṣaḍakā  
Lepṭena Bhairava Lāla Jhā  
Lepṭena Śiva Saṃkara Pādhyā  
Lepṭena Lakṣamana Guruṅ  
Lepṭena Indra Siṃ Adhikāri  
Lepṭena Santavīra Basnyāta  
Lepṭena Bala Bahādura Pāḍe  
Lepṭena Gaṇeśa Dhvaja Kūvara Rāṇājī  
Lepṭena Śamśera Dhvaja Kūvara Rāṇājī  
Lepṭena Sevaka Rāma Thāpā  
Lepṭena Dalavīra Biṣṭa  
Insāyena Surata Giri  
Insāyena Ḍirghamāna Khatṛ  
Insāyena Garuḍa Dhoja Kārki  
Insāyena Jaṃga Vīra Bhaḍāri  
Insāyena Naravīra Kārki  
Subedāra Śrī Vilāsa Pādhyā  
Subedāra Gopāla Khatṛ  
Subedāra Ḍevisim Thākura  
Subedāra Phatye Siṃ Thāpā  
Subedāra Harṣa Bahādura Kūvara Rāṇājī  
Subedāra Megha Dhoja Adhikāri  
Subedāra Kāsīrāma Kūvara Rāṇājī  
Subedāra Candra Vīra Basnyāta  
Subedāra Sumanta Thāpā  
Subedāra Kularāja Kūvara Rāṇājī  
Subedāra Vala Vīra Bhaḍāri  
Subedāra Aivarṇa Basnyāta  
Subedāra Śamśera Jaṅ Thāpā  
Subedāra Vānāsura Thāpā  
Subedāra Rudra Prasāda Pādhyā

Lepṭena Raṇadhvaja Kārki  
Lepṭena Caṃpa Siṃ Ghartī  
Mejara Ajiṭana Garja Siṃ Khatṛ  
Vaidya Gaṃgānātha  
Vaidya Cakrapāṇi  
Ḍiṭṭhā Nandi Kesara Pādhyā  
Ḍiṭṭhā Rudra Vīra  
Ḍiṭṭhā Kālidāsa  
Ḍiṭṭhā Indra Siṅ  
Ḍiṭṭhā Veṅimādhau Pādhyā  
Ḍiṭṭhā Kirtimānasim Rājaḍābhari  
Ḍiṭṭhā Devī Bhakta Ḍhūgyāla  
Ḍiṭṭhā Avīra Ṣaḍakā  
Ḍiṭṭhā Dharma Siṅ  
Ḍiṭṭhā Himmata Bahādura Sena  
Ḍiṭṭhā Revatī Ramaṇa Satyāla  
Ḍiṭṭhā Kīrti Rāma Biṣṭa  
Ḍiṭṭhā Hiṣmat Siṃ Adhikāri  
Insāyena Phatyasim Kārki  
Insāyena Bālu Khatṛ  
Insāyena Candra Vīra Thāpā  
Insāyena Dhamāna Kārki  
Insāyena Ranasura Biṣṭa  
Subedāra Jagavīra Rāṇājī  
Subedāra Prasāda Siṃ Khaḍkā  
Subedāra Ghokala Thāpā  
Subedāra Jagada Bahādura Khatṛ  
Subedāra Santavīra Kārki  
Jyotiṣī Ruḍra Lohanī  
Jyotiṣī Ichā Rāma Joṣī  
Jyotiṣī Kirtimādhau  
Kharidāra Manohara Pādhyā  
Kharidāra Dhīrjanarasim  
Kharidāra Dasarathasim  
Kharidāra Jītamāna  
Kharidāra Vuddimāna  
Kharidāra Nārāna Datta Pādhyā  
Kharidāra Joganasim Rājabhaḍāri  
Kharidāra Kāśī Datta Pādhyā  
Kharidāra Vakhatmāna Siṃ Rāja Bhaḍāri  
Kharidāra Daulata Siṃ  
Kharidāra Bhājuvīra

Subedāra Śrīmāna Basnyāta  
Subedāra Jagata Siṃ Guruṅ  
Subedāra Buddhimāna Thāpā  
Subedāra Naina Siṃ Basnyāta  
Subedāra Anupa Siṃ Khaṭṭ  
Subedāra Bhārata Khaṭṭ  
Kharidāra Bhīma Nara Siṃ  
Kharidāra Kṛṣṇa Mitra  
Mukhiyā Rājāvīra  
Mukhiyā Jomagāna  
Mukhiyā Bakhata Vāra  
Mukhiyā Sivānanda  
Mukhiyā Bhīmarudra Dvaja Joṣī  
Mukhiyā Gajādhara  
Mukhiyā Raghuvīra  
Mukhiyā Saṃkaradāsa  
Mukhiyā Rāma Nārān  
Mukhiyā Vighrarāja  
Kharadāra Ramākānta Pādhyā  
Dvāre Vasanta Buḍhā  
Dvāre Magana Siṃ

Kharidāra Sarvajīta  
Kharidāra Nandi Kesara  
Kharidāra Deva Nārāna Pādhyā  
Kharidāra Bhavanātha Upādhyā  
Kharidāra Lakṣmī Bhakta Upādhyā  
Kharidāra Prithvīvara Upādhyā  
Kharidāra Khaḍānanda Upādhyā  
Kharidāra Gyāna Māna  
Kharidāra Pūrṇānanda  
Dārogā Sahānī Rājāvīr  
Copadāra Ravīlāla Jaisī  
Mukhiyā Rāma Sundara  
Subedāra Meharamāna Thāpā  
Mukhiyā Jatna Siṃ  
Subedāra Amṛta Mahata  
Subedāra Kāmāna Siṃ  
Subedāra Karavīra Thāpā  
Subedāra Padma Nātha Pādhyā  
Subedāra Indra Vīra Basnyāta  
Subedāra Juddhavīra Thāpā  
Subedāra Vṛṣadhōja Khaṭṭ  
Subedāra Dala Mardana Thāpā  
Subedāra Bhāvāhī Bhakta Biṣṭa  
Subedāra Gaṃbhīra Guruṅ

## 0.1 The Throne [MA<sub>2</sub>]<sup>99</sup>

1. As long as an enthroned king has a son he himself has begotten, his brothers or sisters shall not ascend to the throne. The son shall ascend to it.

2. If an enthroned king has no son, but has a daughter he himself has begotten, and also has a full younger brother, the brother shall ascend to the throne; the daughter shall not ascend to it.

3. If an enthroned king has no son, but has a younger brother, and the king declares that he intends to give the throne to his brother, he shall not be allowed to give it to his brother for as long as he lives. If he dies without offspring, his brother shall ascend to the throne.

4. If a king has a younger brother, [any] daughter of his shall not ascend to the throne; the brother shall ascend to it. If the king has no full brother and no half brother born to a co-mother, a daughter of the enthroned king shall ascend to the throne. Daughters who have eloped or who [are born] to concubines shall not ascend to the throne.

5. If an enthroned king hands the throne over to a son, grandson or daughter of his, and they have been enthroned, he shall not be entitled to be enthroned [again] once he has handed over his throne to someone else, even if the one to whom the throne has been handed over dies after his enthronement. The next rightful claimant shall ascend to the throne.<sup>100</sup>

6. Sons born to a royal concubine, that is, a woman not [ritually] married [to the king], shall have no claim to the throne.

7. If an enthroned king dies, a queen—if he has neither sons nor daughters—shall be allowed to be enthroned and to reign. Even if he has a daughter, and if the queen declares that she wants to reign as long as she lives, whatever queen is the principal one (*jauna paṭabandhā jeṭhā chan*) [may do so] at her pleasure. No one shall ascend to the throne, unless at the pleasure and with the consent of that queen.

99 This Art. has been made accessible for the first time by Jean Fezas. It is reconstructed on the basis of the manuscript NGMPP Reel number E 1940/3; see Fezas 2000b/I: 6 n. 1. Fezas rightly assumes that it belonged to the original text of 1854, since it is mentioned in the table of contents of MsA.

100 This section may be in allusion to the case of King Raṇabahādura, who abdicated in favour of his son Gīrvāṇayuddha in 1799 and left Nepal, but returned as regent in 1804.



8. If an enthroned king dies before a son is born and a ritually married queen is [later] found to be pregnant, the principal ritually married queen shall rule without being enthroned until the child is born. If a prince is born, he shall be enthroned.

9. If an enthroned king kills a younger brother or son—one who would ascend to the throne after him—by administering poison on his own or by having another person do it, such a king shall be dethroned, reduced in caste and put under house arrest outside the palace, [and there] provided with food and clothing suitable to his rank. Such a king shall not be entitled to the throne. The one who is [next in line] to ascend to the throne according to the roll of succession shall be enthroned.

10. If a crown prince, the rightful claimant to the throne after the king's death, kills the enthroned king by administering poison, he shall not be allowed to be enthroned. Such [a crown prince] shall be reduced in caste and imprisoned outside the palace, [and there] provided with food and clothing. The one who according to the roll is to ascend to the throne among those who come after him shall be enthroned.

11. If an enthroned king kills with his own hands an innocent person without due process of law, he shall be dethroned and put under house arrest outside the palace, [and there] provided with food and clothing with honour. The rightful claimant to the throne shall be enthroned.

12. If a younger brother or son of the king who is a rightful claimant to the throne after the king dies kills the enthroned king, he shall be executed—taking life for life.

13. If a younger brother or son of the king who is not entitled to the throne kills him, he shall be executed in accordance with the *Ain* applicable to commoners—taking life for life.

14. A queen who plans to kill an enthroned king and to place another person on the throne shall—if she kills him—be reduced in caste, fettered, imprisoned outside the palace and provided with food and clothing. If she does not kill the king, but has only made plans to kill him, she shall not be fettered, but rather kept under house arrest outside the palace and provided with food and clothing suitable to her honour.

15. If any other person makes plans to kill an enthroned king, he—irrespective of whether he kills the king or not—shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated, if he belongs to a caste whose members may have their head shaven; if he belongs to a caste whose members may be executed, he shall be executed.

16. One who conceives the wrong of doing bodily harm to a king or queen, shall—if the crime leads to the loss of life—be executed; if [the offender] belongs to a caste whose members may be punished by *dāmala*, he shall be punished by *dāmala* and his share of property shall be confiscated. If the crime leads to the loss of property, [the offender's] property shall be confiscated.

## 0.1 The Throne [MA<sub>2</sub>]

A brother, father or son of such [an offender] who was involved in the plot shall not receive property or life [back]. If there was no involvement in the plot, he shall not be held accountable.

17. If an enthroned king, without the advice of the prime minister, gives an order that breaches an agreement with an emperor to the south or north, or else at home, through engaging in duplicitous activity, causes harm to his own high-ranking officials (*umarāva*), *bhāradāras*, army [personnel] or subjects, he shall be dethroned and the one entitled to the throne according to the roll of succession shall be enthroned and reign.

18. In a matter in which the king's prime minister either knowingly or unknowingly has acted faultily, no one shall make a request to the king to pardon [him] other than the *rājaguru*; he alone shall make a request to the king to pardon [him].

19. If a mistake [supposedly made] by the king's prime minister turns out to have been the fault or oversight of a *bhāradāra*, *umarāva*, soldier or subject, the *rājaguru* shall be permitted to pardon [the offender] once it is ascertained whether it was done wittingly or unwittingly [and whether] by a person worthy to be pardoned, and after a request [for pardon] is made to the prime minister.

20. If an *umarāva*, army [soldier], subject or the like—whether high or low in rank—commits a crime punishable by execution, *dāmala* or confiscation of property, and if the enthroned king gives an order to the effect: ‘Such and such a person has been true to our salt,<sup>101</sup> wishes us well or is useful for such and such work’, and if the venerable prime minister, *umarāvas* of the Kausala, *hākimas* of the courts or army officers shall pardon [the one] facing corporal or monetary punishment, then the Kausala shall consider the matter, and if it [deems that the offender] has been true to the [king's] salt, has wished him well or is useful, it shall accept the king's having pardoned him; if it [deems] that such is not the case, it shall not accept [the king's opinion], and [the offender] shall be punished in accordance with the *Ain*.

21. If a king, queen, prince or princess does anything inappropriate, the prime minister or the *rājaguru* shall give a warning. If [the offender] does not heed the warning [but] starts engaging in improper (*bejāi*) rebellion (*biduta*), the prime minister and the *rājaguru* shall discuss [the matter], and the *bhāradāras*, *umarāvas* and the army shall act in accordance with the advice given by both [if it] does not harm subjects, benefits the government and puts down an improper rebellion against the government.

22. If a rightful claimant to the throne, one who is to sit on the throne in the future but has not been enthroned yet, is killed by brothers, uncles or grandfathers who are on the roll of succession after him, they shall be executed—taking life for life.

101 According to R. M. Eaton, salt was an important metaphor for patron-client relationships and goes back to Persian usage: “Eating the salt” or “fidelity to salt” refers to the oath that binds a patron and client through mutual obligations of protection and loyalty’ (Eaton 2005: 114).

23. If the one who is a rightful claimant to the throne in the future suffers from white leprosy (*mahārogī*; lit. ‘serious sickness’), having no sense of what can be eaten and what not and of how one is to act and how not, [that is, who] is mentally ill—has breached the traditions of his clan and become an outcaste, and so become impure—such a person, even though entitled to ascend to the throne according to the roll, shall not be enthroned. Whoever is the second rightful claimant on the roll after him shall be enthroned.

24. If an enthroned king suffers from white leprosy or from a mental illness which remains uncured even after he has been under strict medical care for 3 years, [so that] he breaches the traditions of his clan and becomes an outcaste, and so becomes impure, such a king shall be provided with food and lodging with honour and be housed [somewhere] outside the palace. Whoever is the rightful claimant on the roll after him shall be enthroned.

25. If a Brahmin kills an enthroned king or a rightful later claimant to the throne by wielding a weapon or by administering poison, he shall, even though a Brahmin, receive the death sentence.<sup>102</sup>

26. If someone in sound health has been granted the prime-ministership by our sovereign (*hāmi sarkāra*) but becomes mentally ill after becoming prime minister, loses his ability to speak or breaches the tradition of his clan and becomes an outcaste, and so becomes impure, such a prime minister shall be dealt with in accordance with the *dharmapatra* of the roll [of succession].

27. If a five times venerable enthroned king or queen [wishes] to adopt a son, then as long as there are venerable royal princes or princesses, or their offspring, to sit on the throne after [the present king], [the sovereign] shall not be allowed to adopt a son. If [the king or queen] has no offspring, the adoption undertaken by them shall be recognised if a *sanada* is issued through a decision by the prime minister and *bhāradāras*. An adoption undertaken [by the king and queen] without informing the prime minister and *bhāradāras* and without having a *sanada* issued [by them] shall not be recognised. Such an adopted son shall be told outrightly that he shall not be entitled to be an adopted son. He shall be exiled from the capital city; he shall not be permitted to live in the capital city.

28. If a queen who is on the roll [of succession] and who plots to kill or does kill an enthroned king or a prince who is to sit on the throne later, neither princes and princesses born to such a queen who are on the roll of succession to the throne nor their offspring shall ascend to the throne. Other princes born to a queen other than her and who are on the roll to the throne shall ascend to the throne; if there are no such, princesses who are on the roll shall ascend to the throne. If it is ascertained upon questioning the queen [suspected of] plotting murder that she did

102 Barring this instance, the *Ain* strictly prohibits the killing of any category of Brahmin. Even if a Brahmin commits homicide, his punishment is *dāmala*, but he cannot be sentenced to death (see § 61.1).

## 0.1 The Throne [MA<sub>2</sub>]

[indeed] do so, a written confession shall be obtained from her and she shall be kept confined under house arrest; if [the victim] was killed, she shall be put in silver fetters and kept confined under house arrest. [In both cases] she shall be provided with [suitable] food and clothing.

29. If an enthroned king kills the one who, if without fault, is on the roll to succeed him later—having said [to himself]: ‘So and so will definitely sit on the throne after me’— and if it is ascertained upon investigation that he did [indeed] do so, a written confession shall be obtained from him, he shall be put in silver fetters and he shall be kept confined under house arrest, providing him with [suitable] food and clothing. Such a king shall not sit on the throne. If there is a prince on the roll after him, he shall ascend to the throne. If not, a princess on the roll and her offspring shall ascend to the throne.

30. If a prince who is on the roll [of succession] to the throne kills the one who, if without fault, is on the roll to sit on the throne after him—having said [to himself]: ‘He will sit on the throne after me’— and if it is ascertained upon investigation that he did [indeed] do so, a written confession shall be obtained from him, he shall be put in silver fetters, kept confined under house arrest and provided with [suitable] food and clothing. Such [a prince] shall not sit on the throne. If there is a prince who is on the roll [after him], he shall ascend to the throne. If not, a princess who is on the roll and her offspring shall ascend to the throne.

31. If the prime minister attempts to enthrone himself by cutting off from the throne a prince of an enthroned king and queen who is on the roll [of succession] to the throne, or if he attempts to kill [any of] them or to hand [any of them] over to enemies of the king, and if upon investigation he confesses, a written confession shall be obtained from him and he shall be executed. If the prime minister has merely made plans to do any of these things, he shall be dismissed from his post and imprisoned.

32. If a prime minister attempts to kill an enthroned king or queen, such a prime minister shall be executed.

33. If a prime minister conspires with another king in the north or south and attempts to hand over the kingdom [to him], such a prime minister shall be executed.

34. If an enthroned king himself sells to neighbouring emperors or kings land forbidden to be sold by the prime minister and the Kausala, his subjects shall be permitted to replace such a king irrespective of however large the amount he has received [for it]. If the prime minister or the Kausala—[either] on orders [from the king] or on their own, without orders [from the king], and whether [or not] they receive a large sum for a tiny [piece] of land—sells land within [the country’s] own borders to neighbouring emperors or kings, and if it is ascertained that such a prime minister, Kausala or official is untrue to [the king’s] salt, know that such persons are [indeed] untrue to [the king’s] salt. One may sell land to those who are [fellow] subjects who live in a house on land in one’s own country.

## 0.2 On Royal Affairs [MA<sub>2</sub>]<sup>103</sup>

1. Regarding reporting about a royal affair to the five times venerable king or the venerable minister: if someone has reported about an affair which leads to the death punishment or [property] confiscation of another person, and if upon interrogation he is not able to prove [his allegation], such a false petitioner shall be dismissed from his *jāgira* if he is a *jāgira* holder. If he is a *dhākre*, he shall be imprisoned for 1 year. If he pays the fine in lieu of his prison term, the amount shall be accepted at the rate of 5 rupees for every month and he shall be set free.

2. If someone, out of trouble or suffering, insults verbally the king or minister (*bajira*) by relating to their lives<sup>104</sup> or mothers<sup>105</sup> without taking council with anyone or without entering into anyone's plot, and if it is found that he did not take any action [against king or minister], such a person—if he is a *jāgira* holder—shall be dismissed, even if the standing crops [on the field assigned to him] are ripe. The standing crops shall not be given to him. If such person is a *dhākre* of low or high rank, he shall be fined 50 rupees. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

3. If someone bypasses a venerable minister and causes the king or queen to give him cash, goods, valuables, quadrupeds or the like, although it has been prohibited to give such things to him, such a person shall be dismissed from his *jāgira*. He shall be sent across the Ganges [tributaries] Triśula (Triśulī) or Suna Kosī.

4. If someone, from a military, royal or civil official down to the subjects, lies to a venerable minister or lies in an affair that threatens a venerable minister's life or position (*roṭī*) by entering into a plot by another person, from the commander-in-chief to the subjects, he shall be punished by *dāmala*. If someone lies about land, quadrupeds or valuables, the amount in question shall be taken, and he shall be fined an amount equal to the amount in question. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

103 This Art. has been made accessible for the first time by Jean Fezas. Like the text of chapter 0.3, it is reconstructed on the basis of Ms NeBhā. 618 of the NAK (Fezas 2000b/I: xxxix–xl), which is derived from a manuscript before the promulgation of the *Ain* (ibid.: 12 n. 1). Fezas assumes that it belonged to the original text of 1854, since it is mentioned in the table of contents of MsA (ibid.: 6 n. 1). M. C. Regmi (1975: 97 n. 3), too, argues that this chapter must have been enacted by Jaṅga Bahādura Rāṇā, though he does not give any specific date.

104 This refers to the verbal abuse 'I will kill him' (see § 57.22).

105 This refers to the verbal abuse 'motherfucker' (see §§ 57.18–19).

## 0.2 On Royal Affairs [MA<sub>2</sub>]

5. If any brother or son of the king who is not in the line of succession, or any brother or son of a minister (*bajira*) attempts to win support for himself by spoiling the existing order of royal affairs, he shall be imprisoned for 5 years. The amount in lieu of his prison term shall not be accepted.

6. If someone deliberates on a matter which creates a quarrel in the army (*paṭṭana*), which ruins the order and the kingdom (*dhūṅgā*<sup>106</sup>), which threatens the life of the prime minister (*mukh-tiyāra*) or the [British] Resident, or talks about a matter which threatens the life of the Chinese envoy, or about a matter which threatens the lives of persons who have done nothing [wrong], or about a matter of looting the wealth or houses of *umarāvas*, subjects or nobles, whoever utters a sentence first on a parade, in an alley or in a house, he shall be executed.

7. Someone who spreads rumors which ruin the royal affairs, which trouble the subjects or which create fear, shall be imprisoned in jail for 2 years. If he pays the fine in lieu of the prison term, it shall be accepted at the rate of 5 rupees for 1 month, and he shall be exiled from the city.

8. If someone played a game with the royal affairs and destroyed the livelihood (*roṭī*) of a high person by reporting a false matter, or if he spoils the cordial [relationship between] the prime minister (*mokhya bajira*) and his brother ministers, and if, later on, while discussing this matter, he is not able to prove it, he shall be fined according to the *jāgira* or salary of the person on whom he has [falsely] reported, depending on that person's rank, without considering his (i.e. the culprit's) emolument (*khānagī*). If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

9. The one who cannot make [a high-ranking person as mentioned in § 8] confess [the allegation] shall be dismissed from his *jāgira*, and shall not be allowed to enter the palace and to serve the brothers and sons of the ministers (*bajira*). If he is a *dhākre*, his share of property shall be confiscated, putting the marriage expenses [for his daughters] aside, and he shall be sent across the Ganges [tributaries] Triśula (Triśulī) in the west or Suna Kosī (Kausikā) in the east.

10. If somebody lies in [a matter] which brings an unexpected calamity with China or the English or which creates hindrances for the realm, he shall be dismissed from his post and shall be imprisoned for 12 years. If he pays a fine in lieu of the prison term, it shall be accepted in accordance with the *Ain* and he shall be taken outside the city (i.e. sent into exile). Whoever practices fraud or deceit regarding matters relating to China or the English shall be imprisoned for 6 years after [due] consideration by the Kausala. If he pays a fine, it shall be accepted at the rate of 1 month for every 5 rupees, and he shall be set free.

11. If the king, out of kindness or partiality, grants irrigated land (*kheta*), unirrigated high land (*pākho*) or *birtā* to a minister (*bajira*) or a minister's brothers or sons, it shall not be accepted.

106 On the concept of *dhūṅgo* see Whelpton 2008: 43.

A minister or his brothers or sons who have accepted such *birtā* shall be regarded as untrue to the salt.

12. If a prime minister (*mukhtiyāra*) during his ministership conquers a new territory other than the existing [territories] of his country and brings it under the control of [our realm], he shall make a report to the king [about it] and shall accept the *birtā* granted by him. The brothers or sons of the prime minister shall also accept the *birtā* [granted by the king] upon the petition of the prime minister.

13. If a minister, his brothers or sons, or any subject makes a barren uncultivated forest land arable and cultivates it, the person who has made it arable shall enjoy both shares (i.e. that of the landlord and the tenant) for a period of 5 years. After that it shall be registered in the office for collecting revenues. Someone who cultivates barren uncultivated forest land shall be granted 10 percent of the cultivated land as *birtā*, as applicable to the common subjects.

14. If the government has been involved in a war, and if a minister (*bajira*), his son or brother, an *umarāva*, officer or soldier etc. has died in the war, and no brother or son of the person who died in the war is capable of replacing the loss,<sup>107</sup> the prime minister shall arrange to give the sons or wife of the person who died in the war *bekha*, *marauṭa* or *mānācāmala* land, depending on his rank.

15. A minister, his brothers and sons shall not collect any royal taxes, such as *gādī*[*numāra-kha*], *cumāvana*, *goḍadhuvā*, taxes from mines at Tibet, Madhesa and the hill regions, and shall not take any revenue (*rakama*) of an *ijārā* or *amānata* from the Kaṭhamahala, Ṭaksāra or Bhansāra etc. Such a person shall also not stand as surety for someone who has taken a source of revenue [from the government]. He shall also not take any source of revenue, not even by bringing someone forward who enjoys the surplus income [from the revenue] on his behalf as an intermediary. While making revenue arrangements, one shall ascertain a trustworthy person who does not fail his duty and who as far as possible is wealthy, and shall give a source of revenue to him. If a wealthy person is not found, and if [a source of revenue] has to be given to someone else, the appointments for the *ijārā* or *amānata* arrangements shall be made by taking a wealthy person as surety and in a way that the government is not harmed and the subjects do not suffer (*namarnu*). If a minister or his brothers or sons take a source of revenue, they shall be regarded as untrue to the salt.

16. If a king or any brother or son of a minister settles a dispute of anyone, and if it turns out that the case was decided making the supposed loser win and the supposed winner lose, the minister shall reverse such a decision and give his verdict. If the minister does not do so or makes the supposed winner lose and the supposed loser win by taking a bribe from someone, he shall be considered a bastard<sup>108</sup> who is untrue to the salt.

107 Lit. '... is capable of keeping the name [of the person who died in the war]'.

108 2 *bābule janmyāyāko*, lit. 'born of two fathers'.

## 0.2 On Royal Affairs [MA<sub>2</sub>]

17. If an envoy or resident of China or England who has come to our realm commits homicide or any other crime, the courts of our own government shall not investigate the case. One shall write to their government.

18. If somebody who has been staying inside a compound where the British and Chinese envoys or residents live commits homicide or any other offence, he shall be arrested and brought to his master and [his master] shall be informed that such and such a person committed such and such a homicide or offence.

19. If a person who, by verdict [of law], had to be executed was executed, and if someone walks around shouting and spreading rumours that a person was killed who should not have been killed, and if it is ascertained after the second investigation that the person was executed for a crime which is punishable by execution, such a person who spreads rumours without a proper understanding of the matter related to the execution shall be imprisoned for 5 years, if he is past the age of 21. If he is between the age of 16 and the age of 20, he shall be imprisoned for 2 years. If he is between the ages of 12 to 15, he shall be fined 20 rupees. If he is a child not past the age of 12, it shall not be considered a crime.

[19a]<sup>109</sup>. If someone, except by a government order, saves the life of someone else who has killed a person, he shall be imprisoned for 5 years, if he is not involved in the plot but knows about [the murder] and hides the matter, and his share of property shall be confiscated, putting his brother's and son's share and his daughter's marriage expenses aside.

20. A minister (*bajira*) who revokes the 5-year term [of governmental contracts with the contractors], who takes the customary fees of the leaseholders, who lets governmental funds be wasted or who consumes cow meat, is a person who is untrue to the salt. A minister who collects revenue from the *ijārā* land, east of [the river] Mahākālī and west of [the river] Mecī and so forth, or from Madhesa, or who does so by dividing land into various smaller tax administration units, or who takes the governmental funds which are supposed to reach the governmental [treasury] or lets the *ijārā* holders do so, or who causes the plundering of the wealth and property of the subjects is a minister who is untrue to the salt. Irrespective of whether he does so by laying down a law or rescinding a law, the five times venerable king, all *bhāradāras*, *umarāvas* or the common subjects shall know such a minister as someone who is untrue to the salt. This law has been prepared and fixed with the consideration of the Kausala.

21. After the *Ain* is promulgated, whoever deviates from the provisions of the *Ain* so introduced either by giving a wrong explanation of it, or by overstating it or by understating it, shall be punished by the king, if he is a prime minister (*mukhtiyāra*). If a high or low ranking

109 MA<sub>2</sub> mentions that this section is not numbered in the manuscript and specified in a marginal note as *dobhara* (double) (Fezas 2000b/I: 17 n. 2).



[*bhāradāra*] official files petitions or gives signatures violating the *Ain*, he shall be punished by the prime minister.

22. If [property] has been seized by the former enthroned king or a minister or it was justly or unjustly confiscated by the government, and if [such property] has not yet been granted to another person by the government, it shall not be given [to its previous owner]. If such property has been received by a subject through a *sanada*, the government shall not seize it without any reason.

23. If someone has provided information—before, after or during the present order—on the routes, forts, entrance ports, army, treasury, subjects, income or secrets of the palaces of his own kingdom to enemies, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be imprisoned for 12 years. This law, which had been laid down before in the year [VS] 1825 by the highest Mahārāja Pṛthvīnārāyaṇa Śāha, has been approved and is in effect.

### 0.3 On the Toṣākhānā and Mulukīkhānā [MA<sub>2</sub>]

41.<sup>110</sup> The authorised person in the office responsible for receiving income from the Mulukīkhānā and for giving it to the Kausītoṣākhānā shall take 1 *lākha* of rupees in reserve from the Mulukīkhānā and keep it under his custody, having obtained a *sanada* from the venerable minister and the venerable commander-in-chief and a receipt for it. When a required amount for monthly and additional expenses is to be transferred to the Kausītoṣākhānā, a *sanada* [from the prime minister and the commander-in-chief] and a receipt from the *khajāncī* shall be obtained and the amount be given. If [the Kausītoṣākhānā] requests an amount [from the Mulukīkhānā], stating: ‘The amount previously transferred is spent. More is required, provide [the requested] amount’, the Mulukīkhānā shall reply ‘[First] present us with the balance sheet and [then] we will provide you [with the requested amount]’. Whoever transfers the [requested amount] for expenditures to the Kausī<sup>111</sup> without personally looking at the balance sheet shall be fined 40 rupees by the *adālata* office [concerned]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. As soon as the balance sheet for the previously provided amount and the *sanadas* from the prime minister and commander-in-chief, as well as the receipt of the *khajāncī*, arrive, [the amount requested] shall immediately and without any further delay be handed over to the custody of the *khajāncī*. After this 1 *lākha* of rupees [the authorised person] himself received has been spent, he shall approach the master (i.e. the prime minister), present the balance sheet for the amount and again receive 1 *lākha* of rupees and keep it as a reserve under his custody.

42. The central Mulukīkhānā shall collect the amount due for an *ijārā* or *amānata* from the *rakama* holders and clerks according to the instalments [agreed upon], having made them issue a written statement of acceptance (*jabānabandī*). At the end of the [fiscal] year, a balance sheet shall be prepared. Whatever is ascertained as dues shall be reported to the *bajira*, and the dues shall be collected. If the clerks of the central Mulukīkhānā, out of favouritism or negligence, do not, according to the instalments [agreed upon], collect dues that can be collected, they may be fined.

43. If the *khajāncī* who resides in the Kausītoṣākhānā makes daily, monthly or additional expenses or the like in cash or kind, he shall make the expenditures according to the *sanada*

110 This Art. is not included in MA<sub>1</sub>; it was reconstructed from a manuscript and edited as chapter 3 by Fezas in MA<sub>2</sub> (see Fezas 2000b/I: xxxi–xxxii).

111 Kausī is an abbreviated form of Kausītoṣākhānā.

or *pramāṅgī* of the venerable minister and venerable commander-in-chief, having informed and consulted the authorised *bhāradāra* who works in the Kausī. Every evening [the *khajāncī*] shall submit an exact account of the expenses incurred every day to the person appointed by the venerable minister and commander-in-chief for that purpose. While a *daskhata* for such an account is issued, the authorised person who carries out his duties in the Kausī shall submit the particulars [of the account] to the person coming to carry out the audit. When the auditor is satisfied, he shall sign and stamp the *daskhata*. Moreover, the authorised person who carries out his duties in the Kausī shall submit the particulars [of the account] to the person coming to carry out the audit. When the auditor is satisfied, he shall sign and stamp the *daskhata*. The authorised person who carries out his duties in the Kausī shall also submit the particulars to the person coming to carry out the audit. When the auditor is satisfied, he shall sign and stamp the *daskhata*. Also, the person who carries out his duties in the Kausī shall have the *daskhata* signed and stamped. If it is proven that the authorised *bhāradāra* in the Kausī and the *khajāncī* do not act according to this procedure and make inappropriate expenditures, and if it is proven that the person coming to carry out the audit also colludes with the [above mentioned] officials and gives his signature and stamp for inappropriate matters, the damages shall be collected from them and they shall be fined an amount equal to the damages. If they do not pay that amount, they shall, in accordance with the *Ain*, be imprisoned. For receiving the amount required for the monthly and additional expenses, [the authorised person of the office concerned] shall make a request to the venerable minister and venerable commander-in-chief. The venerable minister and venerable commander-in-chief shall be informed about [the spending of] the amount previously received, the Kumārīcoka shall issue an acquittance for it and a *sanada* shall be issued for the amount required. If a task comes up and the [regular] amount kept under the custody [of the authorised person of the office concerned] is not enough for that and an additional amount needs to be transferred, and if there is no possibility of having a *sanada* be issued [for that additionally required amount] because of the urgency of the task, [up to] 10,000 rupees from the reserve amount kept under his custody shall be spent to carry out the upcoming task. Later on, the balance sheet and acquittance [for that amount] shall be presented, the details shall be reported, a *sanada* for the required amount shall be issued, that amount shall be received and the amount spent from the reserve in his custody shall be restored.

# 1. On Guṭhī Endowments

1. The land on which Guru Raṅganātha [Paṇḍela] Paṇḍita<sup>112</sup>—who became *mukhtiyāra* and a [royal] guru and lived in Kāśī for 30 to 40 years, having himself gone to Kāśī and bought land by spending 1 *lākha* or 1½ [*lākha* rupees]—erected a Śiva temple and a *dharmasālā* and established a charitable foundation (*sadāvarta*) in a foreign kingdom is now considered undeveloped,<sup>113</sup> and the Śiva temple<sup>114</sup> and *dharmasālā* have been locked up.<sup>115</sup> The person who illegally sold someone else's land (i.e. to Raṅganātha Paṇḍita) was not punished by the English court (*darabāra*). The English confiscated land that the five times venerable highest Mahārāja Raṅabahādura Śāha had assigned, when he was still in his realm, to a *guṭhī* for regular and occasional worship, and to a *sadāvarta* for feeding pilgrims at venerable Kedāra[nātha]. When the five times venerable king inquired of the English resident in a memorandum (*yādadāsta*) why the land that was endowed for religious purposes (*dharmā*) had been confiscated, the resident *sāheba* answered [him], 'You are free [to do what you like] with the land of your realm, and we are free [to do what we like] with the land of our realm.' When the venerable Guru Vijayarāja Paṇḍita<sup>116</sup> gave 10,000 rupees to an Englishman in Kāśī for religious purposes, agreeing on a rate of interest of 5 rupees per 100, later only 4 rupees per 100 were paid as interest. In a few days hence the interest rate will be only 3 rupees per 100. Eventually he will not get even his capital [back]. Afterwards, if his sons die

112 Raṅganātha Paṇḍela (1773–1859), whose father Vajranātha had been expelled from Nepal in 1777 after Bahādura Śāha took charge as regent of the kingdom on the death of Pratāpa Siṃha Śāha, was brought up in Benares. Raṅganātha returned to Nepal in 1800 with Raṅabahādura Śāha and became personal preceptor to the queen regent Lalitatripurāsundarī, and later to King Rājendra's senior queen Sāmrajya Lakṣmī Devī (Whelpton 1991: 37). He held the post of *mukhtiyāra* of the kingdom of Nepal from December 1837 to December 1838 (Shaha 1990: 203).

113 Om., read ... *sibālaya dharmasālā banāyāko āja u jamin kaccā thaharinyā* (MA<sub>2</sub>).

114 *sivālaya*, read *u sibālaya* (MA<sub>2</sub>).

115 Another famous example of a Śiva temple erected in colonial India by Nepalese nobles is the Saṃrājyēśvara Mahādeva temple, better known as the Lalitā temple in Benares, erected in 1843 by King Rājendra Vikrama Śāha (r. 1816–1847) and his son Surendra (r. 1847–1881) in the name of senior queen Saṃrājya Lakṣmī Devī (Gaenszle 2008: 308). Michaels (2018) provides another example of contact between Kathmandu and Benares regarding an issue involving Śiva worship: in 1863, Jaṅgabahādura Rāṇā asked a *dharmasabhā* in Benares for a decision on the question whether women should be allowed to erect a *sivaliṅga* or not.

116 Vijayarāja Paṇḍe was born in 1808 as a son of Nāgeśvara Paṇḍe and was given the task of reciting Purāṇas in the palace in 1841 (Michaels 2005: 14). A key figure in ensuring Jaṅga Bahādura's success, he was, according to some sources, appointed as *rājaguru* in November 1846, not long after the Kot massacre (see Whelpton 1991: 167). However, Michaels (2005: 14–15) points to his appointment letter, issued by King Rājendra in 1845, which indicates that Vijayarāja had been appointed as religious judge (*dharmādhikāra*) and *rājaguru* already in October 1845, before the Kot massacre. He was one of the senior royal preceptors who sanctioned the enactment of the *Ain* of 1854 (see Preamble).

and no [male] offspring remain, it is written in our *Ain* that if there is a daughter, she shall enjoy the property.<sup>117</sup> Since [the loan was contracted] in a foreign realm, not even his daughters will be able to enjoy [the paternal property], because he will have no heir [according to the law there]. If he [indeed] dies without an heir, even our five times venerable king will not be able to recover his property. Therefore, engage [only] in transactions involving interest and bank notes which are necessary for trade. Do not keep savings [in a foreign realm] and lend them out at interest. This is the only Hindu kingdom in the Kali era which has a Hindu king and whose *Ain* is such that it bans the killing of cows, women and Brahmins; with a palace, [a location] in the Himalayas (*himavat-khaṇḍa*), the land of Vāsukī (i.e. the king of snakes), a pilgrimage place of Āryas, that contains Paśupati's  *jyotirlinga*  and the venerable abode (*pīṭha*) of Guhyeśvarī—such a land of merit is our own. Henceforth, whoever wishes to construct a Śīva temple or a *dharmasālā* or establishes a *guṭhī* or a *sadāvarta* shall find a pilgrimage place in his own kingdom and construct the Śīva temple or *dharmasālā* or establish the *guṭhī* or *sadāvarta* [there]. No one—from king to subjects—shall construct a Śīva temple or *dharmasālā* or establish a *guṭhī* or *sadāvarta* in a foreign realm.<sup>118</sup> For if they are constructed in one's own kingdom, one's own offspring can carry out repairs even if there is the slightest damage. One's own country will be well adorned. Upon a realm that has great moral integrity (*dharma*) will come no disease, illness or epidemic; no famine will befall it. When one's own country has [such] fame, [the result] will be splendour: the artisans of one's own country will become skilful. The poor will be protected, since they will receive wages, and the wealth of one's own realm will not go to a foreign realm. If a *sadāvarta* is established in one's own realm, it will support the blind, lame, crippled, handicapped and elderly, one's own children who run to seed and one's own relatives' children who run to seed, and neglected, uninvited foreign guests, poor people who come to this country with the wish to gain a livelihood. Whoever establishes a *sadāvarta* will uplift 7 preceding and 7 future generations of his family.<sup>119</sup> If land for which someone made an offering to Kṛṣṇa, bringing barley, sesame and *kuśa* grass and making a ritual declaration (*saṃkalpa*), is swallowed up by a river, religious merit can [still] be obtained from the river itself.<sup>120</sup> If, after some days, that river recedes, then one's own land is back. Even if an unwise king or an evil-minded counsellor takes away that land, religious merit is obtained through them.<sup>121</sup> Later, if he [who forfeited the land] or his descendants are able to please the king or counsellor, the land too can be obtained [back from them]. The *Ain* has been prepared in accordance with the scriptures (*śāstra*), policy (*nīti*) and customary practices (*lokakā anubhava*). From now on build or establish Śīva temples, *dharmasālās*, wayside public shelters with or without water facilities, fountains, road bridges, plank bridges, *ghāṭas*, wells, step fountains, ponds, paths, resting places, gardens or the like. Establish *guṭhīs* and *sadāvartas*. If someone does not establish

117 This refers to § 28.2. It permits a daughter, whether married or not, to inherit parental property when there is no rightful male heir.

118 We omitted *dharmasālā vanāyāko u jamīna kaccā ṭhaharīnyā śīvalāya 23*, which is also omitted in MA<sub>2</sub>.

119 *jasle sadāvartarāṣyo uskā talakā sāta pustā saṃmakā klako uddhāra hunyā jasle kṛṣṇāprṇa gari jau māthikā sāta pustā*, read *jasā-le sadāvarta rākhyo us-kā māthi-kā sāta pustā tala-kā sāta pustā-samma-kā kula-ko uddhāra hunyā* (MA<sub>2</sub>).

120 *jasle kṛṣṇārpaṇa gari jau māthikā sāta pustā tila kuśa lī saṃkalpagaryāko jaminacha*, read *jasā-le kṛṣṇārpaṇa gari jāi tila kusa lī saṃkalpa garyāko jamīna kholā-le* (MA<sub>2</sub>).

121 What is meant is that any merit accruing to such a king or minister is transferred to the donor.

## 1. On Guṭhī Endowments

[them] in his own realm, but [attempts to] establish them in another [king's] realm, the king or his counsellor shall not let him establish them in a foreign realm on the grounds that he who does so harms the people (*loka duniñā*)<sup>122</sup> and the kingdom. Having considered state-owned land (*raikara*) that has not been previously cultivated and which does not encroach on operational facilities (*saṃdhisarpana*), he shall provide whoever establishes them in his own realm with suitable and appropriate [land]. The unwise king or evil-minded counsellor who takes away someone else's *guṭhī* or *sadāvarta* will bolt closed his [own] way to heaven, will open the way leading to hell, will go begging, will become the laughing stock of the world, will not be capable of snatching any merit from someone who performs good deeds (*dharma*) and will sink into sin.

2. If someone performs a *saṃkalpa* to endow [land] for a *sadāvarta* [to feed] poor people and mendicants, or to establish a *guṭhī* to perform regular, occasional or annual worship, and in the case where he who establishes [the *sadāvarta* or *guṭhī*] or his descendants commit a heinous crime (*rājakhata*) or take someone's life, [the culprit] shall be executed if [the punishment] specified is execution, or his property shall be confiscated if [the punishment] specified is confiscation, or if he commits adultery, punishment shall be imposed on him in accordance with the *Ain*, [but] no one shall seize such a *guṭhī*. The customary observances (*dharma*) shall be carried out according to earlier practice, and [no one] shall seize the *guṭhī*. Whoever seizes [a *guṭhī*] by a *mohora* or *daskhata* shall incur the sin [of doing so]; he shall be one who has breached the whole *Ain*—has overstepped the *Ain*.

3. If somebody constructs a wayside public shelter with or without water facilities, fountain, plank bridge, step fountain, temple or the like, and [to support it] establishes a *guṭhī* with *birtā* land of his own, but if later [an endowed structure] collapses or is damaged, and his descendants are unable to repair it, and someone else comes and declares that he will renovate or rebuild it on the same land, he shall be allowed to do so. If someone endows a *guṭhī* with *birtā* land he himself has bought, he who rebuilds [an endowed structure] shall not take possession [of the land]. Irrespective of whether the descendants of him whose ancestors established the *guṭhī* are able to renovate it or not, they shall be allowed to uphold the tradition (*dharma*) of their ancestors and enjoy the surplus (*śeṣa*) of the *guṭhī* land, but they shall not be allowed to sell [the *guṭhī* land]. [If it is sold], the seller shall be fined 1 year's production of standing crops. If the amount [fined] is not paid, he shall be imprisoned for 1 month for every 5 rupees [of the crops' value].

4. If somebody constructs a wayside public shelter with or without water facilities, fountain, plank bridge, step fountain, temple or the like, and [to support it] endows a *guṭhī* with [land] given by the government, and if later that structure collapses or is damaged, and his descendants repair it, they shall be allowed to carry on the tradition of the *guṭhī* and enjoy [its surplus]. If his descendants are unable to repair [the building], and someone else renovates and repairs it, he

122 Both terms, *loka* and *duniñā*, mean 'subjects/people'. Therefore, we take their co-presence as pleonastic. M.C. Regmi (1972a: 103) translates *loka* in its primary meaning as 'world' and *duniñā* as 'people'. However, it is not entirely clear how 'world' is to be understood in this context.

who repairs the *dharmasālā* or temple shall operate the *guṭhī*. The descendants of the members of the *guṭhī* who originally erected [the structure] shall not be allowed to enjoy [the surplus of] the *guṭhī* land or operate [the *guṭhī*] established [with land] given by government.

5. No [court] shall collect [as a fee] 6 or 10 or 20 percent of the settlement amount awarded to a litigant (*jhaḡaḡāko āmdānī*) in lawsuits pertaining to land belonging to a royal *guṭhī*, [that is, one] set up by the hand of a reigning king or queen of Gorkhā following the performance of a *saṃkalpa*—[a tradition] dating from the time of the five times venerable Mahārāja Dravya Śāha—irrespective of whether the case has been decided by an *adālata*, *amāla* or a *kacaharī* office. In a case where [such a fee] has [already] been collected, justice shall be administered to the *guṭhī* of the deity concerned: ornaments shall be offered in the name of the government to the deity whose *guṭhī* [was awarded] the settlement amount. One shall note down in the [guṭhī's] account book the exact details of the ornaments fabricated with the specified amount and offered. An *adālata*, *ṭhānā*, *amāla* or *kacaharī* shall not collect [such a fee] on the grounds that it is income they have earned.

6. If somebody comes to file a lawsuit, stating that land belonging to a royal *guṭhī*, monastery or *sadāvarta* belongs to him, and in the judgement it is decided that [it is] not his, he shall be fined 1 year's production of the standing crops on that land. If the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees [of the crops' value].

7. If somebody complains that land belonging to a *guṭhī*, *sadāvarta* or monastery which was bought and endowed by himself or his ancestors belongs to him, and in the judgement it is decided that [it is] not his, he shall be fined 1 year's production of the standing crops on that land. If the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees [of the crops' value].

8. [This section] is not valid.<sup>123</sup> (If someone's ancestors have constructed a temple, way-side public shelter, fountain, plank bridge, step fountain or the like, and endowed a *guṭhī* [to support it] with their *birtā* land, and someone else claims to be a member of the *guṭhī* or enjoys the standing crops on the land by force, [so that] the descendants of that person whose ancestors endowed [the *guṭhī*] are not able to enjoy it, the offspring of the person who endowed the *guṭhī* shall be entitled to enjoy the *guṭhī* land. He who has forcibly been enjoying [the land] shall be fined 1 year's production of the standing crops on that land if he has been enjoying it while carrying on the tradition (*dharma*) of the *guṭhī*. If he has been enjoying it without carrying on the tradition, he shall be made to pay as many years' production of the standing crops in question on that land as he has had the enjoyment of it by force—he shall be punished by a fine equal to the amount in question. If the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees, and the land shall be restored to the descendants of the person who endowed the *guṭhī*. No other person shall receive it.)

123 Though this section is marked as being cancelled, MA<sub>1</sub> gives the text in round brackets.

## 1. On Guṭhī Endowments

9. If somebody reaps a harvest (*bāla lāgnu*)<sup>124</sup> on land used to establish a *guṭhī* for a way-side public shelter with or without water facilities, fountain [or the like] that he himself has constructed, the harvest shall be utilised to repair a *dharmasālā*, temple or *guṭhī* building if it collapses or is [otherwise] damaged. What remains [from the harvest] shall be collected by the descendants of the person who constructed [the building], and shall be utilised for the activities of the *guṭhī* to which the harvest belongs. If someone else in the meantime has been enjoying [the harvest], and the descendants of the person who constructed [the building] file a lawsuit, he who has been impudently enjoying the harvest shall be made to pay the judicially assessed amount of the harvest in question for as many years as he has been enjoying it—he shall be made to pay a fine equal to that amount in question. One-fourth of the fine shall be collected as a winning fee (*jītāuri*) from the winning party, and [the land] shall be restored to the descendants of the person who established the *guṭhī*.

10. He whose ancestors—loving the Lord and loving the world, and having performed a *saṃkalpa* with barley, sesame and *kuśa* grass, and having had a signed *sanada* made—established a *guṭhī* in order to [generate] funds for a Śiva temple, *dharmasālā*, wayside public shelter with or without water facilities, a road bridge, *ghāṭa*, step fountain or the like, or established a *sadāvarta* for regular or occasional worship or a *guṭhī* for *śrāddha*, [but] whose descendants are fools, gamblers, addicts, unskilled or unemployed and unable to earn their livelihoods, [the latter] and their families shall be entitled to receive [each] one *mānā* [of food] to eat and one piece of worn-out clothing to wear from the *guṭhī* or *sadāvarta* established by their father or forefathers. They shall not be entitled to enjoy [the land endowed to the *guṭhī* or *sadāvarta*] if they discontinue the regular and occasional worship or do it for pompous purposes. If they sell or mortgage [land endowed to the *guṭhī* or *sadāvarta*], the transaction shall be nullified. Even a creditor shall not enjoy possessory rights on such land. Nor, even in case of treason or other crimes, shall the government confiscate [such land].

11. If somebody declares a wish to continue the tradition of a *guṭhī* as both owner and tenant of land endowed by an ancestor of his, he shall be allowed to erect a hut (*kuriyā*), live in it, evict tenants and cultivate the fields [himself]. The people of Nepāla shall be allowed to evict [tenants] from the 10<sup>th</sup> day of Dasāī to Siṭhī<sup>125</sup>, and people of the mountain regions [to do so] from the 10<sup>th</sup> day of Dasāī to Śrīpañcamī.<sup>126</sup> Thereafter the eviction of a tenant shall not be permitted. If [a tenant] is

124 M. C. Regmi (1972a: 106) translates *jaḡāmā bāla lāgnu* as ‘to give land for rent’. However, given the locative case ending in *jaḡāmā*, we read *jaḡāmā bālī lāgnu* (lit. ‘to have a harvest on land’).

125 Kumāraṣaṣṭhī, which is also known as Siṭhīnakha or Siṭhīkhaṣṭhī, is celebrated annually in the Kathmandu Valley on the 6<sup>th</sup> day of the bright fortnight of Jyeṣṭha. This tradition, according to NBhV 13.269–271, was started by Guṇakāmadeva I (r. 987–990). The dramatic festival featured a battle between the northern and southern halves of the city. When it got to the point of being a bloody riot it was banned by Jayaprakāśa Malla (Lévi 1905: 36). Later, however, it was revived for fear of having offended the gods. The practice was completely abolished under § 55.1.

126 Śrī- or Vasanta-pañcamī is celebrated on what is considered the first day of spring, the 5<sup>th</sup> day of the bright fortnight of Māgha. On that day Sarasvatī, the goddess of learning, is worshipped. As pointed out by Slusser (1998: 321), in the Kathmandu Valley Sarasvatī has been conflated with the Bodhisattva Mañjuśrī, who



evicted outside the permitted period, [the landowner] shall be punished with a fine equal to 1 year's yield of the standing crops. If a tenant is evicted during the permitted period and comes to complain that he was evicted outside the permitted period, he shall be punished with a fine of 2½ rupees. If he does not pay the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

12. If [the post of a] priest of a *guṭhī*, *birtā*<sup>127</sup> or tantric tradition (*āgama*) established by one's father, mother or ancestor is up for consideration (*parpajani*), [the following family members] shall make the decision and continue the tradition [of the *guṭhī*, *birtā* or *āgama*]: a legitimate son as long as there is one; if there is none, an illegitimate son; if there is no illegitimate son either, a daughter in the case where one has been written into the will to receive paternal property in the default of a son as heir (*aputālī*); if none has, a [male] descendant of a son of a common grandfather; if there is no such person, a daughter shall decide the matter and continue the tradition [of the *guṭhī*, *birtā* or *āgama*] even if there is no written [will empowering her]. As long as any of the above-mentioned persons exist, no other [more] distant [relation] entitled to inherit property in the absence of male issue shall be allowed [to decide the matter]. If none of the above-mentioned persons exists, a [more] distant rightful heir shall decide the matter and continue the tradition [of the *guṭhī*, *birtā* or *āgama*].

13. No *guṭhī*, [whether a] *sadāvarta*, *āgama*, *devāli*, *pūjā* or *śrāddha guṭhī* or the like, founded by anyone from the Four Varnas and Thirty-six castes, or by an ancestor of his, shall be ceded as a donation or gift. If there are [collateral] descendants of the [*guṭhī* founder] born from a common grandfather, they shall receive it. If there are no such [descendants], or if [the ones that exist] refuse it, saying that they will not accept the *guṭhī* etc. after a daughter, in the absence of a son as heir, has received it, or if the father and mother die, and in the absence of a son as heir their property is, in accordance with the *Ain*, received by a daughter together with the daughter's sons, these shall be allowed to enjoy the share [of the surplus income previously] received by [respectively] their father [and grandfather] as long as they continue the tradition of their ancestor in the *guṭhī* established by their ancestor. [More distant collateral] relatives who have rights of inheritance in the absence of a son as heir shall not be allowed to enjoy [such surplus income].

14. If it is stipulated, according to what has been written down on a *guṭhī*'s copperplate, stone inscription, *lālamohora* or deed of gift (*dānapatra*), that [alms] should be distributed daily, but [the alms] are not distributed on a daily basis even when people come to beg for them—[or else] when a large amount is stipulated, only a small amount is given—and if it is ascertained that an employee or any member of the *guṭhī* other than the founder and his descendants has enjoyed [the alms], he shall be punished with a fine equal to the value of what he has enjoyed. If it is ascertained that he has stolen and enjoyed only 1–2 handfuls, he shall be fined 5 rupees and dismissed from work.

is similarly worshipped by Buddhists as a god of learning. Lay Hindus and Buddhists in Nepal nowadays worship both alike without making a conscious distinction between them.

127 This refers to a priest serving a shrine or temple financed from income of a *birtā*.

## 1. On Guṭhī Endowments

15. If there is encroachment on *raikara* land from a royal *guṭhī* or a royal *sadāvarta*, or from a *guṭhī* or *sadāvarta* endowed by commoners, as much of the *raikara* land as has been encroached upon shall be stripped [from the *guṭhī* land] and restored as *raikara*. The *guṭhī* members who have encroached upon the [*raikara* land] shall be punished with a fine equal to 1 year's production of the standing crops of the land encroached upon. The land of the *guṭhī* or *sadāvarta* shall be retained for whatever religious purpose it was assigned. The *guṭhī*'s [own] land shall not be stripped away.

16. If somebody declares that he intends to sell the land of an existing *guṭhī* and buy new land [on which] to [re]establish the *guṭhī*, then if he sells the *guṭhī* land, he shall sell the existing *guṭhī* land [only] when he [first] makes arrangements for the new land, buys [as much] land [as he is able to generate] the same revenue as the old, and the *guṭhī* is [re]established. If [the land] is sold in this way, [the sale] shall be considered valid. If the existing *guṭhī* land is sold without the new land having [first] been bought, and the money is misappropriated, the existing *guṭhī* shall be restored, and the seller (*āsāmi*) shall return the purchase price [to the buyer]. If he is not able to pay the money, the quitclaim deed (*phārchyāpatra*) shall be torn up, a loan deed without security (*kapālī tamasuka*) [between seller and buyer] shall be drawn up, and the seller shall be punished with a fine equal to 1 year's production of the standing crops of the land. If he does not pay the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

17. If a descendant of a *guṭhī* member sells [land] on the *guṭhī* established by his ancestor, and if a creditor buys it, and if it is confirmed through an examination of the *guṭhī*'s deed of gift, stone inscription or *sanada* that the land is its possession, the [act of] selling is invalid, and the [act of] buying also void. [The land] shall be restored to the *guṭhī* for it to carry out the religious purpose assigned to it. The purchase amount [re-owed by] the debtor shall be converted into a loan [deed] without security, and the debtor shall be handed over to the creditor. Even if there is an outstanding amount to be paid to the government or a private [party to a] transaction, the *guṭhī* land shall not be seized. If the creditor bought what he knew was *guṭhī* land, both the creditor and debtor shall be punished with a fine equal to 1 year's production of the standing crops of the land; if the fine is not paid, they shall be imprisoned at the rate of 1 month for every 5 rupees.

18. If someone who is neither in arrears with payments to, nor has an outstanding loan with, the government or a private person buys land with assets of his own and establishes a *guṭhī* or [uses] a *birtā* of his own [for the same purpose], and subsequently he falls behind in payments to, or takes a loan from, the government or a private person, neither the government nor the [private] creditor shall be allowed to take over the *guṭhī* by force (*gājnu*). Such a *guṭhī* endowment is valid. Neither the government nor a private person shall seize it. Documented outstanding payments and debts shall be collected from his other property. If he has no [other] property, he shall be made to sign a loan deed without security.

19. If a person is in arrears with payments to, or has an outstanding loan with, the government or a private person, and if he, as a debtor, establishes a *guṭhī*, the *guṭhī* shall be

considered as having been established to deceive the king or creditor. It is not valid. Whether he is in arrears with payments to, or has an outstanding loan with, the government or a private person, [the payments or loan] shall be recovered in the form of cash or land from the newly established *guthi* according to the amount owed. Even if a deed of gift or a copperplate has been made, it is null and void. [Such documents] shall be nullified by an *adālata*, *ṭhānā* or *amāla*.

20. If a debtor repays a creditor or puts up collateral with land belonging to a *guthi*, having under false pretences stated that the *guthi* land is *birtā* land, he shall not be allowed to repay the creditor by transferring the *guthi* land. The *guthi* land shall be restored. Such a deed shall be torn up. For having transferred *guthi* land or put it up as collateral under false pretences, the debtor shall be made to repay the amount owed the creditor from his own possessions (*latṭī-paṭṭī*), including house and land. If he is not able to pay, he shall be made to sign a loan deed without security, and shall be punished with a fine equal to 1 year's production of the standing crops [of the land used as payment or collateral]. If he pays the debt to the creditor and the fine, it shall be collected, and he shall be set free. If he is not able to pay, he shall be imprisoned 1 month for every 5 rupees.

21. If somebody sells or mortgages *guthi* land, having [falsely] declared that the *guthi* land is *birtā* land, the *adālata*, *ṭhānā* or *amāla* that [recorded] the sale or collateral shall tear up the two parties' deed relating to the purchase or collateral, and shall, in accordance with the *Ain*, restore the land to the *guthi*. The *guthi* shall then be given to a lawful heir or distant relative, if [there is] one. If there is no lawful heir or distant relative, the government shall continue the *guthi*'s previously practised tradition and [later] go ahead with the review [for a replacement]. The seller [of the *guthi* land] shall not regain [control of the *guthi*]. Such a person shall be dismissed, and an honest person who can manage the *guthi* and knows the tradition (*dharma*) shall be appointed, and he shall continue the tradition according to what has been put down in writing.

22. Anyone who sells *guthi* land while claiming it to be *birtā* land shall be fined an amount equal to 1 year's production of the standing crops. If he is not able to pay the fine, he shall be imprisoned 1 month for every 5 rupees and set free after his prison term is over.

23. If it transpires that someone has bought [land] that he specifies as *birtā*, although he is fully aware that it is *guthi* land, the amount paid by him shall be forfeited.

24. If someone mortgages land which is specified as *birtā* in a *sanadapatra* and takes a loan from a creditor, but later he reveals that the mortgaged *birtā* land is in the possession of a *guthi*, the debtor shall be considered to have lied. The debtor's [possible false] signatures and the loan deed shall be looked into, and if the creditor is on solid ground, the land shall be placed under him. [The mortgager] shall be fined an amount equal to the value of the loan transaction for having lied. If [the offender] is not able to pay the fine, he shall be imprisoned 1 month for every 5 rupees.

## 1. On Guṭhī Endowments

25. If somebody endows [land] as pastureland, a *sanadapatra* [to that effect] having been issued, and [someone else] comes and declares by showing a *sanadapatra* that [the pastureland] belongs to such and such a person and that such and such a person endowed it, the [current owner's] *sanada* shall be scrutinised, and if it is determined that he endowed the land as pastureland, having bought [the land] with wealth of his own, or that ancestral *birtā* land of his was endowed [for this purpose], it shall be confirmed as pastureland [endowed by him]. If the land was purchased, the land shall be confirmed as pastureland after scrutinizing the sale deed [made between] buyer and seller. If the pastureland was endowed with land obtained from the government, it shall be confirmed as pastureland after scrutinizing the *lālamohora* or copperplate inscription, or else the copy of the *lālamohora* at the Cyāṅgrākausī.<sup>128</sup> Even if a stone inscription is available on the pastureland, the latter shall be confirmed by scrutinizing the corresponding *sanada*. If it turns out that a person who afterwards receives [one of] these categories of pastureland is someone who himself [originally] endowed the pastureland, it shall be confirmed as pastureland. If someone receives any pastureland of [one of] these categories as *birtā*, and someone else has cultivated it, the presiding [local] judge (*hākima*)<sup>129</sup> shall cause it to revert to an uncultivated state, and the prime minister shall grant [the cultivator] other land in exchange. If the presiding judge does not cause such categories of pastureland to revert to an uncultivated state after making inquiries and scrutinizing the *sanada* relating to such pastureland, he shall incur sin. A prime minister who does not grant other land in exchange shall [also] incur sin.

### **The regulation for *guṭhīs* endowed by the kings of Gorkhā stating, ‘Given by oneself or given by another...’, or else endowed by subjects from their *birtā* land:**

26. If someone's ancestors endowed a *guṭhī* with *birtā* land of theirs to [finance] a temple, rest house with or without water facilities, plank bridge, step fountain, pond, well, path, *sadāvarta* or *dharmaśālā*, or else a *guṭhī* [to finance] the performance of rituals on death anniversaries, a *guṭhī* [to finance] festivals for feeding the gods or regular and occasional worship, a *guṭhī* [to finance] the chanting of hymns, a *guṭhī* [to finance the supply of] water, a *guṭhī* [to finance the supply of] sherbet, a *guṭhī* [to finance] an area where rice is cooked and distributed to ascetics, a reserve *guṭhī* for repairing collapsed or damaged Śiva temples, rest houses, ponds, wells or paths; then if [the following] has been specified on a signed deed, [whether] on a copperplate, stone inscription, palm leaf or in a signed *sanada*: ‘Such and such revenue from the [*guṭhī*] land shall be used to carry out such and such worship, the *sadāvarta* shall be managed according to such and such particulars, and according to such and such particulars shall the repair of damage be carried out. The [*guṭhī*] shall be managed in accordance with [what is] written down on the paper document, copperplate, stone inscription or palm leaf. I [herewith] give you the *guṭhī* as a gift, and your offspring shall carry out the activities and

128 The Cyāṅgrākausī was an alternative designation for the Sadaradaphadarakhānā (see Whelpton 1991: 282).

129 This term commonly refers to a governor or an executive official. In the present context, it probably refers to the presiding court judge.

enjoy it from generation to generation’; and if any of the following 5 things are written [in the deed]: [1.] If a god has been specified as an eyewitness; [2.] If a human being has been specified as an eyewitness; [3.] If [the deed states] that whosoever seizes [the *guṭhī*] commits [one of] the [five] grievous sins (*mahāpātaka*); [4.] The verse ‘[Whoever seizes land] given by himself or somebody else...’; [5.] ‘I hereby give the *guṭhī* [to you]. Your offspring shall enjoy it from generation to generation.’—[then] he who established the *guṭhī* and his descendants shall neither be allowed to say that they will cultivate [the land] and enjoy [the surplus] from it, nor shall they be allowed to conduct reviews [of tenants] and to redistribute [any of the land] to others. Nor shall the government, an *adālata*, *ṭhānā*, *amāla* or the like detach such [donated *birtā*] land from the *guṭhī* and give it to the descendants of the one who established the *guṭhī* or to any other person. The recipient of the ritual gift of the food [presented to the deity] (*naivedya*) and what remains [of it after it is redistributed as *prasāda*] shall—[he and] his descendants—perform the duties as written down and enjoy [the surplus]. Such *birtā* land shall be regarded as *guṭhī* land. Whatever younger brothers are living jointly—their property unpartitioned—with the recipient of the gift of such a *guṭhī* shall carry out activities turn by turn in accordance with the *Ain*, not dividing up [the *guṭhī* land], and in accordance with what is written on the copperplate, stone inscription, palm leaf or paper document, and [so] be entitled to enjoy [the surplus]. If it transpires that the recipient of the ritual gift or descendants of his have sold or mortgaged [*guṭhī* land] or have enjoyed [the surplus] without carrying out the activities written down, thus breaking religious tradition, the descendants of the recipient of the *guṭhī* shall have a loan deed without security drawn up for the creditor in the name of the seller or mortgager at the place where they conducted the sale or mortgage. Only those who, in not having sold or mortgaged [*guṭhī* land], have carried on the tradition of [the *guṭhī*] as written down—he who received the ritual gift along with his younger brothers and their descendants—shall, turn by turn, be entitled to manage the *guṭhī*. Those who, in having sold or mortgaged [*guṭhī* land], have enjoyed it without carrying on the tradition as written down—they and their descendants—shall not be entitled to enjoy it. Even if the recipient of the *guṭhī* dies sonless, [such] descendants of the one who established it shall not be entitled to [once again] manage it or give it to others. Since [the *guṭhī* land and the right to manage the *guṭhī*] was given to somebody else as a ritual gift, it is considered a royal *guṭhī*, and the government shall, in accordance with what is written [in guidelines channelled] through the Guṭhī Kacaharī, operate the *guṭhī*. Even in the case where a living descendant of the recipient of such a *guṭhī* [established by] endowing it with *birtā* land grants it to another person through a *rukkā* or *daskhata* by the prime minister or through an *adālata*, *ṭhānā*, *amāla* or the like, this is [to be regarded as] unlawful. Such a *mohora* or signed executive order issued in another person’s name shall be destroyed, the *guṭhī* deed issued by [the above offices] shall be torn up, and the *guṭhī* [established with] *birtā* land shall be given [back] to the descendants of the [original] recipient. Whoever comes to claim such land shall be fined 2½ rupees per 100 of 1 year’s production of standing crops from the land.

**The regulation for *guṭhīs* endowed by the government or other kings, kingdoms or subjects as it relates to the work expected of the priests and operators they engage:**

27. If someone's ancestors endowed a *guṭhī* with *birtā* land of theirs to [finance] a temple, rest house with or without water facilities, plank bridge, step fountain, pond, well, path, *sadāvarta* or *dharmasālā*, or else a *guṭhī* [to finance] the performance of rituals on death anniversaries, a *guṭhī* [to finance] festivals for feeding the gods or regular and occasional worship, a *guṭhī* [to finance] the chanting of hymns, a *guṭhī* [to finance the supply of] water, a *guṭhī* [to finance the supply of] sherbet, a *guṭhī* [to finance] an area where rice is cooked and distributed to ascetics, a reserve *guṭhī* for repairing collapsed or damaged Śiva temples, rest houses, ponds, wells or paths; and if members of the *guṭhī*—the manager or the priest—do not carry out activities properly—a manager who uses revenue from the land [endowed] to the *guṭhī* for his own purposes, wastes it [for unnecessary purposes], sells or mortgages it, or halts expenditures for prescribed activities [in order to] divide [*guṭhī* property] among his descendants as an inheritance; or a priest who does not perform the morning and evening or [other] regular and occasional worship according to the practised custom—[in such a case] the descendant of the ancestor [who endowed the *guṭhī*] and his coparceners shall, in accordance with the *Ain*, be allowed to determine the defrauded amount and have [the offender] fined [accordingly]. They (i.e. the descendants) shall be allowed both to replace [*guṭhī* members] for not carrying out activities properly and to dismiss [them] even if they have done no wrong. Even if [someone] says, 'It is the *guṭhī* established by my ancestor. I myself shall enjoy its surplus after carrying out the [*guṭhī*] activities in accordance with what is written', it is the founder's descendants who are coparceners of their ancestral property who shall be allowed to enjoy it by carrying on the tradition every year turn by turn. They shall not be permitted to divide the [*guṭhī*] land and enjoy it [collaboratively], with one carrying out half of the *guṭhī*'s activities and another the [remaining] half. They shall have the right to dismiss [any] *guṭhī* member, clerk or priest who has not been carrying out activities of the *guṭhī* established by their ancestor in accordance with what is written down, and they shall also be allowed to carry out the *guṭhī* activities themselves or to appoint some other clerk. However, no person who, according to the *Ain*, shares in the inheritance from the ancestor of theirs who established the *guṭhī* and who violates the tradition [of the *guṭhī*], sells or mortgages it—he or his descendants—shall be permitted to enjoy [the surplus]. Only the person who carries on the tradition and does not sell [*guṭhī*] land—he or his descendants—shall enjoy [the surplus], carrying on the tradition turn by turn. No review appointments in such a *sadāvarta*, *guṭhī* or the like [endowed by] commoners shall be made by the king through a royal order, by the prime minister through a *rukkā* or *daskhata*, or by a *kacaharī* through a *sanada*. Even if such orders are issued, they are not valid. [Any such] royal order or a *rukkā* or *daskhata* issued unwisely or unlawfully shall be destroyed, [any such] *sanadapatra* shall be torn up, and the *guṭhī* shall be restored to [the lawful] descendants. It is up to the descendants of the one who established the *guṭhī* as to whether they themselves carry on the tradition of the *guṭhī* or appoint someone else [for this purpose]. They themselves know how to uphold the tradition of their ancestor. If any *guṭhī* member, clerk or priest comes to complain that they are entitled to enjoy [the surplus], they shall be fined 2½ rupees per 100 of the yield of 1 year's standing crops on that land of which he [feels] entitled to enjoy [a share].

## 2. On Land

1. If, in connection with the distribution (*raibandī*) of state-owned (*raikara*), royal *guthī*, *kipaṭa*, confiscated (*japhatī*) or *jillā* land for paddy [production] among peasants and [other] subjects, a person clears dense forestland, ploughs barren land, channels water to the land or makes sandy land along rivers cultivable—even if the land the cultivator has been working exceeds the share he is entitled to under the distribution—he shall be confirmed [as its rightful claimant]. Other cultivable paddy land (*kheta*) shall be distributed to all peasants by allotting land of good and bad quality [proportionally] according to the [number of] members [of a household] and their physical capacity. If, when distributed land made newly cultivable out of barren land is not sufficient [for its cultivators], a share of cultivable village land equal [to the shortfall] shall be provided. If the portion of land made newly cultivable is sufficient, there is no need to provide [additional] paddy land. No land that has been made newly cultivable shall be seized. If someone has made land newly cultivable and someone else who had cultivated it before claims it as his own, he shall not receive it back. If someone seizes newly cultivated land that someone else has taken possession of and has been working, he who seized it shall be fined an amount equal to a year's crop yield, and the land shall be restored to the [rightful] cultivator. One fourth of the fine shall be collected as a winning fee (*jitāuri*).

2. If without [the authority of] a *sanada*, [i.e.] without having procured a *lālamohora*, a *daskhata* from the prime minister (*mukhtiyāra*) or [some other form of] the government's consent (lit. 'without pleasing the government'), [but only] with his own signature, a *pūrjī* or the like, a *bhāradāra*, *rakama* holder, auditor (*jācakī*) or clerk grants state-owned land to someone as a *birtā*, *bekha* (*veṣaka*), *phikadāra*, *marauṭa*, *chāpa*, *mānācāmala*, *gharabārī* or *jiunī* land, such a land grant shall not be valid. Put the government [back in possession of] the land and appraise the value of the land; the [official] who gave it away shall be fined in line with its value. The landlord's share (*talsinboṭī*), *kuta*, *sermā*, *mahasūla* or whatever [form of rent] is applicable shall be collected from the person who received the land, whether paddy land (*kheta*) or unirrigated slopes (*pākho*), for as many years as he has enjoyed its standing crops. No fine is required.

3. If a minister (*bajira*), his brothers or sons, other commoners and so forth made uncultivated, non-arable forestland into agricultural land and cultivate it for more than 12 years, the cultivator shall be entitled to receive both shares (i.e. those of a landlord and tenants) for 5 years. Afterwards the land shall be registered at the [local] state revenue office (*māla*), and 10 percent

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of the land shall be granted as a *birtā* to the cultivator of the untilled dense forestland, in the same way as [other government land] is given to commoners.

4. If land is granted to somebody under a *sanada*, and later on during an inquiry it is determined that for [every] 10 *ropanīs* [of land] there is up to [but no more than] 1 *ropanī* of excess [land], [the excess] shall belong to him and be kept [under his name].

5. If somebody authorised [to cultivate] completely barren state-owned land under a *lālamohora*, *daskhata* or *paṭṭā* after the year [VS] 1909 pays the *cārdām thekē* levy and makes that land cultivable so as to flourish by the power of his own zeal, then for each 100 rupees of that land's yield, 10 shall be given to the cultivator as an emolument. Once the land is assessed, the owner of the land shall enjoy a landlord's share [of the crop yield] and the cultivator shall enjoy a tenant's share. [The cultivator] shall be granted principal status in the land contract, and the land shall not be seized from him as long as he pays a landlord's share and the applicable taxes. If someone seizes it, he shall be fined an amount equal to 1 year of [the land's] crop yield, and the land shall be restored to the cultivator.

6. If it is necessary for the government to expropriate commoners' *guthī* land, *birtā* land or the like in order to build a palace, fort, fortress, court building, magazine, army barracks, gunpowder factory, arsenal, parade ground, record office, Śiva temple, *dharmasālā*, wayside public shelter, public rest-house with water facilities, pond, water spout, watering place (*kuvā*), well, *ghāṭa*, bridge, road, path, garden or shaded resting place, the land shall be expropriated after paying the price that would have been paid in a voluntary land transaction among commoners. If the owner of the land does not accept that price for his land but demands land in exchange for it, a plot matching in crop yield and size shall be given in exchange. If the land of commoners is to be expropriated for purposes of building the above-mentioned items, they are not allowed to declare that they will not give up their land.

7. If the government needs to buy land belonging to a commoner in order to establish a *serā-guthī* or to offer it as a dowry or *birtā*, it shall [only] be taken with the consent of the landowner. If the owner declares that he does not want to give up the land, then in such a matter the government shall not be allowed to take the commoner's land by force.

8. If someone declares that he wants to convert state-owned land into pastureland, he shall not be allowed to do so. If someone declares that he wants to build a major road, dirt road access lane, water source, *ghāṭa* or operational facilities (*saṃdhisarpana*) on state-owned land and make it cultivable, he shall be allowed to do so provided that he pays taxes and public dues customarily paid on cultivated land by commoners, and so uses it. If someone comes to complain that the operational facilities, roads, access lane, water source or *ghāṭa* has been obstructed, and if it is ascertained upon investigation that it is in fact so, [the cultivator] shall be fined 5 rupees, and the road, water source, *ghāṭa*, access lane and operational facilities shall be put back in service.



9. A major road or dirt road is the common property of the government and the commoners. Neither the government shall destroy a road or path and convert it into a paddy field, nor shall commoners do so. If it is ascertained that a road has been destroyed and the land [it occupies] cultivated, [the offender] shall be fined an amount equal to the crop yield of that cultivated field. If he has not planted any crops, he shall be fined 5 rupees.

10. When paddy land is to be irrigated by constructing a new water channel, the holder of state-owned land, *birtā* or the like shall not be allowed to obstruct the water channel if it is barren land that can be converted into cultivable paddy land by constructing a water channel. It shall be allowed to convert barren land into cultivable land by constructing new water channels. If it is necessary to construct a water channel through an irrigable paddy field, it is allowed to do so through cultivated state-owned or *birtā* land [only] if three times the size of that land through which the water channel is constructed can be made cultivable. If only ⅓ amount of land can be converted into cultivable land, a water channel shall not be constructed through an irrigated paddy field. Do not give permission to do so.

11. Paddy land or unirrigated slopes granted to commoners' *guṭhī*, or alms-giving trust; as a *birtā*, *bekha*, *phikadāra*, *chāpa*, *mānācāmala*, *marauṭa*, *jiunī* or *pharmāisī*; in connection with an appointment (*bharnā*); as a *mayāyu*<sup>130</sup>, *mohariyā*<sup>131</sup>, *kipaṭa* or *sevābirtā*; under a royal mortgage (*rajabādhā*); or as a *nānakāra*, irrespective of whether paddy land or unirrigated upland-fields under such categories were granted earlier or [only] after this proclamation, shall not be assigned to *rakama* holders, such as gardeners, lumbermen, sawyers, grass cutters, carpenters, charcoal burners, gunpowder factory workers, papermakers, mail runners carrying head loads or sentries, if they have not been assigned to them before. Reclaim them through a *mohora*, *rukkā* or *daskhata*. He who registers them [as such] shall be fined 1 year's yield of crops.

12. Paddy land or unirrigated slopes registered in accordance with a *sanada* issued [anytime] from earlier times until now to *rakama* holders for work as gardeners, lumbermen, sawyers, grass cutters, carpenters, charcoal burners, gunpowder factory workers, papermakers, postmen carrying head loads or sentries under a royal or commoners' *guṭhī*, monastery (*maṭha*), alms-giving trust, *bekha*, *phikadāra*, *chāpa*, *mānācāmala*, *marauṭa*, *jiunī*, *peṭiyākharca*, *pharmāisī*; [land granted in connection with] an appointment (*bharnā*); a *mayāyu*<sup>132</sup>, *mohariyā*, *kipaṭa*, *sevābirtā*, *jāgira*, *mahasulyā*, a royal mortgage (*rajabādhā*), *nānakāra* or *sera* shall not be seized and re-alloted, [thereby] obstructing government work, irrespective of whether the *kuta* or *ijārā* [revenue from that land] is increased or not. If such land was previously state-owned land registered for these tasks, and later on someone received it under the particulars of a royal or commoners' *guṭhī*, a monastery (*maṭha*), an alms-giving trust, *birtā*, *bekha*, *phikadāra*, *chāpa*, *mānācāmala*, *marauṭa*,

130 *bhayā uṃ* (MA<sub>1</sub>), *mayāu* (MA<sub>2</sub>), read *mayāyu*.

131 *māhohariyā*, read *mohariyā* (MA<sub>2</sub>). According to R. N. Pandey (1997: 302), this term refers to a non-confiscatable type of land granted to service holders. However, K. K. Adhikari (1984: 353) defines the term *mohariyā* as meaning land whose title is based on the royal seal. The exact meaning of the term remains obscure.

132 *bhayā uṃ* (MA<sub>1</sub>), *mayāu* (MA<sub>2</sub>), read *mayāyu*.

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*jiunī*, royal mortgage (*rajabādhā*), *nānakāra*, *serā*, *pharmāisī*, an appointment, *mayāyu* or the like, no one shall be allowed to seize and re-allot it. If someone seizes and re-allots such land, he shall be fined an amount equal to 1 year's yield of crops on that land, [the same amount] peasants are entitled to enjoy. If he is unable to pay the fined amount, he shall be imprisoned 1 month for every 5 rupees.

MA<sub>2</sub> 5.12a. *Rakama* holders—gunpowder factory workers, charcoal burners, grass cutters, lumbermen, gardeners, sawyers, carpenters, paper factory workers, [normal] mail runners, mail runners carrying head loads, sentries or the like—are allowed to use and enjoy for whatever [government] labour services [they are assigned to do] the houses and adjoining plots and any paddy land that have been registered as their *rakama* on *birtābitalapa*, *guṭhī*, *bekha*, *chāpa*, *mānācāmala*, *marauṭa* or *phikadāra* land that has been registered from the year [VS] 1910 on until today as [employing] *rakama* [labour]. It is not allowed to seize and re-allot such land. Anyone who seizes such land, even though the applicable taxes and levies are being paid and the assigned work is being carried out [on it], shall be fined 5 rupees.

13. When [in the past] commoners bought or sold land, houses or paddy fields, and the price was agreed upon and a quitclaim deed (*phārchyāpatra*) issued, and [both parties] came and asked for a sales deed (*mohora*), and then someone among [other] prospective buyers who were offered the land bickered and [offered to] pay more, he used to be given the land and a sales deed was issued to him. That person [who approves the transaction] happens to be called *chāpīṃ*<sup>133</sup>. From now onwards, such a *chāpīṃ* who orders that the land is not given to the person who settled the price and to whom a quitclaim deed was issued, [but] is given to such a scoundrel who came and paid more money offering a stipulated sum (*rakama*), shall be made to pay the amount found to have been taken by him in excess as damages, and shall be fined an amount equal to the damages. If he does not pay the amount, he shall be imprisoned in accordance with the *Ain* at the rate of 1 month for every 5 rupees.

14. If a person [wants to] sell land, a bondservant, *birtā*, house, paddy land or [other] cropland which he either inherited or earned by his own effort, he shall inform his rightful coparceners declaring: 'I am going to sell such and such property. If you want to take it, give me the amount offered by a third party and take it. If you do not take it, I will give it to the other person.' If his rightful coparceners [want] to take it, they shall receive it. The third party will not get it. If the rightful coparceners live far away, and the person sold [his property] when he was in need, the seller shall send written [notification] to his rightful coparceners, and the buyer, too, shall sent written [notification] to them. If [anyone among the latter] comes to redeem the property within 35 days, that rightful coparcener shall be allowed to do so by handing over the

133 The meaning of the term *chāpīṃ* is not entirely clear. It is likely to be an official who authenticates the transaction by stamping (*chāp*) the document. It may also be derived from the Nevārī term *chyāpaṃ/chyākaṃ* meaning 'commission, profit' (Kölver/Shresthacarya 1994 s.v. *chyākaṃ* and *chyāpaṃ*) meaning in this context a kind of debased 'broker'.

purchase amount, even if a deed of relinquishment of title (*alipatra*) has been issued. If [a rightful coparcener] does not come to pay the purchase amount within 35 days, the transaction shall be valid, even though the coparceners did not witness the transaction and no earnest money was received. Once 35 days have passed, [rightful coparceners] shall not be allowed to redeem the property.

15. If [someone] concludes a transaction involving non-monetary property—land or the like—the property is confirmed as the buyer’s on the day the price is settled and earnest money is given, even though neither the transacted property has been transferred nor a sales deed or the like has been executed. The seller shall be given the purchase amount together with interest in accordance with the [sales] deed. If earnest money is given and the transacted property remains in the house of the seller, and if the buyer who has given the earnest money does not hand over the purchase amount and take the transacted property within 1 month, he shall not be entitled to receive it later on. The transacted property shall be used by its [original] owner. If [the buyer] comes and disputes after 1 month, claiming: ‘I have given earnest money’, he shall be fined 5 rupees per 100 of the damages [he is claiming]. If he does not pay the fined amount, he shall be imprisoned in accordance with the *Ain*. The seller shall not be required to return the received earnest money.

16. If, among coparceners who live together in a single household without the property having been partitioned, one of the coparceners sells a house, paddy field or any other land without consulting the other coparceners, and if the other coparceners lodge a complaint that they should [surely] not lose their share when [the other] sold [family property], such a sale shall be valid if [the latter] sold the property in order to maintain his family or sold only a portion [of the estate] that falls to him. If he sold more than his own share without consulting his coparceners, if he did not sell it in order to maintain his family within the household, and if the other coparceners living in the same household declare within 1 year, and coparceners who have been abroad, declare within 35 days after their return (even though 1 year has already passed): ‘We were living in the same household. He [surely] may not sell property without consulting us and without leaving our shares [to us]’, the seller shall be made to return the purchase sum [to the purchaser] and the land to his coparceners. If the seller [is not able to] raise the purchase sum, he shall be made execute a loan agreement without security. Ten and 20 percent of the total amount returned shall be collected [from the coparceners and the seller respectively].

17. If high-ranking officials (*umarāva*), *bhāradāras*, subjects or the like, and government officials as well, transact an exchange with someone else—[be it in] cash or kind—involving a house, paddy field, male or female slave or quadruped, the exchange shall be transacted only if the owner is acting on his own volition and to his own satisfaction. No force shall be exerted. If an exchange is transacted using force or violence, and if the owner comes to complain, the person who transacted the exchange using force shall be fined an amount equivalent to the value of the exchanged property. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees.

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18. If 2 persons—whether in the presence of witnesses or upon mutual consent—exchange of their own volition non-monetary items, such things as land, quadruped and jewellery, then once the exchange takes place and both parties have used the items, neither is allowed to return his, stating: ‘What you gave me is bad and useless! I won’t take it.’ The exchange transacted earlier shall be valid. A person who comes to dispute it shall be fined 10 percent of the value of the exchanged item. If he does not pay the fined amount, he shall be imprisoned in accordance with the *Ain*.

19. If, in a dispute between coparceners regarding their shares [of joint property], [one coparcener] claims that [the other coparcener] was not entitled to a share, and if, the judgement of the court being that [the other coparcener] is entitled to the share, the complainant [then] claims that the *birtā* land falling to the share of the [other] coparcener is [in fact] state-owned land, the *birtā* land falling to the share of the coparcener who called [the other’s] *birtā* state-owned land shall be converted into state-owned land. [A coparcener whose claim to a share is upheld by the court] does not lose his *birtā*; it shall be kept in his possession.

20. If someone, having had a *lālamohora* or *daskhata* issued [in his name], fraudulently enjoys someone else’s land—*birtā*, *bekha*, *chāpa*, *marauṭa*, *phikadāra* or the like—such a *mohora* or *daskhata* shall be destroyed and the land so enjoyed shall be restored to the person to whom it belongs. [The offender] shall be fined an amount equal to the value of the land. If someone fraudulently enjoys state-owned land, the land shall be seized and he shall be fined an amount equal to the land’s annual crop yield. That land shall be given to the person who reported [to the authority] that [such fraudulently enjoyed land] is a state-owned land, after having issued a *daskhata* from the venerable prime minister stating: ‘As long as he pays the applicable taxes and levies, no one shall seize this land for generations to come.’

21. If someone fraudulently enjoys the cultivated land of someone else without having had a *lālamohora* or *daskhata* issued [to him], he shall be made to pay damages that are in line with what he has so enjoyed. He shall be fined an amount equal to the damages.

22. If a subject who is a tenant on *guṭhī*, *birtā* or *bekha* land takes a loan from someone and pledges a paddy field or unirrigated slope land cultivated by himself to [the creditor], the loan deed recording the pledge shall be torn up and [such a tenant] shall be made to execute a loan deed without security under his name. It shall be up to the owner [of the land] whether to dismiss such a tenant and re-allot [the land]. [The tenant] who sells such land shall be fined an amount in line with the damages, [namely] as many years [of the landlord’s share in] the crop yield as has stopped [being paid]. If [the landlord’s share in] the crop yield has not stopped [being paid], [the offender] shall be fined an amount equal to the annual crop yield. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees.

23. If someone advances a loan to subjects holding *kipaṭa* land, taking their *kipaṭa* as usufructuary or non-usufructuary collateral under a written agreement, and if the debtor (*tyo rūpaiyā*

*khānyā*) flees or dies and the land is re-allotted by an *amālī*, *dvāre*, *tharī*, *mijhāra* or *gauruñ* official, being transferred to another subject, and if that [subject] enjoys [the land,] paying the applicable taxes and levies, but then the creditor comes to seize that land, claiming that it was transferred to him under the written agreement, he shall not receive it. The debtor and his offspring, if they are able to, shall be made pay the debt which [the creditor] advanced after accepting the *kipaṭa* as a pledge. If they are not able to pay, they shall be made to execute a loan deed without security to the creditor. The *kipaṭa* shall be re-allotted and given to a subject who [can] pay the applicable taxes and cultivate the land (*ḍoko-boko calāumu*)<sup>134</sup>.

24. If someone previously has conveyed a *birtā* [including such things as] a house, paddy field or [other] land to someone else as usufructuary or non-usufructuary collateral, or else has given it away in order to settle accounts, and if without paying off the [former] debt he pledges it as collateral to another creditor or else sells it, and if the first creditor comes to complain within the payment deadline, the land shall be accepted as his. Even if a sales deed has already been executed, it shall be destroyed; if a *sanada* has been issued, it shall be torn up and one shall have the first creditor make use of [the land]. If [the debtor] is able to pay the debt [he owes to] the second creditor, he shall be made pay the sum in question and be fined an amount equal to it. If he is not able to pay, he shall be made to execute a loan deed without security and be fined an amount equal to the sum owed to the second creditor. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees.

25. If a *sunābirtā* on which the *potā* is to be paid, such as a paddy field or unirrigated slope land, is swept away by a flood or landslide, or becomes barren, and if [the *sunābirtā* holder] states that he is not able to pay the *potā* tax, a deed of relinquishment of his title shall be executed by him and he shall be exempt from the *potā*. If later on, after that land becomes cultivable [again], this *birtā* holder states that it is his land and that he will pay both the *salāmi* and *potā* taxes, he shall not get this land [back]. It becomes state-owned land. Its crops fall to the government. If the *potā* is paid even after the land was swept away by a flood or landslide or became barren, the *birtā* holder shall get it back once the *birtā* becomes cultivable again after the flood subsides. The land shall be given to him. A person who enjoys such land after he declares that he is not able to pay the *potā* and gives up [the land] by executing a deed of relinquishment of title, [thereby] becoming exempt from the *potā*, shall be fined 1 year's crop yield. The land shall be turned into state-owned land.

26. If someone holds land as a *sunābirtā* and has received some plots under a *sanada* and some not, and if he has regularly been paying the *potā* [on the plots], plots on which he has been paying the *potā* and has received according to a *sanada* shall belong to the *birtā* holder. They shall be retained under his possession. The plots on which no *potā* is being paid and for which there is

134 Lit. *ḍoko-boko calāumu* means 'to carry a bamboo basket', an activity typical of a farmer or slave. M. C. Regmi (1978: 857) understands this phrase as a 'term used to denote the labor services and payments in cash or in kind due on kīpat lands'.

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no *sanada* shall be turned into state-owned land; it belongs to the government. [Such a *birtā* holder who enjoyed plots without paying the *potā* or having a *sanada*] shall be fined 1 year's crop yield [of the plots unlawfully cultivated]. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees.

27. If a *kipaṭa* holder enjoys *kipaṭa* land of his own and steals or encroaches upon state-owned land, bringing it under his *kipaṭa*, as much of his *kipaṭa* shall be turned into state-owned land as the state-owned land he has encroached upon.

28. If a *birtā* holder's house is not on his *birtā* land but far away [from it], and if it is ascertained that a tenant who uses<sup>135</sup> [the *birtā*] [oversteps] from the *birtā* and encroaches upon and steals state-owned land, this tenant shall be fined the land's crop yield, and the stolen (*cornu*) land shall be taken back from him. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees and then set free. The *birtā* of the *birtā* holder shall not be seized. It shall be retained under his possession.

29. If it is ascertained that someone who holds *birtā*, *bekha*, *chāpa*, *mānācāmala*, *marauṭa*, *phikadāra*, *jiunī* or *peṭiyakharca* land oversteps his land and encroaches upon state-owned or *kipaṭa* land, the government shall restore the state-owned land so encroached upon to being state-owned land. Whatever was encroached upon shall be measured and that much shall be deducted from his *birtā*, the [relevant] border pillars shall be dug up (*ukhelnu*) [and moved accordingly,] and [the seized land] shall be converted into state-owned land. If his *birtā* is less than the state-owned land he encroached upon, [the difference] shall be made up from other plots of land if he has land elsewhere. If he has no land elsewhere, whatever [*birtā*] land he has shall be taken, [but] there will be no [further] penalty. If [the state-owned land] was encroached upon during the time his father, grandfather or elder brothers [had say over matters], and he or his offspring did not encroach upon it themselves, whatever was encroached upon shall be deducted [from the *birtā*], and he shall be fined 1 rupee.

30. Concerning disputes along the boundaries of *birtā*, *kipaṭa*, *guthī*, *chāpa*, *phikadāra*, *marauṭa*, *mānācāmala* land or the like, if one party holds a *sanada* for the land and the other party does not, one shall have the party holding that *sanada* use the land [defined] according to the *sanada*; the party that does not hold a *sanada* shall use any land not recorded in the other party's *sanada*. If neither party holds a *sanada* or any [other proof of possession for the land], and no complaint has been lodged at an *adālata* or *amāla* in the past 16 years, the possession of that land by person who has [all along] been enjoying<sup>136</sup> it shall be valid; [the land] shall be assigned to him. Any party that comes to dispute the outcome of such cases shall be fined 1 year of that land's production. If it does not pay the fined amount, [that party] shall be imprisoned in accordance with the *Ain*. One-fourth [of the total] shall be collected as a winning fee from the winning party.

135 *cala*, read *calana* (MA<sub>2</sub>).

136 *bhogari*, read *bhoga gari* (MA<sub>2</sub>).

31. The [titles recorded in] certified (*sahī-sāca*) palm-leaf documents for *birtās*, *guṭhīs*, houses, paddy fields or unirrigated slope land which have been enjoyed [by a succession of holders] from the time of the kings of Nepāla (i.e. Kathmandu Valley) until now shall be examined, the matter shall be reported to the venerable prime minister and [commander-in-chief] in the Kausala [in a manner] consistent with these *sanadas* (i.e. the palm-leaf documents), and [new] *sanadas* shall be issued [to the holders] by an *adālata*. If a *sanada* is to be issued for the land which has been enjoyed [by a succession of holders] since the times of the kings of Nepāla until today, the payment of 2 rupees as a writing and stamping fee shall be sufficient irrespective of whether the land is great or small, much or little.

32. If somebody received and has been enjoying *birtā*, *guṭhī*, *bekha*, state-owned or *kipaṭa* land, or else any paddy fields or unirrigated slope land from earlier kings, or has been enjoying [such land without authorisation], and if earlier or later kings confirmed his ownership with a signed and witnessed deed, then after the signature and witnesses are examined, [his possession of the land] he has been enjoying shall be upheld according to the signed and witnessed [deed] of gift. If within that land there is a signed *sanada* for some portion of it and none for other portions, [the possession] of land for which there is a *sanada* shall be upheld. If [the person in question] has been enjoying more [land than he is entitled to]—[land] without a *sanada*—the land for which there is no *sanada* shall be seized and turned into state-owned land, even though he has been enjoying it for more than 16 years. He shall be fined 1 year of [that land's] production. If he has been enjoying [land] he received as a gift, and if there is no signed and witnessed deed, [his possession of the land] in accordance with use rights shall, after borders, neighbours, rivulets, and so forth have been defined, be upheld, and a [*lāla*]*mohora* shall be issued [to him].

33. [This section] is not valid.<sup>137</sup> (If there are neither documents and individuals mentioned in them nor witnesses [who can testify to the title to certain land], and if it is not known who had been enjoying it, and two parties to a dispute [over it] declare that they will swear an oath before taking [the land], but there is no way to settle the case, even after investigating with due consideration, 25 honest, respected and educated persons who know the *dharma* and are not related to either party shall sit together and give their opinion on the case as they see it, each in his own understanding. The party who has a majority of [at least] 1 person in his favour shall be declared the victor in the case.)

34. If in a dispute concerning land—such as a *birtā*, a house with paddy fields, a *bekha*, *phikadāra*, *marauṭa*, *mānācāmala*, *chāpa*, homestead, *peṭiyakharca*, *jiunī*, royal mortgage or the like—no document [proving ownership] has come to light, [but] there are witnesses who have seen [such a document] or have knowledge [about the ownership], and if the case cannot be settled by any other means, then if both parties to the dispute hand over the case to witnesses, neighbours, a court registrar (*śrestādāra*) [and either] a surveyor (*ḍagola*) or mason (*karmī*), then [the litigants]

137 MA<sub>1</sub> marks this section as cancelled but gives the original text in brackets. We have followed this convention. In MA<sub>2</sub> the section is not marked as cancelled.

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need to execute a *sirabandī* document under their names, and the witnesses to give their statements; [the adjudicators,] having taken an oath on the *Harivaṃśa*, shall decide the case. If a case is to be handed over to a registrar [and the others] to decide, a mason is to be consulted if the dispute is about a house, and a surveyor if about land, and the case shall be decided on the basis of their determinations. The defeated party shall be fined an amount equal to the price of that land. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees. One-third [of the price of that land] shall be collected from the winning party as a winning fee.

35. If, in a dispute concerning land such as state-owned land, a *kipaṭa*, seized land, *jillā* land, or a homestead, paddy land and pasture land, no document [proving ownership] has come to light, [but] there are witnesses who have seen [such a document] or know [about the ownership], and the litigants have executed a *sirabandī* [in acceptance] of the witnesses, but if the case cannot be settled by any other means, the persons of integrity [among those present] shall be made to give their statements, and the case shall be decided on the basis of [such] statements. If the [annual] revenue from that land amounts to up to 20 rupees, they shall not be forced to take an oath [on their] *dharmā*<sup>138</sup>. If the revenue of the land under dispute amounts to more than 20 rupees, they shall be made take an oath on their *dharmā*, and the case shall be decided on the basis of their statements. The defeated party shall be fined an amount equal to 1 year's crop yield on that land. One-fourth [of the fine] shall be collected from the victorious party as a winning fee.

36. If a dispute arises concerning the borders of *guṭhī*, *birtā*, *bekha*, *phikadāra*, *marauṭa*, *mānācāmala*, *chāpa*, homestead, *peṭiyākharca*, *jiunī* or *kipaṭa* land, confiscated or *jillā* land, royal mortgages or the like, and if instead of filing complaints both neighbours together request [a settlement] at an *adālata* office, stating: 'We could not agree on the borders', then the case shall be decided by examining *sanadas*, if there are any; if not, the neighbours of the disputed land shall be summoned, [past] usage determined and the case [accordingly] decided. Neither a fine nor a winning fee is required from those who instead of filing a complaint come to an *adālata* to request [mediation]. If they ask for an official document [recording the settlement], it shall be issued, at a charge of 2½ rupees per 100 as *salāmī*.

37. If in a *sanada* or document [issued] by previous kings the boundaries [of certain land] and [its size in] *ropanīs* or *murīs*<sup>139</sup> are defined, a [new] *sanada* shall be issued according to this [pre-existing document]. If there exists neither a *sanada* nor any other document, then knowledgeable and experienced elders of the village shall be assembled [to determine] how much [of the land the person who claims possession] has been enjoying, and a *sanada* shall be obtained from them stating that he has been enjoying so and so much. A [new] *sanada* shall be issued specifying the boundaries [of the land] and [its size] in *ropanīs* according to the size [the elders determined].

138 In Medhātithi's *Manubhāṣya* (Medh on MDh 8.113) we find an example of such an oath: *satyādinibandhano 'yaṃ dharmo vā me niṣphalaḥ syād iti* ('May [my] *dharmā*, which is dependent on truth and the like, bear no fruit for me.').

139 *kiropanī*, read *kilā ropanī muri* (MA<sub>2</sub>).



38. When marking the boundaries of house plots in the cities [of Kathmandu, Patan and Bhaktapur], measure according to the standard earlier set by King Jayasthiti Malla: 24 fingers equal a measuring rod of 1 cubit, 22½ cubit rods equal 1 *javā*; 4 *javās* (i.e. 1 *javā* on each side) equal 1 *khā*.<sup>140</sup>

39. When measuring land in Madhesa, measure it with a measuring rod of 1 *lagā*, which equals 9 cubits based on the arm of the Fivefold Venerable King. [An area] 1 *lagā* in length and width equals 1 *dhura*. Similarly, 20 *dhuras* equal 1 *kaṭṭhā*; 20 such *kaṭṭhās* equal 1 *bighā*.<sup>141</sup>

40. When measuring land such as paddy fields or unirrigated slopes in the hills, do so according to the standard earlier set by King Jayasthiti Malla: [survey] the following four types (*cāradara*) [of land] in units of a *lagā*<sup>142</sup> which equals 5¾ cubits, measured with a 1-cubit measuring rod numbered 24 of the said king's finger [widths]: On land of the *abbala* category, [an area] 4 *ṭāgās* in length and 4 *ṭāgās* in breadth equals 1 *khetamuri*; [an area] 8 *ṭāgās* in length and 8 *ṭāgās* in breadth equals 4 *khetamuris* or 1 *ropanī*. On land of the *doyama* category, 4½ *ṭāgās* in length and 4 *ṭāgās* in breadth equals 1 *khetamuri*; [an area] 9 *ṭāgās* in length and 8 *ṭāgās* in breadth equals 4 *khetamuris* or 1 *ropanī*. On land of the *sima* category, 5 *ṭāgās* in length and 4 *ṭāgās* in breadth equals 1 *khetamuri*; [an area] 10 *ṭāgās* in length and 8 *ṭāgās* in breadth equals 4 *khetamuris* or 1 *ropanī*. On land of the *cahāra* category, [an area] 6 *ṭāgās* in length and 4 *ṭāgās* in breadth equals 1 *khetamuri*; [an area] 12 *ṭāgās* in length and 8 *ṭāgās* in breadth equals 4 *khetamuris* or 1 *ropanī*. When a boundary is to be marked, a report (*muculkā*) that specifies that the land is of such and such a category—that it is of the *abbala*, *doyama*, *sima* or *cahāra* categories—shall be drawn up in the presence of the [bordering] neighbours and of respectable elders, measurements shall be taken and the boundary shall be marked.

41. If someone returns his *birtā* to the government, asking for an exchange [of land], the exchange shall be carried out [in the following way]: land in Nepāla, the hill region (Pahāḍa) and Madhesa shall be surveyed and exchanged for land from Nepāla, the hill region and Madhesa respectively, giving the government 25 percent [share] of [the land's] produce in the exchange]. When the government exchanges land, the clerks of the Sadaradaphadarakhānā) shall be fined an amount equal to the loss if they exchanged it [with a share] below 25 percent. The land to be exchanged with the government shall be accepted after ascertaining that it is not susceptible to floods or landslides. If the land is susceptible to either, it shall not be accepted and exchanged [for

140 This regulation of King Jayasthiti Malla is recorded in NBhV 19.24–26: *gharakā bandeja pramāna buḍhilyā aṅguli 24 le hāta 1 āphnā hātako pramāṇa garī banāya || || gallī ra gallībhitara śahara 3 darjā garī pramāṇa khā 1 ko cāraitarpa nāpī 95 hāta gallikā gallidekhi bhītara paryākā 101 hāta saharāmā paryākā 85 hāta eti tīna prakāra garidiyā* ('The standard for the measurement of houses: It is fixed that the length of one's own forearm (i.e. a cubit) is equal to 24 thumbs. He made three categories of houses – situated on a lane, off a lane (i.e. in a courtyard), and in [the centre of] a city. He specified the size of house plots belonging to each category in terms of their perimeter – 95 cubits for the ones situated on a lane, 101 cubits for the ones off a lane, and 85 cubits for the ones situated in the city.')

141 *bighā* (MA<sub>1</sub>, MA<sub>2</sub>), read *bighā*.

142 The rod is 1 *ṭāgā* in length.

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other land]. When being exchanged, unirrigated slopes shall be exchanged for unirrigated slopes and paddy fields for paddy fields. Unirrigated slopes shall not be exchanged for paddy fields, or paddy fields for irrigated slopes.

42. If, concerning a dispute which someone's father or earlier antecedent won by convincing the *kacaharī* fraudulently and turning lies into truth, the losing party comes to complain before 16 years have passed, and if upon investigating the complaint it is ascertained by the *kacaharī* office that the previous [claim of] the victor (*aghi jityāko*) is not justified, and upon examining the *sanada*[*patra*] of the losing party that it is genuine, the person to whom the certificate of court victory (*jitāpatra*) was issued shall be fined an amount equal to the damages if he is still living. If after his death the dispute continues with his coparceners and sons, the land shall be restored [to the rightful owner] in accordance with the *sanada*, [but] the coparceners and sons shall neither pay damages nor be required to pay a fine equal to the damages. A written confession shall be obtained from the coparceners and sons irrespective of whether the dispute concerns a *lākha* of rupees or a blade of grass, and they shall be fined 1 *mohora rūpaiyā*, not more.

43. If someone in a dispute concerning a *birtā* taken in mortgage from the Crown, *bekha*, *phikadāra*, *mānācāmala*, *marauṭa*, *sunābirtā*, house or paddy field belonging to someone else comes to complain that he is entitled to it, and if when the case is being settled it is ascertained that he is not, the land shall be appraised by the *pañca* and he shall be fined the equivalent amount. If he does not pay the sum, he shall be imprisoned in accordance with the *Ain* at the rate of 1 month for every 5 rupees.

44. When in a dispute over land a winning fee is being collected from the winning party, [a maximum of]  $\frac{1}{3}$  of the fine imposed on the losing party shall be collected [from the winning party], not more. If [the victor] is not able to pay the winning fee immediately, the land awarded to him shall be taken in mortgage and he shall be told to raise the money. The land shall be released and returned to him once the fee is collected, if he does pay, or after the total winning fee is paid down from the production of that land, if he does not pay.

45. If a complaint is lodged at an *adālata*, *ṭhānā*, *amāla* or *kacaharī* concerning a dispute over land exempt from all taxes, and if the owner of the land or respective *dvāres* holding an *ijārā* or *amānata* contract [relating to it] comes to the office and states: 'We shall decide this dispute concerning our land', the litigants shall be handed over to them. If neither the owner nor the *dvāres* holding an *ijārā* or *amānata* contract comes and makes their claim within the number of days it takes to reach the *kacaharī* office from where they live, [but] comes after the case has been decided by the *adālata*, *ṭhānā*, *amāla* or *kacaharī*, then  $\frac{1}{6}$  of the [court] fees resulting from the dispute shall be taken from the *kacaharī*, and [this] revenue shall be handed over to the owner of the land exempt from all taxes or to the *dvāre* holding the *ijārā* or *amānata* contract. If they do not arrive within the prescribed time, the revenue need not be handed over. It goes to the government.

46. If an owner of land which has been exempted from all taxes or a *dvāre* holding an *ijārā* or *amānata* contract comes to complain at an *adālata*, *ṭhānā* or *amāla* that something wrong has been done [by someone to him], the [court] revenue resulting from that case need not be returned to him. It goes to the government.

47. If, where there are two plots of *birtā*, or two plots of *raikara* or a plot of *birtā* and *raikara* opposite each other [across a river], a dispute arises concerning the river boundary, and if the river's course shifts to the further side and alluvium (*bagara*) emerges on the hither side, this alluvium belongs to the owner of the land on the hither side; if the river's course shifts to the hither side and alluvium emerges on the further side, this alluvium belongs to the owner of the land on the further side. If the holder of *raikara* or *birtā* on the side [where land was lost] occupies *birtā* on the other side, claiming: 'Since our land was swallowed by the river, we are entitled to it', and if, too, he reaps crops on that land, he shall be made to pay damages for the crops reaped, and shall be fined an amount equal to the damages. If he does not reap crops, he shall be fined 10 rupees. One third of the fine [imposed on him] shall be collected from the winning party as a winning fee. If [the offender] occupies *raikara* and also reaps crops, he shall be fined an amount equal to 1 year's production from that land; if he does not reap crops, he shall be fined 5 rupees. One fourth of the fine [imposed on him] shall be collected from the winning party as a winning fee.

48. If there is river boundary [between two plots of land] and if [due to a change in the river's course] land on the hither side is lost to alluvium on the further side, the owner of the further side may claim the alluvium; if land on the further side is lost to alluvium on the hither side, the owner of the hither side may claim the alluvium. If neither party makes [the alluvium] productive and cultivates it but rather keeps it barren, whoever makes such *raikara* productive shall be allowed to enjoy it as long as the applicable taxes and levies are paid. Once it is made productive, [anyone else] who claims that it is his land shall not get it. Whoever makes it productive shall cultivate and enjoy it as long as he pays the taxes and levies. If such land is a *birtā*, it shall be up to the *birtā* holder whether he keeps it barren or has it cultivated. If [that *birtā* holder] gives barren alluvium to someone and that person cultivates it, then as long as the latter pays the applicable taxes and levies [the *birtā* holder] shall not be allowed to take it back.

49. If a dispute over [two plots of land separated by] a river boundary arises from the river having changed its course and left behind alluvium, the alluvium shall belong to the owner of the land on whose side it is. The owner of the land on the further side shall not get the alluvium on the hither side by claiming that he is entitled to it because the land on his side was swallowed by the river.

50. If a river changes its earlier course, withdrawing [from a riverbed] which had served as a boundary for land on both sides and taking a [wholly] different course, the alluvium over which the river had been flowing becomes *raikara*. The landowners on neither side shall get the alluvium by claiming that the river served as a boundary [between their plots]. They shall get only up to the outermost ridge [under their ownership].

## 2. On Land

51. If someone who, having fallen into financial straits, earlier reached a settlement to totally relinquish his claim to *birtā*, *bekha* or *phikadāra*, paddy fields, unirrigated slope land, a homestead and surrounding plot, or male or female slaves, or put [such things] up as usufructuary or non-usufructuary collateral, or else sold them to someone, and if he [later] deceitfully relinquishes his claim to the same thing, or puts it up as usufructuary or non-usufructuary collateral to another person, claiming: ‘I have not given or sold it to anyone else’, and if the second recipient is not aware that the first recipient has been enjoying it or has allotted it to a tenant, and if also [the latter,] he who is using and cultivating the land, does not inform the second recipient when he approaches the land to take possession of it that this land was in fact obtained by such and such a person, and if the first recipient who received it after [the owner] reached a settlement to relinquish his claim to it, or received it as usufructuary or non-usufructuary collateral, does not complain that he received it within 9 months after the second recipient—he who received it after [the owner] reached an[other] settlement to relinquish his claim to it or received it as usufructuary or non-usufructuary collateral—took possession of it or allotted it to a tenant, or if he has gone abroad on state or private business without anyone in his house being aware of this transaction, and he does not complain within 9 months after his return that he received such and such land under such and such circumstances, then [he,] the first recipient, shall not retain it. The transfer to the second recipient, who received it after [the owner] reached a settlement to relinquish his claim to it or received it as usufructuary or non-usufructuary collateral shall be valid. The second recipient’s [ownership] shall be confirmed; [the thing in question] shall be given to him. The person who sold it twice shall be fined damages amounting to its contractual value. If he owns other plots of land, they shall be signed over to the first recipient. If he does not own other plots, [the first recipient] shall be compensated from his other possessions. If he has nothing to give [to the first recipient], a loan agreement without security shall be executed and a document recording the schedule of [repayment] instalments shall be prepared and he shall be let off; he shall not be imprisoned. If the first recipient who received *birtā*, *bekha* or *phikadāra*, a paddy field, unirrigated slope land, a homestead and the surrounding plot or male or female slaves—after [the owner] reached a settlement to relinquish his claim to it or put it up as usufructuary or non-usufructuary collateral—notifies the second recipient within 9 months after it is received [by the latter] or within 9 months after returning from abroad on state or private business that he did receive such and land, or else if the person using the land notifies him within 9 months that the land was in fact received by such and such a person, and if the loan agreement or the deed that relinquishes title issued to the first recipient is ascertained to be valid upon interrogation, the first recipient’s ownership shall be valid. The first recipient’s ownership shall be confirmed; [the thing in question] shall be given to him. The person who sold it twice shall be fined damages amounting to its contractual value for the later recipient. If he owns other plots of land, they shall be signed over to the later recipient. If he does not own other plots of land, [the second recipient] shall be compensated from his other possessions. If he has nothing to give [to the second recipient], a loan agreement without security shall be issued and a document recording the schedule of [repayment] instalments shall be prepared and he shall be let off; he shall not be imprisoned. If the second recipient who received the *birtā*, *bekha* or *phikadāra*, a paddy field, unirrigated slope land, a homestead and its surrounding plot or male or female slaves is aware that [the owner] gave

[the thing in question] to another person after reaching a settlement to relinquish his claim to it or put it up as usufructuary or non-usufructuary collateral, or is aware that the first recipient has been enjoying and using it or has allotted it to a tenant, or the owner has informed him that he has already given or sold it to another person, having reached a settlement to relinquish his claim to it or put it up as usufructuary or non-usufructuary collateral, or if the person who is enjoying or using the land has notified him within 9 months [after the latter received it] that this land was in fact received by such and such a person under such and such circumstances, and if it ascertained that the second recipient received it while knowing [that it already had been sold or given to another person], the transfer to the first recipient shall be valid, irrespective of whether the first recipient notifies [the court] within or [only] after 9 months. It shall be given to him. Both he who knowingly sells [the same thing] twice and he who knowingly buys it shall be fined 10 percent of its contractual value. If a person who makes use of the land approaches and informs the second recipient within 9 months [after the latter receives it] that this land was already received by such and such a person, and [the second recipient] deliberately proceeds to enjoy and use the land, the latter shall again be fined 10 percent of its contractual value. If he does not pay the fined amount, he shall be imprisoned in accordance with the *Ain*. It is up to the second recipient whether or not to collect the contractual value from any<sup>143</sup> [liable person].

52. Concerning disputes over an irrigation channel, water shall be distributed at those places where water is shared according to what has been practised since earlier times: At places where provisions have been made to apportion water, it shall be apportioned accordingly. In other places, a water channel may not be blocked after rice has been planted on a field located higher up. The owners of fields below shall [be able to] draw off water and do planting. If the owner of land higher up is hindered for some reason and not able to plant rice, so that [his field] remains [uncultivated], he shall be not be allowed to block [cultivation,] refusing to let the water flow down until he completes planting his field. The owners of fields below shall be permitted to draw off water and do planting. The owner of the field higher up shall do planting afterwards. Once everyone has planted rice on their fields, they shall draw off water from the channel according to their apportioned share.

53. If, when a house, paddy field or any other land is being sold and someone buys it—irrespective of whether [the owner] holds [the land title] further or relinquishes his claim over it [completely]—the clerks or *rakama* holders responsible for drawing up a royal deed (*mohora*) of sale state that a royal deed of sale needs to be issued, the buyer of the land is not obliged to obtain such a royal deed of sale in the case where an old *sanada* already exists and he declares: ‘I will enjoy the land [under] the deed relinquishing title according to the *sanada*. I do not want to have a royal deed of sale issued.’ If no *sanadapatra* exists from the time before he received the land and the land has been enjoyed only on the basis of usage, a royal deed of sale needs to be obtained once such land is sold. A royal deed (*lālamohora*) of sale shall be issued for a fee according to earlier practice but without violating the *Ain*.

143 *asāmīsita*, read *jasasita* (MA<sub>2</sub>).

## 2. On Land

54. If someone puts up [land] as non-usufructuary or usufructuary collateral to creditors, having earlier signed over 2–3 plots of land to one [creditor] and taken a loan from him, and [later] 1–2 plots of that [same] land to another person and [so] taken a loan twice [off the same land], the land shall be given to that person whose [possession] is ascertained to be valid according to the [above-mentioned] 9-month deadline<sup>144</sup>. The debtor who conveyed his land twice shall be fined only the price of the land conveyed twice.

55. If a subject who is a tenant and who enjoys *birtā*, *gūṭhī*, *bekha*, *phikadāra*, *marauṭa*, *mānācāmala*, *chāpa*, *jiunī*, *raikara*, *kipaṭa*, *sevābirtā*, royal mortgage (*rajabādhā*) or *nānākāra* land, paying the applicable taxes and levies, or who cultivates [private] paddy land, unirrigated slope land or fertilised land under rent, planting or sowing crops and paying the *cāradāma* levy to the owner of the land (or other customary levies or the like if the *cāradāma* levy is not applicable), then if someone else digs or ploughs on his field and unearths the seeds, [that person] shall be made to pay damages equal to 1 year's yield of the land on which he unearthed the seeds, and he shall be fined an amount equal to the damages.

56. A person entitled to receive (*khānu*) the *sermā* tax shall be allowed to enjoy *asmāni* or *daṇḍakuṇḍa* levies and the like on land on which both the *sermā* and *sāunephāgu* taxes are customarily levied. He shall enjoy them. Tax revenue such as *daṇḍakuṇḍa* or *asmāni* levies [paid by persons] associated with land on which not the *sermā* tax [but] only the *sāunephāgu* tax is levied goes to the person who collects the *sāunephāgu*. If on the same land one person enjoys the *sermā* and another person enjoys the *sāunephāgu* tax, such tax revenue as *daṇḍakuṇḍa* or *asmāni* levies shall go to the person who enjoys the *sermā* tax. If a tenant on such land moves away and the land is abandoned, the person entitled to the *sermā* tax shall re-allot it [to a new tenant]. Persons entitled only to *sāunephāgu* shall not be permitted to re-allot the land.

57. Except for royal *gūṭhī* land,<sup>145</sup> *raikara* land or governmental land supplying the needs of the royal household (*serā*) on which no *rakamas* have been registered earlier, the government from now onwards shall not assign any land as *rakamas*, such as [on] land endowed to a commoners' *gūṭhī*, monastery (*maṭha*) or alms-giving trust (*sadāvarta*), or [on] *birtā*, *bekha*, *phikadāra*, *chāpa*, *mānācāmala*, *jiunī*, *peṭiyākharca*, *mayāyu*<sup>146</sup>, *mohariyā*, *pharmāisī* land or the like. If someone assigns such land as *rakamas* to gardeners, lumbermen, sawyers, grass cutters, carpenters, charcoal burners, gunpowder or paper factory workers, [normal] mail runner, mail runner carrying head loads or sentries, he shall be fined an amount equal to the tenant's share of 1 year's [crop yield,] and the land shall be removed from *rakama* [status]. *Umarāvas*, *bhāradāras* or commoners who are landowners shall be permitted to assign their own land as a *rakama*. No blame shall attach to them. From now onwards, too, the government shall be allowed to assign as *rakamas* royal *gūṭhī* land, governmental land supplying the needs of the royal household or *raikara* land which has not earlier been assigned as such.

144 This refers to the regulation specified in § 51 of the present Art.

145 *jagā gūṭhī*, read *rājagūṭhī* (MA<sub>2</sub>).

146 *bhayā u*, read *mayāu* (MA<sub>2</sub>).

58. From now onwards, whenever land is given to someone as a *guṭhī*, *birtā*, *bekha* or *phikadāra* [grant], only *raikara* land, land held in reserve by the government (*jageḍā*), unclaimed land (*ukāsa*) or barren land shall be given, with an access way being laid and the boundaries marked. If there is not sufficient barren land for this purpose, land shall be bought and given, and its boundaries marked. Cultivated paddy fields or unirrigated slope land registered as an emolument to *jāgira* holders from among *kampus*, *paṭṭanas*, *kampanīs*, *bhāibhāradāras* and [other] military and civil servants shall not be demarcated and given. Whoever demarcates and gives a *jāgira* holder's cultivated land as a grant shall be fined 1 year of that land's production, and the land shall be taken back.

59. Concerning land such as paddy fields or unirrigated slope land which is registered<sup>147</sup> as a *jāgira* for a *kampu*, *paṭṭana*, *kampanī*, *bhāibhāradāra* or [other] military or civil servant and for which [the *jāgira* holder] receives a [tax] reduction under the false pretence that land he had been enjoying was swept away by a flood or [lost to] a landslide, or that the water channel [irrigating it] was damaged; or concerning land which was swept away by a flood or [lost to] a landslide, or the water channel [irrigating which] was damaged, and the taxes [imposed on which] were, following an inspection, waived at a *daphadara* office, but the field was cultivated again after the *kuta* and *sermā* taxes were reduced, and was enjoyed without having been registered—if it is ascertained that the *jāgira* holder indeed received a [tax] reduction, then borders on such cultivable land may be marked on it, and it may be given as a *guṭhī*, *bekha* or *phikadāra* [grant],<sup>148</sup> irrespective of whether it is being cultivated or is fallow. No blame shall be assigned. If it is ascertained that [the *jāgira* holder] did not receive any reduction, no borders shall be marked.

60. If someone instead of following an order from the five times venerable king to keep land barren and not cultivate it brazenly works such land, then if it is his first time he shall be fined 1 year's *sermā* tax [on that land,] and if he has a homestead there the roof [of his house] shall be demolished and he shall be evicted. If even after that he comes again and works [the land], he shall be fined double a year's *sermā* tax and evicted in the same manner. If even after that he comes again and works [the land], he shall be fined three times 1 year's *sermā* tax and evicted. If even after this he comes again and works [the land], he shall be imprisoned for 2 years each time he comes. If he pays the amount set for cancelling his prison term, it shall be accepted and he shall be let off. He shall not be permitted to enjoy the crops planted on the land he brazenly worked in violation of the order. If crops have just been planted or sown, leave them as they are; wild animals may eat them. If the crops are ripe or fully grown, someone deployed for inspection shall investigate them and forward a report through his [superior] officer, [recording] the total quantity [of crops,] and act according to the reply he receives.

147 *variyaḱā*, read *dariyaḱā* (MA<sub>2</sub>).

148 What is meant is that the *jāgira* holder is dispossessed of the land, which in consequence can be converted into a *guṭhī*, *bekha* or *phikadāra* land grant.

## 2. On Land

61. An enthroned king shall not sell his own land to neighbouring emperors or kings irrespective of however large an amount he might receive [for it]. Even if an enthroned king orders [such land] to be sold, neither ministers nor the Kausala shall sell it. If ministers or the Kausala—with or without orders [from the king], or for reasons of their own, [such as] receiving a large sum for a small [piece] of land—sells land within their own borders to a neighbouring emperor or king, they shall be considered rebels (*apsara*) that are untrue to their salt. All shall know them to be untrue to their salt. One may sell land to those who have come with their family and reside as subjects inside [our] own borders.

62. Land at the border may be exchanged with [that of] neighbouring emperors and kings—cultivable land for cultivable and barren land for barren—if we give 1 portion and receive 2 portions from the other. Barren land of ours on which there are no tenants may be exchanged for 1½ times as much cultivable land on which there are tenants. Adjust the border through [land] exchange; [land] in the interior shall not [thereby] be exchanged.

63. Subjects and so forth may [engage in] selling and buying land with subjects from their own country and with those who have come from foreign countries together with their family and children and [now] reside [here] as subjects. If [anybody living in the country] sells land to subjects of foreign emperors or kings, the government shall have [the seller] return the amount to the buyer and shall seize the land. If the seller has already spent the amount, the government shall have the seller [re]pay the amount [to the buyer] from other available [property] of his and shall seize the land. If [the seller] has no other property, the government shall [re]pay the amount [to the buyer] and seize the land.

64. In order to make Surkhet habitable, tenants shall be summoned from all over [the country,] providing them with the loans and maintenance expenses (*bhotā*) and [exempting them from] the *potā*. If tenants come to settle [there] without clearing arrears to the government or loans and [other] debts, whether owed to the government or others, no one shall, as long as they remain at this place as tenants, be allowed to obstruct them or recover [debts] from them. No one shall recover [their debts]. The *hākima* or *amālī* shall allow [tenants] to keep only as much of the wealth they earn as required to sustain their livelihood. For whatever is ascertained as going beyond that he shall arrange for a deed to be drawn up recording the instalments and schedule [of loan repayments,] [wherein] is stated: ‘You shall repay such and such an amount every year and the creditor shall collect accordingly.’ A [slave] owner shall not be allowed to seize hold of a male or female slave of his who fled to Mugalāna more than 1 year earlier, returned from there, settled in Surkhet, is cultivating land and has established a household. He shall not seize hold [of them]. The owner shall be allowed to seize hold of, bring back and sell a male or female slave of his who fled from [within] the Gorkhā kingdom and settled [directly] in Surkhet. No blame shall be assigned [to him].

65. In order to make Morang habitable, tenants shall be summoned from all over providing them with the necessary maintenance loans and exempting them from the *potā*. If tenants come



to settle [there] without paying their governmental arrears or the loans and debts they owe to the government or others, no one shall be allowed to obstruct them and recover [debts] from them, as long as they remain at this place as tenants. No one shall recover [their debts]. The *hākima* or *amālī* of the respective place shall allow [the tenants] to keep from the wealth and property they earned only to the extent that they can make their livelihood. Whatever is ascertained as going beyond that, for that [the concerned officials] shall arrange a deed recording the installments and timeline [for the repayment of the loan to their creditors] stating ‘You shall repay such and such amount every year and the creditor shall collect accordingly.’ The owner shall not be allowed to seize hold of his male or female slaves who fled to Mugalāna more than 1 year ago, returned from there, settled in Morang cultivating land and founding a household. He shall not seize hold [of them]. The owner shall be allowed to seize hold of, bring back and sell his male and female slaves who fled from the Gorkhā kingdom and settled in Morang. No blame shall be assigned [to him].

**The regulation applicable to someone who makes use of land sequestered by a *kacaharī* or enjoys standing crops on it without having received a writ of release:**

66. If a dispute arises concerning someone’s land, homestead or the like, and if [the land] is sequestered by a *kacaharī* office, the litigants shall not be allowed to enjoy rent or standing crops on the land or to sell or mortgage it until the same *kacaharī* issues a note of release. If, before the *kacaharī* issues a writ of release, someone violates the regulation and enjoys rent or standing crops, he shall be fined 5 percent of the production of that land. If he sells or mortgages it, he shall be fined 10 percent. If it is ascertained when deliberating the case that [the land] is to be awarded to the one who enjoyed the standing crops or sold [the land], it shall, in accordance with the *Ain*, be given to him. If it is ascertained that [the land under dispute] should be awarded to the other litigant, a loan deed without security for the purchase sum shall be executed under the name of the one who sold the land and given to the other [litigant]. If a writ of sequestration was sent to a tenant and a buyer bought [the land] without quizzing the tenant, standing crops which were presumptuously enjoyed shall be recovered from both seller and buyer. If they are not able to pay, they shall be imprisoned in accordance with the *Ain*.

**The regulation applicable in cases where it is learned that someone who made use of land sequestered by a *kacaharī* or enjoyed standing crops on it without having received a writ of release has died:**

67. If, in a dispute that arises concerning land or the like, [the land] is sequestered by a *kacaharī*, and if one of the litigants sells or mortgages the land before the *kacaharī* issues a writ of release, and that person who sells or mortgages the land dies, and if it is ascertained when deliberating the case that [the land in dispute] should be awarded to the other litigant, it shall be

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given to him. A person entitled to enjoy [the deceased litigant's] property for which the latter had no son as heir shall be made to return the purchase sum to the buyer if he has enjoyed [the deceased litigant's] property. If he is not able to pay, he shall be made execute a loan agreement without security [for the purchase sum]. If he renounces [the deceased litigant's] property, the property shall be proportionally divided [amongst the deceased litigant's creditors].

### 3. On Tenants and Landlords

1. If [a landlord] declares that he himself wants to cultivate his *birtā*, *bādhā*, *kheta*, *pākho*, *gharabārī*, *mānācāmala*, *chāpa*, *bekha*, *marauṭa*, *phikadāra*, *jiunī* or *peṭiyākharca* land, he shall be allowed to dismiss the tenant and cultivate his homestead and irrigated paddy field himself. Any person from the hill region shall be allowed to dismiss [a tenant] starting from the day of the *Dasāi ṭikā*<sup>149</sup> until the day of Śrīpañcamī; someone from Nepāla shall be allowed to dismiss [a tenant] from the day of the *Dasāi ṭikā* until the 6<sup>th</sup> [day of the bright fortnight of Jyeṣṭha]—the *Sīthī* Festival—and he shall be allowed to make use [of the land] himself. During the unsuitable period afterwards, it shall not be permissible to dismiss [a tenant]. If a landlord dismisses a tenant during this unsuitable period, he shall be fined an amount equal to the annual crop yield of the cultivated land and [the tenant] shall be reinstated. [The landlord] is allowed to dismiss the tenant the next year during the suitable period.

2. If a landlord declares that he himself wants to live on his *birtā*, *bekha*, *mānācāmala*, *gharabārī*, *chāpa*, *marauṭa*, *phikadāra*, *jiunī*, *peṭiyākharca* land and build a house, and wants to enjoy [the use of his land by] cultivating it, he shall be allowed to evict the tenants [living on his land] and reside there—whether it is inhabited, barren or newly cultivated—and to take [his land back] and make use of it. If tenants live on that land, an *adālata* or *amāla* office shall investigate the terms of the agreement with the landlord under which [the tenants] have been living there and shall deliver the verdict.

3. Except for [the purpose of erecting] a house, no one shall dismiss an old tenant on *birtā*, *guṭhī*, *bekha*, *mānācāmala*, *kipaṭa*, state-owned, *kheta* or *pākho* land through a reassignment [of his land], as long as he submits [the landlord's share of] the harvest and pays the *sermā* tax at regular intervals. If he is dismissed, the *adālata*, *ṭhānā*, *amāla* or the *daphadara* office shall reinstate him. The person who has dismissed the tenant shall be fined the annual crop yield of the land from which he dismissed the tenant. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees. If an increment [of the produce] is achieved on that land by expanding [the arable land] beyond the boundaries, the old tenant shall be reinstated, if he submits [his rent] from that increment [as well]. If he is not able [to submit the rent for] the increment, [the land] shall be given to a new [tenant].

149 The 10<sup>th</sup> day of *Dasāi* Festival.

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4. If someone lies to a *jāgira* holder, telling him that he is allowed to reassign [his land], and the confirmation tax is paid by offering 4 *dāmas* for a plot of land which is not allowed to be reassigned, the person who offers the 4 *dāmas* shall be fined 10 rupees for every 100 [rupees of the value of the land]. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

5. Any irrigated paddy field or unirrigated slopes [being given in tenure] as state-owned or *kipaṭa* land shall not be accepted as a deposit. An *adālata*, *ṭhānā* or *amāla* shall give [such land] to the person who cultivates it for use. The complaint of the person claiming that it belongs to him shall not be heard once he has relinquished the land [as a deposit].

6. If [a tenant] offers the *cāradāma ṭhekī* fee [for the tenure contract] for the irrigated paddy field or unirrigated slopes or the like belonging to someone else—irrespective of whether they are [assigned to that landlord] as *birtā*, state-owned or *kipaṭa* land—, and the person who offered the *cāradāma ṭhekī* fee for the land does not return until the time of cultivation has started or until seeds have been sown on the adjoining fields, the landowner, *amālī*, *tharī* or *jimmāvāla* shall reassign [the land to a new tenant]. He loses the *cāradāma ṭhekī* fee [he already paid]. The land shall not be kept barren. Once another person makes use [of the land], there shall be no quarrel about it. If [the former tenant] comes to argue, he shall be fined at the rate of  $\frac{1}{3}$  of the annual crop yield of that land. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees.

7. [This section has been] is not valid.<sup>150</sup> (If someone has received a revenue contract from the government or the like and he runs away without handing over the accounts, the property of his family members who live together [with him] in a joint household without separating [the paternal property], shall be confiscated. If his father, brothers, wife, son or grandson who live together [with him] in a joint family without separating [the parental property] declare that they shall submit the accounts and also pay his dues which are proven, there shall be no confiscation [of their property] if they submit the accounts and pay his dues. Their land shall be released.)

8. If someone abandons his *japhatī* or *jillā* land, and if this land is cultivated by someone else who then pays the applicable taxes, the cultivated land shall not be seized [from its current cultivator]. He shall be confirmed [in his tenurial rights]. If, later on, the [former] *jillā* land holder comes, claiming that it is his land and he should cultivate it, he shall be told that he will not get it. Whoever is cultivating the land shall be confirmed [in his rights]. If there is entirely barren land, and the [former] *jillā* land holder declares that he will cultivate it, then that land shall be registered under him. Land being used by others shall not be given to a person who had left [that land before], [even though] he claims that he will cultivate it. Anyone who dismisses the present [tenant] and gives [the tenancy] to the [former] *jillā* land holder shall be fined an amount equal

<sup>150</sup> Though this section is marked as being cancelled, MA<sub>1</sub> gives the text in round brackets.

to the annual crop yield of that land. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees.

9. If a subject commits any property damage, robbery or [any other] crime, and if he absconds along with his wife and children, and does not come to show any interest in his *raikara*, *gharabārī*, or *kheta* land, the *amālī* shall give [the tenancy of] his *gharabārī* or *kheta* land to anyone who declares that he will cultivate it and pay the applicable taxes.

10. If someone declares that, due to his incapability, he is not able to carry out the tasks for which he was assigned land [given in lieu of] the work as courier, gardener, lumberman, grass cutter, charcoal burner, or labourer in a gunpowder factory and he will resign [from the tenancy of] that land, the *mukhiyā*, *nāike*, *dvāre* or *pradhānas* [responsible for the assignment] of that revenue contract shall obtain a written resignation from that tenant and they shall assign the revenue contract to a tenant who can carry out such services and give the land to him. If the [former] *rakama* holder who resigned from [the tenancy of] the land later comes to claim that the land belongs to him and he is entitled to it, he shall not receive it. [The former *rakama* holder] who comes to claim that he is entitled to it shall be fined 2½ rupees. If he does not pay the amount [of the fine], he shall be imprisoned for 15 days and shall be set free.

11. If a landlord who holds *birtābitalaba*, *phikadāra*, *bekha*, *mānācāmala*, *jiunī*, *peṭi-yākharca* or *chāpa* land commits a crime pertaining [to the loss of someone's] life or has illicit sexual intercourse within his blood relations or with someone from an Untouchable caste, and contaminates [his fellow caste members] through cooked rice and water and runs away, and if he has a father, mother, brother, wife, son or daughter living with him in the same household without partitioning [the joint property], the share of the property which is theirs according to the *Ain* shall be put aside and the share of the fugitive shall belong to the government. It shall be confiscated. If he does not have such [relatives], all of his land shall belong to the government. His brothers who live separately or [anyone else] who would be entitled to enjoy [the fugitive's] property for which there is no son as heir shall not receive it.

12. If someone abandons his *jillā* land and someone else cultivates the land, paying the applicable taxes to the *kampanī*, and if [the former land holder] comes to claim that it is his *jillā* land, the land shall not be given to the person who comes to claim it later. The land shall be given into use of the person who is cultivating it. If [someone] receives money [as a loan] and mortgages *jillā* land [for it], he shall be made to issue a loan agreement without security (*kapālī tamasuka*) to his creditor and the land shall be enjoyed by that person under whose name it was registered at the time of its assignment (*raibandī*) and who pays the applicable taxes.

13. If a new tenant comes to promise that he shall pay more rent and fees for the *birtā*, *bādhā*, *kheta* or *pākho* land than the old tenant does, and if the old tenant promises [to pay] as much increment as the new tenant [offered], the old tenant shall retain [the tenancy]. The new tenant shall not receive [the tenancy]. If the old [tenant] does not promise to pay the increased

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rate, the new tenant shall obtain [the tenancy]. No one from the hill region shall dismiss [a tenant] from his land between Śrīpañcamī and the day of the Dasāī *ṭikā*, and no one from Nepāla shall dismiss [a tenant] from his land between the 6<sup>th</sup> [day of the bright fortnight of Jyeṣṭha of the] the Sīṭhī Festival and the day of Dasāī *ṭikā*. If a *birtā* holder dismisses [a tenant] from his land during that unsuitable period, he shall be fined an amount equal to the annual crop yield of that land. If the tenant who has been dismissed during the unsuitable period comes to complain that he was dismissed during the suitable period, that tenant shall be fined 2½ rupees.

14. If a tenant who has been dismissed during the suitable period comes to complain that he was dismissed during the unsuitable period, and upon investigation it is ascertained that he was dismissed during the suitable period, such a tenant shall be fined 2½ rupees. If he does not pay the amount [of the fine], he shall be imprisoned for 15 days and shall be set free.

15. No one shall have the right to dismiss [a tenant] living on state-owned land or land registered as a homestead, as long as the tenant does not stop paying the applicable taxes for every year. If someone dismisses him from his homestead and reassigns [his land to someone else], he shall be fined 20 rupees and the homestead shall be reinstated to the person to whom it belongs. If he does not pay the amount [of the fine], he shall, in accordance with the *Ain*, be imprisoned.

16. If someone's *jillā* land remains barren and the *jillā* land holder pays the rent for the year [although] the land remained barren, he shall not be dismissed [from his land]. If [the *jillā* land holder] keeps his land barren and does not pay the rent, and if someone comes to declare that he will pay the rent for [the year the land remained] barren and cultivate the land as well, the person who pays the rent for [the year the land remained] barren shall receive the land.

17. During the annual reassignment of land (*pajanī*) among the subjects, it is not permissible to pressure a subject to take over barren land by threatening 'If you promise to cultivate barren land together with the old cultivated land which you have been enjoying for a long time, you will get your cultivated land, otherwise not.' It shall not be permissible, either, to dismiss them from their old land. If someone of his own volition undertakes the cultivation of barren land, it shall be given to him for cultivation. No one shall exert pressure on people, ordering them to cultivate barren land.

18. Someone who makes *raikara*, *birtā*, *guḥṭī*, *chāpa*, *mānācāmala* or *bekha* land or the like which had been barren and sandy [before], usable and arable, shall not be dismissed [from it]. The *sudāmata*, *sermā* and *kūta* tax incurring [on that land] shall be annually collected from him. If [the tenant] is dismissed, the *adālata*, *ṭhānā* or *amāla* shall give [the land] into the use of that person who made the barren and sandy land usable. If he does not pay the established customary fees incurred or does not pay his rent, he shall be dismissed. If the owner of *birtā*, *bekha*, *chāpa*, *mānācāmala*, *marauṭa*, *phikadāra*, *jiunī*, or *peṭiyākharca* land declares that he wants to build his house on it and live there, he shall be allowed to erect a house and live there and cultivate the land. He shall not dismiss the tenant and give [the tenancy] to someone else.

19. If someone, by his own strength, builds a dam or irrigation channel and makes [out of barren land] *kheta* or *pākho* land, such lands shall not be given to a new tenant who comes to offer an increment [on the rent of that land]. After investigating the condition of the *kheta* or *pākho* land, a land surveyor shall be employed and, for whatever is ascertained as being an expansion [on the land previously given into tenancy], a rent contract for a *kheta* or *pākho* land shall be registered and [that contract] shall be given to the present tenant. He shall be made to agree to pay rent [for that additional land as well]. As long as a hard-working tenant who works hard [on the fields] submits half (*adhiyā*) of the harvest [as rent], he shall not be dismissed [from the land]. [A tenant] who does not pay the rent and customary fees incurred [on that land] shall be dismissed.

20. The owner of *guṭhī*, *raikara* or *japhatī* land or the like shall not dismiss the wife and children of a person who gave his life [for the kingdom] in war or who died while going on state business from their *gharabārī*, *kheta* or *pākho* land, as long as they pay the applicable taxes. They shall be allowed to enjoy the land by paying the applicable taxes. If someone dismisses them from the land and [someone else] comes to make use of the land by using force, claiming that he received [the tenancy for it], both shall be fined an amount equal to the annual crop yield of the land from which [the previous tenants] were dismissed and [the previous tenants] shall be reinstated [in the tenancy] of the land. Even if the landlord of the *bekha*, *chāpa* or *phikadāra* land declares that he wants to cultivate the land himself, it shall not be permissible to dismiss them as long as the son [of the deceased tenant] has not yet reached the age of 16 and they have not stopped paying the applicable taxes. The person who strips [the land from the boy] shall be fined accordingly. If the owner of the *bekha*, *chāpa* or *phikadāra* land declares that he wants to live on his land, building a house and cultivating the land himself, he shall be allowed to dismiss [the tenants] once that boy has reached the age of 16. No fault shall be assigned [to the landlord].

21. If father and mother pass away and their minor children become orphans, and if any of the [parent's] brothers, friends or relatives declare that they will pay the applicable taxes for the [children's] *gharabārī* or *kheta* land, will cultivate it and will take care of the children, so that once they become mature and capable [of taking care of themselves] they can stay on their own *gharabārī* land and make use of it, they shall be allowed to raise the children and cultivate the land, paying the applicable taxes for it. Once the children are capable [of taking care of themselves], they shall receive the land cultivated by their parents. The *adālata* or *amāla* shall confirm the children [in the tenancy of that land]. If someone dismisses them from their *gharabārī* land, he shall be fined 20 rupees; if someone dismisses them from their *kheta* land, he shall be fined an amount equal to the annual crop yield of that land from which he dismissed [the children]. If the money is not paid, he shall be imprisoned 1 month for every 5 rupees.

22. If someone's father and mother, who were holding *kheta* or *pākho* land registered for carrying out work as couriers, gardeners, gunpowder factory workers, lumbermen, grass cutters or charcoal burners or the like, pass away and their minor children, who are capable of carrying out such work, become orphans, no one shall dismiss them from their land and reassign it as long as they can cultivate it. If they are below the age of 12 years, they shall not be required to

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carry out such work. After they pass the age of 12 years, they shall carry out the work, paying the applicable taxes as their parents used to do, and they shall be allowed to enjoy [their parent's] land. If someone dismisses such orphans from their land, he shall be fined an amount equal to the annual crop yield of the land from which he dismissed [the orphans]. If the money is not paid, he shall, in accordance with the *Ain*, be imprisoned.

23. If *raikara*, *pākho*, *suvāro*, *gharabārī* or *kheta* land is used by mail runners, gardeners, gunpowder factory workers, lumbermen, grass cutters or charcoal burners, and if the father [of such a family] dies, and if his wife declares that she will pay the taxes incurred and administrative fees, carry out the postal service and will pay the rent, contract sum, and the applicable taxes [for that land] to the landlord and *amālī* and will enjoy the use of the land, she shall not be dismissed from her land. She shall be confirmed [in its tenancy]. If someone dismisses her from the land, he shall be fined an amount equal to the annual crop yield of that land.

24. If a subject lies about the *sermā* tax and the customarily applicable taxes for a *raikara*, *japhatī*, *kipāṭa*, *kheta* or *pākho* land, lies about a house [on such land], lies about the value of a house by registering a house on *hale* land as [a house on] *kodāle* land, lies about the ghee fee (*ghīukhānī*) [to be paid for] a plot of land, lies by registering his land as being destroyed by a flood or landslide, although it has not been destroyed by a flood or landslides, he shall be fined an amount equal to the annual crop yield of that land—if his deception concerned *kheta* land. If he lied about *pākho* land, he shall be fined an amount equal to the annual *sermā* tax [applicable for that land] and the land shall be awarded to the person who came to report [the deception]. If it is a *mukhiyā* or *jimmāvāla* who has lied, he shall be fined in the same manner. If the person who reports [the deception concerning] the land is capable of performing the duties of a *mukhiyā* or *jimmāvāla*, he shall be awarded the posts of a *mukhiyā* or *jimmāvāla*. If he is not capable of performing the duties of a *mukhiyā* or *jimmāvāla*, a local notable from the village, who enjoys trust there, shall be appointed as *mukhiyā* or *jimmāvāla*. The *kheta* or *phāko* land which was lied about shall be handed over from the *kāmadāra*, landlord, *jimmāvāla*, *amālī*, *mukhiyā* or a *kacaharī* office to the person who came to report [the deception]. If the land is not handed over, the person who has not arranged that the land is being handed over shall be fined an amount equal to the annual crop yield of that land. If the amount [of the fine] is not paid, he shall, in accordance with the *Ain*, be imprisoned at the rate of 1 month for every 5 rupees.

25. Concerning land which has been registered as *jāgira* for the army or civil service, [i.e. for] the *kampu*, *paltāna*, *kampanī*, the *bhāradāras* or the like, if such land underwent the major audit and was distributed (*raibandī*), and if a [certain] percentage [from the rent] was collected, and if the subjects have been registered [as tenants of that land], and if, on the basis of the audit, a *sanada* was issued [to these tenants confirming their tenancy], no one shall dismiss [a tenant] or reassign such land on the grounds that the rent or applicable taxes for the land have been increased, as long as there is not another audit. If someone dismisses [a tenant] and reassigns the land, he shall be fined an amount equal to the annual crop yield of the land from which he dismissed [the tenant] and the previous tenant shall be reinstated [in his tenancy]. If a subject goes to live



somewhere else and lies about or decreases the rent of the land, or he stops the payment of the customarily applicable taxes, such a tenant shall be dismissed and [the land] shall be reassigned, even if a share of it was registered [under his name] during the land distribution (*raibandī*). No fault shall be assigned.

26. *Kheta* or *phāko* land which is registered as *jāgira* for the *kamṣu*, *paṭana* and *kaṃpanī* or the civil service or the like shall be audited by the Sadaradaphadara, a *daphadara* office or the auditor general (*mahājāca*), it shall be given into the responsibility of a *mohīnāike*, *jimmāvāla*, *mukhiyā*, *thānī*, *tharī*, *subbā*, *rāi*, *majiyā*, *jimmāvāla*, *ṭhekadāra*, *caudharī*, *mokkadama*, *jimidāra*, *mijhāra*, *jhuttāvāla* or the like, and they shall keep on examining, investigating and caring for those lands that have come under their responsibility. If there is more land which can be made arable in the vicinity of the land which has come under his responsibility, [such an official] shall let a tenant make that land arable and the tenant who cultivates that land shall be given the enjoyment of both shares (i.e. that of the landlord and that of tenant) of the rent for 3 years. Once the 3 years are over, if the lands that have been made arable are in the vicinity of land belonging to the *kamṣu*, *paṭana* or *kaṃpanī*, [the official responsible for that land] shall go to the respective *daphadara* [for military institutions], and if the land is in vicinity of the land belonging to civil institutions or the like, he shall go to the [respective] *daphadara* [for civil institutions], present the rent [he collected], have it recorded, submit it and collect a receipt for it. If it is ascertained that, once the 3 years were over, he enjoyed the rent he raised without registering the land newly made arable, he shall be made to pay the amount which he raised as rent from his tenants or subjects, and then concealed by not submitting it at the place where he was supposed to submit it and then enjoying it as has been proven; he shall be fined an amount equal to that and he shall be dismissed [from his post]. If an authorised tax collector, such as a *mohīnāike*, *jimmāvāla* or the like, sends someone to request the payment of the outstanding rent for certain plots of land or lands that have been newly made arable, and if the tenants or subjects do not pay the outstanding rent and attempt fraud, they shall be made to pay the amount in question and fined an amount equal to that. If the amount [of the fine] is not paid, they shall, in accordance with the *Ain*, be imprisoned.

27. If an authorised tax collector [being entrusted with] *kheta* or *phāko* land which is either registered as *jāgira* for the *kamṣu*, *paṭana*, *kaṃpanī* or civil institutions or the like or is held in reserve (*jagerā*) or unclaimed (*ukāsa*), lies that his land could not be cultivated since it was destroyed by a flood or landslides or the irrigation channels on it were destroyed, and enjoys the rent from that land himself or lets the peasants enjoy it, and if it is ascertained that he has received a rebate [for the rent he was supposed to submit] from the *daphadara* or the *jāgira* holder, the person who enjoyed the rebate shall be made to pay the landlord's share of the rent for as many years as he is proven to have received the rebate, and the authorised tax collector shall be fined an amount equal to that and shall be dismissed [from his post]. The land shall be given for cultivation to that person who came to report that a rebate was fraudulently taken for that land, on the condition that he pays the applicable taxes. The post of the *jimmāvāla*, *mohīnāike* or the like shall be given to someone who is ascertained as being capable of carrying out the tasks of a *jimmāvāla*, *mohīnāike* or the like.

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28. If the Sadaradaphadara or a *daphadara* office or the auditor general (*mahājāca*) reassigns [the posts] of *mohīnāikes*, *jimmāvālas*, *mukhiyās*, *tharīs*, *thānīs*, *caudharīs*, *mokkadamas*, *jimidāras*, *mijhāras* or *jhuttāvālas*, land shall be given to them after the written declaration is obtained from them, with the following particulars: ‘If we make barren land in the vicinity of the *kheta* or *phāko* land under our responsibility arable, we will register it as newly cultivated land after 3 years and pay rent [for it]. If we do not notify about it, conceal it, enjoy the rent ourselves or leave [the produce] for our tenants, we will compensate for the damages and will pay a fine equal to the damages. If we claim a rebate from the *jāgira* holder, Sadaradaphadara or a *daphadara* on the grounds that our land was destroyed by a flood or landslide, although the land was [in fact] not destroyed by a flood or landslide, we shall be made to pay an amount equal to the rent for which we received a rebate, be fined an amount equal to that, dismissed [from our post] and [our post] shall be reassigned.’ If [an official] does not act in accordance with the declaration he has given in writing and if it is ascertained that he has concealed the [additional] rent from the [newly cultivated] land and enjoyed [the crops] himself or left it to the peasants, or that he has fraudulently taken a rebate, such a person shall, upon an investigation, [be made to compensate] the damages according to what has been written down [in the declaration], shall be fined, shall be dismissed [from his post], and [his post] shall be reassigned to someone who is ascertained as being capable of carrying out the duties of a *mukhiyā*, *jimmāvāla*, *jhuttāvāla* or the like.

29. If someone comes to report at an *adālata* or *ṭhānā* office, the Sadaradaphadara, a *daphadara* office, the Kumāricoka or an *aḍḍā*, *gauḍā*, or *amāla* office that a person has lied about an intact plot of land within the entire kingdom of Gorkhā, Madhesa and the hill region, claiming that his land was damaged by a flood or landslide, or that it became barren, dry, marshy or sandy or the like, [but] that this person [in fact] has enjoyed [the produce from his land], and if [the culprit] is made to issue a confession regarding such land, he shall be made to pay an amount equal to the landlord’s share of the rent for as many years it is proven that he fraudulently enjoyed [the produce of his land] and he shall be fined an amount equal to that and shall be dismissed [from his land]. The land shall be awarded to the person who has come to report [the fraud] if he is capable of carrying out the tasks [entailed by the land assignment]. If someone comes to report that a certain person has lied [about the condition of his land], but during the investigation it is not proven that the person fraudulently enjoyed the rent, and if the accusation is proven to be false, such a false accuser shall be fined an amount equal to the landlord’s share of the annual crop yield of that land. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

30. If the auditor general (*mahājāca*) has examined a *kheta* or *phāko* land, distributed it, collected [a certain] percentage [of its produce], and registered it under [the name of a certain] subject, and if the person under whose name the land was registered is not able to cultivate it and the land is about to become barren, either he himself or a *jimmāvāla*, *mohīnāike* or the like shall give the land to someone else to make use of it for cultivation. [The new tenant] shall not be dismissed and the land shall not be reassigned to someone else for as long as he makes the land usable, cultivates it, pays the applicable taxes, enjoys the harvest from the land and does

not stop paying the taxes applicable on that land. The person under whose name [the land] was registered in the course of land distribution shall not be allowed to claim that he shall cultivate it. If someone dismisses [the new tenant of] such land and reassigns it [to someone else], he shall be fined an amount equal to the landlord's share of the annual crop yield [of that land] and the person who cultivates the land shall be reinstated [in his tenancy].

31. If any crop of rice or wheat does not ripen, suffers from drought or a hailstorm, is eaten by locusts, is damaged by a flood or landslide, or is buried, the tenant or the like who cultivates the land shall go to any nearby *aḍḍā* or *thuma* office to file a complaint. The official at the *aḍḍā* or *thuma* office shall issue a writ in the name of the *jimmāvāla*, *tharī* or *mukhiyā* of the respective place and forward it. According to that [writ], [the tenant] shall take the *jimmāvāla*, *tharī*, *mukhiyā* or local nobles (*bhalā mānisa*) of that place [to his field] as witnesses and harvest [the crop]. The crop yield shall be determined with a measuring vessel (*pāthī*), and [the tenant] shall submit his rent to the landlord in accordance with the *Ain* and receive a receipt for it. Once the tenant has received the writ of the *aḍḍā* or *thuma* office, the *jimmāvāla*, *mukhiyā*, *tharī* and the local nobles shall stand [as witnesses at the field], making sure that the crop is harvested and measured exactly as it is, recording the rent and noting down the names of the witnesses. They shall keep one copy of the document with themselves, shall give one copy to the tenant and submit one copy to the respective office. The officer at the *aḍḍā* or *thuma* office shall note it down in his ledger. If it is ascertained that the *jimmāvāla*, *mukhiyā*, *tharī* or local notables, out of favouritism for the tenant, [did not record the crop yield] as it was, [but] a lesser amount, the tenant shall be made to compensate [the landlord] for the reduced amount of rent, and whoever among the *jimmāvāla*, *mukhiyā*, *tharī* or local nobles has stood as witness shall be fined an amount equal to that. The landlord shall not be allowed to lodge a complaint that his rent was reduced if a *jimmāvāla*, *mukhiyā*, *tharī* or *bhalā mānisa* was present while reaping the crops. [The rent] shall, in accordance with the *Ain*, be collected [as it was recorded]. If it is ascertained that the tenant has reaped the crops on his own, without receiving a writ from the *aḍḍā* or *thuma* office and without having even a single person from among the *jimmāvāla*, *mukhiyā*, *tharī* or *bhalā mānisa* as a witness, the landlord is not required to provide [the tenant] with any rebate. [The tenant] is required to pay his rent as it was registered.

## 4. On Tenants Defaulting on the Payment of Rent

1. If *birtā* and *jāgira* holders declare that they require paddy and request [their tenant] to hand it over to them, the tenant shall pay his rent in the form of the paddy itself. If, according to the account book (*śrestā*), the tenant has to deliver [his rent at the landlord's residence], the tenant shall submit [the rent] by delivering it [there]. If, according to the account book, the tenant does not have to deliver [his rent there], then the tenant shall hand over the title to the paddy [at the field] itself. The tenant shall not be required to deliver it [at the landlord's residence].

2. If a tenant does not pay the rent and other charges that are to be paid for the *raikara*, *birtā* or *jāgira* land [he has taken in rent], and if he pretends that the land has yielded deficient crops, whereas it has yielded excellent crops, or if he pretends that the crop has been destroyed by a hailstorm, landslide or flood, whereas it has not been destroyed by any flood, landslide, fire or hailstorm, or if he [fraudulently] declares that there has been no cultivation due to a lack of water resulting from damage to the irrigation channel, and he defaults on the annual payment of rent every year, such a tenant shall be dismissed and the land shall be reassigned [to another person], even if [the tenant] has made barren land—[irrespective of whether it falls under the category of] *jillā* land or not—arable.

3. If a tenant of *raikara*, *kipaṭa*, *jillā*, *japhatī*, *guṭhī* or *birtā* land embezzles rice that grew on the field [he has taken in rent], presenting only the chaff and declaring fraudulently: 'Either you take this or nothing. This is how [the crops] have grown', and troubles the landlord with such trickeries, [such a tenant] shall be stripped of his land and it shall be assigned to a new tenant.

4. If someone comes to report that [a tenant] has pretended that state-owned land, irrigated paddy fields (*kheta*) or unirrigated slopes (*pākho*) have been assigned for porterage services (*hulāka*) or offered [to someone] as a *jāgira*, and has embezzled and enjoyed [the harvest] by not paying the rent and other government dues, the person who comes to report this shall himself be awarded with the tenancy of that land. The rents and other government dues, too, shall be collected from that person. The tenant who embezzled and enjoyed the harvest shall be made to compensate the landlord's share of the harvest for as many years he is proven to have misappropriated it and shall be fined an amount equal to the damages. A *daskhata* of the venerable prime minister shall be issued to the person who came to report [the misappropriation of that] land, awarding him with [its tenancy].

#### 4. On Tenants Defaulting on the Payment of Rent

5. When paying the rent for land which is registered in files recording the emoluments (*khānagī*) [of the personnel] of the *kamṭu*, *paḷṭana*, or *kaṃṭpanī*, or of the courtiers, *jāgira* holders or the like, or for land—being held in reserve (*jagerā*) or undeclared (*ukāsa*)—[managed by] the *daphadara* office concerned, if disputes arise between the tenants, landlords and the *daphadara* that the land for which earlier files or rent collection certificates (*tirjā*) are extant was destroyed by a flood or landslide, or that [the crop yield] of cultivated land given into lease has been decreased or increased, the tax assessment (*moḥṭa*) files which were examined by the auditor general (*mahājāca*) in the year [VS 19]10 (1853 CE) shall be verified, and in instances where there has been an increment [in the crop yield] in comparison with what is recorded in the tax assessment files of the audit of the year [VS 19]10, it shall be accepted, and in instances where there has been a decrease [in the crop yield], a rebate shall be granted and [the rent] shall be collected by the landlord, the *daphadara* or the like. The tenant shall also pay [his rent] accordingly. If [the crop yield] of the land decreases due to damages caused by a flood or landslides after the audit conducted by the general auditor, then a *jāgira* holder shall examine [the affected land] when the land is registered under the name of the *jāgira* holder, or the *daphadara* concerned shall examine it when the land is held in reserve or is undeclared, and after [the *jāgira* holder or *daphadara*] ascertains that the damage caused to the land does exist, the tenant shall be given a reasonable rebate in relation to the damage to the land and the remaining [rent] shall be collected. In the same manner, if there is, in accordance with the *Ain*, any increment [in crop yield], it shall be enjoyed by that person under whose name the emolument which had increased is registered as *jāgira*, or the *daphadara* concerned shall collect it, if the increment is generated on land that is held in reserve or is unclaimed. In the same manner, the *jāgira* holder under whose name [the land] is registered as *jāgira* shall request that the emolument records should be corrected accordingly. The *daphadara* concerned, too, shall make the correction [accordingly]. If land is held in reserve or is unclaimed, the land records office concerned shall make the corrections.

6. If gardeners, lumbermen, sawyers, grass cutters, carpenters, charcoal burners, labourers in gunpowder or paper factories, porters, mail runners or sentries default on the payment of their annual rent or other charges [applicable to] the irrigated paddy fields or highland slopes cultivated by them, the *tālukadāras* for the respective revenue item (*rakama*) [assigned to such tenants] shall be informed and [the dues] shall be collected from them. The *tālukadāra* shall then dismiss such tenants who have defaulted on the payment of their rent and make arrangements for the reassignment of the tenancy to a person who does not default on the payment of his rent and who can carry out the labour obligation (*rakama*) [for which the land is assigned to him and] registered under his name. If the landlord comes to complain that the *tālukadāra* has not given the rent to him, then the *tālukadāra* who does not pay the rent shall be fined 5 rupees and shall be made to compensate the rent.

7. If [a tenant] comes to complain that the crops have been damaged by a hailstorm, the rice has not ripened, has suffered from drought or has been devoured by locusts, then the damage to them shall be assessed and no rebate shall be given if the crop yield was diminished by [only] up to  $\frac{1}{4}$ . If the damage caused to the paddy field is more than  $\frac{1}{4}$ , then [the loss] shall be shared [among the landlord and tenant].

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8. If the crops of about 2–4 years remain at a tenant's house due to [other] work and [later], while selling [the crops], the [tenants] do not receive an adequate rate [for them], and if the landlord arrives [at the tenant's place] and it turns out that the tenant has withheld [the crops] by fraudulent and deceitful means, the *jāgira* holder shall be compensated either according to the market rate [of the crop] at the time when he arrived [at the tenant's house], or according to the present rate—whatever is more profitable for the *jāgira* holder. If crops have been withheld and the landlord does not reach [to the tenant's home to collect his rent], the tenant shall be made to compensate the rent—either at the rate of the time when the landlord or his representative arrived [at the tenant's house] or the current rate—for as many years as the crop was withheld by him.

9. If a *jāgira* holder comes to complain that his tenant has withheld the payment of rent by fraudulent and deceitful means when he went to collect his rent from the tenant within the months of Mārgaśīrṣa to Śrāvaṇa, and if it is ascertained upon interrogation that the tenant has withheld the payment of rent, such a tenant shall be detained and his goods, house and land shall be used to compensate the *jāgira* holder. If this is not sufficient [for the compensation of the *jāgira* holder], [the tenant] shall be made to sign a loan agreement without security (*kapālī tamasuka*). If his goods, house and lands are not sufficient and [the *jāgira* holder] declares that he would rather accept a loss in the rent, rather than ask for a loan agreement without security from such a person, and orders that [the tenant], in accordance with the *Ain*, is to be fettered, the tenant shall be fettered, be sent for road construction works and shall be set free after serving his sentence at the rate of 1 month for every 5 rupees. If the *jāgira* holder wishes to pardon the tenant and set him free, he shall be allowed to do so. [The tenant] shall be set free. Once [the *jāgira* holder] has [the tenant] fettered for not paying his rent, he shall not be allowed to ask him again [for the rent].

10. A tenant, subject or peasant who cultivates the land of someone else shall take the rent required for the land he has cultivated [to the landlord's residence] and submit [the rent] within the stipulated time. If [the rent is] not submitted and the crop remaining in his house is burnt when his house is destroyed by a fire or thunderbolt—[from the time of the harvest] until the month of Phālguna in the case of rice and until the first day of the month of Śrāvaṇa in the case of wheat—[the tenant] shall not receive a rebate. [The loss] shall fall under the responsibility of the tenant who cultivates the land. If—after that period—the landlord keeps the crops in the tenant's house to sell them once the price drop is over, and the crops are then burnt, [the loss] shall not fall under the responsibility of the tenant. The *jāgira* holder or landlord shall grant [the tenant] a rebate. After examining [the tenant's] village or house, a rebate shall be granted for whatever crops were burnt.

11. If a tenant or peasant who cultivates *guṭhī*, *birtā* or state-owned land or the like of someone else declares that [his landlord] shall collect the rent required for the land he cultivates, and if the landowner, *jāgira* holder or *daphadara*—except for someone who has gone far away on state business—has not collected the rent even after 1 year has passed and if [the crops] are proven to have remained at the tenant's house, and if the tenant or peasant has submitted the rent for all the years he is required to pay, the landlord or *daphadara* shall provide him with a rebate of

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1 *pāthī* per 1 *murī* [on his rent] for each year [the crops remain with the tenant] and shall collect the remaining amount from the tenant. If it is ascertained that [the tenant] has spent the grain stock of the previous years and he declares that he will submit [only] the crops of the current year, the landlord shall not be required to grant him a rebate. The tenant shall, in accordance with the *Ain*, be required to submit [his rent] and compensate [his landlord].

## 5. On the Sale of Rents

1. If a *jāgira* holder or anyone else sells or mortgages his authorisation letter for tax collection (*tirjāpurjā*) to two persons, [the contract] with the first buyer shall be valid. If [the *jāgira* holder] is capable of paying back the money to the second creditor, he shall be made to compensate the credit sum, and if he is not capable of paying back the money, he shall be made to issue a loan agreement without security (*kapālī tamasuka*) [for the credit sum] and shall be fined an amount equal to that. If he does not pay back [the credit sum], he shall be imprisoned at the rate of 1 month for every 5 rupees.

2. If the authorisation letter for the tax collection of a *jāgira* holder is lost or stolen, [further rent collection] on that land shall be immediately obstructed in writing by [the *jāgira* holder] himself or through a writ of the *daphadara* office, stating the particulars of the incident. If a tenant submits the rent on the basis of a lost or stolen authorisation letter for tax collection after the obstruction letter has reached him, such a tenant shall have to submit the rent to the *daphadara* or *jāgira* holder [as well]. If the obstruction letter has not reached him and the tenant has submitted the rent on the basis of an authorisation letter for tax collection stolen by a thief, the tenant who received that authorisation letter and paid the rent shall not have to pay the rent twice. The officers of the *daphadara* and the *jāgira* holder shall have to find the person who has [illegally] collected the rent by showing the [stolen] authorisation letter and recover the rent from him.

3. If a tenant declares that he wants to keep the crops which were bought by a trader (*besautyā*), a grain speculator (*dhokryā*) or an *ijārā* or *theke* holder and offers [instead] money [for the crops] at a market rate, they shall accept the money at the current rate of that month when the authorisation letter for the tax collection rights was taken [to the tenant]. The grain speculator shall not have the right to collect the crops by use of force. If it is ascertained that the crops have been forcibly collected, a fine of 10 percent of the total [value of the crops] shall be imposed. The tenant shall not be required to pay the 20-percent fee. No fault shall be assigned if the tenant has handed over [the crops] at his own will. One shall act in accordance with this *Ain*.

4. If one *jāgira* holder exchanges the rent derived from his emolument with that of another *jāgira* holder and they [also] exchange their authorisation letters for the tax collection with each other, and if [such a *jāgira* holder] goes to the land with [the authorisation letter] he has taken from the other [*jāgira* holder] to collect rent from the tenants, it shall be at the pleasure of the



[*jāgira* holder] who goes with the authorisation letter to collect the rent as to whether he collects the crops as per the authorisation letter or he takes money against [the crops] at a current rate. The tenant shall not resist. The [*jāgira* holders] who exchange their [rights of] rent [collection] shall not be considered grain speculators.

5. If a *jāgira* holder of a *kampu*, *paḷṭana* or *kaṇṇanī* sells his right to tax collection (*tirjā*), emoluments, *theka* contract or the crops [assigned to him for his service] at a rate of his own choosing, it shall be valid. A grain speculator shall not have the right to seize hold of the tenant and *jāgira* holder, if the rent recorded in the authorisation letter is decreased due to a flood, landslide, fire or hailstorm. One shall buy [rent collection rights] by examining and inquiring beforehand. If a grain speculator seizes the tenant and *jāgira* holder on the grounds that the land has suffered from a flood, landslide, fire or hailstorm after completion of the sale, the grain speculator shall be fined an amount equal to the damages for which he seized hold of [the tenant and *jāgira* holder].

## 6. On Revenue Matters

1. A minister who breaks a quinquennial [contract], who enjoys crown fees (*paṭṭabanko dastura*), who kills [another] minister or subject, who wastes government money or who consumes beef shall be considered a minister untrue to the salt. A minister who raises [the rent] by splitting up the lands east of the Mahākālī and west of the Mecī river or the like, or, in Madhesa, gives out revenue contracts (*ijārā*) splitting the land into various districts (*pragannā*), who himself enjoys or allows an *ijārā* holder to enjoy money that has to go into the state treasury or who plunders the property of the subjects, such a [minister] shall be considered untrue to the salt. A minister who either suppresses this *Ain* or erases it shall, too, be considered untrue to the salt. The five times venerable king, along with the *bhāradāras*, high-ranking official (*umarāva*), commoners and subjects, shall understand that this *Ain* was promulgated upon the approval of the Kausala.

2. While making arrangements for *ijārā* or *amānata* revenue contracts, the revenue contracts shall be offered to a carefully selected and reliable person who has his household, wife and children in our realm. Even if [the income from such] a revenue contract was to increase up to 1 *lākha* rupees for [a revenue contract] worth 50,000 [rupees] by [assigning it] to a person from Mugalāna who has his household, wife and children in another realm, no revenue contract shall be offered to such a person from Mugalāna who does not have his household, wife and children [in our realm]. If someone unknowingly offers a revenue contract [to a foreigner], the deed of lease bearing the royal seal shall be taken back, it shall be destroyed, and then offered to someone who has his household, family and offspring in our realm. If someone wittingly offers a revenue contract to someone from Mugalāna, at the time of the reassignment (*pajanī*) [of the revenue contract], the total amount for which the deed of lease bearing the royal seal was issued and handed out shall be raised for the government from the person who assigned the revenue contract to someone from Mugalāna, and he shall be fined 5 percent of that total amount. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees.

3. Whether at the time of, or after making the arrangements for *ijārā* or *ṭheka* contracts for *raikara*, *jāgira*, *guṭhī*, *birtā*, *bekha*, *chāpa*, *mānācāmala* land or the like, if the subjects living on that land come to declare within the month of Caitra: ‘Do not give our land to others through an *ijārā* or *ṭheka* contract. We, the subjects, shall submit the total amount promised [by the person to whom the *ijārā* or *ṭheka* contract shall be issued] through such and such a person. Even if, by any chance, that person misappropriates the amount, we shall pay the amount ascertained [as being misappropriated] from our household property’, and if [those subjects] present a reliable

person as surety and also issue a witnessed written declaration (*muculkā*), a *lokābhāra* contract shall be offered to these subjects by annulling the arrangements for the *ijārā* or *theka* contract for such land, even though it has already been offered to someone else.

4. After land is reassigned and handed over [to a contractor] by issuing a deed of lease together with [the contractor's] deed of consent (*kabuliyata*), and after the person who has received the contract has also submitted the first instalment, if someone strips [the contractor] of his land before the stipulated period is over and creates a dispute, and the person who has received the contract does not get to use his land or to make any business out of it, the previous *ijārā* holder shall be granted a rebate on the increment (*ijāphata*) [in rent he promised to pay], proportional to the number of months or days he was obstructed [from the enjoyment of his land] before the stipulated period was over. If the previous contractor, who has received the land, has already made a full payment as per his deed of consent, or the calculation shows that there has been an overpayment, then the person who reassigned his land before the stipulated period was over shall be made to compensate for the overpayment along with interest at the rate of 10 percent, and this person shall be fined an amount equal to the rebate received by the former [contractor]. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees. If a *theka* or *ijārā* holder cannot collect the rent by his own strength, and if dues remain for that land after the stipulated period is over, the *theka* or *ijārā* holder shall not receive a rebate [for that amount]. One shall oneself submit the amount which is required to be submitted, make any arrangement or payment for that land, and collect [the rent], after asking the *hākima* for help in the appropriate use of force.

5. During the reassignment of *ijārā* and *theka* contracts for land, revenue items or the like, if someone promises to submit a certain amount and has a deadline notice posted [under his name]<sup>151</sup> or requests his masters [to issue him such a contract], but later he declines to take the land and renounces [the contract offered to him], such a person shall be fined an amount equal to the increment [in rent] if the increment was increased [in the contract], or he shall be fined 20 rupees for his foolishness, if the increment was not increased. If he runs away, wait [for him] until the deadline had passed. If he does return before the deadline is past, arrangements shall be made to reassign the land [to another person] at whatever rate can be achieved. The amount proposed by such a foolish person who is absconding shall not be valid. The absconding person shall be apprehended whenever he is found and punished accordingly. If [the amount of the fine] is not paid, he shall, in accordance with the *Ain*, be imprisoned.

6. If someone provokes a quarrel by not paying the *sermā* [tax] appropriate for *khuvā* land or the customary taxes and fees that have been registered and handed down from earlier times or the amount for his *theka* contract, claiming that his land has been decreased, although it has not been decreased, or claiming that a house has been erected on it, such a person shall be made to pay an amount equal to what he [falsely] claimed as a loss and shall be fined an amount equal to that.

151 This means, if no one submits a better offer until the end of that deadline, the contract will be issued to him.

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7. [This section is] not valid.<sup>152</sup> (While giving out an *ijārā* or *ṭheka* contract for *birtā*, *bekha*, *chāpa*, *jāgira*, *khuvā*, *guṭhī* or *gāū* land, including [land] for *rakama* assignments, the person who gives out such contracts shall make the recipient of the land increase [his bid for the contract] as far as possible in express terms and shall grant it to him. Once a person is appointed who bids the highest sum in a competition and whom one trusts and who has offered the *cāradāma* fee for [sanctioning the contract through] a *lālamohora*, *daskhata* or a deed of lease, if another person comes to make a higher bid within 7 days of the same year, [the contract] shall be given to the person offering the highest bid. If a person makes a higher bid after 7 days, the first bidder shall not be deprived [of his contract]. The bid of the first person shall be valid. The *adālata*, Kausi[*toṣākhānā*], *daphadara*, Kumārīcoka or Mulukīkhānā office or the *jāgira* holders or the like or the owners of tax-exempted *birtā*, *chāpa*, *bekha*, *phikadāra*, *marauṭa*, *mānācāmala* and *guṭhī* land or the like shall instate the first [bidder as contractor]. If someone transgresses the *Ain* and reassigns the land, he shall be fined 10 rupees for every 100 rupees [of the total value of the contract]. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.)

8. While carrying out the re-allotment of the revenue contracts for the entire realm—from the east of the Mahākālī to the west of the Mecī river, in Madhesa and the hill region—if the clerks of the Kausitoṣākhānā office or the like—while granting *ijārā* contracts, *amānata* assignments or [collection rights] for customary taxes and fees for state-owned, *khuvā*, *guṭhī*, *birtā*, *chāpa*, *mānācāmala* or *bekha* land, or for mines and mints or the like, or while issuing a deed of lease (*paṭṭa*), deed of consent (*kabuliyata*), an ordinance (*savāla*), a written declaration (*muculkā*) or a declarations for suretyship (*jamānipatra*) or the like when a surety or the like is given—record only 1 person from among the father, sons or coparceners living together, sharing the kitchen, and without having partitioned the paternal property, and if anyone among the father, sons or coparceners or the like or any other family member living together by sharing the kitchen and without having partitioned the parental property comes to complain that their name has not been mentioned in that written document and [therefore] they will neither partake in any loss or profit pertaining to the matter [dealt with in the deed], it shall be permitted to collect [any dues or fines] only from the share of property of the person whose name is recorded in the document. It shall not be allowed to collect [any dues or fines] from the share of property of those persons who have not agreed [to the contract]. It shall not be collected [from them]. If the total amount cannot be collected from the person [whose name is recorded in the deed], the clerks who had him issue the document and gave him the land shall be made to compensate [for his dues]. People from all the Four Varṇas and Thirty-six castes or the like shall, too, collect [their dues] from all [family members] only if the names of all coparceners who live together, sharing a kitchen and without having partitioned the parental property, are recorded in [a deed of lease for] the *guṭhī*, *birtā*, *bekha*, *marauṭa*, *mānācāmala* or *khuvā* land or a declaration of suretyship. Otherwise, others shall not be permitted to be held responsible. The profit or loss shall belong to the person whose name is recorded in the document. [Dues and fines] shall be collected only from him. If the parents issue

152 Though this section is marked as being cancelled, MA<sub>1</sub> gives the text in round brackets.

such a document, the son shall have to pay. If any coparcener, father or son, eating cooked rice in the same kitchen as the person who receives a document for any transaction such as a *savāla*, deed of lease or declaration of suretyship, comes to declare within two months that his name is not recorded in the document and he does not agree [with the contract], such a person shall not be obliged to pay. If someone learns about it, but does not come within two months to report [that he does not agree], he shall have to partake in the profit or loss and pay accordingly. If such cases surface within the month of Mārgaśīrṣa of the year [VS] 1914, one shall proceed in accordance with what has been practiced before. After that [date], [such cases] shall be decided in accordance with this *Ain*.

9. If someone receives an *ijārā* contract or *amānata* assignment by issuing a *savāla*, deed of lease or deed of consent, and if that person employs people on this land, and if there is a written agreement that the overall profit and loss shall be divided [between the contract holder and his employees], each person shall partake in the profit and loss according to his share. If there is a partnership (*sarkhata*) [between a contract holder and an employee] on a wage basis, [the employee] shall receive [his wage] according to the partnership [agreement]. If [the employee] has neither a partnership [agreement], nor a written contract (*kabuliyata*) defining his wage, and if he has worked at his own expense, he shall be provided with a wage of 3 rupees per month for as long as he has worked. If there is neither a partnership [agreement] nor a written wage contract (*kabuliyata*), and if he has worked while receiving his expenses from the holder of the revenue contract (*rakamī*), [such an employee] shall receive [wages] only if [his employer] wishes them to pay. If he does not want to pay, he shall not be obliged to do so. In such cases where there is no written document specifying how the overall profit or loss [is to be distributed], if there is a profit accruing on the land, and if [the employee] comes to claim that he has worked [on that land] and is entitled to a share [of the profit], then he shall be told that he shall not receive a share without a written document. If there is no written document specifying [the distribution of] the overall loss and profit, and if there is a loss accruing on the land, and if the person who has taken the land [into lease] comes to claim that he and his employee have worked jointly on that land, that there has been a loss and the employee shall, too, partake in it, in the absence of a written document [the employee] shall not have to pay for the loss. In such disputes, neither a fine nor a winning fee (*jītāuri*) shall be imposed. Such cases shall be decided and [a fee of] 10 or 20 percent [of the amount in question] shall be collected.

10. If traders, merchants or the like enter into a joint business, and if all agents (*gumāstā*) entered that business by means of an investment, each shall partake [in the profit or loss] according to the amount he has invested. If only one person has invested in it, while the others have joined the business only as agents, and if the owner issues a written agreement that [some agents] will partake in the profit and loss and [others] will receive wages, those who partake in the profit or loss shall receive their share and those who are employed on a wage basis shall receive their wages. If there is no partnership [agreement] with the owner, [the agents] are not allowed to seize [the owner], claiming that they were promised a share of the profit or wages. If an agent carries out his work [in the business], [but] there is no partnership [agreement] specifying how much he

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is to be paid, [the owner] is not required to pay anything to such an agent, if he is provided with food when he is put to work. If he has not been provided with food, the employer shall be made to pay him [wages] at the rate of 3 rupees per month, calculating [the number of] days he has worked. If someone has neither carried out any work, nor has the owner issued any partnership [agreement with him], nor has he promised him [any salary], and if [the agent] comes without any reason to seize [the owner] claiming that he is entitled to receive such and such [an amount of money], such a person who, without a partnership [agreement], comes to claim [money] from someone else shall be considered a fraud. He shall be fined an amount equal to the amount he has claimed for.

11. If a person carries out tasks concerning government money, such as the money [raised through] *ijārā* contracts, *jāgira* assignments, money of the crown (*muluka*), or with the clerks of the toll and customs offices (*jaḡāta*, *bhaṃsāra*), mines, mints or the like, or with the reserves of the kingdom, or with offices such as a treasury (*dhukuṭī*), the account office (*tahabila*), *daphadara*, *Sadaradaphadara*, the *Kumarīcoka*, the *adālata*, *ṭhānā*, *aḡḡā* or *gauḡā* offices, the arsenal (*megajina*), or with the *dharmādhikāra*, revenue contract holders (*rakamī*), village council members (*kārobārī*), or with any military, royal or civil institutions, and if someone comes to accuse him of the embezzlement of hundreds of thousands of rupees, but manages to prove only the embezzlement of 1 rupee, then he shall not be held accountable and no punishment or fine shall be imposed on such an accuser, even though he has accused the person of having misappropriated a lot of money, but has managed to prove only the embezzlement of 1 rupee. If he cannot even prove the embezzlement of a single rupee, such an accuser shall be fined an amount equal to the amount he has [falsely] claimed as having been misappropriated. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees. The person who was falsely accused does not require any [punishment or fine].

12. While clearing the annual total expenses of the four *adālatas*, the *Iṭācapali* court shall— as it is handed down—collect a customary fee (*dastura*) of only 9 rupees, and shall separately issue receipts for each office under the name of the head (*mālīka*) of the [respective] *adālata*. Once the [accounts] are separately cleared, one shall not collect [additional] fees, claiming that a fee is required for each clearance.

13. From the 1<sup>st</sup> day of *Śrāvāṇa* in the year [VS] [19]21 on, any person (*duniyāḡḡāra*), including the five-times venerable king, while giving out revenue assignments in the form of *ijārā* contracts or *amānata* assignments, while advancing cash loans through loan deeds (*tamasuka*), while handing [revenue] over to the responsibility of the account office (*tahabila*), while commissioning any work with the authority of spending an amount above 10,000 rupees, and while writing down a *savāla*, deed of lease (*paṭṭā*), an agreement (*kaḡuliyata*), a *tamasuka*, an acknowledgement of rights (*akrāra*), or a letter of consent (*jaḡānabandī*) in such matters, the names [of the members] of three generations—the father, the son or the brother's son and the grandson—who are past the age of 16 shall be recorded and signatures of all three shall be obtained. If members of [all] three generations are not available, the names [of members] of two generations who are past the age of

16 years shall be recorded and their signatures shall be obtained. If not even [members of] two generations are available, the names of that person's brothers or his uncle's sons shall be recorded and their signatures, too, shall be obtained. In the same manner shall their names in a *savāla* or deed of lease, too, be recorded. The signature of a boy who is not yet past the age of 16 in a loan deed, written agreement or acknowledgement of rights shall not be valid. If—without adhering to this rule—a *rukkā* or *daskhata* is issued, ordering that a loan deed, acknowledgement of rights, *savāla* or deed of lease shall be issued under the name of only a single person or under the name of his son, grandson, brother or uncle's son, and this person is not past the age of 16, the property remaining with the person who ordered the preparation of a *rukkā*, *daskhata*, *savāla* or deed of lease shall be collected. If someone does not have anyone among his father, son, grandsons, brothers or uncle's sons whose signature is valid, such a person shall not be given any of the tasks mentioned above. Once someone has signed [such a document], he shall not be allowed to claim that he will not enjoy his grandfather's, father's, brother's, or his uncle's son's property and [therefore] does not need to pay his dues. Once [such a document] is signed, the dues are to be paid.

14. A military or civil *hākima* or a holder of a revenue contract or the like who is posted at the various *aḍḍā* or *gauḍā* offices and collects dues on the land [which he is authorised to do] shall daily enter the income in cash and kind—the income which is to be collected according to the *savāla*, the *sarsalāmī* and *daidastura* fees, the income or dues in the form of cash or goods, including corvée, the income from any legal dispute that has been settled or the assessment of the income of the litigated sums of any dispute that has not been settled [yet], the fines imposed by any *adālata*—together with the expenditure, into a ledger (*syāhā*) for the respective day. They shall prepare a copy of that ledger without even changing a single letter, affix their own signature and seal and shall submit it at the Kausala within 3 days, if they are posted within Nepāla. Those who are from far away shall forward it to the Kausala every 60 days, excluding the number of days required for the outward and return journey. The officials at the Kausala, too, shall keep that document with them, make a copy of it and forward it to Kumārīcoka. If someone who is from Nepāla brings [the ledger] after 3 days, and someone who is from far away brings it after 60 days, excluding the days required for the outward and return journey, such a person shall—after the amount [recorded as income in the account] is provided—be fined 10 percent of that amount.

15. The Kumārīcoka shall collect the income according to the document it receives from the Kausala and review the account. If it turns out that the income was not registered in the ledger on the date it was collected, [but] was registered under a different date, a fine equal to 20 percent of the cash and goods registered in the ledger [as income] later and on a different date, shall be imposed.

16. If an amount is collected from the subjects and a signed and sealed report in accordance with the ledger for the respective date is sent to the Kausala, and if, at the time when the account is being reviewed, [it shows] a different amount, it shall be considered [only] a mishap, as long as upon examination the ledger [the overall account in the report] accords with what has been collected from the subjects. The person [who is responsible for the erroneous entry] shall

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not be held accountable. If an amount is collected from the subjects, [but] a different amount [is recorded] in the signed and sealed report in accordance with the ledger for the respective dates sent to the Kumārīcoka, or [the amount] is not recorded in the ledger [at all], the person [who manipulated the account] shall be fined an amount equal to the [embezzled] amount and shall be dismissed from his post.

17. If it is ascertained that commodities and goods, such as cardamom or the like, which have been ordered to be sold only in government granaries and shops and not to anyone else, have been sold to someone else without taking [the buyers] to such granaries and shops, the purchase amount [for these commodities] shall be confiscated and both buyer and seller shall be fined at the rate of half of the purchase amount. If someone takes goods from the government upon [the payment of] advance money, brings them to Mugalāna and sells them there, the sales proceeds shall be confiscated from the seller and he shall be fined an amount equal to that amount. If it is ascertained that [goods] have not been carried on a path leading to the granaries and shops, but on a secret path, and if the person who showed that [secret] path received something [in return], whatever he has received shall be collected from him and he shall be fined an amount equal to that. If the person who showed the [secret] path, did so without receiving anything [in return], he shall be fined 10 rupees. If it is ascertained that someone has knowingly brought goods which were taken to be sold in Mugalāna across the river, the fare charged by the person who brought [the goods] across the river shall be confiscated and he shall be fined an amount equal to that.

**Five<sup>153</sup> regulations for the issuing of a commendation letter or the imposition of punishment, according to the particulars, in a case involving officers or the like who are responsible for accruing income and expenditure and who have kept money with them. They are informed about what has been practiced since the year [VS 19]22, [namely] that the *hākima* of an office needs to accept, sign and imprint his seal on [the ledger of] the income and expenditure being received or given out, respectively, in the form of cash and goods or the like, and that [in this ledger] the type, rate, size, weight and total number of the items [received] is to be recorded, along with the names, address, signatures and seals of the persons who made the payment and those persons who received it; and that [the ledger must be supplemented by] a signed and sealed declaration of the treasurer (*tahabiladāra*) specifying which amount from what has been recorded as the gross amount in the total account. [This is to be done] when [such officers] bring their documents according to the established practice to the Kausala or Kumārīcoka within the deadline they agreed to, after having calculated the number of days required for the journey [to the respective office] and the time required to prepare that**

153 3 (MA<sub>1</sub>), read 5.



**document, or they do not bring such a document, or whether they prepare such a document in accordance with the ledger or not:**

19.<sup>154</sup> If someone from within Nepāla does not bring the documents within the deadline he has agreed to, and if he does this for the first time, one shall remind him, sending a bailiff for him, bring him away, detain him and make him prepare the document he promised to issue and set him free. If he again does not prepare the document for a second time, a bailiff shall be sent to arrest him, he shall be put into fetters, be made to prepare the document and be set free. If he again does not prepare the document for a third time, he shall be arrested, brought away, put into fetters, be made to prepare the document, and be dismissed from his post.

20. If someone—unless he is from Nepāla—does not bring the documents within the deadline he promised, a *daskhata* shall be sent as a reminder. If that person—after the *daskhata* has reached him—sends the required ledger or abstract account (*āvārje*), it shall be examined as to whether the necessary requirements are met or not and it shall be validated if the requirements are met. If the necessary requirements are not met, another *daskhata* as a reminder shall be sent, stating to what extent the requirements have been met and to what extent not, and summoning him to submit the ledger or abstract account again. If he does not send [the documents] even after such an attempt, the ledger or abstract account shall be asked for again by sending one more *daskhata* as a reminder along with imposition of a fine ranging from 1 *ānā* up to 20 rupees at the discretion of the venerable prime minister and according to [the severity] of the offence. If, even after that, he does not send the ledger or abstract account he promised to send, a soldier shall be sent for him, he shall be brought away, put into fetters, be made to prepare the document and dismissed from his post.

21. If someone writes the ledger or abstract account, fulfilling all the requirements as per his written agreement (*kabuliyata*) and in accordance with the *savāla* of the year [VS 19]22, and if he brings the said ledger for submission at the Kumārīcoka within the deadline promised and receives a quitclaim deed (*phārakatī*) after handing over the necessary documents, such a revenue contract holder or agent shall be awarded with a *rukkā* or *daskhata* of commendation with a [verification] stamp affixed at the bottom and with the following particulars: ‘[Such and such a person] has submitted the ledger or abstract account within the deadline he promised, creating a section where one can find the gross account and without any discrepancies in monetary affairs. He has received the quitclaim deed and carried out his duties without violating the *Ain* or the *savāla*.’

22. If a quitclaim deed is issued after a ledger has been received at a *daphadara* or the venerable Kumārīcoka, and if it is ascertained that such a quitclaim deed was issued after receiving a ledger which deviates from what has been specified in the written agreement [with the

154 MA<sub>1</sub> does not record § 18 here, but jumps immediately to § 19. However, there is a § 18 at the end of this Art.

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contractor or official] and the *savāla* promulgated in the year [VS 19]22, or it is ascertained that the ledger was not received even after three reminders were sent according to the deadline, or it is ascertained that a report was not submitted, even though it was requested, or it is ascertained that a rebate was provided after an income and expenditure entry was altered, without creating a section where one can find the gross account, without recording the rate, measurement, weight, quantity, name, caste and household of the recipient and payer, a fine shall be imposed at the discretion of the venerable prime minister in accordance with [severity] of the offence.

23. If a ledger is received from one of the various *aḍḍās* containing the particulars—how much the total income was, how much of it was spent and how much remains—a *sanada* shall be drafted, confirming that the ledger recording the income, expenditure and remainder from such and such to such and such a date has been received, and a [verification] stamp of the chief official of the Kumārīcoka shall be affixed to the bottom [of the *sanada*], and it shall be brought and stamped at the Kausala, and a receipt in form of a *rukka* or *daskhata* shall be issued [to the contractor or official]. Once [a contractor or official] produces such a receipt in the form of a *rukka* or *daskhata*, no one shall seize him later because of that ledger. A revenue contract holder, too, shall not be required to submit [that ledger to anyone else for examination]. If someone needs to examine that ledger later, one shall do so by asking for it at the Kumārīcoka itself and get another copy of it. If someone seizes the revenue contract holder, claiming that [there are dues] he needs to pay after he has submitted the ledger to the Kumārīcoka and obtained a receipt for it, such a person shall be fined 10 rupees.

### **The regulation on the imposition of a fine and punishment on a person who, while submitting a report for the total revenue collection under his responsibility, reports an amount which is less [than his actual collection]:**

24. If someone, while submitting a report for a revenue collection that is under his responsibility or for items he is required to submit, deviates [in his account] only [up to] 10 percent from the total amount he is supposed to submit, [but] the total [sum] is [still] found in the treasury, he shall, at the discretion of the *mukhtiyāra*, be fined between 1 rupee and 20 rupees and be freed, after he has been made to correct the document. If the total amount is found in the treasury, and it is ascertained that the person deviated more than 10 percent in the report, the total revenue shall be collected [from him], and he shall be dismissed from his post and shall be replaced. But if the total amount is not in the treasury, and the report, too, shows an amount [less than his actual collection], it shall be considered fraud with the intent of embezzling money. He shall be punished in accordance with the *Ain*'s [regulation] on corruption in revenue collection.

7.<sup>155</sup> If someone comes to declare that he shall pay more [than the current rate] for a piece of land or a revenue item given into lease as *ijārā*, the *ijārā* contract shall be granted to him

155 MA<sub>1</sub> numbers this section as § 7 although the original § 7 has already been added in brackets above.

after posting a writ (*pūrjī*) [under his name] in compliance with the procedures of the *Ain* and the *savāla*. If someone comes to offer a higher amount within a 7-day period, [the contract] shall be valid for that person. If someone fails to prove his credibility, he shall not have the right to complain that he arrived [to make his bid] within the 7-day period, even though [he has made his bid] in compliance with the procedures of the *Ain* and the *savāla*. The offer of the person who [has made his bid] in compliance with the procedures of the *Ain* and the *savāla* and is able to prove his credibility shall be valid. A *hākima* who offers an *ijārā* contract to someone only because the 7-day period [has elapsed], [but] not in compliance with the procedures of the *Ain* and the *savāla*, shall be fined at the rate of 10 rupees for every 100 [rupees] of the total amount [offered for the *ijārā* contract] and the *ijārā* contract shall be revoked.

18.<sup>156</sup> If a writ with a deadline for a government revenue contract or the like, that is reassigned from [a local office in] Nepāla, is posted, such a writ with a deadline bearing the seal of the official [concerned] shall be posted after affixing the seal of the Kausala to it and a copy of it shall be kept. If it is ascertained that the writ was posted without affixing the seals of the [concerned] official and the Kausala, and if it is ascertained one day ahead of the deadline that the *mukhtiyāra* has not been informed about it, the writ shall not be valid. The revenue contract or the like shall be offered in accordance with the *Ain* after posting another writ with the following particulars: ‘A writ posted without the seals [of the office concerned or Kausala] and without having informed the *mukhtiyāra* shall not be valid.’

156 MA<sub>1</sub> numbers this section as § 18 that is missing in the consecutive numbering of the sections above.

## 7. The Regulations on the Fulfilment of Revenue Contracts before the Year [VS] 1922

### **The regulation on the deadline for summoning ledgers:**

1. If a *dhākre*, *jāgira* or *rakama* holder from Nepāla or a *rakama* holder's brother or son or the like does not submit his ledgers, an order (*urdī*) shall be sent to that *rakama* holder, if he is from Nepāla, instructing him to either send a clerk (*kāṛindā*) who is capable of submitting the ledger, or to come himself within 35 days along with the ledger he is supposed to submit, or else he shall have to go through the humiliation of being arrested and put into fetters if he neither sends a clerk capable of submitting the ledger nor comes himself. If the *rakama* holder is from beyond Nepāla, a *rukkā* or *daskhata* with the same particulars shall be sent to him. If a *dhākre*, *jāgira* or *rakama* holder or whoever else it may be does not come even after the deadline [for the submission of ledger] lapses, he shall be arrested and [punished] in accordance with the *Ain* and the ledger shall be received from him.

### **The regulation on sending a *rukkā* or *daskhata* to apprehend a *rakama* holder and place him in fetters, when he does not come to submit his ledgers within the deadline:**

2. If a *rakama* holder from any year has not submitted his ledger to the Kumārīcoka by the date appointed, as soon as the year within which he has agreed [to submit his ledger] comes to an end, a writ (*pūṛjī*) of the Kausala that contains a [verification] stamp of the Kumārīcoka at the bottom margin shall be sent, setting a deadline of 35 days for preparing the document plus the estimated number of days required for travel. If he does not bring the ledger even after the said writ is sent, the *rakama* holder shall be summoned by drafting a *rukkā* or *daskhata* that states: 'Put him into fetters and apprehend him, whether by sending a person [yourself] or by writing to some other office', and having it signed after a [verification] stamp of the Kumārīcoka and Kausala has been affixed to the bottom [of the document].

**The regulation on signing a letter of consent (*mañjuranāmā*) for the true surplus remaining after [reckoning] income and expenditure, once a *rakama* holder has arrived [at the Kumārīcoka]:**

3. Concerning [revenue contracts dating] from before the year [VS 19]21, if a *rakama* holder comes to the Kumārīcoka, upon his arrival a signed and sealed document shall be received from the *rakama* holder [with the following particulars]: ‘I have recorded the income and expenditures I had, including those for the necessary tasks [prescribed] in the ordinance (*savāla*), *sanada* or *Ain* or for those I carried out at my own discretion as they occurred. This is the document that I am supposed to submit from the day I have assumed the responsibility until today, and that much is the income, expenditure and remainder as recorded in that document. There are no documents I have withheld or added. From among the remainder, this much is the suspense account (*ujarāta*) and this much is the net remainder.’ He shall issue a letter of consent (*mañjuranāmā*) for the net remainder and write down a document [with the following particulars:] ‘These are the documents from this to that year, this much is the suspense account from the total account (*vāsila bāki*) and for this much was a letter of consent issued.’ The consolidated sum (*moṭha*) shall be recorded and approved, and the *rakama* holder shall be provided with a receipt after affixing a [verification] stamp of the Kumārīcoka and Kausala to the lower margin. If the *rakama* holder was put into fetters, his fetters shall be released and the consolidated sum shall be transferred to the treasury.

**The regulation on granting a rebate to a *rakama* holder who has lodged a complaint and submitted a report at the Kausala, if he comes with a *rukkā* or *daskhata* within the deadline, or on not granting a rebate if he is not able to bring a *sanada*:**

4. A moratorium of 35 days shall be provided to a *rakama* holder to clarify the suspense amount (*ujarāta*) for which a receipt has been provided, [stating it] as the remainder that the *rakama* holder has kept with himself, declaring it as suspense money. A report shall be submitted to the Kausala within that period so provided. The Kausala, too, shall grant a rebate [for the suspense account to the *rakama* holder]. If [the suspense account] is ascertained to be proper, a report shall be written confirming that it has been ascertained to be proper, the prime minister (*mukhtiyāra*) shall be informed and one shall proceed in accordance with his reply. If [the *rakama* holder] is not able to clarify the rebate for the suspense account within the stipulated period, or if he is proven to have created a suspense account for inappropriate and unrequired matters, a writ from the Kausala shall be issued, instructing him to sign a letter of consent for [the payment] of that [suspense amount] and to hand over the consolidated amount to the treasury, and that *rakama* holder shall be sent to the Kumārīcoka.

**The regulation on exerting pressure on a brother or son of a *rakama* holder who has died without submitting his ledger, to come to submit that ledger:**

5.<sup>157</sup> If a *rakama* holder, who has yet to submit his ledger, dies, and his son or his brother's son who, at the time when the revenue contract was accepted, lived together with him without partitioning the joint property, and if the *rakama* holder comes from within Nepāla, an order shall be sent instructing [the son or nephew of the *rakama* holder] that it is the law that they have to submit the ledger [the deceased *rakama* holder] was supposed to submit within 10 months from the day this order is received. If they fail to submit it and they neither send a clerk nor come themselves [to hand in the ledger], they shall have to undergo the humiliation of being arrested and put into fetters. A *rukkā* or *daskhata* with the same particulars shall be sent [to the son or nephew of] a *rakama* holder from beyond Nepāla. If a *dhākre*, *jāgira* or *rakama* holder, or whoever it may be, does not come even after the deadline [for the submission of the ledger] has lapsed, he shall be arrested and dealt with in accordance with the *Ain*, and the ledger shall be received from him.

**The regulation on making a request for sanctioning someone who remains adamant on not signing a letter of consent for the net surplus:**

6.<sup>158</sup> If, while receiving the account, an obstinate *rakama* holder remains adamant on not signing a letter of consent for what has been ascertained as being due after everything is settled, a request for sanctioning him shall be sent [to the higher authority] and he shall be imprisoned, putting him into fetters for as long as he does not give his signature. After he has given his signature on the letter of consent, his fetters shall be released and the consolidated amount shall be submitted to the treasury. From the treasury, the consolidated sum shall be processed in accordance with the *Ain*.

**The regulation on the action to be taken when any brother or son of a *rakama* holder who has died without submitting his dues comes to declare that he neither can submit [the deceased person's] ledger nor can he pay the decedent's dues or loans:**

7. If someone who is supposed to submit his ledger and receive a quitclaim deed [for it], or pay back a loan, dies without submitting the ledger or paying back the dues or loans, and if his father, brother and sons, who are living together in a joint family without partitioning [the joint property] and who are past the age of 16, come to declare at the Kumārīcoka—if they are from Nepāla—or at a nearby *aḍḍā*, *gauḍā* or *amāla* office—if they are from far away [districts]—before the body of the deceased is taken for the funeral: 'We can neither submit [our

157 This section is given as § 6 in MA<sub>1</sub>.

158 This section is given as § 5 in MA<sub>1</sub>.

deceased relative's] ledger nor can we pay his dues or loans. We shall write down whatever we possess, such as houses, lands, cash and goods. It shall belong to the government', or if those [relatives] who are not yet 16 years of age come to make [the same] declaration—irrespective of whether [they come] before or after the body of the deceased is taken for the funeral—then they shall not be obliged to submit the ledger nor to pay any dues or loans. The members of the [deceased *rakama* holder's] joint family sharing a common kitchen shall be made to sign [the following] written declaration: 'This is all the property that we have; we have not concealed or hidden anything', and all of their property shall be confiscated, and a receipt shall be issued immediately. If it is ascertained that they came to make such a declaration, [but] have concealed property, they shall be considered wicked persons. Even if their property, including what they have concealed, is sufficient to compensate for the outstanding amount, they shall, in accordance with the *Ain*, be imprisoned. If it is ascertained that the father, brother and sons [of the deceased] who are past the age of 16 have come to make such a declaration after the body of the deceased has been cremated, they shall be considered frauds concealing their property and cheating the government. Such persons shall be arrested and the ledger shall be received [from them]. An exact calculation of the dues and loans for the revenue contract shall be made, an appropriate rebate shall be provided, and a quitclaim deed shall be issued after receiving the dues from them. If they fail to pay back the dues and loans, they shall, in accordance with the *Ain*, be imprisoned.

**The regulation on receiving a letter of consent signed by a brother or son of a *rakama* holder who runs away without submitting his ledger:**

8. If someone who is supposed to submit a ledger and receive a quitclaim deed for it, runs away without submitting the ledger and paying his dues, such a *rakama* holder is a thief. If his father, brother, and sons who live together without partitioning [the joint property] declare: 'Our relative has run away. But still we shall submit his ledger as well as pay what has been ascertained as being his dues', the ledger shall, in accordance with the *Ain* and *savāla*, be received along with what has been ascertained as being his dues and a quitclaim deed shall be issued. No punishment shall be imposed. Once a person who has accepted a revenue contract runs away, his father, brother, and sons shall not have the right to declare: 'We cannot submit his ledger nor shall we pay back his dues or enjoy his property.' The property of all the members of the joint family of such a thieving *rakama* holder, who have not partitioned [the joint property], shall be auctioned off and they shall be made to compensate his dues and fined an amount equal to that. Whatever from [the auction proceeds] exceeds [the dues and fine] shall be returned [to them]. If the [auction proceeds] are not sufficient, [the *rakama* holder's] father, brother, and sons shall not be to made pay the outstanding amount, shall not be fined an amount equal to the dues, and shall not be imprisoned once the person who has accepted a revenue contract has run away. They shall be made to sign a loan agreement without security (*kapālī tamasuka*) [for the outstanding amount] and it shall be collected as soon as they are solvent. It shall be collected in that manner.

**The regulation on the actions to be taken in the case where a brother or son, who lived together [with a *rakama* holder] when he accepted the revenue contract, separates [from the family] once dues are about to occur or they [actually] occur and he declines to pay for these dues:**

9. If the father, brother or son of someone has lived together in a joint family without partitioning [the joint property], and if, when one person among them has declared that he will receive a revenue contract and also accepts a deed of lease for the revenue item, [any of his relatives, father, brother, or son] separates from the common kitchen once he observes that payments are about to be due or are [actually] due, thinking ‘We are, too, about to be liable for these dues’, they shall not have the right to enjoy [their share of] the joint property, while claiming that they have a separate kitchen now and will not pay for his dues. The dues shall be compensated from the property of those family members who had been living together in a joint family when the revenue contract was accepted and who left the family only afterwards.

**The regulation on imposing [a fine of] double [the misappropriated amount] on someone who has reported in writing, with his signature and seal, how much remains with him and how much remains as a suspense account, [but] who is proven not to have had the expenses [he claims]:**

10. If, while examining a document that a *rakama* holder has issued with signature and seal, declaring how much his account is, it is found that [the account] of the remaining amount was manipulated when [the list] of the total expenses was prepared, and he has kept back an amount collected from the realm for himself and has not submitted it to the government, double the [embezzled amount] shall be imposed on him [as a fine] and he shall be made to issue a letter of consent [for the corrected net remainder in the account].

**The regulation on the action to be taken when a *rakama* holder fails to submit his dues as agreed upon and as [recorded in] the deed of consent forwarded by the Kumārīcoka:**

11. If a *rakama* holder presents a surety and enjoys the trust of the Tahabila and the Kausala for [the payment of] the consolidated sum recorded in the deed of consent from the Kumārīcoka and Mulukīkhānā, he shall be given a period of 1 year [to clear his account]. If he declares that he shall pay in cash, he shall be freed after [his payment in] cash has been received. If he neither pays in cash nor is he able to present a surety, whatever houses, irrigated paddy fields, gems, gold, silver, jewellery, land, kitchen utensils, cash or goods, male or female slaves, livestock or the like he possesses or whatever else is available, shall be auctioned off and [his dues] shall be covered [from the auction proceeds]. If [the auction proceeds] are not sufficient to cover his dues, he shall be handed over to the Iṭācapali court, stating: ‘Take this debtor [into custody] for



such and such an amount of dues and issue a receipt', and a receipt [confirming his outstanding dues] shall be obtained. A rebate [for the outstanding dues of the *rakama* holder] in accordance with that receipt shall be provided to the Moṭha Tahabila.

**The regulation applicable to someone who stands as guarantor by issuing a deed of consent, declaring 'I shall stand as guarantor for such and such a person. If he is not able to pay [his dues], I shall pay from my household property':**

12. If someone stands as guarantor, declaring 'I shall stand as guarantor for such and such a person. If he is not able to pay [his dues], I shall pay from my household property', the dues which cannot be raised from the property of the debtor shall be paid from the property of the guarantor. If [the outstanding sum] cannot be covered even from the property of both persons and dues still remain, the defaulting *rakama* holder shall be made to issue a loan agreement without security (*kapālī tamasuka*) [for the remaining amount] and [the loan agreement] shall be handed over to the one who stands as guarantor. [The guarantor] shall be imprisoned in accordance with §§ 11 and 13 [of this Art.] of the *Ain*. Once his guarantor is imprisoned, the defaulting *rakama* holder does not require any imprisonment.

**The regulation on placing a debtor in fetters who has been handed over to the Iṭācapali for failing to pay his dues [as recorded] in the deed of consent:**

13. If a defaulting *rakama* holder, who is supposed to pay his dues after submitting the ledger, fails to pay the dues as determined by the Kumārīcoka upon the reception of the ledger, and if, after a deed of consent is issued at the Mulukīkhānā and handed over to the Moṭha Tahabila, he is not able to pay his dues and [the dues] cannot even be recovered from his house, land, cash or goods, and if the *hākima* or clerks of the Moṭha Tahabila come to the Iṭācapali to hand over this debtor who has to pay his dues together with a signed and sealed document, stating 'Take such and such a person and imprison him, in accordance with the *Ain*, on the grounds that the dues he has to pay could not be raised from him', then the debtor shall be received in accordance with that document and he shall, in accordance with the *Ain*, be imprisoned at the rate of 1 month for every 5 rupees until he has served the time for [his entire dues]. After he has been sent to prison, the Iṭācapali shall issue a receipt stating: 'Such and such a person was brought from Moṭha Tahabila with the order to imprison him for the offence of not having paid a certain amount. He was received, put into fetters and was sent to the prison'. The Moṭha Tahabila shall receive a deduction [for the missing income from the outstanding dues of the *rakama* holder] accordingly. If the imprisoned *rakama* holder brings [the required amount] to pay [his dues], the income shall belong to the [Iṭācapali] court. It shall be registered [as income] in the ledger of this court and be submitted to the Mulukīkhānā.

**The regulation on [imposing] a deadline for requiring written accounts for revenue items for which accounts need to be submitted:**

14. From now on, while requiring documents from various places for reviewing the accounts by the Kumārīcoka, a deadline of as many days as mentioned in the particulars shall be granted for travel and up to 35 days for preparing the documents. If someone prepares and brings the account and the documents he is supposed to submit within that deadline, he shall be provided with a quitclaim deed once the ledger has been reviewed in accordance with the procedures of the *Ain* and the *savāla*. If he is not able to prepare and submit the document within 35 days, he shall be ordered to take his registers (*lagata*), ledger and abstract accounts, to come to the Kumārīcoka and prepare [the document there]. If he is not able to bring the account and submit it to the Kumārīcoka within the stipulated deadline, the account shall be required along with a reminder, in accordance with the *Ain* and *savāla*, directing the accounts to be required once a certain [time period] after the end of the year has elapsed. If it is necessary to require accounts from other offices—except for those mentioned in the particulars—they shall be so required, providing a deadline by estimating [the number of days required for] inbound and outbound travel in accordance with what has been recorded under the particulars.

[Residence of] the Debtor	Days [required] for the postal services ( <i>hulāka</i> ) to reach the respective place from Nepāla	Days [required] for a person to arrive in Nepāla from various places along with goods	Deadline in accordance with the <i>Ain</i> for preparing the document	Total [number of] days
Baitaḍī Jhulaghāṭa	35	75	35	145
Ḍoḍī	30	65	35	130
Ḍaḍeladhurā	32	70	35	137
Jumlā	25	44	35	104
Surakheta	18	38	35	91
Dailekha	16	36	35	87
Sallyānā	13	30	35	78
Pyuṭhānā	10	21	35	66
Pālpā	8	18	35	61
Parvata	8	15	35	58
Syāgajā	6	13	35	54
Pokharā	5	10	35	50
Gorkhā	3	6	35	44
Cīsāpānī	1	2	35	38
Uparam Ḍaḍ Citavan	4	7	35	46

7. The Regulations on the Fulfilment of Revenue Contracts before the Year [VS] 1922

[Residence of] the Debtor	Days [required] for the postal services ( <i>hulāka</i> ) to reach the respective place from Nepāla	Days [required] for a person to arrive in Nepāla from various places along with goods	Deadline in accordance with the <i>Ain</i> for preparing the document	Total [number of] days
Siṃdhulī	3	6	35	44
Udaipura	8	16	35	59
Mājha Kirāta	9	18	35	62
Kunakuṭā (Dhanakuṭā?)	12	22	35	69
Ilām	18	30	35	83
<b>Nayā Mulukī</b>				
Vrahma Deumaṇḍī	30	70	35	135
Mahākālī Kāṭhamahāla	30	55	35	120
Kaṃcanapūra	30	55	35	120
Muhānā Nadī	25	45	35	105
Kailālī Kacaharī	25	45	35	105
Nepālagamja	20	35	35	90
Bāke <sup>i</sup> Kacaharī	20	35	35	90
Rāpatī Kāṭhamahāla	18	35	35	88
<b>The area of Buṭavala</b>				
Syūrāja	13	25	35	72
Khajahanī	12	24	35	71
Mājhakhaṇḍa	11	23	35	69
Pālhīnavalapura	11	23	35	69
Nārāyaṇī Kāṭhamahāla	12	25	35	71
Vāṇagamgā Kāṭhamahāla	12	24	35	71
<b>7 districts</b>				
Parsā District	5	8	35	48
Bārā District	5	8	35	48
Tappā Rauhaṭa	7	10	35	52
Pragannā Sarlāhī	8	12	35	55
Mahutari (Mahottarī) District	10	15	35	60
Saptari District	15	22	35	72

i *bākī*, read *bāke*.

7. The Regulations on the Fulfilment of Revenue Contracts before the Year [VS] 1922

[Residence of] the Debtor	Days [required] for the postal services ( <i>hulāka</i> ) to reach the respective place from Nepāla	Days [required] for a person to arrive in Nepāla from various places along with goods	Deadline in accordance with the <i>Ain</i> for preparing the document	Total [number of] days
Moraña District	25	30	35	90
Cautariyā Golā	17	26	35	78
Chapakahīyā Kāṭhamahāla of Parsā District	5	8	35	48
Vanacaura Gośvārā Kāṭhamahāla	10	15	35	60
Kausikā Pachuvārī Kāṭhamahāla	17	26	35	78
Gośvārā Raṅgelī Kāṭhamahāla	25	30	35	90
Mecīdvāra	30	45	39	110

## 8. On Revenue Collection Arrangements

1. If a *bhāradāra* or official who performs certain [government] tasks does not submit the documents and accounts (*bahī*) of the first year in the second year as well, he shall not be granted any *jāgira* for as long as he does not submit the accounts and receive an acquittance for it.

2. If someone performs certain [government] tasks, being instructed on oral or written order, he is not required to submit the accounts. If someone personally collects cash, goods, grain or the like, or if someone expends any cash, goods, grains or the like, he shall have to submit the accounts. [The government] shall receive the accounts from that person, collect the dues, too, from him as ascertained, shall return to him the surplus (*phājila*) and issue an acquittance for it.

3. If a *ḍiṭṭhā* or *bicārī* of an *adālata*, *ṭhānā*, *amāla* office or any of the various offices, or a *bhāradāra*, a clerk or the like of [royal] gate (*ḍhokā*) or frontier offices, or a *subbā*, *phaujadāra*, *kānugoi*, *caudharī*, *mukaddama* or the like, or an *ijārā* holder, *jimmāvāla*, *jeṭhā-buḍhā*, *kaṭuvāla*, *mijhāra* or the like collects more revenue in cash from the subjects than customary, then the person who collects more revenue than what has been customarily collected before shall be dismissed from his post. If the additional revenue is recorded in the account book (*syāhā*) at the *kacaharī* office, he shall be allowed to enjoy the rent from that land until the date this has come to notice. If [such revenue] is not recorded in the account book, he shall be made to return the excessive revenue collected to the respective subjects and shall be fined an amount equal to that. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

MA<sub>2</sub> 10.3kha. If someone's father, grandfather or brother performs a government task [of revenue collection] which requires the submission of the account and being issued a receipt for it, and if he dies before he could obtain the acquittance, and if [the deceased's] sons, grandsons or brothers claim the [deceased's] property, they shall clear the account, pay the dues [and obtain an acquittance for this]. If they come [to the office concerned] within 48 days [after their father, grandfather or brother has died] and state: 'We neither enjoy the property of our [deceased] father, grandfather or brother nor do we clear his accounts and pay the dues', [the government] shall seize the property of the deceased's sons, family members or brothers who were living in a single household with the deceased person when he carried out the state business, but they (sons, grandsons and brothers) shall not be arrested. They shall be let off. If they hide the property [after their father, grandfather or brother, who was carrying out

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such a state business, dies] and come to give such a statement, the hidden property shall be seized, and the property of each of the household members [who were living in the same household when the deceased was carrying out the state business] shall be confiscated. [Additionally], the persons who are [directly involved in] hiding the property shall be imprisoned for 5 years and be set free after the prison term is over. If they come to give such a statement after 48 days, they shall submit [the account and clear it up].

4. If a *jimmāvāla*, *mukhiyā*, *ṭheka* or *ijārā* holder burdens the subjects with additional taxes and administrative fees and troubles them, he shall be dismissed [from his post] after he has been made to return the additional tax payments he imposed on the subjects, and a fine equal to that amount has been imposed on him. The land shall be granted to someone who has been proven to handle money matters properly, to keep the peasants well disposed, and not to do any injustice and harm [to them].

5. If a *ṭheka* holder, *amālī* or *dvāre* could not exact the fines [from his area of jurisdiction] imposed for minor offences, such as physical assaults, reciprocal verbal abuses, or disputes about water channels, or for defamation or false allegations, within the period stipulated for him, and if he is dismissed from his post before he can collect [such fines], and if his post is given to another *amālī*, *dvāre* or *ṭheka* holder, the former official shall not collect such [outstanding] fines. Also, the new [appointees] shall not collect such fines. The subjects are exempted from such fines. If anyone does not follow [this regulation of] the *Ain* and collects such remitted fines (*kalama*), he shall be made to return to the subjects what he collected from them and he shall be fined an amount equal to that.

6. If someone possess only one set of kitchen utensils, bedding, and only one plough, only a pair of oxen, only one axe, kukri, sickle, mattock (*kodālo*) and big cooking pan (*bhadālo*), no collector (*tahasildāra*) of any of the revenue [functionaries] shall take such belongings or recover his dues by making him sell them. [The dues] from such a person shall be collected from the harvest of the land [he tills] once the standing crops are ripe. If [his crop yield] is not sufficient [to pay his dues], he shall be made to sign a loan agreement without security (*kapālī tamasuka*) for the dues he should pay off, and the land shall be stripped [from him] and be given to another person. [Any official] who collects [revenue] from such a person shall be fined an amount equal to the amount he has collected. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. While collecting revenue from the subjects, it shall be collected as it has been paid before in the manner of the *ḍoko-boko* system<sup>159</sup>. If a peasant has not cultivated any land (*khetabārī*) and does not have any cash or goods nor does he have any business or trade, then only 1 *paisā* as a *cāndrāyaṇa* fee shall be collected from the household of such a peasant. Beside this fee, no

159 'A term used to denote the labour services and payments in cash or in kind due on kīpat lands' (Regmi 1978: 857).

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other tax or fee, such as *goḍadhuvā*, *cumāvana*, *gādīmumārakha*, *sāunephāgu*, *jhārā* or the like, shall be collected from him. If anyone collects [such taxes or fees from such a person], he shall be fined an amount equal to the amount he exacted, and the amount exacted shall be returned [to the person from whom it was exacted].

8. If an *ijārā* or *ṭheka* holder asks for an exemption (*mināhāmojarā*) [from the payment of rent], stating that the land they took into lease under the *ijārā* or *ṭheka* arrangement has suffered from a drought and dryness, or has turned into sandy land, remained barren or [the crop] is afflicted by a disease, or the irrigation channel is damaged, or it has been flooded or swept away by a landslide, [the crop] has suffered from fire, a hailstorm or has been stolen, or [the harvested crop] sank after the boat [transporting it] capsised while crossing a river, or the peasant [who was cultivating the land] ran away [without paying the rent], and therefore no income was generated from that land, they shall be granted a remission for such fees which are recorded in the lease contract and [revenue] agreement as remittable. Exemption shall not be provided for non-remittable items. The *ṭheka* holder must pay [the revenue] in that case. If a clerk exempts someone from paying the rent which is not recorded as remittable, he shall be made to compensate for the exempted amount and be fined an amount equal to that.

9. If [someone] asks for an exemption from the payment of rent, stating that the [government] land received under the *amānata* arrangement has suffered from a drought and dryness, or has turned into sandy land, remained barren or [the crop] has been afflicted by a disease, or an irrigation channel is damaged, or [the land] has been flooded or has been swept away by a landslide, [the standing crop] has suffered from a hailstorm, a fire or has been stolen, or [the harvested crop] sank after the boat [transporting it] capsised while crossing a river, or the peasant [who was cultivating the land] ran away [without paying the rent], and therefore no income was generated from that land, he shall be exempted from the rent that is recorded as remittable in the lease contract or in the ordinance (*savāla*) after [the incident] regarding the field has been inspected, and a written statement witnessed by local notables has been prepared. Exemption shall not be provided for the things that are not recorded [as remittable]. If a clerk exempts someone from paying the rent which is not recorded as remittable, he shall be made to compensate for the exempted amount and be fined an amount equal to that.

10. The Sadaramulukīkhānā shall obtain the contract papers from all places on which revenues to be collected are recorded, and shall, as per the [set] instalments, collect the revenues from the *rakama* holders and other revenue functionaries (*kārindā*) to whom [revenue items] are assigned under *ijārā* and *amānata* arrangements. Any amount ascertained as due after finalizing the collections and balances (*vāsila-bāki*) at the end of the [fiscal] year, shall be collected after giving a report to the minister. If the clerks of the Sadaramulukīkhānā, by negligence or out of favouritism, do not collect the [revenue] amount that can be collected as per [set] instalments, they may be fined [an amount] considered [appropriate] by the prime minister and the Kausala. If any clerk of the Sadaramulukīkhānā lends money [to someone] which is collected from the [Sadara]mulukīkhānā itself, the lender shall be made to pay the amount advanced as a loan along

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with interest and be fined an amount equal to that amount. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*'s [regulations], be imprisoned.

11. While the Kausītoṣākhānā, Mulukīkhānā and Kumārīcoka collect revenue from the *rakama* holders who have been assigned [revenue items] under *ijārā* or *amānata* arrangements, and obtain their signatures for the cash salaries or for the rebate they receive, [the person concerned in these offices] shall not collect any additional amount [from them] from the 13<sup>th</sup> of the bright fortnight of Pauṣa of the year [VS 19]11 onwards. [The *rakama* holders] shall not give their signature in this regard. If [any official] collects an additional amount from the *rakama* holders by humiliating them and causing them distress, or obtains their signature, [such an official] shall be fined 20 percent of the additional amount collected by causing them distress.

12. The *rakama* holders who have been assigned revenue items under *ijārā* or *amānata* arrangements shall submit [the rent], as set per instalments, before (*odho/odo*) the 11<sup>th</sup> of the bright fortnight of Pauṣa of the year [VS 19]11. They shall not submit the additional rent. If [any official] collects additional rent from them and forces them to give their signature for it, they shall come to the prime minister to report. If [any *rakama* holder] submits additional [rent] without reporting this to [the prime minister], he shall not receive a rebate from the Kumārīcoka or from any other offices which are given the authority to grant a rebate.

13. The levies and fees customarily paid in the past, such as the *vājavi*, *sermā*, *sirto*, *mahasūla*, *sāunephāgu* fees, shall be exacted from the peasants and *ṭheka* holders of the *thumas* and *khuvās* throughout the realm even after the designated [fiscal] year has come to an end. The peasants, too, shall submit [such levies and fees] on a stipulated date in full at the end of the [fiscal] year. Even after a *jāgira* holder or *dvāre* is dismissed from his post, he shall be allowed to collect [the dues] of the levies and fees from the peasants [for the period] when he still held the position. The peasants, too, shall submit [such dues] to him.

14. A *dvāre* or *ṭheka* holder, who makes an income during his tenure from fines imposed on someone who has been enslaved for committing incest, or who has assaulted someone and made him bedridden, who has committed an offence which leads [himself or the victim] to caste degradation or exclusion from commensality with respect to cooked rice, or who has committed [a theft], stealing someone's cash, goods, gold, silver, grain or land, shall be allowed to collect this income even after he is dismissed from the post as *dvāre* or *ṭheka* holder. [He shall] collect fines and winning fees [from the litigants and defendant] imposed in accordance with the *Ain*. Any fine imposed during the tenure of a previous prime minister shall not be allowed to be collected once the prime minister has changed.

15. [This section is] cancelled.

MA<sub>2</sub> 10.15. Among the father, grandfather, brothers, sons, brothers' sons, parental uncles who live in one household without partitioning their ancestral property, if one



of the household members accepts a government revenue item or the like, or takes a loan, and if he dies before clearing up the government revenue account or before paying the debt, and if [the deceased's] household members who are living in the same household without partitioning their ancestral property, before cremating the corpse, go to the Kumāricoka—if they live in Nepāla or to the nearest offices, frontiers or *amāla* office, if they live far away (outside the valley), which is under the jurisdiction of [the local] offices or frontiers—and state: ‘We could neither submit the revenue account nor could we pay the debt [of the deceased person]. We sign over our property, such as household, land, cash, goods and whatever else we possess. The government may seize it’, they shall not be forced to submit the revenue account or to pay the debt. They shall be made to sign over whatever property they possess [to the government], and the government then shall seize it and issue an acquittance for it. If they come to give such a statement after they cremate the corpse, or they hide their property and lie to the government, they are considered untruthful. Such persons shall be detained, and the actual dues of revenue and debt shall be recovered from them, after calculating it properly and giving them an appropriate reduction. If they do not pay these amounts, they shall be imprisoned at the rate of 1 month for every 5 rupees until they have served for the entire amount.

16. While making revenue arrangements, [the revenue items] shall be granted to a wealthy person for as long as he is proven to be reliable and to handle money matters properly. If no wealthy person comes forward [to accept the revenue items], and if it has to be granted to someone else, the revenue items shall be allotted to someone by making *ijārā* or *amānata* arrangements after a wealthy person is presented as guarantor, so that no loss incurs to the government and no peasants die [due to excessive rent collection]. If no wealthy person is ready to act as guarantor for this person (i.e. for the prospective contractor) and no wealthy person accepts the *ijārā* or *ṭheka*, the total [revenue income] of the government shall not be ruined by granting [revenue items] to an insolvent person. [In such a case] the government shall assign the task of revenue collection to a person on a salary basis. If under such circumstances any loss occurs while exacting the revenues, neither the prime minister nor any other employees (*kāriṇḍā*) shall be held accountable, nor do they need to make up the loss from their household property. It is a loss of the government. If the revenue items are neither assigned as an *amānata* arrangement nor are they given to wealthy persons, but they are given to insolvent persons under *ṭheka* or *ijārā* arrangements, and revenue is lost, the loss incurring to the government and subjects shall be recovered from whoever made the allotment—be it the prime minister or any other clerk.

17. Except the five times venerable *mahārāja* of Gorkhā, if any other king has granted land to someone by exempting him from levies such as *gādīmumārakha*, *goḍadhuvā* or *cumāvana*, such a person cannot be exempted from such levies after the king [who granted him the exemption] is dethroned. [Such levies] shall be collected from him. If he was exempted from such levies earlier [by a regional king] who is dethroned now, and if also the king of Gorkhā approved and confirmed the exemption through a *lālamohora*, such levies shall not be applicable to such land,

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irrespective of whether the recipient or his offspring are enjoying the land or they have gifted or sold [it to someone]. [Such levies] shall not be collected.

18. If the employees (*kāṛindā*) who perform the task of revenue collection under an *amānata* arrangement within the realm of the five times venerable king, such as the collection of revenue derived from tolls and customs (*jagāta bhansāra*), from mines, timber or from any other revenue item, and if they, as if they were kings, connive with *dhākres*, *jāgira* holders, merchants or peasants and decrease the government revenue through charitable acts, irrespective of whether they are announced orally or by issuing documents, such employees are disloyal to the salt. They shall be dismissed from their posts, the amount [from the government revenue] they enjoyed through conniving with the subjects shall be recovered from them and they shall be fined an amount equal to that. Once the fine is collected from them, they shall be set free. If they do not pay the amount they enjoyed through conniving with the subjects and the fine imposed on them, they shall be imprisoned at the rate of 1 month for every 5 rupees until they have served for the entire amount.<sup>160</sup>

19. If a *jāgira* holder who performs the task of revenue collection for the realm of the five times venerable king, such as collecting the revenue derived from tolls and customs, from mines, timber or from any other revenue item, either through a *dharmapatra* or in express terms offers bribes or presents (*salāmī*) to the lords appointed by the government, or issuing a document along with his signature and seal, or in person promises to give a certain amount and thereby causes a loss to the government, or he runs a business by making secret offerings in writing, conniving with [government] employees and without informing the king and prime minister about it and [thereby] causes a loss to the government, or he [fraudulently] decreases the taxes, money or land [rent] he has to pay, the amount he has offered as a bribe or present shall be confiscated from [the property of] such a disloyal *jāgira* holder, and he shall be fined an amount equal to that and he shall be dismissed from his post. If it is a *dhākra*, peasant or merchant [who commits such a disloyal act], he shall be made to return the amount he gave as a bribe or present and shall be fined an amount equal to that. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees until he has served for the entire amount.

20. While distributing state-owned and royal *guṭhī* land under the *adhiyā*<sup>161</sup>, *kuta*<sup>162</sup> or *tihāu*<sup>163</sup> system, or while issuing a *lālamohora*, *daskhata*, *savāla*, written deed of lease or regulation, or while distributing revenue items such as mines, mints, tolls, customs, chieftainships (*caudharāī*), monopolies (*ekahaṭṭī*), distilleries, or while appointing *caudharīs*, *mukaddamas*, *jaminadāra* or the like in Madhesa, or while distributing revenue items such as [the income from]

160 This section is wrongly inserted between §§ 22 and 23 in MA<sub>1</sub>.

161 A system of share-cropping in the central hill region, under which the cultivator paid half of the rice-crop as rent.

162 A system of tenancy under which a cultivator paid a fixed quantity of produce or a fixed amount of money as rent to the owner of the field.

163 A system of tenancy under which a cultivator paid 1/3 of the produce as rent to the owner of the field.

the timber office (*kāṭhamahāla*), [the collection of] wild sugarcane (*kāsa*)<sup>164</sup>, pasture land, the wood office (*ṭhigurimahāla*), [the collection of] husks (*bhusa*)<sup>165</sup>, market customs (*haṭṭāsāyera*), custom posts for grocery market (*golā*), opium offices (*aphimamahāla*), saltpetre offices (*sorāmahala*) or [the sale of] blankets or the like, or while formalizing decennial (*dasa sālā*) or quinquennial (*pañca sālā*) lease contracts for [the cultivation of] non-arable forest land (*kālābañjara*), or while distributing the levy collection rights (*rakama*) such as [for the collection of] *gādīmumārakha*, *goḍadhuvā* or *cumāvana*, while distributing such revenue items and while making [land] assignment in Nepāla, the hill regions and the Terai under the *ijārā* or *amānata* system, if anyone [who wants to receive a revenue contract] comes and states that he will pay such and such an amount as appointment fee (*salāmi*) [for the contract], then the amount he has offered as the appointment fee shall be recorded in the revenue contract made with him, and the total amount shall be set up in the contract [calculating both the appointment fee he offered and the actual revenue amount he has agreed to pay]. The *hākima* and clerks who distribute the revenue items shall not personally take [any amount from the *rakama* holders for assigning revenue items to them]. If it is proven that they do not record [the amount] offered as an appointment fee in the revenue contracts, but they personally enjoy it, the amount they have enjoyed (*bigō*) shall be seized, and they shall be fined an amount equal to that. Even if someone [who accepts the revenue items] offers—of his own volition and regarding [the person in charge] as *hākima*—[something to the latter] as a gift (*najara*) without considering it a token of thanks for assigning him the revenue items<sup>166</sup> and without being forced by anyone to do so, the *hākima* or clerks [who have distributed the revenue items] shall not personally enjoy such gifts [given by the revenue assignees]. Such gifts shall be recorded in the account book and be deposited to the government [treasury]. If it is proven that they personally enjoy such gifts, what they enjoyed shall be seized, and they shall be fined equal to that amount.

21. No senior *hākima* or clerk who executes the following [government tasks] shall accept bribes or gifts: the persons who work at the various courts and deliver justice, who receive the accounts and issue receipts, who make entries of revenue collections, who serve at the Sadar-adaphadarakhānā and allot and re-allot land, who serve at the Kausitoṣākhānā and make purchases [of various items], who distribute cash salaries, who distribute land under the *ijārā* and *amānata* systems, who make revenue arrangements for monopolies and distilleries, who distribute rewards on order, who make laws, who make arrangements for [the collection of] the *gādīmumārakha*, *cumāvana* or *goḍadhuvā* levies, who serve at the Guṭhī Kacahārī and execute the tasks concerning royal *guṭhīs*, who serve at the registration office of a *kampu*, *paṭṭana* or *kaṃpanī* and assign unclaimed land [to the military and civil servants], who reassign irrigated paddy fields and unirrigated slopes under the *adhīyā*, *kuta* and *tihāu* systems, who assign unclaimed or withheld land, who collect rent, who distribute cash salaries or rent to the [staffs] of a *kampu*, *paṭṭana* and

164 The exact meaning of term is unclear. It might refer to *Saccharum spontaneum* and therefore be a profitable resource for paper production.

165 In the eastern Terai districts, the landlord had to be provided with husks by way of a levy, as fodder for his cattle (*bhusavan*, see Regmi 1970a: 124). This might be a reference to such kinds of levies.

166 *cinā lināko mana herna lagāi*, read *linā dināko sanāhe nalagāi* (MA<sub>2</sub>).

## 8. On Revenue Collection Arrangements

*kaṃpanī*, who cause *lālamohoras* to be issued, who have stamped *daskhatas* or letters issued from the prime minister or his deputy, who [are appointed as] *bhāradāras* at the various offices and frontiers, who accept revenue items under *ijārā* or *amānata* arrangements such as mines, mints, tolls, customs or the like, who [are appointed] as *amālī*, *dvāre*, *mukhiyā* or *jimmāvāla* in the hill regions, the *hākimas* who accept various positions in the Terai, who [are appointed as] colonels in various provinces who carry out the reassignment of *caudharīs*, *mukaddamas*, *jaminadāras* or the like, who distribute the revenue items such as [the income from] the timber office, [the collection of] wild sugarcane, pasture land, the wood office, [the collection of] husks, market customs, custom posts for grocery markets, opium offices, saltpetre offices or [from the sale of] blankets or the like, who formalise quinquennial lease contracts for non-arable forest land, who fix boundaries, and who carry out their tasks within Kathmandu Valley, the hill regions, or the Terai. If [such an official] accepts bribes or gifts, it shall be deemed that he took a bribe irrespective of whether he records [the amount hence accepted] in the account book or not. The amount he accepted shall be seized, and he shall be fined an amount equal to that.

22. If someone collects revenue by way of a monopoly or in a manner similar to a monopoly, without having received any *sanada* or *savāla* from the government [authorising him to do so], or he exercises such a monopoly, then the profit he is proven to have made after he took on the monopoly shall be seized and he shall be fined an equal amount. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

23. While accepting revenue items, if around 2–3 persons jointly accept a revenue item—whether the revenue amount proposed to be paid is more than the current rate or is at the current rate—by recording their names in the deed of lease or contract as partners, and if, later on, a dispute arises between them after they have worked for some days [together], and if they do not allow one of the partners to continue his work and only the other partners come forth and carry out the work, or if they exclude one of the partners whose name is recorded in the deed of lease or contract and give his part of the work to someone else, then [the profit or loss] for as many months as the partner whose name is recorded in the deed of lease or contract had been excluded shall be calculated, and irrespective of whether there is a profit or loss for that revenue item, all the partners who are named in the deed of lease or contract shall partake equally [in the profit or loss]. If someone comes to complain that he has not received his share of the profit, his share of profit shall be provided to him and 10 or 20 percent shall be charged [as the administrative fee]. If one of the partners has quit the lease after consultation among the partners,<sup>167</sup> and has handed over his letter of resignation, then he shall not be entitled to share profit or loss. One shall not give him anything.

24. If *rakama* holders, low or high in rank, who execute the [government] tasks and thus need to submit accounts [to the government], prepare the necessary documents in accordance with the regulations laid down in the *Ain* or *savāla*, submit the accounts as well as the amount

<sup>167</sup> *bhāikā sallāhale sāmela hunata pani*, read *bhāikā sallāhale ma sāmela huṃna bhani* (MA<sub>2</sub>).

proven as dues, and if the Daphadarakhānā and Kumārīcoka offices, too, inspect their accounts and submit a report to the Kausala with a recommendation for possible exemption [for certain dues], even if there is a delay in issuing an acquittance in the form of a *lālamohora* [to those *rakama* holders], it shall be obvious that they have submitted<sup>168</sup> their accounts [on time]. [In this case] it is deemed that the Kumārīcoka is responsible for the delay. It is permitted to assign [further] *jāgiras* to such *rakama* holders.

**The regulation applicable when someone comes to complain about a person who has appointed someone else to collect dues, and that person has collected dues twice or collected more than [what is applicable], but [the former] fraudulently claims that he has not appointed that person and had not sent him to collect dues, or that he had employed him before, but [his employment] has since been cancelled:**

25. If someone, such as a merchant or grain speculator, receives a *theka* or *ijārā* contract for the *khuvā* land of a *jāgira* holder, and if such a person sends someone to collect [rent], and if the latter collects more than the customary rent, or else forcibly collects dues for a second time from [a peasant] who has already cleared his dues, claiming that he still has dues to pay, and if the [respective] peasant comes to complain [about it], and if [the holder of the *theka* or *ijārā* arrangement]—when he is questioned as to whether he had sent that person to collect rent or not—claims that he is not the person he has sent to make the collection or that he had employed that person before, but [his employment] has since been cancelled, and if it is proven upon investigation that he had indeed sent [that person to collect the rent] and he has not dismissed that person, then the person who lies that he has not sent [that person] or that [that person's employment] has been cancelled, shall be fined 20 rupees, if it is proven that he was not aware that [his appointee] had collected the rent [from the peasant] for a second time. [The amount] collected additionally shall, in accordance with the *Ain*, be returned to the respective peasants. The person who collects the additional [rent] shall be punished in accordance with the *Ain*.

**The regulation applicable when [a government employee serving at an account office] receives, before or after the deadline of rent payment, the account of [a *jāgira* holder] and willingly issues an acquittance for the rent paid and for the dues, and he again detains the *rakama* holder on the grounds that he has dues to be paid [to the government]:**

26. Concerning the revenue items given under the *ijārā* or *amānata* system, if a *hākima* who has granted the revenue items to a *ramaka* holder makes him sign the deed of relinquishment of right (*rājīnāmā*) and says that he will personally deal with the rent collected and dues to be collected, and if the *rakama* holder submits the account recording the rent collected and his dues,

168 *bujhāyāko*, read *na bujhāyāko* (MA<sub>2</sub>).

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and [the *hākima*] accepts the account and issues an acquittance for it, and then the same chief official forces the [*rakama* holder] to pay the dues, and [such a *rakama* holder] comes to complain about it, [the *hākima*] shall be fined an amount equal to what he has claimed as dues [to be paid by that *rakama* holder]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Two percent shall be collected as the winning fee from the one who has won the case (i.e. the *rakama* holder).

## 9. On Remissions

1. While granting remission after receiving the accounts books (*bahī*) submitted, a clerk (*kārindā*) who serves at an *aḍḍā* office shall not grant remission on any heading that is not satisfactory to himself or that is not appropriate, even if a *lālamohora* [from the king] or a *daskhata* from the prime minister has been issued [ordering him to do so]. He shall approach the prime minister and report the details of the matter that is not satisfactory to himself. If a clerk, without reporting [such matters] to the prime minister, grants a remission on any heading that is not appropriate just because a *mohora* or *daskhata* has been issued [ordering him to do so], he shall be fined 5 percent of the total amount he has granted as remission. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

2. If any land taken into lease by a *rakama* holder on the basis of an *ijārā* and *ṭheka* arrangement suffers from a hailstorm or drought, or turns into sandy land (*bāluburja*), or is flooded or buried, or [the harvest] is stolen or swamped by a river, or the tenants run away [without paying their rent] and no income could be derived [from the land], or [the land] is re-allotted from the government before the tenure [of the current peasant] comes to an end, and if there remain any dues to be paid [to the government], [such dues] shall be recovered from the household property of the respective *ijārā* or the *ṭheka* holder; if there still remain dues [after the exaction of his property], [a loan agreement] shall be prepared recording the repayment details, and it shall be collected from his offspring as soon as they are capable of paying.

3. People [who collect] and submit taxes and administrative fees (*rakamakalama*) [to the government] shall be granted appropriate remission in accordance with a *lālamohora* [from the king] or *daskhata* from the prime minister. Remission shall not be granted without a *lālamohora* or *daskhata*. Remission shall not be granted even to those who claim to have received an order (*hukuma*) from the king or an order (*pramāṅgī*) from the prime minister. Someone who has died or run away [without clearing his dues] shall not be granted any remission, even if an order [from the prime minister] is presented.

4. If any clerk or *rakama* holder entrusted with the collection of taxes or administrative fees from land, for the welfare of the government, imposes a rate that is higher than what is fixed in the ordinance (*savāla*) or the assessment of the crop yield, and if he, without reserving even a single *paisā* for himself, records the additionally imposed revenue income in the account books (*syāhā*, *śrestā*) and deposits it to the government treasury, then such a stupid clerk or revenue

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collector shall not be fined because he has entered the income into the government treasury without reserving anything for himself. Any land or cash that is exacted [from the peasants] by imposing a rate that is higher than what is fixed in the *savāla* shall be returned to whomever it belongs after requesting the government to issue a *sanada* [in favour of respective persons] and a receipt for it shall be collected from the tenants.

5. If any clerk or *rakama* holder entrusted with the collection of taxes or administrative fees from land, for the welfare of the government, imposes a rate that is higher than what is fixed in the *savāla* or the assessment of the crop yield, and if he—reserving some of it for himself—records the additionally imposed revenue income in the account books and deposits the remaining amount to the government treasury, or else reserves all of it for himself, then the amount deposited to the government treasury shall be refunded after requesting the government to issue a *sanada* [in favour of respective persons], and it shall be arranged that the amount kept by the clerk or *rakama* holder is refunded to the peasants, and a receipt for it shall be obtained from them. The clerk or *rakama* holder shall be fined an amount equal to the portion he enjoyed without recording it in the account and depositing it to the government treasury.

6. If any clerk or *rakama* holder entrusted with the collection of taxes or administrative fees from land wittingly collects less than what is fixed in the *savāla* or the assessment of the crop yield by taking bribes or out of favouritism, or else exempts an amount, then the exempted amount together with a fine equal to that amount shall be collected from such a clerk or *rakama* holder. Irrespective of how many years the clerk or *rakama* holder has exempted the amount, the peasants shall not be required to pay it.

7. If someone is detained by bailiffs without being imprisoned for a crime concerning land assigned as *amānata* from an *adālata* or *ṭhānā* office or the government, or for [not paying] administrative fees such as a fine, wining fee, *pāna-phula* fee, *baksāunī* fee, a 10 or 20 percent court fee, or [a fee for] selling a slave, and if he escapes and cannot be traced, it shall be arranged that a written report (*muculkā*) is prepared from the place where he was detained, stating: ‘[Such and such a person] was detained in such and such a place. He was not let off out of favouritism. He was guarded by such and such soldiers or bailiffs’, and a *sanada* shall be issued [with the same details], and the clerks who receive the account shall grant a remission [for the outstanding dues from the fugitive]. If it is ascertained that [the detainee] escaped because he was let off through bribery, favouritism or through negligence, and he did not escape from the detention under the watch of the bailiffs, then the clerk who allowed him to escape by not detaining him, or by not keeping him under the surveillance of bailiffs, or by taking a bribe, or by exercising favouritism shall be made to pay the amount the person who has escaped was required to pay and he shall be fined an amount equal to that.

8. If [the clerks] who carry out the daily tasks of receiving accounts, preparing the total accounts and issuing receipts, while receiving the accounts for *ijārā* contracts and *amānata* assignments or the like, record [the income from] some administrative fees (*kalama*) in the ledger



(*syāhā*), [but] do not record it in the abstract account (*āvarje*) and the personal account entries (*dhapoṭ*), or else it is recorded in the abstract account and personal account entries, but not in the ledger, once it is recorded in [at least] one of these documents, non-recording [the income in the other documents] shall not be considered theft. It shall be considered negligence. Those errors which require correction shall be corrected, and an acquittance shall be issued for the total account. No punishment or fine shall be required for such errors and omissions.

9. If someone receives a reward from the five times venerable king or carries out a collection from subjects or tenants and later on for some reason he is ordered not to collect it and to return it, and if it is ascertained that he keeps any of the cash, goods or the like which he has received with the responsibility of returning it to the respective person, for himself, and if 35 days pass after he arrived at the place where the person to whom he is supposed to return the goods he collected lives, or after he met that person without returning it to him, then it shall be deemed that he has kept [the cash or goods] with the intent of enjoying it himself. The cash or goods in question shall be returned to whomever they are supposed to be returned to, and [the person who holds back such cash or goods] shall be fined an amount equal to their value. The person to whom [the cash or goods] are returned shall be charged 10 percent [of the total value as fee]. If [the person who holds back cash or goods] fails to pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

## 10. On Default in the Payment of Arrears

1. In the matter of cash [income] from taxes and administrative fees [derived] from an *amānata* assignment which are to be submitted to the palace by the *bhāradāras* or officials (*kāmadāra*) from all offices from the East to the West and from Kathmandu, if they raise goods from the land [assigned to them] instead of the money which is to be brought for submission, a written statement (*muculkā*) shall be obtained from them and they shall be granted a rebate, if they have brought goods at the same rate as they were received by them. Such goods shall be auctioned off in the presence of a general, colonel, *kapardāra*, *kājī*, *khajāncī*, *sardāra*, *subbā* or *ḍiṭṭhā* official and the amount [thereby] realised shall be collected from the palace. If someone prescribes [levies] at a rate higher than the current [rate] on the land and brings certain goods that were not collected from the land, pretending that they were, he shall be made to issue a written confession and shall be fined an amount equal to the profit he made from [the levies] raised from that land at a [higher] rate. If someone raises [the levies] from the land in cash, [but] buys goods [from the collected amount] and brings them in, [falsely] declaring that these goods were collected from the field, he shall be made to hand over the amount of cash [he collected] and be fined an equal amount. If he does not pay the amount, he shall be imprisoned at the rate of 1 month for every 5 rupees.

2. If the *ṭheka* holders or revenue collection assistants (*gumastā*) raise [levies] from tenants of the villages within the realm and keep [the collected amount] for themselves, and they lie to the government that the dues from that land are still to be collected, such thieving *ijārā* or *ṭheka* holders shall be made to hand over the amount they have lied about and be fined an equal amount. If they do not pay the amount of the fine, they shall be imprisoned at a rate of 1 month for every 5 rupees.

3. [This section is] cancelled.

MA<sub>2</sub> 12.3. When the Kumārīcoka office declares that [the ones who] are involved in government trade and transactions, *ijārā* and *amānata* holders who owe government dues, debtors or *rakama* holders, are required to pay the appropriate government dues, and if they fail to pay the dues, [but] present a noble person or wealth as surety, it shall be accepted and they shall be let off for 1 month. If they fail to present such sureties, they shall be imprisoned for 1 month at Kumārīcoka. If they fail to pay [the dues] even after 1 month, they shall be fettered and imprisoned for 2 months at Kumārīcoka. If they

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fail to pay [the dues] even in 2 months, the dues shall be recovered by auctioning off their house, land, jewellery and so forth. If the [property] auctioned off is not enough to recover [the dues], they shall be put into a jail at the rate of 1 month for every 5 rupees until the due amount is deducted [in this way], and they shall be forced to work on road construction. Once the prison term is over, they shall be released.

4. If someone has dues to pay, since the [full rent] from his land could not be realised, the amount that could be realised shall be received and he shall be given a period of 1 year, ordering him to make the collection of the remaining amount which could not be realised. If he is not able to submit that amount even after the deadline lapses, such a *ṭheka* holder, revenue collector (*tahasiladāra*) or the like shall be imprisoned at the rate of 1 month for every 5 rupees. Once the prison term for his dues is over, he shall be set free.

## 11. On Forced Labour

1. If tenants (*mohī*) and peasants (*kurīyā*) [cultivating] *birtā*, *sunāguthī*, *chāpa* land or state-owned irrigated paddy fields or unirrigated highlands provide farm labour or portage [to their landlords], having issued a written agreement to do so, [the landlords] shall not be held accountable. [If a landlord] forces [the tenants and peasants] to provide him with farm labour and portage without any verbal or written agreement, and if someone comes to complain about it, the landlord shall be made to pay them wages at the rate of 10 *paisās* per day, and shall be fined an amount equal to that. If the tenants do not provide their landlords [with the services] they agreed to, [such] tenants shall be evicted [from the land].

2. *Amālīs* and *rakama* holders shall not request subjects to carry out work for private purposes. *Amālīs*, *jāgira* or *rakama* holders shall not enjoy generous hospitality from the subjects when they visit the villages, towns or land assigned to them, forcing them to do so. Also, the peasants and subjects shall not give generous hospitality to [such functionaries]. If a peasant comes to complain that [his landlord or a government functionary] has not paid [his wages] as agreed, or has requested services and made him work by force, but has not paid at all for this, and if such an allegation is proven, the person who agreed to the wages [but did not pay them] shall be fined an amount equal to the wages he agreed. The person who forces [peasants] to serve him shall be made to pay them a daily wage of 4 *ānā* per person and shall be fined an amount equal to that.

3. Except for forced labour for state affairs, which has been established and practiced [from times past], a state functionary, such as a *jāgira* holder, revenue collector, *ijārā* holder, contractor, a *caudharī*, *kānugoi*, *mukhīyā*, *rakama* holder or the like, shall not demand [forced labour such as] *jhārā*, *beṭhī*, *begārī* for his personal purposes or for other state officials—irrespective of whether they are low or high in rank—who are stationed from east to west, such as generals, colonels, *cautarīyās*, *kājīs*, *sardāras*, *bhāradāras*, [royal] gurus or priests. If [forced labour such as] *jhārā*, *beṭhī*, *begārī* is demanded from peasants or commoners unlawfully, and if someone comes to complain about it, [the official who demanded forced labour] shall be made to pay them wages at a rate of 4 *ānās* per day for 1 person and shall be fined an amount equal to [the wages] he has to pay.

4. If [an official] has to take people from the land or villages assigned to him somewhere as porters, he shall calculate the number of days he requires their service, give them food for the

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morning and evening, pay them a wage of 10 *paisās* per day and take them with him. If someone comes to complain that he has not received his wage, [the official] shall be made to give him [the wage] according to this rate and shall be fined an equal amount.

## 12. On the Payment of Salaries

1. If the rent collection certificates (*tirjāpurjā*), salaries, and rent are handed over to the military—of a *kamṣu*, *paḷṭana* or *kampanī*—and civil *jāgira* holders, the sequestration writ for the rent to be withheld, too, shall be handed over to the officers responsible (*pagarī*<sup>169</sup>) for distributing the rent to military (*jaṅgī*<sup>170</sup>) and civil servants. If first the rent collection certificates, rent and salaries are distributed, and once the distribution of the rent is completed the sequestration [writ] is handed over [to the officers], the clerks of the Daphadarakhānā or the like who are responsible for giving out the rent, shall submit the rent to be withheld. Whoever hands over the rent without passing on the sequestration [writ], such a person shall be made to pay damages equal to the distributed rent and shall be fined an amount equal to that. If the rent collection certificates, rent and salaries were previously received together with the sequestration [writ], [but] the rent was distributed without keeping aside the rent to be withheld, the officials who distribute the rent and the authorised *bhāradāras* and the officers and *huddās* of the *paḷṭana* or the like shall be made to pay the damages for the rent which should have been withheld and a fine equal to that. If the amount of the fine is not paid, they shall be imprisoned at the rate of 1 month for every 5 rupees.

2. When the clerks of the *kamṣu* or *daphadara* hand over the rent collection certificates or salaries [to the *jāgira* holders], they shall do so in the presence of a *kāptāna*, *lephṭena*, *insāyena*, *subedāra*, *jamādāra* or *huddā* official of the respective *paḷṭana*. If a *kāptāna*, *lephṭena*, *insāyena* and *subedāra* are not involved, then [the rent collection certificates or salaries] shall be handed over in the presence of [at least] one of the three officers (*pagarī*) (i.e. *kāptāna*, *lephṭena* and *insāyena*) along with a *huddā* and *jamādāra*. Whatever clerk hands the salaries or rent collection certificates over [to *jāgira* holders] without having such officers as witnesses shall be fined an amount equal to the value of the rent collection certificate or the salary.

3. While lending money to any official working at the respective *daphadara* of the *kamṣu*, *paḷṭana*, *kampanīs* or the like, or to a clerk, major or any other military personnel in accordance with a *pramāṅgī* or *daskhata*, the loan shall be advanced after preparing a loan agreement witnessed (lit. ‘under the name of’) by the *kāptāna*, *lephṭena*, *subedāra*, *jamādāra*, *huddā*, *khalāsī*, *pipā* or *lājimā* of the respective *paḷṭana*, if such personnel is available; if not, this shall be witnessed by the respective *koṭe ḍiṭṭhā* or any other official posted at a *koṭa*. [The loan] shall not be advanced

169 Lit. ‘(wearing) a turban’.

170 Om., *jaṅgī* (MA<sub>2</sub>).

without preparing a loan agreement. Also, while handing over the rent collection certificates or salaries [to such officials], it shall be carried out in the presence of and under the responsibility of such officers. If one hands over [the rent collection certificates or salaries] without following that procedure, the payment shall be considered as being made in violation of that order. The officials from the respective *daphadara* who handed over the rent collection certificates or salaries without following that procedure shall be fined an amount equal to the value [of the respective loan, rent collection or salary].

4. If the revenue collection certificates and salaries are handed over [to the military staff concerned to be distributed to the *jāgira* holders] from the *daphadara* of the *kampu*, and if also the [military staff concerned], i.e. the *kaptāna*, *lephṭena*, *insāyena*, *subedāra*, *jamādāra* and *huddā* distribute [the rent collection certificates or salaries to the *jāgira* holders], and if the [distributed] rent needs to be withheld because [the recipient] has committed a certain offence, the rent shall be withheld and collected. If a *jāgira* holder receives a rent collection certificate or a salary, and if he collects the rent [from the assigned land to him] and enjoys it, and if he afterwards commits a certain offence which [is punishable] by withholding his rent, and if it is ascertained upon inspection that the rent which is to be withheld is no longer available [because the *jāgira* holder has already expended it], neither the clerks of the [respective] *daphadara* nor the officers, *jamādāra* and *huddā* of [the respective] *palṭana* [who witnessed the rent distribution], nor the tenants who [cultivated the land] shall be required to compensate [for the rent collected by such a *jāgira* holder].

**[The regulation concerning] the calculation of rent to be obtained by [a government employee] who is appointed after the first day of the month of Śrāvaṇa, but dies before the first of the month of Śrāvaṇa [of the next year]:**

5. [A government employee who is appointed from the first day of the month of Śrāvaṇa and] dies in the month of Vaiśākha shall be entitled to receive  $\frac{1}{3}$  of his emolument. If he dies in the month of Jyeṣṭha, he shall be entitled to receive half of his emolument, and if he dies in the month of Āṣāḍha, he shall be entitled to receive  $\frac{2}{3}$  of his emolument. If such an employee receives a monthly cash salary, he shall be entitled to receive it in accordance with his partnership agreement or contract.<sup>171</sup>

6. If a *kampu*, *palṭana* or *kampanī* is stationed at a remote frontier (*gaudā*), and [the officer] who is to replace the [incumbent] officer [serving there] fails to reach there by the day of Śrīpañcamī, the former [officer] shall be entitled to collect the rent from the wheat [grown on his *jāgira* land]. The newly appointed [officer] is not permitted to argue that he was appointed before Śrīpañcamī.

171 This section seems to regulate how much of a deceased employee's salary is to be handed over to his heirs.

## 12. On the Payment of Salaries

7. If [a person] is appointed before Śrīpañcamī, but the emolument of [an officer] who will be dismissed from his post [only] after the Śrīpañcamī has been assigned to him, the [officer] who will be dismissed shall be entitled to receive his rent from the wheat [grown on the land assigned to him up to Śrīpañcamī].

8. If [an officer] is dismissed before Śrīpañcamī, but he has not yet handed over his accoutrements [to the government], he shall not be entitled to collect the rent of wheat [grown on the land assigned to him], even if he submits his accoutrements afterwards. [The officer] who was appointed before Śrīpañcamī and was granted the land assignment (*thekinu*) shall be entitled to receive the said rent.

9. If an officer is not dismissed until the day of Śrīpañcamī, and he continues to put on his accoutrements, he shall be entitled to receive the rent of wheat [grown on the land assigned to him].

10. If someone who is appointed before the first day of the month of Śrāvaṇa is dismissed after the first day [of the month of Śrāvaṇa], he shall be entitled to receive the entire rent [of 1 year from his *jāgira* land].

11. If someone who received an appointment along with a *jāgira* assignment after the first day of the month of Śrāvaṇa is dismissed [from his post] before listening to the *vasanta*-recitation<sup>172</sup> on the day of Śrīpañcamī, such an appointee shall not receive any rent from [his *jāgira* land].

172 Vasantaśrāvaṇa, the ritual recitation of the *Gītāgovinda* on the day of Vasantapañcamī.



## 13. On the Appointment and Dismissal of Jāgira Holders

1. If a turbaned (*pagarī*) officer from a *kampu*, *paltana* or *kampanī* is stripped of his accoutrements, including his horse with saddle and bridle, then the [newly appointed] turbaned officer who receives the emolument [of the dismissed officer] shall take his horse, saddle and bridle, implements and riding trousers (*custā*<sup>173</sup>) prepared at the request of the venerable [prime] minister and commander-in-chief. There shall be an assessment considering at which price the items were received, to what extent they are damaged, and how much weight [the horse has lost], and the reduced amount shall be paid to the dismissed [officer]. If a *dhākre* is dismissed and if he has preserved his accoutrements in the same condition as they were when he received them, and none of the items are damaged nor has his horse lost any weight and is ready for use, he shall receive a price [for his items] at the same rate as that at which he purchased them.

2. If a dismissed [officer] has preserved his items, implements and horse in a condition even better than he had received them, and he has nourished the horse to be ready for use, then the turbaned officer from the same *paltana* [who takes over his post] shall buy [the items from him] at an appreciated rate. If an officer who is promoted or transferred declares that he will not hand over [his accoutrements] on the grounds that he needs them for himself, then he shall not be compelled [to sell them]. If such an officer does not have [his accoutrements anymore], he shall have to search for replacements as he would search for his brother.<sup>174</sup>

173 Military trousers which are baggy from waist to knee and are tight from knee to ankle, also known as 'jodhpurs'.

174 The meaning of the last part of the sentence is not completely clear.

## 14. Recovering a Loan by Seizing Standing Crops

1. No one shall seize the standing crops of a *jāgira* holder with the object of recovering a long- or short-term non-governmental loan, except [for such loans made to allow payment of] the *darśanabheṭa* to the king or a government loan, loans taken from government officials, outstanding sums from government tax collection, fines or court victory fees due by him to the government—[the collection of which is taken] in [the form of] the *jāgira* holder's crops. A clerk (*kārindā*) who makes a *jāgira* holder pay his non-governmental debt by seizing a *jāgira* holder's standing crops, even if [this *jāgira* holder] is obliged to [re]pay, shall be ordered to go find the person to whom he gave the paid amount and bring it back, and [so] return the *jāgira* holder's standing crops, and [an additional] 10 percent shall be collected [from that amount] as a court fee. The clerk shall pay damages equal to the amount in question. If he does not pay the fined amount, he shall, in accordance with the *Ain*, be imprisoned at the rate of 1 month for every 5 rupees.

2. If [a military officer such as] a *subedāra*, *jamādāra* or *huddā* recovers a loan from a *jāgira* holder, low-ranking soldier (*sipāhī*) or the like [arbitrarily, at a time] of his own choosing, he shall be fined equal to the amount in question. If [the loan] is advanced, with the consent of the *jāgira* holder, *sipāhī* or the like, [as recoverable at a time of the creditor's] own choosing, and with the creditor having placed a *pagarī* or *huddā* [as a witness], no fine shall be imposed.

3. When *bhāradāras* or *daphtarīs*—who are [re]stationed every year at different offices and given authority over *kampus*, *paṭṭanas*, *kampanīs* or *pagarīs* of *paṭṭanas* or *jamādāras* or *huddās*, lend to *jāgira* holders, they have hitherto recovered [their loans] by taking pure [coins] for impure [coins], and half again as much in the case of pure [coins]. From now on, when lending, [the lender] shall recover the amount at a rate of 11 rupees per 100 of the same type of rupee as lent. If the *jāgira* holder is unable to pay back [the loan], so that it needs to be deducted from his *jāgira*, the price [of the land] shall be determined based on its location and with the consent of the *jāgira* holder. Any *bhāradāra* who, in violation of this regulation, recovers [a loan] without justification at a higher rate of interest or at a higher [assessment of land] value, the amount collected in excess shall be taken from him, and he shall be fined equal to the amount in question. If he does not pay the fined amount, he shall, in accordance with the *Ain*, be imprisoned at the rate of 1 month for every 5 rupees.

## 15. On Creditors and Debtors

1. A loan deed witnessed by the creditor's father, sons or brothers shall be considered forged. If a loan deed, an *ijārā* [contract] or a surety deed is witnessed and signed [both] by the one who has accepted [it, be it] a [lease of] land or deed of consent (*kabuliyata*)—[that is,] the debtor—and by his father or a son who is past the age of 16, the creditor shall be allowed to recover [the debt] from both the father and son. If [the son] witnesses and signs the deed [but] later on declares that he will not pay the creditor back and will not take his share of the paternal property, he shall not be allowed to do so. If the name of the son is not written on the land deed (*paṭṭā*), loan deed or deed of consent, and if he declares that he will not take his share of his father's property or repay the loan, such [a son] shall not be taken into custody.

2. If a person is about to die and someone comes to seize property, saying 'His gold, silver, cash and kind, jewels, household articles, house, land, male and female slaves, quadrupeds or the like [has been transferred] to me in writing', and if, when the deed and the parties involved (*pātra*) are considered, it becomes apparent that there are witnesses and scribes, and that [the names of] the witnesses are even written [in the deed], then irrespective of whether or not the creditors are present when the debtor is about to die, [the loan] shall be repaid in accordance with the arrangement between the parties to the deed. [The creditors] shall receive satisfaction. Ten and 20 percent of the recovered property shall be taken as a court fee [from creditors and the debtor respectively].

3. If a debtor until the time of his death does not tell anyone that he has taken such and such a loan from such and such a person, and if no household family member, villager, neighbour or respected person knows that he has taken such and such a loan from such and such a person, and if also the creditor says nothing [about the loan] for as long as the debtor is still living, brothers, sons or wife of the deceased [debtor] shall not be obliged to pay anything [to the creditor], regardless of whether [the loan] amounts to thousands [of rupees] or a blade of grass. They shall not be made to pay. If [the creditor says that] it was only an oral [agreement] and seizes [claimed property] with [such] inappropriate words, he shall be fined 10 percent of his total claim. If it is determined that he has come to seize [property], having forged a loan deed, he shall be fined an amount equal to that claimed in the deed.

4. If [someone's] father, mother or elder brother takes a loan or engages in [some other] transaction, and the father, mother or elder brother dies before having received the loan deed,

## 15. On Creditors and Debtors

then if there are witnesses [or other] evidence of the transaction, a deed shall be issued, with [any] household members who know [about the transaction] and an *adālata*, *ṭhānā* or *amāla* office as witnesses. Such a deed duly issued to someone [in age] from a 16-year-old to a breastfed child shall be deemed valid. [Creditors] shall be allowed to collect the amount.

5. In the case of transactions between or accounting relating to a debtor and creditor, whether with or without a loan deed, if the debtor and creditor sit together, calculate [the outstanding sum] and clear [the debt], and end by tearing up the deed, and if one party is a minor who has not crossed the age of 16 and who, upon reaching the age of maturity, lodges a complaint that he is not satisfied [with the settlement], the calculation shall be done again so that he is satisfied. If both parties are past the age of 16, [that is,] have reached the age of maturity, and if one of the parties lodges a complaint, the calculation shall be done again if the complaint is made within 6 months after the settlement of accounts. If the party comes to complain after 6 months, he will not receive [a hearing]; the earlier settlement of accounts and the tearing up of the deed remain valid.

6. If the five times venerable king (*śrī 5 sarkāra*) or anyone else draws up a loan deed, or simply gives a loan, which the debtor himself accepts, the latter shall be made to repay the loan if he has [sufficient] wealth [in the form contractually agreed]. If the debtor does not have [such] wealth, he shall be made to repay the debt with his house, land, household articles, quadrupeds or the like. If he does not have any of these, a document shall be prepared containing details of the transaction (*rasta kistako behorā*). Ten percent of the recovered loan shall be collected from the creditor, and 20 percent from the debtor. A creditor shall not be allowed to have a debtor imprisoned for wealth given as a loan. An *adālata*, *ṭhānā* or *amāla* shall not imprison [such a debtor].

7. If the receiver of *kuśabirtā* land granted by the five times venerable king or other kings is unable to maintain it and mortgages it to around 2–3 people or clears [a debt] with it, and if those who have taken such land dispute [ownership of] the land, the [mortgage] shall be held valid for the person who is recognised [as rightful holder of the land] under the 9-month deadline<sup>175</sup> regulation, irrespective of whether the land has been granted by the government or received by some other person.

8. If, except for *kuśabirtā*, the owner of [a category of] *birtā*—[such as] *bekha*, *marauṭa*, *phikadāra*, *chāpa*, *jiunī* or *mānācāmala* land—granted by the five times venerable king or any other king mortgages it to around 2–3 people or clears [a debt] with it, and if those who have taken such land dispute [ownership of it], then in the case where the dispute is between persons the [mortgage] shall be held valid for that person who is recognised [as rightful holder of the land] under the 9-month deadline regulation. If the government takes [the land] as collateral or for [debt] clearance, even if it takes [the land] after others, the taking [of the land] by the government shall

175 See § 5.51. This section deals with the sale or mortgaging of property to more than one person at a time. In general, the mortgage contracted first is the one that is valid. However, if the second mortgagee takes over the property and the first one fails to file a complaint within 9 months, the second mortgagee is entitled to retain control over it.

be held valid in the case where a written [deed] has been received for a usufructuary mortgage (*bhoga*), non-usufructuary mortgage (*dr̥ṣṭi*) or the clearance of a debt if there is no dispute. Even if a prior [creditor] is entitled to receive [land] according to the 9-month deadline regulation, he is not entitled to receive land that has been obtained from the government as a *bakasabirtā* or the like. If there is a dispute, then even if the debtor declares that he will not give his land to another creditor, but signs it over to the government [in order to clear] a debt, the government must not take [the land]. The [land] shall be given to the person who, according to the 9-month deadline regulation, is recognised [as its rightful owner].

9. If someone among a woman's paternal relatives spends, sells or consumes jewellery, household utensils or the like given to their daughter, sister or granddaughter by [her husband's] house, even if such a [woman] runs off with another man and dies, her paternal relatives shall not be allowed to spend or consume it. Such property shall be that of the lawful inheritors on her ritually married husband's side [of the family]. If it is ascertained that her paternal relatives have spent and consumed [such property], the amount in question shall be reimbursed, and they shall be fined half of the amount in question. A loan deed without security shall be drawn up for any person who buys such jewellery, and 10 percent [government fee] shall be collected from the one who receives back [such] jewellery.<sup>176</sup>

10.<sup>177</sup> If someone among a woman's paternal relatives spends, sells or consumes jewellery, household utensils or the like given to their daughter, sister or granddaughter from [her husband's] side of the family, and if [such items] have been spent or sold after consulting with her, they shall be recovered from the paternal relatives, with 10 percent [of their value] taken [as a government fee]. No fine shall be imposed. If the articles—the jewellery or the like—are no longer in the possession of her paternal relatives, their value shall be assessed and reimbursed in cash. Anyone who buys such articles from her paternal relatives shall receive no [punishment]. If [the items] have been taken and spent without consulting their daughter or by force, her paternal relatives shall make compensation for the jewellery, with 10 and 20 percent [government fee] being collected respectively from the one who receives back [the item] and [from her paternal relatives]. [The latter] shall be fined half of the amount in question. A loan deed without security shall be drawn up for the buyer.

11. [This section is] cancelled.

MA<sub>2</sub> 17.11. If a case is filed at an *adālata* or *amāla* office concerning a dispute about trade and transaction or creditor and debtor, and, if while settling the dispute, the case is decided to the satisfaction of both creditor and debtor [with the judgment] and a loan deed is drawn, 10 and 20 percent fees shall be collected [by the *adālata* or *amāla*] for the drawing up of the loan deed in its presence.

176 What is meant is that the buyer of the property of the woman has to return it to her rightful heirs and in case the unlawful sellers are not able to return the purchase amount have to issue a loan deed for that amount. The heirs to whom the property is restored have to pay a court fee of 10 percent of its value.

177 This section has been wrongly placed at the end of the Article, after § 15.

## 15. On Creditors and Debtors

12. If, in judicial cases involving a fiscal transaction, financial accounting, arrears or the like with the government, or a transaction between subjects, someone who, unable to pay in cash an amount owed, declares that he will give land of his [instead], and if an *aḍḍā*, *adālata*, *amāla* or *śrestā* office are needed in order to arrange the transfer [of land], the transaction shall be carried out in such a way that 6 rupees per 100 for land in the hill region, 4 rupees per 100 for land in Nepāla and 6 rupees per 100 for land in Madhesa shall be imposed as a [government land] tax in whatever type of rupee<sup>178</sup> [the debtor] is obliged to pay in. If the transaction is carried out to the satisfaction of both giver and recipient [of the land], it shall be valid irrespective of the [land] value [agreed upon].

13. If a loan was transacted between a creditor and debtor through a loan deed and more than 10 years have passed without the debtor paying any interest, [the latter] shall be made to pay only double the principal; [the creditor] shall not be permitted to collect more. If the debtor has paid more than the [total agreed] interest to the creditor from the day when the loan was taken to [the day] when the interest is due, up to 10 percent interest on the [principal] amount recorded in the deed shall be deducted [from the amount of interest the debtor paid] and whatever amount is ascertained to be in excess shall be deducted from the principal. If the amount given is less than the [total agreed] interest, it shall be deducted only from the [total amount of] interest; it shall not be deducted from the principal. If of the interest and the principal owed to the creditor some amount has been paid and some remains due, and 10 years have passed without [the debtor] being able to repay, only double the remaining part of the principal shall be recovered; [the creditor] shall not get double the principal. If 10 years have passed [on a loan] of grain, [a maximum of] triple the principal shall be recovered; [the creditor] shall not get more.

14. No loan deed shall be executed that charges interest on interest that remains due when a debtor is not able to pay. If anyone takes [compound] interest after executing a loan deed<sup>179</sup> or merely has [such] a document executed, whatever amount is ascertained to be compound interest either taken [on the basis of] or written into a loan deed he has had executed shall be deducted from what the debtor is required to repay, and the creditor shall be fined an amount equal to the compound interest he took. If [the creditor] does not pay the fine, he shall be imprisoned in accordance with the *Ain*.

15. If a property transaction occurs without a deed being executed,<sup>180</sup> only a record of it being made in a *khātā*, *bahī* or *syāhā* account books, the *bahī*, *khātā*, *syāhā* [or any other] documentation of both parties to the transaction shall be examined, the offerings and repayments of both principal and interest calculated, and a decision made as to [who is] to give and receive [what].

178 According to M. C. Regmi (1982: 73–75), several rupee units which varied in value reciprocally were used in different parts of the country during the 19<sup>th</sup> century, including the *mohora* rupee, *paisā* rupee, *gorakhapurī* rupee and various other categories of Indian rupees.

179 *matasuka*, read *tamasuka* (MA<sub>2</sub>).

180 *tamasuka leṣīyāko*, read *tamasuka nalekhiyāko* (MA<sub>2</sub>).

## 16. On the Repayment of Debts

1. If an amount owed a creditor needs to be recovered through an *adālata*, *ṭhānā* or *amāla* office in the following 7 cases: arrears due to the government, arrears from a revenue collection monopoly (*rakama*), arrears from a *jāgira* holder's standing crops, arrears [resulting] from expending the share of standing crops due a landlord, restitution for burning down another's house, restitution for thievery, then the share [of property of the offender's] brothers and sons who live unseparated in the same house, the paternal property being as yet unpartitioned, shall not be set aside. Restitution shall be made from the entire property of all [unseparated brothers and sons of the offender].

2. If a son declares that he will neither take his share of the paternal property nor repay a debt incurred on it, and thus rejects [both inheritance and liability], the creditor shall take whatever of the father's assets there are [that fall under his claim]. The creditor of a father shall not seize hold of a son who says that he will not lay claim to any of his father's assets. An *adālata*, *ṭhānā* or *amāla* shall distribute whatever property there is proportionally [to creditors] and issue acquittances. 10 percent of the amount recovered shall be taken [as a government fee].

3. If a son takes a loan without the consent of his mother and father, the creditor shall recover [the debt] from the son's acquisitions and earnings. The creditor shall recover [the debt] from the mother's and father's wealth and property only if the parents willingly pay. If mother and father do not [want to] pay, the creditors shall not be allowed to recover [the debt from their property] as long as they are alive.

4. If a son living [in a joint family whose property is still unpartitioned] causes mischief and commits an offence, the father shall pay [the compensation or fine]. If the father declares, 'I will not pay; imprison [him]', [the son] shall be imprisoned 1 month for every 5 rupees. Even if [the son] commits a crime calling for the confiscation of an entire property, only the son's share of property shall, in accordance with the *Ain*, be confiscated.

5. If someone does business by taking a quantity [of goods] on loan from a creditor and providing a written promise to give him a specified share of the profit, [the creditor] shall be permitted to recover the principal and the profit in accordance with the document that states that [the debtor] will pay the specified profit. An *adālata*, *ṭhānā* or *amāla* shall make [him] pay. If it is not profit that is promised, but rather interest, [the creditor] shall not be allowed to receive more than 10 percent of the [original] cash value [of the goods].

## 16. On the Repayment of Debts

6. If someone takes a loan in cash from a creditor with a written promise to pay a specified number of *murīs* of grain per 100 [rupees], and if there is a quarrel between the creditor and debtor at the time of repayment and they come to complain before an *adālata*, *ṭhānā* or *amāla*, then even though there is a written promise, [the debtor] shall be made to pay interest at the rate of 10 rupees per 100. [The creditor] shall be permitted to receive neither grain in accordance with the deed of consent (*kabuliyata*), nor a monetary sum based on the sale value.



## 17. Repayment of Debt from Dowries

1. If [the livelihood of] a husband, his family and his male and female slaves is being maintained with [the help of] his wife's dowry, the husband's creditors shall not be permitted to take such a dowry, nor shall the government be permitted to confiscate it for a crime committed by her husband.

2. If a husband and a wife of his who possesses a dowry have been living [together], but there is no [other family member, such as] her mother-in-law, father-in-law, brothers-in-law, or co-wives [within the household], nor any other concubine being kept outside [the household], and if [the husband] incurs debt while supporting his wife, or supporting sons of hers or other members on her side of the family, the wife's dowry shall help to repay the debt. If the wife has family members on her husband's side, such as her mother-in-law, father-in-law, brothers-in-law or co-wives living in the same house [with her], it shall not be permitted to have the debt repaid [to any extent] from her dowry. The wife's dowry shall not go towards [making reparation for] mistakes made by her husband, be it that he commits a heinous crime (*rājakhata*), incurs debt while standing surety, or has unpaid loans [taken to repay] remaining [losses] while gambling. Whatever [part of] a dowry [is drawn on in any such cases] shall be restored to her.

3. If a husband gives to his wife a *jiunī* or *jeṭhāka* [share of his property, neither of] which should have been given [to her], it shall be used to repay a creditor. If one co-wife among others comes to complain that such and such a co-wife has received a *jiunī* or *jeṭhāka* share [in property] but she has received nothing, [the share] shall, in accordance with the *Ain*, be divided among all co-wives. [A husband's] giving a *jiunī*, *jeṭhāka* or *pevā* [share of his property] to only one wife among 2–3 wives shall not be valid. The *kacaharī* office shall take 10 percent as [a court fee] from any case decided by an *adālata* or *amāla* office.

4. If someone incurs debt and later [transfers property of his] to his wife in writing as a *jiunī* or *jeṭhāka* share, such property given to her in writing without [first] repaying the debt shall not be valid. He shall [first] repay the debt. [The debtor] shall be made to repay [his loan] to the creditor.

5. If someone's wife is considering giving a significant [portion of her share of property as a] gift to her daughter, son-in-law or the like, and sets about doing so without [first] repaying a debt to a creditor, [she should know that the gift] shall be valid only if she has cleared her debt with the creditor before giving away a share of her property. A gift made without repaying the debt shall be considered invalid.

## 18. Creditors and Debtors

1. If a moneylender, landlord, *amālī*, *rakama* holder or *jimmāvāla* personally seizes real or movable property that he is to receive from the household of a borrower, tenant or subject, and if, after taking it, it turns out that he took less property than the total [amount] due him, then, if while taking it he has named the *pañca* [as witnesses] to assess its value, he shall be allowed to take later whatever [amount] is [still] outstanding according to the [revised] calculation. If neither the debtor, tenant nor subject gives [the property] on his own nor does [the creditor] name a third party from the village [as witness], and if [the creditor] personally seizes [the property] by force, then once he has personally seized it from the household of the debtor, tenant or subject, he shall not be allowed to take possession [of any further property] under the pretext of still having something left to collect, even if what he has collected is less than the total [amount owed].

2. If a borrower, tenant or subject does not clear an instalment on a [monetary] debt or [one in] standing crops which a moneylender, landlord, *amālī*, *rakama* holder or *jimmāvāla* is entitled to by an agreed deadline, and if [the creditor] personally seizes property from the borrower's or tenant's household, collecting [only] up to the total [amount] which he is entitled to after the price has been determined by the *pañca* and the latter have been named as witnesses, the moneylender, landlord [and so forth] shall not be held accountable. If the tenant, subject or borrower wishes to get back his property, he shall be allowed to do so if he comes to pay the amount within 35 days. He shall not be allowed to get it back after 35 days have passed.

3. If a moneylender, landlord, *amālī*, *rakama* holder or *jimmāvāla* personally seizes property from the household of a borrower, tenant or subject, while [simultaneously] collecting up to 10 percent interest beyond the total [amount] which he is entitled to, he shall not be held accountable. If [the debtor] comes to complain, then whatever has been collected beyond [the figure recorded in] the accounting shall be returned. If [the creditor] has personally seized more than the total [amount owed] plus 10 percent interest, the amount in question for the property collected in excess shall be reimbursed to the borrower, tenant or subject together with the interest. Ten percent (*dasauda*) and 20 percent (*bisauda*) of the amount in question shall be collected from that moneylender [and the like]. No [payment] shall be required of the borrower, tenant or subject.

4. If, in the case of a dispute over a transaction between a tenant and landlord, the tenant stops paying the amount [due], [the landlord] shall be compensated with property from [the

tenant's] house. If the amount [recovered] through the seizure of property from [the tenant's] house is not sufficient, and if the landlord says, 'Imprison him. I will deduct 5 rupees [from what he owes] for every month of his prison term', [the tenant] shall be imprisoned after obtaining a written renouncement from the landlord [of the sum owed]. After the prison term is over, [the tenant] shall be set free. Once the landlord has sent [the tenant] to prison, he shall not be allowed to catch hold of him again, claiming that he has to take [an owed sum].

5. If a creditor in a matter involving a loan deed, land or the like takes a widowed or married wife and confines her in his home, an *adālata*, *ṭhānā* or *amāla* office shall collect 10 percent [of the debt] from the confined indebted woman and tear up the deed. The creditor shall forfeit the amount in question. If such a female debtor does not pay the amount [she owes] and if a bailiff has to be called upon, [the creditor] shall be allowed to collect the amount owed him by sending a female bailiff to the debtor's home and taking her into custody; he shall collect it [in this way]. If she comes to complain that she will not pay the amount, an *adālata*, *ṭhānā* or *amāla* shall investigate and she shall be made to pay what is ascertained to be lawfully owed. If it is ascertained that the amount is not owed, the creditor shall be beaten. If she has to pay some amount (*dhana*) but is unable to do so, a loan deed [specifying] the details and the deadline for the payment shall be prepared and she shall be let go.

6. If a creditor comes to complain that a debtor has not repaid an amount [taken as a loan], a debtor who has [sufficient] wealth shall repay [the loan] in the same form as he took it. If he does not have the cash, he shall pay from whatever he can raise from his land, *jāgira*, valuables, household articles, quadrupeds, male and female slaves or the like. If the debtor has no such things, the creditor shall set out a repayment plan. If the creditor does not set out a [repayment] plan, [the loan] shall be proportionally shared [among the coparceners of the debtor's family], even if the latter took out the loan on his own. If [the debtor] takes out a loan on his own and the creditor declares that he will set out a repayment plan, [the loan] shall not be proportionally shared [among the debtor's coparceners], even if the latter come to insist that it be so shared.

7. If someone gives a formal or informal loan to someone else's male or female slave, he shall not be permitted to confine this male or female slave and [thereby] to obstruct their owner's work. [The creditor] shall collect [his loan] whenever the male or female slave repays the amount. If [the creditor] confines [the male or female slave] and [thereby] obstructs the owner's work, he shall compensate the owner for the value of their labour with 4 *ānās* for as many days as he has obstructed the work. The male or female slave shall be handed over to their owner. [The creditor] shall be fined equal to the amount compensated for the value of their labour.

8. If a master takes and consumes the wealth of a male or female slave, and the male or female slave comes to complain, [the master] shall not be allowed to have used force [to obtain and then] to have consumed the wealth of the male or female slave. The amount consumed by the master together with interest, fixed at 10 percent, shall be collected from the master and reimbursed to his male or female slave. If a male or female slave dies without leaving a son, an

## 18. Creditors and Debtors

*adālata*, *ṭhānā* or *amāla* shall not receive such property for which there is no son as heir. The master shall receive it.

9. If there is a dispute between a creditor and debtor concerning a loan with or without a loan deed or [concerning] a transaction recorded in a ledger (*bahīpatra*), and if interest was paid for 16 years or more, but later the payment of interest has stopped, such a transaction shall be deemed valid. [The debtor] shall be made to repay the creditor according to the account. If he has not been paying interest for 16 years or more, and if the transaction is from the time of his father or forefathers, and if the creditor takes the loan deed or ledger and comes to lay hold of him, and if witnesses who know about the transaction are still alive, and if [the creditor's claim] is proved when they are brought [before a judicial body] and made to give a statement, [the debtor] shall again be made to repay [the debt]. If [the creditor] has not received interest for 16 years or more, and if also sons and grandsons [of the debtor] have not heard about the transaction, and there is no witness from the time when the transaction occurred, and if the creditor refers to witnesses who are either already dead or have fled [from having to testify], such a creditor shall be deemed deceitful. [The debtor] need not repay the amount. 10 percent of whatever amount was seized shall be collected from such a deceitful creditor. If he does not pay the amount, he shall be imprisoned in accordance with the *Ain*. From the accused debtor shall be collected 2½ rupees as *salāmī*, and he shall be set free after a certificate of exoneration (*jitāpatra*) is issued. If he is accused of [defaulting on] less than 5 rupees, the certificate of exoneration shall be issued for 2 *ānās*.

10. If there is a dispute over a transaction between foreigners (*deśī*), 10 and 20 percent of whatever amount is decided as owed shall be collected [from the aggrieved party and the guilty party, respectively]. Neither a fine nor a winning fee (*jitāuri*) shall be collected.

11. If a [loan] transaction is recorded in the creditor's account book, and if both parties to the transaction are still alive, [any] dispute shall be decided after the documents of both have been inspected. If those who concluded the transaction die and if [someone] comes to seize [property], saying to [the debtor's] sons, 'I have to collect such and such [an amount]', and if there are witnesses who know about the account book relating to both (i.e. the creditor and debtor) and about the transaction, [the debtor's sons] shall be made to repay whatever is deemed proper. If there is neither an account book nor people who know about the transaction, the [self-proclaimed] creditor shall be deemed deceitful, and [the debtor's sons] need not pay anything. Such a creditor shall be fined at the rate of 2½ rupees per 100.

12. If, without the knowledge of the husband, or of a son past the age of 16, someone lends an amount to the wife or concubine of the man who according to the *Ain* has the right to kill a paramour of his wife, having drawn up a loan deed [secured by collateral in the form of] cash or kind, [including] jewellery, quadrupeds or male or female slaves, or if he buys [any such items from her], such a creditor shall not be repaid from the earnings of her husband or son. The credit shall be repaid from that wife's dowry and personal property. Whatever sales are made or

loans taken by that wife shall not be valid. If the dowry or private property does not suffice for the loan repayment, such a wife shall not be imprisoned.

13. If someone notices that someone else lends an amount in a secluded place to [one of] the former's wives whose paramour, according to the *Ain*, he is allowed to kill without him or a son of his who is past the age of 16 having been informed, and if he kills the paramour irrespective of whether or not the latter had been engaging in sexual intercourse [with her], he shall not be held accountable, inasmuch as he killed [the man] at a time when they were in a secluded place.

14. If someone's wife, daughter-in-law or daughter sells [property] or recovers [a debt], such a transaction shall be valid if the master of the house has issued a written statement<sup>181</sup> that he consents to the transaction made by her.

15. If a debtor who does not pay back a loan given by a moneylender or the like is to be confined, [the creditor] shall put him neither into a drainage, latrine, fetters, stocks nor leather straps. Nor shall he tie him up. He may recover his wealth by putting him into his service for however long it takes, providing him with food and water, and locking him up or confining him in a room or on the ground floor. He shall not be held accountable [for doing this].

16. In the case of a loan given to another person, if [the creditor]—once the accounts are cleared, the loan is recovered and the loan deed or written papers are torn up—makes a forged loan deed or written papers regarding the same matter and lays hold of the debtor or the debtor's son, family, or an brother, claiming that a certain amount is outstanding, or makes the debtor write another deed and [goes on] dunning him for the money, then [the creditor] shall be fined equal to the total amount seized. The debtor shall be set free after 1 rupee per 100 is collected and a certificate of exoneration is issued.

17. If someone has many creditors, and if one of these creditors lays hold of the debtor and confines him, and if under such circumstances another creditor or someone else lays hold of that debtor and takes him away, and if it is ascertained that the debtor died in the house of the creditor who last laid hold of him and took him away, he who forcibly laid hold of and took away [the debtor] after he had already been confined by someone else shall be fined heavily. The creditor who last laid hold of and took away [the debtor] shall not be obliged to repay money that should have been repaid by the deceased debtor.

18. If someone has many creditors, and one [of them] lays hold and confines [the debtor], and if another creditor removes him from the place where he is being confined and confines him again, and if it is ascertained that [the debtor] fled from that place without having paid his debt, the creditor from whose house he fled shall be fined heavily. Such a creditor shall not be obliged to repay the amount owed to the other creditor. If it is ascertained that he laid hold of and took

181 *ṣat*, read *lekhata* (MA<sub>2</sub>).

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away [the debtor] from the place where he had been already confined by someone else, collected all his [loans] and let [the debtor] run away, he who let [the debtor] run away shall be obliged to repay the entire [amount owed] to the creditor who had first confined [him]. Ten and 20 percent shall be collected [as court fees].

19. If someone has many creditors and one [of them] takes away and confines [the debtor], being the first to do so, and if [the debtor] flees from that place, is given permission [to leave], or is found to have departed and to be roaming about for no apparent reason, and if another creditor lays hold of him and takes him away, and if, while the second [creditor] is holding him, neither any person [from the side] of the creditor who previously held him nor any bailiff is present, he who previously held [the debtor] shall not be allowed to claim that he had [first] laid hold of him [and is therefore entitled to be the first to collect his loan]. He who is the last one to hold [the debtor] shall, in accordance with the *Ain*, be allowed to collect his property [from the debtor first].

20. If someone has many creditors and if one of these creditors lays hold of and confines [the debtor], and if someone else forcibly removes [the debtor] from the place the [other] has confined him in and takes him away, and if that debtor dies or flees, and if the [first creditor] comes to complain [to authorities] within 7 days after the [second creditor] took [the debtor] away, the case shall be settled in accordance with the *Ain*. If it is ascertained that he did not come to complain when the debtor confined by him was laid hold of and taken away by the other [creditor], but rather came to complain more than 7 days after he became aware of the [debtor's] death or escape, his complaint shall not be heard.

21. [This section is] cancelled.

MA<sub>2</sub> 20.21. If someone advances or takes a loan, having accepted or given something as a usufructuary or non-usufructuary mortgage, or having drawn a loan deed without security, and if the creditor, during the repayment of the loan by the debtor, [falsely] demands more than [what was advanced] in total, stating 'I have to collect this much [credit from him], and if the debtor [counter]argues and decreases [whatever has been claimed by the creditor], stating 'I have to pay you this much [only]. I am not required to pay more than this', and if the creditor brings the loan deed, witnesses and other evidence to the *kacaharī* office and satisfies [the jury members], the debtor shall be forced to repay only the principal sum, if the creditor has been enjoying the land he accepted as mortgage. If he has not been enjoying the mortgage, the debtor shall be forced to pay both the principal sum and interest. If the creditor fails to prove [the amount he claimed in excess] through the loan agreement, witnesses and other evidence, the debtor shall be made to pay the principal sum and interests as the debtor himself stated.

## 19. Taking Collateral

1. If a creditor, advancing money or the like as a loan, in doing so writes a person or land [into the agreement] as collateral, and if the debtor is unable to pay the interest, the interest of some years remaining due, [so that] the debtor gives [the collateral] as a usufruct to the creditor in written form for the total [amount] including the [remaining] interest from earlier, declaring, ‘I could not pay the interest. Make use of the person [or land] written [into the agreement]’, then if that [debtor later] comes to redeem [the collateral], [the creditor] shall collect the total amount according to the written document and release the land or person.

2. If a creditor, advancing money as a loan, in doing so writes a person, land or the like [into the agreement] as collateral, and if the creditor, in the case where the debtor is unable to pay the interest, seizes the collateral and makes use of it without having [the debtor] convey a usufruct in writing, and if later the debtor comes to pay the amount in question, [the creditor] shall release the land or person after collecting the amount in question according to the written document. He shall not be allowed to collect the interest [that accumulates] after he starts making use of the collateral, declaring that it remains outstanding from the time before he started making such use.

3. If in the case of a transaction involving a commodity or the like someone borrows the item with an agreed deadline [for its return], irrespective of whether a deal was reached as to the amount charged or not, and if he [returns it and] pays the amount charged by the agreed deadline, the creditor shall not receive any interest on the commodity lent out. If [the debtor] is not able to return it by the deadline, [the creditor], after the deadline has passed, shall be allowed to collect it along with an interest of 10 percent from the day the deadline passed. [The debtor] shall return [the item] along with an interest of 10 percent according to the deal reached, if a deal was reached, or, if no deal was reached, according to a suitable charge as determined by the *pañca* or the *kacaharī* office. The *kacaharī* shall collect [as court fee] 10 and 20 percent of [the amount charged for] the returned item.

4. If in a business transaction before the 15<sup>th</sup> of the bright fortnight of Kārttika in the year [VS] 1908 the government, a *kampu*, the regular army (*janḡī*), civil servants, foreigners, nobles, common subjects or the like entered into a loan agreement on the basis of [concrete] figures, with or without a written agreement and upon the mutual consent between creditor and debtor, then whatever the rate of interest offered and accepted during negotiations—that same figure

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shall be valid for transactions that have already been concluded. If an interest rate of more than 10 percent is written into the agreement but the transaction has not yet taken place, [the debtor] shall pay [only] an interest rate of 10 percent. In cases where more [than 10 percent] interest is written into an agreement before this date, no fine shall be imposed. If after the 1<sup>st</sup> of the dark fortnight of Mārga in the year [VS] [190]8 somebody comes to complain that [his creditor] has been taking more than 10 percent interest and also the ghee fee (*ghiu-khānī*)<sup>182</sup>, then even though [an interest of] more than 10 percent is written into the agreement between the creditor and debtor, the transaction shall be carried out with [an interest] rate of 10 percent. If an interest rate of more than 10 percent is written into the agreement and if [the creditor] takes the ghee fee as a perquisite, the amount taken [as such a fee] shall be deducted from the principal sum. [The creditor] shall be fined by whatever [amount] is ascertained as having exceeded an interest [rate] of 10 percent. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees. When interest is being paid, it shall be paid in whatever type of rupee [the loan] was taken out in. If the loan agreement is older than 10 years and the creditor has not received any interest, [the debtor] shall be made to pay double [the principal]. If [the creditor] cannot recover [his loan] from the debtor in the same form he took it, and if [the debtor] declares that he will pay the loan from what he possesses—house, land or movables—the creditor shall take it after [its value] has been appraised by the *pañca*. If an *adālata*, *amāla* or *ṭhānā* office is needed to make [the debtor] pay, 10 percent shall be collected from the creditor and 20 percent from the debtor [as a court fee], and the outstanding sum shall be paid—[respectively] received and given.

### 5. [This section is] cancelled.

MA<sub>2</sub> 21.5 [From now onwards when the Tahabīla [or any other office of] the government does the [final] accounting of a written loan transaction between a creditor and debtor among the [kingdom's] subjects, no compound interest shall be [allowed to be] taken. [A maximum] interest of 10 percent shall be taken. The [final] accounting shall be done and the transaction concluded by returning any excess in the amount that exists as such after deducting up to [10 percent] interest on the money that has repaid the loan. If the [loan period] exceeds 10 years, [maximum] interest of double [the principal] for cash and triple for grain shall be paid. [The creditor] shall not be allowed to take more.]

6. When lending money, one shall lend to persons belonging to one's own country. No one shall lend money to and take interest [on it] from persons from Mugalāna, except for those of one's own country [who live there]. If a debtor [from a foreign realm] commits fraud, [the creditor] shall not be allowed to recover the loan by lodging a complaint at an *adālata* of his own government.

182 Lit. '[something given] for eating ghee'. According to NBS (s.v. *ghiu-khānī*) this was a payment to a creditor, supplementary to the repayment of the principal and interest, in order to supply him with ghee.



7. The people of this country shall not take [ownership of] any land of Mugalāna from the 12<sup>th</sup> of the dark fortnight of Śrāvaṇa in the year [VS] 1911 onward.<sup>183</sup> Nor shall anyone deposit any amount with the Company [Government] for interest. No *jāgira*, *rakama* or so forth shall be given to anyone who deposits an amount with the Company [Government] for interest or who takes [ownership of] land in Mugalāna. If a *jāgira* has been assigned to such a person, he shall be dismissed [from it]. Disputes having to do with Mugalāna shall not be heard here.

8. If someone takes a person or land as either non-usufructuary (*dr̥ṣṭi*) or usufructuary collateral from an individual, and if [that creditor] out of need gives it out to another person as collateral at the same value for which he accepted it, and if the one who initially gave his land as collateral comes to pay off the amount in question [to redeem his pledge], the second one to take the collateral shall be obliged to accept the amount in question [for the pledge]. He shall not be allowed to say, 'I will accept the amount in question [only] on my date.'

**The regulation in the case where a creditor for the sum he is to recover seizes unmortgaged land belonging to the debtor and the interest he takes [by exploiting that land] either falls short of or exceeds [what he is entitled to collect as interest]:**

9. If, in the case of a transaction between a debtor and creditor, the creditor has been using land [belonging to the debtor] which has not been written into the loan agreement as usufructuary or non-usufructuary, and if [the creditor] receives his interest [on his loan] at the rate of 10 percent or less than 10 percent from the yield of that land, later on, once he has [finished] using the land, he shall not be allowed to take [it back] from the debtor, declaring that the interest [payment received up till then] is not sufficient. If [the creditor] receives interest at a rate of more than 10 percent, whatever he receives in excess shall be deducted from the principal sum, and [the debtor] shall pay whatever is left of the principal. Once a creditor [finishes] using [a debtor's] land when the latter fails to pay interest, [the debtor] shall not be allowed to argue that he has not written [the land] into the loan agreement.

183 This date is four months after the promulgation of the *Ain*. A transition period is thus given before the new law comes into force.

## 20. Writing Collateral into Loan Agreements

1. If in a written loan agreement someone assigns *birtā* land of his to a creditor as non-usufructuary or usufructuary collateral and the government seizes it, or else land written into a loan agreement as collateral falls to the government because one of them, either the creditor or debtor, has all his property confiscated, the creditor shall not be allowed to collect [the loan] by laying hold of the debtor's offspring. If the land is released or [other] land is received in exchange [for it], the creditor shall [be allowed to] recover [his loan] from this land. If anyone comes to file a case in such a matter, he shall be fined 20 rupees and let go.

2. If someone takes a loan from a creditor and signs over *birtā* land of his own as a [usufructuary] mortgage, [the creditor] shall collect the interest from revenue from the land, and revenue in excess of [the interest] shall be deducted from the principal sum. If [a debtor] writes land of his [as security into the mortgage] and gives up his own right to use it (*māsnu*), declaring that as long as the amount owed the creditor is not recovered from the revenue from the land, [he, the debtor,] shall not redeem [the mortgage] by paying the amount in question [on his own], and that the creditor shall make use of the land for as long as the amount in question is not paid off from the standing crops [on it]. As long as the amount in question is not paid off from the revenue of that land, the debtor shall not be allowed to redeem [the mortgage] by paying off the sum [on his own]. Once the amount owed the creditor is completely paid off, the loan agreement shall be torn up.

3. If a creditor takes the usufruct of a person or land and recovers the amount owed [him] by conveying the land to someone else, he shall be allowed to do so [if], when recovering the amount in question, [he does so] in accordance with the loan agreement. If the creditor conveys the collateral, by taking a higher amount than what [has been noted down] in the loan agreement, he shall be made compensate the amount in question he collected to the first mortgagor and shall be fined equal to the damages [to the debtor].

4. If a transaction involves the usufructuary mortgage of land, first investigate [the land] and [only then] accept [the terms relating to] it. Once a creditor uses the land, he shall not be allowed to harass or coerce the debtor over the amount owed, claiming that the land is deficient or less [than promised].

5. If a house, paddy land, or any other [type of] land, a male or female slave, or a male or female bondservant is put up as collateral in a secured transaction, then whatever arrangements

regarding a month and day due date are made under *baḍhakarāra* terms as part of the transaction, on that day the debtor shall pay off the debt and redeem [the pledge]. The transaction shall be made (i.e. formulated) accordingly. [The pledge] shall not be allowed to be redeemed before the due date is reached. Neither the creditor nor the debtor shall exert any pressure [to breach the contract] before the due date is reached. A debtor who comes to pay off the amount owed before the due date has arrived or a creditor who exerts pressure [on the debtor] before the due date has arrived shall be fined at the rate of 20 rupees per 100. If the fined amount is not paid, [the defaulter] shall, in accordance with the *Ain*, be imprisoned at the rate of 1 month for every 5 rupees [of the fined amount].

6. If someone puts up land, a house, paddy land, quadrupeds, a male or female slave, household articles, gold [and silver] or jewellery as collateral in a written deed in the presence of witnesses, and if his consanguineal male family members who have a rightful claim [to the pledge], or else consanguineal male family members who are entitled to inherit his property in the absence of male issue declare that they will redeem [the pledge] by paying off the [loan] sum in accordance with what is in writing, such rightful heirs shall be allowed to redeem it by paying off the amount owed only if the creditor or the creditor's offspring give [consent that shall be valid] for as long as they live. [The debtor's heirs] shall not be allowed to redeem [the pledge] if [the creditor or his offspring] do not give [such consent].

If neither the creditor nor offspring of his have survived, those who are entitled to inherit [the debtor's] property in the absence of male issue shall be allowed to redeem the pledge by paying off the owed amount, given by a third party (*desi*). Let [such rightful heirs] redeem it. If someone after 16 years comes to file a case, stating that such and such a consanguineal family member—of the same or a previous generation—pledged such and such a thing and that they are entitled to redeem it, it shall be returned [to them] if [their claim] is confirmed through an investigation of the deed (*patra*) and parties involved (*pātra*). If [the creditor or offspring of his] have been receiving interest, [the pledge] shall be returned [to the rightful heirs of the debtor], even if there is neither a deed nor a witness. If [the creditor or the offspring] have been receiving no interest and there is neither a deed nor a witness to confirm [the claim], [the claim] shall be dismissed. [The claimants] shall be told that they will not be receive [the pledge] back and be fined at the rate of 10 rupees per 100 of the total claimed amount. If they do not pay the fined amount, they shall be imprisoned 1 month for every 5 rupees [fined].

7. If a loan is transacted by pledging commodities, the transaction shall be made by recording the price and weight of the commodity in the loan agreement. If the debtor comes to redeem the commodity by paying off the amount owed, and if the creditor returns the commodity in its original condition, [the debtor] shall pay the creditor the principal along with [the maximum] 10 percent interest [on it], in line with the accounting. If the creditor is not able to return the pledged commodity [in its original condition] or uses it as a means of payment, the creditor shall not be allowed to take interest. If a surplus for the debtor turns up in the accounting, the surplus amount including interest shall be calculated starting from the date of the agreement and shall

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be reimbursed to the debtor. The *kacaharī* office shall collect 10 and 20 percent [as court fees] from the reimbursed amount.

8. If someone puts up a house, paddy land, human chattel or [any other type of] land as collateral, and if he goes to redeem it and the creditor declares, ‘I will let you redeem [the collateral] if the amount [brought to pay off the loan] is from your income or [income from your] household. [If so,] take it. I will not let you redeem it if the amount you brought is from somebody else’, then if [the debtor] comes to complain [to authorities] that [the creditor] does not accept [repayment of] the amount [owed], the creditor shall be [told that he is] obliged to accept [the repayment] once [the debtor] has raised the amount in question and given it [to him], no matter where he has brought it from. If the debtor comes to complain that the creditor is wrangling and refuses to accept [repayment of] the amount [owed], [the creditor] shall be fined 10 rupees per 100 and the matter shall be settled by having [the creditor] pay [the fine] and [the debtor] pay off [his debt]. The document in which the details [of the agreement] are written down shall be torn up. An *adālata*, *ṭhānā* or *amāla* office shall collect 10 and 20 percent of the [repaid] amount in question [as a fee]. If [the debtor] has given word in writing that he will redeem [the collateral] by producing the [owed] amount from his own [resources], not from someone else’s, he shall be allowed to redeem [the collateral] by paying the amount in question, even if he has produced it from someone else’s. The creditor shall not be fined 10 rupees. Only 10 and 20 percent from the repaid amount in question shall be collected [as a fee].

9. If a creditor accepts a paddy field under a usufructuary mortgage and if on the land so used flooding or a landslide occurs, he shall not be allowed to collect the amount [owed] from the debtor. If that land turns into an alluvial paddy field (*bagara*), it shall become the creditor’s.

10. If under a usufructuary loan agreement someone takes a loan from a creditor and signs over [real property]—such as land [of any type], a house or paddy land—[or such moveable property] in cash or kind as male or female slaves, quadrupeds, gold, silver, household articles or jewellery, [specifying] the due date [for repayment], placing witnesses and stating, ‘I will redeem my things by paying the principal sum and accrued interest on such and such a date. If I am unable to repay the amount by the due date, the creditor shall take possession of the land or [other] things signed over [as usufructuary collateral] for the amount in question’, the debtor shall not be allowed to redeem [the collateral] once the due date has passed. The creditor shall be allowed to take possession of it. Once the due date has passed, the creditor shall be allowed to sell and use the land or the [moveable] cash or kind [property]—the jewellery, quadrupeds, male or female slaves and so forth—which were signed over.

11. If someone exchanges [with someone else] such chattel as male or female slaves, land, quadrupeds or jewellery, either with witnesses present or by mutual consent, then once they have completed the exchange by mutual consent and have made use of [the chattel] neither party shall be allowed to return [what he has taken] but refuse to accept back [what he has given] on the grounds that it [has become] deficient or unusable. The previously completed exchange shall be valid.

He who later comes to contest [the matter] shall be fined 10 percent of the [assessed] amount in question. If he does not pay the fined amount, he shall, in accordance with the *Ain*, be imprisoned.

12. When one engages in a transaction involving such things as male or female slaves, quadrupeds and land, if the commodities or quadrupeds are handed over to the [buyer] on the day when the price is settled or earnest money is paid, and if a loan agreement is drawn up, the buyer's [claim to] the commodity shall be valid. [The buyer] shall pay the principal sum and interest according to the written deed. If [the buyer] pays earnest money but the commodity remains at the seller's house, and if he who has paid the earnest money does not pay the [whole purchase] price and take the commodity within 1 month, he shall not be allowed to take it later on. The owner of the commodity shall be allowed to use the commodity. He who contests the matter after 1 month, arguing that he has paid earnest money shall be fined 5 rupees per 100 of the [purchase] amount. If he does not pay the fined amount, he shall, in accordance with the *Ain*, be imprisoned.

13. If one of the brothers who are living together without partitioning the property sells a male or female slave, a house or paddy land without consulting the other brothers, but in doing so sells only his own share, leaving the shares of his other [brothers] untouched, the transaction shall be valid. It shall be valid even if he sells the other brothers' shares, [if done] to support his family. If he sells [the property] to meet personal expenses and without leaving the other brother's share untouched, it shall not be valid; the [purchase] amount shall be returned to the buyer and the male or female slave, house or paddy land with adjacent paddy land shall be returned [to the seller's joint family].

14. If someone receives paddy and unirrigated slope land (*pākho*) under a written usufructuary or non-usufructuary loan agreement, and advances the [agreed] amount as a loan, and if later on the paddy land is seized by the government and only the unirrigated slope land remains, or else the unirrigated slope land is seized by the government and the paddy land remains, and if the debtor comes to say, 'I will deduct proportionally [from the loan] the amount for the land which was seized and will repay the amount only for as much land as remains. Release the [former] land [from the agreement]', the creditor shall not be allowed to say that he will release the land only if the total [credit] amount in question is repaid. He shall receive the amount under a proportional reckoning and release the [seized] land [from the agreement].

MA<sub>2</sub> 22.14a. If someone receives a paddy field and an unirrigated slope (*pākho*) under a written usufructuary or non-usufructuary loan agreement, and advances the [agreed] amount as a loan, and if later on the paddy field is seized by the government and only the unirrigated slope remains, the debtor shall not be allowed to argue that he will deduct proportionally [from the loan] the amount for the paddy field which was seized and will repay the amount only for the unirrigated slope that remains and release it [from the agreement]. He shall be allowed to redeem his unirrigated slope only after he repays the total amount of his debt. He shall not be allowed to redeem it by proportionally repaying the sum only for the unirrigated slope.

## 21. On Proportional Division [in Cases of Insolvency]

1. If the proportional division of someone's [property] has to be arranged, then once the proportional division of [the value of] the debtor's land has got underway—[land] accepted [by the creditor] under a non-usufructuary or usufructuary mortgage, irrespective of whether the government or commoners [gave the loan]—then the amount lent under the mortgage shall be put aside for the creditor, and if the value of the land as determined by the *pañca* exceeds [the sum owed], the total surplus shall be divided proportionally [amongst all creditors]. Ten and 20 percent shall be collected from the recovered amount [as a court fee].

2. If, in the case of a transaction a creditor has made in person, he does not [at first] receive anything from the debtor, and [so] declares that he will recover [the loan] once the debtor starts earning—having neither confined nor put pressure on [the debtor]—and if such a profligate debtor comes and asks [the creditor] to undertake a proportional division, a proportional division shall not take place just because [the debtor] comes [to ask for it], having not been put under any pressure by the creditor [to do so]. One shall not allow it to be done.

3. If someone says, 'Many creditors hanging over [me]. Make a proportional division', and if his creditors agree to do so, the *Harivaṃśa*<sup>184</sup> shall be put on the debtor's head, he shall be taken to [a shrine of] Kāla Bhairava or [the shrine of] the local deity or else to a river in order to take [the following] oath: 'This much is whatever I have. Apart from this, I have neither hidden nor buried any other thing.' He shall be made to write [the oath] down, all the creditors shall be assembled and whatever has been determined as being the totality [of the debtor's property] shall be divided proportionally [amongst the creditors].

4. If someone has many creditors whom his father had taken upon [himself], and if his property is not sufficient [to clear his debts], then if in such a [case] a creditor takes some of [the debtor's] possessions, seizing and retaining any property of his except for mortgaged non-usufructuary or usufructuary [land] or [other] collateral recorded in the deed, and if some [other creditors] do not get anything and come to complain, the possessions seized and retained shall be returned, [an accounting] of his entire property shall be made and it shall, in accordance with the *Ain*, be proportionally divided amongst all the creditors.

184 For a description on this oath, see the Introduction, p. 74.

## 21. On Proportional Division [in Cases of Insolvency]

5. If a debtor who, having been forced to divide [his property] proportionally [among his creditors] in court cases involving the government or in transactions with commoners, hides cash, kind, human chattel, land or the like, and if someone else later on finds [the hidden property] and brings it [to the concerned authority], then that person who found and brought it shall receive as much [of it] as needed to cover his loan. It shall be given to him. If there is any surplus, it shall be divided among the other creditors at a proportional rate. If the debtor who hides his wealth in order to cheat the government or to ruin his creditor, he shall be fined the value of the hidden [wealth]. If he cannot pay [the fine], he shall be imprisoned 1 month for every 5 rupees [fined] until it is paid off.

6. If someone has a large amount of debt and dies without having paid it off, or if he goes to another region or a foreign land and there is wealth or possessions [of his left behind], and if his creditors or the like declare that they will make a proportional division [of his property] and take it, no creditor or the like including the government shall be allowed to make a proportional division [of his property] and take it in the absence of any person who has an [outstanding] loan or arrears [owed by him], or of any [other] rightful claimant to his property. If the person in arrears or in debt dies and there is no [absent] rightful claimant to his property, and if [his debt] is verified, all creditors or the like are allowed to make a proportional division [of his property] and take it. If a usufructuary or non-usufructuary [loan agreement] has been drawn up, whatever sum is in excess of its assessed value, along with any other wealth or possessions, but not the usufructuary or non-usufructuary [pledge itself], shall be proportionally divided and taken. Any [remaining] excess after paying off the creditors shall come into the possession of the government.

7. If a creditor comes to complain, saying, ‘I am entitled to recover so and so much [debt] from such and such a person’, and if he takes hold of the debtor [and brings him before the authorities], and the debtor says that he is not able to pay the debt, and if [thereupon] the creditor says that he will take half [the amount owed] from the [debtor’s] property and give a deadline for [repayment of] the other half, then the *adālata*, *ṭhānā* or *amāla* office shall seize the debtor’s property and disburse half of his wealth to the creditor. A loan agreement [specifying] a deadline for whatever is ascertained as remaining due to the creditor shall be drawn up.

8. If a creditor comes to complain, saying, ‘I am entitled to recover so and so much [debt] from such and such a person’, and if he takes hold of the debtor and brings him in, and the debtor says that he is not able to pay the debt, and if—the debtor’s property being little and the debt [owed] to the creditor much—the creditor declares that he will recover [whatever he can] from whatever property the debtor possesses, the *adālata*, *ṭhānā* or *amāla* shall seize the debtor’s entire property and give it to the creditor. Once the creditor takes the debtor’s entire property, irrespective of however much he was entitled to recover, he shall not be allowed to take hold of the debtor again. The loan agreement shall be torn up. Ten and 20 percent shall be collected [as a fee] from the creditor. The debtor is not required to pay [any fee].

21. On Proportional Division [in Cases of Insolvency]

9. If a creditor comes to complain, saying, 'I am entitled to recover so and so much [debt] from such and such a person' and if he takes hold of the debtor and brings him in, and the debtor says that he is not able to pay the debt, and if it turns out, before any compensation is arranged from whatever [the debtor] possesses, that there are other creditors, and if the creditors come to state [their claims] or the debtor himself states that he has other amounts owed, and if some of the creditors declare that they will give a deadline [to the debtor for repayment], while other creditors declare that they will recover [whatever they can] from whatever [the debtor] possesses, the *adālata*, *ṭhānā* or *amāla* shall seize the debtor's property and give it to the creditors who declared that they would recover [their debt] according to a proportional division [of the debtor's property], and [then] the loan agreement shall be torn up. The creditors who declared that they would give a deadline [to the debtor] shall have official documents drawn up spelling out the debtor's responsibilities and containing the following detail: 'Whenever he earns and is able to repay, then I will recover [my loan].'



## 22. On a Father's Division of Property among Sons

1. If someone has only one wife and has many sons with her, and if [the sons] split off from their father and mother, they shall receive their [paternal] share only if it pleases their father to partition [the property] and give [it to them]. If the father declares, 'I will not give the [paternal] share as long as I am alive', the sons shall not force their father [to do so]. It shall be up to the father. If [the father] has sons from several wives, and if he favours [the sons] from one of his wives and derides those of another, and if a derided son declares, 'I shall split off [from the family]', he shall be allowed to do so. [The father] shall, in accordance with the *Ain*, give the son his [paternal] share. If an *adālata*, *ṭhānā* or *amāla* office arranges the partition, 10 percent of the share [received by the son] shall be collected.

2. Whether a mother declares, 'I shall divide the property given me by my husband (*gharako dhana*) and my dowry among all my sons' or, 'I shall give it to nobody as long as I am alive', [the decision] is the mother's. The sons shall not force [the matter]. When a mother's property is partitioned after her death, all sons shall receive their share from her share of her husband's property. With regard to her dowry, all the sons shall be entitled to a share of it if the mother herself wrote down the following statement: 'Divide and enjoy it.' If that was not written down, the son who stays with his mother and takes proper care of her shall be entitled to it.

3. If [someone's] father dies while his natural mother is [still] living, and the son quarrels [with her] over his [paternal] share, the son shall not be allowed to claim his [paternal] share as long as his mother is [still] living. [Only] after their mother's death shall sons be entitled to it. If [the natural mother] and the father, too, have died, and a stepmother is [still] living, and the sons quarrel [with her] over the [paternal] share, the [paternal] property shall, in accordance with the *Ain*, be partitioned among the stepmother and the sons.

4. If the sons declare, 'We will not take the parental share and split off [from the household now, but] will take the [parental] share [only] after the death of our father and mother', the father and mother must not forcibly split up [the household], declaring, 'Take your [parental] share and split off [from the household].' Even if [the parents] come to complain at an *adālata*, *ṭhānā* or *amāla*, the [parental] property shall not be partitioned.

5. If someone has sons from around 2–3 wives and if the father, in accordance with the *Ain*, divides the property among them by placing the required family members and village notables as

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witnesses, and if the father himself lives together with one of the wives and her sons, having taken his own share, the property necessary for his subsistence (*jiunī*), then it is not within the power of the [other] wives and sons who have taken their share and live separately to claim the father's share of the property necessary for his subsistence. A son who stays with his father, irrespective of whether he is legitimate or illegitimate, shall be entitled to receive everything that his father owns, irrespective of whether it has increased or decreased.

6. If someone divides the property among his sons and neither a guru, a house priest (*purohita*) nor any family member is placed [as witness], and if he keeps a larger share of the houses, paddy fields and [moveable] property [than sanctioned] under the *Ain*, and gives some sons only a small share and makes them live separately, while keeping some sons with him from the beginning, or else if he lives separately for some days or years after making his sons move away and later on [re]joins [the household] of some sons, then after the death of the father and mother the houses, paddy fields and [moveable] property kept by the father and mother and the share of property earlier given to the sons by the father and mother shall be revalued. The property shall, in accordance with the *Ain*, be divided among the sons who are living together and those who were made to move away after the partition, inasmuch as previously the father and mother did not divide the property accurately in accordance with the *Ain*. The *adālata*, *ṭhānā* or *amāla* shall collect 10 percent of the [re]distributed shares.

7. If a husband or father divides the property among his wives and sons who are from a caste conformable to his own and from whose hands cooked rice is acceptable, and if he, out of favouritism, gives a bigger share to some wives and sons and a lesser share to other wives and sons, and if the sons whose caste status is conformable to his own and have received their shares are in the one case many, and in the other case few, and if there is a dispute among the half brothers after the property has been divided among them and [some] come to complain at an *adālata*, *ṭhānā* or *amāla*, then if it is ascertained that earlier the property was divided out of favouritism, the property shall be [re]divided among the sons and wives in accordance with the *Ain*.

8. Once common property—*birtās*, houses, paddy fields, male or female slaves, quadrupeds, debtors' [obligations] and the like—are divided among brothers, irrespective of whether [the division is carried out] in the presence of witnesses or [in the form of] a written deed, and all are satisfied, then if, after they have taken their shares and split off [from the household], there is a dispute among the brothers, [with such] arguments as: 'My share was impacted by a flood, landslide or an act of God' or 'My share is small or of bad quality', they shall not be allowed to divide the property again once the property has been divided, [the respective shares] have been chosen and [claims on others' shares] have been abandoned. The earlier partition of property is valid. A person who comes to complain regarding such a matter shall be fined 5 rupees per 100 of the total amount claimed. If he does not pay the [fined] amount, he shall be imprisoned in accordance with the *Ain*.

9. If, when property is being divided among a father [and his] sons, classificatory brothers, wives, grandsons or the sons or wives of his brothers, the property is divided with his own guru,

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house priest, classificatory brothers or bosom friend being placed [as witnesses], and if those who receive a share are satisfied and accept the deed of partition by signing or stamping it, the partition becomes valid. It shall not be rescinded through litigation.

10. If, when property is being divided among a father and his sons, classificatory brothers, wives, grandsons or the sons or wives of his brothers, the property is divided with his own guru, house priest, classificatory brothers or a bosom friend being placed [as witnesses], and if someone who receives a share has signed or stamped the deed of partition [but] neither accepts the deed of partition nor takes his share of property because he is not satisfied with some matter, this deed of partition does not become valid. If [the other family members] say, 'Excluding what has been spent for the maintenance of our livelihood, we have this much wealth and possessions from our father and forefathers after totalling gains and losses; we have not hidden or concealed [anything]', both parties shall be made to undergo an ordeal (*dharmā bhakānu*), and whatever [the amount of] property ascertained is shall be divided in accordance with the *Ain*. Any debt accrued or wealth earned after separation from the household is that of each individual [heir].

11. If, when property is being divided up, someone undergoes an ordeal after saying, 'Our wealth and possessions are this much; we have neither hidden nor concealed [anything]', but later on it is ascertained that he has hidden or concealed wealth or possessions, then he who hid it and underwent an ordeal shall not be entitled to that wealth or those possessions. The other heirs shall, in accordance with the *Ain*, divide the [hidden] property and enjoy it.

## 23. On Partition of Property

**The regulation applicable to the distribution of parental property, marriage expenses and repayment of debts among the following [categories of] wives, and the offspring born to them, who belong to any of the Four Varnas and Thirty-six castes: ritually married wives, virgin girls or widows brought into [the household], women brought into [the household] after adultery has been committed [with them], virgin girls of lower caste status than that [of the head of the household] who were brought into [the household] after a ritual marriage, women brought in by [a head of a household] who is her third sexual partner, common women brought into a household by [a head of it] who is their fourth or higher number sexual partner, or virgin girls, common women, female bondservants, virgin female slaves and enslaved common women kept as wives:**

### *Particulars*

1. [All] the following categories of wives, their sons and [the head of the household] himself shall have an equal share in the joint property: a woman brought into [the household] through ritual marriage (irrespective of whether or not cooked rice is accepted from her hands); her offspring; and a virgin girl, a widow or [a woman] with whom [the head of the household] has committed adultery, [all of whom] have been brought into [the household] with a caste status comparable [with that of its head] and from [all of] whom fellow commensals accept cooked rice.

2. If [someone] has brought a virgin girl [into the household] from a Sacred Thread-wearing caste lower than his own; or else a widow or [a woman] with whom he has committed adultery, [either of whom] was brought into [the household] from a caste comparable [with his], but from whom he himself and his fellow commensals do not accept cooked rice, then each such wife and [each such] offspring born to them, irrespective of their number, shall be given  $\frac{1}{4}$  of the share [of the joint property] that proper (*sadya*, i.e. ritually married) wives and their sons, irrespective of their number, receive.

3. If someone from a Sacred Thread-wearing caste brings [into the household] a virgin girl or widow from a caste whose members do not wear the Sacred Thread, or else a woman with whom he has committed adultery, and if he himself, his fellow commensals and his family

members do not accept cooked rice from them, each such wife and her sons, irrespective of their number, shall be given  $\frac{1}{5}$  of the share [of the joint property] that the wives from whom cooked rice is acceptable and their sons, irrespective of their number, receive.

4. The wife of someone who brings her [into the household and thereby becomes] her third sexual partner—she and her sons, irrespective of their number, shall each be given  $\frac{1}{8}$  of the share [of the joint property] that proper wives from whom rice is acceptable and their sons receive.

5. Virgin female slaves or virgin female bondservants kept as wives, and the sons born to them, shall each be given  $\frac{1}{6}$  of the share [of the joint property] that proper wives and their sons, irrespective of their number, each receive.

6. If someone releases a maid or female slave of his house who has [earlier] had illicit sexual intercourse with only one person from servitude and keeps her as a wife, she and her offspring shall each be given  $\frac{1}{10}$  of the share [of the joint property] that proper wives and their sons each receive.

7. If someone takes a slave-common woman or a bondservant-common woman as wife when travelling on the outside but neither brings her into his own household nor looks for a room to keep her [nearby], such a common woman [who has become] a wife and sons born to her shall each be given  $2\frac{1}{2}$  rupees for every 100 rupees that proper wives and their sons, irrespective of their number, each receive.

8. If an Upādhyāya Brahmin ritually marries a daughter of someone belonging to any of the [lower] Sacred Thread-wearing castes, such as a Rajapūta or Jaisī, and takes her away [to his house, such a wife and her sons shall receive a share [of the joint property] equal to that of proper wives from whose hands rice is acceptable and their sons, inasmuch as [she has undergone] a ritual marriage. There shall be no obligation to accept cooked rice from her.

9. If someone belonging to a Rajapūta caste ritually marries a daughter of someone belonging to a Rajapūta caste whose status is inferior to his or to any other Sacred Thread-wearing Kṣatriya caste and takes her away [to his house], such a wife and her sons shall receive a share [of the joint property] equal to that of proper wives from whose hands rice is acceptable and their sons, inasmuch as [she has undergone] a ritual marriage. There shall be no obligation to accept cooked rice from her.

10. If someone belonging to a Jaisī caste ritually marries a daughter of someone belonging to a Jaisī caste whose status is inferior to his or to a Rajapūta or Sacred Thread-wearing Kṣatriya caste and takes her away [to his house], such a wife and her sons shall receive a share [of the joint property] equal to that of proper wives from whose hands rice is acceptable and their sons, inasmuch as [she has undergone] ritual marriage. There shall be no obligation to accept cooked rice from her.

### 23. On Partition of Property

11. If someone belonging to a Sacred Thread-wearing Kṣatriya caste ritually marries a daughter of someone belonging to any other Sacred Thread-wearing Kṣatriya caste whose status is inferior to his and takes her away [to his house], such a wife and their sons shall receive a share [of the joint property] equal to that of proper wives from whose hands rice is acceptable and their sons, inasmuch as [she has undergone] a ritual marriage. There shall be no obligation to accept cooked rice from her.

12. If previous [to the enactment of the *Ain*] someone signed over [a share of his property] for [respectively] old-age subsistence (*jiunī*) or as the eldest wife's share (*jeṭhāka*) [to a woman whom] he has either been keeping as his wife or whom he has ritually married, from now onwards neither will receive that old-age subsistence or share. They will receive [only] their share [of the joint property] according to the *Ain*.

13. After marriage expenses for sons and daughters are set aside in a proper and just manner, as determined with due consideration by family members and the *pañca* on the basis of caste and wealth, whatever remains shall be divided in accordance with the *Ain*.

14. In repaying a loan incurred by a father or [earlier] progenitor, wives and sons shall repay the loan according to their respective shares of the joint property.

15. If someone has an unmarried daughter living in her parental house (*janmaghara*), and if her brothers are about to separate [from the joint household], marriage expenses shall, in accordance with the *Ain*, be given to an unmarried daughter, assuming that she is below the age of 35, and the partition [of the joint property] shall be carried out among the brothers. If the daughter has crossed the age of 35, is unmarried and is living in her parental house, she will receive a share [of the joint property] equal to that of her brothers. In addition, after she dies, the elder and younger brothers of her parental house shall perform her death rituals, and her property, for lack of a son as heir, will revert to her parental household. If she marries after she has crossed the age of 35, she shall be permitted to take her share and go [to her husband's house]. If she runs off with a man, she shall not be permitted to go with her share.

16. If, after a father gives his sons their share [of the joint property], other sons are born to wives, whether ritually married or kept, then [both] the sons who have been living with their father [all along] and the sons who are born later shall, in accordance with the *Ain*, divide and live off their shares and the property [set aside] for their mother and father's subsistence. Sons who have already taken their share from their father and mother and live separately will not receive [anything more]. If they come to complain at an *adālata*, *ṭhānā* or *amāla* office, a decision shall be made in accordance with the present [section of the] *Ain*, and 10 percent of any share recovered shall be collected [as a fee].

17. If brothers live together in a joint household and eat cooked rice together in the same kitchen, the wealth earned and the debt incurred by all brothers will, according to the *Ain*, be equally shared.

18. If there are several sons from one mother, among whom some are living together with their father and mother [in a joint household] and some are living separately without having taken their share [of the joint property], and if after the death of their father and mother [any of them] come to contest their share, all sons will have a stake in whatever debt or wealth remains after the death rites for their father and mother have been performed, and the partition shall be carried out in accordance with the *Ain*. The *adālata*, *ṭhānā* or *amāla* office shall collect 10 percent [as a fee] from the property divided [among them].

19. If a man has many ritually married wives, co-wives, common women kept [as wives], [but if] his wives and their sons lead lives separated [from the paternal household], and if he has not himself divided [the joint property] and has not apportioned shares and if his sons remain satisfied and do not demand their [individual] shares, and if this father who had been living with one of the wives and her sons dies, then whatever debts and wealth amassed [jointly] by all the brothers, their father and progenitors that remains after the father's death rites have been performed shall be divided among all sons and wives. Whatever wealth is earned and debt incurred by each brother once they stopped eating together and [began] living separately belongs to them individually. If [any of them] come to complain at an *adālata*, *ṭhānā* or *amāla*, 10 or 20 percent shall, in accordance with the *Ain*, be collected [as a fee] and the [property] shall be [re]partitioned.

20. When many brothers are in one household and have not separated [from the joint family], and under such circumstances one of the brothers takes a woman from an inferior caste from whose hands cooked rice is unacceptable, and if sons and daughters are born to them and at some point that brother dies and it falls to the elder and younger paternal uncles [of those children] and the family members to give a share [of the joint property] and marriage expenses to these sons and daughters, such sons and daughters will receive only the share and marriage expenses that is in accordance with the *Ain*, inasmuch as they eat cooked rice together in the same kitchen and live in the same household without the joint property having been partitioned. They will not get all of the share [that would have gone to] their father [after partition of the property would he be still alive]. Their elder and younger paternal uncles and their cousins will receive whatever remains [of their father's share] after giving them the share that is in accordance with the *Ain*. If such a father separates [from the joint household], taking his share and living separately, and if [only then] he dies, his sons, irrespective of [the women] they are the sons of—be it a maid, slave or common woman—shall be entitled to enjoy the entire property of the father who has begotten them, related as they are by a drop of semen.

21. If among brothers who live together in a joint household one dies, and if his sons and wives quarrel over their share and come to complain, and if some [brothers] have many wives and sons and others have few, then when the property is divided, the sons [of the deceased], regardless of whether they are many or few brothers, shall divide and enjoy their respective paternal shares, not those of their uncles. As long as the widows remain faithful to their [late] husband, they shall be permitted to enjoy the share their husband would have received. If [the deceased brother] had a number of co-wives, these shall, in accordance with the *Ain*, enjoy the share of their [late] husband.

### 23. On Partition of Property

22. If a person goes to a foreign country to do a pilgrimage [to fulfil] a vow or the like, and if he puts on a robe and becomes a fakir, while maintaining his caste status, and if upon his return to his home country he declares, 'I'll [go back to] living the life of a householder', he shall be permitted to [re]claim his property, such as houses, paddy fields, [other] land and so forth. If he comes to complain, [saying,] 'My brother, who has been enjoying the property [of mine] I had no son to pass on to, does not return it', an *adālata*, *ṭhānā* or *amāla* shall have it returned to him.

23. If someone shaves off [his top-knot] and performs the *vijayāhoma*, and thereby becomes one of the following castes [of ascetics]—[namely] Daśanāmī Jogī, Jaṅgama, Sebaḍā, Kanaphaṭṭā or the like—and [so] gives up his share [of the household] property, he shall not get any [of that] property if later on he comes to claim some of it.

24. If someone of his own will and volition joins a caste whose status is lower than his own, including an Untouchable caste from whose members water is unacceptable, and if he previously took his share [of the joint property] from his father, mother and brothers and has been living separately, and if he has [other] wives and children of a caste comparable to his own from whom he can accept cooked rice, he shall be permitted to take his property with him, even though he is joining a lower caste. If the joint property has not been divided, and if he has wives and children of a caste comparable to his own from whom he can accept cooked rice, he shall receive only what is given by his father, mother, brothers, wives and sons of their own volition after he has deliberately joined a caste lower than his own. He shall not be permitted to dispute his share, saying, 'I have not received my share.' Even if he comes to complain at an *adālata*, *ṭhānā* or *amāla* office, such a case shall not be heard and no [additional] share [of the joint property] shall be given to him.

25. If a common woman who is kept as a wife for more than 3 years by someone dies in his house, the man in whose house such a common woman kept as a wife dies shall be permitted to enjoy her property. The same man must arrange for the performance of her death rites. If the man goes to the common woman's house, and lives and dies there, the property he has brought [with him] to the common woman's house becomes her property.

26. If an Upādhyāya Brahmin, Jaisī, Rajapūta, Kṣatriya or someone from any other Sacred Thread-wearing caste ritually marries a woman, or a girl or a widow is brought [as a wife into the household] by him, or [a woman] with whom he has committed adultery, and if his fellow commensals accept rice from her, and if she has committed sexual intercourse (*poila jānu*) with another man before or after she is married with her [present husband], and if she has children by the husband (lit. 'from his semen') whom she married before this matter of her sexual intercourse with another man becomes known, such sons will receive the Sacred Thread in the case where she has had illicit sexual intercourse with a man belonging to a Sacred Thread-wearing caste. Cooked rice is unacceptable [from them]. The share [of the joint property] the sons receive will be 5 percent [of the normal] rate. They will receive the Sacred Thread even if [the woman] has had illicit sexual intercourse with a man belonging to an Alcohol-drinking caste. Cooked rice is unacceptable [from their hands]. The share [of the joint property] they receive will be 2½ percent



[of the normal] rate. The father with whose semen the sons were conceived shall marry them off to someone of a comparable caste. If [the woman] has had illicit sexual intercourse with a man from a Water-unacceptable or Untouchable caste, the offspring will belong to the caste of the man with whom she has had illicit sexual intercourse. As long as they are under the care of their father, they shall receive their keep. They will not receive shares [of the joint property]. The father need not marry such offspring off, inasmuch as they belong to their mother's caste.

27. If someone belonging to an Upādhyāya Brahmin, Jaisī, Rajapūta, Kṣatriya or any other Sacred Thread-wearing caste brings into his household as a wife a woman from whom cooked rice is not acceptable or who has earlier had 3 sexual partners or else is a common woman, and if she also [later] procures someone else to have illicit sexual intercourse with her, and if before this matter becomes known she has children by the man who brought her into the household, then in the case where she has had illicit sexual intercourse with a man belonging to a Sacred Thread-wearing caste, cooked rice from such offspring is unacceptable, but they will receive the Sacred Thread; the share [of the joint property] they receive will be 2½ percent [of the normal] rate. They will receive the Sacred Thread even if she has had illicit sexual intercourse with a man belonging to an Alcohol-drinking caste, but cooked rice is unacceptable [from them]; their share [of the joint property] will be 1¼ percent [of the normal] rate. The father of such sons and daughters must marry them off to persons of a comparable caste. If [the woman] has had illicit sexual intercourse with a man from any Water-unacceptable caste, the offspring will belong to the caste of the man with whom she has had illicit sexual intercourse. The father need not marry such offspring off, inasmuch as they belong to their mother's caste. He need not give them a share [of the joint property] either.

28. If someone keeps a common woman as a wife outside of his household, such a common woman will receive the wealth and possessions which her husband has personally given to her. The husband shall not be permitted to take [any of it] back. If somebody brings her into his household and keeps her [as a wife], promising: 'I will keep you for so and so many years and months, and will give you such and such things [in return]', she shall be permitted to leave with whatever is given under the promise if she stays for the promised period. If she goes somewhere else before the promised period is over—if [in particular] she runs off with another man—she shall not be allowed to leave with [what was promised], citing as the reason that it was promised. If no oral promise is made, and the woman brought into the household and kept as a wife runs off with another man, she will receive only whatever the husband gives her of his own volition. She will not be permitted to keep what she has willfully taken; the husband may take it back. If she had had her husband draw up a document, then whether or not she receives the wealth and possessions signed over [to her], what was signed over is not valid. She will receive, in accordance with the *Ain*, her share [of the joint property] as long as she remains faithful to her husband. She will not receive it [just] because it was signed over [to her].

29. If someone belonging to any of the Four Varṇas and Thirty-six castes abandons a minor whom he himself has begotten, [turning over care for the child] to some outside household, either

### 23. On Partition of Property

because [the child] was born under the *mūla* constellation (i.e. lunar mansion) or for no specified reason, and if this is done with the mutual consent of the [natural] father and mother, then if the abandoned [child] is a son, the shares of the father and mother and the 1 share of the abandoned child, in total 3 shares, shall in accordance with the *Ain* be given to the one who takes [the child] in and brings it up. If the decision is that of only 1 person, then [of the 2 shares] of the father and mother only 1 share shall be given. If the son or daughter is born as a result of adultery, the dowry of the mother who bore [the child] and the share of the father who committed adultery shall be given to those who bring [the child] up. [The boy] shall be considered as an adoptive son of those who bring him up. If the child dies, the natural father will not receive the shares received by the abandoned child, [even in the event that] he has no [remaining] son as heir; the adoptive father will receive them. If the abandoned child is a daughter, her father's share and her mother's dowry along with the expenses for her marriage shall be given to this child. Her adoptive parents shall spend half of that wealth to bring her up; the other half shall be used to marry her off. Whatever remains shall be given to that daughter as a dowry. It shall be up to the adoptive parents, too, to decide, saying, 'I will give [so much of] the wealth received from her natural parents to that girl as a dowry. I will [spend so much of] my own wealth to marry her off.' If that daughter dies, her entire property will belong to her adoptive parents. If a child has been abandoned in a village or city, an *adālata* or *ṭhānā* shall, in accordance with the *Ain*, arrange for its upbringing. If [it is abandoned] outside of them, the *amālī* shall bring it to an *adālata* or *aḍḍā*. The *bhāradāra* who heads the *aḍḍā* shall dutifully send it to the *adālata*. If the parents of an abandoned child are identified [only] later, [at which time it is learned that] the adoptive parents have taken in a child whose caste status is superior to their own and are bringing it up, they shall follow the caste code and marry to someone of comparable caste status. If [the child] is of a caste status comparable [to that of its adoptive parents, the latter] shall admit it into their own caste. If [the child] is of a caste status inferior to theirs, [the father] shall put him into a Khatrī caste. When a share [of the joint property] is given to such a son whose caste status is either superior or comparable to his own, such a son shall be given  $\frac{1}{3}$  of the share while the sons he himself has begotten would have received two thirds. If the child is of a caste status inferior to that [of its adoptive parents] and water is acceptable from it, it shall be given its share in accordance with the *Ain* applicable to that caste. If it belongs to a Water-unacceptable or an Untouchable caste, it shall be given to someone from a caste comparable to his own to bring up. It will receive his share of [the property of] its [natural] father and mother. From its adoptive parents it will receive only whatever is given out of compassion and love; it has no claim to his adoptive parents' property.

30. When someone with all due care brings up a child who has been abandoned on the street and whose father and mother have not been identified, that child shall be considered to be a Khatrī if it is brought up by a person belonging to a Brahmin caste. If it is brought up by someone from any other caste, it shall be considered to be of the same caste as the person who brings him up. It shall be up to the person who brings it up whether or not to accept cooked rice from it; he shall not be obliged to do so. When the joint property is divided, for every 3 portions [of property distributed to sons] a natural son shall receive 2 portions and such a son who has been found and taken in shall be given 1 portion. If there is no natural son, [the adoptive son]

shall be allowed to enjoy the wealth and possessions of his adoptive parents after performing their death rites and paying off debts accrued [by them]. A person [otherwise] entitled to enjoy their property in the absence of a son as heir will not receive it.

**Four regulations applicable in the case where the head of a joint family responsible for transactions and [other such] matters relating to the household does not, when dividing up the family property, give an accurate account [to family members] of debts and property—houses, paddy fields, male and female slaves, cash, material possessions, household articles and the like—or deceives them when distributing the shares:**

31. If he does not give an accurate account of debts and property to the best of his knowledge, he shall be fettered and put into prison as long as he does not give the shares [to his family members].

32. Whatever amount of property appears after he gives an accurate account, it shall, in accordance with the *Ain*, be divided among all those to whom a share is to be given.

33. The person who is imprisoned because he has cheated by not giving an [accurate] account [to his family members] does give an accurate account of debts and property, on that very same day [the property] shall, in accordance with the *Ain*, be divided among all those to whom shares of the property listed in the account are to be given. The person who is imprisoned shall have his fetters removed and be set free if the others give their endorsement to [freeing] the giver of the account.

34. If [the head of a household] has accurately divided [the joint property] during its partition, and if someone [among his family members] causes trouble by falsely claiming that an [accurate] account of debts and wealth has not been given, then if he cannot prove with evidence that [some of it] has been hidden or [otherwise] concealed, and if nothing [of his allegation] is ascertained as true upon investigation by the *kacaharī* office, he shall be fined 10 percent of the total claim.

**Three regulations applicable in the case where someone holds on to his share of the property of someone who has no son as heir, old-age subsistence property and so forth, even though it is ascertained that according to the *Ain* and in the opinion [of the village notables] he should receive little or nothing at all:**

35. He shall be made return whatever cash, physical possessions, houses, paddy fields, [other] land, quadrupeds, male and female slaves or the like is ascertained as having been taken by him, and it shall, in accordance with the *Ain*, be given to those who are entitled to it.

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36. If he does not return human chattel, land, material possessions or the like which, it is ascertained, he is not entitled to, he shall be fettered and put into prison for as long as he does not return everything that needs to be returned.

37. After he returns the human chattel, land, material possessions or the like which were ascertained as having to be returned and signs a written statement of confession, he shall be released from his fetters after whatever, according to the *Ain*, has been collected, such as a fine, the 20 percent judicial fee, *baksāunī* fee or so forth.

**The regulation applicable to the punishment of someone who comes to complain that he did not receive their share of [joint property], someone's property in the absence of a son as heir, old-age subsistence property, or a woman's personal property or dowry, none of which he is not entitled to:**

38. If someone comes to complain at an *adālata*, *ṭhānā* or *amāla*, [saying,] 'Such and such a person has not given me my share of [joint property], property in the absence of a son as heir, a dowry, a woman's personal property or old-age subsistence property', having seized [the accused person] and brought him [to the office], and if it is ascertained during a judicial proceeding that [the accuser] is not entitled to it, he shall be fined 10 percent of his total claim. [If he is vindicated,] a winning fee amounting to ¼ of the fine shall be collected [from him].

## 24. On [Conflicts between] Husband and Wife

1. If someone has a wife whom he has ritually married; an unmarried girl or widow whom he has taken as a concubine; a woman whom he took as a concubine, a woman whom he brought [into the household] after committing adultery [with her]; or a common woman, female servant or bondservant being kept as a wife by him, and he abandons [one of them] without providing her with a means of support (*khānapina*), and if he even assaults her to the extent of breaking a limb, then if she—even though she is only one of her husband's wives—comes to an *adālata*, *ṭhānā* or *amāla* office and lodges a complaint, [saying]: 'Arrange for my separation. I shall take my share [of my husband's property] and separate from him',<sup>185</sup> she shall be made to sign a deed relinquishing [her conjugal] rights (*rājīnāmā*) and be given her share of [the husband's property] in accordance with the *Ain*, based on what caste the woman belongs to.

2. If someone makes a female slave his wife, and if they have offspring, and if he does not provide such a wife—whom he had first emancipated and then made his wife—with a means of support, assaults her to the extent of breaking a limb, and if she comes to an *adālata*, *ṭhānā* or *amāla* and asks to be separated from her husband, she shall, in accordance with the *Ain* and [other] binding customs, be given her share [of the husband's property]. Ten percent of the value [of the share] given [to her] shall be collected as [a fee].

3. If [someone] declares that he intends to separate from a ritually married wife of his—one who has not committed adultery—and [then indeed] separates from her by performing [the customary practice of] cutting a sliver of [bamboo into two pieces] (*sinko kāṭṇu*), and if she comes and complains, inquiries shall be made and she shall, in accordance with the *Ain*, be given her share [of the husband's property]. Ten percent of [the value] of the share given [to her] shall be collected [as a fee].

4. If a man assaults his wife, breaks a limb [intentionally], breaks a hand or leg—or injures an eye, and if such a wife comes to lodge a complaint, the wife shall, in accordance with the *Ain*, be given her share [of the husband's property] and the husband shall be punished in accordance with the *Ain*'s [Art. 58] 'On Brawling'. If such an injured wife takes her share and declares, 'I won't live with my husband', she shall be allowed to leave him by performing [the customary practice of] cutting a small sliver of [bamboo into two pieces]. It is up to her whether or not to remain

185 *aṃsa liṃchu ṭiṃchu*, read *aṃsa li chuṭṭinchi* (MA<sub>2</sub>).

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faithful [to her husband]; there is no compulsion to do so. If such a woman does not come<sup>186</sup> to lodge a complaint, the husband shall not be held accountable. Ten percent of the share shall be collected [as a fee].

5. If a man assaults his wife without any right to do so, and if she comes to complain, a judicial inquiry shall be undertaken. If a man brings another wife as concubine to the household and throws his ritually married wife out, the husband's property, of which she is entitled to a share, shall be divided equally among husband and wife, putting sons' shares and daughters' marriage expenses aside. If the husband later on does not give his wife her share of the property after the partition, he shall be seized, brought in and fined an amount equal [to the wife's share]. The wife shall be given her share.

6. If someone's wife—one who ritually married him or as an unmarried girl became his wife after worshipping lamp (*diyo*) and ritual water vessel (*kalaśa*) having been an unmarried girl [before], or who is his concubine having been a widow [before]—eats [forbidden] food which results in degradation from her caste, or if she is suffering from an incurable disease, from uterine inversion or from uterine prolapse, and if the husband does not have sexual intercourse with such a wife, he shall not be held accountable. The husband shall provide such a wife with a means of support. If the wife comes to complain [to authorities] that the husband is not providing her with a means of support, she shall be given her share [of the husband's property] in accordance with the *Ain*. Ten percent of [the total value of the property] given to her shall be collected [as a court fee].

7. If someone's wife who ritually married him comes to complain, [saying,] 'Neither is my husband living in a foreign country, nor is he suffering from any disease and he regularly goes to other women, but does not have sexual intercourse with me, even once a year', such a wife shall, in accordance with the *Ain*, be given her share [of the husband's property]. If such a wife runs off with a paramour, the husband shall be made draw up a written document stating: 'I shall not kill my wife's paramour, [inasmuch as] I have no right [anymore] to do so' If such a wife runs off with a paramour, he shall not be allowed to kill him. If he does, he shall be executed—taking life for life.

8. If where someone's wife is staying at her parental house or somewhere else because of a dispute with her mother- or father-in-law, an brother-in-law, a sister of her husband, or with co-wives, or because she does not like her husband, and if she comes [to authorities and] says, 'Neither does my husband provide me with a means of support nor does he sleep with me', she shall not be given her share [of the husband's property]. If the husband says, 'Fetter my wife', she shall be made to sign a deed relinquishing her right [to his property] (*rājīnāmā*), and she shall be fettered and handed over to him.

186 *āyā*, read *naāyā* (MA<sub>2</sub>).

9. If a man says to [his wife], ‘I will provide you with a means of support. Live in my house, not with your parents or other relatives’, but his wife [goes off to] live somewhere else and demands her share [of his property], she shall not get it. If the husband says, ‘I will fetter her. Give me permission [to]’, the *adālata*, *ṭhānā* or *amāla* office shall provide him with fetters. He shall be allowed to keep his wife bound for some days.

10. If a man has neither [secretly] kept a concubine outside [of his house] nor brought a concubine [secretly] kept outside into his house [as a co-wife], [so that] he has only one ritually married wife, then if his ritually married wife comes to lodge a complaint, do not listen to her quarrel; hand her over to her husband.

11. If a husband and wife are living together in the same house and if the husband is not able to earn anything because opportunities to do so (*sāba-gāsa*) are insufficient, and if [consequently] he draws on his wife’s dowry for basic necessities, he is not obliged to pay her back. [Only] if the husband [later] acquires wealth [may] the wife ask [back] however much<sup>187</sup> was spent.

12. If a husband sells or draws on his wife’s dowry without making her a witness, the sale or disbursement shall be considered invalid. The wife shall be given back [her property], and the husband shall restore [the purchase] amount to the buyer (*sāhu*). If his wealth is not sufficient, he shall be made draw up a loan deed without security (*kapālī tamasuka*). If the husband sells or draws on [his wife’s dowry] with her consent, and if her name is mentioned in the sale deed, the transaction shall be valid.

13. If a man humiliates a wife of his who has [brought] a dowry and throws her out, and brings another woman in to keep as a co-wife, and if he sells or draws on the personal property or dowry of the expelled wife, he shall be obliged to pay her back. The *adālata*, *ṭhānā* or *amāla* shall make him make restitution. Ten percent [of the total value of] the returned property shall be collected [as a fee].

14. If a woman’s husband goes far away [inside the country] or abroad on a pilgrimage, for trading or on state business, and if his wife runs into difficulty and needs to sell human chattel or land in order to obtain basic necessities (lit. ‘food and clothing’) or to perform the marriage or initiation rituals of a son or daughter, the transaction shall be considered valid [only] if she has obtained written authorisation (*sanada*) from her husband and if the sale is in line with the authorisation. If the transaction is made by the wife on her own and without obtaining a written order from her husband, it shall also be valid if, upon returning, the husband agrees to it. If he comes to complain [to authorities] that his wife has sold human chattel or land in his absence and such and such a person has purchased it, he shall be allowed to redeem it by paying [the latter] the amount received by his wife.

187 *māti*, read *jati* (MA<sub>2</sub>).

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15. If a man signs over property to a younger co-wife for her old-age subsistence (*jiunī*) when an older co-wife is still alive, he shall give an equal share to his older co-wife as her elder's share (*jethāka*). If, when he gives property to his younger co-wife, [his property] is not sufficient [to allow him] to give [an elder's share] to his elder co-wife, [what property there is] shall be divided equally between [the older and younger co-wives]. If the husband does not give an elder's share to his elder co-wife when giving property to his younger co-wife, half the share [given to the younger co-wife] shall be given to the elder co-wife.

16. If someone's wife hears the news of her husband's death and does not observe their caste's mourning customs, does not perform death rites for [her husband], or does not take care of him properly when he is sick, although she is present, [but] leaves the house and goes somewhere else to live, she—even if she does only one of these things—shall not receive any share or old-age subsistence [from her husband's property]. She shall not be given anything. Even if her husband drew up a deed and signed over [property to her], it shall not be valid.



## 25. On Widows' Property Rights

1. If a woman after the death of her husband remains faithful to him and maintains a livelihood from agriculture or some other means, and [then] runs off with another man, she shall not be entitled to take any wealth acquired during the time she remained faithful to her former husband—cash or kind, immovable property, quadrupeds, servants or the like. The legitimate sons and daughters [born to her by her former husband] or those who are entitled to inherit property in the absence of male issue shall, in accordance with the *Ain*, receive the entire property [otherwise due her].

2. If a common woman has around 1–2 sons or daughters by a first husband, then runs off with another man and has 1–2 sons or daughters by him, then runs off with another man and gives birth to 1–2 sons or daughters, and then runs off with someone else and gives birth to sons or daughters, the sons and daughters shall, in accordance with the *Ain*, receive [respectively] their share of property and marriage expenses from their fathers. The sons and daughters born to all her husbands shall divide the entire wealth acquired by their mother after she became a common woman and take their share of property or marriage expenses. The *kacaharī* office shall collect [as a court fee] 10 percent of the value of the inheritance it arranged for them to be given.

3. If a woman who has not crossed the age of 45 has illicit sexual intercourse with a man or has lost her caste, and if she has sold, gifted or donated land, cash or kind, human chattel or the like, thinking that she will get nothing once [the violation] becomes known [to others], then such transactions—be it a sale or the collection of loans—carried out before the illicit sexual intercourse [or loss of caste] has come to light shall not be valid. If such a sale or a collection [of loans] is carried out by placing either the coparcener entitled to inherit her property in the absence of male issue or [an official] from the *adālata*, *ṭhānā* or *amāla* office as a witness, such a sale or a collection [of loans] carried out by her shall be valid even if she has run off with another man but this has not yet become known [to anyone]. If none of them, neither a coparcener nor [any official] from the *adālata*, *ṭhānā* or *amāla*, witnessed [the sale or the collection of loans], and if she ran off with another man after selling, gifting or donating [property], the sale or the collection of loans carried out by such a woman shall not be valid.

4. If the husband of a woman dies, and if the woman has remained faithful to him, such a woman—irrespective of whether she has been living separately after the property has been partitioned or has been living in the joint family without the property having been partitioned—shall

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not be permitted to sell or [otherwise] dispose of her share of houses, paddy land, human chattel or [other] land until she reaches the age of 45. If her means of livelihood is insufficient (lit. 'lacking food and clothing') and she sells a house or paddy land or turned over slaves as collateral on a loan, placing a coparcener such as a [classificatory] brother or his son who is entitled to inherit her property in the absence of male issue as a witness, [the sale or transfer] shall be valid. If coparceners who are entitled to inherit her property in the absence of male issue do not agree to be witnesses, she shall have [an official from] an *adālata*, *ṭhānā* or *amāla* bear witness to the fact that [such transactions] pertain to her family's livelihood or to making reasonable gifts or donations, and then she shall be permitted to sell property in accordance with basic needs and to make reasonable gifts and donations. When such women are past the age of 45, they shall be permitted of their own volition to gift, donate or sell their share of property—*jiunī*, *pevā*, houses, paddy land, human chattel, wealth in cash or kind, household utensils, jewellery or the like. Neither a coparcener nor [an official from] an *adālata* or *amāla* need witness [such transactions].

5. Even though they may not have crossed the age of 45, widows from the Four Varnas and Thirty-six castes who have been suffering from an incurable disease or will [soon] be performing *satī* shall, in accordance with the *Ain*, be permitted to make [personal] gifts or a virtuous [donation] (*puṇya*) of what remains of their share of property—[such as] *jiunī*, *pevā* or any [other form of] wealth, [be it] land, quadrupeds or male or female slaves—after allocating 10 percent of it for their own funeral expenses. Their making [such] gifts or virtuous [donations] is valid. The receiving [of them] is also valid. If they wish to allocate more than 10 percent for their funeral expenses, they may do so of their own volition. Even if they continue to live on, [such] gifts once made shall not be invalidated.

6. If a widow who has no son and has been living in a joint family whose property has not been divided up says: 'I do not [wish to] live with you [in a joint family]. Give me my share of the property and I'll live separately', and if her mother- or father-in-law, brothers-in-law, co-wives, sisters-in-law, co-wives' sons or her nephews tell her in words to [first] live in the same manner and make gifts or virtuous [donations] in the same manner as they, and if in actuality they have been living as they say [they have], such a widow who has no son shall not be permitted to take her share, go elsewhere and live [separately]; she shall live together [with the others in the joint family]. If [the above-mentioned family members] have not allowed her to live in the same manner as they have and to make gifts or virtuous [donations] in the same manner as they, or if she has taken her share [of the property] and for some time already been living separately, or if only co-wives remain, [such a widow] may, in accordance with the *Ain*, take her share of property, live separately and see to her own needs.

7. If a mother-in-law, father-in-law, brothers-in-law, co-wives, sisters-in-law, co-wives' sons or the nephews of a widow who has no son ask her to live in the same manner and to make gifts or virtuous [donations] in the same manner as they and to live [in the joint family] rather than to leave the household and go to live in her parents' or some other relative's house, and if such a widow, disregarding their words, leaves the [joint] household and [goes] to live in her parents'

home or elsewhere, she shall return any wealth [in the form of] goods, ornaments or the like that she has taken away. If she incurs debt while living elsewhere, the joint family is not obliged to repay it.

MA<sub>2</sub> 27.8. If a widowed woman who is past the age of 45 and has no sons is living in [her deceased husband's] joint household without having partitioned the joint property, she shall, at her own volition, be allowed to gift, make donation or sell the movable [part of] the property (*cala bastu*) which would fall under her share from the existing property that was earned when her husband was still alive. It is not required that her heirs, who are entitled to enjoy her property, for which no son is there as heir, and the [respective] *amāṭī* witness [such a sale or donation]. She shall not be allowed to gift or donate immovable property.

## 26. On the Partition of [Seized Property] Returned as a Gift [by the Government]

1. If [a family] has been living in a single household and their jointly possessed land, houses, paddy fields or any other thing able to be partitioned is seized by the government, and afterwards the family members split off [from the joint household], then if one of the family members pleases the government and receives confiscated property back—land or the like—and [other] coparcener family members seek [the same treatment], saying, ‘We, too, are entitled to receive shares’, these family members shall not receive them if the royal deed (*mohora*) through which the property is returned states that only the one specified person should enjoy it. He who received it shall alone enjoy it. If the royal deed is general in nature (*gosvārā*), failing to specify [a benefactor], stating merely: ‘We return it’, the family members shall be allowed to divide it up, [each] taking his share. He who receives [land], having been entrusted with it by the government, shall enjoy both the landlord’s and tenants’ shares [of the crop] (*boī*) for 3 years. From the fourth year onwards, it shall be divided up amongst the family members for them to enjoy.

2. If [a family] has been living in a single household and property gifted to them, salaries or standing crops are seized and withheld without being released by the government, and if after the family members split off [from the joint household] one of the family members pleases the government and receives confiscated property back, and [other] coparcener family members [thereupon] come to stake a claim, saying, ‘We, too, are entitled to receive [shares]’, then if in returning [the property, the royal deed] merely states: ‘We return it’, the family member who pleased the government and got [the withheld property] released shall be given 10 percent [of it], and the rest [of it] shall, in accordance with the *Ain*, be divided up among the one who got it released and all other family members to enjoy. If [the royal deed] states: ‘We grant it to you’, then the family member who receives it shall have everything to himself; the other family members will not get [shares].

## 27. Women's Personal Property and Dowries

1. If someone has 2–3 ritually married wives but no son [is born]—only daughters [are born] to any of them—and if the mother of one of these daughters, saying, ‘I’m going to give a gift to my daughter (or son-in-law or the like)’, collects all the wealth [she has in mind], [the gift] is valid only if given [after] she executes a deed in the presence of all co-wives. If the co-wives are not present as witnesses, only her share [of the joint property] is valid. Whatever she has collected from co-wives’ shares is not valid.

2. If a woman has neither a husband [anymore] nor a son she herself gave birth to, and if no co-wife has a son, her daughters or any coparceners entitled to her property in the absence of a son as heir have no claim to the half of her property which remains after she makes a gift to her daughters. It becomes the property of any person upon whom she [may] bestow it of her own will. Once her death rites are performed with whatever is left from [the property] which remains after personally giving away [part of it], and if before [her death], in the presence of witnesses, she signed over whatever remains after [her death] to someone, that person shall receive it. If she has not done so, then her husband’s brothers born to the same mother will receive it.<sup>188</sup> If there are no [such brothers], all her daughters shall, in accordance with the *Ain*, divide amongst themselves and enjoy [possession of] whatever [property] remains after performing their parents’ death rites.

3. If someone has many wives and no sons, [but] only daughters from 2–3 wives, and if he dies, and also a mother of any of these daughters dies, but there is a mother of any of the others still alive, and if the mother who is alive says, ‘[Property that] I have I will make a gift of’, and if she keeps half of her total property for her own livelihood, the [other] half given in accordance with the dictates of the *Ain* to a daughter born to her husband is valid.

4. If a woman has no husband [any longer] and also no son, and if both she and a daughter-in-law of hers are widows, and if the former has a daughter and she says, ‘I will give a gift to my daughter’, [a gift] given from her own share [of the joint property] to her own daughter is valid. [A gift] given from the share of her daughter-in-law is not valid. If the daughter-in-law also has a daughter, and if she says, ‘I, too, will give a gift from my share’, [a gift] given from her own

188 *lognyā ekā vājyāvāta janmyākā jyeṭhā kāmchā vāvu dājyū bhāi chorā bhatijā nāti ra jyeṭhi kaṁchi amā bhāujyū buhāriharū bhayā unale pāuchan*, read *lognyākā yakāodarakā bhāi bhayā unale pāuchan* (MA<sub>2</sub>).

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share is valid. [A gift] given by the mother to her daughter without putting her daughter-in-law's share [of the property] aside, or [a gift] given by the daughter-in-law to her daughter without putting her mother-in-law's share aside, is considered invalid. If they come to complain, [the joint property] shall, in accordance with the *Ain*, be partitioned between the two parties.

5. If someone's father, grandfather or the like made a gift of land, cash or kind, male or female slaves, quadrupeds or the like, and the recipient [of the gift] has been in possession of it since that time, and if brothers, sons or grandsons of the gift-giver later on come to dispute [the legitimacy of that gift], the gift shall be valid if it was given by [the current owner's] elder brother, father or grandfather or the like, it has [all along] been in his possession, and it was given through a deed executed in the presence of witnesses; the recipient shall [then] retain it. If someone after the death of the gift-giver comes to complain, saying, 'The father, grandfather or the like or elder brother of such and such a person gave me such and such a thing as a gift, but I have not received it', it shall be up to the offspring of the giver to give it or not, even if there is a deed and witnesses [attesting to the gift]. If the gift was given no more than 16 years earlier, and the gift-giver has not handed it over [to the recipient], the witnesses shall be summoned, the deed and the witnesses shall be examined and it shall, depending on the decision, be given [or not]. If the gift was given more than 16 years ago, such a dispute shall not be heard; it shall be up to the gift-giver or his offspring to give it or not.

6. If [a woman] who has received a dowry or gift from her parental family is the mother not of a son nor of a daughter who has not engaged in illicit sexual intercourse, [but only] of a daughter who, unfaithful to a husband she has been ritually married to, has run off with another man, the daughter who has so run off will not receive [her mother's] dowry or gift [upon the latter's death]. This dowry will go to the ritually married husband [of that daughter]. If [that husband] is no longer alive, [the deceased mother's] brothers-in-law who were born to her father-in-law, or else the sons of her brothers-in-law, will receive it. As long as there is [at least] 1 person among those who are mentioned in the *Ain* as having a rightful claim to a dowry or gift [given to a woman by her parental family], the parental family shall not be allowed to take the dowry or gift back. If there is no [such claimant], it shall be up to the parental family members whether they donate it—depending on [the form of] the property—to temples, wayside public shelters with or without water facilities or *sadāvartas*, or else take it for themselves.<sup>189</sup>

7. If someone gives a dowry to his daughter and that daughter dies, the son of the deceased [woman], if she has one, will receive it. If she has none, the ritually married husband of the deceased [woman] will receive it. If he, too, is no longer living, a daughter will receive it. If there is no daughter, sons of the co-wives of the deceased [woman] will receive it. If no such are alive, her brothers-in-law begotten by her father-in-law or the sons of her brothers-in-law will be entitled to it on condition that they perform the commemorative rites of offering *piṇḍas*

189 *ainamā leṣṭiyākā dāijo pevā dātavya śnā phirāuna pāudainan*, read *aina mā lekhiyākā dāijo pewā dātavya khāna pāumyā dāiyādāramā 1 janā chaṃjyāla mātīle dāijo dātavya phirāuna pāudainan* (MA<sub>2</sub>).

and water [to her on the appropriate occasions]. As long as [at least] 1 person [is found] among the aforementioned, her parental family shall not be allowed to take the dowry back. If there is no [such rightful claimant], it shall be up to the parental family, depending on [the form of the property], whether they donate it in the name of their deceased daughter to a temple, wayside shelter with or without water facilities or *sadāvarta*, or else take it for themselves.

MA<sub>2</sub> 29.7kh. If a wife who has received a dowry [from her parental family] parts with it when she is living together with her husband, and if she later on runs off with another man, the husband does not need to pay back [the value] of his [former] wife's dowry for having been parted with when they were living together. Whatever dowry or gift remains in her possession till the day she ran off with another man, she is allowed to keep if she has no son. If she does have a son, [that property] belongs to him.

8. If a married woman of any Sacred Thread-wearing caste including Brahmins, a Non-enslavable Alcohol-drinking caste or the like engages in illicit sexual intercourse, then in view of the fact that such a woman's nose will not be cut off, she shall not be allowed to keep her dowry or any gift [given to her by her parental family]. If she has a son, he shall [receive it]; if not, it shall belong to her ritually married husband. If her husband, too, is no longer living, her daughter will receive it. If there is no daughter either, her brothers-in-law begotten by him who is her father-in-law by way of ritual marriage, or else the sons of her brothers-in-law, shall be entitled to it. If there is none of these either, it shall belong to that person who gave her the dowry or gift. The *adālata* or *amāla* office shall hand it over to him and collect 10 percent [as a fee]. If any heir specified in the *Ain* as being entitled to enjoy the dowry or gift comes to lodge a complaint in such a matter, it shall be handed over to him. If nobody so comes, there is no such need; the *adālata* or *amāla* need not search for an heir. If no heir is specified in the *Ain*, anyone entitled to enjoy her property in the absence of a son as heir shall not be entitled to the dowry or gift. The woman herself shall be allowed to keep the dowry or gift. Let her take it.

9.<sup>190</sup> If a dowry or gift is given to a woman by her parental family and she runs off with another man, taking her dowry or gift [rightfully] since there is no heir specified in the *Ain* entitled to it, then if the woman later on runs off with 2–3 other men and gives birth to sons and daughters, her dowry or gift shall, in accordance with the *Ain*, be divided amongst her sons and daughters [begotten] by all her paramours.

10. Someone from any of the Four Varnas and Thirty-six castes gives a dowry or gift to his daughter, and the dowry or gift is given to her through executing a *sanadapatra* in the presence of witnesses. The recipient enjoys possession and makes use of it, and, having received it, takes it to the house of her newly-wed husband. This is considered valid. Let [the claim] be allowed. If the recipient of the dowry or gift has not enjoyed possession of it and there are no witnesses or *sanada*, and if they (i.e. the daughter and son-in-law's family) come and claim the property

190 This section is placed after § 11 in MA<sub>1</sub>.

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which remained in her parental house [with the following words] 'Such and such property was given to us', [their claim] is not valid and they do not receive [the dowry].

11. If one of a number of daughters who has received a dowry or gift is about to sell it—human chattel, land, wealth in cash or kind, or the like—because she cannot hold on to it [anymore], and if the main person who gave her the dowry, or their offspring, or else, if none of these is alive [anymore], the sisters of the dowry recipient who were born to the same father, come within 35 days, in accordance with the *Ain*, and say, 'We will pay the sum in question proposed by the outside [buyer] (*desī*) from our family estate', the third party will not receive [the thing in question]; such rightful claimants shall be permitted to take it.

12. If a widowed woman from any caste down to [the lowest of] the Water-acceptable castes, including [from any] Sacred Thread-wearing caste, runs off with [a man] whose caste status is higher or equal to her own, a dowry or gift—human chattel, land, [wealth in] cash or kind, or the like—given properly (*pakkā garnu*)<sup>191</sup> [to her] by her parental family shall become the property of her sons, if there are any. If she has no son, it shall become the property of her daughters. If she has no daughter either, the fallen woman herself shall be allowed to take the dowry or gift. Let her take it. If such [a widowed woman] runs off with a man from a Water-acceptable caste whose caste status is lower than her own, and if she contaminates her fellow commensals through cooked rice, she shall be fined 20 rupees. If she has not contaminated [her fellow commensals] through cooked rice, there will be no fine; the fallen woman shall be allowed to take her dowry or gift. If such [a widowed woman] runs off with a man from a Water-unacceptable or Untouchable caste, irrespective of whether or not she has contaminated her fellow commensals through cooked rice, she shall not be allowed to take her dowry or gift. If she has sons, it shall be theirs. If she has no son, it shall be her daughters'. If she has no daughter either, it shall be the possession of the sons of her husband's co-wives. If her husband's co-wives have no sons, the father- and mother-in-law who produced her husband; her brothers-in-law whom they [also] produced; and the sons of her brothers-in-law shall receive it. If there is no such person either, it shall be the possession of her paternal family, who gave it to her. If there is no heir [who is] specified in the *Ain* [as entitled to enjoy her dowry or gift], it shall be the government's (*sarkāra*). Have the government [seize it]. No heir shall be allowed to take [a gift]—human chattel, land, [wealth in] cash or kind, or the like—later on given to such [a widowed] woman by her parental family out of compassion or affection after she has run off with a man or lost caste. It shall be that fallen woman's. Let her take it.

13. If a widowed woman from any of the Four Varṇas and Thirty-six castes, including [from any] Sacred Thread-wearing caste, shall be ostracised with respect to cooked rice for having consumed cooked rice from a person who belongs [to any caste], down to [the lowest of] the Water-acceptable castes, that is lower than her own, or for having consumed prohibited food<sup>192</sup>

191 That is, through executing a deed of gift in the presence of witnesses (see § 10 above).

192 *bhakṣya*, read *abhakṣya* (MA<sub>2</sub>).



resulting in the loss of caste, the dowry or gift of such [a widowed woman] which was given properly [to her] by her parental family, shall become the property of her sons, if there are any. If she has no son, it shall become the property of her daughters. If she has no daughter either, she shall be allowed to take [her dowry or gift] after paying a fine of 20 rupees in the case where she has contaminated her fellow commensals through rice cooked [by her], or without [paying] any fine in the case where she has not so contaminated [her fellow commensals]. Let her take it. If [such a widowed woman] loses caste for having consumed cooked rice or water from a person of a Water-unacceptable or Untouchable caste, irrespective of whether or not she has contaminated her fellow commensals through cooked rice or water, she shall not be allowed to take her dowry or gift. If she has sons, it shall be theirs. If she has no son, it shall be her daughters'. If she has no daughter either, it shall be the possession of the sons of her husband's co-wives. If her husband's co-wives have no sons, the father- and mother-in-law who produced her husband; her brothers-in-law whom they [also] produced; and the sons of her brothers-in-law shall receive it. If there is no such person either, it shall be the possession of her paternal family, who gave it to her. If there is no heir [who is] specified in the *Ain* [as entitled to enjoy her dowry or gift], it shall be the government's.

**The regulation applicable in the case where [a person], having separated from [the joint household] after taking his share [of the joint property], squanders his entire share. If someone [from his family], seeing that person's misery, out of compassion or affection gives him human chattel or land, [that person] shall be allowed to enjoy only [the labour of the chattel and] the harvest. He shall be allowed neither to sell nor to take away [the human chattel or the land]. Such property shall remain in the possession of the giver. [The giver] shall be allowed to take his property back, stating: 'I gave him [property to use] up to today. I will not give it to him [to use] from now onwards.'**

14. Someone has separated [from the joint household] after [the joint property] has been divided up amongst, for instance, elder and younger brothers, sons, and elder and younger brothers' wives, and he squanders his share of property, and [then] his father, mother or brother out of compassion or affection gives him some land or male or female slaves, stating: 'Enjoy this much.' He shall be allowed to enjoy only the harvest on the land and the labour of the slaves if [the property] was given to him out of compassion without executing a deed. He shall not be allowed to sell such gifted property. Nor, when he dies, shall any person entitled to enjoy his property in the absence of a son as heir be allowed to enjoy such property. It shall be the possession of the person who gave it. [The giver] is even allowed to take such property [back at any time], stating: 'I gave [it to him to use] up to today. I need it now. I will not give [it to him to use anymore].'

## 28. On Property Passed on in the Absence of a Son as Heir

1. If someone has elder and younger brothers who are born to the same father and have separated [from the joint household] and if [some of] the elder and younger brothers also have sons, and if one or the other brother who has only a daughter dies, and there is no son to inherit his property, his daughter shall receive such property as long as the father and mother have transferred it to her through a deed executed in the presence of witnesses. The brothers born to the same father shall not receive it. If neither a deed has been executed nor anyone placed as a witness, then the daughter shall not receive it; the brothers born to the same father and their sons are permitted to enjoy such property for which there is no son as heir.<sup>193</sup>

2. If a father dies, and none of his brothers born to the same father is alive, [but] they have sons and grandsons, and if he has only daughters given birth to by a wife ritually married or [merely] brought [into the household], these daughters, whether married or not, shall receive [his property] if they declare: 'We shall pay off our father's debts and enjoy the property which he had no son as heir to.' Distant relatives shall not receive it. If there is a legitimate daughter and she has a son to perform the funeral rites, they shall do so. If they have an authorised person perform the funeral rites, that too is permissible. If there is a daughter from a concubine, she and her sons shall be allowed to enjoy the property for which there is no son as heir as long as she searches for an authorised person to perform the funeral rites and has him do so. If there are daughters from wives [both] ritually married and wives not, a legitimate [daughter] shall perform the funeral rites, since she has the authority to do so. Daughters from wives who have ritually married and ones who have not shall, according to the *Ain*, divide up and enjoy whatever remains from property for which there is no son as heir, [but only] after the funeral rites have been performed. If there is no daughter from a ritually married wife, the daughters from wives who did not ritually marry shall receive it. Whenever a case is filed relating to such matters, it shall be decided according to this [section of] the *Ain*. The *adālata*, *ṭhānā* and *amāla* offices shall collect 10 percent of the wealth and property passed on.

193 Due to superfluous or erroneous passages in MA<sub>1</sub>, our translation of § 1 is based on MA<sub>2</sub>: *āphnā yakā-bābu-bāṭa janmyākā chuṭṭiyākā dājyu-bhāi ra dājyū-bhāi-kā chorā pani chan yakā-bhāi-ki chori mātra cha bābu maryo ra aputāli paryo bhanyā bābu-āmāle chori-lāi kāgaja lekhi sāchi-śrotā rākhi diyāko rahecha bhanyā tyo aputāli chori-le pāuche yakā bābu-bāṭa janmyākā dājyu-bhāi-le pāudainan kāgaja-patra lekhiyāko pani rahenacha sāchi-śrotā pani kohi rākhyāko rahenacha bhanyā chorile pāudaina yakā bābu-bāṭa janmyākā bhāi bhatijā-le aputāli kāna pāuchan.*

3. If someone has no uncle born to his paternal grandfather, and has no brothers, no sons or brothers' sons, no aunt-in-law and no sister-in-law, [but only] many daughters from wives whether ritually married or brought [into the household] or from concubines, and if of these [daughters] some are married and some not, the marriage expenses for the unmarried daughters shall be put aside, and all the married and unmarried daughters shall, in accordance with the *Ain*, divide and enjoy whatever wealth remains after the performance of the funeral rites for their fathers and mothers.

4. If a father dies who has no sons, only daughters, and if these declare: 'We will neither pay off our father's debts nor enjoy his property for which there is no son as heir to', they shall not be obliged [to do so]. Nor shall any of his distant relatives, if they declare: 'We will not enjoy his property for which there is no son as heir to or pay off his debts either', be obliged [to do so]. If he has close relatives, they shall perform his funeral rites, but they shall be obliged neither to enjoy his property for which there is no son as heir to nor to pay off his debts. Whatever property the deceased has for which there is no son as heir to shall all be collected and proportionately distributed to his creditors according to the sums owed them. The creditors shall, at their own discretion, provide funeral expenses to the one who lights the funeral pyre and those who perform the funeral rites, and take what remains [for themselves].

5. If someone no longer has any uncles born to his paternal grandfather, any brothers, any sons, brothers' sons or grandsons, wives of his parental uncles or wives of his brothers, [but] he does have granddaughters (daughters of [deceased] sons)—their father having died before their grandfather and grandmother, [so that] there is no son to inherit the property—no distant relative shall receive that property, [even] if he declares: 'I will perform the funeral rites for my paternal granduncle and grandaunt and pay off their debts and enjoy the property for which there is no son as heir to.' The granddaughters (the daughters of the sons) shall be permitted to enjoy the property for which there is no son as heir to after performing [their grandparents'] funeral rites and paying off their debts.

6. If someone no longer has any uncles born to his paternal grandfather, any brothers, any sons, brothers' sons or grandsons, wives of his parental uncles or wives of his brothers, and also no offspring from a son he himself has begotten, [but] had only a daughter who died before her father and mother, and if that daughter had a son, then if this grandfather dies leaving his property without a son as heir to and this grandson declares: 'I will perform the funeral rites of my grandfather and grandmother and pay off their creditors and also enjoy the property for which there is no son as heir to', the son<sup>194</sup> of the daughter shall be allowed to enjoy his grandfather's and grandmother's property for which there is no son as heir to after performing their funeral rites and paying off their creditors. Distant relatives shall not receive it.

194 *chorile*, read *chorāle* (MA<sub>2</sub>).

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7. If someone no longer has any uncles born to his paternal grandfather, any brothers, any sons, brothers' sons or grandsons, wives of his parental uncles or wives of his brothers, [but] he has a daughter, and his son also has a daughter<sup>195</sup>, and if the father dies first and then the son<sup>196</sup>, leaving the property without a son as heir to, and if the daughter of that son declares: 'I will both perform the funeral rites for my father and pay off his debts, and will also enjoy his property', she shall receive it. [Other] daughters of her [grand-]father shall not receive it. If first the son and then the father dies, leaving the property without a son as heir to, that property is to be divided into 2 parts for the [deceased] father and his [deceased] son, and if the [deceased] father's [other] daughters and the granddaughter declare: 'We will both pay off [our father's] creditors and enjoy his property', they shall, in accordance with the *Ain*, be allowed to enjoy their father's share.

8. If someone no longer has any uncles born to his paternal grandfather, any brothers, any sons, brothers' sons or grandsons, wives of his parental uncles or wives of his brothers, [but] he does have a daughter, and if first her father and mother die and then her elder and younger brothers die, leaving the property without a son as heir to, and if this daughter, born to the same father [as her brothers], declares: 'I will carry out the commemorative rites of offering *pinḍas* and water for my mother and father, and will also perform funeral rites for my brothers and pay off the debts of my father, mother and brothers, and also enjoy their property for which there is no son as heir to', such daughters shall be allowed to enjoy it, since they are the daughters of the same father [as their brothers]. Distant relatives shall not receive it.

9. If someone belongs to a Sacred Thread-wearing caste whose [members] have the right to kill their wife's paramour or to some other caste down to the Non-enslavable Alcohol-drinkers, and if he no longer has any uncles born to his paternal grandfather, any brothers, any sons, brothers' sons or grandsons, wives of his parental uncles or wives of his brothers, but has only a daughter, and if this daughter does not remain faithful to her ritually married husband [after he died]—if, [for example,] somebody else takes her [as his wife] by worshipping oil lamp (*diyo*) and water vessel (*kalaśa*)—or if she lives unchastely, becomes a common woman and runs off with someone else, such daughters shall not be permitted to enjoy the property of their father and mother for which there is no son as heir to. If he has a daughter who is chaste, she shall receive it. If not, distant relatives who have a claim on that property for which there is no son as heir to shall receive it. If there are no such [relatives] either, the government shall have the funeral rites of the deceased performed and the debts incurred by him paid [with assets] from the property for which there is no son as heir to, and whatever remains is the government's. It shall be seized by the government.

10. If someone's male slave lives together with someone else's female slave, and if both die leaving their property without a son as heir to, the property of the male slave goes to his owner,

195 *chorikī*, read *chorāki* (MA<sub>2</sub>).

196 *chori*, read *choro* (MA<sub>2</sub>).

and the property of the female slave goes to her owner. Any property given by the male slave to his wife belongs to the wife. No one else shall be permitted to take it.

11. If a [slave] father lives at his owner's house but his sons and daughters have gone somewhere else, having been either sold or given away as a gift or dowry, and if the father dies at the house of his owner, the sons and daughters who have been sold or given away as a gift or dowry shall not receive their father's property, for which there is no [legally recognised] son as heir to. The sons and daughters who were sold or given away as a dowry shall carry out the funeral rites from their father and mother's wealth. From whatever remains, 10 rupees per 100 shall be given to the sons and daughters who perform the funeral rites, and the owner shall enjoy the rest; the owner shall receive it.

12. If a male and female slave are emancipated, and they go [together] to some administrative district and settle down, establishing a household (*dhuri dhuvāunu*)<sup>197</sup> and paying the levies [there], and if they have no sons and daughters born to them after their emancipation, their sons and daughters born to them before their emancipation shall be permitted to enjoy [what otherwise would be] property for which there is no son as heir to, irrespective of whether they are living in the same or a different administrative district [to the one their parents lived in]. The *amālī* official or their owner shall not receive it, nor shall the government seize it.

13. If a woman separates from her husband, taking the share of property due her, and then runs off with another man, her aggrieved husband shall be permitted to kill her paramour if the status of the woman allows him to do so. If her status allows him [only] to [re]claim his marriage expenses [from her paramour], he is permitted to do so. If her status allows him to fine [her paramour], he shall be permitted to do that. If the status of the woman allows [only the paramour's] head to be shaved, the aggrieved husband shall be permitted to do that. If such a wife who lives separately [from her husband] dies, the husband shall, after performing her death rites, be allowed to enjoy the property for which she has no son as heir to. If he does not perform her death rites on the grounds that she has no property, he shall be fined 20 rupees and be made to do so. If he does not pay the fined amount, he shall be imprisoned 1 month for every 5 rupees.

14. If a woman becomes a common woman either after separating from her husband by performing [the customary practice of] cutting a [bamboo] sliver into two pieces (*sinko kātṇu*) or after divorcing, and if she comes to her parental house and it sets her up in a separate household to see to her own needs (*āphnai mānu khānu*), but while doing so she dies, the parental family shall carry out the funeral rites for her from her property, and of whatever remains from the property for which she has no son as heir to, one half shall be taken by the *amālī* and the other half by her parental family. If she was living in the neighbourhood of her parental family and after her death it neither takes up her corpse nor performs the funeral rites for her, then a person of a caste status comparable [to her own] shall be assigned to perform the funeral rites and to

197 Lit. 'to make the roof-tree smoky'.

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arrange a good passage [into the afterlife], her debts shall be paid off from whatever remains of her private property (*pevā*), property necessary for her subsistence (*jiunī*) and her dowry, and the *amālī* shall enjoy the rest.

15. If a woman, having separated from her husband by performing [the customary practice of] cutting a [bamboo] sliver into two pieces or else having divorced him, lives separately, seeing to her own needs, and dies leaving property for which she has no son as heir to, a person of a caste status comparable [to her own] shall be assigned to perform the funeral rites for her, her unpaid creditors shall be paid off from whatever remains of her dowry and private property, and the *adālata*, *ṭhānā* or *amāla* shall collect the rest. Her parental family shall not receive any property for which she has no son as heir to.

16. If women, having separated from their husbands by performing [the customary practice of] cutting a [bamboo] sliver into two pieces or else having divorced, go to their parental home, live there and are taken care of by their families, being provided with their subsistence needs, and they die leaving their property without a son as heir to, the funeral rites and the commemorative rites within the first year after death (*barkhī*) shall be performed and her unpaid creditors shall be paid off from whatever remains of her dowry and private property, and her parental family shall enjoy the rest. Neither relatives [from her former husband's side of the family] who would [otherwise] be entitled to enjoy her property in the absence of a son to inherit it nor the *amālī* shall get it.

17. If a *cāka* or *cakū* [working on] a *birtābitalaba*, *marauṭa*, *bekha*, *chāpa*, *mānācāmala*, *jiunī*, *guṭhī* land or the like, or anyone [working on] land exempt from all taxes, dies leaving his property without a son as heir to, and if [he or she] has brothers, nephews [who are sons of brothers], daughters or distant relatives who are entitled to enjoy [such] property for which there is no son as heir to, whoever is entitled to receive it according to the *Ain* shall enjoy it after performing the funeral rites for the deceased and paying off unpaid creditors. If there are no such persons, the owner of the land shall find someone of comparable caste status [to the deceased's] and have him perform the funeral rites, shall pay off his creditors and enjoy whatever remains from the property for which there is no son as heir to. If the owner of the land does not wish to enjoy such property, he is not obliged to do so. [In that case] distribute it proportionately among the creditors. Concerning the funeral rites, the owner of the land shall arrange [for their performance] from [any of the deceased's] property for which he has no son as heir to.

18. If someone, irrespective of whether he is from a foreign realm or from our country, dies leaving his property without a son as heir to, and if there are no [close] relatives, and it can be determined that [the deceased] is from a particular place, and if this place is within our realm, then the *bhāradāras* of the place in question shall be informed in writing. If he is from a foreign realm [including] Hindustan, the *hākima*<sup>198</sup> of the [local] *adālata* shall write down the information

198 For *hākima vāra*, read *hākimabāṭa* (MA<sub>2</sub>).

and pass it on to a *munsī*, and the *munsī* shall dispatch it [to the concerned foreign authorities]. If any heir comes within 6 months, whatever property [the deceased had] shall be handed over to him, [as one] entitled to enjoy [the property] for which [the deceased] had no son as heir to; the *kacaharī* office shall collect a 10 percent [fee]. If no one who is entitled to enjoy such property comes within 6 months, this property for which there is no son as heir to shall be the government's; put the government [in possession of it].

19. If sons separate [from a joint household] after the property is partitioned according to the established rule (*nīti*), being witnessed by the *pañca*, and if later the father and mother die, then the sons who have separated [from the household] following the partitioning of the property shall not receive their father and mother's share, [that is,] the property kept [by them] for their subsistence. A son who lived with them, irrespective of whether he is the son of an appropriate (*asala*) or inappropriate (*kamasala*) wife of his father<sup>199</sup>, shall, after performing the funeral rites for them and paying off their debts, be permitted to enjoy whatever share or subsistence property was kept by the father and mother, no matter whether it has increased or diminished [since the partition].

20. If, among the brothers who live [in a joint household], one has a son from an appropriate [wife] and another brother has a son from an inappropriate [wife], and another of the brothers dies leaving his property without a son as heir to, then when such property is being partitioned between the son of the appropriate and the son of the inappropriate [wife], it shall be divided according to the ratio laid down in the *Ain*.

21. If someone has sons he himself has begotten and for whom he himself has been performing the life-cycle rituals from the naming ritual onward, then even if [these sons] are born of a concubine, [their father's] elder and younger brothers shall not receive the property for which there is no [legitimate] son as heir to as long as male [descendants arising from his own] semen (*binda*) are still alive.

22. If there are many brothers all from the same womb, and if after the partition of property 2 brothers live together in a joint household and the other brothers each live separately without sharing a common kitchen, and if later on one of the 2 brothers living together [dies] leaving his property without a son as heir to, and if the brothers who each live separately without sharing a common kitchen claim [a share of] this property, the brother who had been living together [with the deceased brother] shall receive it. The brothers who each live separately without sharing a common kitchen shall not receive it.

199 In Fezas's translation of this section, *asala* is rendered as 'of equal caste' and *kamasala* as 'of lower caste' (Fezas 1986b: 179). However, this covers only one aspect of the meaning of these two terms. *Asala* refers not only to the equality of caste between husband and wife, but also to their having undergone ritual marriage. Therefore, a *kamasala* wife may still be of an equal caste status even if she is brought into the household as a concubine.

28. On Property Passed on in the Absence of a Son as Heir

23. If someone has no sons or daughters by a ritually married wife, [but] has 2–3 sons by a wife brought [into the household] from whom cooked rice is unacceptable, and if the husband dies, his property shall, in accordance with the *Ain*, be partitioned among each of his wives and sons, putting the marriages expenses for daughters aside in accordance with the *Ain*. After the ritually married wife dies, the sons [by the co-wife] shall enjoy whatever remains of the property for which she has no son as heir to—[what remains of] her livelihood expenditures and after [executing pledged] donations for meritorious purposes, paying off her debts, arranging for her good passage [into the afterlife] and performing her funeral rites.

24. If 3–4 brothers from the same womb separate [from a joint household], taking their shares and living separately, and if one of the brothers [dies] leaving his property without a son as heir to, all brothers shall divide it equally. If some of the [other] brothers have sons but some [have already died, survived only by] their wives, then the widowed wives also have a right to an equal share [of the above-mentioned property]. If a father has sons and daughters by 2–3 wives, from some of which wives cooked rice is acceptable and from some not, and if one of these [sons or daughters] dies leaving his or her property without a son as heir to, the shares and marriage expenses from this property shall be distributed in accordance with the *Ain*.

25. If someone has sons from 2–3 ritually married wives from his own caste and these [sons] live separately [from the joint household], having taken their respective shares, and if a brother from one of these mothers dies leaving his property without a son as heir to, brothers from the other mothers shall not receive a share of this property; [only] brothers born from the same mother as the deceased son shall.

26. If someone has 3–4 sons and all take their respective shares in accordance with the *Ain*, with some of them living separately and some of the brothers combining their divided shares, sharing their income and expenditures, and living together, using a common kitchen, and if one of the brothers who live together dies leaving his property without a son as heir to, then the brothers who have combined their divided shares, are sharing their income and expenditures, and are living together, using a common kitchen, shall receive the [deceased brother's] property for which he had no son as heir to, irrespective of whether they are born from an appropriate or inappropriate wife [of their father]. The brothers who are living separately, having taken their shares [for themselves], shall not receive [any of] it. If the property is partitioned, with [a brother] living with one [other] brother in the same house only for the sake of proper care<sup>200</sup>, [but] with separate accounts being kept for their subsistence needs, and if one of such brothers dies leaving his property without a son as heir to, then both he who lived together with that deceased brother and all the brothers who are living separately after taking their shares shall be allowed to divide such property [amongst themselves] and enjoy it in accordance with the *Ain*.

200 That is, each of the two brothers still maintains separate ownership of his property, but they live together either because they depend on each other's care, e.g. in the case of minors or sickness, or because their joint residence lessens financial burdens.



28. On Property Passed on in the Absence of a Son as Heir

27. If someone from among the Four Varnas and Thirty-six castes who holds state-owned land subject to taxation dies leaving his property without a son as heir to, and if the deceased person has brothers, nephews on his brothers' side or daughters, then those among them who are, according to the *Ain*, entitled to receive it, or [more] distant relatives when there are no such persons, shall enjoy whatever remains after performing his funeral rites and paying off his creditors. The government shall not take possession of it. If there is no one [entitled to inherit his property], the government shall arrange from his property for the performance of his funeral rites, the payment of his creditors and take whatever remains. If the government declares: 'We shall neither take<sup>201</sup> the property for which [the deceased] had no son as heir to nor arrange for the payment of his creditors', it shall not be obliged to do so. [Normally, though,] the government shall arrange from [the deceased's] wealth for the proportionate division of his property amongst his creditors and for the performance of his funeral rites.

28. If a tenant who has been living on state-owned land he had once set up house on dies leaving his property without a son as heir to, he who is entitled to enjoy his property shall be allowed to enjoy it as long as he keeps up the house and its irrigated and unirrigated land and pays the imposed taxes. He shall not be allowed to enjoy this property if he fails to do so. If he does not keep up the house and land or pay taxes, the *amālī* shall be allowed to reallocate such land to a person who will keep up the house and land and pay the imposed taxes.

29. If a widowed woman who has been living on state-owned land she had once set up house on abandons this house and land and goes to another place, such as her parental home, she shall not be allowed to allot this house and its irrigated and unirrigated land to anyone else. Those entitled to receive her property for which she has no son as heir to shall be allowed to do so if they [are able to] enjoy it without decreasing any of the commonly stipulated [obligations, including keeping] up the house and land and paying the taxes. If they do not pay the taxes and do not keep up the house and land, the *amālī* shall reallocate it to a person who will keep up the house and land and pay the taxes.

30. If a widowed woman who has been living on state-owned land she had earlier set up house on has sexual relations with a paramour and she has been keeping him in her house, he shall not be allowed to receive that house and its irrigated and unirrigated land [after her death]. If the relatives entitled to receive her property for which she has no son as heir to will be [the ones] living there, and they keep up the house and land and pay the imposed taxes, they shall receive it. If they do not keep up the house and land and pay the taxes, the *amālī* shall reallocate it to a person who [is able to] do so.

31. If someone dies and relatives of his entitled to inherit [the estate] do not perform the funeral rites, though they could have, and if it is ascertained that someone else performed the funeral rites, then the expenses for his funeral rites shall be reimbursed, from whatever property

201 *jādauna*, read *lidauna* (MA<sub>2</sub>).

28. On Property Passed on in the Absence of a Son as Heir

he left behind, to the person who performed them. From what remains after that, the debts incurred by [the deceased] shall be paid off. From whatever remains after that, 10 percent shall be given, further, to the person who performed the funeral rites. Whatever remains goes to the government; those entitled to property for which there is no son as heir to shall not be allowed to enjoy it. If it is ascertained that the heirs were not able to perform the funeral rites because they fell sick and [so] appointed someone else to do so, or if the heirs appointed someone else to perform the funeral rites because they had gone to a foreign territory or land, the funeral expenses and 10 percent [of the deceased's property] shall be given to the person who performed the funeral rites. From whatever remains, [the deceased's] debts shall be paid off and the heirs shall be allowed to enjoy the rest.

32. If someone from any of the Four Varṇas and Thirty-six castes dies leaving his property without a son as heir to, and if it is ascertained that there is no heir as laid down in the *Ain* to enjoy such property, the performance of the funeral rites and the payment of debts incurred by him shall be arranged from the deceased's property, and whatever remains from such property shall be handed over to the Itācapalī court of the Kathmandu Valley, and a receipt obtained, if [the deceased person] belonged to a Sacred Thread-wearing or Non-enslavable Alcohol drinking caste, or it shall be handed over to the closest *adālata* and a receipt issued if the person was from far away to the east or west. If [the deceased] belonged to an Enslavable caste or was a tenant on tax-exempted land—a *guthī*, *birtā* or the like—the owner shall enjoy his property for which he had no son as heir to. If he was a tenant on land assigned as a *jāgira* the holder of the *jāgira* land shall enjoy his property for which he had no son as heir to. If he was a tenant on *ijārā* or *amānata* land, his property shall go to the holder of the *ijārā* or *theka*.

**The regulation regarding punishment in cases where someone renounces mourning obligations by paying a *baksāunī* fee and comes to claim a share [of a joint estate] or property for which there is no son as heir to:**

33. If by paying the *baksāunī* fee to an *adālata* or *amāla* someone from the Newar castes declares [to his coparceners]: 'If somebody from your side dies or is born, we will not observe mourning or the rules surrounding birth impurity, and if someone from our side is born or dies, you will not observe mourning or the regulations surrounding birth impurity [for our family member]' [and so] renounces mourning obligations and abandons [his claim to the joint property], regardless of whether it [later] increases or decreases [in value], then he shall not receive a share [of the joint property] or property for which there is no son as heir to. The other [coparceners] who have not renounced mourning obligations and who are entitled to a share [of the joint property] or of property for which there is no son as heir to shall receive it in accordance with the *Ain*. If he who has renounced mourning obligations comes to raise a dispute regarding his share [in the joint property] or property for which there is no son as heir to, he shall be fined 20 rupees and beaten.

## 29. On Adoption

1. When someone from any of the Four Varnas and Thirty-six castes adopts a son, he shall do so from among the offspring of [brothers] who were born from the same womb as he himself. If there are no such persons, he shall adopt from among the offspring of the sons of a co-mother. If there are no such persons, he shall adopt from among the sons of his daughters. If again there are no such persons, he shall adopt from among the sons of his sisters. If there are no such persons, he shall adopt from among [the offspring of more distant male] relatives of his clan (*gotra*). If he has found and brought up a boy abandoned on a street, such an adoption shall be considered valid. Except for those [already mentioned], he shall not adopt someone from another clan or from of his wife's [paternal] family. The adoption of a son in violation of the *Ain* shall be considered invalid. Someone who is adopted [in violation of the *Ain*] shall be told: 'You are not allowed to be [adopted]', and he shall be given his share [of the estate] of his natural father. If someone who has no offspring asks his brothers, daughters, half brothers or sisters for an adoptive son, and if none of them gives him one, he shall obtain a written document from them stating: 'We will not give him [a son for adoption]', and find someone from among [the offspring of] his more distant male [blood] relatives and adopt him. If male [blood] relatives who are entitled to enjoy his property in the absence of a son as heir neither give a son to him [for adoption] nor witness [the adoption he makes], nor issue a written document stating: 'We will not give him our son [for adoption]', [an official from] an *adālata*, *ṭhānā* or *amāla* office shall be placed as witness, and whoever's son he finds—whether from his wife's parental family or from a different caste comparable to his own—shall be confirmed as his adopted son. The *adālata*, *ṭhānā* or *amāla* shall collect 2 rupees as a fee (*salāmī*) for issuing a deed of adoption (*dharmaputrako kāgaja*). It shall not collect more. The brothers who are entitled to enjoy [the adopter's] property in the absence of a son as heir shall not be permitted to contest it if the deed when issued was witnessed by 1 of these 3 offices, [i.e.] the *adālata*, *ṭhānā* or *amāla*.

2. If there is a son born to either an appropriate or inappropriate co-wife, any [other] co-wives who have no sons shall not be allowed to adopt a son, even though they declare: 'We have no sons. [Therefore,] we shall adopt a son.'<sup>202</sup> If one of them adopts [a son] in violation of the *Ain*, [the adoption] shall be considered invalid. If such a wife dies, the sons born to her husband

202 MA<sub>1</sub> gives both the Sanskrit term for 'adopted son' (*dharmaputra*) and the Nevārī term (*ṭhyāke macā*, lit. 'brought up son').

## 29. On Adoption

by an appropriate or inappropriate co-wife shall, in accordance with the *Ain*, be allowed to enjoy whatever property she had. Such an [unlawfully] adopted son shall not receive any share [of her estate]. A son adopted in violation of the *Ain* shall receive his share [of the estate] of his natural father.

3. If someone from any of the Four *Varnas* and Thirty-six castes begets a son by a ritually married wife, widow, unmarried girl, common woman, slave or the like, and he brings the son into his house, performs the name-giving and rice-feeding rituals, and later on adopts a son from among the sons of his own brothers or sisters or daughters, such [adopted sons] shall not receive any share [of the estate]. If there are sons arising from his own semen by an appropriate or inappropriate wife, they shall receive shares. Other sons adopted after a son is born to an appropriate or inappropriate wife shall not receive [any share].

4. If someone adopts a son through a deed executed in the presence of witnesses, and if [the son] leaves his adoptive parents, lives separately and does not take care of them, the adoptive son[ship] becomes invalid; the deed of adoption shall be torn up. Those entitled to enjoy [the pair's] property in the absence of a son as heir [to the latter] shall be allowed to enjoy it if they take care of them as long as they live and perform their funeral rites after their death. If someone adopts a son through a [proper] deed, and if then the adoptive parents expel him from the house, [the expulsion] shall be valid if they expel him after giving him his share [of their property] in accordance with the *Ain*. If they bring him [in as an adopted son] after having had him relinquish his claim to a share of his natural father's property, and if they [later] expel him without giving him his share, then it is lawful for the adoptive parents to control their own share [of the property]; it is not lawful for them to control their adopted son's share.

5. Someone who has been adopted as a son must not make household purchases or incur debt in his adoptive parents' name without consulting them. Nor shall a creditor be allowed to recover from adoptive parents a loan advanced to their adoptive son. The adoptive son shall perform the funeral rites for his adoptive parents upon their death, pay off their debts and then, from the remaining property, pay off his own debts and enjoy the rest.

6. If someone who is not a [deceased person's] son, brother or a son or brother of [the deceased's] father or father's father [etc.] but rather some other distant male [blood] relative not entitled to receive property [of the deceased's] in the absence of a son as heir [to the latter]—[if such a person] comes to lodge a lawsuit, stating: 'I am the adopted son [of the deceased]; I performed<sup>203</sup> his funeral rites and am entitled to receive my share [of his estate]', and if during the proceedings it is ascertained that he is not, according to the *Ain*, entitled to receive that share, such an adopted son shall neither be fined nor shall he receive that share. He shall be given only the expenses incurred for the funeral rites.

203 *garyā*, read *garyā* (MA<sub>2</sub>).

7. If someone adopts, in accordance with the *Ain*, a son from among the [male] offspring of his coparceners because he himself has no [such] offspring, and if his adopted son does not beget any offspring either, [and so dies] leaving his property without a son as heir to, the [male] offspring of his coparceners shall be allowed to enjoy his property for which he has no son as heir to. If someone adopts a son not from among [the offspring of] his coparceners [but] from a different clan, and [the adopted son dies] leaving his property without a son as heir to, the coparceners on the adopter's side [of the family] shall be permitted to enjoy the property. Male [blood] relatives of the natural parents of someone who was adopted as a son by a person from a different clan shall not be permitted to enjoy [the adoptee's] property for which he has no son as heir to. Whatever remains after the performance of the funeral rites for this deceased [adoptee] is arranged for shall go to the government.

8. If there are 2–3 brothers and none of them has any [male] offspring, and if one of the brothers adopts a son, and [one of] the other brothers [dies] without [male] offspring, leaving his property without a son as heir to, then the adopted son shall perform the funeral rites for his paternal uncle, arrange for his good passage [into the afterlife] and be permitted to enjoy the rest of his property; any brothers (i.e. paternal uncles of the adoptee) who have separated [from the joint household] after [the joint property] has been partitioned shall not receive [any of] it.

9. Someone who, in accordance with the *Ain*, is adopted as a son or is a son born to the wife of a man living in the home of his parents-in-law (*ḍolājī*)<sup>204</sup> shall not receive a share of property from his natural father as long as [the latter] has other sons. An adopted son shall be permitted to enjoy his share of his adoptive father's property in accordance with the *Ain*, and a son born to a *ḍolājī*'s wife shall be permitted to enjoy his share of his mother's property.

10. If the natural father [of a son he gives up for adoption] has no other sons, and if [that father dies] leaving his property without a son as heir to, male [blood] relatives who would [otherwise] be entitled to receive his property shall not receive it. The son given up for adoption and the son born to the wife of a *ḍolājī* shall be permitted to enjoy [their natural father's] property after performing their parent's funeral rites. The adoptive son shall be allowed to enjoy the property of his adoptive parents, too.

204 The meaning of the term *ḍolājī* is disputed (for an overview of the discussion see Fezas 1983a/I: 138–146, on which the following account is based). According to one interpretation, it denotes a daughter who, when her parents have no male offspring, is designated as their heir, or rather as the link transmitting the parental estate to her son. She consequently remains together with her husband at her parental home (see e.g. M. C. Regmi 1970d: 114). This understanding puts it in line with the dharmasāstric concept of *putrikā*. Another interpretation is to take *ḍolājī* as denoting a son-in-law who in such a case moves into the house of his parents-in-law and virtually takes the place of the natural son they never had—an arrangement which resembles adoption and explains why it is included in the present Article. Based on his readings of MA<sub>3</sub>, Fezas understands *ḍolājī* in the latter sense of a son-in-law. He admits, however, that both meanings are possible. Since in this Article *ḍolājī* is used in a context similar to those featuring other terms for male adoptees, and since instances where the daughter is referred to specify the latter as *ḍolājī svasnī*, Fezas's position is convincing and is adopted here.

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11. An adopted son or [the son of] a *ḍolājī* shall receive the property of his adoptive parents. They shall not receive any share of the property of [their adoptive parents'] male blood relatives who die without a son as heir.

12. If a son or daughter is born to someone after he has adopted a son, money for the daughter's marriage expenses shall be set aside and the adopted son shall enjoy a share [of the parental estate] equal to that of the [natural] son.

13. If someone from any of the Four Varṇas and Thirty-six castes adopts a son in accordance with the *Ain* before any offspring have been born to him, and if later on offspring are born to him by his ritually married wife or a concubine, regardless of whether cooked rice may be accepted or not [from the latter], his adopted son and the offspring given birth to by a his ritually married wife or concubine after the adoption shall have an equal right to his estate, inasmuch as he has a kinship relation (*binda*) [both] to his adopted son and to the sons given birth to by his ritually married wife or a concubine. [The partition of property] shall be undertaken accordingly.

14. If someone belonging to any caste including Brahmins down to the [lowest-ranking] Water-acceptable castes adopts a son from a caste superior to his own, and if such an adopted son who is past the age of 16 comes to an *adālata*, *ṭhānā* or *amāla*, stating: 'I will willingly accept cooked rice from my adoptive father and [so] join his caste', then as long as he does not contaminate his [former] fellow commensals with respect to cooked rice, neither the adoptive son—who of his own will and volition has become an adopted son of an adoptive father whose caste status is inferior to his own but from whom at least water is acceptable, and [from whom he now wishes] to accept cooked rice—nor his adoptive father shall be held accountable. Such an adopted son shall become [a member] of the clan of that adoptive father and be allowed, in accordance with the *Ain*, to enjoy a share of his [adoptive father's] property [if the property is partitioned during his lifetime] or the entire property [after of the adoptive father's death]. He shall also perform the funeral rites for his adoptive [parents]. If the natural father or male [blood] relatives of the adopted son or the adopted son himself lodges a complaint that [the adoptee,] who was below the age of 16 and [so] immature, was lured into the adoption and made to consume cooked rice [from his adoptive father], the adoptive father's property shall be seized in accordance with the *Ain* if he belongs to an Non-enslavable caste. If he belongs to an Enslavable caste, he shall be enslaved. Such an adopted son, if he is past the age of 12, shall become a member of that [adoptive] caste; he shall be joined to that caste. If he is below the age of 12, he shall be granted expiation with respect to cooked rice, taking a *godāna* fee of 5, 4, 3 or 2 rupees for [respectively persons of] the *abbala*, *doṃama*, *sima* or *cahāra* category.

## 30. On Currency, Weights and Measures

1. If someone melts a gold or silver coin with the imprint of the seal of his king, he shall be fined five times the value [of the coin] he has melted, [i.e. he shall be fined] at the rate of 5 rupees if he melts a 1 rupee [coin]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

2. If a house collapses or catches fire and a gold or silver coin, or [any other coin such as a] *paisā* or *dāma* [inside of it] melts and turns into a nugget or lump, and if someone comes to ask whether he could melt or break [the deformed coins] and use them for some other purpose if he obtains permission, the *mālīka*, *dvāre*, *amālī* or *mukhiyā* official of an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *amāla* office shall give him permission to melt or break [the deformed coins] if, after examining the nugget or lump, it is ascertained that they are unusable. If [such unusable coins] are melted and broken up with the permission of the [officials], the person who melts or breaks them shall not be held accountable and, if the permission to melt or break them is given after they are examined and ascertained as unusable, the official who gives the order shall not be held accountable.

3. Even if [the measuring vessels such as] *mānā*, *pāthī*, scale, *ḍhaka* and *kuruvā* with seal imprints are old and unusable, the person who has them melted by his own decision and the person who melts them shall both be fined 10 rupees each. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned. If [such vessels] have become unusable and hence are useless,<sup>205</sup> and someone asks the *mālīka*, *dvāre*, *amālī* or *mukhiyā* of an *adālata*, *aḍḍā*, *ṭhānā* or *gauḍā* [for permission] to melt down [the vessels], he shall not be held accountable if he melts [the vessels] with their permission. The *mālīkas*, *dvāres*, *amālīs* or *mukhiyās* of the *adālatas*, *aḍḍās*, *ṭhānās* or *gauḍās* shall grant him the permission to melt the *pāthīs*, *mānās* or *kuruvās* that have become unusable. If [someone] comes to ask for permission to produce new [vessels] by crushing the old ones, [the official] who gives him the permission to do so shall not be held accountable.

4. If someone buys a diamond, pearl, emerald, yellow sapphire, blue sapphire<sup>206</sup>, red coral, ruby, cat's eye, hessonite garnet, spinelle ruby, a red *ḍiyu*<sup>207</sup> or the like, and if [the purchaser] comes

205 *lāgnā*, read *kāma nalagānyā* (MA<sub>2</sub>).

206 *tira*, read *nīra* (MA<sub>2</sub>).

207 This term refers to a type of gemstone, maybe a ruby traded through the port town Diu in Gujarat. However, the exact meaning of the term remains obscure.

### 30. On Currency, Weights and Measures

to complain within 1 month that they have been proven to be forged upon their examination, the [purchased] objects shall be returned to the seller and the seller shall return the purchase amount. The person who has sold forged items, claiming that they were original, shall be fined an amount equal to the purchase sum for the forged items. If [the purchaser] comes to complain 1 month after purchase that the items are forged, such a complaint shall not be heard. The transaction shall be valid.

5. If someone comes to complain that a person has fraudulently sold him adulterated opium, musk, scent, or hashish, the purchaser shall have to purchase [such items] after inspection. He shall not be permitted to return [these items], claiming that they are adulterated, once the sale is completed. [The purchase of] the items through the buyer and [the payment of] the purchase amount to the seller shall be valid. If there is a written agreement to return the items if they turn out to be adulterated, one shall act in accordance with that written agreement. Any verbal accusation of a witness shall not be valid if there is a written agreement concerning the [sold] article.

6. While using the rupee coins, no one shall accept or circulate counterfeit coins made of bronze or copper. If someone comes to exchange rupee coins that are pure, but broken on the edges and abraded, he shall be provided with coins at the [exchange] rate of 22 *gaṇḍī*. If someone comes to change coins into *mohora*, he shall be provided with *mohoras* by taking the coins at the [exchange] rate of 22½ *gaṇḍī*. If someone comes to exchange new Nepalese gold coins for *mohoras*, he shall be provided with *mohoras* by taking the gold coins at the [exchange] rate of 23½ [*mohora*] *rūpaiyā* [for 1 gold coin]. If someone comes to exchange *mohora rūpaiyā* for gold coins, he shall be provided with the gold coins by taking *mohoras* at the rate of 24 *mohora rūpaiyā* [for 1 gold coin].

7. If someone commits a fraud by attaching a metal spring (*kamāni*) to [a measuring vessel such as] a *pāthī*, *mānā*, *kuruvā*, scale or *dhaka*, he shall be fined 20 rupees. The measuring vessels to which a metal spring is attached shall be discarded and the person shall be made to bring into use untampered vessels after certifying them with a seal.

8. If someone makes use of an unsealed measuring vessel and, while filling it to the brim, reduces [the quantity to be measured] by 1–2 *muṭhīs* or 1–2 *tolās*, he shall not be held accountable. The person shall be freed after he is made to adjust these [measuring vessels such as] *mānā*, *pāthī*, *kuruvā*, a scale or *dhaka* appropriately.

9. If a scale or *dhaka* not certified with a seal is found, [such a measuring tool] shall be confiscated and be auctioned off by an *adālata* or *ṭhānā* and [the income] shall be collected by the government.

10. If a person reduces [the quantity to be measured by] 1½ *mānās* in one *pāthī*, he shall be fined 20 rupees; if he reduces it by 1 *mānā*, he shall be fined 15 rupees; if he reduces it by



7 *muṭhīs*, he shall be fined 10 rupees; if he reduces it by 5 *muṭhīs*, he shall be fined 5 rupees; if he reduces it by 3 *muṭhīs*, he shall be fined 2½ rupees. If he reduces it by 2 *muṭhīs* in 1 *pāthī* or ½ *muṭhīs* in 1 *mānā*, he shall not be fined. The *mānā*, *pāthī* and *kuruvās* shall be filled to the brim and the person shall be freed. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

11. If a person reduces [the quantity to be measured] by 6 *tolās* in the scale or *dhaka*, he shall not be held accountable. The scale or *dhaka* shall be filled to the brim and the person shall be freed. If he reduces it by 6 to 9 *tolās* in 1 *dhārnī*, he shall be fined 10 rupees; if he reduces it by 9 to 11 *tolās* in 1 *dhārnī*, he shall be fined 20 rupees; if he reduces it by 12 to 14 *tolās* in 1 *dhārnī*, he shall be fined 40 rupees; if he reduces it by 15 to 19 *tolās* in 1 *dhārnī*, he shall be fined 50 rupees; if he reduces it by 19 to 29 *tolās* [in 1 *dhārnī*], he shall be fined 100 rupees; and if he reduces it by more than 30 *tolās* [in 1 *dhārnī*], he shall be fined 150 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

12. If a *kaldāra* gold coin of Nepāla is used in a transaction such as the payment of government dues, the settlement of a loan, or the purchase of goods, this transaction shall be made at the rate of 24 rupees [for one *kaldāra* gold coin]. If any official, such as a *kārindā*, *tahabiladāra*, or a creditor, retailer, a *jāgira* holder or salaried official, or a merchant or the like does not accept [the *kaldāra* gold coin] at the rate of 24 rupees, he shall be fined an amount equal to the amount in question. If someone wants to take a gold coin to exchange it for *mohora*, the money-changers (*sarāphī*) of the palace or market shall keep 8 *ānās* [as a commission] and exchange [the gold coins] with *mohora* at a rate of 23½ rupees. If the master of the mint (*ṭaksārī*) reduces [the ratio of the precious metal] in the alloy (*cāsānī*) or reduces the weight [of the coins], whatever is ascertained as damage caused through the reduction, that amount shall be collected from him and he shall be fined an equal amount.

13. Any transaction shall be made in accordance with the custom that 10 *cyuṭis* equal 1 *muṭhī*, 10 *muṭhīs* equal 1 *mānā*, 8 *mānās* equal 1 *pāthī*, and 20 *pāthīs* equal 1 *murī*. One shall deal according to this custom. If someone brings into practice any difference, high or low, into this custom, he shall be fined 5 rupees. [The practice] shall be enforced in accordance with this custom.

14. A scale shall be brought into use in accordance with the custom that 10 *lālas* equal 1 *māsā*, 10 *māsās* equal 1 *tolā*, 4 *tolās* equal 1 *pala*, 27 *tolās* equal 1 *boḍī*, 112 *tolās* equal 1 *bisaulī*, and 2 *bisaulīs* equal 1 *dhārnī*. All transactions shall be made in accordance with this custom. If someone brings [a scale] into use deviating—de- or increasing—from these [customarily established ratios], he shall be fined 20 rupees. These customary [ratios] shall be enforced.

15. If someone living in the kingdom of his king mints counterfeit coins of his own king, he shall be imprisoned for 6 years, after his share of property has been confiscated, but putting the shares of his brothers and sons and the marriage expenses for his daughters aside. If he pays

### 30. On Currency, Weights and Measures

double the fine set in lieu of his prison term at the rate of 10 rupees per month, it shall be accepted, and he shall be set free. If a person of this country goes to Mugalāna and imprints counterfeit coins there, such a person shall be extradited after the [British] Resident has been informed. He shall be punished according to the law [prevailing there].

16. If a person, irrespective of whether he is from this realm or from someone else's realm, is living in this realm and mints counterfeit coins of a foreign king, he shall, in accordance with the *Ain*, be imprisoned for 1 year, after the share of property which is his according to the *Ain* has been confiscated. If he pays the amount [set in lieu of the prison term], it shall be accepted, and he shall be set free.

17. If a person witnesses someone minting a gold coin, *mohora* or *paisā* by his own decision at a place other than the royal mint (*ṭakasāra*), but conceals [the fact] without reporting it to an *adālata*, *ṭhānā* or *amāla*, he shall be fined 100 rupees, if it is ascertained that he witnessed the minting of gold coins, but concealed it. He shall be fined 60 or 20 rupees, respectively, if it is ascertained that he witnessed the minting of silver coins or *paisās* and concealed it. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

18. If someone mints *paisās* from iron and circulates them as copper coins, he shall be imprisoned, after the share of property which is his according to the *Ain* has been confiscated. If he pays double the fine set in lieu of his prison term at the rate of 10 rupees per month, it shall be accepted and he shall be set free. If someone has only minted circular coins from iron, but has neither imprinted a seal nor circulated such, he shall be imprisoned for 1½ years. If he pays the fine set in lieu of the prison term, it shall be accepted, and he shall be set free.

19. No one among the government [employees] and subjects shall circulate impaired currency. The clerks of the government shall also accept coins that are broken on the edges or abraded. Those who need to circulate such coins shall also pass them on. The merchants of the market, money changers, shopkeepers or the like shall also make transactions with coins that are abraded or broken on the edges. If any government clerk, subject, merchant, money-changer, shopkeeper or the like does not accept such coins because they are abraded or are broken on the edges, they shall be fined the same amount that they refuse to accept.

## 31. On Choosing a Profession

1. Whoever is capable of refining gold or silver may do so. He shall not be held accountable for selling it. If someone makes [something] out of copper, tin (*rāṇa*), zinc (*khāpre*) or brass (*pittala*) and sells it as gold or silver, or if someone sells impure gold and silver [as pure], his share of [the joint family] property shall be set aside—it shall be confiscated—and he shall be imprisoned for 6 years. Someone who participates in such a person's plan and sells impure gold or silver shall be imprisoned for 3 years. If such [offenders] pay 10 rupees for each month of their prison term, it shall be accepted, and they shall be set free.

2. Someone who knows how to make gunpowder may do so. He shall not be held accountable for selling it.

3. If anyone from the Four Varṇas and Thirty-six castes yokes to the plough an uncastrated bull which has been branded and set free (*sāḍhyā*)<sup>208</sup> shall be fined 2½ rupees. If someone accuses someone else of having so yoked such a bull but is unable to prove the accusation, he shall be fined 2½ rupees. If the fined amount is not paid, he shall be imprisoned in accordance with the *Ain*.

4. If an *amālī* fines a subject on the grounds that he has yoked a castrated bull to the plough during a festival, including a new-moon day, such an *amālī* shall be made to return the collected fine to the subject and be fined an equal amount. If he does not pay the sum, he shall be imprisoned in accordance with the *Ain*.

5. Men or women from any of the Four Varṇas and Thirty-six castes, [including] Upādhyāya Brahmins, Jaisī Brahmins, Rajapūtas and Newars of the three cities [Bhaktapur, Kathmandu and Patan], shall not be held accountable, if they yoke castrated bulls, he-buffaloes or horses to the plough in order to earn a livelihood. No expiation need be undertaken either by the one who so ploughs. If somebody deprives [another person] of his right to eat cooked rice with his fellow caste members on the grounds that he had yoked [such an animal] to the plough, he shall be fined 10 rupees; and 5 rupees if he deprives [the other] of his right to drink water with his fellow caste members.

208 See TND s.v. *sāḍe*: 'a brāhamaṇī bull (set at liberty by a man or a widow without progeny to perform the *śrāddha* ceremonies)'.

### 31. On Choosing a Profession

6. If an *adālata*, *ṭhānā* or *amāla* office accuses a man or woman from any of the Four Varṇas and Thirty-six castes on the grounds that they have yoked [bulls etc.] to the plough and fines them, the person in the *adālata*, *ṭhānā* or *amāla* who so acted shall be fined an amount equal to the fine he collected.

7. Occupation is not governed by caste [membership]. [The members of] all Four Varṇas and Thirty-six castes may sharpen tools, make shoes and clothing, work in mines, refine gold, fire brick kilns, pursue the potter's trade, prepare leather for *mādala* drums or do any [other] work as a profession, or earn a living by engaging in commerce. Nobody shall lose his caste status. Anyone who says in this regard that someone will lose their caste status or deprives him of his right to drink water with fellow caste members shall in either case be fined 50 rupees.

8. [The members of] all of Four Varṇas and Thirty-six castes may engage in business, from [removing] human and pig excrement at the bottom to [dealing in] diamonds and pearls at the top. They shall also be allowed to fill [containers] and weigh or measure [amounts by using] *mānā*, *pāthī*, *kuruvā*, scales<sup>209</sup> [or other] *ḍhaka* [units]. They shall not be held accountable [for doing so], nor shall they lose their caste status. Whoever faults them or says that they will lose their caste status shall in either case be fined 50 rupees.

9. If someone makes a Sacred Thread-wearing caste member consume an alcoholic drink, knowing that he is from such a caste, his share of property shall be confiscated and he shall be enslaved. If he does so unwittingly, having been deceived into letting [the other] consume [the drink], [that is,] if the Sacred Thread-wearing caste member has lied about his caste status [in order to] consume it, the one who let him consume shall not be held accountable. The one who consumed shall be degraded into an Alcohol-drinking Śūdra caste.

10. Whoever makes or sells any alcoholic drink, including coarse beer (*ajīmanā*), spirits or the like, shall make it from grain etc. Anyone who sells or buys [such a drink] shall inform [or be informed in advance] as to what it is [made from]. No one shall sell or buy distilled liquor claimed to have been made from cinnamon, [other] spices, wood, fruits, herbs, intoxicating [plant] substances or the like. Such a seller's share of property shall be confiscated in accordance with the *Ain*. Buyers and consumers shall be fined 100 rupees each.

11. If a child who is below the age of 12 and who has neither father, mother, brother or maternal uncle, nor debtor, house or land, comes to an *adālata* or *ṭhānā*, the officer shall inquire about his place of birth and caste status, record his name and care for him by arranging a daily ration of alms from a *sadāvarta*. The officer shall make arrangements to provide him annually with two sets of clothes, a homespun blanket and [a thick wrap made of] *sardu* material from the *sadāvarta*'s cash income. Such a child, irrespective of which of the Four Varṇas—Brahmin, Kṣatriya, Vaiśya or Śūdra—he belongs to, shall be put under the charge of the *subbā*, *ḍiṭṭhā* or

209 *tulā*, read *tulo* (MA<sub>2</sub>).

*mukhiyā* of the Kumārīcoka and taught to read and write, and trained for the work of keeping accounts. If the child belongs to a Śūdra caste [traditionally engaged in] portering, digging or farm labour, he shall be put under the charge of the *ḍiṭṭhā* in charge of arms (*jaṃgī kote ḍiṭṭhā*) of a *kampu*, the *ḍiṭṭhā* of the Gorkhali Company (*lājimā ḍiṭṭhā*) or the *ḍiṭṭhā* of elephant or horse stables, or of cowsheds, for training and work. If [his fellow caste members are traditionally] craftsmen, he shall be [further] trained and made to work under the charge of a *ḍiṭṭhā* of a magazine, tailoring workplace or arsenal. If the child is of the Dhobī or Telī caste, he shall be put under the charge of a Dhobī or Telī headman for training and work. Such children shall not be kept idle. Someone whose caste status is not identified shall become a Khāna-Khavāsa.<sup>210</sup>

210 *ṣāt khavāsa*, read *khāna-khavāsa* (MA<sub>2</sub>).

## 32. The Felling of Trees

1. If someone cuts down trees on land where such has been prohibited by the issuing of a *lālamohora* or [a document bearing the prime minister's] signature (*daskhata*), or if he cuts down trees preserved on other land, [such as] *guṭhī*, *birtā*, *bekha* or *chāpa*, he shall be fined 4 rupees for a [tree on] *abbala* land, 3 rupees for a [tree on] *doyama* land, 2 rupees for a [tree on] *sima* land and 1 rupee for a [tree on] *cahāra* land.<sup>211</sup> Trees that have been cut down shall be returned to the one they belong to.

2. Trees standing next to roads, watering fountains or water channels shall be cut down neither by the owner nor by anybody else.<sup>212</sup> If someone cuts down trees standing next to roads, watering fountains, water channels or water sources, he—in the case where he has cut down a tree on *abbala* land—shall be fined 4 rupees, and 3, 2 and 1 rupee respectively for cutting down a tree [on land of the] *doyama*, *sima* and *cahāra* category. The trees cut down shall not be given to him. If he does not pay the fine, he shall be imprisoned in accordance with the *Ain*.

3. No one within the Gorkhā kingdom—Madhesa and so forth—who makes a living [off income derived from] *guṭhī*, *sadāvarta*, *bekha*, *chāpa* or *mānācāmala* land, or is a holder of *phikadāra*<sup>213</sup> [land] assigned as a *jāgira*, or is a *jāgira* holder shall fell trees in a forest and sell the wood. One shall only be allowed to build one's house, plant a garden and do farming [on one's own land]. If after the *Ain* is promulgated someone fells trees in a forest and sells the wood, the money collected from the sale shall be confiscated (*lilāma*), and [the offender] shall be fined an amount equal to the sales price. If he does not pay the [fined] amount, he shall be imprisoned in accordance with the *Ain*.

4. A *birtā* holder shall be allowed to fell trees within the four boundaries of his *birtā* land and to sell the wood. He shall not be held accountable.

211 The references in the *Ain* show that the categorisation into *abbala*, *doyama*, *sima* and *cahāra* was used not only for land but also for persons and goods in order to differentiate their worth in terms of degree of purity, physical strength, financial status, productive capacity and other qualities (see, for example, §§ 64.21, 65.2 and 89.7).

212 Historical sources suggest that the regulating of deforestation in public places was introduced already in late medieval times. For example, RŚE 13 prohibits the felling of trees at roadsides and other public settings.

213 See NGMPP K 569/62 for an example of a *phikadāra* grant made by King Gīrvāṇayuddha to Viśrāma Khatrī in VS 1868. In that document, however, the *phikadāra* grant took the form of a *birtābitalapa*, whereas in the present case it is specified as a *jāgira*.

### 33. On Examining [Official] Documents

1. While the Kumārīcoka requests the preparation of a *lālamohora* confirming the clearance of the total balance for [all kinds of] levies and fees, a *lālamohora* shall not be requested only after presenting a compilation of the [account] headings (*sirako banda*), but the *mohora* shall be requested once an account of all collections and arrears (*vāsila bāki*) of the total balance has been prepared and the [account] headings are entered into the ledger. The *ditṭhās* and *mukhiyās* of the Kumārīcoka who execute their tasks, but violate this regulation, shall be fined 10 rupees if they have done so without misappropriating [government income]. If one has done so, misappropriating [government income], he shall be fined according to the amount he misappropriated.

2. The registrar who is responsible for the preparation of the register of the government employees shall report to [the highest authority] on the names of the employees who are to be reappointed, who are to be promoted or newly appointed, and shall record them in the register. The *bhāradāras*, *kāmadāras* or *jāgira* holders who have been deployed to *aḍḍā* or *gaudā* offices or have gone far distant on state business shall be informed in writing about their reappointment or assignment without any time gap [between the end of their previous tenure and the start of their new one]. The registrar responsible for the preparation of the register of government employees shall report accordingly to the *mukhtiyāra* and record their names in the register. If the registrar who is responsible for the preparation of the register of the government employees does not record their names in the register, the authorised person responsible for recording [the assignments] in the register shall be made to compensate [the income from] the crop yield [which the *jāgira* holder had lost because his land assignment was not registered] to this *jāgira* holder. If the persons to whom *jāgiras* are assigned, and who are reappointed or who are promoted, do not come [to the registrar] to ask for their names to be registered, they shall not receive [the income from] the crop yield [of the land assigned to them], even if they have worked for a whole year.

3. While assigning the responsibilities [to an employee] in writing, no one shall do so without receiving a written acknowledgement from him and without informing him [about his duties]. If [the official neither] personally [informs the employee] to whom responsibilities are assigned in writing, nor does he send someone to bring [the employee to the office to inform him], [the official] who [assigns responsibilities] in writing shall explain the details to him [personally]. [The employee] to whom [responsibilities are given] in writing behind his back is not required to carry out [his tasks].

### 33. On Examining [Official] Documents

4. If the *mālika* [of a government office] issues a document, although the clerks have tried to dissuade him by stating ‘If this document is issued, it will harm the government, *kamṣu*, *paḷṭana* or *kampanī*’, or the chief issues a *sanada* such as a *mohora*, *daskhata* or any other document behind the back of his steward, then the steward or clerks shall not be held accountable if harm occurs. The chief who issued such a *sanada* shall be held accountable. He shall be fined according to the damage caused.

5. If a chief official orders his clerks to act according to an ordinance (*savāla*), [but] later on while submitting the account, he hides the earlier ordinance and prepares a different ordinance and presents it, and if it is revealed before the account is cleared, the *hākima* who has issued the ordinance and the *rakama* holder who has raised [the revenue] following it shall both be fined at the rate of 100 rupees for 1 *lākha* [collected as revenue]. If it is revealed after the account is cleared, they shall be made to compensate for the amount they misappropriated in hiding the *daskhata* and ordinance issued before and preparing a new one later. They shall be fined an amount equal to the amount they misappropriated. If the amount of the fine is not paid, they shall be imprisoned at the rate of 1 month for every 5 rupees.

6. If someone has a *mohora* or *daskhata* issued which lies about date and particulars, his land shall be seized even at an inappropriate time and he shall be fined an amount equal to 1 year’s production [of that land]. The *mohora* and *daskhata* which he had issued deceitfully shall be destroyed. If he had the *mohora* and *daskhata* issued without lying about the date and particulars, [his land] shall not be seized during the months when the seizure of land is prohibited (*ajāna māsa*).<sup>214</sup> A person who seizes it during these prohibited months shall also be fined an amount equal to 1 year’s production [of that land]. A winning fee of ¼ of the fine shall be collected and the land shall be given into possession [of the person it was assigned to].

7. It has long been the practice that if the five times venerable king issues a *lālamohora*, all *bhāradāras*, including the *mukhtiyāra*, write only their first name and family name on the reverse of the *mohora* [to confirm] that it has passed through their hands (*mārphata*) or they have attested (*ruju*) it. By this practice one cannot identify their rank and position. Therefore, from Saturday, the 10<sup>th</sup> of the bright fortnight of Āśvina in the year [VS] 1922, the *mukhtiyāra* and *bhāradāras* shall write down their names preceded by their rank and position while confirming that the *lālamohora* has passed through their hands or is attested by them. If the names and titles are not written down [on the reverse of the *lālamohora*], the confirmation that it has passed through the hands [of the *mukhtiyāra* or *bhāradāras*] or was attested by them shall not be valid. One shall act according to this regulation.

214 Lit. ‘unknown months’. Maybe the same period during which it is prohibited to evict tenants from the field, i.e. in the hill region from the 5<sup>th</sup> of the bright fortnight of Māgha to the tenth day of the Dasāī festival and in Kathmandu Valley from the 6<sup>th</sup> day of the bright fortnight of Jyeṣṭha (the day of the Sīṭhī festival) to the 10<sup>th</sup> day of Dasāī festival (cp. § 3.1).



8. A *lālamohora* ordering a death sentence for homicide shall not be dispatched if it has not passed through the hands or was attested by the following four officials: The venerable chief judge of the *adālata* (*adālatkā mālika śrījaj*), the venerable guru *dharmādhikāra*, the *mālika* of the Kausī office, and the state treasurer (*khajāncī*). If the chief of the Kausī and the state treasurer are not available, [the *lālamohora*] shall be dispatched to the places where it is necessary, receiving [the confirmation on its reverse] that it has passed through the hands of the *kājī* and colonels.

9. While signing a *lālamohora* or *daskhata* or obtaining a signature for it, the entire land revenue that can be raised [from a certain area] and the revenue [the functionary] has to pay [to the government] and the exemptions he is granted [for such payments] shall be recorded in separate columns. Once the *lālamohora* or *daskhata* is issued, and it is ascertained that revenue raised [from that land] has been concealed, whatever amount has been concealed and enjoyed, shall be recovered and whoever is ascertained to be the concealer—whether the one who issued the *mohora* or *daskhata* or the one who obtained it—shall be fined an amount equal to the revenue raised from that land. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The land shall be seized from him. Whoever, while obtaining land, conceals the total amount [of revenue] to be raised [from it]—the issuer of the *lālamohora*, its recipient or the person who requested it—shall additionally be fined according to the *Ain*. Moreover, their land shall be seized. While obtaining land, if the total revenue that can be raised is not concealed, but later, after the land within the four boundaries [specified in the *lālamohora*] has been cultivated and the income derived from it has increased, the one who issued the *sanada* and the one who requested it to be issued shall not be fined. Moreover, the land shall not be seized.

10. [The keeper of the seal] who affixes the seal to a *lālamohora* or a *daskhata* of the venerable minister while issuing a *daskhata* or *mohora* ordering a death sentence, the confiscation of property, the payment of cash salaries or the grant of houses and homesteads, shall affix the seal to the *mohora* or *daskhata* brought to him after the clerks of the Kausī, Kumāricoka or an *adālata* who are responsible for affixing a [verification] stamp on the bottom [of the document] have consulted the venerable minister and affixed their stamp to the bottom, or have received the confirmation that [the *lālamohora*] has passed through the hands [of the concerned authorities]. If it is ascertained that the clerks did not affix the [verification] stamp to the bottom of the *mohora* or *daskhata*, [but] in the meantime had the seal [of the king or prime minister] affixed to it, they shall be dismissed<sup>215</sup> from their duties and [the land assigned to them as] *jāgira* shall be seized. A *lālamohora* or *daskhata* issued in such a way shall be invalid.

11. A *daskhata* or the like to which the seal of the *mukhtiyāra* is to be affixed, shall be presented to [to the prime minister's office] after the [verification] stamp has been affixed to the bottom [of the *daskhata*] by the clerks of the respective offices. On the reverse of a *daskhata* which has been presented [to the prime minister's office] after [verification] stamps of the concerned offices have been affixed, or on the reverse of a *daskhata* issued on [a verbal] order [from the prime minister]

215 *varṣā sari*, read *barkhāsa gari* (MA<sub>2</sub>).

### 33. On Examining [Official] Documents

for which no [verification] stamps on the bottom are required and in which the [prime minister's] order (*pramāṅgī*) is to be recorded, the seal of the *mukhtiyāra* shall be affixed after the seal of the *subbā* of the Mulukī[khānā] has been affixed. If it is ascertained that a *daskhata* has been unlawfully issued, the clerks who affixed stamps to its bottom and the *subbā* from the Mulukī[khānā] shall be dismissed from their duties and [the land assigned as *jāgira* to them] shall be seized.

12. If a letter of memorandum from the British arrives, it shall be reported to the venerable minister and a reply letter shall be prepared within two days. [The reply letter] shall be forwarded to the *mālīka* of the Kausī who manages the affairs there, and it shall be sent off after having a seal affixed to it. If the *munsīs* do not prepare the reply letter, they shall be fined 5 rupees. Once the *munsīs* have prepared the reply letter, if the person responsible for having a seal affixed to it does not report [to the prime minister] [immediately]—by day or night—and does not have a seal affixed to it, he, too, shall be fined 5 rupees. If [the affair] is reported to the prime minister, [but] he does come forth with a reply, the *munsīs* and the one who is responsible for having a seal affixed [to the reply letter] shall be exempted from the fine.

13. If women—except for those who have a household in the Tarai [territory belonging to] us—declare that they will go on pilgrimage beyond the Mahābhārata or the Himalayan range to keep a vow, married women who declare that they are going together with their husbands and widows shall be allowed to go, if they are past the age of 45. The official who issues a passport (*rāhādāni*) for such women, the official who vouches [that they are entitled to receive the passport] and the person who takes them on pilgrimage, shall not be accused and be held accountable. Women who have not reached the age of 45 can be taken on pilgrimage if one can hire 25 sentries to escort them. [In this case] the passport shall also be issued. If one is not able to hire this number of sentries to escort them, no woman—such as a married woman, widow, slave, bondservant or maid—shall be allowed to go [on pilgrimage]. A passport for such women shall not be issued. No one shall vouch for them or take them [on pilgrimage]. No one shall go [with such women]. The official who issues a passport for women who have not reached the age of 45 and the official who vouches [for them] shall be dismissed from their posts (*jāgira*) and they shall be fined 20 rupees for each woman. The person who takes them on pilgrimage shall also be fined accordingly. If the amount of the fine is not paid, they shall be imprisoned according to the *Ain*.

14. If women below the age of 45 declare that they will go on pilgrimage or the like, they shall not be allowed to cross the Mahābhārata range. Persons who declare that they want to take their wives, sons or daughters and move to the Terai region within our realm and live on agriculture, shall be allowed to leave and settle there. The official who issues a passport to them and the official who vouches for them shall not be fined.

15. While obtaining a *lālamohora* or a *daskhata* of the minister (*bajira*), if it is ascertained that the *lālamohora* and the *daskhata* is being deceitfully obtained by presenting wrong particulars to the minister, the property of the person who has such a *mohora* or *daskhata* issued deceitfully and that of the clerk who wittingly arranging for this by presenting wrong particulars shall be

confiscated, and they shall be dismissed from the post. If [a *mohora* or *daskhata*] is issued on [a verbal] order of the master (i. e. king or prime minister) or issued after the matter has been presented to him in all details, the clerks shall not be held accountable.

16. If war breaks out with another country, and at that time [someone] allies with the enemy and signs over his land to him, his land shall be confiscated by the government. This regulation, promulgated earlier by the five times Venerable Mahārāja Pṛthvīnārāyaṇa Śāha in the year [VS] 1825, is considered valid and [herewith] reconfirmed.

17. If a *mohoratāmrapatra* was issued after deliberation by the king, minister, Kausala and other high-ranking officials (*umarāva*), and if also a copy of it was recorded in the ledger (*syāhā*) of the Kausī, whatever at the [king's] satisfaction was granted and received according to such a *sanada*—such as *sadāvarta*, *guṭhī*, *birtā*, *marauṭa*, *phikadāra* or *bekha* land, homesteads or land meant to ensure subsistence (*jiunī*), honours, titles or the like, or caste status—shall not be seized or stripped unless the recipient commits a crime. This regulation, promulgated earlier by the five times Venerable Mahārāja Pṛthvīnārāyaṇa Śāha in the year [VS] 1825 is considered valid and [herewith] reconfirmed.

18. If the *mukhtiyāra* or his brothers or sons have received *guṭhī*, *birtā*, *phikdāra*, *bekha*, *marauṭa*, *mānācāmala* land, homesteads, *chāpa* land or the like from the government, and if it is recorded on the *mohora* confirming the grant that it has passed through the hands of the *kājīs* or *bhāradāras* of that time, it shall be valid. Whatever [the *mukhtiyāra* or his brothers and sons] have received through a *mohora* on which it is not recorded that it has passed through the hands [of the *kājīs* or *bhāradāras*], shall not be valid. If the recipient was a commoner, the grant to him shall be valid if it is recorded on the *lālamohora* that it has passed through the hands of the *mukhtiyāra* of that time. A grant received through a *lālamohora* not recording that it has passed through the hands of the *mukhtiyāra* shall not be valid. It shall be seized.

19. While preparing a [judicial] document relating to a case of murder, adultery, caste status, illicit sexual intercourse or [contamination through] cooked rice and water, if a person prepares a document or arranges for its preparation and records witnesses or an assembly which do not exist, and if [the defendant] who did not commit any crime is executed on the basis of that document, and if it is ascertained upon interrogation that the persons recorded in the document did not witness [the crime], such a person [who forged the document] shall be executed. If he belongs to a caste whose members' heads are to be shaved [in lieu of punishment by death], he shall be imprisoned for life. If [the defendant] is not executed, the person who prepared the [forged] document shall be imprisoned for 1½ years. If he pays the amount set in lieu of the prison term, it shall be accepted and he shall be let off. The person who on someone's order prepared such a document, recording witnesses which do not exist, shall be fined 50 rupees.

20. If, while an *adālata* or *ṭhānā* investigates a case for decision, and it turns out that a *lālamohora* or *daskhata* was issued unjustly, and if it is also ascertained that the verdict given

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[in this case] was also unjust, the case shall be decided according to the *Ain*, confiscating the [unlawful] *lālamohora* and *daskhata*. All *lālamohoras* and *daskhatas* confiscated within 1 year shall be collected and shall all together be destroyed.

21. If someone—except for cases relating to murder, adultery, illicit sexual intercourse, caste status or [the contamination of fellow caste members] through cooked rice—forges a document such as a letter, a witnessed written statement (*muculkā*) or loan agreement, by writing down the name of a person not involved in the matter or naming a person as witness who was not present at the *kacaharī* office, the person who employs someone to forge [a document] shall be fined 60 rupees and the person who wittingly issues such a [forged] document shall be fined 50 rupees. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

22. If any man or woman kills a person or beats someone, and in consequence that person dies within the time laid down in the *Ain*, and if someone is ordered to forge a document or forges it himself, stating ‘In the matter of the person killed in such a way, such and such a person did not kill this person’ or ‘This person did not die as a result of the wound inflicted by such and such a person within the time [specified in the *Ain*]. The person died after the time had passed’, the main [offender] who is ascertained to have committed forgery related to homicide, shall be fined 60 rupees and the other [offenders] shall be fined 50 rupees each. If they pay the amount set in lieu of the prison term, it shall be accepted and they shall be set free.

23. If a married woman declares that she wants to go abroad with her husband to go on pilgrimage or to keep a vow, she shall be allowed to go on pilgrimage together with her husband, even though she has not yet reached the age of 45. The official who issues the passport, the one who vouches for her and the person who takes her with him shall not be held accountable.

24. If a father, grandfather, older brother, uncle, mother, grandmother, older sister-in-law and aunt live together in a joint household without having partitioned the parental estate, and if there is a head of the household who knows about the [household] transactions, and if a brother, son, grandson or wife either being flattered, coaxed or threatened, or of their own will signs over a house, irrigated paddy field, slaves or other property to someone, or that person takes [the property] after asking for it, both parties—the one who gives [the property] and the one who receives it—shall not be held accountable, if the head of the household gave his consent [to the transaction]. It shall be valid. If the head [of the household], who knows [about the household transactions], comes to complain that [the property] should not be given away while he is still alive, the transfer shall not be valid. The other [person who received the property] without informing the head of the household shall be made to return the property, such as cash or goods or the like—if he still has it—, and 10 percent [of it] shall be collected [as fee] and [the property] shall be given to [the head of the family]. If the person who received [the property] and took it [into possession] spent it or raised [revenue from it], he shall be made pay it back if he is able to pay. If he cannot pay, he shall be made to issue a loan deed with a deadline [for repayment]. Anyone who receives [property] from someone else—without informing the managing member of the

household who knows [about the household transaction], and does so while he is still alive—shall be fined at a rate of 10 rupees for every 100 rupees of the total amount he received.

25. If, in a case concerning a land transaction or the like for which the signature of someone's father, grandfather, brother or uncle has been obtained, the elders, [the household head] who knows [about the household transactions], and the [local] nobles are summoned by an *addā*, *śrestā* or a *kacaharī* office and are requested to write down the particulars exactly as they saw, knew or heard them in such and such a case, and if they issue a document declaring that they [have written down the particulars] for this case as they saw, knew or heard them, and sign it, and if later a brother, son, or grandson lodges a complaint in such a case, or if someone else lodges a complaint in this case for which signatures of several persons have been obtained, and if it is ascertained that previously—at the time of giving their signatures—[the signatories] were not intoxicated, ignorant [about the details of the transaction], mentally retarded, minor and also not lunatic, that there was no intervention from an *kacaharī* by the use of force, [but] they gave their signatures personally and knowingly and understanding [the details of the transaction], such a case for which there are [valid] signatures shall not be overturned. It shall be valid. The cheater who makes a wrong accusation in order to overturn the lawsuit shall be fined at the rate of 10 percent of the amount in question of this dispute and he shall be set free. If the signatures were obtained through an intervention [from the *kacaharī*] or [the signatories] were ignorant, mentally retarded, minor or lunatic, and if a signatory lodges a complaint within 4 months after giving his signature, or others come to lodge a complaint claiming that the signature of such a [non-eligible] person has been obtained, the case shall be investigated and decided according to the *Ain*. If someone comes to complain after the deadline is past, his complaint shall not be heard.

## 34. On Forging Documents

1. If [someone] detains a debtor on the basis of a forged loan deed, and if the forgery is proven upon judgement, the person who prepares such a forged loan deed shall be imprisoned until his prison term, which shall be at the rate of 1 month for every 5 rupees of the [forged] amount he had detained [the debtor] for, is over. If he pays the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

2. If someone prepares a forged or fraudulent document for a transaction which does not exist and comes to [a person] and tells this person that he must receive a specified amount of money [from the person], such a forger or fraud shall be fined an amount equal to the claimed amount in question. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

3. If someone states that the government requires a certain amount of land, or a certain amount of money or [a certain number of] persons and obtains a fraudulent or forged *lālamohora*, or a forged *daskhata* of the prime minister, and goes to the public (*muluka*) and exacts the requirements, his entire property, putting the shares [of his brothers, sons and so forth] and the marriage expenses [for his sons and daughters] aside, shall be confiscated, and he shall be punished by *dāmala*. If someone, without having a *lālamohora* or *daskhata* issued, goes to the public and confiscates or exacts [certain properties] with the lie that the king or prime minister requires them, he shall be made to return [what he has exacted] from the public and shall be imprisoned at double the rate of [what he has exacted] in question. If he pays four times the exacted amount in question [in lieu of his prison term], it shall be accepted.

4. If a wicked person falsely has a rent collection certificate for *jāgira* land (*tirjāpurjā*) issued, and fraudulently takes away the standing crops from the land allocated to someone as *jāgira* or *birtā*, and if the [*jāgira* or *birtā* holder] comes to complain about it, such a wicked person shall be arrested and be made to compensate the cost of the standing crops he has taken away and be fined an amount equal to the value of the standing crops he has taken away. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If the person who [fraudulently] sells the standing crop is a holder of a *jāgira*, his *jāgira* shall be confiscated, his insignia shall be torn up, he shall be made to march in a *paltana* and be set free. Even if such [a fraud] owns standing crops ripe for harvest, these shall not be given to him.

5. If someone claims ‘I have received [such and such] an appointment (*pagarī*) from the palace’, but [in fact] has not received it, and executes the assignment and reassignment of offices and contracts or performs the tasks dealing with the [allocation of] land, then his entire property, putting the shares of his brothers and sons and the marriage expenses for his daughter aside, shall be confiscated, and he shall be imprisoned for 3 years. If he pays double the fine set in lieu of the prison term, it shall be accepted, and he shall be freed.

6. If someone claims ‘I have received [such and such] an appointment from the palace’, but [in fact] he has not received it, and executes the assignment and reassignment of offices and contracts, or steals and forges the seals of others and stamps [them on formalised documents], or forges a seal and issues a *daskhata*, lease deed (*paṭṭā*), letter, rent collection certificate for *jāgira* land, certificates for expiation, receipt, acquittance letters (*phārakha*), loan deeds or the like, and if a person, despite the knowledge that it is a forgery, wittingly works in collusion with such a forger, this person [who works in collusion with the forger] shall be imprisoned for 1½ years. If he pays the fine set in lieu of the prison term, it shall be accepted in accordance with the *Ain*, and he shall be set free.

7. If someone claims ‘I have received [such and such] an appointment from the palace’ that [in fact] he has not received, and executes the assignment and reassignment of offices and contracts, or steals and forges the seals of others and stamps [them on formalised documents], or forges a seal and issues a *daskhata*, lease-deed, letter, rent collection certificate for *jāgira* land, certificates for expiation, ordinances (*savāla*), acquittance letters, loan deeds, receipts (*rasīda kavaca*), or the like, and if a person, without the knowledge of the forgery, works in collusion with such a forger, this person [who unwittingly works in collusion with the forger] shall be let off. He shall not be held accountable nor shall any fine imposed on him.

8. If [a template for a seal] is brought to someone and he is ordered to produce a forged seal for a *lālamohora* or for the prime minister’s *daskhata*, and he wittingly produces such a [forged] seal, the property of the one who produces the forged seal and of the person who makes the template for it shall, in accordance with the *Ain*, be confiscated and they shall be set free.

9. If someone steals a *lālamohora* or a prime minister’s *daskhata* and stamps it, or forges copies of [such documents], the share of property which is his according to the *Ain* shall be confiscated, and he shall be punished by *dāmala*.

10. If someone scratches, erases, and then increases or decreases the numerals or letters [written] on a *lālamohora* or a prime minister’s *daskhata*, the share of property which is his according to the *Ain* shall be confiscated, and he shall be set free. If someone scratches, erases, and then increases or decreases the numerals or letters [written] on a rent collection certificate (*tirjāpurjā*) of a *daphadara* office, on an expiation certificate stamped with the seal of the religious judge (*dharmādhikāra*), or on a *daskhata* signed by any high royal official, he shall be made to pay the damages and be fined an amount equal to the damages and be imprisoned

#### 34. On Forging Documents

for 1 year. If he pays, in accordance with the *Ain*, the amount of the fine, it shall be accepted. If he pays double the fine set in lieu of the prison term, then it shall be accepted, and he shall be freed.

11. If someone has received a favourable verdict (*jitāpatra*) with a lesser amount, and if he scratches and then increases or decreases the numerals or letters [written in the certificate] and overwrites them [with an increased amount], the amount by which he has increased shall be collected from him, and also the land awarded to him through the certificate of [court] victory shall be seized. Cash, commodities, quadrupeds or land—whatever is there—it shall become [the property] of the government.

12. When a written verdict (*sādhaka*) [to be submitted to the highest authority for sanction] is prepared after having obtained the [offender's] confession from an *adālata* or *amāla* office, and if a *hākima* from a Non-enslavable caste withholds the written verdict which prescribes: 'Such and such a punishment and fine according to the *Ain* shall be imposed [on the offender] after having consulted it', or [the *hākima*] scratches, erases and then increases or decreases numerals or letters [in the document], and enslaves someone who should not be enslaved, then the share of property of such a *hākima*, which is his according to the *Ain*, shall be confiscated, and he shall be let off. If a *hākima* from an Enslavable caste enslaves someone [who shall not be enslaved], such a *hākima* himself shall be enslaved.

13. If someone forges or steals the seal of a *dhākre*, *jāgira* holder or a high royal official and issues a lease deed, letter, expiation certificate, government decree, acquittance letter, loan deed or the like, he shall be made to pay the damages caused through his forgery, be fined an amount equal to the damages and be imprisoned for 3 years. If he does not pay the damages, fine, and the amount [set in lieu of] his imprisonment, he shall be imprisoned at the rate of 1 month for every 5 rupees and be set free after the prison term is over.

14. If someone knowingly forges a seal of the *dharmādhikāra*, *daphadara*, *adālata* or *ṭhānā* office or produces a template of their seals, he shall be imprisoned for 1½ years. If someone knowingly forges a seal of any other high royal officials or produces a template of their seals, he shall be imprisoned for 1 year. If he pays double the fine set in lieu of the prison term, it shall be accepted, and he shall be set free.

15. If someone forges a seal of high royal officials, but has not been able to attest [a document] with it yet, he shall be imprisoned for 1 year. If he pays the fine set in lieu of the prison term, it shall be accepted, and he shall be set free. [Such a forger] shall not [be punished] by confiscation.

16. If someone steals rent collection certificates issued by any of the *daphadaras* and stamps or forges them, he shall be made to pay the damages [caused by his forgery] and be fined an amount equal to the damages and be imprisoned for 6 years. If he pays the damages and the



fine in accordance with the *Ain*, it shall be accepted. If he pays double the fine set in lieu of the prison term, it shall be accepted, and he shall be set free.

17. If someone forges a seal of the *dharmādhikāra* or the *daphadara*, *adālata* or *ṭhānā*, but is unable to attest [a document] with it, then the share of property which is his according to the *Ain* shall be confiscated, and he shall be imprisoned for 3 years. If he pays the amount set in lieu of the prison term, it shall be accepted.

18. If someone forges a seal of a *lālamohora* or a prime minister's *daskhata* but is unable to attest [a document] with it, then his share of property shall be confiscated, and he shall be imprisoned for 6 years. If he pays the amount set in lieu of the prison term, it shall be accepted.

19. If someone forges a seal of *lālamohora* or prime minister's *daskhata* and collects revenues within the kingdom, then the share of property which is his according to the *Ain* shall be confiscated and he shall be punished by *dāmala*. If he has not forged a seal of a *lālamohora* or prime minister's *daskhata* but commits an oral fraud by claiming that there has been an order from the king or prime minister [empowering him to collect revenues] and collects revenue within the kingdom as it is collected by the government, then he shall be made to return to the government the revenue it is entitled to and to pay to the subjects the damages they are entitled to. The share of property of the person who [illegally] collects revenue shall, in accordance with the *Ain*, be confiscated and he shall be imprisoned for 4 years. If he pays the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

20. If someone has to pay his dues owed to the five times venerable king, or the crop yield [due to the government from the land he] has received as *jāgira*, or has to partition the paternal estate among his coparceners, or is likely [to be punished by] confiscation or has to distribute his property proportionately [among his creditors], and if such a person has several creditors, and if he commits fraud by preparing a forged loan deed in order to cheat [some of] his creditors (*sāhu māṛnu*), then all the creditors, the debtor, the scribe [of the loan deed] and the witnesses [involved in the forgery] shall be proportionately fined that part of the total [fraud] amount for which they forged the loan deed. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

21. If someone forges a [*lāla*]*mohora* of a king who has been dethroned and thereby deprived of his kingdom, or writes or makes someone write false information on a *liphā* document, he shall be fined an amount equal to the value of the land he has fraudulently pretended to have purchased or sold and shall be imprisoned for 7 years for committing forgery. If he pays, in accordance with the *Ain*, the fine, it shall be accepted. If he pays double the fine set in lieu of the prison term, it shall be accepted. The purchase or sale of the land shall also not be valid.

22. If someone writes on matters that can result in the loss of others' life or their caste status or on matters of illicit sexual intercourse that can slander and defame someone or lead

#### 34. On Forging Documents

to disputes among people, and posts paper notes (*pūrjī*) [with such a content] at various places, then he shall be executed if he belongs to a caste whose members may be punished by the death sentence. If he belongs to a caste whose members are to be punished by shaving [their heads in lieu of execution], he shall be banished after having the share of property which is his according to the *Ain* confiscated, having his Sacred Thread removed and having his head shaved.

## 35. On Court Procedures

1. When a written verdict for the victorious party to a case is issued, it shall be issued by the *ḍiṭṭhā* or *bicārī* of an *adālata*, *ṭhānā* or *amāla* office, or by the owner of a *birtābitalapa*, *guṭhī*, *phikadāra* or *mānācāmala* land, if the written verdict involves an amount of less than 500 [rupees]. If the written verdict involves an amount of more than 500 rupees, the written verdict shall be issued by putting the stamp of the *mukhtiyāra* or the *mālīka* of the *adālata* or *ṭhānā* on it.

2. When a case is filed at an *aḍḍā*, *gauḍā*, *adālata* or *ṭhānā* or *amāla* prior to the promulgation of the *Ain* concerning cash or such non-monetary property as gold, silver, household commodities, jewels, quadrupeds, male or female slaves or grain that someone has forcibly taken or stolen, and if [the offender], who should have been fined heavily, receives a small fine and is released, then once the case has been decided and [the offender] is fined, he shall not be fined again on the grounds that the fine was [too] small. If someone imposes a fine [on an offender] for the same crime for a second time, he shall be made to return to him the amount fined, and shall be fined an equal amount. If he does not pay the fined amount, he shall be imprisoned at the rate of 1 month for every 5 rupees.

3. When a dispute arises concerning land received as a *birtā*, *guṭhī*, *bekha*, *phikadāra*, *marauṭa*, *mānācāmala* or *chāpa*, or to cover living expenses (*peṭiyākharca*), or concerning *kipaṭa*, *raikara*, *jāgīra* and the like, then in cases involving compensation for monetary loss the fine shall be equivalent to the loss [of income]; the owner of the land shall enjoy the income [from his land]. In a dispute not requiring any compensation for monetary loss, a fine shall be imposed from 8 *ānās* to 20 rupees depending on whether [the offending party] falls within the *abbala*, *doyama*, *sima* or *cahāra* category; and the owner [of the land] shall receive it. If in cases involving no compensation for monetary loss a fine of more than 20 rupees is imposed, [only] a fine that is in accordance with the *Ain* shall be collected from the losing party (*jhagariyā*); whatever is taken that is more than what the *Ain* permits shall be returned. An *amālī* or *hākīma* [of an adjudicating authority] who imposes a fine that is more than what is prescribed in the *Ain* shall be fined by an *adālata* the excess amount fined, and according to the number of times he has done [so]; the *adālata* shall receive it. If he cannot pay the fined amount, he shall be imprisoned in accordance with the *Ain*.

4. In disputes concerning cash [or such] non-monetary property as quadrupeds, male or female slaves, or crops, a fine equal to the loss suffered shall be imposed. In minor disputes not

### 35. On Court Procedures

requiring compensation for loss suffered, a fine of from 1 to 20 rupees shall be imposed after considering the offence. He who cannot pay the fined amount shall be imprisoned 1 month for every 5 rupees.

5. If it is ascertained that the *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre* or *ijārā* holder of an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* has fined [someone] who has not committed any crime, the amount unlawfully taken shall be returned, and the *ḍiṭṭhā*, *bicārī*, *dvāre* or *ijārā* holder shall be fined according to the number of times he has acted [so].

6. If [an official] of an *adālata*, *ṭhānā* or *amāla*, or a *rakama* holder imposes a fine on a person who is to be punished by having property confiscated or by being punished by *dāmala*—except where the *dāmala* relates to homicide—and sets him free, the fine collected shall be returned and a fine imposed according to the number of times he acted [so]. Even if the offender confesses by having him touch a [sacred] stone, this does not absolve him of his crime. The punishment is what it is required to do according to the *Ain*. He shall be re-arrested, and punished accordingly.

7. If the *hākima* of an *adālata*, *ṭhānā* or *amāla*—a *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre* or the like—or a *rakama* holder imposes a fine on an offender who is to forfeit his life or who is to be punished by *dāmala* pertaining to a crime of homicide to be punished by *dāmala* [and undergo the death penalty] in connection with a homicide—and [then] sets him free, the collected fine shall be returned, and the share of [joint] property which belongs to the official who fined the offender and set him free shall be confiscated in accordance with the *Ain*, and [the official himself] shall be set free. The offender who was to forfeit his life is not absolved of his crime by the fine [he paid]. Once he is [re-]arrested, he shall be executed—taking life for life.

8. If someone from an Enslavable caste commits a crime punishable by a fine, and an *amālī*, *dvāre* or [the owner of] a *bitalapa* or *gūṭhī* land or land exempted from all taxes enslaves him for a crime punishable [only] by a fine, the enslaved person shall be emancipated. The fine imposed on the enslaved person shall be nullified, and the enslaver shall be fined 100 rupees. If he does not pay the fined amount, he shall be imprisoned in accordance with the *Ain*.

9. If someone from an Enslavable caste commits a crime punishable by a fine, he shall be set free after the fine according to the *Ain* is collected from him, if he has the means [to pay it]. If he cannot pay the fine for his crime according to the *Ain*, it shall be up to the *amālī*, *dvāre* or holder of a *birtā* or *gūṭhī* whether to set [him] free after having him serve him 1 month for every 2 rupees, or to send him to prison 1 month for every 5 rupees. If at some point [the offender] flees before he has finished his term, and is [then] captured, he shall be put back in service 1 month for every 1 rupee until [the fine] is paid off, and [then] he shall be set free. [The official] who imposes the fine shall not be allowed to issue [a loan agreement] for the amount to be paid as a fine and to take [the offender] as a bondservant. If he does so, the amount [recorded in the contract] shall be nullified, and the [official] shall be fined an amount equal to the contractual debt. If the *hākima* [of the adjudicating authority] or *amālī* that fined [the offender] is found to have

transferred the bondservant to someone else in exchange for money, and if the one who receives [the bondservant] has bought him knowing [that the transaction is unlawful], his payment shall be seized. The seller shall be fined an amount equal to the payment. If the buyer is unaware [that the transaction is unlawful], the payment shall be returned to him and the *amālī* who transferred the bondservant shall be fined an amount equal to the payment.

10. When [an official] after the proclamation of the *Ain* imposes an unjustly high or low fine, [even though] he has the *Ain* on his lap, he shall be fined an amount equal to the amount imposed in line with the crime. If he collects more than [what is laid down] in the *Ain* from the guilty party, whatever he collects more than what is laid down in the *Ain* shall be returned. If he collects less than [what is laid down] in the *Ain*, whatever he collects less than [what is laid down] in the *Ain*, again, shall be collected from the guilty party. A *hākima* who imposes a higher fine [than what is laid down in the *Ain*] shall be fined the same number of times he has done so. A *hākima* who imposes a lower fine than laid down in the *Ain* shall be fined the amount that is deficient. If he does not pay the fined amount, he shall be imprisoned 1 month for every 5 rupees. No fault shall be assigned to an official from an *adālata*, *ṭhānā* or *amāla* who acts in accordance with the *Ain*.

11.<sup>216</sup> If the *hākima* of an *adālata* or *ṭhānā* or of an *aḍḍā* or a *gauḍā* office from the east to the west [of the country], or *dvāres* of *amāla* offices decide a case over a dispute or the like, they need not consult the Kausala as long as the matter is regulated in the text of the *Ain*. They themselves may venture to pass judgement. If [an official] comes to consult the Kausala without himself having decided a matter regulated in the *Ain*, then he—[depending on whether he is] the *hākima* of an *adālata*, a *ḍiṭṭhā* or a *bicārī*—shall be fined 20, 10 and 5 rupees respectively. *Dvāres* of an *amāla* office in the provinces (*bāhira*) shall be fined 5 rupees. [Only] if the matter is not regulated in the *Ain*, or details of it do not match with what is in the *Ain*, shall the Kausala be consulted. The Kausala shall deliberate and have whatever needs to be [added] written into the *Ain*. If the details do not match [with the *Ain*], the Kausala shall reconcile them [with it] and order the case to be decided accordingly.

12. Concerning a legal case filed at an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* in which a disputed amount is to be recovered, no one shall be allowed to spend the amount under dispute. If anyone spends [that amount] by order of the five times venerable king, it shall be refunded from the [Kaus]toṣākhānā. If it is spent on orders from the prime minister, it shall be refunded by the prime minister. If it is spent by the *hākima* or other officials of an *aḍḍā*, *adālata*, *ṭhānā* or *amāla*, it shall be recovered from [that official] and he shall be fined the equivalent amount. If he is unable to refund the disputed amount [he spent], his share of property shall be confiscated in accordance with the *Ain*, and it shall be refunded to the person entitled to it. If his confiscated property is not sufficiently large to refund the disputed amount, the person entitled to it shall not receive the shortfall. He should put it out of his mind. If a surplus remains [from the confiscated property] after the refunding the disputed amount, the five times venerable king shall lay claim to it.

216 This section is wrongly numbered as § 21 in MA<sub>1</sub>.

### 35. On Court Procedures

13. Those who are being kept in prison in an *aḍḍā*, *adālata*, *ṭhānā* or *amāla*, or in any jails in the east, west, north, south and so forth, or in a jail in Nepāla shall be imprisoned according to their crime. The *hākima* of an *adālata* shall have the authority within a jail to release a prisoner after [either] accepting the amount set for cancelling the prison term according to the *Ain* or releasing a prisoner whose prison term is over. If the *hākima* of an *adālata* gives anyone other than himself the authority to imprison an offender or to release a prisoner from a jail in Nepāla, the *hākima* of the *adālata* will be fined.

14. If a case filed at an *adālata*, *ṭhānā* or *amāla* is being decided that may result in punishment in the form of *dāmala*, execution, shaving [of the head], enslavement, imprisonment, a fine or the like, the arguments from both parties shall be considered, and the case shall be decided in accordance with the *Ain*, [that is,] by pointing out that such and such punishment is recorded [therein] for such and such an offence, and after obtaining a written confession [from the accused].

15. When persons are being appointed as a *ḍiṭṭhā* or *bicārī* at an *adālata*, someone who is not able to read out the text of the *Ain* shall not be appointed as either. Someone who appoints a person who is not able to recognise letters or read out the text of the *Ain* shall be fined 20 rupees.

16. Except for cases having to do with their own revenue entitlements (*khuvā jāgira*), a *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre* or a holder of a *birtā*, *bitalapa* or *guthī*, or a holder of a *jāgira*, shall hear complaints in legal disputes made by others [only] if they have been authorised through an order (*pramāṅgī*) to do so. If except for [minor] household disputes he hears complaints without a *pramāṅgī* authorising him to do so, he shall be fined whatever amount he imposes as a fine, winning fee, *ṭhekī* or *baksāunī* fee. The amount he collects, whether lawfully or unlawfully, shall be returned to the person from whom he collected them. The case shall be decided by an *adālata* or *amāla* in accordance with the *Ain*; a judgement delivered by such an unauthorised person shall not be valid. If he only hears the case [without delivering a judgement,] he shall be fined 20 rupees. The *pañca* sitting at the bench of [such an unauthorised] court (*kacaharī*) shall be fined 5 rupees each. Persons who fetter [the accused] shall be fined 2 rupees for each day, those who tie his hands behind his back shall be fined 4 rupees for every *ghaḍī*, those who flog him shall be fined 4 rupees for every lash. If they do not pay the fined amount, they shall be imprisoned in accordance with the *Ain*.

MA<sub>2</sub> 37.16a. Except the *ḍiṭṭhās*, *bicārīs*, *amālīs*, *dvāres* or holders of a *birtā*, *bitalapa* or *guthī*, [only] the persons who have been authorised through a document or an order (*pramāṅgī*) to hear complaints in legal disputes shall hear them. Apart from [minor] household disputes, if someone hears complaints without a document or an order authorizing him to do so, he shall be fined whatever amount he imposes as a fine, winning fee, *ṭhekī* or *baksāunī* fee. If he only hears the case [without delivering a judgment], he shall be fined 20 rupees. The *pañca* who sit at the bench of [such an] unauthorised court (*kacaharī*) shall be fined 5 rupees each. Persons who fetter [the accused] shall be fined 2 rupees for each day, those who tie his hands behind his back shall be fined 4 rupees

for every *ghadī*, those who flog him shall be fined 4 rupees for every lash. If they do not pay the amount of the fine, they shall be imprisoned in accordance with the *Ain*.

17. Legal disputes involving children above the age of 5 and below the age of 16, elderly people or women shall be decided first. After them legal disputes involving the poor or weak shall be decided. *Diṭṭhās* and *bicārīs* shall decide [cases] in this order.

18. Litigated sums, judicial fees, confessions [in cases resulting in] *dāmala* and imprisonment, documents, accoutrements, weaponry, and government property (*māla*) received by *bhāradāras* posted to *aḍḍās* and *gauḍās*, government agents (*kāmadāra*) posted to various places and the heads of *adālata*s and *amāla*s shall be kept intact. Upon transfer [to a different post], [the official] shall hand over [such items] in their original state and take a receipt for them. The official who comes to replace him shall also receive them in the same state and issue a receipt. If the official who comes as a replacement does not receive [the items] and the official who is transferred out does not hand them over, they may be dismissed from their posts. If the official who is transferred out is not able to hand them over, he shall report this to the prime minister and the Kumārīcoka. Once the matter is reported, the *hākima* who comes to take over shall not be held accountable.

19. From now onwards, whenever something is to be done by an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* in accordance with the *Ain*, such as punishment to be imposed on an offender, or other matters like [keeping] accounts, [recording] payments and balances, or [providing] clearance for the discharge of duties, one shall refer to the *Ain* and write down: ‘This was done in accordance with such and such a section of such and such an Article of the *Ain*.’

20. If a case is filed at an *adālata*, *ṭhānā*, *amāla* or any other *kacaharī*, be it over a dispute between a creditor and debtor or over other dealings, and if [such judicial bodies] receive a litigated amount or property as security, no interest accrues from the day when the litigated amount is received or when the property is recorded as security, even if the verdict is given around 2–4 years later. [No one] shall have [any interest] paid.

21. From now onwards, when a litigated amount is to be collected by an *aḍḍā*, *adālata*, *ṭhānā*, *amāla*, or [other] *kacaharī*, or by a *srestā*, be it in cases between a creditor and debtor or involving [other] financial matters or the like, the litigated amount, when being transferred to the *kacaharī*, shall not be collected [only] on the basis of the litigant’s testimony. The *hākima* of the *adālata*, *ṭhānā*, *aḍḍā*, *gauḍā* or *amāla* shall, by examining both parties and the [evidence of] loan documents, account books such as *bahī*, *khātā*, *syāhā* and *srestā* and witnesses, collect the amount adjudged needing to be paid. If the [losing party] is able to pay [this amount] in cash or kind (house, paddy land, human chattel, [other] land and so forth), he shall be made to pay. If he is not able, a loan deed without security shall be issued. The *kacaharī* shall take a fee of 10 or 20 percent of the total collected amount—the fine or the like—depending on whatever is applicable according to the *Ain*. No *baksāunī* fee of 10 or 20 percent shall be imposed on the total amount of a loan deed issued with a maturity date. None shall be taken.

### 35. On Court Procedures

22. If a case is brought before an *adālata*, *ṭhānā*, *amāla* or [other] *kacaharī*, an inquiry shall be opened into the details of the case and the [following] statement shall be obtained [from the plaintiff]: ‘The [supporting] documents and my case are concerned with such and such and do not beyond that’, and [then] the trial shall be conducted. He who conducts a case without obtaining [such] a statement shall be fined 20 rupees. If, after [the plaintiff] has written down his statement, he later on declares that he has another document pertaining to the case, the trial shall not consider this document.

23. When the *hākima* of the Kausala, an *adālata*, *ṭhānā*, the Kausī, Kumārīcoka, Mulukīkhānā, a Moṭha Tahabila, the Sadaradaphadara, Chebhaḍela, Bubhaḍela, Toṣākhānā or any *aḍḍā*, *gauḍā*, *srestā* and so forth in Pahāḍa (the hill region), Madhesa or Tibet needs to summon an official higher in rank than himself in any matter, or such an official comes himself without being summoned, the former shall place the latter to his right, saying, ‘Please come be seated to my right.’ If he is of the same or a lower rank, he shall place him to his left and discuss what needs to be discussed. If it is ascertained that [the summoned official] carried out his tasks in an excellent manner, say, ‘You did a great job!’ If it is ascertained that [the summoned official] carried out his tasks in an improper manner, say, ‘This matter needs to be clarified.’ If, once [the positions] of both parties (i.e. the summoning and the summoned officials) [to a conflict] have been investigated, it is ascertained that [the payment of] *beḍī* and *karpana* fees needs to be made,<sup>217</sup> it shall be up to [the summoned official] whether he himself descends from the seat and strikes [the ground with his hand enclosing] the *beḍī* or sends an authorised representative forward and has him do so. If he remains seated above and has an authorised representative strike [the ground with his hand enclosing] the *beḍī*, only the verbal arguments made by such an authorised representative shall be entered as valid recorded evidence. When taking a signature, write the summoned official’s name and take his signature. If [the summoned official] is being accused of being contaminated with respect to water, irrespective of whether he is of higher, equal or lower rank, the [summoning official] is not required to place the summoned official next to him. Conduct the investigation with him placed separately.

24. When any man among the respectable *bhāibhāradāras* declares that he will not go to a *kacaharī* in connection with a dispute over any matter—except for ones pertaining to homicide, ones punishable by *dāmala*, or ones pertaining to illicit sexual intercourse, cooked rice or water— but instead authorises another person to stand in for him, a written power of attorney shall be obtained from the principal stating: ‘I am sending such and such a person [to represent me] in such and such a case, and have given him power of attorney. If he wins the case, it is my victory. If he loses it, it is my defeat. Whatever is decided in accordance with the *Ain*, I will

217 According to B. H. Hodgson (1834: 266), *beḍī* and *karpana* are fees necessary for initiating a trial concerning the recovery of a loan. In this context, *beḍī* refers to a one-rupee coin which both parties have to take in their closed hands and to strike on the ground while expressing their readiness to pledge themselves to attend the court proceedings until the trial ends. Afterwards the *beḍī* is deposited at the court. The *karpana* is a sum of 5 rupees taken by the court as a fee from each party. By paying it, the litigants express their willingness to have the case decided by ordeal.



accept. I will not lodge a complaint.’ The case shall be conducted with the representative he has authorised. If according to the *kacaharī* regulations a written statement of acceptance [of the court decision] (*jabānabandī*), deposition, written confession or the like needs to be given, the case shall be decided on the basis of a signature from the authorised representative. Once [the principal] has given a written power of attorney, he shall not be permitted to revoke whatever actions the authorised representative has carried out [on his behalf] or to lodge a complaint. Whatever is done by an authorised representative in accordance with the *Ain* shall be valid. A power of attorney shall not be accepted in cases pertaining to homicide, ones punishable by *dāmala*, or ones pertaining to illicit sexual intercourse, cooked rice or water. Whoever is accused of [such] a thing shall be brought [to the court] in person, and [the trial] shall be conducted in accordance with the *Ain*.

25. If someone submits a written statement of the particulars of his case based on the available evidence—documents, witnesses, rights (*bhoga*), proof of stolen goods [or the like]—then even if during the trial he declares: ‘I have other details in addition to [what is mentioned in my written statement]’, and he presents further evidence—documents and individuals (*patra-pātra*), witnesses, rights, signed official endorsements (*sanada*) or the like—the evidence presented later shall not be valid once he has signed the statement reading: ‘Thus the particulars.’ The case shall be conducted on the basis of the written statement and shall be decided in accordance with the *Ain*.

26. If a litigant submits a written statement and the case related to it is decided in accordance with the *Ain*, and then the litigant’s father, brothers, sons or wives, having left town or gone abroad unaware of the dispute from the time the case was opened with the submission of the written statement until the delivery of the verdict, present a signed official endorsement or the like, declaring: ‘We have a right to participate in this dispute. Our case will not be dismissed only because he lost his’, then the adjudicating official who accepted the written statement opening the case and delivered the verdict shall not be held accountable. [A reopened case] shall be conducted and the verdict delivered in accordance with the *Ain*.

27. If the *hākima* [of any office]—the *mālīka* of a *gauḍā*, the *mālīka* of an *adālata*, *ṭhānā* or *aḍḍā*, or else a *diṭṭhā*, *bicārī*, *amālī*, *dvāre* or the like—imposes a fine or collects a winning fee without delivering justice,<sup>218</sup> having failed to follow the *Ain*, then such an official who did such, having failed to follow proper procedures (*rīta*), shall be fined an amount equal to the penalty he imposed. If, from the promulgation of the *Ain* onwards, a fine or winning fee is imposed without following proper procedures and is handed over to the king’s government, a *sanada* shall be issued and [the sum] returned by the king’s government.

218 *puryāi*, read *napuryāi* (MA<sub>2</sub>).

**The regulation applicable in cases where a prisoner accuses someone else of something:**

28. Someone who is imprisoned for a crime shall be permitted to talk about the trial leading to his imprisonment. No blame shall attach [to him for doing so].

29. If where he is imprisoned a prisoner sees or hears someone talking about [a crime] pertaining to cooked rice or water, a homicide, [acts punishable] by *dāmala*, someone having taken a bribe or having committed theft, or any government trial, he shall verify [the truth of what he has witnessed] and report it. He shall not be considered a false accuser.

30. If a litigant who has been punished by *dāmala*, taken into custody or put in prison or the like accuses the *hākima* or any other official of an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* of having committed a crime punishable by a fine, except for those [crimes mentioned in § 29], and if he sends a representative who is not a prisoner forward and provides a written statement under this representative's name, a judgement shall be delivered in accordance with the *Ain*. If he is not able to send a representative forward to provide a written statement, what such a litigant who has been taken into custody or put in prison says shall not be valid. Such a case shall not be heard and such a litigant shall be considered a false accuser.

31. If someone of his own will and volition submits a written and signed deposition stating the following particulars: 'These are the particulars required for my case based on the available evidence, such as documents and individuals mentioned in them, rights and proofs. I have no further evidence than this. If I lodge a complaint later on, claiming that I have further [evidence], it shall be disallowed', and if during the trial to which the plaintiff and defendant have been summoned by a *kacaharī*, the plaintiff, in a manner suggesting that he might [otherwise] lose the case, requests: 'The particulars submitted in my earlier deposition are not sufficient. [You need to] remove or add numerals and letters to it' or 'Let me withdraw the deposition submitted earlier; accept another one', two depositions shall not be admitted in one and the same legal dispute. He shall be allowed neither to withdraw his earlier deposition nor remove or add numerals or letters to it. The verdict shall be delivered, in accordance with the *Ain*, cognizant of the procedure [for weighing] such evidence as documents and individuals mentioned in them, rights or proofs referred to in writing in the previously submitted deposition. If the *hākima* of an *aḍḍā*, *srestā* or *adālata*, or a *ḍiṭṭhā*, *bicārī* or *amālī* accepts 2 depositions in one and the same legal dispute or permits the plaintiff to replace his deposition or simply permits him to remove or add numerals or letters to his deposition, or accepts another deposition from the defendant in the same case after a confession written by him [following an adverse court decision] has been received, he shall be fined 5 rupees per 100 of the litigated amount in the legal dispute in question.

32. If a plaintiff submits a deposition and the case is assigned to an *aḍḍā* or *adālata*, and if the *kacaharī* summons the defendant and gives him the following choice: 'Such and such a person has submitted a deposition against you concerning such and such a legal proceeding. If you accept

that the statement written down in the deposition submitted by the plaintiff is true, sign a written confession containing the same particulars [as in the plaintiff's deposition]. If you say that the statement written down in the deposition is not true and that you have different particulars or that so and so much of his statement is true and so and so much is not, provide a written confession for whatever is true in the deposition for this legal dispute, and submit a written deposition of your own containing all available particulars for whatever is untrue', then such a pig-headed person (*dhiṅgnyāha*) who neither provides a written confession nor is able to submit a deposition himself shall be imprisoned for 35 days. If he submits a deposition or provides a written confession within this time period, the case shall be decided according to the *Ain*. If he submits neither a written confession nor a deposition, the case shall be decided according to how the plaintiff's deposition grasps the matter. Any complaint made by such a defendant shall not be considered.

33. If a bailiff or soldier is sent from an *aḍḍā*, *adālata*, *ṭhānā* or *kacaharī* to apprehend and bring in a litigant, and if he apprehends the litigant, and in the sequel fines him or collects a winning fee, a fee of 10 or 20 percent, a contract fee (*ṭhekī*), a *baksāunī* fee or the like, but returns without presenting him at the *kacaharī*, the sum shall be returned to the person whose it [originally] was, and [the bailiff or soldier] shall be fined an equal amount if it is ascertained that he collected a *baksāunī* fee under terms called for by the *Ain*. If it is ascertained that he collected a *baksāunī* fee under terms not called for by the *Ain*, his standing crops shall be seized and he shall be dismissed from his post. [Even] if a bailiff or soldier apprehends [a litigant] on his own, without being ordered to do so, and lets [him] off after collecting a fine, winning fee, a fee of 10 or 20 percent, a contract fee, a *baksāunī* or a *pānaphula* fee, the litigant shall not be absolved of his offence. He shall be apprehended, brought in and dealt with in accordance with the *Ain*.

**The regulation applicable in the case where there is no [evidence forthcoming] in a legal dispute [filed in a court], such as documents and individuals mentioned in them, rights or [other] proofs, and if such a legal dispute is forwarded to [the body] consisting of the *pañca* and it is decided by such a body on their own consideration, [the court] is to deliver the verdict in line with the *pañca*'s decision:**

34.<sup>219</sup> If a legal dispute arises over land, house or paddy fields, gold or silver, household commodities, cash or non-monetary property, jewellery, quadrupeds, male or female slaves or the like, and if neither documents nor the individuals mentioned in them are available, nor [other] witnesses, nor is it known [whose] possessions [such disputed property] is, and if the *hākima* of [the concerned *kacaharī*] is unable to consider the case involving this matter, or it emerges that some of the [judges] who are sitting [on the bench] at the *kacaharī* favour the plaintiff, whereas some [of them] favour the defendant, [a body consisting of] 25 persons who are neighbours from the plaintiff's and defendant's village but not their relatives, who are not biased, do not take bribes, are honest and know the *dharma* shall be formed. It shall be up to these 25 persons whether to

219 This section is wrongly numbered as § 35 in MA<sub>1</sub>.

### 35. On Court Procedures

declare: ‘We will not [decide the case] by having both plaintiff and defendant take an oath on the *dharmā*. We will decide it on our own consideration. We will [give the verdict] in favour of the party (*jitāunu*) against whom none of the *pañca* sides.’ Or [else] they shall have both the plaintiff and defendant—[provided they] have offspring, possess wealth and are found to be honest persons—take an oath on the *dharmā*, and shall decide the case. However, in the case of litigation which is unable to reach a determination satisfactory to the 25 persons, [the *kacaharī*] shall decide on their own consideration, and the person against whom the judgement is delivered shall be fined in accordance with the *Ain*. A favourable verdict (*jitāpatra*) mentioning the names of the *pañca* [who sat on the bench] at the *kacaharī* shall be issued to the winning party.

**The regulation applicable when a reputable person (*bhalā ādami*) [who is sitting on the bench] at a *kacaharī* starts speaking, during which time someone interrupts [him] and starts speaking himself, and rather than listen to what [the other] is saying talks about something else: he is to be fined. If someone starts prating about other matters when a trial is being held, he is to be grabbed by the neck and driven out:**

35. When a lawsuit is filed at the Kausala or an *adālata*, all people [present] shall listen to a reputable person once he starts discussing [the proceedings]. If someone [involved in the case], having finished listening to his words, considers them satisfactory, he shall state so. If he is not satisfied, the rest of the reputable persons and elders shall listen to his argument. In this way, everyone shall have his say turn by turn. If someone breaks in provocatively (*hopāpāpi*) before a previous speaker has finished speaking and starts speaking himself out of turn, he shall be fined 1 rupee. If any of the reputable persons or elders who are sitting [on the bench] in order to pass judgement in a lawsuit leave off listening to and [trying to] understand [the proceedings], and instead joke or laugh among each other, or talk about other things, they, too, shall be fined 1 rupee. Except for murder cases, a *kacaharī* shall not look into any other case as long as an [ongoing] case has not been brought to a concrete conclusion (*rahani basnu*). If a trial is being held at a *kacaharī* and a person [involved in the trial] starts prating about other matters, he shall be admonished not to talk. If he does not obey, he shall be grabbed by the neck and driven out. If such persons are to be fined, the *hākima* of the *aḍḍā* shall do so.

**The regulation applicable to penalizing the *hākima* or any other official [of a court] who, without an order from [the king or prime minister], handles a case in which his own staff or relatives are involved:**

36. If the *hākima* or any other official of an *aḍḍā*, *aḍālata*, *ṭhānā* or *amāla*—[any such office] other than a *gauḍā*—is to hear a legal dispute, then unless ordered [to do so] by the king or prime minister, he shall not handle a case involving his [own] staff; coparceners entitled to enjoy his property for which he has no son as heir to; his father, mother, maternal uncle or parents-in-law; brothers of his wife or solemn friends; the husbands of his sisters and daughters; the sons of his

sisters; or persons with whom he has had business dealings. He shall return the written deposition [to the plaintiff] and tell him to go to another court (*khāla*). If it is ascertained that such an official handled a case and rendered a verdict in which his own staff or the above-mentioned relations were involved, he shall be fined 10 rupees, even if he delivered a just verdict. If it is ascertained that he rendered an unjust verdict, he shall be fined an amount equal to the sum under litigation.

**The regulation applicable to the *hākima*, *amālī*, *ḍiṭṭhā* and *bicārī* [of a court when] accepting a written deposition [from a plaintiff], assembling [all evidence] written down in the deposition, and deciding the case in accordance with the *Ain*:**

37. When the *hākima* [of a court], the *mālīka* of a *gaudā*, or a *subbā*, *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre*, *tharī*, *mukhiyā*, *mijhāra*, *chaudharī* or *jimidāra* at an *adālata*, *ṭhānā* or *amāla* is handing down a judgement in a legal dispute, the particulars of the *Ain* alone are insufficient in terms of following procedure. The case shall not be decided without assembling the evidence recorded in the [plaintiff's] written deposition, such [things] as documents, possessions, witnesses, testimony and eyewitnesses. A verdict in a legal dispute [initiated through the plaintiff's] written deposition shall be delivered following the above-mentioned criteria, and without taking bribes, without favouritism, without bias, remembering the *dharma* and the gods, remaining pure, mindful that [your] master will bestow honour following the delivery of a proper verdict, satisfying the *pañca* [on the bench] and [acting] in accordance with the *Ain*. Whoever delivers a judgement violating what is written [above] and knowingly breaches the *dharma* will be punished by the king in this world and by the god of death (*yamarāja*) in the next.

**The regulation applying to not allowing litigants or their witnesses (*mukhasāra*) to enter a *kacaharī* with a weapon:**

38. When a trial is being held at the Kausala or an *adālata*, *ṭhānā*, *amāla* or *kacaharī*, the litigants—the plaintiff and defendant—and witnesses who speak on their behalf shall not be allowed to come into the *kacaharī* with a weapon. They shall be allowed to enter the *kacaharī* and take a seat [only] after being made to put any weapons aside, [after which] the trial shall be conducted.

## 36. On Summoning Prisoners

1. If a criminal from anywhere in the entire realm—from east to west—or a prisoner who has received a life sentence and has been punished by *dāmala* needs to be summoned, the person who has received the authority over the four *adālata* offices shall have a *daskhata* from the venerable [prime] minister issued and summon [the prisoner] in such a manner that he does not escape on the way.

2. In all *aḍḍā* offices in the east, west, north and south, except for the capital city and the Iṭācapali court, if a person who has committed murder, treachery or [any other] crime entailing [that someone's] life [is taken], which is punishable by death, is to be executed, the *gaudā* office concerned shall sanction [the execution], prepare a copy of the written confession [of the culprit] and forward it to the Iṭācapali. The *mālīka* of the Iṭācapali shall relate the written confession of the person to be executed with [the respective regulations of] the *Ain* and inform the Kausala. If an official at the Kausala ascertains, upon his own deliberation, that the person is to be executed, he shall have a *lālamohora* issued ordering the execution and shall forward it [to the authority concerned]. When an execution is to be carried out, no one shall be executed in any *aḍḍā* or *gaudā* from east to west without [the sanction of] a *lālamohora*.

3. If a *bhāradāra* who is posted to any of the *aḍḍās* throughout the realm from the east of the Mahākālī to the west of the Mecī [river], in Madhesa and the hill region, an *amālī* and *dvāre* of any of the various *thumas*, a *mukhiyā* or *guṭhiyāra* or the like of a *guṭhī* or of *bitalapa* land which is exempted from all taxes, has to summon a person whose presence is indispensable for a lawsuit in an *adālata*, the *mālīka* of the *adālata* [concerned] shall write to the *mālīka* of the office from whose jurisdiction (*ambala*) the person is to be summoned. Once this document of the *mālīka* of that *adālata* has arrived, the *amālīs* and *bhāradāras* shall have the person arrested if that person resides within their jurisdiction, and send him there [to the office requesting], accompanied by men, as soon as possible. If that person does not reside within their jurisdiction, they shall send a reply [to the district office concerned] as soon as possible. If neither the summoned person is delivered nor a reply sent, the *bhāradāra* posted in the *gaudā* [concerned] shall be fined 50 rupees; a *ḍiṭṭhā* and *bicārī* of an *aḍḍā* shall be fined 15 rupees; and other [officials such as] *amālīs*, *dvāres*, *birtā* holders, *guṭhiyāras* including persons who have been freed from all taxes, of the various *thumas* shall be fined at the rate of 10 rupees each.

4. On the territory east of the Mahākālī [river], west of the Mecī [river] and of the capital city, if someone is convicted of any crime punishable by execution, confiscation of property, *dāmala*, imprisonment or the imposition of a fine, the *hākima* of the four courts shall issue a signed writ (*daskhata pūrjī*) in conformity with the actions to be taken according to the *Ain*. If the person who sends the request for sanctioning [the punishment] has not sent an accurate [report] and the written confession is not accurate, either, the *mālīka* of the *adālata* [sanctioning the punishment] shall not be held accountable. The *hākima* of the *aḍḍā* or *gauḍā* and the *amālī*, *bicārī*, *dvāre* or *tharī* of the eastern and western regions who send such an inaccurate request for sanctioning and prepare the inaccurate written confession, [shall be held accountable] with their lives [if an innocent person is executed] or with their property [if an innocent person was fined]. They have to take the fault and blame themselves.

5. In cases that are filed at an *adālata* or *ṭhānā* in Patan, Bhaktapur and Kathmandu—except for those concerning royal affairs—, criminals who are sentenced to death shall be handed over to the *hākima* of the Itācapali along with their written confessions; other criminals who are convicted of crimes punishable by the shaving of their heads or by *dāmala* [shall be handed over to that *hākima* as well], along with their written confessions after confiscating that share of property which is theirs according to the *Ain*.

6. In a case [concerning an offence] that is punishable by death, *dāmala* or shaving of the head, or in a case where a member of a Water-acceptable caste, including the Sacred Thread-wearing castes, has or is made to have illicit sexual intercourse with someone from a Water-unacceptable case and contaminates [his fellow caste members] through cooked rice and water—irrespective of whether it happens on state-owned or *kipāṭa* land or on entirely tax-exempted *guṭhī*, *birtā*, *bekha*, *phikadāra*, *chāpa* or *manacāmala* land or the like—, the accused persons shall be arrested and be handed over to an *adālata* along with their written statements of acceptance [of the court decision] (*jabānabandī*) and their written confessions, if such documents exist; if such documents are not available, only the persons shall be handed over. If such cases occur, other courts, such as the *kacaharī* or the *amāla*, shall not hear them. They shall be heard at the *adālata* and processed in accordance with the *Ain*.

7. If a person from Mugalāna lodges a complaint, claiming that a person from our realm has abducted him from Mugalāna using force, and if [his allegations] are proven, that person from our realm who abducted him using force shall be fined 500 rupees and be imprisoned for 6 months. If the amount of the fine is not paid, he shall be imprisoned. If he pays the amount set in lieu of his prison term and the amount of the fine, it shall be accepted and he shall, in accordance with the *Ain*, be set free.

8. If [an official] from any of the various places—except for the *hākima* of a *gauḍā* or *adālata*—forwards a written confession [of an accused person] and a request for the sanctioning [of the punishment] in one of the following 7 cases: 1) a crime punishable by death; 2) a crime punishable by *dāmala*; 3) a crime punishable by the confiscation of the guilty person's entire share

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of property; 4) a crime punishable by shaving of the head; 5) a crime punishable by branding a letter on the left cheek; 6) a crime punishable by caste degradation; and 7) any case concerning land to a total [value of] more than 500 [rupees] for which a certificate of victory (*jitāpatra*) in form of a *rukṅā* is required; and if it turns out that the written confession was issued without addressing [all charges of] the case and hence the *adālata* is required to issue another written confession adjusted [to all charges of] the case, the *mukhtiyāra* shall be informed [about it] and the person who has sent the request for the sanctioning [of his written verdict] and forwarded a written confession without addressing [all charges of] the case shall be fined an amount from 8 *ānās* up to 20 rupees at the *mukhtiyāra*'s discretion, after he has looked into the case. If it is ascertained that the *hākima* of a *gaudā* or *adālata* has issued a written confession without addressing [all charges of] the case, he shall be punished in accordance with the *Ain*.

9. If a criminal sentenced to death or *dāmala*, or a thief, robber or the like is handed over from an *aḍḍā*, a *gaudā*, *adālata*, *ṭhānā*, *amāla* or the like to the Iṭācapali, and if the criminal is sent together with a letter sealed and signed by the *hākima* of the concerned office, stating 'Such and such a person is sent to you for having committed such and such a crime. Take him into your custody', along with a written statement of acceptance [of the court decision] (*jabānabandī*) and the written confession of the criminal and any documents and evidence related to the charges for which a confession was obtained, the Iṭācapali shall take him into custody and issue a receipt [for having taken him]. If the letter of the *hākima* of the office concerned, the written statement of acceptance and the confession of the criminal are not sent, [but] only the criminal [is handed over], the criminal shall be taken over [by the Iṭācapali] and the [documents] required, [such as] the statements of acceptance and the confession [of the criminal] and the declarations of the plaintiffs who brought the offender to justice, shall be summoned together with a fine of 10 rupees from the *hākima* of that office for his negligence. The receipt for taking custody of the offender shall not be issued until these documents have arrived. If there is no written statement of acceptance and confession from the criminal, [but] only the man is brought to be handed over, and if he is brought together with evidence and proofs, and a declaration that there are persons who have witnessed and know about the crime he committed and that they are able to make him confess, the culprit shall be taken into custody and [the witnesses] shall be made to write down their depositions. The *hākima* of the Iṭācapali who takes into custody an offender who has been brought, but without complying with the procedures, shall be fined 10 rupees. If the documents pertaining to the criminal, such as his written statement of acceptance, his confession or the like, or witnesses who have seen or know [about the crime] and who are able to make [the culprit] confess, or other proofs or the plaintiffs are not brought and only the accused person is arrested and brought [before the court], and a declaration is made that such and such a person has committed a certain crime, the person who has come to hand over the criminal shall be made to sign a written declaration, stating: 'I will bring forth witnesses and evidences and will make him confess. If I am not able to make him confess, I will pay whatever is required in accordance with the *Ain*', and the criminal shall be put into fetters and be imprisoned. The person [who handed over the criminal] shall be made to issue a covenant with a deadline of 10 days for examining the documents, witnesses and evidence, plus additional days for the inbound and outbound journey,



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shall be made to note down a bail and shall be set free. He shall be sent to the place [where the crime was committed], documents, and evidence [shall be brought forward] and witnesses and plaintiffs shall be summoned, and the verdict shall be delivered in accordance with the *Ain*. If he fails to prove [his accusation] by bringing witnesses, evidence and relevant documents, and it is ascertained that he has made a false accusation, he shall be punished in accordance with the *Ain*'s [regulation] on false accusations for that crime of which he falsely accused [the defendant].

## 37. On Obtaining Written Confessions

1. If a *hākima*, without having obtained any evidence, beats [a suspect] and makes him write down a confession for a crime punishable by a fine, he shall be fined 100 rupees if later on the crime is not proved. If [such an official,] having obtained evidence, beats [the suspect] and makes him write down a confession, or else [the suspect of his own volition] writes a confession without having been beaten at all, and later on the crime is not proved, the official shall not be held accountable.

2. If a *hākima*, without having obtained any evidence or reason to be suspicious beats [a suspect] and makes him write a confession for a crime punishable by *dāmala*, he shall be fined 360 rupees if later on the crime is not proved. If [such an official,] having obtained evidence or reason to be suspicious beats [the suspect] and makes him write a confession, and later on the crime is not proved, or else [the suspect] writes a confession without having been beaten at all, but later on the crime is not proved, the official shall not be held accountable.

3. If a *hākima*, without having obtained any evidence or reason to be suspicious, beats [a suspect] and makes him write a confession for a capital crime, he shall be fined 720 rupees if later on the crime is not proved. If [such an official,] having obtained evidence or reason to be suspicious, beats [the suspect] and makes him write a confession, and if later on the crime is not proved, or else [the suspect] writes a confession without having been beaten at all, but later on the crime is not proved, the *hākima* shall not be held accountable.

4. If a confession from someone who has killed a person by administering poison or wielding a weapon is to be obtained with the following particulars: ‘I killed [such and such a person] by administering poison or wielding a weapon’, and the *hākima* or *bicārī*, who is not a relative of the suspect, obtains, for lack of sufficient acumen, [but] without having taken a bribe, the following confession: ‘I neither wielded a weapon nor administered poison’, such an official shall be fined 5 percent of whatever [revenue] he raises from his *jāgira*. If such a confession is obtained by an *amālī* or *dvāre* to whom an *ijārā* or *amānata* has been assigned, he shall be fined 5 percent of the total revenue he raises from the place where he has been appointed as *amālī* or *dvāre*.

5. If someone is killed by administering poison or wielding a weapon, and a person under suspicion is interrogated without being beaten, and if he at one point writes a confession

stating: ‘I did it’, and at another point he changes his confession to state: ‘I did not do it’, then in such a case a *hākima* shall investigate the matter and deliver a verdict. If [such a suspect] writes a confession without having been beaten, and later on changes it, the *hākima* who obtained the confession shall not be held accountable.

6. If someone is killed by administering poison or wielding a weapon, and if the *hākima* or *bicārī* of an *adālata* office or the *amālī* or *dvāre* official of a village, having taken a bribe or because of nepotism or favouritism, have the suspect write a confession to the effect that he did not kill the person, whether by wielding a weapon or administering poison, such an official shall be dismissed and imprisoned for 6 years. The amount in lieu of his prison term shall not be accepted. If he pays twice the amount, it shall be accepted and he shall be released.

7. If out of anger a *hākima* or *bicārī* of an *adālata* or the *amālī* or *dvāre* of a village makes a person who has neither killed nor administered poison to anyone write a confession that he did kill or administer poison to someone, and [that official] has [the person] executed, such an official shall be executed—taking life for life. If he forced the other only to write a confession, but the latter was not executed, such an official shall be dismissed from his post, his property shall be confiscated in accordance with the *Ain*, and he shall be let go. If the *hākima* or *bicārī* of an *adālata* or the *amālī* or *dvāre* of a village has neither administered an intoxicating substance to the accused nor beaten him because he harbours suspicions, [but rather the accused] himself admits [the crime] outright and writes a confession to that effect, and later on it is ascertained that the culprit is someone else, the *hākima* or *amālī* shall not be held accountable.

8. If a mute person past the age of 11 commits a homicide, theft, an act of illicit sexual intercourse or the like, and upon interrogation at a *kacaharī* office it is ascertained that he did do injury, someone to represent him—his father, mother, brother or [other] close relative—shall be summoned when a written confession is to be obtained from him, inasmuch as he is not able to speak. A written acceptance of guilt stating: ‘Such and such a person committed such and such a crime’ shall be obtained from the representative, who shall be made to serve as witness [to the signing of the document]. The mute’s written confession having [thus] been obtained, he shall be punished in accordance with the *Ain* as it applies to mute persons.

9. If a *hākima*, a *lephtena*, a *ḍiṭṭhā* or a *bicārī* of an *adālata* investigates two parties [to a legal dispute] and obtains from both a document of authorisation (*sirabandī*) for the assembly of the *pañca* [to settle the dispute], and if the defeated party does not write a confession after the assembly of the *pañca* [have received] and witnesses have given testimony, he shall be fettered, imprisoned and forced to write a confession. A *hākima*, *lephtena*, *ḍiṭṭhā* or *bicārī* who sets such an offender free after accepting bail shall be fined respectively 20, 10, 8 and 6 rupees, to be collected by the Kausala. The litigated amount to be paid by such a litigant who is released after such bail is accepted shall be recovered from the *hākima*, *lephtena*, *ḍiṭṭhā* or *bicārī* who released him. The official of the *adālata* shall go in search [of the litigant] and collect from him the litigated amount which he himself has paid.

### 37. On Obtaining Written Confessions

10. If, when an *adālata*, *ṭhānā*, *amāla* or *kacaharī* office has been investigating two parties [to a legal dispute], [a party] adjudged in [consideration of] the verdict, accounting procedures (*srestā*) or the *Ain* as required to write a confession does not sign one, acting pig-headedly, he shall be imprisoned. Whenever he declares that he will sign it, that same day his signature shall be obtained and the fine and winning fee shall be collected in accordance with the *Ain*. If he pays the amount remaining to be paid [in lieu of his prison term], the time spent in prison from the first day of imprisonment onward being deducted, it shall be collected and he shall be set free. If he does not pay the amount, he shall be set free [only] after his prison term is over.

11. When someone required to sign a written confession in consideration of the verdict, accounting procedures or the *Ain* in a legal dispute does not give his signature, acting pig-headedly, and [thus] is imprisoned, victory shall be assigned to the opposing party adjudged victorious, 10 and 20 percent fees shall be collected [from respectively the winner and loser], along with a winning fee whenever applicable. A document attesting to the victory shall be issued [to the winning party], [lost] rights shall be restored and the case shall be closed. The case shall not be held up on the grounds that [a party] has not given his signature.

12. The *hākima* of an *adālata*, *ṭhānā* or *amāla* conducting a case having to do with a minor below the age of 12 who commits [the crime] of illicit sexual intercourse—irrespective of whether a mute or not, or whether male or female—shall summon a representative of this minor—the father, mother, a brother, maternal relative, parent-in-law, some other relative or someone [else] who has taken responsibility for the minor—and when a confession or statement of acceptance is to be obtained from such a minor concerning the extent to which illicit sexual intercourse occurred, such a representative of the minor shall be placed as witness when a statement of acceptance or confession is being written, and shall have the minor sign with [his or her] own hand. The witness shall not be held accountable. If, in accordance with the *Ain*'s [regulations] on illicit sexual intercourse, [the minor] is to be prohibited from consuming cooked rice and water with fellow commensals, he or she shall be so prohibited. If [he or she] is to be granted expiation with respect to cooked rice and water, have the expiation [ritual] performed. Such a minor shall neither have all [his or her] property confiscated, be fined, beaten or imprisoned.

13. If an *amālī*, *dvāre* or the like arrests [a person] on grounds of suspicion relating to a matter involving [a breach in] cooked rice and water [commensality rules] [but] without any evidence or any complaint by an accuser, and interrogates him, and the arrestee simply orally accepts that he did the deed, or even a signed written document [to the same effect] is obtained, but then later on the same person comes to the *aḍḍā* office or *adālata* and files a complaint, stating: 'I didn't do it' or 'I didn't do anything wrong. I said [what I said] only because I was threatened or beaten', and if it is ascertained upon interrogation that the arrestee was not at fault or did not do anything wrong, but rather that the *amālī* or *dvāre* wrongfully forced the arrestee to write [the confession], it shall be adjudged that [the arrestee] wrote [the confession] out of fear when

faced with the threat of the *amālī*, *dvāre* or the like. Such an arrestee shall be fined 2 rupees for not knowing better [when it comes] to writing [such] documents. There is no need for expiation. He retains his caste status. The *amālī* or *dvāre* shall be fined 60 rupees for having, without any complaint by an accuser and without any evidence, forced the arrestee to write [a confession] for a matter in which he was not [implicated] involving [a breach in] cooked rice and water [comensality rules]. If he does not pay the amount of the fine, he shall be imprisoned in accordance with the *Ain*.

## 38. On Guarantees

1. Once a matter in a legal dispute filed at an *adālata*, *ṭhānā* or *amāla* office has been settled<sup>220</sup>—[a matter] requiring that a fine or governmental fee be paid by the parties to the dispute—and a guarantee [of payment] is required, a guarantee [in the form of] cash or kind—male or female slaves, quadrupeds or the like—sufficient to cover the total [amount due] shall be accepted from the house of a person who puts up [his property] as a guarantee [for the litigants]. If [such property] is not sufficient to cover the total [fined amount due], it shall not be accepted as a guarantee; [the litigant] from whom the fine is to be collected shall be imprisoned at the rate of 1 month for every 5 rupees and then set free.

2. If someone draws up a loan agreement and becomes a guarantor, putting up property of his (*dhanajamānī*) [for a debtor] who has taken a loan in cash or kind—human chattel, land or the like—then for as long as the guarantor is alive the creditor shall be permitted to have the guarantor detained and to collect his loan from him [when defaulted upon]. If the guarantor dies, the creditor shall not be permitted to have the guarantor's father, mother, wives, sons, daughters, coparceners (*dājyūbhāi*) or [other relatives such as] nephews detained, arguing: 'Such and such a relative of yours stood as guarantor, putting up his property as a guarantee. We shall not deal with the debtor.<sup>221</sup> Hand that property over to me.' The creditor shall have the debtor or his offspring detained in accordance with the *Ain* and collect his loan. If the guarantor has made the debtor sign over [property] in cash or kind—human chattel, land or the like—and has made use of it, a person entitled to inherit the guarantor's property for which there is no son as heir to shall pay off the loan. [The creditor] shall not be permitted to have the debtor detained [in such a case]. If the guarantor has not made use of it, [the creditor] shall not be allowed to have the person who is entitled to enjoy the guarantor's property for which there is no son as heir to be detained.

MA<sub>2</sub>40.2. If a father or elder brother draws up a deed placing witnesses, and stands as guarantor, putting up property of his [for a debtor], and if the guarantor dies, the coparceners or sons who inherit the guarantor's property shall pay off the loan [when defaulted on] from the property given as a guarantee. If they refuse to take the [guarantor's] estate, declaring 'We won't take it', they shall not be required to pay on behalf of the guarantor who offered property as a guarantee. [The loan] shall be recovered from

220 *ṣata*, read *khatamī* (MA<sub>2</sub>).

221 *chudai nai*, read *chudainau* (MA<sub>2</sub>).

the guarantor's house, rice fields or other property. Ten and 20 percent of the recovered loan shall be collected [from the court as a fee].

3. If [a creditor] submits a complaint at a *kacaharī* office, stating: 'Such and such a person by verbal declaration put up land, quadruped, human chattel, gold, silver, household commodities—[property in] cash or kind—or the like as a guarantee, but no deed was drawn up', [the guarantor] who put up property of his as a guarantee only by verbal declaration shall not be required to pay the debt off, even if there are witnesses [to the transaction].

4. Suspects who have been arrested and brought in for a crime [punishable by] execution or *dāmala* shall be put in iron, wooden or leather fetters and investigated. No one shall release such persons on guarantee. If someone does release [such a person] on guarantee and [the latter] afterwards flees, the *hākima* who released on guarantee someone suspected of a capital crime without confiscating his entire property shall be imprisoned until the fugitive wrongdoer is [re]arrested. [If he] released someone convicted of a crime punishable by *dāmala*, his whole share of property shall be confiscated in accordance with the *Ain* and he shall be set free.

5. If, in the case where a *hākima* is imprisoned or his whole property is confiscated for releasing on guarantee a criminal convicted of a crime punishable by execution or *dāmala*, close family members (*dājyūbhāi*), a bosom friend or [other] relatives of his have the wrongdoer detained and brought into [the court], the *hākima*'s confiscated property shall be returned, and the imprisoned *hākima* shall be released. If the government or anybody else detains such a suspect and brings him in,  $\frac{1}{3}$  of the *hākima*'s confiscated property shall be withheld by the government and  $\frac{2}{3}$  shall be returned to him. The imprisoned *hākima* shall be released.

6. If, in the case where a *hākima* releases on guarantee a suspect charged with a crime punishable by execution or *dāmala* and he is [consequently] imprisoned or has his property confiscated, news arrives of the death of the suspect charged with a crime punishable by execution or *dāmala*,  $\frac{1}{3}$  of the *hākima*'s confiscated property shall be withheld by the government and  $\frac{2}{3}$  shall be returned to him. The imprisoned *hākima* shall be released.

7. If it is deemed that a person arrested for a crime punishable by a fine may according to the *Ain* be released on guarantee, and he is indeed released after putting up bail, but then flees, then the person who stands surety shall be summoned and made to write [the following] surety pledge: 'I have been standing surety for such and such a person who committed such and such a crime. Since he has fled, I will pay the fine he is required to pay.' The fine shall be collected from this surety in accordance with the *Ain*. If the person who fled is [re]arrested, he shall be made to write a confession and be fined. The fine paid by his surety shall be returned to the latter from the fine so paid. The criminal shall be punished in accordance with the *Ain*.

8. If a person who is below the age of 16 and belongs to a caste whose members engage in [commercial] transactions lives in a joint household together with his master, father, paternal

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grandfather, elder brothers, paternal uncles, mother, paternal grandmother, elder sisters-in-law or wives of paternal uncles, then if any of them draws up a document and places such a [minor] as a guarantor or witness, except in order to partition the joint property of [the minor's] own household, the person who does so shall be fined 10 percent of the total [amount] for which he has placed [the minor] as a guarantor or witness. The document drawn up with an immature child below the age of 16 placed as a guarantor or witness shall not be valid.

**The regulation [concerning the following]: A power of attorney shall not be accepted for cases involving punishment by execution or *dāmala*, or for ones dealing with illicit sexual intercourse or with [breached] cooked rice and water [commensality rules]. In such cases the accused persons themselves shall be brought [to court] and [the case] shall be conducted in accordance with the *Ain*. Such cases aside, if [a person] declares that he does not [wish to] attend the *kacaharī* [himself] but will instead give someone else power of attorney, [his wish] shall be accepted and the case shall be investigated after a written statement is obtained [from him] with the following particulars: ‘If my attorney is defeated, it is my defeat. If he wins, it is my victory.’:**

9. If a *bhāibhāradāra*, land tenant, subject or the like is to be questioned in a legal dispute—except for cases involving punishment by execution or *dāmala* or for ones dealing with illicit sexual intercourse or with [breached] cooked rice and water [commensality rules]—and the person [to be questioned] declares: ‘I do not [wish to] attend the *kacaharī* in this case. I am sending such and such a person as my representative giving him power of attorney to handle the case’, then a letter of attorney stating: ‘I have sent such and such a person as my attorney for such and such a case. If he wins, it is my victory. If he is defeated, it is my defeat. I will meet any legal obligations in accordance with the *Ain*. I will not lodge a complaint [afterwards]’ shall be taken by the attorney, who shall take on the case on the basis of the power [conferred]. If according to the rules of the *kacaharī* a surety document, deposition, written confession or the like is to be obtained, the attorney shall be made to sign it, and the case shall [proceed to] be decided. The person who has issued power of attorney shall not be permitted to reverse what his attorney has done [in court] and shall not be permitted to file a [new] complaint. Whatever the attorney has done in accordance with the *Ain* [in court] shall be valid. Power of attorney shall not be granted for cases punishable by execution or *dāmala*, or for cases dealing with illicit sexual intercourse or with [breaches of] cooked rice and water [commensality rules]. Whoever is accused of [such] shall be brought in and judged [in person] in accordance with the *Ain*.

**The regulation [concerning the following]: When power of attorney is being granted, only one such shall be granted for any one case. If the person who has been given power of attorney is busy, [the circumstances determine whether] one can replace him by giving power of attorney to another person or not. A *jāgira***



**holder shall not be accepted as an attorney. [The punishment] if power of attorney is granted without a written document:**

10. When power of attorney is being accepted, only one attorney representing one [litigant] in one case [at a time] shall be accepted. Two attorneys shall not be accepted [for one case]. If 4 cases have been filed against 1 person, then of the 4 cases the case with particulars [most] linked to the other cases shall be settled [first]. Afterwards [the rest of the cases] shall be settled one by one, with only one attorney accepted for each case. The attorney can be replaced by the person who gave him power of attorney only if [a family member] of the attorney dies and he is required to observe mourning for the deceased, or the attorney's house catches fire or he becomes severely ill and is unable to go to the *kacaharī*, or an epidemic disease enters his house. If [a litigant] who issues power of attorney to someone after submitting a written deposition wants to speak himself at a *kacaharī*, he shall be permitted to do so. The litigant shall not be allowed to change his attorney in the middle [of proceedings], nor shall his attorney be allowed to quit the case. Military and civil government employees shall not be accepted as attorneys in legal disputes, nor may they act as attorneys. If someone is to be accepted by a *hākima* [of a court] as an attorney, he shall be so accepted after a written statement of acceptance declaring that he is not a *jāgira* holder is obtained from him. If a *hākima* accepts power of attorney [from someone] without having him produce such a document, he shall be fined 50 [*mohora rūpaiyā*]. An attorney who lies about [his status] shall also be fined 50 *mohora rūpaiyā*.

**The regulation applicable to posting notice when someone to whom power of attorney has been granted in someone else's lawsuit comes to the court [but then] flees:**

11. If a person who has been given power of attorney flees during the trial, a notice posting a time limit for the attorney who has fled [to reappear in court] shall be posted, and the case decided, in accordance with the *Ain*'s [regulation] pertaining to litigants who flee.

## 39. On Concealers

1. If someone kills a person without the right [to do so], and if [other persons] who have not entered into the plot of homicide, know that the [offender] killed that person, but they conceal [the crime] and save the murderer, the shares of property which are theirs according to the *Ain* shall be confiscated, putting aside the shares [of their coparceners] and the marriage expenses [for their sisters and daughters] and they shall be imprisoned for 5 years—if they have concealed the crime taking a bribe. If they have concealed the crime without taking any bribe, but only out of mercy, only the shares of their property which are theirs according to the *Ain* shall be confiscated and they shall be set free. If the murderer's father, mother, wife, full brother, full sister, son, daughter, mother-in-law or daughter-in-law has concealed his crime, such a relative shall not be held accountable.

2. If a person does not enter into a plot of homicide, but is aware that someone is going to a kill a person, and conceals the crime without telling it to anyone, such a concealer—if he is a man and belongs to an Enslavable caste—shall be imprisoned for 4 years, after the share of property which is his according to the *Ain* has been confiscated, if the homicide is committed. If such a concealer is a man who belongs to an Enslavable caste, he shall be enslaved. If it is a woman, she shall be imprisoned for 2 years. If such a concealer, man or woman, who was aware [that homicide was taking place], but did not tell this to anyone, belongs to an Enslavable caste, he or she shall be enslaved. If homicide has not taken place [but has only been plotted], the property of a concealer [who knew about the plot of homicide, but concealed the information] who belongs to an Enslavable or Non-enslavable caste shall be confiscated and he shall be imprisoned for 2 years, if it is a man. If it is a woman, she shall be fined 20 rupees. If [such a concealer], man or woman, pays the amount set in lieu of the prison term, it shall be accepted and he or she shall be set free.

3. If a wife of a person knows that her husband has committed adultery which would lead to his ostracisation with respect to cooked rice and water, but she conceals his crime and consumes cooked rice or water [touched by him], she shall be ostracised with respect to cooked rice and water. If her husband has committed homicide, theft or the like, the wife shall not be held accountable, irrespective of whether she comes to report [her husband's crime] to an *adālata*, *ṭhānā* or *amāla* office or not. She shall be let off. The husband shall, in accordance with the *Ain*, be punished.

4. Amongst the women from a single household, if a wife beats her co-wife, or the mother beats her daughter or the daughter beats her mother, or the elder sister beats her younger sister or

the younger sister beats her elder sister, and if the person who is beaten becomes ill and dies within the time period specified in the *Ain*,<sup>222</sup> and if [other family members] are aware that the deceased person died because of the assault of such and such a person, but they conceal [the crime], not reporting it to an *adālata*, *ṭhānā* or *amālā*, from among the family members who are aware [of the assault], the share of the property of the head of the family—if it is a man—shall be confiscated and he shall be set free. If it is a woman, she shall be imprisoned for 2 years. If he or she pays double the amount set in lieu of the prison term, it shall be accepted. The remaining family members shall not be held accountable. The woman who committed homicide shall be punished by *dāmala*.

5. If a suspect, who has been charged of committing a crime which will lead to his execution, is imprisoned at an *aḍḍā* or *gauḍā*, or in a prison house, or at any other office, such as *koṭa*, *Iṭācapali*, *ṭhānā* or *amālā*, and if [the suspect] flees [from the prison], whoever conceals [this occurrence], except for the suspect's own family members, shall be imprisoned for 3 years. If [such a concealer] pays double the amount set in lieu of the prison term, it shall be accepted and he or she shall be set free. If the father or brother of the suspect conceals the matter, he shall be fined 50 rupees. If the mother, wife, full sister, daughter, daughter-in-law, mother-in-law, paternal aunt or stepmother of the suspect conceals the matter, they shall not be held accountable.

6. If a suspect charged with committing a crime which will lead to the punishment of *dāmala* is imprisoned at an *aḍḍā* or *gauḍā*, or in a prison house, or at any other office, such as *koṭa*, *Iṭācapali*, *ṭhānā*, *amālā* or the like, [and if the suspect flees from the prison], whoever knowingly conceals [any information concerning his whereabouts]—if they are the suspect's own brothers or sons—shall be fined 25 rupees. If the suspect's full sister, daughter, daughter-in-law, mother-in-law, paternal aunt or stepmother conceal [such information], they shall not be held accountable. If any other person conceals this, he shall be imprisoned for 1½ years. If he pays the amount set in lieu of the prison term, it shall be accepted and he shall be set free.

7. If an offender who has committed a crime which leads to caste degradation or a fine, is imprisoned at an *aḍḍā* or *gauḍā*, or in a prison house, or at any other office such as *koṭa*, *Iṭācapali*, *ṭhānā*, *amālā* or the like, and if such an offender, who is to be released after serving his prison term, flees, and if the father, brother or sons of such an offender conceal [any information concerning his whereabouts], they shall be fined 12½ rupees. If an offender's full sister, daughter, daughter-in-law, mother-in-law, paternal aunt or stepmother conceal [such information], they shall not be held accountable. If anyone else conceals this, he shall be imprisoned for 9 months. If he pays the amount set in lieu of the prison term, the amount as specified in the *Ain* shall be accepted and he shall be set free.

8. If an offender who has committed a crime which will lead to the punishment of *dāmala* flees, such an offender shall, after he has been arrested [again], be fettered and be punished by *dāmala*.

222 This is regulated in §§ 64.13 and 15–16.

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9. If a prisoner imprisoned in a jail flees, and he is then arrested, he shall be imprisoned [again] and his prison term shall be increased by 1½ times the original term, irrespective of the duration of the prison term to which he was previously sentenced. This shall be recorded in the prison register.

10. If a question arises of whether a relative of someone, such as the father, mother, wife, brothers, sisters, sons, daughters, mother-in-law, daughter-in-law or so forth, has had illicit sexual intercourse with someone, or has been contaminated through cooked rice or water, and the allegation is not proved after [the accused] is brought to an *adālata*, *ṭhānā* or *amāla* and is interrogated, [but] it is decided that cooked rice is acceptable from [the accused person], and therefore the fellow commensals can consume cooked rice from him or her, and if, however, later on the allegation made of illicit sexual intercourse or of the contamination through cooked rice or water is proved, the fellow commensals who earlier consumed cooked rice [touched by] the offender shall not be held accountable, because they consumed cooked rice [touched by the offender] when the case was still under investigation and had not yet been decided [by the time they consumed cooked rice]. They shall be granted expiation.

11. If a person is aware that he can become contaminated with respect to cooked rice by his own father, mother, wife, sister, son, daughter, mother-in-law or daughter-in-law who has had illicit sexual intercourse [with somebody], and if this person has consumed cooked rice from [his relative's hand] and also contaminates his other fellow commensals with respect to cooked rice, the property which is his according to the *Ain* shall be confiscated and he shall be placed [into the caste of the person with whom his relative has had illicit sexual intercourse]. If he or she consumes cooked rice [from such a relative], but does not contaminate his other fellow commensals, he shall be placed [into the caste of the person with whom his relative has had illicit sexual intercourse], without confiscation. If he is informed [about the illicit sexual intercourse of his relative], and he conceals it, but does not consume cooked rice [from such a relative], he shall not lose his caste status. He retains it. He shall be fined 50 rupees for concealing the fact.

12. If someone from a Sacred Thread-wearing caste is accused of incest with his own blood relative or of illicit sexual intercourse with someone from a caste from whose members cooked rice and water is unacceptable, [the accused] shall be brought to an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* and the case shall be investigated. If [the accused] person is not brought to the *aḍḍā*, *adālata* or *amāla*, but a trial is conducted on a local level (*ghara*) and it is decided that [the accused] did not have illicit sexual intercourse, and if they consume cooked rice from such an accused person, and if later the allegation of illicit sexual intercourse is proved upon investigation by the *aḍḍā*, *adālata*, *ṭhānā* or *amāla*, the fellow commensals shall be fined 50 rupees in the case that they were aware that [the accused person] had committed illicit sexual intercourse, but delivered a fraudulent judgement, acquitting the accused person, and consumed cooked rice from him. They shall be placed into whatever caste the accused person is assigned to [as a result of the punishment he receives for his illicit sexual intercourse]. If they consume cooked rice from [such a person] and contaminate other fellow commensals, the share of property which is theirs according to

the *Ain* shall be confiscated and they shall be placed into whatever caste the accused person is assigned to. Those persons who did not know that the accused person had committed illicit sexual intercourse, but conducted the trial on a local level, acquitting the accused person, and who have consumed cooked rice [touched by] him, shall be fined 20, 15 and 10 rupees for people of the *abbala*, *doyama* and *sima* categories, respectively, and be granted expiation. Those persons shall not be held accountable who were not present during the trial, but consumed cooked rice from [the accused person] after they were told that he or she was acquitted.

13. If a daughter, daughter-in-law, wife, grand-daughter, sister's daughter, mother or grand-mother [of a person] from a Sacred Thread-wearing caste is accused of having had illicit sexual intercourse with someone, and if, without bringing [the accused person] to an *adālata*, *amāla* or *ṭhānā*, the case is decided at home such [that it is judged] that she has not had illicit sexual intercourse with anyone, and if the fellow commensals consume cooked rice from her, and if the case is brought to the *adālata*, *ṭhānā* or *amāla* [once] again and it is ascertained upon judgement that the accused person has not had illicit sexual intercourse with anyone, the persons who conducted the trial and the persons who were present during the trial shall be fined 10 rupees each for deciding a case concerning illicit sexual intercourse at home.

14. If a *bicārī* or *dvāre*, out of favouritism, does not investigate a case concerning illicit sexual intercourse in which his own relative is involved and he does not deliver a verdict [in that case], he shall be fined 10 rupees. If someone has filed such a case, but it is delayed because [the *bicārī* or *dvāre*] has not yet been able to assemble [the evidence] owing to his still examining the documents and the persons mentioned therein, the plaintiff, defendant and witnesses, such a *hākima* shall not be held accountable.

15. If someone has a suspicion that another person has had illicit sexual intercourse with his blood relative or with someone whose caste status is inferior to his, or with someone who is from a Water-unacceptable [but Touchable] or an Untouchable caste, or he has a suspicion that a person has contaminated [his fellow commensals] through cooked rice, but he has not seen it with his own eyes and therefore conceals [such a crime], such a person—who could not report [the crime] within 3 months, because he did not find any evidence for it and therefore concealed it on the grounds that he wanted to report it [only] after he could verify it—shall not be considered a concealer. He shall not be held accountable. He shall receive expiation. It shall be granted to him.

MA<sub>2</sub> 41.15do. Except a *ḍiṭṭhā*, *bicārī*, *amālī*, *birtābitalapa* or *guṭhī* holder, [only] a person who has been [granted authority] by a document or *pramāṅgī* having been issued, shall hear a legal dispute or complaint. If someone who has not been [granted authority] by a *sanada* or *pramāṅgī* having been issued hears a legal dispute or complaint, except for [minor] household disputes, he shall be fined an amount equal to whatever [amount] he has collected as a fine, winning fee, *ṭhekī* or *baksāunī*. The nobles who were present during such a trial, shall be fined 5 rupees each. The persons who fettered [the suspect] shall be fined 2 rupees each. The persons who held the suspect's wrists [for handcuffing],

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shall be fined 4 rupees each for every *ghaḍī* [he was unlawfully handcuffed]. The person who flogged the suspect shall be fined 4 rupees for every lash. If these do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

16. If a man or woman from an Untouchable caste has illicit sexual intercourse with someone belonging at least to a Water-acceptable pure (*viṣṭa*) caste which is superior in status to his or her own [caste], and if someone from a Water-unacceptable and Untouchable caste itself witnesses and knows that [the person from the superior caste] consumed cooked rice [from his or her sexual partner] and has had sexual intercourse [with him or her], but this person [of lower caste status] conceals [the crime] without reporting it [to anyone], the concealer shall be enslaved irrespective of whether it is a man, woman, married woman, widow or unmarried girl.

17. If someone witnesses illicit sexual intercourse involving someone other than one of his family members, or witnesses that someone [other than one of his family members] consumes cooked rice from the hands of a person from whom cooked rice is unacceptable, and if he knowingly conceals [the fact] and knowingly consumes cooked rice from the hands of such an offender or knowingly consumes cooked rice from the hand of the person who has consumed cooked rice from the hand of such an offender, and if he contaminates his fellow commensals, [such a concealer] shall be set free after his share of property according to the *Ain* has been confiscated, and after he has been placed into whatever caste the person is assigned to, who is guilty of illicit sexual intercourse, or to which the person who consumed cooked rice from such an offender is assigned [as punishment]. If the offender is a woman, she shall be placed in that caste without confiscating her property. If such a concealer himself consumes cooked rice from such an offender, but he does not contaminate his fellow commensals, his property shall not be confiscated. He shall be set free after he has been placed into whatever caste to which the offender has been assigned [as punishment]. If he has not knowingly consumed cooked rice from the hands of such an offender or from the hands of a person who has consumed cooked rice from the hands of such an offender, he shall not lose his caste status. The person who conceals [a crime] seen or witnessed personally which is to be reported and in the course of which [fellow commensals] can be contaminated [through cooked rice] shall be fined 50 rupees, if it is a man. If it is a woman, she shall be fined 25 rupees. If he or she does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned. The persons who accidentally consume cooked rice from such an offender shall be granted expiation for accidental contamination.

18. If a person from a Water-unacceptable caste who may be enslaved knows that someone from a [Water-unacceptable but] Touchable or Untouchable caste has had illicit sexual intercourse with someone else from a pure caste from whose members water is acceptable, but this person conceals [the fact], helps [the offenders] to flee or accompanies them, [such a concealer] shall be enslaved.

19. If a woman from any of the Four *Vaṛṇas* and Thirty-six castes is aware of illicit sexual intercourse on the part of her husband, her father-in-law, or her husband's brother, which would

lead to caste degradation or confiscation of property, and she does not report [the crime], but conceals it, and if she consumes cooked rice and water from the hands of such an offender, which would entail the punishment of caste degradation for her, she shall be fined 25 rupees and be placed in the caste [the offender is assigned to], if [the consumption of cooked rice and water from the hands of the offender] entails the punishment of ostracisation with respect to cooked rice for her. She shall be fined 50 rupees and placed in the caste the offender [is assigned to], if [the incident] would entail the punishment of ostracisation with respect to water, too, for her. If she does not pay the amount of the fine, she shall, in accordance with the *Ain*, be imprisoned.

MA<sub>2</sub> 41.19a. If someone from a Water-acceptable caste, including the castes of the Sacred Thread-wearers, has sexual intercourse with a person from an Untouchable caste from whose members water is unacceptable, and if a relative of his, such as mother, father or the like, or someone who is not his relative, has witnessed the sexual intercourse, or heard from the mouth of the offenders 'I have had sexual intercourse with such and such a person from such and such a caste', and if [the person who witnessed the sexual intercourse or who heard about it], conceals [the fact] and consumes cooked rice and water from the hands of such offenders, but is not aware that the suspect has consumed cooked rice and water [from the hands of his sexual partner from the Untouchable caste], such a concealer shall be granted penance, after being fined 50 rupees. He does not lose his caste status. If such a concealer—after he has witnessed the sexual intercourse between the offenders or heard about it from their mouth as 'I have had sexual intercourse with such and such a person from such and such a caste or I have consumed cooked rice and water from the hands of such and such a person of such and such a caste'—conceals it, the concealer—if it is a man—shall be branded with the first letter [of the name of] whatever caste the suspects who had illicit sexual intercourse are assigned to [as punishment] on the left cheek, after his share of property according to the *Ain* has been confiscated, and he shall be released, after having been placed in the caste the offender [is assigned to]. If such a concealer is a woman, her property shall not be confiscated. The family members of such concealers shall be granted expiation.

20. If someone from a pure caste from whose members at least water is acceptable, including the Sacred Thread-wearing castes, wittingly has sexual intercourse with a person from a Water-unacceptable but Touchable caste, but has not consumed cooked rice and water from the hands of [his sexual partner], and if a relative of his, such as his mother, father or the like, or someone who is not his relative, has witnessed the sexual intercourse, or heard from the mouth of the offenders 'I have had sexual intercourse with such and such a person from such and such a caste', and if [the person who witnessed the sexual intercourse or who heard about it], conceals [the fact] and wittingly accepts cooked rice and water from the hands of such an offender or from the hands of the person who has accepted cooked rice and water from the hands of the offender, such a concealer—if it is a man—shall be fined 50 rupees. If it is a woman, she shall be fined 25 rupees. He or she shall not lose her caste status. If such a concealer, after he has witnessed [the sexual intercourse between the offenders or heard about it from their mouths], wittingly

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consumes cooked rice and water from the hands of the offender or from the hands of the person who has consumed [cooked rice and water] from the hands of the offender, the concealer—if it is a man—shall be fined 100 rupees and granted expiation, because the offender also receives expiation. If such a concealer is a woman, she shall be fined 50 rupees and granted expiation. He or she does not lose their caste status. If someone [from a pure caste from whose members at least water is acceptable, including the Sacred Thread-wearing castes], wittingly has sexual intercourse with a person from a Water-unacceptable but Touchable caste, or just consumes cooked rice and water from the latter, and if someone else witnesses this, or hears of it from the mouths of the offenders, who state ‘I have had sexual intercourse with such and such a person from such and such a caste or I have consumed cooked rice and water from the hands of such and such a person from such and such a caste’, and if [the person who has witnessed or heard about it], conceals [the fact] and wittingly accepts cooked rice and water from the hands of the offender or from the hands of the person who has accepted cooked rice and water from the hands of the offender, and also contaminates his or her fellow commensals through cooked rice [and water], such a concealer—if it is a man—shall be branded with the first letter of the name of the caste to which the offenders who had illicit sexual intercourse are assigned [as punishment] on his left cheek, after his share of property according to the *Ain* has been confiscated; he shall then be released, after having been assigned to the caste of the offender. If such a concealer is a woman, her property shall not be confiscated. If such a concealer himself consumes [cooked rice and water from the offender], but does not contaminate his fellow commensals or other family members, he shall neither be punished by confiscation nor shall he be branded with a letter. He shall be ostracised with respect to cooked rice and water and be assigned to the caste of [the offender from whom he has consumed cooked rice and water]. If he has not wittingly consumed cooked rice and water from the hands of such an offender or from the hands of persons who have consumed [cooked rice and water] from [the hands] of the offender, he shall not lose his caste status. The concealer who conceals [such a crime, having] seen it or heard about it personally, when it is to be reported and can entail the contamination of common fellow commensals through cooked rice and water, shall be fined 50 rupees for concealing it, if a man. If it is a woman, she shall be fined 25 rupees. If he or she does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned. The persons who accidentally consume cooked rice from such an offender shall be granted expiation for accidental contamination.

MA<sub>2</sub> 41.20a. If a man or woman belonging to any Water-acceptable caste, including the castes of the Sacred Thread-wearers, has illicit sexual intercourse with a person from an Untouchable caste, and if a relative of his or her, such as mother, father or the like, or someone who is not his or her relative, has witnessed the illicit sexual intercourse, or heard from the mouth of the offenders ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if [the person who witnessed the sexual intercourse or who heard about it], does not report [the crime] and conceals it, and also contaminates others with respect to cooked rice and water, the concealer, if it is a man,—irrespective of whether he has consumed cooked rice and water from the hands of the offenders or not—shall be branded with the first letter [of the name of]



whatever caste the offenders are assigned to on the left cheek after the share of property which is his according to the *Ain* has been confiscated, he shall be placed in that caste and be set free. If it is a woman, she shall be punished [in the same manner, but] without confiscating her property. If such a concealer informs others [about the illicit sexual intercourse] after he or she has himself or herself witnessed it, or heard about it from the mouth of the offenders as ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if he or she has not consumed cooked rice and water [from the hands of the offenders], he or she does not lose the caste status. If he or she informs others about the illicit sexual intercourse, but wittingly consumes cooked rice and water from the hands of the offenders who committed the illicit sexual intercourse and also contaminates others [with respect to cooked rice and water], then such a concealer—if it is a man—shall be punished by confiscating the share of property which is his according to the *Ain* and by branding him the first letter of the name of the caste the offenders are assigned to on his left cheek, he shall be placed in that caste and be set free. If such a concealer is woman, she shall be punished [in the same manner, but] without confiscating her property. Other members of his or her household shall be granted expiation.

21. If someone from a pure caste from whose members at least water is acceptable, including the Sacred Thread-wearing castes, wittingly has sexual intercourse with a person from an Untouchable caste, or just consumes cooked rice and water from the latter, and if a relative of his, such as his mother, father or the like, or someone who is not his relative, has witnessed [such a crime], or heard from the mouth of the offender who has had illicit sexual intercourse [with a person from an Untouchable caste or who has consumed cooked rice and water from the latter] that ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if [the person who witnessed it or] heard about it, conceals [the fact]—deceitfully, offering a bribe, asking someone to offer a bribe, or going himself or herself to offer a bribe or taking a bribe—which can entail the contamination [of his fellow commensals] and wittingly consumes cooked rice and water from the hands of such an offender or from the hands of the person who has consumed [cooked rice and water] from the hands of the offender and also contaminates his or her fellow commensals, such a concealer’s share of property—if the concealer is a man—shall be confiscated according to the *Ain*, after the bribe taken by him has been seized, and he shall be branded on his left cheek with the first letter of the name of the caste to which the offenders involved in the illicit sexual intercourse are assigned [as punishment], and he shall be released, after he has been placed in the caste of the offender, ostracising him with respect to cooked rice and water. If such a concealer is a woman, her property shall not be confiscated. If such a concealer himself consumes [cooked rice and water from such an offender], but does not contaminate his fellow commensals or other family members, he neither shall be punished by confiscation nor shall he be branded with a letter. He shall be assigned to the caste of the [offender from whom he has consumed cooked rice and water], after the bribe taken has been seized. If such a concealer has not wittingly consumed cooked rice and water from the hands of such an offender or from the hands of the persons who have consumed [cooked rice and water] from the hands of the offender, the concealer—if it is

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a man—shall be fined 200 rupees for deceitfully concealing a crime entailing [contamination through] cooked rice and water which he has witnessed or heard. If it is a woman, she shall be fined 100 rupees. He or she shall not lose their caste status. The persons who accidentally consume cooked rice from such offenders shall be granted expiation for accidental contamination.

MA<sub>2</sub> 41.21a. If a man or woman belonging to any Water-acceptable caste, including the castes of the Sacred Thread-wearers, has illicit sexual intercourse with a person from an Untouchable caste, or just consumes cooked rice and water from the hands of a person from such a caste, and if a relative of his or her, such as mother, father or the like, or someone who is not his or her relative, has witnessed the illicit sexual intercourse, or heard from the mouth of the offenders ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if [the person who witnessed the sexual intercourse or who heard about it] does not report [the crime] and conceals it—deceitfully, offering a bribe, asking someone to offer a bribe, or going himself or herself to offer a bribe or taking a bribe—which can entail the contamination [of the fellow commensals], it shall be deemed that such a concealer from a Water-acceptable caste—irrespective of whether he or she has consumed cooked rice and water from the offenders or not—fraudulently offered the bribe, or asked someone else to offer it or accepted the bribe in order to conceal [the crime] which he or she has witnessed or heard about it from the mouth of the offenders as ‘I have had sexual intercourse with such and such a person from such and such a caste’. Such a concealer—if it is a man—shall be branded with the first letter of the name of the caste [the offenders are assigned to] after having confiscated the share of property, which is his according to the *Ain*, and be let off having placed him in that caste. If it is a woman, she shall be punished [in the same manner, but] without confiscating her property. Other members of his or her household shall be granted expiation.

22. If someone from a pure caste from whose members at least water is acceptable, including the Sacred Thread-wearing castes, wittingly has sexual intercourse with a person from a [Water-unacceptable but] Touchable caste, and if a relative of his, such as the mother, father or the like, or someone who is not his relative, has witnessed [the illicit sexual intercourse], or heard from the mouth of the offender that ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if [the person who witnessed it or] heard about it, conceals [the fact]—deceitfully, offering a bribe, asking someone to offer a bribe, or going himself or herself to offer a bribe or taking a bribe—which can entail the contamination [of his fellow commensals], but does not consume [cooked rice and water] from the hands of the offender or from the hands of the person who has consumed [cooked rice and water] from the hands of the offender, such a concealer—if a man—shall be fined 50 rupees for deceitfully concealing a matter which can contaminate common fellow commensals through cooked rice and water. If it is a woman, she shall be fined 25 rupees. Such a concealer shall not lose his caste status. If such a concealer witnessed that a person [from a pure caste from whose members at least water is acceptable, including the Sacred Thread-wearing castes] has had sexual intercourse with a person from such

[an Untouchable caste], or witnessed that the former just consumed cooked rice and water from the latter, or heard from the mouth of the offender that ‘I have had sexual intercourse with such and such a person from such and such a caste or I have just consumed cooked rice and water from the hands [of such and such a person]’, and if [the person who witnessed this or] heard about it, conceals [the fact] deceitfully, offering a bribe, asking someone to offer a bribe, or going himself to offer a bribe or taking a bribe, and if he himself wittingly consumes cooked rice and water from the hands of the person who has consumed [cooked rice and water from the hands of the offender] and contaminates his fellow commensals or forces someone to do so, the share of property of such a concealer shall—if a man—be confiscated according to the *Ain* after the bribe taken by him has been seized, and he shall be branded on his left cheek with the first letter of the name of the caste to which the offenders involved in the illicit sexual intercourse are assigned [as punishment], and he shall then be released after being placed in the caste of the offender, ostracising him with respect to cooked rice and water. If such a concealer is a woman, her property shall not be confiscated. If such a concealer himself consumes [cooked rice and water from such an offender], but does not contaminate his fellow commensals or other family members, he or she shall neither be punished by confiscation nor shall he or she be branded with a letter. [Such a concealer] shall be assigned to the caste of [the offender from whom he has consumed cooked rice and water], after the bribe taken has been seized. If such a concealer has not wittingly consumed cooked rice and water from the hands of such an offender or from the hands of such persons who have consumed [cooked rice and water] from the hands of the offender, the concealer—if a man—shall be fined 100 rupees for deceitfully concealing a crime he has witnessed or heard about and which could entail [contamination through] cooked rice and water. If it is a woman, she shall be fined 50 rupees. He or she shall not lose his or her caste status. The persons who accidentally consume cooked rice from such an offender shall be granted expiation for accidental contamination.

[Section 23] is cancelled.<sup>223</sup>

24. If someone from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste has sexual intercourse with a woman from a Water-unacceptable but Touchable caste, but has not consumed cooked rice and water from her hands, and if such a man, without undergoing penance, has [again] sexual intercourse with another married woman whose caste status is equal or inferior to his own and who is from a Water-unacceptable caste, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to punish his wife’s paramour]. If such a person has sexual intercourse with an unmarried girl or widow [from one of the aforementioned castes], or if he forces such a woman to consume cooked rice and water [touched] by him, he shall be fined 50 rupees and granted penance according to the *Ain*. If such a man is granted penance, his wife, who unwittingly let him have sexual intercourse with her, shall also be granted penance. If the wife, although she is aware that her husband has had sexual intercourse [with another woman from one of the aforementioned castes] lets him have sexual intercourse with her, she—if she

223 § 23 is also not recorded in MA<sub>2</sub>.

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belongs to a Non-enslavable caste—shall be fined 50 rupees and granted penance according to the *Ain*. If she belongs to an Enslavable caste, she shall be enslaved and granted penance. If she is a slave, she shall be imprisoned for 6 months, be granted penance and be handed over to her master.

25. If someone from an Enslavable caste has sexual intercourse with a woman from a Water-unacceptable but Touchable caste, but has not consumed cooked rice and water from her hands, and if such a man, without undergoing penance, has [again] sexual intercourse with another married woman whose caste status is equal or inferior to his own and who is from a Water-unacceptable caste, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to punish his wife's paramour]. If such a person has sexual intercourse with an unmarried girl or widow [from one of the aforementioned castes], or he forces such a woman to consume cooked rice and water [touched] by him, he shall be enslaved and be granted penance. If such a man is granted penance, his wife, who unwittingly let him have sexual intercourse with her, shall also be granted penance. If the wife, [although she is aware that her husband has had sexual intercourse with another woman from one of the aforementioned castes], lets him have sexual intercourse with her, she shall be enslaved and be granted penance.

26. If someone commits a crime which is punishable by *dāmala*, or he has illicit sexual intercourse with [a woman] from an Untouchable caste which is punishable by ostracisation with respect to cooked rice and water, and if such an offender flees before the case is filed at a *kacaharī* office, or else flees before the issue [of his crime] is raised, and if he has illicit sexual intercourse with another woman, the woman shall be granted expiation with respect to water for accidental contamination, if she has unknowingly let him have sexual intercourse with her. If the woman, although she is aware that the man has committed such and such a crime, has knowingly let him have sexual intercourse with her, she shall not receive expiation. If a man commits a crime which is punishable by *dāmala* or ostracisation with respect to cooked rice and water, and if the case is filed at an *adālata* or *amāla* and [the offender] is ostracised with respect to cooked rice and water and is known [to the people], and if a woman who is not aware of the crime of the man unknowingly lets him have sexual intercourse with her, she shall only be placed in the caste of that man, irrespective of whether she has contaminated her other fellow commensals through cooked rice and water or not. She shall neither be fined nor shall she be enslaved. If such a woman knowingly lets such a man have sexual intercourse with her, and if she has not contaminated other fellow commensals through cooked rice and water, she shall be assigned to the caste of the man and be set free. If such a woman, [after wittingly having sexual intercourse with such a man], contaminates another person through cooked rice and water, or lets another man have sexual intercourse with her, she who belongs to a Non-enslavable caste, including the castes of the Sacred Thread-wearers, shall be imprisoned for 1 year. If she pays the amount set in lieu of the prison term, it shall be accepted and she shall be assigned to the caste of that man and be set free. If she does not pay the amount set in lieu of the prison term, she shall be assigned to the caste of that man and be set free after she has served the prison term.

If such a woman belongs to an Enslavable caste, she shall be enslaved, having been assigned to the caste of the man.

27. If someone from a pure caste from whose members at least water is acceptable, including the Sacred Thread-wearing castes, wittingly has sexual intercourse with a person from an Untouchable caste, or the former has consumed cooked rice and water from the hands of the latter, and if the former's relatives, such as his mother, father or the like, or someone who is not his relative, has witnessed [the illicit sexual intercourse or consumption of cooked rice and water], or has heard from the mouth of the offender that 'I have had sexual intercourse with such and such a person from such and such a caste', and if [the person who witnessed or heard about it] conceals [the fact], and knowingly consumes [cooked rice and water] from the hands of such an offender or consumes it from the hands of a person who has consumed it from the hands of the offender, and contaminates his family members or other fellow commensals, the property of such a concealer—if a man—shall be confiscated according to the *Ain*, after the first letter of the name of the caste to which the offenders of the illicit sexual intercourse are assigned [as punishment] has been branded on his left cheek, and he shall be released, having been assigned to the caste of the offender. If such a concealer is a woman, her property shall not be confiscated. If such a concealer himself or herself consumes [cooked rice and water from such an offender], but does not contaminate his fellow commensals, he or she shall neither be punished by confiscation nor shall he or she be branded with a letter. [Such a concealer] shall be placed in the caste of the [offender from whom he or she has consumed cooked rice and water] and be set free. If such a concealer has not wittingly consumed cooked rice and water from the hands of such an offender or from the hands of the persons who have consumed [cooked rice and water] from the hands of such an offender, he or she does not lose his caste status. The concealer—if it is a man—shall be fined 100 rupees for deceitfully concealing the crime witnessed or heard by himself, which could have entailed the contamination of his fellow commensals through cooked rice and water. If it is a woman, she shall be fined 50 rupees. If such a concealer does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned. The persons who under deception consume cooked rice from the hands of such an offender shall be granted expiation for accidental contamination.

MA<sub>2</sub> 41.27a. If a man or woman belonging to any Water-acceptable caste, including the castes of the Sacred Thread-wearers, has illicit sexual intercourse with a person from an Untouchable caste, or just consumes cooked rice and water from the hands of a person from such a caste, and if a relative of his or her, such as mother, father or the like, or someone who is not his or her relative, has witnessed the sexual intercourse, or heard from the mouth of the offenders 'I have had sexual intercourse with such and such a person from such and such a caste', and if [the person who witnessed the sexual intercourse or who heard about it] does not report [the crime] and conceals it, and also contaminates others with respect to cooked rice and water, the concealer, if it is a man,—irrespective of whether he has consumed cooked rice and water from the hands of the offenders or not—shall be branded with the first letter [of the name of] whatever caste the offenders are assigned to on the left cheek after the share of property, which

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is his according to the *Ain*, has been confiscated, he shall be placed in that caste and be set free. If such a concealer is woman, she shall be punished [in the same manner, but] without confiscating her property. If such a person does not report and conceals a crime which he or she has witnessed, or heard about it from the mouth of the offenders as ‘I have had sexual intercourse with such and such a person from such and such a caste’, but does not consume cooked rice and water from their hands, the concealer—if it is a man—shall be fined 50 rupees, and 25 rupees, if it is a woman. He or she does not lose the caste status. If the concealer wittingly consumes cooked rice and water from the hands of such offenders, but does not contaminate others [with respect to cooked rice and water], then he or she shall be branded with the first letter of the name of the caste the offenders are assigned to on his or her left cheek, shall be placed in that caste and be set free. Those who get contaminated under deception shall be granted expiation.

28. If a man or woman from any of the Sacred Thread-wearing castes wittingly has sexual intercourse with a person from a caste inferior in status to his or her own, from whose members at least water is acceptable, and this intercourse entails caste degradation and ostracisation with respect to cooked rice for him or her, and if the former’s relatives, such as his or her mother, father or the like, or someone who is not his or her relative, has witnessed [the sexual intercourse], or has heard from the mouths of the offenders who have had illicit sexual intercourse that ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if the person who witnessed or heard about it conceals [the fact], knowingly consumes [cooked rice and water] from the hands of such an offender and contaminates other fellow commensals, the property of such a concealer—if it is a man—shall, according to the *Ain*, be confiscated, and he shall be released after being assigned to the caste to which the offender has been assigned [as punishment]. If such a concealer is a woman, her property shall not be confiscated. If such a concealer himself consumes [cooked rice and water from such an offender], but does not contaminate other fellow commensals, his property shall not be confiscated. He shall be released after having been assigned to the caste of the offender. If such a concealer has not wittingly consumed cooked rice and water from the hands of such an offender or from the hands of persons who have consumed [cooked rice and water] from the hands of the offender, he or she shall not lose his caste status. The concealer—if a man—shall be fined 50 rupees for deceitfully concealing a crime entailing the contamination of his common fellow commensals, which needed to be reported and which was witnessed or heard by himself. If it is a woman, she shall be fined 20 rupees. If such a concealer does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned. The persons who accidentally consume cooked rice from such offenders shall be granted expiation for accidental contamination.

MA<sub>2</sub>41.28a. If a man or woman from any of the Sacred Thread-wearing castes commits incest with a blood relative or has sexual intercourse with someone from a caste inferior in status to his or her own and from whom at least water is acceptable, and if this intercourse entails caste degradation and ostracisation with respect to cooked rice for him or her, and if a relative of his or her, such as mother, father or the like, or

someone who is not his or her relative, has witnessed the sexual intercourse, or heard from the mouth of the offenders ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if the person who witnessed or heard about it conceals [the crime] and wittingly consumes [cooked rice and water] from the hands of such offenders, but has not contaminated other fellow commensals, the concealer’s share of property shall not be confiscated. If such a concealer consumes cooked rice [and water] from the hands of such offenders and also contaminates his fellow caste members, the share of property of the concealer—[if it is a man]—which is his according to the *Ain*, shall be confiscated, and he shall be released after being placed in the caste the offenders have been assigned to. If such a concealer consumes [cooked rice and water] from the hands of the offenders, the concealer—if it is a man—shall be fined 50 rupees for concealing a crime [entailing the contamination of his common fellow commensals]. If it is a woman, she shall be fined 25 rupees. If such a concealer does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned, but he or she does not lose the caste status.

29. If a woman from a Water-unacceptable or Untouchable caste lies about her caste status, pretending that she is from a superior caste, and deceitfully lets a man from a caste superior in status to her own have sexual intercourse with her, and she contaminates him through water, and if the matter is reported, the man shall not be fined if he reports that he accidentally has had sexual intercourse with such and such a woman and that he has also consumed water from her hands. He shall be granted expiation for ignorance. If the man has had illicit sexual intercourse with such a woman and he has also consumed water [from her hands], but when the matter is reported he declares that he has consumed only water [from her hands] and thus receives expiation after a writ (*pūrjī*) has been issued, and if later it is ascertained upon interrogation that he also has had illicit sexual intercourse with her, such an idiot shall be fined 25 rupees and be granted expiation. If he has not received expiation after the *pūrjī* has been issued, but has merely declared that he has been contaminated with respect to water only, and if it is ascertained upon interrogation that he has also had illicit sexual intercourse with her, he shall be fined 20 rupees and be granted expiation. If the man has had sexual intercourse with such a woman and has also consumed water [from her hands], and if [later] he learns that the woman belongs to such and such a caste, and if other men, too, who unknowingly have had sexual intercourse with her, have performed rites of expiation after her caste status had been revealed to them, and if the man, although he is aware of the fact [that other men have performed rites of expiation], conceals the fact that he has had sexual intercourse with such a woman and has also consumed water [from her hands], and he contaminates other [fellow commensals] through cooked rice and water, the share of property which is his according to the *Ain* shall be confiscated, the first letter [of the caste name of the woman] shall be branded [on his left cheek], and then he shall be released, having been assigned to the caste of the woman.

30. If a person knowingly consumes cooked rice and water from the hands of a man or woman who has been declared an outcast as a result of his sexual intercourse with a person from

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an Untouchable caste, and if that person also contaminates other [fellow commensals], he—if he belongs to a Non-enslavable caste, including the castes of Sacred Thread-wearers—shall be punished by having his share of property according to the *Ain* confiscated, and he shall be branded with a letter [of the outcast's caste name] and be placed in that [Untouchable] caste. If such a person has not contaminated other [fellow commensals] through cooked rice and water, he shall be assigned to that caste. He shall neither be branded with a letter nor shall his property be confiscated. If such a person belongs to an Enslavable caste and has contaminated [his fellow commensals] through cooked rice and water, he shall be enslaved after being branded with a letter. If he has not contaminated [his fellow commensals] through cooked rice and water, he shall neither be branded with a letter nor shall he be enslaved.

31. If a person has sexual intercourse with a man or woman who wittingly has had sexual intercourse with another man or woman who was declared an outcast as a result of his or her sexual intercourse with a person from an Untouchable caste, and if that person also contaminates other [fellow commensals], he or she—if he or she belongs to a Non-enslavable caste, including the castes of Sacred Thread-wearers—shall be punished by having his or her share of property according to the *Ain* confiscated, and he or she shall be branded on his left cheek with a letter [of the untouchable's caste name] and be placed in that caste. If such a person has not contaminated other [fellow commensals] through cooked rice and water, he or she shall be branded with a letter on their left cheek and be assigned to that caste without his or her share of property being confiscated. Such an offender shall not retain his or her caste status. If such an offender belongs to an Enslavable caste and has contaminated [his or her fellow commensals] through cooked rice and water, he or she shall be enslaved, having been branded with a letter. If he or she has not contaminated other [fellow commensals] through cooked rice and water, he or she shall neither be branded with a letter nor shall he or she be enslaved.

32. If a person wittingly has sexual intercourse with a man or woman—from any of the Sacred Thread-wearing castes from whose members at least water is acceptable—who has been declared an outcast as a result of his or her sexual intercourse with a man or woman from an Untouchable caste, and if that person consumes cooked rice and water [from the hands of such an outcast], and if he or she wittingly has sexual intercourse with another man [or woman] who is not an outcast, or if he or she consumes cooked rice and water [from the hands of such an outcast], but conceals this, such a concealer—if it is a man belonging to a caste from whose members at least water is acceptable, including the castes of the Sacred Thread-wearers, and if he has contaminated other [fellow commensals] through cooked rice and water from his hands—shall be punished by having the share of property which is his according to the *Ain* confiscated, and he shall then be released, after being branded with a letter of the caste name of the outcast with whom he has had sexual intercourse, and having been assigned to that caste. If it is a woman, her property shall not be confiscated. If such a concealer has consumed cooked rice and water from the hands of such an [outcast] after having illicit sexual intercourse with him or her, but has not contaminated anyone else, he or she shall be released, having been branded with the first letter [of the respective caste name], but without confiscation.



33. If someone from an Enslavable caste has sexual intercourse with a woman from a Water-unacceptable but Touchable caste, but he has not consumed cooked rice and water from her hands, and if he, without undertaking penance after the sexual intercourse, contaminates his fellow commensals through cooked rice from his hands and common people through water, or else he has illicit sexual intercourse with a woman from a caste equal in status to his own, or from a caste inferior in status to his own, [but] from whose members at least water is acceptable, and if the woman who has had illicit sexual intercourse with such a man did so knowing that he [already] has had sexual intercourse with someone from a Water-unacceptable caste, such a woman shall be enslaved and be granted expiation. If the woman has had illicit sexual intercourse with him without knowing that he [already] has had sexual intercourse with someone from a Water-unacceptable caste, she shall not be enslaved, but shall be granted expiation.

34. If a man or woman belonging to any of the Upādhyāya [Brahmin], Rajapūta, Jaisī, Kṣatriya, Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes has sexual intercourse with a woman or man belonging to a Water-unacceptable or Untouchable caste, and [thereby] is assigned to the caste [of the person with whom he or she has had sexual intercourse] after having his or her head shaved, or having his or her caste status reduced, and if such a person—if a man—again contaminates [someone from a Water-acceptable caste] through water, he shall be imprisoned for 6 years. Even if he pays double the amount set in lieu of the prison term, it shall not be accepted. If such a person is a woman, she shall be imprisoned for 3 years. If she pays the amount set in lieu of the prison term, it shall be accepted and she shall be released. If such a person who has been degraded from his caste was a Brahmin, and if he commits homicide, his share of property shall be confiscated according to the *Ain* and he shall be punished by *dāmala*. If such a woman [was a Brahmin], and if she commits homicide, her property shall not be confiscated, but she shall be punished by *dāmala*. Except for Brahmins and women, if a man from any other caste who has been degraded once from his caste as a result of punishment commits homicide, he shall be killed—taking life for life. If the offspring of such a man and woman, born after he or she was degraded from his or her caste, contaminate [someone from a Water-acceptable caste] through cooked rice and water or commit homicide, such offspring shall be punished according to the *Ain* as applicable to the respective caste, depending on whatever caste status they have received according to the *Ain*.

35. If a man or woman from any of the Non-enslavable Alcohol-drinking castes has sexual intercourse with one of his or her blood relatives or with a person from a caste inferior in status to his or her own, from whose members at least water is acceptable, and this deed would entail caste degradation and ostracisation with respect to cooked rice, and if a relative of such an offender, such as his or her father or the like, or someone who is not his or her relative, has witnessed [the sexual intercourse], or has heard from the mouth of the offender who has had illicit sexual intercourse that ‘I have had sexual intercourse with such and such a person from such and such a caste’, and if the person who witnessed or heard it conceals [the fact], consumes cooked rice from the hands of such an offender and contaminates other fellow commensals, such a concealer shall be fined 20 rupees and shall be released after having been placed in whatever

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caste the offender involved in the illicit sexual intercourse receives. If such a concealer himself or herself consumes [cooked rice and water from the hands of such an offender], but does not contaminate other fellow commensals, no fine is required. He or she shall be released after having been assigned to the caste the offender [is placed]. If such a concealer has not wittingly consumed cooked rice and water from the hands of such an offender or from the hands of the persons who have consumed [cooked rice and water] from the hands of the offender, he or she shall not lose his or her caste status. The concealer—if a man—shall be fined 40 rupees for deceitfully concealing a crime witnessed or heard by himself, which had to be reported and which could have entailed the contamination of common fellow commensals through cooked rice and water. If it is a woman, she shall be fined 20 rupees. If such a concealer does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned. The persons who accidentally consume cooked rice from such offenders shall be granted expiation for accidental contamination.

## 40. On Aiding and Abetting the Escape of Prisoners

1. If someone undoes the iron, wooden or leather fettering of a male or female house-breaker who has committed homicide or who has been punished by *dāmala* because of his or her involvement in homicide, or unlocks the room or cellar where the convict is imprisoned or tied up, the share of property of such a man or woman, which is his or hers according to the *Ain*, shall be confiscated. If such a person searches for the prisoner [who has escaped] and brings him or her [back to custody] within a month, he or she shall be fined 50 rupees and his or her confiscated property shall be returned. If someone else arrests that prisoner within a month, or he himself arrests the prisoner and brings him or her [back] after a month, the confiscated property shall not be returned. The prisoner shall be punished according to the *Ain* after he is found.

2. If someone undoes the iron, wooden or leather fettering of a man or woman who has committed a crime related to theft or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined 20 rupees and be made to pay compensation to the sum of the stolen amount to the person who was robbed. If such a person searches for the prisoner [who has escaped] and brings him or her back within a month, 50 rupees shall be collected from him and the confiscated property shall be returned to him. If the thief is caught and brought by him or by any other person, and if the thief is able to pay the amount in question, it shall be raised [from the thief], shall be handed over to the person who freed him, and 10 percent [of that amount] shall be collected. If [the thief] is not able to pay that amount, he or she shall be made to issue a loan agreement without security (*kapālī tamasuka*) and he or she shall be fined and imprisoned according to the *Ain*.

3. If someone from a Sacred Thread-wearing caste undoes the iron, wooden or leather fettering of a man or woman who has been convicted of adultery, or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined 120 rupees and be made to compensate the marriage expenses [to the aggrieved husband]. If he is from any other caste, he shall be made to compensate the marriage expenses according to the regulations of that caste and be fined 20 rupees. If the paramour is found, he shall be killed if he belongs to a caste whose members are to be killed. If he belongs to a caste whose members are to be fined, he shall be fined. If he belongs to a caste whose members are to be enslaved, he shall be enslaved.

4. If someone undoes the iron, wooden or leather fettering of a man or woman who has been convicted of incest or of illicit sexual intercourse with someone from a caste higher or lower

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than his or her own, or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined 45 rupees. If he searches for [the prisoner who has escaped] and brings him or her back within a month, only 20 rupees shall be taken. If another person searches for and brings [the prisoner who has escaped] back within a month, or he or someone else brings him or her back after 1 month, the amount shall not be returned [to the person who aided the prisoner to escape]. [The prisoner who escaped] shall, in accordance with the *Ain*, be imprisoned and fined.

5. If someone undoes the iron, wooden or leather fettering of a man or woman who has been convicted of incest or of illicit sexual intercourse with someone from a Water-unacceptable or Untouchable caste, or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined 50 rupees. If he searches for [the prisoner who has escaped] and brings him or her back within a month, 25 rupees shall be returned and only 20 rupees shall be taken. If another person searches for and brings [the prisoner who has escaped] back within a month, or he or someone else brings him or her back after 1 month, the amount shall not be returned [to the person who aided the prisoner to escape]. [The prisoner who escaped] shall, in accordance with the *Ain*, be imprisoned and fined.

6. If someone undoes the iron, wooden or leather fettering of a man or woman [imprisoned] as a result of a dispute over bodily injury where blood was drawn, or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined 10 rupees. Once the convict is traced, he or she shall, in accordance with the *Ain*, be fined and imprisoned.

7. If someone undoes the iron, wooden or leather fettering of a man or woman [imprisoned] as a result of a dispute over land, or unlocks the room or cellar where the convict is imprisoned or tied up, the land which is the subject of the dispute shall be estimated and he shall be fined at the rate of 10 rupees for every 100 [rupees of its value]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The litigant [who escaped] shall, in accordance with the *Ain*, be fined or imprisoned.

8. If someone undoes the iron, wooden or leather fettering of a man or woman [imprisoned] as a result of a dispute over gold, silver, jewellery, kitchen utensils, quadrupeds, grain, cash or commodities, or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined at the rate of 10 rupees for every 100 [rupees] of the total amount which is the subject of the dispute. The litigant [who escaped] shall, in accordance with the *Ain*, be fined or imprisoned.

9. If someone undoes the iron, wooden or leather fettering of a man or woman [imprisoned] for not paying the crop yield agreed upon, or the *sermā* or the *mahasūla* tax which are to be rightfully collected by the *amālī* or landlord, or unlocks the room or cellar where the convict is imprisoned or tied up, he shall be fined at the rate of 10 rupees for every 100 [rupees] of the total amount which is the subject of the dispute. The litigant [who escaped] shall, in accordance with the *Ain*, be fined or imprisoned.

10. If someone undoes the iron, wooden or leather fettering of a male or female bondservant who has been arrested for fleeing, or unlocks the room or cellar where he or she is imprisoned or tied up, he shall be fined 20 rupees and be made to compensate for the value [of the bondservant]. If the bondservant is traced and brought back within a month, the servant shall be handed over [to his or her master] and the amount given as compensation shall be returned [to the person who freed the servant].

11. If someone undoes the iron, wooden or leather fettering of a male or female slave who has been arrested for not carrying out his household duties or for fleeing, or unlocks the room or cellar where the male or female slave is imprisoned or tied up, he shall be fined 20 rupees and shall be made to compensate the price according to the regulation [determining] the price of a male or female slave,<sup>224</sup> depending on his or her age. If the human chattel (*jyū*) is traced and brought back, it is up to the wish of the owner as to whether he takes the price [for his slave] or takes back the slave.

12. If someone gives an axe, a sharp tool, a rope, a piece of wood or any weapon that can be used to escape to a prisoner who is either on the way to being put into iron, wooden or leather fettering by an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *amāla* office or the like while he is under arrest, or who has been imprisoned by an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *koṭa* office, the Iṭācapali court or the Jhelakhānā, and if it is reported before the imprisoned person could escape, the former person shall be fined 20 rupees, irrespective of whether the man or woman who gave [the prisoner]—with the intention to free him—an axe, sharp tool, rope, piece of wood or any other weapon which could be used to escape, is a relative or anyone else. If he or she does not pay the amount of the fine, he or she shall be imprisoned at the rate of 1 month per 5 rupees.

13. If a prisoner who has been arrested at a *kacaharī* office, in a case which leads to capital punishment or *dāmala*, runs away, and if the *hākimas* or the like of the *kacaharī* or the *amālīs*, *dvāres* or the like who let him escape have not received a fine or punishment according to the regulation concerning aiding the escape [of prisoners], and if the criminal who escaped is arrested, one shall proceed with [the official] who is to be held accountable in accordance with the *Ain*. If it is ascertained that a person—except for the [criminal's] relatives who are specified by the *Ain* as not being culpable for abetting a criminal to escape or concealing [his escape]—has abetted a criminal to escape out of favouritism or by accepting a bribe, he shall be fined 50 rupees if the said criminal is sentenced to capital punishment, or 25 rupees if the said criminal is sentenced to *dāmala*, irrespective of whether he himself arrests [the criminal] or anyone else from the government arrests him [later on]. If a person is sentenced to death or *dāmala*, but he is not of sound mind and someone takes him under his responsibility and goes for bail for him, and such a person is released [on his bail] and escapes, and if he is arrested before the person who abetted him to escape received his fine or punishment, the person who took him under his responsibility, went for bail for him and released him, shall be fined 25 rupees, if [the convict] committed a crime

224 See § 82.4.

40. On Aiding and Abetting the Escape of Prisoners

punishable by the death sentence, and 12½ rupees, if he committed a crime punishable by *dāmala*. If [the guarantor] does not pay the amount [of the fine], he shall be imprisoned according to the *Ain*.

14. Any guard who accepts a bribe and lets a prisoner escape who is imprisoned in an *adālata* or *ṭhānā* of the Terai and Madhesa, under the provision that, according to the *Ain*, no money shall be accepted [in lieu of his prison term] shall be imprisoned for ¼ of the prison term [of the criminal he helped to escape]. No money [in lieu of] his prison term shall be accepted.

15. If it is ascertained that a guard has accepted a bribe and let a prisoner escape who is imprisoned for a case of theft in an *adālata* or *ṭhānā* of the Terai and Madhesa, [the guard] who helped the prisoner to escape shall be fined ¼ of the damages the thief had to pay, and he shall be imprisoned for ¼ of the prison term [that thief has to serve]. He shall be made to pay back the stolen amount in compensation.

16. If it is ascertained that a guard has accepted a bribe and let a prisoner escape who is imprisoned for a case of theft in an *adālata* or *ṭhānā* of the Terai and Madhesa, [that guard] shall be imprisoned for 4 years. The amount set in lieu of the prison term shall not be accepted, even if he offers four times as much. If the criminal who escaped is [later on] arrested, the imprisoned [guard] shall be set free.

17. If it is ascertained that a guard, by mistake and without accepting a bribe, let [a prisoner] in an *adālata* or *ṭhānā* of the Terai and Madhesa escape, he shall be discharged and dismissed. If the sentry who, by mistake, let [the prisoner] escape, later arrests the person who escaped, he shall be readmitted [into service]. If someone else arrests [the escaped prisoner], the ripe crop [of the land assigned] to the sentry who let [the prisoner] escape shall be seized—if his appointment is not renewed—or the crop of the year of his renewed appointment—if his appointment is renewed—and he shall be readmitted [into service] for the next year.

18. If it is ascertained that men who are appointed as guards or bailiffs in an *adālata* or *ṭhānā* of the Terai and Madhesa let their prisoners escape, either because they were only a few, while those who were in custody or prison were in greater numbers, or they let them escape by accident while taking them out and putting them to work, those who let [the prisoners] escape shall receive 10 stick blows each and shall be set free.

## 41. Rioting against Bailiffs

1. If someone who is not [a staff member] of a *kacaharī* office, while a legal dispute is being settled, disrespects, or takes hold of and captures the *ḍiṭṭhā*, *bicārī*, clerk, soldier, bailiff or *dvāre* of an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* office who is under a *hākima*, such persons shall be fined 50 rupees each. If [such a criminal] does not capture [such officials] with his hands, but riots only, he shall be fined 20 rupees. If the amount of the fine is not paid, [the criminal] shall, in accordance with the *Ain*, be imprisoned.

2. If a person who defaults in the payment of governmental dues or a defendant attacks, with a stone or stick, a soldier or bailiff of an *adālata*, *ṭhānā* or the like, who has been sent to arrest him, and draws blood from him or kicks him or strikes him with shoes, the criminal shall be fined 25 rupees. If a group of villagers flock together and beat up [the official in such a way that] he becomes ill for around 5–7 days, whatever number of people are ascertained to be part [of the crowd] and beat [the official], each of them shall be fined 60 rupees. If the amount of the fine is not paid, [the criminals] shall, in accordance with the *Ain*, be imprisoned.

3. If bailiffs or soldiers are deployed to arrest [the persons] involved in a case of default in payment of governmental dues or involved in a case filed at an *adālata* or *ṭhānā*, and if the persons who have defaulted in the payment of governmental dues or the defendants drag the bailiffs or soldiers along, slap them on their cheeks, strangle them, forcibly hold them and tussle with them, they shall be fined 20 rupees, irrespective of whether blood is drawn from the bailiffs or soldiers or not. If the villagers or whoever gather together, riot, drag [the bailiffs or soldiers] around and aid the defendant to escape, they shall be fined 20 rupees each. If the amount of the fine is not paid, [the criminals] shall, in accordance with the *Ain*, be imprisoned.

4. If [soldiers] are deployed in order to arrest a person who has committed homicide, and if the murderer himself wields a weapon or stick and escapes, or his family members gather together and help the murderer to escape, preventing [the soldiers] from arresting or searching for him, the women who have thus gathered together shall be fined 20 rupees. Such men shall be fined 40 rupees each. The criminal's share of property, which is his according to the *Ain*, shall be confiscated.<sup>225</sup> Once he is arrested, he shall, in accordance with the *Ain*, be executed, punished by *dāmala*, shaved, imprisoned or fined, whatever is applicable.

225 This refers to a male murderer, because the property of women cannot be confiscated (see § 43.1).

#### 41. Rioting against Bailiffs

5. If a sister, daughter, daughter-in-law, paternal aunt, elder brother's wife, mother, grandmother, or the mother-in-law of someone from any of the Sacred Thread-Wearing castes, is in dispute with an unmarried girl, faithful wife or widow, the men [from her household] shall not be allowed to gather together and beat up the other woman on the grounds that she is [their relative], even if the other woman is [quarrelling] with the woman [from their household] without any reason. [The women] in the dispute are to be separated and shall be brought to an *adālata*, *ṭhānā* or *amāla*. If a man does not separate [the women], but beats them up or raises his hand against them, he shall be fined 50 rupees if he beats up a woman from a Sacred Thread-Wearing caste. The man who beats a woman from an Alcohol-drinking caste with 1–2 blows, he shall be fined 10 rupees. If he beats a woman [from an Alcohol-drinking caste], resulting in bruises and making her fall sick, he shall, in accordance with the *Ain*, be fined or punished. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman who raises her hand first during a dispute shall also be punished according to the *Ain*.

6. If a plaintiff takes a soldier with him to arrest the accused in a case, with prior sanction, and if the accused is neither traced nor arrested, the food allowance (*pyāja khāni*) received by the soldier [from the plaintiff] shall not be returned.

7. If a plaintiff takes a soldier with him and shows him the accused in a case, the soldier shall arrest the accused shown by the plaintiff. If the soldier aids the accused to escape after the soldier has arrested him, the same soldier shall be deployed again with the order to arrest [the fugitive] and bring him back. Once the accused has been arrested by the soldier with the help [of the plaintiff], but the soldier helps the accused to escape, the plaintiff shall not need to pay [another] food allowance to the soldier for arresting the accused again.

8. If a plaintiff comes to an *adālata* or *ṭhānā* to ask for soldiers in order to arrest the accused in the case, and if he pays the food allowance to whatever number of soldiers he has taken for whatever number of days, and if the soldiers demand [the fee] in cash, each of them shall be given 2 *ānās* [per day]. If they demand [the fee] in the form of rations (*sīdhā*), [each of them] shall be given [rations] enough for 2 meals, which costs 2 *ānās*. [The plaintiff] shall not be required to give cash to [the soldiers] who take rations, and he shall not be required to give rations to those who take cash. Whosoever takes more food allowance than what is laid down, he shall be fined an amount equal to that amount.



## 42. On Shaving and Dāmala

1. When a member of a caste for which the punishment of being shaved has been laid down for [crimes] against the state or illicit sexual intercourse within his blood relations, has to be shaved, no letter (*akṣara*) shall be branded [on his cheek]. [The property of] a Sacred Thread-wearing caste member shall, in accordance with the *Ain*, be confiscated and he shall be degraded to a Non-enslavable Śūdra caste. [The property of] a Non-enslavable Śūdra caste member shall, in accordance with the *Ain*, be confiscated, and he shall be fed with dog's meat, be shaved and be degraded to the caste of Bhoṭes, and [both the Sacred Thread-wearing caste fellow and Non-enslavable Śūdra caste fellow], if they come from the east, shall be chased away across the river towards the west, or if case they come from the west, shall be chased away across the river towards the east. If someone who has been shaved and degraded from his caste marries, he shall do it within the caste to which he has been degraded.<sup>226</sup>

2. [Offenders] who are to be punished by *dāmala* shall be branded on their left cheeks in such a way that the mark remains, and they shall be thrown into lifetime imprisonment (*dāmala*).<sup>227</sup>

3. If a caste member who may be punished by being shaved [instead of being executed] has been shaved and exiled after he has committed a crime, and if he again commits a crime which leads to the punishment of being shaved, such [a culprit] shall be punished by *dāmala*.

4. Hitherto it has been regulated that if a culprit had to be executed by any office concerned, excluding the Itācapali court in the capital, the execution should not be executed without a *lālamohora*. From now onwards, if the Itācapali in the capital or any other court or frontier [court] has, in accordance with the *Ain*, to execute a culprit or to shave him, punish him by *dāmala* or degrade him or to remove his Sacred Threads, [such punishments] shall not be executed without a *lālamohora*. Such punishment shall be carried out only after a *lālamohora* has been issued with the details that [the culprit] shall receive such and such a punishment.

226 The method of shaving seems to have been adopted from dharmashastric practices with minor alterations. For example, NyāV on NārSm 14.9 states: '[If a crime has been committed which results in the punishment of being shaved] one should shave the culprit's head ... should take him around on a donkey and exile him from the city.' This method was adopted also in mediaeval times. For example, the RŚE 15 lays down a similar regulation stating that someone who is to be punished by being shaved shall be exiled to a foreign territory.

227 This method of branding also seems to have been adopted from dharmashastric practice. For example, NyāV on NārSm 14.9 states that one should print a mark of the culprit's crime on his forehead.

42. On Shaving and Dāmala

5. If a culprit who has been sentenced by an office or a court, in accordance with the *Ain*, to the punishment of being shaved has to be fed with liquor and inedible [food] in order to degrade him from his caste after shaving him, [the liquor and inedible food] shall be fed to him only from the hands of members of pure castes from whom water may be accepted. [The culprit] shall not be fed from the hands of Untouchable caste members.

## 43. On Confiscation

1. If a woman commits a crime punishable by confiscation, her property shall not be confiscated. Women are not to be [punished] by confiscation.<sup>228</sup>

2. If an offender who is accused of a crime punishable by confiscation or enslavement confesses his crime, he shall be imprisoned as long as his confiscated property does not come [into the possession of the government] or as long as his caste status, whether he belongs to an Enslavable or Non-enslavable caste, has not been found out. Once the confiscated property of the offender, who has been punished by confiscation, comes [into the possession of the government] or the caste status of the offender, namely whether he belongs to an Enslavable or a Non-enslavable caste, has been found out, he shall, in accordance with the *Ain*, be punished by *dāmala*, shaved, and set free after [the initial] letter [of the name of the caste to which he has been degraded] has been branded [on his left cheek], or he shall be enslaved, depending on which punishment is applicable.

3. If an offender who is to be executed, punished by *dāmala*, shaved or enslaved flees and crosses a border demarcation or border pillar [of the country], his share of property shall be confiscated, putting aside, in accordance with the *Ain*, the shares of the joint property [to which his family members are entitled].

4. If an offender who has committed a crime punishable by death or enslavement is arrested and killed or enslaved before he flees, the property of such an offender shall not be confiscated.

5. If the property of a culprit is confiscated from the Iṭācapali court, the officials of the Kumarīcoka or *ṭhānā* office shall be placed [as witnesses] and the culprit's share of property shall be confiscated according to the *Ain*, after a document confirming the confiscation (*tāyadāta*) has been issued. Irrigated paddy fields (*kheta*) and unirrigated slopes (*pākho*) which he received after the confiscation and which are valued at more than 100 rupees shall be given to the Sadaradaphadara office. [From the confiscated property] such as land, irrigated paddy fields, unirrigated slopes, commodities such as male or female slaves, quadrupeds, goods and so forth, which is valued at less than 100 rupees, that property which is to be estimated by the *pañca* shall be estimated, that which is to be weighed shall be weighed, that which can be auctioned off shall be auctioned off, and it shall be recorded in the ledger (*syāhā*) of the Iṭācapali and be handed over to the Mulukīkhānā.

228 MA<sub>2</sub> 45.1 adds the crime of stealing someone's child as an exception to this rule.

#### 43. On Confiscation

The loan of a debtor<sup>229</sup> recorded in the loan agreement and the account sheet shall be cleared as far as it can be cleared. If it cannot be cleared, the loan agreement and the [other] documents shall be handed over to the Kumārīcoka. The officials of the Kumārīcoka shall also receive this and issue a receipt for it.

6. If the property of an offender is confiscated by various *amāla* offices, the *amālīs*, *tharīs* or nobles from around 2–3 jurisdictional areas shall be assembled, the confiscation shall be confirmed and the share of the offender's property, which is his according to the *Ain*, shall be confiscated. The confiscated land, irrigated paddy fields, unirrigated slopes, cash, gold and silver—these assets shall be handed over to the Iṭācapali as they are raised. Domestic animals, such as quadrupeds or buffaloes, shall be sold at any rate going (*kholākā bhāu*), turned into cash, and this shall be handed over to the Iṭācapali along with the offender. The offender shall be punished by the Iṭācapali according to the *Ain*. The confiscated land valued at more than 100 rupees shall be handed over to the Sadaradaphadara. Land valued at less than 100 rupees and any wealth or commodities except cash shall be auctioned off, if they can be auctioned off, be estimated if they can be estimated, be turned into cash and be handed over to the Mulukīkhānā. A receipt shall be issued for this.

7. If the property of an offender is confiscated, and if his creditor has been enjoying this property before [the offender's] crime was revealed, and if [the property], such as slaves, land, commodities and so forth, is recorded as a surety or pledge on the loan deed, the credit amount of the creditor as recorded on the loan agreement shall be compensated to the creditor. From whatever wealth and property remains, the shares for the offender's mother, father, elder and younger brother, wife, son and the marriage expenses for the unmarried sons and daughters shall be put aside, and only the share of the offender shall be confiscated.

8. If the property of one of the brothers, or one of the father and sons who are living in the joint household without partitioning the joint estate, is confiscated, the total credit sum [they owe] to a creditor shall be distributed proportionately among [the other coparceners]. The creditor does not receive [anything] from the share of the person whose property was confiscated. [The family members of the person whose property was confiscated] shall clear the debt, depending on whatever share from the property they receive and that has remained after the confiscation. [The authorities] shall make them pay back their creditor.

9. If [someone] is [punished] by the confiscation of his property, but is not executed, [up to] half of this property shall be handed over to his creditor.

10.<sup>230</sup> If someone is [punished] by execution, but his property is not confiscated, and if his debt is being paid off, his family members who are living in the joint household, such as his sons,

229 *asāmiko lahanā gahanā*, read *asāmiko lahanā tahanā* (MA<sub>2</sub>).

230 MA<sub>2</sub> records two sections, numbered 10kh and 10b. § 10b is identical with § 10 of MA<sub>1</sub>. § 10kh is an amendment from VS 1919.

brothers, brothers' sons and so forth, who have been enjoying such non-confiscated property of [the executed offender], shall pay back the debt incurred [by the executed person] from up to half of his estate. They are not required to pay it back from his entire estate. They shall [only] pay back the debt from his entire estate if the debt incurred [also] falls under their liability. If [the family members of an offender] who has been punished by execution, have been living separately after [partitioning the joint property and] separating the kitchen, and if they have enjoyed the estate of an offender who was executed, they shall be obliged to pay back the entire debt incurred by him. They shall not be permitted to argue that they will pay off half of it only. If they declare that they neither enjoy a share of the property of the offender who was executed, nor will they pay off his debt, all the creditors shall be assembled and [the offender's estate] shall proportionately be distributed among them. If an offender is punished by execution, and if his share of property is also confiscated, his creditors do not get anything back.

MA<sub>2</sub> 45.10kh. If [an offender] is executed, but his share of property is not confiscated, half of his property shall be taken by his creditor and the loan contract shall be torn up. Such a debtor shall pay off half of the debt to his creditor. If the offender is executed and also his property is confiscated, his creditors shall get nothing [back].

11. If an offender is punished by *dāmala* and also his property is confiscated, including oil lamp (*diyo*) and *kuśa* grass, his creditors do not get anything [back].

12. If an offender commits a crime which is punishable by confiscation, only the offender's share of the property shall be confiscated. The shares of his wife, brothers, sons and the dowries of his wife, daughter or daughter-in-law shall not be seized; it shall be given to them.

**The regulation applicable when [joint property] is to be partitioned by an *adālata*, *ṭhānā* or *amāla* office or when someone's property is to be confiscated and a share for the marriage expenses of his unmarried sons and daughters has to be put aside:**

13. If someone's share in joint property needs to be partitioned by an *adālata*, *ṭhānā* or *amāla*, or someone's property is to be confiscated, and if marriage expenses for his sons and daughters need to be put aside, irrespective of whether the unmarried sons and daughters are many or few, 5 percent of the property shall be put aside, if the total property is valued at more than 2,000 rupees. If the total property is valued at less than 2,000 rupees, down to 1,000 rupees, 20 percent of the property shall be put aside. If the property is valued at less than 1,000 rupees, 20 percent of the property shall be put aside and [the rest] shall, in accordance with the *Ain*, be [partitioned among the family members who are entitled to it]. Moreover, if an offender is to be punished by confiscation, the marriage expenses [for unmarried sons and daughters] shall be put aside in the manner mentioned above, and his share shall be confiscated.

## 44. On Collecting Fees

1. From now on, if an *adālata*, *ṭhānā*, *amāla* or any other office needs to impose a fine [on a litigant], ordering him to undergo [the ordeal of taking an oath] by touching a stone<sup>231</sup>, [the office] shall collect only the fine which is laid down in the *Ain*. No one shall collect more than 1 *paisā* [from the litigant] for undergoing [the ordeal of taking an oath] by touching a stone. If anyone collects more, the collected [amount] shall be returned and he shall be fined an amount equal to what he had collected. If this 1 *paisā* is collected from an *adālata* for [the ordeal of taking an oath by touching] a stone, it shall be given to the *koṭavālas* of the *adālata*. [If it is collected from] an *amāla*, it shall be given to the *kaṭuvālas*.

2. While deciding a dispute according to the *Ain*, no money shall be collected from any of the litigants for an acquittal by the jury<sup>232</sup>. If anyone collects money for an acquittal by the jury<sup>233</sup> and enjoys it, dividing it amongst [the jury members], they shall be fined double the amount they have collected.

3. If a prisoner, when his fetters are removed after the completion of his prison term, gives, depending on his capacity [an amount] from a *mohora* to a *paisā* [to the warden who takes off his fetters], [this warden] shall take it. If [the prisoner does] not give anything, he shall not be forced to do so.

4. If someone drags a thief [to a government office] to hand him over, the *hākima*, *ḍiṭṭhā*, *bicārī*, *arjabegī*, *mahānāike* or *mahāne* officials of an *adālata*, the *dvāre* or *mukhiyā* of an *amāla*, or the *ḍiṭṭhā*, *bicārī* or the like of the various offices from the east to the west [of the Gorkhā kingdom] shall investigate [the matter] and deliver a judgement. [Such an official] shall not collect any fee from the person who comes to hand over the thief. If he collects a fee for the handing over a thief, he shall be fined double the amount he has imposed as a fee.

5. From now on, no [official such as a] *bhāradāra*, *ḍiṭṭhā*, *bicārī* or clerk of the *Kausītoṣākhānā*, *kampu*, *daphadara*, *Sadaradaphadara*, *adālata*, *Mulukīkhānā*, *meḡajina*, *Chebhaḍela*, *Bubhaḍela* and *Hiṭcoka*, nor a *potadāra*, nor a *sāyeradāra* or the like of the *kāṭhamahala* or

231 See Introduction, p. 74.

232 *sābhāsudrikā*, read *sābhāśuddhikā* (MA<sub>2</sub>).

233 *sābhāsudrikā*, read *sābhāśuddhikā*<sup>o</sup> (MA<sub>2</sub>).

any *aḍḍā* or *gauḍā* from Pahāḍa (the hill region) or Madhesa, nor any holder of an *amānata* or *rakama* assignment or the like shall enjoy presents, fees or the like which were, in accordance with established customs, received and enjoyed in earlier times. [Such fees] shall be collected for the government and a receipt shall be taken for [their payment]. If [such an official] does not collect [such fees] for the government, but enjoys them [himself], the amount he enjoyed shall be recovered from him and he shall be fined an amount equal to that.

6. Whatever income [is collected], such as fines, winning fees, *baksāunī* or *pānaphula* fees, or escheatable property (*aputālī*), or fees for the renewal of tenurial rights (*ṭhekī*), or the fees of 10 and 20 percent [collected from the losing and winning parties in a legal dispute], or confiscated property or the like, collected after the settlement of legal disputes according to the *Ain* by the *hākimas*, *ḍiṭṭhās* or *bicārīs* of the *adālatas*, *ṭhānās*, *kacaharīs*, *aḍḍā* or *gauḍā* offices of Pahāḍa, Madhesa, the centre (*sadara*, i.e. Kathmandu Valley) or the provinces (*mophasala*), of the entire realm of the King of Gorkhā, shall be recorded in the accounts (*syāhā*) of the *kacaharī* offices. Receipts and deeds of acquittance shall be issued as practiced before. In such cases, no one shall collect any fee [for issuing] a deed of acquittance. If anyone collects such fees after the promulgation of the *Ain*, the amount in question shall be returned to whom it belongs and [the collector] shall be fined an equal amount.

## 45. On Complaints before Courts

1. When a legal dispute arises concerning a *birtā*, *guṭhī*, *bekha*, *marauṭa*, *mānācāmala*, *chāpa* land or the like which is exempt from taxes, or concerning land [received] as an emolument by a *jāgira* holder, [the respective owner] himself shall investigate the case and give the judgement according to the *Ain*, if the complaint is brought before him. If a complaint is brought before him which [concerns] land other than his own, or other than land he has received as an emolument, or if a complaint is brought before him against the name of a *dvāre* or *rakamī* appointed by himself, such a case shall be sent to an *adālata* office. No one shall hear [such a legal dispute] at a local level (*dalāna ghara*)<sup>234</sup>. Also, no one shall appoint a *bicārī* at a local level. All sorts of other *kacaharīs*, too, shall not hear any legal dispute except those for which a *sanada* or an ordinance (*savāla*) is issued [authorising them to do so]. All other legal disputes shall be investigated and decided from an *adālata* according to the *Ain*.

2. The *hākima*, *ḍiṭṭhā* or *bicārī* of an *adālata* or the *mālīka* of a *ṭhānā* office shall dispose of lawsuits according to the *Ain*. Even if an [oral] order or an order through a *lālamohora* or *daskhata* comes from the king or prime minister to deal with the lawsuits in deviation from the *Ain*, [the judges] shall not obey such orders. The lawsuits shall be disposed of in accordance with the *Ain*. The [judges] shall not be fined nor convicted of committing any crime by accusing them of disobeying such a *lālamohora*, *rukkā* or oral order (*ājñā pramāṅgī*).

3. When an oral order is given by the thrice venerable *mahārāja*, prime minister, general, colonel or any other person to the *hākima* of an *adālata*, directing him to set free a person who has been placed in custody on the grounds that he confessed his crime, but that person has not yet signed the document of confession or has been placed in custody [awaiting] trial, [the *hākima* of the *adālata*] shall once write the actual particulars [to the one who has issued the order]. If the order is again issued even after the particulars are given, [the *hākima*] shall imprison the issuer of such an order. If the *hākima* could not imprison the issuer of that order, [the *hākima*] shall be fined 5 rupees.

4. When the *hākima*, *ḍiṭṭhā* or *bicārī* of an *adālata* or *amālī* or *dvāre* of an *amāla* interrogates a suspect (*jhagariyā*) who is [accused of] a crime related to cash, goods, land, sexual intercourse or homicide without beating him, and if [the suspect] of his own volition writes down

234 Lit. *dalāna* refers to 'inner courtyard' and *ghara* to 'house'.



a confession, such a written document [of confession] shall be ratified and he shall be punished. If such [a suspect again] states: 'Injustice has been done to me. I did not get justice', it is not permitted [to accept] another confession [from him]. If the written confession [obtained] earlier was [received] by beating him, or he was a minor below the age of 16, or he was mentally retarded, or he was unconscious because of having consumed an intoxicating substance such as alcohol or a drink made from hemp, and if the evidence shows and witnesses also state that 'It is true that [the suspect] had consumed an intoxicating substance [at the time of obtaining the confession]', and if such [a suspect] makes a complaint that he has not received justice, the document [of confession] written down before shall not be valid. The case shall again be investigated and be decided according to the *Ain*. The case which concerns a person who had consumed an intoxicating substance such as alcohol, a drink made from hemp, opium or the like, shall be decided only after he is no longer affected by the intoxicant. If it is decided before [the suspect] is unaffected by the intoxicant, it shall not be valid.

5. If someone insults the *hākima* of an *adālata* or accuses him [of accepting bribes by saying:] 'You are a person who accepts bribes', he shall be fined 10 rupees. If this person insults a *ḍiṭṭhā*, he shall be fined 5 rupees. The person shall be fined 2½ rupees if he insults a *bicārī* or *amālī*. If the person makes the accusation that '[Such and such an official] accepts bribes', but he cannot make the official confess it, such an accuser shall be fined the same amount he has accused the official of accepting as bribes. If it is ascertained that a *ḍiṭṭhā* or *bicārī* has accepted a bribe, it shall be seized (*lilāma*) and he shall be dismissed from his *adālata* or *ṭhānā*. If it becomes apparent that the accuser knew about the bribe accepted by the [official], and thus stated it, he shall not be held accountable.

6. If a person wanders around with other people [spreading calumnies] against a *hākima* of an *adālata* or *amāla* or the *hākima* of [an office] of any place, stating that '[Such and such a *hākima*] has committed injustices', and if such a person is neither able to confront the *hākima* or *bicārī* and make him confess, nor is he able to file a petition to the lord (*mālīka*)<sup>235</sup> about it, such a person who wanders around uttering calumnies shall be fined 20 rupees. If such a person comes to the lord and makes a complaint that [such and such a *hākima*] has committed injustices, but he is not able to confront the *hākima* of an *adālata* or *amāla* and make him confess it, and if it is ascertained that he wanders around uttering calumnies [against the *hākima*], the prime minister shall punish him depending on the kind of injustice for which he [falsely] filed a petition. If he is to be fined, [the prime minister] shall fine him.

7. If, before the promulgation of the *Ain*, a legal dispute over *raikara*, *guṭhī*, *birtā* land or the like, or over a house and homestead, or over gold, silver, jewels, utensils or the like, or over cash or goods, or over transactions recorded in a loan deed or an account book, or a dispute concerning creditor and debtor, or male or female bondservants, or male or female slaves, or freepersons, or quadrupeds or the like, or disputes over a deed of gift or the actors involved in

235 This probably refers to the king or prime minister.

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it, or over an oath on *dharma*, or over ordeals or the like was filed at an *adālata* or *amāla* and decided [from there], and if someone comes to complain: ‘The way of the *Ain* fits [in this matter]. Decide the case [again]’, another verdict reversing the decision already made [before the *Ain*] is not possible. [Such a complainant] shall be told: ‘Whatever was decided before is valid.’ Such a case shall not be investigated [again]. The decision made before shall be valid.

8. If a *ḍiṭṭhā*, *bicārī* or *amālī* official wittingly and without an order [from the king or prime minister] transfers a legal dispute to his own office which has been filed at another’s office or section, and investigates and decides it, he shall be fined 5 rupees.

9. If an *aḍḍā*, *gauḍā*, *adālata* or *amāla* office is given responsibility [to investigate] a legal dispute, and if the *ḍiṭṭhā*, *bicārī* or *amālī* [of the respective office] is investigating the case, and if the litigants come to complain [with a higher authority], stating: ‘Such and such office did not investigate our case and did not deliver a verdict’, [the higher authority] shall issue an order stating: ‘The case shall be justly decided soon according to the *Ain* from the office where it has been previously filed.’ The case shall not be transferred to another office.

10. If an official, after the promulgation of the *Ain*, reverses an earlier verdict which was delivered according to the law (*aina*), and falsely complains by making a large matter out of a small one or *vice versa*, such an official—if he is the prime minister—shall be punished by the king. If it is any other high or low-ranking official who files a petition according to the *Ain* or signs a document [in order to falsely alter the case], he shall be punished by the prime minister.

11. If someone who, by the order of the government, has gone to a foreign kingdom in a government affair as an envoy, or a military official who has received [land] as an emolument and has gone to a foreign kingdom by order or command, commits a crime [there], he shall, upon his return to his own kingdom, be given the same punishment which would have been imposed on him if the crime had been committed in his own kingdom, although he committed the crime in a foreign kingdom.

12. If an *adālata*, *ṭhānā* or *amāla* collects [in a court case] a winning fee from the winning party, who had been accused of committing homicide, or had been accused of a crime punishable by *dāmala*, or had been accused of committing a crime related to sexual intercourse, [such an office] shall not collect more than 5 rupees. Whosoever collects more than 5 rupees as the winning fee in such legal disputes, he shall be fined whatever he has collected in excess of that.

13. If a defendant (*jhagariyā*) comes to complain, stating that ‘[Such and such a court] did not treat me with justice. [The officials] made me write down my confession unjustly’, and if it is ascertained [upon enquiry] that the confession from the defendant was lawfully obtained according to the *Ain* by the *hākima*, *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre*, *kāmadāra* official or the like, of an *aḍḍā*, *adālata*, *ṭhānā* or *amāla*, such a complainant shall be made to write down another confession for making a false complaint, and shall be fined 20 rupees, if the amount in question

in the legal dispute is more than 100 rupees. He shall be fined 10 rupees, if the amount in question in the legal dispute is below 100 and more than 50 rupees. He shall be fined 5 rupees, if the amount in question in the legal dispute is below 50 rupees. Such a defendant shall be sent to the respective court where the case [against] him was previously filed. If it becomes apparent that this court had not decided the case according to the *Ain*, and if another confession needs to be obtained [from the defendant], the confession written down upon the order of the court where the case was previously filed shall be torn up. Another confession shall, according to the *Ain*, be obtained from such a defendant, and the *hākima*, *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre*, *rakamī* official or the like, whosoever forced the defendant to write down the confession unlawfully, shall be fined the same amount as he has fined the defendant. The defendant shall receive a verdict according to the *Ain*.

14. When a legal dispute is, in accordance with the *Ain*, decided by the *hākima*, *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre* or *kāmadāra* of an *adālata*, *ṭhānā* or *amāla*, and if a litigant (*jhagariyā*) comes to complain, stating: '[The verdict] is unjust', and if it is ascertained upon investigation by another court that the court where the case was previously filed has delivered the judgement according to the *Ain*, [the litigant] shall be made [to write down] a confession with the following details: 'It was out of my ignorance that I filed a false complaint about a case which had been lawfully decided, in that I stated that "[The verdict] is unjust".' [Such a litigant] shall again be fined an amount depending on the fine imposed by the court where the case was previously filed. Whatever [amount], such as a fine, a 10 or 20 percent fee, *baksāunī* fee or the like, was imposed by the court where the case was previously filed, it shall be sent to the respective court. The fine imposed afterwards shall be collected by the court which investigated the case later. If [the litigant] does not pay the amount of the fine, he shall be imprisoned at a rate of 1 month for every 5 rupees and be set free after [the fine] is paid off.

15. If a case concerning a dispute over *raikara*, *birtā*, *guṭhī*, *kipaṭa* land or the like, or over home and homestead, or [any other] land, or over cash, goods, gold, silver, jewels or quadrupeds, or over theft, is filed at a *kacaharī* and if [the defendant] approaches the plaintiff and bribes him, stating: 'Don't tell such and such [a fact to the court]', and if it is ascertained upon trial that he bribed [the plaintiff], [the case] is considered a fraud. The case does not need to be investigated. The one who offered the bribe loses the case.

16. If there are prisoners who, according to previous laws (*aina*), are punished by *dāmala*, having a letter branded [on their left cheek] for a crime of robbery, theft or sexual misdemeanour, [such prisoners] who would not receive the punishment of *dāmala* according to the present *Ain* shall be set free. If [the present *Ain*] directs [such culprits] to be enslaved, they shall be enslaved. If it directs the prison term for them to be decreased, the prison term shall be decreased, or it shall be increased [if the present *Ain*] directs to so do. From now on, [the punishment for such culprits] shall be imposed according to the present *Ain*. The legal disputes which have been settled according to prior law shall not be reversed and investigated on the basis of the present *Ain*. The decisions made according to the prior law shall be valid.

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17. If it is proved that [any official] has altered a verdict submitted from an *aḍḍā*, *adālata*, *ṭhānā* or *śrestā* office [to a higher institution] for sanction and records different evidence, or the litigant proves that [the official] has submitted a verdict for sanction without collecting documents, witnesses or the like, which are necessary to decide the case, the official who submitted the verdict for sanction shall be fined 5 percent of the total amount involved in the dispute, if it is proven that the official [did so] out of favouritism, bias or corruption. If it is proven that the official [did so] without favouritism, bias or accepting bribes, he shall be fined 20 rupees. The verdict submitted for the sanction shall be [declared] invalid and sent back [to the respective office].

18. If it is proven that a member of the Kausala has approved a request for sanction in a case in which evidence is lacking, the member of the Kausala who has approved this without considering the inadequacy of the case shall be fined 20 rupees. The sanction shall be invalid.

19. If [a legal dispute] is discussed by both sides at an *adālata*, *ṭhānā*, *aḍḍā* or *śrestā*, and if a document of acceptance of the verdict (*jabānabandī*) and a confession is obtained and, based on that, a verdict of sanction is prepared to be sent, and if the litigant and defendant are brought to the Kausala, and if both parties sign the verdict of sanction to be sent also in the Kausala, and if the verdict is approved from the Kausala and by the order (*marjī*) of [prime minister], the winner of the case is victorious and the loser is defeated. Such a case shall not be reversed. The litigant or defendant who complains [in such a case] shall be fined 20 rupees.

20. If a case is discussed at an *adālata*, *ṭhānā*, *aḍḍā* or *śrestā*, with both parties, plaintiff and defendant, assembled, and if, while a document of acceptance of the verdict and a confession is to be obtained from both parties, one party gives his signature and the other party does not, and if [the official] prepares a verdict of sanction to be submitted [to the Kausala], stating: ‘Such and such a person is not satisfied with our judgement which has been made in accordance with the *Ain* and *savālas*. We have decided to fetter and imprison him as long as he does not give his signature’, and if the official signs and stamps the verdict of sanction which is to be submitted, and brings it together with both the litigant and defendant to the Kausala, and if one of the disputing parties signs [the documents] and the other party does not, even after they are interrogated at the Kausala, and if such a verdict of sanction is approved by the Kausala, signed [by its members] and is also approved by an order [of the prime minister] stating: ‘The verdict submitted by the official where it has been decided that such a pig-headed person is to be fettered, is reasonable’, such a case shall not be reversed. Whoever [is recorded] as winner in the verdict submitted wins the case, and whoever [is recorded] to have lost the case loses it. It shall be valid and the case shall be settled accordingly.

**The regulation applicable when [a defendant] makes a complaint stating: ‘There is no plaintiff or complainant [who has filed a case against me]. The *hākima* [of such and such an office] himself acted as plaintiff and he inflicted an injustice on me’, such a *hākima* shall be given a period of 35 days [to defend himself] and the case shall**

**be decided. If [a defendant] comes to complain, stating that ‘There is no plaintiff or complainant [who has filed a case against me]. [Such and such a *hākima*] inflicted an injustice on me, stating that the prosecution is based on a *savāla* or *sanada*’, the *hākima* who inflicted injustice [on the defendant] by stating that the prosecution is based on a *savāla* or *sanada* shall be given a period of 35 days [to defend himself] and the case shall be decided:**

21. If someone lodges a complaint [in the Kausala] stating: ‘Such and such a *hākima*, *ḍiṭṭhā*, *bicārī*, *rakamadāra*, *amālī*, *dvāre* official or the like has inflicted an injustice on me’, [the Kausala] shall [order] him to write and send [the following]: ‘Such and such a person has lodged a complaint against your name. If you have decided [the case] following [the proper] way, do send [to the Kausala] the verdict to be sanctioned after having signed and stamped it, stating that the case was decided in such and such a way. If you have decided the case according to the *Ain*, *savāla*, *sanada* or verbal order [of the prime minister], do send such details in writing.’ He shall, according to the *Ain*, be given time to travel to [the Kausala] and to return home if he [lives] far away, and he shall be granted 35 days to write such documents. If he submits the verdict to be sanctioned within the time allotted, fulfilling the requirements, or sends a letter stating that the case has been decided according to such and such *Ain*, *savāla*, *sanada* or verbal order [of the prime minister], the further procedure shall be according to the *Ain*. If he is neither able to submit the verdict to be sanctioned within the given time, nor is he able to state in writing that the case has been decided [according to] the *Ain*, *savāla*, *sanada* or verbal order [of the prime minister], the complaint made by the complainant shall be approved. Such a *hākima* who has acted as a plaintiff shall be fined and punished according to the *Ain*, and the case shall be decided. If such an official [lives] nearby, soldiers shall be sent [to arrest him] after an arrest warrant (*pūrjī*) has been issued, and the case shall be decided accordingly, after having him brought [to the Kausala].

## 46. On Disputes between Adālata Offices and Amālīs

1. A holder of *jāgira* land shall himself investigate and decide the legal disputes which concern his own land [that he has received as] *jāgira* or *khuvā*. If a tenant comes to complain that the *dvāre* who is appointed by a *jāgira* holder has committed injustices, the *jāgira* holder shall not investigate such a case. It shall be forwarded to an *adālata* or *ṭhānā* office. The *adālata* or *ṭhānā* shall bring the *dvāre* and tenant [together] and justly decide the case according to the *Ain*.

2. If someone does not file his complaint at an *amāla* office, but comes to an *adālata* or *ṭhānā* to file a complaint, the trial shall be held and the income [generated through it] shall be collected from the *adālata* or *ṭhānā*. If a complaint is filed concerning *birtā*, *jāgira*, *bekha*, *chāpa*, *phikadāra*, *mānācāmala* or *khuvā* land possessed by the venerable [prime] minister or similar [persons], and if one of the complainants runs away during the trial which is being held at an *amāla* before [the case is brought] to an *adālata* or *ṭhānā*, and if he [who ran away during the trial] lodges a complaint at the *adālata* or *ṭhānā*, the official of the *adālata* or *ṭhānā* shall hand him over [to the *amāla*]. If a case is filed once at an *amāla* office, but it remains [undecided] for around 1–2 months because [the *amāla*] could not arrive at a decision, and if [the complainant], later on, comes to lodge a complaint at an *adālata* or *ṭhānā*, the case shall be investigated and the income [generated] shall be collected from the *adālata* or *ṭhānā* [itself]. If it is ascertained that an *amālī* or a *dvāre* has unjustly collected a fine [from the complainant], [the *amālī* or *dvāre*] shall be forced to return the amount in question and shall be fined an equal amount. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

3. If a legal case is filed at an *amāla*, and if the plaintiff adds a further matter [to the case] and comes to lodge [another] complaint at an *adālata*, although the case is [already] being heard at [the *amāla*], [the case] shall be reclaimed from the *adālata* or *ṭhānā* and be taken back to the *amāla*. The *adālata* or *ṭhānā*, too, shall return [the case] to the *amāla*. If [the officials from the *amāla*] do not come [to the *adālata* or *ṭhānā*] to reclaim [the case], and the *adālata* or *ṭhānā* itself decides the case, the income [generated from it] shall be collected from the *adālata* or *ṭhānā* itself. If the *amālī* requests such income, claiming that [initially] the case was filed at the *amāla*, he shall not receive it. If an *amālī* [forwards] a legal dispute to an *adālata* or *ṭhānā* for decision and the case is decided there, the income [generated from it] shall be collected from the *adālata* or *ṭhānā*. The *amālīs* do not receive it. If one litigant lodges a complaint at an *amāla* and the other litigant lodges the same [matter] at an *adālata* [or *ṭhānā*], such a dispute shall be settled by the *adālata* or *ṭhānā*. Also, the income [generated from the case] belongs to the *adālata* and *ṭhānā*.

4. Except for cases concerning homicide, or a crime punishable by *dāmala*, or concerning illicit sexual intercourse, or concerning the crime of contaminating a person through cooked rice or water, or concerning theft, or concerning the crime of accepting bribes or concerning the crime of hiding governmental revenues, if any other type of case is filed at an *adālata*, *ṭhānā*, *amāla* or *kacaharī* office, and if both—the plaintiff and defendant—state: ‘We, of our own will and at our own pleasure, shall compromise and settle [our dispute] privately (*gharasāra*)’, or if the friends, relatives or elders of the plaintiff and defendant come and state: ‘We will settle the case’, the *hākima* [of the court] shall leave the case to them, having collected 1 percent of the amount in question which has been sequestered during the dispute as a *baksāunī* fee from each—plaintiff and defendant—and having returned their documents, viz. signed *sanadas* as well as the [sequestered] amount in question. If [the litigants] have already signed a written confession, [the case] shall not be left [to their relatives and so forth] even if they [are ready to pay] the *baksāunī* fee. The case shall be investigated and decided by the *kacaharī* in accordance with the *Ain*. If [the litigants], after they withdraw [from the court], declare that they will pay the *baksāunī* fee and settle the case privately, and if they, without settling the case, come again to the *kacaharī* and file a case, action shall be taken according to the *Ain*. If they again state that they want to compromise, they shall not be allowed to do so. The case shall be investigated and decided by [the office] where it is filed. The *baksāunī* fee previously collected from them shall not be returned.

5. Except for legal disputes concerning homicide, illicit sexual intercourse, imprisonment for the failure of paying a fine or outstanding governmental dues, if any other legal dispute arises concerning one’s transactions, and complaints are lodged, and if one complaint lodged in one office concerns a huge amount, whereas another complaint lodged in another office concerns a small amount, the case and the parties involved shall be passed on to the office where the complaint concerning the huge amount has been lodged. Both disputes shall be decided by the *hākima* of that office.

6. A *baksāunī* fee is not applicable to a case which concerns homicide, the punishment of *dāmala*, illicit sexual intercourse, or to a case concerning the contamination [of others] through cooked rice and water, or concerning the acceptance of bribes or hiding of the governmental revenues. Such cases shall be dealt with in accordance with the *Ain*. Except for such cases, if any other legal dispute arises in which no damages are to be compensated or if there is no evidence to make a claim for damages, and if such a case is filed at an *adālata*, *ṭhānā* or *amāla*, and if both the plaintiff and defendant, before a written confession is signed, of their own will, at their own pleasure and happiness, declare at an *adālata*, *ṭhānā* or *amāla* that they shall settle the case [among themselves], or if their friends, relatives, clan members or elders declare: ‘We will settle their case’, 1 percent of the fine which would have been imposed [on the litigants] shall be collected as a *baksāunī* fee and they shall be set free. Once the written confession is signed or once they have left [the office] declaring that they shall settle the case among themselves, and [later] they come again to the *adālata*, *ṭhānā* or *amāla* without having settled the case, then they will not be allowed to settle the cases themselves [again] with any declaration of compromise. They shall, in accordance with the *Ain*, be fined or punished.

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7. If an *amālī*, *dvāre*, *rakamī* holding *birtā*, *bekha*, *phikadāra*, *chāpa*, *mānācāmala*, *marauṭa*, *guṭhī* or *jāgira* land brings a legal case concerning his land to an *adālata* or *ṭhānā* and asks for investigation of this case, whatever income, such as the *daṇḍakuṇḍa* [fee], or [the fee of] 10 percent [to be paid by the winner] or [the fee of] 20 percent [of the amount in question to be paid by the loser], is generated from the legal dispute decided by the *aḍḍā*, *adālata* or *ṭhānā*, 10 percent of it shall be taken and [the remaining sum] shall be handed over to the person who is the holder of that *birtā*, *bekha*, *phikadāra*, *chāpa*, *mānācāmala*, *marauṭa*, *guṭhī* or *jāgira* land.

8. If someone beats up another person, unless the attacker is one who is maimed, lame, mute or mentally deficient, or if someone draws blood from a person, or breaks his limbs, or verbally abuses him, and if the one who has been beaten up or verbally abused lets [the offender] off, declaring ‘Although he did this [to me], I will bear it and will not lodge a complaint’, [the officials] of the *aḍḍā*, *adālata*, *ṭhānā* or *amālā* offices or the possessor of *guṭhī*, *birtā*, *bekha*, *chāpa-chapelā*<sup>236</sup> land, or the holders of an *ijārā* contract or *amānata* assignment shall not arrest [such an offender]. If the one who has been beaten up or verbally abused lodges a complaint, and if he, after the confession is obtained, declares ‘I forgive him. Set him free’, 1 percent of the fine which should have been imposed on [the offender] who beat [the victim] up or abused him verbally, shall be collected as long as [the defendant] has not undergone [the ordeal] of taking an oath on stone or *darbha* grass, and a settlement deed shall be prepared after tearing up the written confession. If such a complaint has been filed and a confession [from the defendant] has already been obtained and also [the ordeal] of taking an oath on stone or *darbha* grass has been conducted, [the offender] shall not be excused, even if [the victim] who was beaten up or verbally abused declares: ‘I forgive him. Set him free’. The *kacaharī* shall take actions according to the *Ain*. The [victim] who was beaten up or verbally abused is not required [to pay] a fee for winning the case. He shall be let off.

9. If someone seizes hold of someone else’s jewellery, gold, silver, utensils, cash, commodities or the like, or land, house and homestead, male or female slaves, livestock [such as] quadrupeds or birds, or his standing crops or the like, or allows his quadrupeds or the like to eat someone else’s standing crops, or destroys these, and if the owner of such [items] does not lodge a complaint at an *adālata* or *amāla*, but forgives [the offender] and lets him off after recovering his wealth or commodities or surrendering [his wealth or commodities], the owner is allowed to do so. He shall not be held accountable. If [the victim], after he has lodged a complaint at a *kacaharī* and a confession has already been obtained, declares ‘I forgive [the offender’s] crime. Set him free’, 1 percent of the fine which should have been imposed [on the offender] who would have lost the court case shall be collected as a *baksāunī* fee, after having torn up the confession and issued a settlement deed (*milāpatra*), and the [offender] shall be set free—as long as [the defendant] has not yet undergone [the ordeal] of taking an oath on a stone or *darbha* grass. If such a complaint has been filed at a *kacaharī* and a confession [from the defendant] has already been obtained, and also [the ordeal] of taking an oath on a stone or *darbha* grass has been conducted,

236 *Chapelā* seems to be an echo word.



[the plaintiff] shall not be exempted from the fine, nor the [plaintiff and defendant] from the [fees of] 10 and 20 percent [respectively for winning and losing], even if the owner wants to let [the offender] off. The *kacaharī* shall take actions according to the *Ain*. It shall be at the pleasure of the owner as to whether he exempts [the offender] from the payment of damages or not.

**Two regulations to be applied when a *baksāunī* fee is to be collected in a dispute concerning a loan transaction between creditor and debtor, as a consequence of such a transaction [the creditor] has [the debtor] arrested, and brings him [before the court], declaring that he, the creditor, is entitled to collect such and such [an amount] from the debtor, but it is proved that the person who had [the debtor] arrested is not entitled to the total amount he has claimed, and in such a situation [creditor and debtor] come to [the court], declaring that they shall settle the case [among themselves]:**

10. The *baksāunī* fee shall be collected from both—the one who advanced the loan and the one who received it—at the rate of 1 percent of the total amount in question as confirmed by both parties in express terms.

11. If [a creditor and debtor] have not agreed in express terms [on the amount of the loan], and if [the creditor] files a complaint without any investigation, claiming that he is entitled to collect a large amount [from the debtor]—although he is [only] entitled to collect a lesser amount—, and he has [the debtor] arrested, 2 percent of the total [amount] he [claimed] in excess in writing shall be collected as a *baksāunī* fee; the arrested [debtor] is not required to pay this amount, as it has been ascertained as not to be paid by him.

## 47. On Statutory Time Limits

1. Concerning a case about land, cash, commodities, quadrupeds, male or female slaves, caste, [contamination through] cooked rice, incest, theft or adultery, if a trial is being carried out at a *kacaharī* office, but the defendant absconds before the case is decided, or he absconds before the trial is carried out, and if he makes a complaint with the prime minister within the time limit after a 35 days' notice is posted at his house according to the *Ain*, the clerks (*kāmadāras*) of the respective office by which the notice is posted shall be informed. A summons (*pramāṅgī*) shall be sent to that place. If he comes to present himself to the office by which the notice is posted within the 35 days' time limit, the case shall be investigated and decided according to the *Ain*. If he does not come to present himself within the time limit, but argues after the time limit has expired that he had filed a petition to the prime minister or had lodged a complaint at another *kacaharī*, or he comes [to present himself] within or after 35 days after the plaintiff has died, his argument shall not be heard again. The person who absconds after having committed a crime punishable by ostracism with respect to cooked rice, shall be ostracised with respect to cooked rice. The person who absconds after having committed a crime punishable by ostracism with respect to water, shall be ostracised with respect to water. If he absconds after he is accused of having had illicit sexual intercourse, it shall be deemed that he has had illicit sexual intercourse. He shall be punished according to the *Ain*. The persons who are contaminated by him through cooked rice and water shall be granted expiation. If such a defendant comes to make a complaint after 35 days, he shall be regarded as a liar. If the defendant makes an inadmissible complaint on his case in which a fine or punishment was, according to the *Ain*, imposed, depending on the previously committed crime, and which was justly decided [after granting him] a period in which [to defend himself], he shall additionally be imprisoned for 1 month. If he pays double of fine set in lieu of the prison term, it shall be accepted and he shall be set free.

2. If someone absconds after or before hearing of being accused of homicide, or absconds after being confronted [with the accusation] at the *kacaharī*, and if he again lodges a complaint with the prime minister after the notice of the 35 days' [time limit] is posted from the *adālata*, *ṭhānā* or *amāla* office, [the prime minister] shall direct the clerks of the respective office by which the notice was posted to 'Investigate the case and decide it', or he shall send a *pramāṅgī* [with instructions to settle the case]. If he comes to present himself at the *kacaharī* within the statutory period, the case shall, according to the *Ain*, be investigated and decided. If he does not come to the *kacaharī* within 35 days, but states, after the time limit has expired, that he had filed a petition to the prime minister or had lodged a complaint at another *kacaharī*, or he comes within or after

35 days after the plaintiff died, he shall be considered a liar. Such a case shall not be investigated. Such a [culprit] who is to be executed shall be executed, one who is to be punished by shaving his head [in lieu of death sentence] shall be shaved, and one who is to be punished by *dāmala* shall be sentenced to *dāmala*.

3. If an official from the *adālata* or *amāla* is deployed in order to arrest a person who has killed someone, and if that person absconds and saves his life, he who absconded—if he belongs [to a caste whose members] may be sentenced to death [for committing murder]—shall be executed on the same day when he is arrested, or he—if he belongs [to a caste whose members] may be sentenced to *dāmala* [in lieu of death sentence for committing murder]—shall be sentenced to *dāmala*. If such [an offender] does not present himself at the *adālata* or *amāla* within 35 days, [his property] shall be confiscated according to the *Ain*. If the offender is arrested after the confiscation of his property, he shall, in accordance with the *Ain*, be punished depending on the crime [he committed]. The property of such an offender shall not be confiscated until 35 days [after the crime was committed]. If the property of such an offender has been confiscated after 35 days have passed, and if [later] the offender is arrested and punished, the confiscated property shall, nevertheless, not be returned.

4. If an accused person absconds before his trial is held, that person, irrespective of whether it is a man or woman, loses his case. Such a legal dispute shall not be withheld. The person who is present [at the trial] wins, the person who absconded shall be considered to have lost [the case].

5. If a complaint is lodged at an *aḍḍā*, *aḍālata*, *ṭhānā*, *amāla*, *kacaharī* or the like, and if a litigant absconds while the trial is being held, notice of a time limit of 35 days shall be posted on the door of the house of the person who has absconded. If he comes to turn himself in within the statutory period, the case shall be settled and decided according to the *Ain*. If he does not come to turn himself in within 35 days, [such a litigant] who absconded loses the case. A favourable verdict (*jitāpatra*) shall be issued to the [litigant] who is present [at the trial]. Once the person who absconded is traced, he shall be made to write a confession and he shall be punished. A litigant who absconds because he was tortured at a *kacaharī* out of bias, shall file a complaint within 35 days against the respective *hākima*, *ḍiṭṭhā* or *bicārī* of the *adālata*, *ṭhānā* or *amāla*. He shall turn himself in at another *kacaharī*. The one who comes [to turn himself in] after 35 days shall be considered a liar. Such a person shall be made to write a confession and shall, in accordance with the *Ain*, be punished.

**Four regulations applicable when someone accuses another person of homicide and has him arrested, but does not come<sup>237</sup> to present himself [during the trial]:**

6. If someone has someone else arrested, but does not present himself [during the trial], notice of a time limit of 35 days shall be posted on the door of his house.

237 *āudā*, read *naāudā* (MA<sub>2</sub>).

#### 47. On Statutory Time Limits

7. If the accuser comes to present himself within the time limit, the case shall be settled in accordance with the *Ain*.

8. If the accuser who made the allegations does not come to present himself within the time limit, the person placed in custody shall be set free.

9. As soon as the accuser is arrested, on the same day he shall be punished according to the *Ain*'s [regulation] laid down for any person who falsely accuses someone of homicide.

**Two regulations applicable when a plaintiff or a culprit who appears at the *kacaharī* after notice of a time limit has been posted in accordance with the *Ain*, states: 'Evidence, such as signatures, *sanadas* or the like, are in such and such a place. I will go to get them.'**

10. In order to obtain the required evidence written down in the deposition, such as documents and the actors mentioned there, witnesses, rights (*bhoga*) or the like, the *hākima* of the *kacaharī* shall, on his own consideration, decide how [the evidence] shall be procured. Depending on the case, a time limit of 1 to 10 days and a grace period shall be set, after estimating the time required to go there, come back and search for the documents, the required documents and evidence shall be procured and the case shall be settled according to the *Ain*.

11. Among the evidence, such as documents, witnesses, rights or the like, which is to be procured according to what has been recorded in the deposition, a report confirming (*akaranāmā*) what has not been brought [to the court] shall be prepared. Whatever evidence, such as documents and the actors mentioned therein, witnesses, or rights, has been brought [to the court], shall be investigated and the case shall be decided. Any evidence such as signatures or *sanadas* brought later, after such a report (*akarna*) has been prepared, shall be considered false.

**Three regulations applicable when a litigant for whom notice of a time limit has been posted comes to present himself [for the trial] within the period stipulated, [but] absconds again:**

12. If [a litigant] comes to present himself within the time limit at the same *kacaharī* [where the trial is being held], and if he absconds again, another notice shall again be posted, granting him a time limit only for as many days as remain of [the time limit which was given to him] in the notice previously posted.

13. If he comes to present himself within the remaining days of the time limit, the case shall be decided by proceeding in accordance with the *Ain*.

14. If he does not come to present himself within the remaining days of the time limit, he loses the case. The case shall not be withheld. A favourable verdict (*jītāpatra*) shall be issued to the [litigant] who is present [at the trial]. The [litigant] who presents himself within the period stipulated, but absconds before the case is decided, shall be considered fraudulent and a liar.

**Three regulations applicable when a litigant, for whom notice of a time limit has been posted, does not come himself [to the trial], but sends a letter or message:**

15. If notice of a time limit has been posted at the house of a litigant, and if he, at his own pleasure, goes far away, such as to a different or a foreign territory, unless he is dispatched by the government, and if he is unable to come himself [to the trial] within the period stipulated and sends a letter or message [informing the court of his absence], and if the letter or message is sent within the time limit, and he sends it together with the admission of his guilt (*akrāra*)<sup>238</sup> [for not being able to attend the trial on time], signed and stamped by himself, the case shall not be dismissed on the grounds that the time limit has been exceeded. If he presents himself at the *kacaharī* within [the period] estimated for his arrival [at the court] at the rate of 4 *kośas* per day plus up to 10 days for searching for documents, his case shall be settled according to the *Ain*.

16. If the litigant neither comes to present himself to the *kacaharī* within the period stipulated, nor sends [a letter or message] with the admission of his guilt, the time limit given to him previously shall be [considered] valid and the case shall be decided.

17. If the litigant sends a signed and stamped letter [to the court] together with any and all available documents and evidence [related to his case through] his attorney, stating: ‘I myself cannot come [to the court]. I have sent, through such and such a person to whom I have given power of attorney, all the available evidence which is required for the case, such as the documents recording the actors involved in the matter. If any additional evidence, such as documents recording the actors involved in the matter, is established [later], the evidence report (*akarna*) will be false. If this person (i.e. my attorney) is defeated, it is my defeat. If he wins, it is my victory’, the case recorded in the letter shall be investigated and shall, in accordance with the *Ain*, be decided.

238 The meaning of this term is uncertain. We understood it as being derived from the Persian term *iqrār* denoting ‘the acknowledgement or admission of a right or claim, as of debt. [...] also a confession or acknowledgement of guilt’ (Wilson 1855: 215 s.v.). TND derives also the Nepālī term *akarna*, which is used in § 11 of this Art., from the same Persian term.

**Two regulations applicable when a person from a province for whom a time limit [for appearing before court] has been posted according to the *Ain* comes to the centre (i.e. to the Kathmandu valley) to make a complaint:**

18. If a time limit of 35 days [for appearing at a *kacaharī*] has been posted at the house of [a litigant], and if he, without presenting himself, sends a letter or notice to that *kacaharī*, stating ‘I am not satisfied. I will go to make a complaint at the [court] in the centre’, and comes to complain at the [court] of the centre, and if he arrives [there] within the days estimated for his arrival [at the court] at the rate of 4 *kośas* per day, the case shall not be dismissed on the claim that he has exceeded the time limit. The case shall, in accordance with the *Ain*, be settled and decided. The time limit posted by the provincial [court] shall be invalid.

19. If such a litigant does not arrive at the [court] of the centre to complain within the period of days stipulated for his travel [to the centre], his statement ‘I have sent a notice or letter [to the local court]’ shall be considered false. The time limit previously [posted] shall be approved and the case shall be decided.

20. If a legal dispute is filed at an *adālata* of Nepāla, and if the litigant has written down a statement of acceptance [of the court decision] (*jabānabandī*) and signed it, and if the office prepares a report [of the case] accordingly, and if a litigant absconds after such a report signed and stamped by [the court] office has been submitted to the Kausala, and if such a litigant approaches the prime minister and makes a complaint within 7 days after having absconded, the case shall be investigated and justice shall be delivered according to the *Ain*. If he does not approach [the prime minister] within 7 days, he loses the case. Such a case shall not be withheld. The report [submitted by the court] for decision shall be approved and the case shall be decided. The amount in question and a fine equal to it is to be paid by the litigant who has absconded and shall be collected from his household. If it is not sufficient, the due amount to be recovered from, or the punishment to be imposed on, the litigant who absconded shall be recovered, or imposed, according to the report [submitted] for decision on the day he is arrested.

## 48. Section on Complaints against a Court<sup>239</sup>

**The regulation applicable for the punishment of any court official who adds or omits facts to or in the written depositions of a plaintiff or defendant and forwards his written verdict [for sanctioning]:**

22. The *hākima*, *ḍiṭṭhā* or *bicārī* of an *aḍḍā* or *adālata* office shall investigate the particulars recorded in the depositions of both parties—plaintiff and defendant—and shall forward his written verdict [to a higher authority for sanctioning] after procuring the [required] evidence. If a stubborn litigant does not ratify the written verdict through a letter of consent (*jabānabandī*) after the particulars recorded in the depositions have been investigated and the [required] evidence procured, a written verdict shall be forwarded [to the higher authority] stating: ‘We have decided to fetter [such and such a litigant] in accordance with Section Number 10 of [Art. 37] “On Obtaining Written Confessions”.’<sup>240</sup> If, upon investigation of the written verdict, it is ascertained that the written verdict was forwarded without investigating all evidence referred to in the depositions, or was forwarded after investigating only some of the evidence and ignoring other parts of it, and if it is ascertained upon the investigation of the evidence [presented] that [some] evidence related to the case has been ignored in order to turn the [rightful] losing party into the winning one and the [rightful] winning party into the losing one, and if it happens that a *hākima* has so done out of favouritism, bias, or after accepting bribes, he shall be fined an amount equal to the amount in question of the case, having obtained a declaration of consent [for his sentence] from him. If it happens that he has acted not out of favouritism or bias, and without accepting bribes, he shall be fined from 1 to 20 rupees, depending on the prime minister’s consideration, and the written verdict forwarded [for sanctioning] shall be declared invalid. Even if such a *hākima* has not considered [all evidence related] to the case, but it is ascertained that he forwarded [a written verdict] in which the [rightful] winning party was declared the winner of the case and the [rightful] losing party declared the loser, one shall assume that his reasoning is not sufficient. Such a *hākima* shall not be held accountable. He shall be made to issue a declaration of consent, stating that he has made a mistake and could not carry out [his tasks] properly, and shall be set free.

239 This is a continuation of Art. 45.

240 § 37.10 allows court officials to imprison a litigant who, despite the fact that his crime has been established by the evidence, does not sign his written confession.

## 49. On Trial by Ordeal

1. It has been brought to attention that, in some places, trial by ordeal is carried out upon someone's request, by putting [the defendant] into a jute bag (*dhokro*) and plunging him under water. From now on, no such trial by ordeal in violation of the *Ain* shall be carried out. If [the defendant] who has been plunged under water dies, [the official] who ordered such a trial by ordeal—irrespective of whether he is a *ḍiṭṭhā*, *bicārī*, *amālī* or *jimmāvāla*—shall be put into a jute bag and plunged under water. The trial by ordeal shall be nullified.

2. No trial by ordeal shall be carried out in disputes concerning land, quadrupeds, gold, silver, jewellery, utensils, cash and immobile goods, or in cases concerning homicide, or in cases in which a free man is claimed to be a slave, or in cases of witchcraft, illicit sexual intercourse or the like. The executive officials of any *adālata* office, or a *ḍiṭṭhā*, *bicārī*, *amālī*, *dvāre*, *tharī*, *mukhiyā*, *mijhāra* or the *bhāradāras* posted at the various *gaudā* offices, who carry out a trial by ordeal and base their verdict on it, shall be fined 20 rupees. The verdict based on such an ordeal shall be invalid. An *adālata*, *amāla* or *gaudā* office shall re-investigate that dispute, and give a verdict by considering the documents and actors mentioned therein, endorsements, witnesses, testimonies and rights (*bhoga*). When the case is settled in accordance with such particulars, whoever among the two litigants wins [the case], it shall be valid for him.



## 50. On Punishments and Fines

1. If a person commits crimes which are punishable by execution, *dāmala*, or enslavement several times, he shall, in accordance with the *Ain*, be executed, punished by *dāmala*, or enslaved. Punishments shall not be added up in such crimes. [In the case of thievery,] if someone is deemed to have committed several acts of thievery, he shall, in accordance with the *Ain*'s [Art. 68] 'On Theft', be imprisoned for as many offences as he has committed, adding up the different prison terms [to which he has been sentenced]. Concerning illicit sexual intercourse, if a person has illicit sexual intercourse with a woman whose caste status is inferior to his own and who belongs to a Water-unacceptable or Untouchable caste, the punishment shall not be added up even if he has committed sexual intercourse with around 2–3 such women. He shall be punished [only] for one case of illicit sexual intercourse.<sup>241</sup> If a person has illicit sexual relations with a woman whose caste status is superior or inferior to his own, but who belongs to a Water-acceptable caste, he shall be imprisoned and fined, adding up [the punishments] according to the *Ain*, depending on the number of such women with whom he has had illicit sexual intercourse.

2. If a litigant has committed multiple wrongdoings, the respective regulations (*ain*) relating to these wrongdoings shall be considered, and the punishments of all wrongdoings he is deemed to have committed shall be added up and he shall, in accordance with the *Ain*, be imprisoned or fined, depending on what is applicable to him.

3. A person who owes to the government land revenue he has collected, but has not submitted this where he should have submitted it, or a person who has stolen [someone's property] shall be imprisoned at the rate of 1 month for every 5 rupees, as long as the embezzled or stolen amount and a fine equal to that amount are not paid.

4. If a plaintiff has won his case and [the defendant] is made to compensate him to the amount in question, and if the plaintiff dies [before] 10 percent [of the amount in question] has been collected [as a court fee], then his family members must pay this 10 percent and the winning fee, if they had enjoyed the amount in question [before]. Whatever [fees], such as the winning fee or the 10 percent [court] fee, need to be collected, they shall be collected from the sons, wives and brothers of the deceased plaintiff.

241 This probably refers to a 'concurrent sentence', where a convict is allowed to serve all of his sentences at the same.

## 50. On Punishments and Fines

5. If a debtor is fined or [fines or levies] have been imposed on him, such as the *pānaphula* fee or 20 percent [of the amount in question as court fee] by an *adālata*, *ṭhānā*, *aḍḍā* or *amāla* office or by [the holder of] tax exempted land, such as *guṭhī*, *birtābitalapa*, *bekha*, *marauṭa*, *chāpa*, *mānācāmala*, *kīpaṭa*, state-owned land or the like, and if bailiffs are dispatched to arrest such a debtor, or he is released on bail, or he has fled from the *kacaharī* office, and if such a debtor dies, the deceased person's crime shall be excused. Once the convict who has been fined dies, then his wives, sons, brothers or other family members must not pay that fine. If [any official] seizes hold of such a debtor's family or children, he shall be fined an amount equal to the fine or levy he collected.

6. If a person is fined according to the *Ain*, he shall be let off if he pays the amount of the fine. If he does not pay it, he shall be imprisoned at the rate of 1 month per 5 rupees. He shall be set free after he has served his prison term. [Irrespective of whether a culprit is sentenced] to imprisonment for years or for months, he shall be set free if he pays the amount [set in lieu of the prison term] at the rate of 1 month for every 5 rupees. If he does not pay the amount of the fine, he shall be imprisoned for as many years and months as it has been written down [in the judgment] and be set free. If [according to the *Ain*, a culprit] should not be set free for the amount set in lieu of the prison term, he shall be set free if he pays double the amount set in lieu of the prison term. If [according to the *Ain*, a culprit] should not be set free even if he pays double the amount set in lieu of the prison term, he shall be set free if he pays four times the amount set in lieu of the prison term, if he is not a murderer, someone who orders a killing, is engaged in a murder plot, or is a thief.

7. Except for disputes between a creditor and debtor, if [a litigant] can neither pay the damages nor the fine [imposed on him] in a legal dispute over theft or over land, cash and commodities, quadrupeds or the like, and if the other litigant remits the damages, [the convict] shall be imprisoned at the rate of 1 month for every 5 rupees only for the amount of the fine and be set free. If the recipient of the damages does not remit the damages, and nothing can be raised from the [convict's] house, he shall be imprisoned at the rate of 1 month for every 5 rupees for both the damages and fine and he shall be set free. After he has been imprisoned and set free, the beneficiary of the damages shall not be permitted to lodge a complaint claiming damages.

8. If any [government servant] from a colonel to a labourer does not pay a fine, winning fee, *baksāunī*, *chaiṭī* or [court fee] of 10 or 20 percent which is imposed according to the *Ain*, or [else] does not give up property [which is confiscated according to the *Ain*], then the *hākima* of the *adālata* office shall send a notice which he has had stamped to the clerks of the *daphadara*, stating 'We need to deduct (lit. "collect") such and such an amount from the emolument of such and such a person for such and such a reason. Withhold his emolument and send it [to the *adālata*]'; then the clerks of the *daphadara* shall withhold such [a government servant's] emolument and transfer it [to the *adālata*] and take a receipt for it. If the *hākima* of an *adālata* sends a stamped notice [to the clerks of the *daphadara*] urging: 'We need to deduct such and such an amount from the emolument of such and such a person for a specified reason', and if the clerks of the [respective]

*daphadara* do not withhold the emolument of that person and do not send it [to the *adālata*], the fine to be paid by that litigant who is a holder of *jāgira* land, shall be collected from such clerks and they shall [additionally] be fined an amount equal to that fine. If the amount mentioned in the [stamped] notice received from the *adālata* exceeds the *jāgira* holder's emolument, [the clerks of the *daphadara*] shall transfer whatever amount is there. The clerks of the respective *daphadara* shall not be fined for the outstanding balance.

9. If a [culprit] is, in accordance with the *Ain*, fined by [one of the] four *adālatas* or a *ṭhānā*, or by the *addā* or *gaudā* offices of the east or west, or by an *adālata* or *amāla* of the various provinces, and if such a [culprit] is imprisoned because he could not pay the fine imposed on him, and if he flees, or a prisoner who is serving a prison term for a certain period, or a prisoner [who is imprisoned] for theft, or a prisoner who is to be punished by *dāmala* or execution flees, and if such a prisoner is not found, then the *hākima*, *ḍiṭṭhā* or *bicārī* of the *adālata* or *ṭhānā* or the *dvāre* of the *amāla* who imprisoned such [a convict] cannot be held liable for the amount owed by the prisoner who fled. The Kumārīcoka office or any other office which clears [the governmental accounts] shall exempt [such an official] from [the payment of] that amount. If it is deemed that [the official] aided [the prisoner] to flee and escape by accepting bribes or out of favouritism, and if the prisoner is [again] arrested, [the official] is not required to pay the fine (*bigō*) for the [entire] prison term, [but] he shall only be fined an amount equal to the remaining [days] of his prison term, deducting [the period] up to the day [the prisoner] escaped. If the prisoner who fled is not arrested, then the fine for the remaining [period] of the prison term, as well as the bribes he accepted, shall be collected from [the official] who helped the prisoner to flee. He shall be fined an amount equal to the amount accepted as bribes and for the remaining prison term. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

10. If a person who has committed homicide, or committed a crime punishable by *dāmala*, committed adultery, theft or [else] committed a crime punishable by ostracisation with respect to cooked rice and water, or if a debtor—whether he is a government servant or a subject, or a male or female bondservant—has committed a crime in the kingdom where he had been living, and if such a person left that kingdom and [started] to live in a foreign kingdom a long time ago, and if this kingdom is annexed to [the kingdom in which he lived before] through war or through an alliance, and through the new boundaries [the kingdom in which he lived in the beginning] becomes his homeland again, then such culprits who have committed the crimes mentioned above and who had been living in that foreign kingdom before that [territory] became part [of the kingdom in which they lived before] shall not be held accountable of committing a heinous crime (*rājakhata*). They shall not be punished. In such a case, aggrieved husbands, too, shall not be permitted to kill their wife's paramour and shall not be permitted to punish him according to the *Ain*. Neither a creditor nor the government shall be permitted to seize hold of such a culprit, claiming that he owes them money. Also, the bondservants or male and female slaves who fled become emancipated. Their owner shall not be permitted to arrest them. In the case of culprits who fled and lived [in that foreign land] after committing a crime which is punishable by ostracism with respect to cooked rice and water, then cooked rice and water [touched by them] shall be unacceptable.

11. If a [government servant] arrests a married woman who bears a status giving her husband the right to kill his wife's paramour, or who bears a status requiring her paramour to compensate her aggrieved husband for the marriage expenses, [or else] arrests a widowed woman or unmarried girl, accusing her 'You have done such and such a wrong', and if [the arrest of that woman] is based on false grounds and no plaintiff has lodged a complaint against her, and if it is [also] deemed that the woman has neither had illicit sexual intercourse with anyone nor has she done any wrong, then [the government servant], such as a *bhāradāra* of a *gaudā* office, a *hākima*, *ḍiṭṭhā* or *bicārī* of the *adālata* or *ṭhānā*, or an *amālī*, *dvāre* of an *amāla* or a *rakama* holder or the like, who has arrested that woman on false grounds shall be fined 100 rupees, if he has arrested a woman who belongs to a Sacred Thread-wearing caste. If he has arrested a woman who belongs to a Non-enslavable Alcohol-drinking caste, he shall be fined 80 rupees. If he has arrested a woman who belongs to an Enslavable Alcohol-drinking caste, he shall be fined 60 rupees. If he has arrested a woman who belongs to a [Water-unacceptable but] Touchable caste, he shall be fined 40 rupees. He shall be fined 30 rupees if he has arrested a woman who belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

12. If a [government servant] arrests a man from any of the Four Varṇas and Thirty-six castes, accusing him: 'You have done such and such a wrong', and if it is deemed that [the accused person] has neither done anything wrong nor has any plaintiff lodged a complaint against him, but [the government servant] has arrested him on false grounds, then the [government servant, such as] a *bhāradāra* of an *aḍḍā* or a *gaudā*, a *hākima*, *ḍiṭṭhā* or *bicārī* of an *adālata* or *ṭhānā*, or an *amālī* or *dvāre* of an *amāla*, or a *rakama* holder or the like, shall be fined 25 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

13. If there is a dispute concerning gold, silver, utensils, cash, commodities, jewellery, land, livestock, male or female slaves, illicit sexual intercourse, caste-related issues, contamination through cooked rice, or real property or trade, and if one [of the parties involved in the dispute] pours [boiling] ghee, oil, vegetable stock, water, beeswax, milk, or liquor over the other party, or throws fire, ember or ashes at the other party, and if this person [is injured] and dies as a result of the injury, [the offender]—if he belongs to a caste whose members are to be shaved [as replacement of execution]—shall be punished by *dāmala*, after his share of property has been confiscated according to the *Ain*. If it is a woman, she shall be punished by *dāmala* without [her property] being confiscated. If it is a man who belongs to a caste whose members may be punished by death, he shall be executed—taking life for life. If that victim over whom the boiling substance was poured does not die, but is cured within a month, then [the offender] shall be fined 50 rupees. If he is cured within 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 months, [the offender] shall be fined 100, 150, 200, 250, 600, 700, 800, 900, 1,000 and 1,200 rupees, respectively. If a finger of the victim over whom the boiling substance was poured cannot be used, [the offender] shall be fined, and 500 rupees shall be added to [the fine], depending on how many months [the victim] was incapacitated. If the victim's leg is paralysed, [the offender] shall be fined, and 1,000 rupees shall be added to [the fine], depending on how many months [the victim] was incapacitated. If one eye [of the victim] is blinded, [the offender] shall be fined,

and 1,000 rupees shall be added to [the fine], depending on how many months [the victim] was incapacitated. If both eyes are blinded, [the offender] shall be fined, and 2,000 rupees shall be added to [the fine], depending on how many months [the victim] was incapacitated. If his ears are damaged, [the offender] shall be fined according to the regulation applicable for blinding. If he pays the amount of the fine, it shall be accepted, and he shall be set free. If he cannot pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees. If a woman has committed such a crime, she shall be awarded half of the punishment laid down for a man.

14. If somebody holds somebody else captive without providing him with food and water, [on the grounds that he] ought to be held captive because of a dispute involving gold, silver, utensils, cash, commodities, jewellery, land, livestock, male or female slaves, caste-related issues, contamination through cooked rice, real property, irrigation channels, water [sources], [rights of] way, illicit sexual intercourse, trade or a married woman, and if the captive dies, [the offender]—if he belongs to a caste whose members are liable to shaving [as replacement for execution]—shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated. If [such an act] was carried out by a woman, she shall be punished by *dāmala*, but her property shall not be confiscated. If a person belonging to a caste whose members may be executed has killed [the victim] by taking him captive and then withholding food and water from him, the [offender] shall be executed—taking life for life. If he has held [the victim] captive and withheld food and water from him only for 1 night and 1 day, he shall be fined 5 rupees, 15 rupees for 2 days, 30 rupees for 3 days, 60 rupees for 4 days, 120 rupees for 5 days, 240 rupees for 6 days, 480 rupees for 7 days, 960 rupees for 8 days, 1,920 rupees for 9 days, 3,000 rupees for 10 days, 4,000 rupees for 11 days, 5,000 rupees for 12 days, 6,000 rupees for 13 days, 7,000 rupees for 14 days, 8,000 rupees for 15 days, 9,000 rupees for 16 days, 10,000 rupees for 17 days, 11,000 rupees for 18 days, 12,000 rupees for 19 days, 13,000 rupees for 20 days and 14,000 rupees for 21 days. If a woman has held someone captive [but the victim] does not die, she shall be fined half of these amounts. If the amount of the fine is not paid, [the offender] shall be imprisoned at the rate of 1 month for every 5 rupees.

15. If somebody holds somebody else captive [on the grounds that he] ought to be held captive because of a dispute involving gold, silver, utensils, cash, commodities, jewellery, land, livestock, male or female slaves, caste-related issues, contamination through cooked rice, real property, irrigation channels, water [sources], a path, a married woman, trade, adultery or any other sexual offence (*khatachita*), and if, having provided him with his or [the captive's] own food and water, the captive dies, the captor shall not be held accountable. If the captor provides food and water to the captive, but the latter does not consume [the food and water provided], and he dies in a fearful state of mind, the captor shall not be held accountable.

16. If somebody holds somebody else captive without providing him with food and water, because of a dispute involving gold, silver, utensils, cash, commodities, jewellery, land, livestock, male or female slaves, illicit sexual intercourse, caste-related issues, contamination

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through cooked rice, real property, water channels, water [sources], a path, a married woman, *khatachita* or trade, and the captive dies, the captor—if he belongs to a caste whose members are subject to the punishment of *dāmala*—shall be punished by *dāmala*, [whilst] if he belongs to a caste whose members may be executed, he shall be executed. [Any] offspring of those condemned to *dāmala* or executed shall not [be permitted to] receive goods or money through personal transactions or lending to and borrowing from the offspring of the one who was held captive and died. If [a debtor] is held captive and food and water is withheld from him, but he does not die, the captor shall be allowed to recover his money from the debtor [only] after he has paid a fine, depending on the number of days [he held him captive] starting from the [first] day of captivity.

17. If a person is arrested and is being held [in captivity] by another person [on the grounds that he] ought to be held captive, because of a dispute involving gold, silver, utensils, cash, commodities, jewellery, land, livestock, male or female slaves, illicit sexual intercourse, caste-related issues, contamination through cooked rice, real property, irrigation channels, water [sources], a path, a married woman, trade or the like, and if [that captive], through his own actions, falls down a steep slope, jumps from somewhere or jumps into a river or collides with something while fleeing and dies, or his legs or arms are injured or limbs are broken, the person who arrested him shall not be held accountable. If, having provided him with food and water, the captive who is held captive in his own or someone else's house or in a room, balcony or ground or top floor, dies by jumping from the window, balcony or roof, or breaks his arms, legs or limbs, or [else] dies by cutting his throat with a weapon by his own hands, or he dies because a house collapses and crushes him or he catches fire, or if he strangles himself and dies or consumes poison and dies, the captor shall not be held accountable. He shall, according to his account, be allowed to recover his money from the family of the deceased person or from those who are entitled to inherit [the deceased's] property for which there is no son as heir.

18. If a detainee or litigant who has been brought to an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā*, the Sadaradaphadara, the Kumāricoka, an *amāla* or the office of a *rakama*, *ṭheka* or *ijārā* holder does not receive food to eat for 1 day and 1 night, no one shall be held accountable. If he has been detained without both food and water for 1 day and 1 night, the officials shall be held accountable in accordance with the section of the *Ain* on detainees.

19. If a detainee or litigant receives sufficient supplies of food from his own home and frequent visits from his relatives or servants, but claims that he has not received food and drink, his complaint shall not be heard. Those who detained him in that matter shall not be held accountable.

20. In cases concerning a matter punishable by execution or *dāmala*, [the suspects] shall be fettered and the cases shall be decided [in the order] determined by the register. If a case concerning a matter punishable by execution or *dāmala* is filed while a trial in a different matter is being held, the ongoing case shall not be heard, nor any litigation brought in a different matter [before the case concerning a matter punishable by execution or *dāmala*] is decided.

MA<sub>2</sub> 51.20kh. If a creditor comes to [a court] with a complaint [against his debtor], saying ‘Imprison my debtor’, and if [the debtor is imprisoned by the court and] the creditor has made an arrangement of 6 *paisās* [per day] for food [and drink for the imprisoned debtor], the debtor shall be made to work on road construction and his debt shall be deducted from the total sum at the rate of 5 rupees for every month imprisonment. If the creditor does not make any arrangement for food and drink [to be given to the debtor], the *adālata*, *ṭhānā*, Sadaradaphadara, *daphadara*, Kumārīcoka, the *rakama*, *ṭheka* or *ijārā* holders or the *amāla* shall not imprison such a debtor. [These offices and officials] shall not receive [such a debtor, even if he is handed over by his creditor].

21. If a person lodges a complaint [against someone at a court] concerning a crime punishable by execution, *dāmala* or confiscation, or concerning the offence of forging a *lālamohora*, the prime minister’s *daskhata*, the religious judge’s (*dharmādhikāra*) expiation certificate, a writ from a *kacaharī*, the *daphadara*’s *tirjāpurjā*, a receipt, acquittance or loan deed, or concerning an offence in which someone appoints or dismisses government servants under the pretence that he is empowered to do so, or concerning a crime of illicit sexual intercourse committed with a married woman, widow or unmarried girl or with a woman whose caste status is higher than one’s own, or concerning a crime of incest which is forbidden by the *Ain*, or concerning a crime of illicit sexual intercourse with a woman from a Water-unacceptable or Untouchable caste, or the consumption of cooked rice and water from the hands of such a woman, or concerning any crime of robbery, looting or stealing someone’s gold, silver, cash, commodities, livestock, jewellery, slaves or land, or concerning a crime which is punishable by imprisonment according to the *Ain*, then the accused person shall be fettered when he is being arrested or after he is brought [to the court], and the case shall be investigated. The *adālata*, *ṭhānā* or *amāla* shall not be held accountable for having fettered an accused person in such cases. If a litigant lodges a complaint concerning any other case, the accused person who has been arrested shall not be fettered. The case shall be investigated while keeping him under surveillance, and it shall be decided according to the *Ain*.

MA<sub>2</sub> 51.21kh. If a creditor makes a complaint against his debtor, saying that the latter is not paying back his loan, and if it is ascertained through both the account [settlements] and debt register book or loan deed that the debtor is required to pay his loan back, and if the debtor too confesses this, then the debtor’s cash and immovable property, [such as his] house and land, shall be [confiscated] and auctioned off [by the court] and his loan shall be repaid, after 10 and 20 percent [court fees] have been collected from the creditor and debtor, respectively. If the debtor is bankrupt, having no cash or immovable property such as a house, land and so forth, and if the creditor requests the court to imprison the debtor and make him work on road construction, [the court]—given that the creditor is ready to provide [the debtor] with 6 *paisās* per day for food—shall imprison such a debtor as long as his debt is not paid, and deduct from the total sum owed at the rate of 5 rupees for every month imprisonment. If the creditor refuses to provide [the debtor with] 6 *paisās* for food, [the court] shall not imprison the debtor brought there by such a creditor. If the creditor refuses to take [his debtor] back, [the

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latter] shall be let off in front of the former. The clerk who lets such a debtor off in front of such a creditor shall not be held accountable. If the creditor and debtor [reach to an agreement and] jointly request [the court] permission for drawing up [a loan deed recording] the credit sum and time for its repayment, [the court] shall have [a loan deed drawn up recording] the credit sum and time for its repayment.

22. If a person comes to lodge a complaint at an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *amāla*, stating that such and such a person killed someone, or [else] states that he has a suspicion that such and such a person killed a person, and if the *hākima*, *ḍiṭṭhā*, *bicārī*, *amālī* or *dvāre* of the *aḍḍā*, *gauḍā*, *adālata* or *ṭhānā*, out of laziness or on the grounds that he is busy at work, does not hear and investigate such a case which deals with homicide, he shall be fined 200 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

23. If a person comes to report [at a court] that he has killed another person (*mānisa māryāko*)<sup>242</sup> or such and such a person has killed another person, and if the person who [admits having killed another person] or who is accused of killing another person is a relative of the *hākima*, *ḍiṭṭhā* or *bicārī* of the *aḍḍā*, *gauḍā*, *adālata* or *ṭhānā* or the *amālī* or *dvāre* of the *amāla*, and therefore [the official] does not hear the complaint or report and investigate the case, such an official shall be fined 500 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

24. If a person comes to lodge a complaint, stating that such and such a person has killed someone, or [else] states that he has a suspicion that such and such a person has killed another person, and if the *hākima*, *ḍiṭṭhā* or *bicārī* of the *aḍḍā*, *gauḍā*, *adālata* or *ṭhānā* or *amālī* or *dvāre* of the *amāla* accepts bribes and does not hear the complaint, such an official shall be imprisoned for 4 years, after the share of property which is his has been confiscated according to the *Ain*. If he pays double the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

25. If a complaint is lodged concerning homicide, and [the suspect] is arrested, or he is arrested [without a prior complaint], and if the suspect who has been brought to the *kacaharī* confesses that he killed [the person], and if the *hākima*, *ḍiṭṭhā* or *bicārī* of the *aḍḍā*, *gauḍā*, *adālata* or *ṭhānā* or the *amālī* or *dvāre* of the *amāla* accepts bribes and releases such a suspect on bail or without bail, he shall be imprisoned for 6 years, after the share of property which is his has been confiscated according to the *Ain*. If he pays four times the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

26. If a complaint is lodged [against someone] who ordered a murder or plotted a murder, and [the suspect] is arrested, or he is arrested [without a prior complaint], and if the suspect who [has been] brought to the *kacaharī* confesses that he ordered or plotted the murder, and if the *hākima*,

242 The syntax of the sentence is not very clear as to whether the litigant comes to complain that he himself killed a person or he saw that someone was killed. However, we find the first option more probable.



*ḍiṭṭhā* or *bicārī* of the *aḍḍā*, *gauḍā*, *adālata* or *ṭhānā* or the *amālī* or *dvāre* of the *amāla* accepts bribes and releases such a suspect on bail or without bail, he shall be imprisoned for 6 years, after the share of property which is his has been confiscated according to the *Ain*. If he pays four times the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

27. Except for a crime punishable by execution and *dāmala*, if it is laid down in the *Ain* that [a person who commits] certain crimes should not be set free, but he has accepted the amount set in lieu of the prison term, and if such an offender comes and declares that he will pay the amount set in lieu of the prison term, it shall be accepted and he shall be set free [only] if he pays an amount at the rate of 10 rupees for 1 month. If it is laid down [in the *Ain*] that [an offender] should not be set free even if he pays double the amount set in lieu of the prison term, then, unless he has killed a person, or ordered a person to be killed, or plotted to kill a person or committed theft, he shall be set free after having accepted the amount set in lieu of the prison term, if he pays four times as much.

28. An *aḍḍā*, *adālata* or *ṭhānā* which has sentenced a convict to imprisonment shall issue a note, stamped and specifying date and day, to him with the following particulars: ‘You are, in accordance with the *Ain*, sentenced to imprisonment for so many years, months and days because you have committed such and such a crime.’ Whoever is in charge of the jail—a *ḍiṭṭhā*, *rāiṭara*, *huddā*, *sipāhī* or *mahāne*—shall record this date and day in the prisoners’ attendance register. If the *hākima*, *ḍiṭṭhā* or *bicārī* of the *kacaharī* neither issue such a stamped note nor does he make [the concerned person in the jail] record [these details] in the prisoners’ attendance register, and if it is deemed that the imprisoned person served a longer prison term than he was sentenced to, then the *hākima*, *ḍiṭṭhā* or *bicārī* who has done so shall be fined 10 rupees for each excess month, starting from the day when the prison term of the prisoner is over, depending on how many additional days he was imprisoned after his term was over. Half of this fine shall be handed over to the prisoner who was imprisoned longer than prescribed in the *Ain*. The other half of the fine shall be collected by the Kausala.

29. If someone from an Alcohol-drinking caste whose caste status is not [completely] clear, that is whether he belongs to a Non-enslavable [Alcohol-drinking] or an Enslavable [Alcohol-drinking] caste, commits an offence, and thus needs to be punished, he shall not be punished under the assumption that he belongs to an Enslavable caste. He shall be punished under the assumption that he belongs to a Non-enslavable Alcohol-drinking caste.

30. If prisoners who have been imprisoned in a jail because of crimes related to illicit sexual intercourse, theft or any other crime, are set free, after they have been placed in a suicide squad (*jyamadala*)<sup>243</sup> and [having them] issue a statement stating: ‘If we commit any offence hereafter,

243 The meaning of this term is not entirely clear. It is possible that prisoners who were ready to carry out life-threatening duties on behalf of the kingdom were set free after performing these. However, it is not clear whether the term *jyamadala* refers to a military unit responsible for assigning such tasks to prisoners.

imprison us for double the remaining prison term from our previous sentence', and if such freed prisoners again commit a crime of theft, illicit sexual intercourse or the like which is punishable by imprisonment, then they shall, according to the statement they issued, be imprisoned by adding double the remaining prison term from their previous sentence [to their new prison term]. If such prisoners were punished by *dāmala* before [they were set free] and if they commit crimes [again], they shall be punished by *dāmala*.

**A regulation applicable to someone who committed theft of the first degree (*abbala*), [i.e.] burglary, robbery, looting or theft by deception:**

31. Among thieves who commit burglary, robbery, looting or theft by deception, only the person who commits the theft [and not his family members] shall be punished according to his crime and according to the *Ain*'s [Art. 68] 'On Theft'. Except for [acts of thievery] which are punishable by execution or *dāmala*, if the stolen amount and a fine equal to that amount is to be raised, and if the stolen property was jointly enjoyed [with the thief's coparceners]—irrespective of how many they are in number—or it [first] was jointly enjoyed and later [the coparceners] separated their joint household, the share of property of the thief [and his coparceners] which is theirs according to the *Ain* shall not be put aside [when the stolen amount and the fine is collected]. Whatever property they possess, such as cash, commodities, gold, silver, jewellery, utensils, clothes, real property, farm animals with four and two feet, male or female slaves or male or female bond-servants, shall be seized and auctioned to compensate for the required stolen amount and the fine equal to that. Once the fine and the amount in question are raised, [whatever property] is deemed to be surplus shall be returned. If the property [auctioned off] is not sufficient [to compensate the stolen amount and the fine equal to that], the thief shall be imprisoned at the rate of 1 month for every 6 rupees of the amount due. If he serves his prison term within 36 years, he shall be set free on the day when his prison term is over. Even if he has not served his prison term for the amount due within 36 years of his imprisonment, he shall not be imprisoned for more than 36 years. He shall be set free. If such a thief dies while he is serving his prison term, then his brothers, sons or [other] family members shall not be arrested, irrespective of whether he dies before or after 36 years imprisonment, because the stolen amount and the fine had previously been collected by auctioning off the property of his brothers and sons who were living in the same household, too. No one shall arrest them.

**A regulation applicable to a thief of the second degree (*doyama*), [i.e. someone] who spends [government] funds, or who spends a deposit handed over to him for custody, or who spends [something] given under his responsibility, or who spends a mortgage:**

32. If someone spends [government] funds, a deposit handed over to him for custody, or spends [something] given under his responsibility, or spends a mortgage, and if he is not able to return it when [the owner] wants it [back], and if someone comes and accuses him, saying

‘Such and such a person has spent this much [of my property]’, and if it is deemed that he actually spent it, and if the amount in question and a fine equal to that amount is to be raised from such a thief, and if the misappropriated property was jointly enjoyed [with his coparceners]—irrespective of how many they are in number—or it [first] was jointly enjoyed and later [the coparceners] separated their joint household, the share of property of the thief [and his coparceners] which is theirs according to the *Ain* shall not be put aside [when the stolen amount and the fine is collected]. Whatever property they possess, such as cash, commodities, gold, silver, jewellery, utensils, clothes, real property, farm animals with four and two feet, male or female slaves or male or female bondservants, shall be seized and auctioned to compensate for the required misappropriated amount and the fine equal to that. Once the fine and the amount in question are raised, [whatever property] is deemed to be surplus shall be returned. If the property [auctioned off] is not sufficient [to compensate for the misappropriated amount and the fine equal to that], he shall be imprisoned at the rate of 1 month for every 7 rupees of the amount due. If he serves his prison term within 24 years, he shall be set free on the day when his prison term is over. Even if he has not served his prison term within 24 years of his imprisonment, he shall not be imprisoned for more than 24 years. He shall be set free. If such a man dies while he is serving his prison term, then his brothers, sons or [other] family members shall not be arrested, irrespective of whether he served his entire prison term or not, because the misappropriated amount and the fine had previously been collected by auctioning off the property of his brothers and sons who were living in the same household, too. No one shall arrest them.

**A regulation applicable to anyone who, upon reception of a *savāla*, *paṭṭā*, *rukkā*, *daskhata* or *sanada*, promises to collect revenue from land, mines or fines or administrative fees and then submits parts of the revenue collected from the land received as *ijārā* or *amānata*, assigned to whomever it should be, such as to the five times venerable king or to his master, but enjoys and spends the [remaining] parts of the revenue collected himself:**

33. If someone, upon reception of a *savāla*, *paṭṭā*, *rukkā*, *daskhata* or *sanada*, promises to collect revenue from land, mines or fines or administrative fees and submits parts of the revenue collected from the land received as *ijārā* or *amānata*, assigned to whomever it should be, such as to the five times venerable king or to his master, but he spends some parts of it and, therefore is not able to submit the respective instalments, and if the amount he has spent and a fine equal to that is to be raised from such a person, and if that amount was jointly enjoyed [with his coparceners]—irrespective of how many they are in number—or it [first] was jointly enjoyed and later [the coparceners] separated their joint household, the share of property which is theirs according to the *Ain* shall not be put aside [when the misappropriated amount and the fine is collected]. Whatever property they possess, such as cash, commodities, gold, silver, jewellery, utensils, clothes, real property, farm animals with four and two feet, male or female slaves or male or female bondservants, shall be seized and auctioned to compensate for the required misappropriated amount and the fine

equal to that. Once the fine and the amount in question are raised, [whatever property] is deemed to be surplus shall be returned. If the property [auctioned off] is not sufficient [to compensate for the misappropriated amount and the fine equal to that], the thief shall be imprisoned at the rate of 1 month for every 8 rupees of the amount due. If he serves his prison term within 18 years, he shall be set free on the day when his prison term is over. Even if he has not served his prison term within 18 years of his imprisonment, he shall not be imprisoned for more than 18 years. He shall be set free. If such a man dies while he is serving his prison term, then his brothers, sons or [other] family members shall not be arrested, irrespective of whether he served his entire prison term or not, because the misappropriated amount and the fine had previously been collected by auctioning off the property of his brothers and sons who were living in the same household, too. No one shall arrest them.

**A regulation applicable to anyone who, upon reception of a *savāla* or *paṭṭā*, promises to collect revenue from land, mines or fines or administrative fees as an *ijārā* holder and submits parts of the revenue collected to whomever it should be, such as to the five times venerable king or to his master, but he is not able to realize [the total revenue] because he dies, [his tenants] run away, [or standing crops are destroyed] owing to natural disasters such as drought, hailstorms or the like, or the mine is exhausted, and if he is not able to meet [the target revenue] according to the agreement recorded in the *savāla* or *paṭṭā*, and if it is also not deemed upon investigation that he has spent [that part of the revenue he was not able to submit], but it is deemed that there is a [revenue] loss [without his fault]:**

34. A regulation applicable to anyone who, upon reception of a *savāla* or *paṭṭā*, promises to collect revenue from land, mines or fines or administrative fees as an *ijārā* holder and submits parts of the revenue collected to whomever it should be, such as to the five times venerable king or to his master, but he is not able to realise [the total revenue] because he dies, [his tenants] run away, [or standing crops were destroyed] owing to natural disasters such as drought, hailstorms or the like, or the mine is exhausted, and if he is not able to meet [the target revenue] according to the agreement recorded in the *savāla* or *paṭṭā*, then he shall be made to write a statement declaring ‘I promised [to submit] a certain amount of money. I have submitted such and such an amount collected from [a revenue source of] the kingdom. Such and such an amount could not be collected from [that revenue source of] the kingdom. If it is deemed upon investigation that I have spent in the meantime even one *dāma* [from the revenue I was supposed to submit], punish me according to the *Ain*.’ The shares of the property of his brothers and sons living together with him [in a joint household] which is theirs according to the *Ain*, shall not be put aside [when the outstanding revenue is recovered] because he promised something which he could not fulfil and his [brothers] would have enjoyed the profit if there had been any. Whatever property they possess, such as cash, commodities, gold, silver, jewellery, utensils, clothes, real property, farm animals with four and two feet, male or female slaves or male or female bondservants, shall be seized and be auctioned off to compensate for the outstanding revenue [the *ijārā* holder] agreed [to

submit]. Whatever property is deemed to be surplus shall be returned. If the property [auctioned off] is not sufficient, he, his offspring and his coparceners shall not be arrested and imprisoned. A certificate of acquittance shall be issued to him. If, later, it is deemed upon investigation that he has spent [from the revenue declared as lost] in the account which he had shown before, his [dues] shall be doubled and he shall be imprisoned at the rate of 1 month for every 8 rupees. If he serves his prison term within 18 years, he shall be set free on the day when his prison term is over. Even if he has not served his prison term within 18 years of his imprisonment, he shall not be imprisoned for more than 18 years. He shall be set free. If he dies while he is serving his prison term, then his brothers, sons or [other] family members shall not be arrested, irrespective of whether he served his entire prison term or not, because the outstanding revenue had previously been collected by auctioning off the property of his brothers and sons who were living in the same household, too. No one shall arrest them.

**A regulation applicable to anyone who is not able to pay a fine or a winning trial fee:**

37.<sup>244</sup> If someone [is convicted of the crime] of physical assault in which [the victim's] limbs were not broken, or of verbal abuse, or [else] is convicted of a crime involving cash, commodities, gold, silver, jewellery, utensils, clothes, real property, farm animals with four or two feet, male or female slaves, male or female bondservants, caste-related issues, contamination through cooked rice or illicit sexual intercourse, and if [such a convict] who is required to pay a fine, winning fee, *baksāunī* fee, a fee of 10 or 20 percent or damages is not able to pay the said fee, and therefore needs to be imprisoned, he shall be imprisoned at the rate of 1 month for every 9 rupees of the amount due. If he fulfils his prison term within 12 years, he shall be set free immediately on the same day when his prison term is over. Even if his prison term is not over [for serving the penalty] for [non-payment] of his dues within 12 years of imprisonment, he shall not be imprisoned [for more than 12 years]. Such a convict [who is released after 12 years] and his family members, such as brothers, sons and coparceners, shall not be arrested. A certificate of acquittance shall be issued to him.

244 The missing §§ 35 and 36 are to be found in Art. 52.

## 51. On Serving a Prison Term in Place of Another Person

1. In the case where a woman except for a crime punishable by *dāmala* commits any other offence, and if a male relative from her own or from her mother’s or father’s family comes and declares ‘On her behalf I will serve the prison term she is required to serve. Set her free!’, he who comes to promise that he will serve the prison term which she is, according to the *Ain*, required to serve shall be made issue a document [of commitment], shall be put into prison and the woman shall be set free.

2. In the case where a married or widowed woman or virgin girl except for a crime of homicide, for illicit sexual intercourse or for a matter related to the contamination through cooked rice or water, is [accused] in a legal dispute for any other [offence] punishable by a fine, and if her husband, son, father-in-law, father, brother or her husband’s brother declare ‘We will not bring her to the *kacaharī* office, whatever crime she committed we will deal with it’, this woman shall not be brought to the *kacaharī* office. Those men who came to declare ‘We will deal with it’, shall, according to the *Ain*, be fined.<sup>245</sup> If neither male [relatives of her] come to make such a declaration nor does her attorney come [to the trial], and if also her husband has gone somewhere abroad, and while a fine is to be imposed on the woman, she shall not be made perform [the rite] of touching a [sacred] stone (*ḍhuṅgo chuvānu*)<sup>246</sup>, [but] shall be made, according to the *Ain*, pay the *ṭhāḍi*<sup>247</sup> fee. The fee for the performance of touching a [sacred] stone shall not be collected from her.<sup>248</sup> If she does not pay the fined amount, she shall, in accordance with the *Ain*, be imprisoned.

245 *garnu*, read *daṃḍa garnu* (MA<sub>2</sub>).

246 Probably a rite at the end of a trial where the losing party has to touch a stone representing Viṣṇu or the king and has to place a fee on it, maybe for the purpose of expiation (see Hodgson 1836: 126 and Introduction, p. 74).

247 The meaning of the term *ṭhāḍi* which Jean Fezas records as *ṭhāḍhi* is unclear. Therefore, we can offer here speculations only. From the context it seems to be a substitution of the fee payable during the *ḍhuṅgo chuvāi*. It might be the case that women are not allowed to touch the *ḍhuṅgo*—maybe because it is identified with *sāliḡrāma*—and therefore are only standing (*ṭhāḍo*) in front of it. Khatry (1995: 50) reports about a method of forcing a confession during a trial called *ṭhāḍi*. Thereby, a betel nut is placed on the convict’s head and is pressed by a pitcher filled with water. Maybe the term *ṭhāḍi* here refers to a similar practice which perhaps replaces the *ḍhuṅgo chuvāi*. Another option is to understand the term as an adverb of *ṭhāḍo* in the meaning ‘right away’, i.e. the convict is fined immediately *without* undergoing any further rite concluding the trial.

248 § 44.1 restricts the fee paid during the performance of this rite to 1 *paisā*. Since Hodgson records a fee of 1 rupee and 1 *paisā* for it (Stiller 1984: 168), one can assume that prior to the promulgation of the *Ain* a higher fee was to be paid.

51. On Serving a Prison Term in Place of Another Person

3. In the case where a woman except for a crime punishable by *dāmala* commits any other offence, and if her husband, son, her husband's brother, her father, brother or any other from her mother's family come to declare 'I stand as surety for her. I will deal with the matter for which she is accused', the person who stands as surety for her shall be made issue a document [of commitment] and he shall be dealt with according to the *Ain*. The woman shall be set free. If no male [relative] comes to stand as surety for her, 2 bailiffs—if available women, if not, men—shall be dispatched and she shall be brought [to the court]. If she stands firm not to come, [the bailiffs] shall grab her by the site [of the forearm] where a doctor would measure her pulse and bring her to the *kacaharī* office. Then, the case shall be investigated and decided. Only male bailiffs shall not be dispatched in order to arrest a woman.

## 52. On Fines and Imprisonment (Additions)

The regulation on the actions to be taken when a *mālīka* receives money submitted by an *ijārā* or *rakama* holder who has received an administrative regulation (*savāla*), a deed of lease (*paṭṭā*) or an order (*sanada*) for [the collection of revenue derived from] land, mines or levies and administrative fees, agreed [to its terms] and carried out the tasks of his *ijārā* contract or *amānata* assignment, and [by the time] the [last] instalment [of the *ijārā* or *rakama* holder] has arrived, [the *mālīka*] has embezzled the amount by spending it himself:

35.<sup>249</sup> If someone receives money submitted by an *ijārā* or *rakama* holder who has received an administrative regulation, a deed of lease or an order for [the revenue collection derived from] land, mines or levies and administrative fees, agreed [to its terms] and carried out the tasks of his *ijārā* contract or *amānata* assignment, and that person expends the amount [received] without depositing it at the place where it is to be deposited, and if he is not able to transfer the amount [to the treasury] when [the final] instalment [of the *ijārā* or *rakama* holder] arrives, [the payment] of the amount he embezzled and of a fine equal to that amount shall be imposed on such a person, and the rightful share of the parental property [of those of his relatives] who lived together with him when he spent the embezzled amount and who left [the joint household only] after he had spent the embezzled amount, shall not be set aside [when his dues are collected]. Whatever is there—cash, goods, gold, silver, gems, kitchen utensils, cloths and dresses, house and land, livestock, male or female slaves, male or female bondservants—everything shall be listed and what is required to cover the embezzled amount and fine shall be auctioned off and it shall be handed over. Once the embezzled amount and the fine in accordance with the *Ain* have been handed over, the excess [of the auction proceeds] shall be returned to him. If his property is not sufficient to cover the embezzled amount and the fine, he shall be imprisoned at the rate of 1 month for every 8 rupees remaining as dues. If an imprisonment of less than 24 years is sufficient [to atone for his dues], he shall be set free on the day his prison term is over. Even if a prison term of 24 years is not sufficient [to atone] for the unpaid dues at [the above mentioned] rate, he shall not be imprisoned any longer and shall be set free. If such a person dies during his prison term—irrespective of whether his prison term was sufficient [to atone for his dues] or not—neither his brother and son nor any other offspring shall be arrested [in that matter] again,

249 This Art. supplies §§ 35 and 36 missing in Art. 50.



as the property of his brother and son, who lived together with him [in a joint household] was also auctioned off for the embezzled amount and fine.

**The regulation prohibiting the government from arresting someone who embezzles [income from] revenue collections, or [an amount] given into his custody, given under his responsibility, given to him as a pledge, or who embezzles [an amount] by not forwarding an instalment [received] in accordance with an administrative regulation, deed of lease or written agreement for [the collection of revenue from] land, mines, levies or administrative fees, if [the payment of] the amount he has embezzled and a fine equal to that amount is imposed on him, and on the actions to be taken if he runs away:**

36. If someone embezzles [income from] revenue collections, or [an amount] given into his custody, given under his responsibility, given to him as a pledge, or embezzles [an amount] by not forwarding an instalment [received] in accordance with an administrative regulation, deed of lease or written agreement for [the collection of revenue from] land, mines, levies or administrative fees, and if [the payment of] the amount he has embezzled and of a fine equal to that is imposed on that person, the government shall not arrest him. If he runs away, the rightful share of the parental property [of his relatives] who lived together with him when he spent the embezzled amount and who left [the joint household only] after he had spent the embezzled amount, shall not be set aside [for the recovery of the embezzled money and the fine]. Whatever is there—cash, goods, gold, silver, gems, kitchen utensils, cloths and dresses, house and land, livestock, male or female slaves, male or female bondservants—everything shall be listed and what is required to cover the embezzled amount and fine shall be auctioned off and it shall be handed over. Once the embezzled amount and the fine in accordance with the *Ain* have been handed over, the excess [of the auction proceeds] shall be returned to him. If his property is not sufficient to cover the embezzled amount and the fine, and if the brothers and sons of the fugitive declare, with regard to the remaining dues, that they will work them off by performing menial, domestic or agricultural services if they are granted a repayment schedule, a loan agreement with a deadline [for repayment] shall be drafted under the names of everyone who lived together [with the fugitive] when he received the amount [he embezzled], [sharing the dues among them] at a proportionate rate and [the dues] shall be collected in fixed instalments. If they are not able to pay the dues, those who lived together [with the fugitive in a joint household] when he received the money [he embezzled] shall be altogether imprisoned for 12 years. If an imprisonment of less than 12 years is sufficient [to atone for the unpaid dues], they shall be set free once they have served their prison term. Even if a prison term of 12 years is not sufficient [to atone] for the unpaid dues at [the above mentioned] rate, they shall not be imprisoned any longer and shall be set free. Since the property of his brothers and sons who lived together with him [in a joint household] was auctioned off for the embezzled amount and fine, it shall not be allowed to arrest them or their offspring. They shall not be arrested.

## 53. On Employing [Prisoners] for Road Excavations with the Provision of Rations

1. If the *mālīka* of an *adālata* or *ṭhānā* office does not, according to the *Ain*, employ [the prisoners] for road excavations out of favouritism, he shall be fined 20 rupees. If [the *mālīka*] does not release [the prisoners] who have served their prison term, he shall be fined, calculating for how much too long they have remained unreleased in prison, even though their prison term was over.

2. [Offenders] who have killed a person, who have committed treason, who are arrested because they are accused in a case of murder, or who are punished by *dāmala* for killing a person, shall neither be sent to excavate roads nor shall they be sent for any other task. Such [offenders] shall be fettered and imprisoned in a jail. They shall be provided with food for 4 *paisās* every day. The women who have been punished by *dāmala* for killing a person shall be fettered, sent to the ammunition magazine (*bārudakhānā*) and ordered to grind gunpowder. They shall be provided with food for 6 *paisās* every day. Women who are kept in a jail shall be provided with food for 4 *paisās* every day. The prisoners who have been punished by *dāmala* for any other crime [than those mentioned above] or the prisoners who have been imprisoned [only] for a certain period, because they have refused to sign a declaration of their consent for the fine or damages [they were awarded] or a written confession, even though they have been convicted of illicit sexual intercourse or theft, shall be provided with food for 6 *paisās* every day and shall be employed for excavating roads or for any other task. Those men who declare that they will eat at their own expense and [wish] to remain in the jail shall be kept in the jail. They shall not be sent to excavate roads or to carry out any other task. If there is an order [by the king or prime minister] to increase the rations [for a certain prisoner], they shall be increased. If it is ordered to decrease them, they shall be decreased. If a prisoner who has once escaped from imprisonment, and has [subsequently] been arrested and brought back, needs to be taken out from jail, he shall be taken out only on the order [of the king or prime minister] and under sufficient guard. Otherwise, he shall not be taken out.

3. If litigants who are accused of incest, theft or the like are detained at a *kacaharī* office, not in a jail, and if they are poor and therefore cannot afford the expenses for food from their house, the officials of the *adālata* office shall take 4 *paisās* [for one person] per day for rations from the *Kausītoṣākhānā* office and shall distribute them [to such detainees].

4. Except for prisoners who have been imprisoned at an *aḍḍā*, *adālata*, a jail or at other provincial courts of the various places for killing a person, or for those who have once fled from

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a jail and were arrested again, if those prisoners who serve [only] a certain prison term, who are imprisoned for incest, who are punished by *dāmala* or the like, are to be sent for carrying out works, they shall be divided into small groups after [careful] consideration. Among the prisoners, 4 persons shall be appointed as headmen (*nāike*). Among those 4 persons, 2 of them shall be provided with a daily ration of 9 *paisās* each. The other 2 shall be provided with a daily ration of 8 *paisās* each. These persons shall keep watch on the prisoners of their respective groups and shall not let them escape. If they realise that someone is [trying] to escape, they shall report it to the station (*caukī*). If it is deemed that [such a headman] abetted a prisoner to escape, accepting bribes, the headman who aided the prisoner to escape shall be imprisoned and the [remaining] prison term of the fugitive prisoner shall be added to his term. If a prisoner escapes due to the negligence of the headmen, they shall be whipped 10 times each with a bamboo sliver. If a prisoner escapes because of the negligence of a bailiff, soldier on watch or local revenue functionary (*mahāne*), they shall be whipped 10 times each with a bamboo sliver. If it is deemed that they helped the prisoner to escape after accepting bribes, and if they confess to this, they shall be imprisoned according to the [remaining] prison term to be served by the prisoner who fled, and be set free.

5. If [a person] is imprisoned because he is not able to pay a fine, rents or damages [imposed by a court], and if such prisoners declare that they will live at their own expense, but will not excavate roads, they shall be imprisoned in a jail, fettering them only, [but] not employing them for road excavations. [Their relatives] shall arrange food and drink for them. They shall bring this from their own house and [hand it over to their imprisoned relative] while accompanied by the guards on duty. They shall not be given permission to talk to their relatives alone. They shall be permitted to talk [to their relatives] clearly and openly in front of the guards on duty.

6. Someone who is imprisoned according to the *Ain* [with the verdict]: ‘Imprison him’, shall be fettered and be employed for road excavations, irrespective of whether he is of high or low rank. [Prisoners] who eat in the morning and evening at the expense of their own house, shall be fettered only, but they shall not be employed for road excavations. [The prisoners] who receive [food and drink] at government expense shall be employed for road excavations.

7. Women, minors or lunatics who have been imprisoned, or prisoners for whom a high official (i.e. the king or prime minister) has issued an order not to employ them for road excavations, but to keep them imprisoned in a jail, shall not be employed for road excavations. They shall be permitted to stay in the jail and consume [food and drink] from their daily ration. If an order is issued by a high official to increase the daily ration for a certain [prisoner], it shall be increased. If an order is issued to decrease the [daily] ration for a certain [prisoner], it shall be decreased.

8. The [convicts] who have been [sentenced] to *dāmala* or to death, thieves, cheats or those [convicts] who have been involved in a plot threatening the sovereignty of state affairs, shall be shackled by their hands and legs. The government shall provide them with food. They shall be

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employed for road excavations. If [someone] brings them food and drink from their home, the guards on duty shall hand it over to them. If the guards or sentries on duty permit the prisoners to communicate alone with other people or in an unobserved place, the insignia of the guards shall be torn apart.<sup>250</sup>

9. If women are not able to pay the amount set in lieu of their prison term, they shall be imprisoned in a women's prison. They shall be set free after their prison term is over. Men and women shall not be imprisoned in the same place. They shall be kept separately.

10. Women who are imprisoned in a jail shall be [ordered] to carry out whatever tasks come up, such as grinding [spices] or sewing. They shall not be made to walk outside in the streets (*galli*). They shall not be [ordered] to carry out the tasks of digging or similar [works on roads or in public spaces].

11. Amongst women prisoners who are pregnant and who are imprisoned with fetters, the women who are imprisoned and fettered because of any other crime, except those who are punished by *dāmala* or who are imprisoned due to a crime related to a homicide, shall be set free, having the fetters taken off once their foetus reaches the age of 6 months. Such women are to be pardoned. Women who become pregnant after having sexual intercourse in the jail itself shall be released from their fetters for 2 months for their delivery and shall be kept under surveillance. The Toṣākhānā office shall add a ration of 4 *paisās* per day as expenses for her delivery. After 2 months she shall again be fettered. The additional daily ration of 4 *paisās* shall also be cut back. Once the infant reaches 6 months, [a daily] ration shall, in accordance with the *Ain*, be arranged also for this infant from the Toṣākhānā office.

250 This is an expression for the dismissal from their post.

## 54. On Medical Treatment

1. If the five-time venerable king or a commoner or a similar person arranges medical treatment when his relative becomes sick, someone who is experienced in administering medicine—whether he is learned or not—and whose benevolent [character] has been ascertained, shall be ordered to administer the medicine. If [the patient] dies during the treatment of a natural cause and somebody comes to complain that an incapable doctor killed such and such a relative of his without reason, the share of property of such a false accuser shall be confiscated after setting his brothers', sons' and wife's share as well as the marriage expenses for his daughters aside, and he shall be set free.

2. If an experienced doctor gives to someone a poisonous substance such as *ajaipāla*, yellow orpiment, *somala*, or *saṃkhyā*<sup>251</sup> without [previously] purifying and cooking it, or administers any other herb by following the [prescribed] procedure (*kṛyā pugnū*), [but] without purifying it and without mixing it [with other substances], and if that person dies, that doctor shall be made to consume the same medicine in the same dosage as he had ordered the deceased to consume; if that doctor also dies, it has then been ascertained that the doctor did it out of malice. His life has gone for the life [being taken]. If nothing happens to him, it has then been ascertained that [the patient] died of a natural cause. No accusation shall be made against [the doctor] who has ordered the consumption. If a Brahmin doctor orders the consumption [of the medicine] and [the patient] dies, the same dose shall be prepared and fed to a dog or goat and if it dies, it has then been ascertained that he did it out of malice, and thus the Brahmin doctor shall be punished by *dāmala*.

3. If a poisonous substance such as *ajaipāla*, yellow orpiment, *somala* or *saṃkhyā*, which has been purified, is ordered to be consumed by following the [prescribed] procedure, and then [the patient] dies and someone comes to complain that the doctor killed [the patient], it shall be deemed that [the patient] died of a natural cause. No accusation shall be made against the doctor. The false accuser shall be fined 20 rupees.

4. If a sick person whose hand, feet or fingers have been injured by his falling down a steep slope, being swept away in a river, being crushed, being fallen upon and hit by a tree, rock or

251 According to Fezas (2000b/I: 280 n. 2–4) *ajaipāla* might refer to *baliospermum montanum* or *jatropha glandulifera*, *saṃkhyā* (= *saṅkhiyā*) to *oxidum arsenicum* and *somala* to the soma plant.

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log, or by being struck by a bullet or weapon, or who suffers from stones or boils, is a child and his father, mother, elder brother or paternal uncles addresses [the doctor] thus: 'He has such and such pain. Cure him by whatever means is necessary, [be it] cutting, slitting, bursting or sawing', or if the sick person [is an adult] and is aware [of his disease] and he himself asks the doctor [for treatment] and his wife, father, mother, elder and younger brother, son or paternal uncles also recommend [the treatment] and give their consent, and if that sick person dies after the amputation of the injured hand, feet or fingers, of slitting [to cure him from] stones and of bursting his boils or of sawing undertaken to cure his disease, it shall be considered a mishap. The ones who ordered the treatment and the one who carried out the treatment shall not be accused and held accountable.

## 55. On Fights during the Siṭhi Festival

1. From now on, no one shall engage in fights during the Siṭhi festival<sup>252</sup> in the three towns of Nepāla Valley. If anybody, after the promulgation of the *Ain*, engages in fights during the Siṭhi Festival, they shall be fined 2½ rupees each. If the amount of the fine is not paid, that person shall, in accordance with the *Ain*, be imprisoned.

2. [People] used to fight at temples (*deumāḍo*) and river banks (*ghaṭavāra*) in the four directions [of the kingdom]—the east, west, south and north—striking each other with bows and arrows, swords, kukris, stones, brickbats and slingshots. From now on, if anybody after [the promulgation] of this order engages [in such fights], he shall be fined 2½ rupees. If the amount of the fine is not paid, he shall be imprisoned for 15 days.

252 This refers to the violent festival of throwing stones which took place every year and was initiated by King Guṇakāmadeva at the place of Kaṅkeśvarī Kālī in the Kathmandu valley (cp. Kirkpatrick 1811: 197, Wright 1877: 156 and also NBhV 13.269–271).

## 56. On Assault and Bodily Injury

1. If a notable person, rich merchant or the like, or a reputed person personally beats [another] reputed or notable person, merchant or the like, or a rich person with a stick, stone, shoe or the like or kicks him, or has this done by a third person, the prime minister or the *hākima* of an *adālata* office shall decide whether he fines such [an offender] from 8 *ānās* to 20 rupees for such a crime which entails a heavy fine, or imprisons him without imposing a fine. A person who orders a third person to [beat up another person] must be fined. In all cases except for homicide, a person who beats up [another person] on the order [of such a high-ranking person], shall be fined half as much or imprisoned half as long as the person who gave him the order.

2. A person who chops off someone's nose or destroys one of his eyes shall be imprisoned for 6 years. If he pays double the amount set in lieu of the prison term, it shall be accepted, and he shall be set free. If a person destroys both of someone else's eyes, he shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated and after the confiscated property has been handed over to that person whose eyes were destroyed.

3. If there is a dispute between women or men or between a man and a woman, and if one party [involved in the fight] tears off someone's nose or ears, or bites his or her fingers and tears them off, and if [the person] who draws blood satisfies [the victim] through payment, and if [the victim], at his own pleasure, lets him off without [lodging a complaint], declaring: 'I am satisfied', [the offender] shall be let off after a deed of relinquishment of his rights [for compensation] is obtained from the victim. If the [victim] from whom blood was drawn does not accept [compensation from the offender], does not let him off and demands justice, [the offender] who bit the tip of the victim's nose with his teeth and tore it off shall be imprisoned for 3 years. If the [victim's] ears were torn off by biting, the offender shall be imprisoned for 2 years. If [the victim's] finger was torn off, the offender shall be imprisoned for 1 year. If he pays double the amount set in lieu of the prison term, it shall be accepted and he shall be set free. If [the offender] bit any other body part of the victim with his teeth and drew blood from him, he shall be fined 10 rupees.

4. If a person has been beaten up by another person, and the [victim] comes to complain that his teeth were beaten out, [the offender] shall be fined 60 rupees for each tooth. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.



5. Except for disputes concerning illicit sexual intercourse, caste status or [contamination through] cooked rice, if someone, during a dispute other than those [mentioned above], verbally abuses a person whose caste status is superior to his own, stating: ‘You are from a low caste’, he shall be fined 5 rupees.

6. If someone abuses a free person—while insulting each other or out of malice—stating ‘You are a slave’, or [else] abuses a person from any caste by stating: ‘You are a freed slave (Pāre Ghartī)’, such offenders shall be fined 5 rupees each. If the amount of the fine is not paid, they shall be imprisoned for 1 month.

7. If someone twists someone else’s finger or toe during a dispute, and if, upon examination, [the finger or toe] turns out to be swollen, [the offender] shall be fined 20 rupees for the finger he has twisted. In this way, he shall be fined at the rate of 20 rupees for each finger [he has twisted]. If someone twists [a person’s] hand or leg and if, upon examination, it is ascertained that it is twisted and swollen, [the offender] shall be fined 60 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

8. If someone cuts off a person’s finger or toe, he shall be imprisoned for 3 years. In this way, he shall be imprisoned at the rate of 3 years for each finger. If he pays double the amount set in lieu of the prison term, he shall be set free.

9. If a person cannot move his hand, leg or waist [anymore] or his head starts shaking or he starts vomiting after [someone] has cut a vein in a certain part [of his body], and that person dies, or a person dies after [someone] has cut him down to the bone, [the offender] forfeits his life as retaliation for the life [he took]. If [the victim] survives, the entire property [of the offender] shall be confiscated, putting aside a share [for the marriage expenses of his children] according to the *Ain*, and the *adālata* shall collect 10 percent [of the confiscated property] and [the rest] shall be handed over to the injured person. The thug shall be imprisoned for 10 years. If he pays double the amount set in lieu of his prison term, it shall be accepted and he shall be set free.

10. If any person comes to lodge a complaint against someone, declaring ‘He broke my finger or toe while beating me’, [the offender] shall be fined 50 rupees for 1 broken finger, 100 rupees for 2 broken fingers and 150 rupees for 3 broken fingers. In this manner, [the offender] shall be fined an amount depending on the number of fingers he has broken. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

11. If a man comes to lodge a complaint against another man, declaring ‘[This man] has broken my hand or leg while beating me, he mutilated my hand or made my leg lame; even after treatment, it is not cured; I cannot use it’, and if this is ascertained to be true upon investigation, the thug shall be imprisoned for 10 years. If he pays the amount set in lieu of the prison term, it shall, in accordance with the *Ain*, be accepted and he shall be set free. If the injured person

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is cured after treatment, [the thug] shall be imprisoned for 2 years. If the amount in lieu of the prison term is paid, it shall be accepted.

12. If a woman—irrespective of whether she is faithful to her husband, is a common woman or is a servant—comes to complain about another woman, declaring ‘[This woman] has broken my hand or leg while beating me, she mutilated my hand or made my leg lame; even after treatment, it is not cured; I cannot use it’, and if this is ascertained to be true upon investigation, the thug shall be imprisoned for 5 years. If she pays the amount set in lieu of the prison term, it shall be accepted and she shall be set free. If it is ascertained that the injured person has been cured after treatment, [the thug] shall be imprisoned for 1 year.

13. If a woman comes to complain about a man, declaring ‘[This man] has broken my hand or leg while beating me, he mutilated my hand or made my leg lame; even after treatment, it is not cured; I cannot use it’, and if this is ascertained to be true upon investigation, the thug shall be imprisoned for 12 years. If he pays the amount [set in lieu of the prison term], it shall, in accordance with the *Ain*, be accepted and he shall be set free. If it is ascertained that the injured person has been cured after treatment, [the thug] shall be imprisoned for 3 years.

14. If women scuffle with a person, beat him or her, and blood is drawn, and they declare that they will pay the amount [set in lieu of] imprisonment, the amount shall, in accordance with the *Ain*, be accepted and they shall be set free.

15. Among the subjects from the Four *Varṇas* and Thirty-six castes, if there is a dispute between a man and another man, or between a man and a woman, or between a woman and another woman, and a fight occurs and during the fight blood is drawn and a limb is broken, [but] it turns out that no one dies, and the person who was beaten up does not lodge a complaint against the person who has beaten him, an *adālata*, *ṭhānā* or *amāla* office shall not hear such a case, if it is a third party who comes to raise allegations in oral form. If the person who was beaten up comes to lodge a complaint, the matter shall be investigated and shall be settled according to the *Ain*.

16. If someone strikes a person on his upper arm or thigh and cuts it, and the person dies from a disease because the wound does not heal, even if it is months later, [the offender] shall be executed—taking life for life. If the wound heals properly, the entire property of the thug shall, in accordance with the *Ain*, be confiscated, the *adālata*, *ṭhānā* or *amāla* shall collect 10 percent [of the confiscated property] and [the rest] shall be handed over to the injured person. The thug shall be imprisoned for 12 years. Even if he pays double the amount set in lieu of his prison term, it shall not be accepted.

17. If someone comes to complain about someone else, declaring ‘[This person] broke my [rib] bone while beating me up’ and upon examination and investigation it is ascertained that it is broken, and later on, after medical treatment, it is ascertained that [the fracture] has healed,

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and [the victim] is able to carry out his work, the thug who broke his rib shall be made to issue a written statement that he broke [the rib] and he shall be fined 60 rupees. If he cannot pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

## 57. On Reciprocal Verbal Abuse

1. During a conversation or an altercation, if one person says to another: 'If your hair above the lips is a moustache, go on; if not, it's pubic hair and you cannot go on',<sup>253</sup> such [a verbal abuser] shall be fined 2½ rupees.

2. If a man undresses his *dhoti* and shows his [genitals] to another man during a quarrel, he shall be fined 2½ rupees.

3. If a man undresses his *dhoti* and shows his [genitals] to a married woman, widow or an unmarried girl during a quarrel, he shall be fined 20 rupees.

4. If a man undresses his *dhoti* and shows his [genitals] to a common woman or a female slave, he shall be fined 2 rupees.

5. If a woman lifts her lower garment and shows her [genitals] to another woman during a quarrel, she shall be fined 2½ rupees.

6. If a woman undresses her lower garment and shows her [genitals] to a man during a quarrel, she shall be fined 2½ rupees.

7. If a woman, during a quarrel, shows [her genitals] to a man, lifting her lower garment while sitting among her family members, relatives, married, widowed or unmarried daughters, daughters-in-law, mother or grandmothers, she shall be fined 10 rupees.

8. If any subject, from a casual worker to an eminent person, who is allowed to drink alcohol has consumed it, has verbally abused someone, has hit someone with his hands, a stick, or a stone, or if he has fallen into alleys, or if he has been staggering while walking, such a person shall be fined 5 rupees. If the amount of the fine is not paid, he shall be imprisoned for 1 month and be set free.

253 A free translation of an idiomatic expression, lit. '[Hair] above the lip is a moustache. Do this thing! If [the hair] is not a moustache, but pubic hair, you cannot do this!'

9. If an ascetic, such as a Jogī, Jaṅgama, Sannyāsī, an Aghorī<sup>254</sup> or a Kanaphaṭṭā, has consumed intoxicating substances or spirituous liquor, and if he has laid down in a gully, or if he has been staggering while walking, or if he has verbally abused someone, or if he has hit [someone] with his hands, a stone, or a stick, [such an ascetic] shall be arrested and be chased away across the river closest to the border.

10. If a person comes and complains ‘Such and such person has unjustly or without any crime<sup>255</sup> confined such and such person’, and if it is confirmed upon investigation that that person has been confined unjustly or without any crime, the confiner shall be imprisoned for 4 months by putting him into fetters. If he pays double the fine in lieu of his imprisonment, it shall be accepted and he shall be set free.

11. If someone cuts a man’s beard, moustache or hair without permission, he shall be fined 5 rupees.

12. If someone cuts an unmarried or married woman’s or a widow’s hair without the right to do so, he shall be fined 40 rupees. If the hair is that of a woman who is a common woman or slave, [the culprit] shall be fined 20 rupees. If a master has cut the hair of a female slave or bondservant who is an absconder, who has been polluted by sexual intercourse (*nasui*), who does not work, or who steals, he shall not be held accountable.

13. If a person catches somebody’s hair and pulls it out, he—irrespective of whether it has happened [only] between men, [only] between women or between women and men—shall be fined 5 rupees. If a man catches the hair of another man’s wife and pulls it out, he shall be fined 10 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

14. If someone grabs a person by his neck or drags him forcibly without any right to do so, he shall be fined 3 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

15. If a man grabs a married woman or widow of another man by her neck, although she has not started fighting with him (*hāta choḍanu*)<sup>256</sup> and she has made no mistake, he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

16. If someone makes someone else grab a woman, who has become a common woman or who has not remained chaste to her husband, by her neck without any right to do so, he shall be fined 2½ rupees. If the amount of the fine is not paid, he shall be imprisoned for 15 days and be set free.

254 MA<sub>1</sub> reads *oghara*. MA<sub>2</sub> reads *woghara*. As indicated by Fezas (2000b/I: 288 n. 1) this term is a corrupt form for *aghorī*.

255 *beksira*, read *betaksira* (MA<sub>2</sub>).

256 This literally refers to a blow of the hand or to come to hand-to-hand fighting with or without weapons.

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17. If a person slaps another person's cheek around 1–2 times, and if the latter comes to complain that [the former] has slapped the latter's cheek, and if it is confirmed upon investigation, the one who has slapped [the victim's] cheek shall be fined 4 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

18. If a person, firstly, slaps the cheek of another person or grabs him by the neck, and if the person who has been slapped on his cheek or who has been grabbed by his neck verbally abuses [the culprit] by calling him a motherfu\*\*\*\* (*āmā cakāṛnu*),<sup>257</sup> such a verbal abuser shall not be accused or held accountable. [The culprit] who has slapped [the victim's] cheek shall be fined 4 rupees, and he who has grabbed the victim by his neck shall be fined 3 rupees.

19. If someone comes to complain that such and such a person has verbally abused him without any reason and right, the verbal abuser who has verbally abused a male victim by calling him a motherfu\*\*\*\* or who has verbally abused a female victim, saying she is husband of her father (*terā bābukī joi*), shall be fined 2½ rupees. The verbal abuser who has verbally abused the victim, but has said something other than these insults, shall be fined 1 rupee. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

20. If a man grabs another man by his testicles, penis, or pubic hair and pulls the hair out, or if he grabs a common woman by her pubic hair and pulls it out, he shall be fined 25 rupees. A man who pulls out the pubic hair of an unmarried girl, a married woman or a widow who has remained faithful to her caste and who has remained [faithful] to her *dharma*, shall be fined 50 rupees. If the culprit is a woman, she shall be fined 25 rupees. If the amount of the fine is not paid, the culprit shall, in accordance with the *Ain*, be imprisoned.

21. If there is a minor quarrel, such as one about a water channel, waterspout, oil mill, forest, [collection of] fodder or the like,<sup>258</sup> and if such a quarrel has been reported to an *adālata*, *ṭhānā* or *amāla* office, and if a confession [from the culprit relating to such a quarrel] has been obtained, [the culprit] shall, in accordance with the *Ain*, be fined, if the law has been written down. In cases of minor quarrels for which no law has been written down, [the culprit] shall be fined 1 rupee and be set free.

257 *Cakāṛnu* (lit. 'to utter a word starting with the letter *ca*'), stands here for the verb *ciknu* ('to fuck'). Therefore, this idiomatic expression (*āmā cakāṛnu*) corresponds to the vulgar English term 'motherfucker'. Since the term *ciknu* is only referred to in an abbreviated form owing to its vulgarity, we try to imitate this usage by putting a (\*) sign.

258 The disputes regarding queuing at a water channel for land irrigation, at a waterspout for collecting water, or at a pressing mill for pressing oil or sugar cane have been regarded as minor offenses since medieval times. For example, the edict of Rāma Śāha also directs the *kacaharī* office not to investigate such disputes. The reason is given that such types of tasks are often carried out by women or servants and thus any disputes arising are to be considered minor disputes which should not further be investigated and should be sorted out by the parties themselves (see RŚE 6–8).

22. If a person, during a mutual verbal quarrel or abuse, first verbally abuses another person by calling him a motherf\*\*\*\*\*, and if the latter person afterwards only verbally—without taking any weapon in his hands or clenching his fist—has said ‘You could be killed by me’, such a person shall not be held accountable.

## 58. On Brawling

1. If someone hits a person with a big or small stick or a stone and blood is drawn, [but] no limb is broken and [the victim] does not become bedridden as a result of the beating, or if blood is drawn [only] after 1–2 strikes, he shall be fined 10 rupees. A person who beats another person in such a way that no limb is broken, [but] he is bedridden for 15 days, shall be fined 20 rupees. If it is ascertained that a person has beaten another person in such a way that no limb is broken, [but] that person is bedridden for more than 15 days and up to 30 days, he shall be fined 40 rupees. The one who wins the case is not required to pay the winning fee (*jitāuri*). If two persons beat each other [with sticks or stones], the one who started brawling first shall be fined 10 rupees, the one who struck back shall be fined 5 rupees.

MA<sub>2</sub> 58.1. If someone hits a person with a big or small stick or a stone and blood is drawn, [but] no limb is broken and [the victim] does not become bedridden as a result of the beating, or if blood is drawn [only] after 1–2 strikes, he shall be fined 10 rupees. A person who beats another person in such a way that no limb is broken, [but] he is bedridden for around 2–4 days, shall be fined 20 rupees. The one who wins the case is not required to pay the winning fee. If two persons beat each other, the one who starts brawling first shall be fined 10 rupees, the one who hits back shall be fined 5 rupees.

2. If someone has kicked another person and that person comes to complain that he was kicked [by him], the one who kicked him shall be fined 15 rupees. If two persons kick each other, the one who kicks first shall be fined 6 rupees, the one who kicks back shall be fined 3 rupees. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

3. If someone comes to complain that, during a quarrel, a person beat him with a shoe or kicked him wearing shoes, the person who beat [the victim] with a shoe or who kicked him wearing shoes shall be fined 20 rupees. If two persons beat each other with shoes or kick each other wearing shoes, the person who hit first shall be fined 10 rupees and the one who hit back shall be fined 5 rupees. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

4. If [two persons] scuffle with each other or scratch each other and blood is drawn, the person who draws the blood shall be fined 2½ rupees. If, during a quarrel, someone pushes another, presses him against a wall or grabs him by the neck and in such minor cases blood is drawn because [the victim suffers from] nosebleeds or [other minor] injuries, the one who draws



the blood shall be fined 5 rupees. If the amount of the fine is not paid, [the offender] shall, in accordance with the *Ain*, be imprisoned.

5. If someone beats someone else 8–10 times, and if [the victim] has neither bruises on his body nor is he bedridden, the person who beat him shall be fined 20 rupees. If the amount of the fine is not paid, [the offender] shall, in accordance with the *Ain*, be imprisoned.

6. If someone's slaves, wealth, jewellery, cash, goods, quadrupeds, grain or land is stolen or if there is a case of illicit sexual intercourse, and if someone comes under suspicion, [but] no evidence against him is found, he shall be brought to a *kacaharī* office and shall be interrogated, showing him to people [to ask whether people could verify the suspicion against him] and threatening him and the case shall be settled. He shall not be beaten. If one or two pieces of evidence are found, such a housebreaker shall be whipped or thrashed in such a way that he does not die, his limbs are not broken and any vital areas of the body are spared, and the case shall be settled.

7. If someone comes to complain that someone has struck him 1–2 times with a stick without breaking his limbs and drawing blood from him, and if it is ascertained that he was beaten, [the offender] shall be fined 6 rupees.

8. If married women, widows or unmarried girls are about to quarrel, and if their husband's older brother or an outsider, irrespective of whether he is from a caste superior or inferior in status to their own or from a Water-unacceptable caste, separates them with his hands, the women shall not be allowed to declare that such a person molested them. Also, the husbands of the women who quarrelled shall not be allowed to blame and accuse the person who has separated them by grabbing their bodies. He shall not be held accountable for committing a heinous crime (*rājakhata*).

9. If someone comes to complain that a person has unlawfully attacked him with nettles, and if it is ascertained to be true upon inquiry that this person attacked him with nettles, the attacker shall be fined 10 rupees. If the amount of the fine is not paid, he shall be imprisoned for 2 months and be set free.

10. Except for someone serving a prison term, if anyone else comes to complain that, in a matter of brawling or scuffling, a person beat him or scuffled with him, and if he is not able to prove this upon interrogation, such a false accuser—depending on the *Ain*'s [regulation in the present Art.] 'On Brawling' on which he based his false accusation—shall be fined half of the amount prescribed in that respective regulation. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

11. If a member of the military personnel patrolling, parading or on duty drinks alcohol and babbles in delirium and stumbles, his insignia shall be torn up and he shall be dismissed from his post (*jāgira*).

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12. If someone comes to complain that some person has unlawfully tied him up and whipped him, and if upon investigation it is ascertained to be true, the person who tied [the victim] up without tying his hands behind his back shall be imprisoned for 4 months. If he pays double the amount set in lieu of the prison term, it shall be accepted and he shall be let off. The person who whipped him shall be fined 4 rupees for each whiplash, [i.e.] depending on how many times he whipped him. The one who unlawfully places someone into iron, wooden or leather fetters, shall be fined 2 rupees for each day that he fettered [the victim]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If a lunatic is put into iron, wooden or leather fetters for treatment, [the person who fetters him] shall not be held accountable.

13. If someone grabs someone else by his hair and also pins him to the ground, such [an offender] shall be fined 7 rupees. If the amount of the fine is not paid, he shall be imprisoned.

14. If someone grabs someone else by his hair, slaps him and also pins him to the ground, such [an offender] shall be fined 20 rupees. If the amount of the fine is not paid, he shall be imprisoned.

15. If someone grabs someone else by his hair, slaps him, pins him to the ground and kicks him, such [an offender] shall be fined 30 rupees. If the amount of the fine is not paid, he shall be imprisoned.

16. If someone grabs someone else by his hair, slaps him, pins him to the ground, kicks him and hits him with his shoes, such [an offender] shall be fined 40 rupees. If the amount of the fine is not paid, he shall be imprisoned.

17. If someone grabs someone else by his hair, slaps him, pins him to the ground, kicks him, hits him with his shoes and also with a stick, such [an offender] shall be fined 50 rupees. If the amount of the fine is not paid, he shall be imprisoned.

18. If someone grabs someone else by his hair, slaps him, pins him to the ground, kicks him, hits him with his shoes and a stick and also attacks him with nettles, such [an offender] shall be fined 60 rupees. If the amount of the fine is not paid, he shall be imprisoned.

19. If a man, without wearing shoes, kicks someone's wife or a widowed woman, he shall be fined 30 rupees. If he kicks her wearing his shoes, he shall be fined 40 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

20. Except for cases where [men and women] are related, as laid down in the *Ain*'s [present Art.] 'On Brawling', and for which fines or imprisonment are prescribed, if a man beats a woman, that man shall be fined twice as much and imprisoned twice as long as he would have been for beating another man. If he [only] gripped a weapon and merely drew it, [but] the woman was not injured by the weapon, he shall, in accordance with the *Ain*, be fined. If a man commits any offence

against his wife—irrespective of whether she is ritually married to him or a concubine—such as beating her or the like, he shall not receive a double punishment. One shall proceed according to the *Ain*.

21. If someone past the age of 12 and up to the age of 16 beats another person, he shall be fined or imprisoned by reducing [his punishment] to half of the fine and imprisonment prescribed in the *Ain* for a beating committed by someone [above the age of 16].

**The regulation applicable when 2–4 people have ganged up on a person and beat him up:<sup>259</sup>**

If one person beats another person, one shall proceed according to what has been laid down [in the present Art.] ‘On Brawling’. If around 2–4 people gang up and beat 1 person with a stick, stone, shoes or the like or kick or punch him, [but] that person does not die, those who tied [the victim] up or seized hold of him shall be sentenced to double the punishment prescribed for a single person who beats one person, if 2 persons have ganged up and beaten one person. If 3 people gang up and beat one person, those who tied [the victim] up and seized hold of him shall be sentenced to thrice the punishment [prescribed for a single person who beats up one person]. According to this ratio, each [perpetrator] shall be sentenced to punishment depending on the number of people who gang up and beat a single person. If 2–4 persons gang up and beat one person, and if that person, in order to save his life, punches or kicks them or hits them with a stick or stone, he shall not be held accountable. Neither a fine nor a winning fee is required.

22. If someone unlawfully pushes someone else into a deep pit, making him suffer, he shall be fined 20 rupees. If the amount of the fine is not paid, he shall be imprisoned.

23. If someone unlawfully traps someone else with a catch pole, making him suffer, he shall be fined 20 rupees. If the amount of the fine is not paid, he shall be imprisoned.

24. If someone unlawfully forces someone else to carry a rock, log or clod, making him suffer, he shall be 40 rupees. If the amount of the fine is not paid, he shall be imprisoned.

25. If it is ascertained that, in a quarrel [involving] brawling or scuffling, the two adversaries beat [each other] and blood was drawn from both due to their brawling, the wounds and blood loss of both adversaries shall be examined and they shall be fined according to the *Ain*, depending on the extent of their wounds and blood loss. If two people beat, injure and draw blood from each other, and if the concerned person of an *adālata*, *ṭhānā* or *amāla* office or the like lets one of the

<sup>259</sup> This paragraph is recorded in MA<sub>2</sub> between §§ 58.21 and 58.22 without individual section number.

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parties off and makes only the other party confess [the offence] and fines him, [such an official] shall be awarded the punishment [the offender set free] should have received.

**Three regulations applicable when one person tries to snatch another's weapon, or they squabble with each other without intent to kill and one of them gets injured:**

26. If it is ascertained that someone, during a quarrel, did not intentionally strike or stab another person with a weapon, [but] it is ascertained that one of them was wounded and blood was drawn from him while one was snatching away the other's weapons, none of them shall be punished if the party who snatched away [the other's weapon] was wounded. If the person who was carrying the weapon was wounded, the other person who was the first to reach for the weapon and snatched it away [from him] shall be fined 8 *ānās*.

27. If it happens that the tip of a weapon, such as a kukri or sword, perforates the scabbard and it scratches, stabs or cuts someone and that person comes to complain, such a foolish person who carelessly carries a weapon shall be fined 4 *ānās*.

28. If one person is not aware that the other is carrying or girding a weapon or the like which might inflict injuries, and if the former is wounded and blood is drawn from him while he grasped or clutched him during squabbling with each other or playing or walking together, it is considered a mishap. No one shall be held accountable.

29. If a mute person—someone who is not able to speak—beats someone else, [but] that person is not [severely] injured and only [a little amount of] blood is drawn from him, he shall be whipped with 5 lashes and be let off. He shall not require a fine.

## 59. On Beating between Father and Son

1. If a son or daughter comes to complain that their father or mother has beaten them, the father or mother shall not be held accountable if they have not beaten their son or daughter in such a way that their hands or legs have been sprained, the body has received any bruises, or blood has been drawn. If the son or daughter has made no mistake, but they have been beaten by their father or mother without reason, or blood has been drawn as a result of the beating, father and mother shall, in accordance with the *Ain*, be punished.

2. No father or mother shall beat their sons or daughters. If [the son or daughter] has made a mistake or does not obey and, thus, has to be punished, [the son or daughter] shall be locked in a dark room or shall be verbally threatened. No other punishment shall be given.

3. If a complaint has been made that someone has verbally abused his father, mother, grandfather, grandmother, and guru from whom he has received the initiatory mantra, or the wife of his guru, and if it is proved that he has verbally abused [one of them], the son who has verbally abused [one of them] shall be imprisoned for 1 month. If he pays a fine in lieu of the prison term, it shall be accepted. If his father or mother requests [to have him released], he shall be set free.

4. If a son slaps his father, mother, grandfather, grandmother, the guru from whom he has received the initiatory mantra or the wife of his guru once or twice, such a son shall be imprisoned for 3 months. Even if he pays double the fine in lieu of his prison term, it shall not be accepted. If his father, mother, grandfather or grandmother requests [to have him released], he shall be set free if he pays double the fine.

5. If a son kicks his father, mother, grandfather, grandmother, the guru from whom he has received the initiatory mantra, or the wife of his guru, such a son—even if the kicking does not cause bruises on the [victim's] body—shall be imprisoned for 12 months. Even if he pays double the fine in lieu of his prison term, it shall not be accepted. If his father, mother, grandfather or grandmother requests [to have him released], he shall be set free, paying double the fine.

6. If a son kicks his father, mother, grandfather, grandmother, the guru, from whom he has received the initiatory mantra, or the wife of his guru and [the kicking] causes bruises [on the victim's] body, or if he strikes [them] with a stick, such a son shall be imprisoned for 3 years. Even if he pays double the fine in lieu of his prison term, it shall not be accepted. If his father,

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mother, grandfather or grandmother requests [him to be released], he shall be set free, paying double the fine.

7. If someone beats his father, mother, grandfather, grandmother, the guru from whom he has received the initiatory mantra, or the wife of his guru and [the beating] results in bleeding from the nose, he shall be imprisoned for 12 months. If blood has been drawn from body parts other than the victim's [nose], he shall be imprisoned for 3 years. Even if he pays double the fine in lieu of his prison term, it shall not be accepted. If his father, mother, grandfather or grandmother requests [to have him released], he shall be set free, paying double the fine.

8. If someone beats his father, mother, grandfather, grandmother, the guru from whom he has received the initiatory mantra, or the wife of his guru, and [the beating] results in the spraining of the legs or feet of the victim, or the victim's teeth being knocked out, such a beater shall be imprisoned for 5 years. Even if he pays double the fine in lieu of his prison term, it shall not be accepted. If his father, mother, grandfather or grandmother requests [him to be released], he shall be set free, paying double the fine.

9. If someone beats his father, mother, grandfather, grandmother, the guru from whom he has received the initiatory mantra, or the wife of his guru and [the beating] results in their hands or legs being broken, or in breakage of a spinal bone, [such a] beater shall be imprisoned for 12 years. Even if he pays double the fine in lieu of his prison term, it shall not be accepted. If his father, mother, grandfather or grandmother requests [him to be released], he shall be set free, paying double of the fine.

10. If a father or mother fails to prove their complaint that they were beaten by their son, and if it is ascertained that the complaint was a false accusation, the mother or father shall be fined half of [the fine] which the son would have received.

11. If someone has only one wife and a son born to her, and if the son consumes cannabis, opium or liquor, or steals property from his own house, or gambles, the father shall not obtain consent from an *adālata*, *thānā* or *amāla* office if he wants to put [his son] in chains or wooden fetters. The father shall be allowed to do so. He shall not be accused.

12. If a daughter verbally abuses the mother she was born to, beats or sprains her hands or legs or draws blood from her, or a daughter-in-law [does the same] to her mother-in-law who gave birth to her husband, she shall be punished in the same manner as a son would have been. If the daughter or daughter-in-law pays a fine in lieu of her prison term, it shall be accepted and she shall be set free. If [the fine] is not paid, she shall be imprisoned. After the prison term is over, she shall be set free. Doubling the fine in lieu of the prison term shall not be applicable to them.

13. If someone has more than one wife and if their sons consume cannabis, opium or liquor, or steal property from their own house, or gamble, and if the father wants to put such sons in

chains or wooden fetters, he shall be allowed to put [his sons] in chains or wooden fetters on the grounds that the misconduct of the sons has been proved through an investigation by an *adālata*, *ṭhānā* or *amāla* and the sons have confessed their [misconduct]. [The father] shall not be allowed to put [his sons in chains or wooden fetters] out of anger.

14. If a husband quarrels with his wife and beats her, although she has not done any wrong, and [the beating] results in blood being drawn, and if she comes to complain [about it], [the husband] shall be fined 5 rupees. If the fine is not paid, he shall be imprisoned and afterward set free. If the wife does not come to complain on the grounds that he is her husband, or the husband does not come to complain on the grounds that she is his wife, they shall neither be held accountable nor need they undertake expiation.

15. If a wife quarrels with her husband and wilfully scratches him, resulting in blood being drawn, and if the husband comes to complain, she shall be fined 5 rupees if blood has been drawn by biting, and 2½ rupees if blood has been drawn by scratching. If the fine is not paid, she shall, in accordance with the *Ain*, be imprisoned. An *adālata*, *ṭhānā* or *amāla* shall not investigate such cases.

16. If a male or female slave, a bondservant, a salaried official, or a male or female servant working for wages beats his or her master or mistress or merely hits them, they shall be imprisoned for 1 month. If blood is drawn or limbs are damaged, they shall be imprisoned 1½ times longer than [prescribed] in the *Ain* for other [categories of offenders]. When the prison term is over, the male or female slave, bondservant or salaried official shall be handed over to those to whom they belong. If the fine in lieu of the prison term is paid, it shall, according to the *Ain*, be accepted and [the offender] shall be set free.

17. If someone from an Untouchable caste beats a person from a caste higher than his own, he shall be imprisoned for 1 month. If blood is drawn or limbs are damaged, he shall be imprisoned 1½ times longer than others. If the fine in lieu of the prison term is paid, it shall be accepted and [the offender] shall be set free.

18. If women other than servants, or from an Untouchable caste, quarrel, hit or beat each other and draw blood, they shall be fined half of what has been written down in the *Ain* for men. If co-wives quarrel and beat each other, they shall be punished or fined as has been written down for men.

19. If someone from an Untouchable caste beats someone from a similar caste or [people of the] Kāmī, Sārki, Gāine, Hurkyās, Damāi, Bādī, Bhāḍa, Kusle, Kasāi, Kulu, Chyāmakhala, [Hindu] Dhobī, Muslim, Poḍe or the like<sup>260</sup> beat each other, resulting in blood being drawn or limbs being damaged, they shall be punished as other commoners would have been.

260 *Gairaha* here also refers to Cunārās, Cunāro etc. (see § 160.17).

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20. If someone beats his mother-in-law who has given birth to his wife, he shall be punished or fined  $\frac{2}{3}$  as much as [prescribed in] the *Ain* for a beating between father and son.

21. If someone beats his son-in-law with whom his own daughter has eloped, he shall be punished or fined  $\frac{2}{3}$  as much as [prescribed in] the *Ain* for a beating between father and son.



## 60. On Forced Feeding of Human Excrement, Semen, Etc.

1. If someone pushes someone else into a drainage, he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

2. If someone, during a dispute, dips someone else in human excrement, he shall be fined 50 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

3. If someone, during a dispute or a similar issue, locks someone else in a toilet—except when the latter has taken away the former's wife—he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

4. If a master has put human excrement into the mouth of his male or female slave, the master shall not be entitled to get such a slave back. An *adālata*, *ṭhānā* or *amāla* office shall emancipate such a slave and set him or her free after taking 10 rupees from him or her. The religious judge (*dharmādhikāra*) shall grant such a slave expiation by taking a fee of 2 rupees. If human excrement has been put into the mouth of a male or female bondservant, the credit [of the master] shall be nullified, and the bondservant shall be emancipated and be granted expiation by taking a fee of 2 rupees. Ten percent of the credit amount shall be collected from such a bondservant and he shall be set free. If [the master] has put human excrement on other body parts except the mouth, he shall not be held accountable.

5. If someone has accused someone else of theft, witchcraft, illicit sexual intercourse, caste-related issue or illicit sexual intercourse with blood relations, and if the accuser has put human excrement or urine into the mouth of the one accused or vice versa, such a person shall be fined 200 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. Since human excrement or urine was forcefully put into the mouth [of the victim], he shall not lose his caste status. The *dharmādhikāra* shall take 2 rupees from him as the *godāna* fee and make him undertake expiation.

6. If someone wittingly and unlawfully defecates or urinates into the mouth of a person who is the former's relative or someone else, or if he puts human excrement or urine into his mouth, he shall be fined 1,000 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. Since human excrement or urine was unlawfully put into [the mouth of the victim], he shall not lose his caste status. The *dharmādhikāra* shall take 2 rupees as *godāna*

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and grant him expiation. If [the culprit] has put or smeared human excrement or urine on other body parts of [the victim], or if he has defecated or urinated on them, he shall be fined 50 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The victim on whose body human excrement or urine was put shall need no expiation.

7. If someone accuses a person of having placed human excrement or urine in in his mouth, and if he is not able prove this, such an accuser shall be fined half of the fine applicable to the one who makes a person consume human excrement or urine, or who has put human excrement or urine into someone's mouth or on other body parts. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

8. If an Upādhyāya Brahmin puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if an Upādhyāya Brahmin woman makes a man or woman consume her menstrual excretion, he or she—in the case of doing so with an Upādhyāya Brahmin caste fellow—shall be fined 500 rupees. If he or she has made a Rajapūta, Jaisī, Sacred Thread-wearing Kṣatriya, Non-enslavable Alcohol-drinking, an Enslavable Alcohol-drinking, a Water-unacceptable or an Untouchable caste fellow consume [such substances], he or she shall be fined 500, 450, 400, 250, 200, 150, and 100 rupees, respectively. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

9. If a Rajapūta caste fellow puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if a Rajapūta or Jaisī Brahmin woman makes a man or woman consume her menstrual excretion, he or she—in the case of doing so with an Upādhyāya Brahmin caste fellow—shall be fined 500 rupees. If he or she has made a Rajapūta, Jaisī, Sacred Thread-wearing Kṣatriya, Non-enslavable Alcohol-drinking, an Enslavable Alcohol-drinking, a Water-unacceptable or an Untouchable caste fellow consume [such substances], he or she shall be fined 450, 450, 400, 250, 200, 150, and 100 rupees, respectively. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

10. If a Sacred Thread-wearing Kṣatriya caste fellow puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if a woman who belongs to a Sacred Thread-wearing Kṣatriya caste makes a man or woman consume her menstrual excretion, he or she—in the case of doing so with an Upādhyāya Brahmin, a Rajapūta or a Jaisī Brahmin caste fellow—shall be fined 500 rupees. If he or she has made a Sacred Thread-wearing Kṣatriya, Non-enslavable Alcohol-drinking, an Enslavable Alcohol-drinking, a Water-unacceptable or an Untouchable caste fellow consume [such substances], he or she shall be fined 400, 250, 200, 150, and 100 rupees, respectively. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

11. If a Non-enslavable caste fellow puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if a woman who belongs to a Non-enslavable caste makes a man or woman consume her menstrual excretion,

he or she—in the case of doing so with an Upādhyāya Brahmin or a Sacred Thread-wearing caste fellow—shall be fined 500 rupees. If he or she has made a Non-enslavable Alcohol-drinking, an Enslavable Alcohol-drinking, a Water-unacceptable or an Untouchable caste fellow consume [such substances], he or she shall be fined 250, 200, 150, and 100 rupees, respectively. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

12. If an Enslavable caste fellow puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if a woman who belongs to an Enslavable caste makes a man or woman consume her menstrual excretion, he or she—in the case of doing so with an Upādhyāya Brahmin or a Sacred Thread-wearing or a Non-enslavable Alcohol-drinking caste fellow—shall be enslaved. If he or she has made an Enslavable Alcohol-drinking, a Water-unacceptable or an Untouchable caste fellow consume [such substances], he or she shall be fined 200, 150, and 100 rupees, respectively. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

13. If a Touchable but Water-unacceptable caste fellow puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if a woman who belongs to a Touchable but Water-unacceptable caste makes a man or woman consume her menstrual excretion, he or she—in the case of doing so with an Upādhyāya Brahmin, a Sacred Thread-wearing or Non-enslavable Alcohol-drinking or an Enslavable Alcohol-drinking caste fellow—shall be enslaved. If he or she has made a Touchable but Water-unacceptable or an Untouchable caste fellow consume [such substances], he or she shall be fined 150 and 100 rupees, respectively. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

14. If an Untouchable caste fellow, from whom water may not be accepted, puts his penis into the mouth of a man or woman and ejaculates his semen there, or if he makes him or her consume his ejaculated semen, or if a woman who belongs to an Untouchable caste from whom water may not be accepted makes a man or woman consume her menstrual excretion, he or she—in the case of doing so with [a caste fellow] from Sacred Thread-wearing up to Touchable but Water-unacceptable castes—shall be enslaved. If he or she has made an Untouchable caste fellow consume [such substances], he or she shall be fined 100 rupees. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

15. Anybody from the Four Varṇas and Thirty-six castes who has consumed the semen or menstrual excretion of a man or woman, shall not lose his caste status, given the fact that the consumption was forced. The *dharmādhikāra* shall take 2 rupees as *godāna* and grant the victim expiation. Someone who has consumed [such substances] of his own will shall be granted no expiation. If such a person belongs to a Sacred Thread-wearing caste, he shall become a Śūdra. If such a person belongs to a Non-enslavable Alcohol-drinking caste, he shall become an Enslavable caste [member]. If such a person belongs to an Enslavable, a Water-unacceptable but Touchable or an Untouchable caste, he shall become an Enslavable caste [member of] lower [caste status] than his own.

## 61. On Farting

1. If anyone from the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearing castes, farts in the face of a fellow caste member or of someone of lower caste status than his own, he shall be fined 5 rupees, and [the victim] shall be granted expiation (*patiyā*) by taking [a fee] of 4 *ānās* [from him].

2. If anyone from the Sacred Thread-wearing castes, including Rajapūtas, farts in the face of someone whose castes status is higher than his own, he shall be fined 7½ rupees, and the religious judge (*dharmādhikāra*) shall grant [the victim] expiation by taking [a fee] of 4 *ānās* [from him].

3. If anyone from the Non-enslavable Alcohol-drinking castes farts in the face of someone from the Sacred Thread-wearing castes, he shall be fined 10 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 8 *ānās* [from him].

4. If anyone from the Enslavable Alcohol-drinking castes farts in the face of someone from the Sacred Thread-wearing castes, he shall be fined 15 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 1 rupee [from him]. If he farts in the face of someone from the Non-enslavable Alcohol-drinking castes, he shall be fined 5 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 4 *ānās* [from him].

5. If anyone from the Water-unacceptable or Untouchable castes farts in the face of someone belonging to a higher caste from whom water may be accepted, he shall be fined 20 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 1½ rupees [from him].

6. If anyone from the Untouchable castes farts in the face of someone from the [Water-unacceptable] but Touchable castes, he shall be fined 5 rupees and [for the victim] expiation shall be arranged by taking [a fee] of 4 *ānās* [from him].

## 62. On Spitting

1. If a person from the Brahmin castes spits on the mouth<sup>261</sup> of someone from the Rajapūta or Sacred Thread-wearing castes, he shall be fined 5 rupees. If he spits on the mouth of someone from the Non-enslavable Alcohol-drinking, Enslavable [Alcohol-drinking] or Water-unacceptable castes, he shall be fined 2½ rupees, 1½ or ½ rupee, respectively. If nobody comes to complain [about it], an *adālata*, *ṭhānā* or *amāla* office shall not investigate the matter. If [a person from the Brahmin castes] spits unintentionally [on someone's mouth], [the victim] shall not be heard even if he comes to complain.

2. If someone from the Rajapūta or Sacred Thread-wearing castes spits on the mouth of someone from a higher caste than his own, he shall be fined 7½ rupees, and the religious judge (*dharmādhikāra*) shall grant [the victim] expiation by taking [a fee] of 6 *ānās* [from him]. If he spits on other body parts, he shall be fined 1 rupee, and [the victim] shall purify himself by taking a bath.

3. If someone spits on the mouth of a fellow caste member with whom he may eat rice together (*jāta bhāta milnu*), he shall be fined 5 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 4 *ānās* [from him]. If he spits on body parts other than the mouth, he shall be fined 8 *ānās*, and the person he spit on shall purify himself by taking a bath.

4. If someone from the Non-enslavable Alcohol-drinking castes spits on the mouth of someone from the Sacred Thread-wearing castes, he shall be fined 10 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 8 *ānās* [from him]. If he spits on body parts other than the mouth, he shall be fined 1½ rupees, and [the victim] shall purify himself by taking a bath.

5. If someone from the Enslavable Alcohol-drinking castes spits on the mouth of someone from the Sacred Thread-wearing castes, he shall be fined 15 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 1 rupee [from him]. If he spits on body parts other than the mouth, he shall be fined 2 rupees, and [the victim] shall purify himself by taking a bath.

261 Lit. 'inside' (*bhītra*), i.e. spitting in such a way that saliva enters (*pāri*) the mouth.

62. On Spitting

6. If someone from the Enslavable Alcohol-drinking castes spits on the mouth of someone from the Non-enslavable Alcohol-drinking castes, he shall be fined 5 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 4 *ānās* [from him].

7. If someone from the Water-unacceptable castes spits on the mouth of someone from a caste higher than his own, he shall be fined 20 rupees, and the *dharmādhikāra* shall grant [the victim] expiation by taking [a fee] of 1½ rupees [from him]. If he spits on a body part other than the mouth, he shall be fined 2½ rupees. The *dharmādhikāra* shall grant [the victim] expiation by taking ½ [rupee from him], and [the victim] shall purify himself by doing penance.

## 63. Drawing a Weapon with Intent to Kill

1. If someone merely grabs a kukri, sword, scimitar, dagger or spear with his hand and declares 'I will kill you', but does not take out the weapon from the scabbard or shaft, or if he takes an empty rifle or a bow without [an arrow], such a person shall be fined 2½ rupees. If he takes out the kukri, sword, scimitar, spear or dagger from the scabbard or shaft and declares 'I will kill you' or he aims at someone with a loaded rifle or a drawn bow, he shall be fined 20¼ rupees.

2. If a person has no intention of killing, but hits someone with a stick or stone or wields a weapon because a dispute arises during a festival or procession or concerning trade or a financial transaction or concerning cash, goods, utensils, jewelleries or the like, or concerning the time of work, a water channel, or the collection of grass, or a dispute arises from a physical assault or arises because of a nuptial issue, property, quadrupeds or the like, the person who assaults the other with a stick or stone shall be punished according to the *Ain*'s [regulation] on physical assault. If in such a dispute a weapon is wielded, but [the victim] does not die, but is merely wounded, the length of the wound if the victim is hit and the depth of the wound if the victim is stabbed shall be measured. If the wound is 1 finger's breadth (*anigula*) long or deep, [the offender] shall be imprisoned for 1 year, and for 2 years if the wound is 2 fingers' breadths long or deep. In that manner he shall be imprisoned, depending on the size of the victim's wound in finger breadths.

3. If someone during the day or night grabs someone else by his neck and pushes him from a mountain pass, into a pond, a well, a river, a ford, or from a plank bridge, suspension bridge, tree, balcony, roof or into a deep pit, and pretends that [the person he pushed] was already dead, or catches hold of him by his neck in a lonely place and strangles him or gags his mouth with mud, cloth, or weeds, or chokes him by his throat, or crushes him with a rock or log, and if [the victim] comes to complain, stating 'I survived and came [here]'

and if the accused is brought [to the court] and [the accusation] is proven upon interrogation, he shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If [the victim] makes his accusation out of a substantiated suspicion, or on the assumption that there is evidence for the [culprit's] hatred [towards him], such a person who has made his accusation out of a substantiated suspicion shall not be considered a false accuser. If no one was killed and it is ascertained that a person falsely accuses someone out of anger and without a substantiated suspicion, or without the assumption that there is evidence for the [culprit's] hatred [towards him], he shall be imprisoned for 5 years. The amount set in lieu of the prison term shall not be accepted [from such an offender]. If no one was killed, but a person makes an accusation that someone intended to kill

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someone else, but cannot prove it, such a person shall be imprisoned for 2½ years. [If he pays] the amount set in lieu of the prison term, it shall be accepted and he shall be set free. If a woman does the same, she shall receive half of whatever prison sentence has been laid down for a man.

4. If someone from an Upādhyāya Brahmin or any other caste, with the intention of killing, uses a weapon against a person who has done nothing wrong and injures him, and if the injured person strikes back and kills the person who inflicted the injury on him, he shall neither be executed nor be held accountable, irrespective of whether [the person killed] is from an Upādhyāya [Brahmin] or any other caste.

5. If someone who has committed a wrongdoing is to be beaten up, and [for that purpose] around 3–4 people seize hold of and beat him, and if the person who himself committed the wrongdoing, himself uses a weapon and kills [one of those who came to beat him up], he shall be executed—taking life for life. If he does not kill [anyone], but injures someone while waving [the weapon] around, the length of the wound if the victim is hit, and the depth of the wound if the victim is stabbed, shall be measured and he shall [only] be imprisoned depending on the size of the wound in finger breadths, since he wielded a weapon while being beaten up. If he pays the amount set in lieu of the prison term, it shall be accepted.

6. If someone ties a person's arms behind his back and this person falls ill from that distress and dies within 5 days and before he could resume his [regular] duties, the culprit shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated, if he is a Brahmin. If he is from any other caste, he shall be executed—taking life for life. If no wound is detected and [the victim] dies within 5 days after resuming his [regular] duties, his death shall not be considered [a result] of that distress. No blame shall be assigned. If a person lawfully ties someone up [in such a manner], no blame shall be assigned in this case either. If a person unlawfully ties someone up, [the offender] shall be punished according to the *Ain's* [regulation] on fettering.



## 64. On Homicide

1. If an Upādhyāya, Jaisī, Tehraūte, Bhaṭṭa [Brahmin] or the like, or a Deśī Brahmin kills a person, he shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated.

2. If a Rajapūta commits adultery, steals or does such things within blood relations or [members] of higher castes,<sup>262</sup> he shall, in accordance with the *Ain*, be [subjected to the punishment of] being shaved, *dāmala*, being imprisoned, fined and having [his share of] property confiscated. He shall not be executed. If a [Rajapūta] commits adultery, the aggrieved husband has the right to decide [to kill the paramour of his wife]. In killing the paramour, the aggrieved husband shall not be held accountable. If a Rajapūta kills a person, he shall be executed—taking life for life.

3. If an Upādhyāya Brahmin, who has become an ascetic, a Jaisī Brahmin, who has become an ascetic, a Rājapūta, who has become an ascetic, someone whose maternal descent is unknown has become an ascetic, children born to an [ascetic such as] a Daśanāmī, Jogī, Jaṅgama or Sebaḍā with a concubine [Brahmin] widow of an Upādhyāya Brahmin or Jaisī Brahmin, who has not had illicit sexual intercourse with anybody [so far], and an itinerant ascetic (*ramatā*), a fakir or a Kanaphaṭṭā ascetic with pierced ears, whose father and maternal descent are unknown, commits the crime of taking a human life, he shall not be executed, but he shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property be confiscated.

4. If the offspring of all Sacred Thread-wearing Kṣatriyas, of the Alcohol-drinking castes and of the Śūdra castes who have been shaved (*muḍiyāko*, i.e. who have become ascetics) by an [ascetic such as] Daśanāmī, Jogī, Jaṅgama or Sebaḍā, as well as the offspring born to a Daśanāmī, Jogī, Jaṅgama or Sebaḍā who have taken an unmarried girl, a widow or a common woman of these (i.e. Sacred Thread-wearing Kṣatriyas, members of the Alcohol-drinking caste and Śūdra caste) [as a concubine], and who (i.e. the offspring) have been shaved, kill a person, they shall be executed—taking life for life.

5. If someone who is of sound mind, sane and able to understand, but unable to speak, kills a person by hitting [him] with a weapon, stick or stone, he shall be executed—taking life for

262 See Art. 114.

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life. If a dull (*gvāgo*) person who does not know what is to be done and what not, kills another person, he shall be imprisoned for 12 years.<sup>263</sup>

6. If a widow or married woman or a virgin girl past the age of 11 from the Four Varṇas and Thirty-six castes kills a person, she shall be punished by *dāmala*, but [her property] shall not be confiscated.

7. If a woman from the Four Varṇas and Thirty-six castes kills her own children or husband, she shall be punished by *dāmala* and shall be put into the Golaghara<sup>264</sup> prison with her hands and feet fettered. Four *paisās* as ration (*sidhā*) [for food] shall be given to her and she shall not be taken out [from the Golghara].

8. If somebody kills a person jointly with several people during a legal dispute about land, money, non-monetary property, quadrupeds or male or female slaves, three people [of those involved in the crime, i.e. the one who catches the victim with the intention to kill, the one who strikes the lethal blow and the one who orders the victim to be killed] shall be executed—taking life for life. Apart from those, any others [involved in the crime] who cause the victim to be hit and killed by preventing [the victim from escaping] shall be punished by *dāmala*. If young people, who are aware [that a murder is taking place] (*jānakāra javāna*) and who are past the age of 16 and up to the age of 65, do not hold back a murderer, but keep observing the unlawful murder of another person, they shall be fined 20 rupees each if their number is more than the [the number of] assailants and killers. If the observers [of the murder] are fewer in number than the assailants and killers, they shall not be held accountable as to whether they were aware [that a murder was taking place], and they are old or young.

9. If someone, out of greed for property or out of any other form of envy, with intent [jointly with other people] kills another person during the day or night, [whether he] strikes or stabs [the victim] with a weapon, administers poison, or causes [the victim] to fall or be swept away by pushing [the victim] from a steep sloping path, into a pond, a deep pit, well, river, ford, from a plank or suspension bridge, a wall, boat, tree, out of a window, from a balcony and roof, or [whether he] captures [the victim] in an isolated place and hangs [him] or gags his mouth with mud, cloth, weeds or the like, among the people [involved in the crime the following] shall be executed—taking life for life, irrespective of whether they were present when the murder took place or not: those who give the order to kill, those—irrespective of their number—who captured

263 The term *gvāgo* is the opposite of *caturo* and refers to a person who is not completely mentally disabled, but is of slow mind. The use of the term *gvāgo* suggests that offenders who were insane (*bahulā*, see NBS s.v. *gvāgo*, *laṭhepro* and *susta*) were excluded from punishment or received a more lenient punishment.

264 Golaghara literally means a house (*ghara*) with a round (*gola*) shape. The Golaghara is a separate prison in cage-shape located in the middle of the central jail of Nepal. Brutal murders or robbers are placed here to deprive them of keeping contact with other prisoners and visitors (see NBS under s.v. *golaghara*). According to H. N. Agrawal (1976: 65), every jail had a *golaghara* under a jail *ḍiṭṭhā*. He further mentions that the first jail was set up at Kathmandu in VS 1941 and was administered under two officers called ‘arzbegi’ and ‘jail ḍiṭṭhā’. This is not convincing, as the *Ain* mentions jails already in VS 1910 (see Art. 36).

[the victim] in order for him to be murdered, those—irrespective of their number—who struck and pushed [the victim], those who planned the murder, gave the order and provided the weapon. Those who guarded the street [to prevent the victim's] escape, and those who surrounded the spot to facilitate the killing (*mārosa bhani*); they shall, in accordance with the *Ain*, be punished by *dāmala* and their share of property shall be confiscated. Other people who participated in the plot of murder and also went to the site, but did not use weapons, did not block the site [to facilitate the killing] and did not capture [the victim] shall, in accordance with the *Ain*, be imprisoned for 12 years and their share of property shall be confiscated. Those who participated in the plot of murder, but did not go to the site, shall be imprisoned for 6 years and their share of property shall be confiscated. They shall not be set free [from prison] even if double the fine is offered in lieu of imprisonment. If a woman kills a person in the [above mentioned] manner, she shall be punished by *dāmala*. If a woman commits such a crime on which this *Ain* imposes the punishment of *dāmala* for male [offenders], she shall be imprisoned for 12 years. In the case of offences which lead to the imprisonment of women, the women shall not be subjected to confiscation of their property and the term of imprisonment shall be half that of a man. If a fine is offered by women culprits in lieu of imprisonment, [the authorities] shall accept this and let them off.

10. If someone, out of greed for property or out of any other form of envy, with intent [jointly with other people] kills another person, striking or stabbing [the victim] with a weapon, administering poison [to him], causing [him] to fall or be swept away by pushing [him] from a steep sloping path, into a pond, a deep pit, well, river, ford, from a plank or suspension bridge, a wall, boat, tree, out of a window, from a balcony and roof, or captures [him] in an isolated place and hangs [him] or gags his mouth with mud, cloth, weeds or the like, and the victim survives by coincidence, through the help of others, or by medical treatment, then among the people [involved in the crime the following] shall, in accordance with the *Ain*, be punished by *dāmala* and their share of property shall be confiscated: those who gave the order to kill, those who captured [the victim] in order for him to be murdered, those who struck and pushed [the victim], those who planned the plot of murder and gave the order—irrespective of their number and whether they went to the site of the murder when it took place or not. Those who guarded the street [to prevent the victim's] escape, and those who surrounded the spot to facilitate the killing (*mārosa bhani*) shall, in accordance with the *Ain*, be [subjected to] the confiscation of their share of property and imprisonment of 6 years. Those who participated in the plot of murder and also went to the site, but did not use weapons, did not surround [the site of crime], and did not capture the victim, shall be [subjected to] confiscation of property and imprisonment of 3 years. Those who planned [the murder], but did not go to the site, and those who planned the murder, but had [their plan] revealed before it could be carried out, shall be [subjected to] confiscation of their property and imprisonment of 1½ years. They shall not be set free [from prison] even if double the fine is offered in lieu of imprisonment. If a woman commits such [a crime], she shall be imprisoned for 12 years if the punishment for a male [offender] is *dāmala*. In the case of offences which lead to the imprisonment of women, the women shall not be [subjected to] confiscation of their property and the term of imprisonment shall be half that of a man. If a fine is offered in lieu of imprisonment by women culprits, [the authorities] shall accept this and let them off.

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11. If [a group of] four persons without authority beats one person with sticks or their feet and the [assaulted] person takes out a weapon and pushes aside [the assailants] in order to save his life and someone dies, the [assaulted] person shall not be held accountable. If [a group of] 3 persons without authority beats one person with sticks or their feet and the [assaulted] person uses a weapon and [someone] is wounded, [the assaulted person] shall be assigned no blame.

12. If a man or woman, with the intention to kill cuts someone's throat,<sup>265</sup> stabs them, strikes them, crushes them with a log or stone, or strangles and gags the mouth of a man, woman or child, whether asleep or awake, [a male offender]—irrespective of whether [the victim] dies or survives by coincidence—shall be punished by *dāmala* and his share of property shall be confiscated, if he is a Brahmin or an ascetic [as specified] according to the *Ain*, and a female [offender] shall be punished by *dāmala*, but no property shall be confiscated. [Offenders] from the other castes shall be executed—taking life for life.

13. If somebody hits an unscathed person (*sābuda mānisa*)<sup>266</sup> with a stick or stone and that person dies within 22 days from the pain of a festered wound which cannot be cured, and if the fact is ascertained that [the victim] died in consequence of this [blow], [an offender] who belongs to a caste group whose members may be executed shall be executed, [whereas an offender] who belongs to a caste group whose members may not be executed shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated. If [the victim] dies after 22 days and within 3 months, [the offender] shall be punished by *dāmala* and [his share of property] shall be confiscated. If the victim dies after 3 months, and within 6 months after the deed, from the pain of the same wound, which cannot be cured, [the offender] shall be fined 100 rupees; if he does not pay the fine, he shall be imprisoned. [If the victim dies] after 6 months [in consequence of the festered wound] or dies within 22 days, suffering from diarrhoea, smallpox, Āṭhyā fever,<sup>267</sup> emaciation, or dies by falling, being swept away, or being bitten by something which has teeth,<sup>268</sup> [the offender] shall not be assigned the blame for killing a person. As far as the assault is concerned, [the offender] shall, in accordance with the respective [Art. 56] of the *Ain*, be fined and imprisoned.

MA<sub>2</sub> 65.13kh.<sup>269</sup> If somebody hits an unscathed person with a stick or stone and that person dies from the pain of a festered wound which cannot be cured, he shall be executed. [If the victim] dies in the meantime, suffering from diarrhoea, smallpox, Āṭhyā,

265 The verb *reṭṇu* in the context of killing refers to cutting the throat slowly. The verb *serṇu* is synonymous with *reṭṇu* (see NBS and TND s.v. *reṭṇu* and *serṇu*). Further, the method of sacrificing animals by letting the blood flow from the carotid artery is also referred to as *reṭṇu*.

266 The term *sābuda* (var. *sābuda*) literally means unbroken or undamaged.

267 TND (s.v. *āṭhe*) defines Āṭhyā as 'a sort of remittent fever occurring on every eighth day, regarded as very fatal'.

268 Most probably this refers to animals and not to human beings.

269 As Fezas (2000b/I: 316 n. 10) has mentioned, referring to MsB, this section was cancelled in 1861.

emaciation (*khabaṭyā*),<sup>270</sup> or by falling, being swept away, or being bitten by something which has teeth, [the offender] shall be subjected to the punishment for injuring, but shall not be executed.

14. If a person who has been beaten up lodges a complaint that someone has beaten him up and the person who has beaten him up is punished in accordance with the *Ain*'s [Art. 56] and [the victim] thereafter falls sick for around 2–4 days due to the pain resulting from the beating, but resumes his own work and walks around, and [then] dies because of another sickness within 22 days, the person who has beaten up [the victim] shall be assigned no renewed blame, because of the fact that [the victim] had already recovered and resumed working and walking around.

15. If somebody strikes a person either with his foot, a stick, or a stone, and that person falls sick, becomes unable to walk and dies from the pain [resulting from the injury] within 22 days, it is understood that the person who struck has killed the victim. The murderer shall be executed—taking life for life. If [the victim] dies from that pain after 22 days have passed, [the assailant] shall not be executed, taking life for life, but shall be fined 60 rupees for the act of beating. If the amount of the fine is not paid, he shall, according to [what has been ruled elsewhere in] the *Ain*, be imprisoned.

16. If someone slaps a person on the cheek or hits [him] once on a sensitive part of the body (*kūṭhāu*)<sup>271</sup> with his hand or with a lock bar<sup>272</sup> and the person [who has been hit] falls sick, cannot stand up because of the pain [resulting from the injury] and dies within 7 days, the [offender] shall be executed. If the victim dies after 7 days, [the offender] shall not be executed, taking life for life, but shall be fined according to the punishment for the offence of brawling.<sup>273</sup> If that person who has been slapped on the cheek starts to walk, move and work after one or two days and dies within 7 days, [the offender] shall not be executed, taking life for life, but shall, in accordance with the *Ain*'s [Art. 58] 'On Brawling', be punished.

17. If somebody lodges a complaint against a murderer, thief, any other criminal (*bāpatī khatukī*)<sup>274</sup> or a bondservant or male and female slaves who have escaped from the house of their master, stating that such and such a person committed such and such an act, and the persons mentioned are arrested, tied up, fettered and brought [to the office concerned], those who arrest [the accused ones] or put [them] into prison shall not be held accountable, if [those being arrested] die by jumping into or falling from a river, steep sloping path, deep pit, window, well, suspension

270 The term *khabaṭyā* literally means 'thin' or 'lanky'. Most probably, it does not indicate here any particular disease, but refers to the condition of health of a person who loses weight because of an unknown disease (see NBS s.v. *khaṭe*).

271 The term *kūṭhāu* (suffix *ku+ṭhāu*) primarily means 'bad or improper place' and secondarily refers to the sensitive and vulnerable bodily organs (see NBS s.v. *kūṭhāu*).

272 The NBS (s.v. *argalā*) records the term *argalā*, which is most probably a vernacular form of *arghyālo*, which refers to a wooden lock bar for doors.

273 See Art. 56 and 58.

274 The meaning of these two terms is not distinguishable. Both terms designate a criminal especially accused of committing adultery or theft (NBS s.v. *khatukī*, *bāpatī*).

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bridge or a rock, by being swept away, by consuming poison [at the place] where they have been imprisoned, by cutting their throat or by hanging [themselves].

18. If a person with the intention to kill and without [legal] authority captures or ties up another person, he shall be executed, if he belongs to a caste group whose members may be executed. If he belongs to a caste group whose members may not be executed, he shall be punished by *dāmala*. If someone who is sent to be arrested by an *aḍḍā*, *adālata* or *amāla* office is arrested and, while being brought [to the concerned office], someone assaults and kills him in the meantime, the one who kills [the person under arrest] shall, in accordance with the *Ain*, be punished. The person who arrested [the victim] shall not be held accountable.

19. If a bailiff or soldier, by order of the *hākima* of an *aḍḍā*, *adālata* or *amāla*, is sent to arrest someone [accused] on an issue of money, immovable property, quadrupeds, male and female slaves, or of a transaction (*linadina*)<sup>275</sup> or the like, and the arrestee—while being brought [to the court]—is assaulted and killed on the way by someone, [the assailant]—if he is a Brahmin—shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated, whereas if [the assailant] belongs to another caste [that may be executed], he shall be executed. The bailiff or soldier who arrests and brings [the accused to the court] shall not be held accountable. If [the accused] is arrested and brought [to the court] without the order of the *hākima* of an *aḍḍā*, *adālata* and *amāla* and is attacked and killed by someone on the way, as many [people] as attack [the accused], that many shall be executed, if they belong to the caste groups whose members may be executed. If they belong to a caste group whose members may not be executed, they shall, in accordance with the *Ain*, be punished by *dāmala* and their share of property shall be confiscated. The one who arrests [the accused] and the one who brings [him to the court] shall not be executed, but their share of property shall, in accordance with the *Ain*, be confiscated and they be let off.

20. If someone kills a person and flees towards Madhesa or Tibet, and crosses the border at a border pillar or a border [demarcation], he shall be caused to be brought back, after communication with the [British] Resident if he flees to Madhesa, and with the chief *kāji* if he flees to Tibet. Then, he shall be executed—taking life for life. [A domestic authority] shall not go to a foreign territory and execute or even arrest [anyone].

21. If someone attempts to kill a person and the victim asks for help, but the people who hear his voice (*khabara*) do not provide any help, they shall be fined in consideration of the person: 25, 20, 15 and 10 rupees, respectively, for [persons of the] *abbala*, *doyama*, *simā* or *cahāra* categories. If the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

22. If someone kills a person, the murderers and the plotters shall, in accordance with the *Ain*, be punished, except for issues [involving] the king, prime minister and envoys coming from

275 Lit. 'taking and giving'. This refers to any kind of obligation resulting from a commercial transaction such as credit arrangements, sales contracts, borrowing, etc.

different countries. The following people who are not involved in the homicidal plot, but hide facts, even though they know about it, shall not be subjected to any punishment: [the offender's] father, mother, wife, full brother and full sister, son and daughter, mother-in-law and son-in-law. If the following officials hide the [homicidal plot], even though they know about it, their share of property shall, in accordance with the *Ain*, be confiscated and they shall be imprisoned for 1 year and [afterwards] be let off: *dvāres*, *mukhiyās*, *tharīs*, *nāikes*, *mahānes*, *pradhānas*, *mijhāras*, *jethā-budhās*, *gauruīs* and *kaṭuvālas*. If a commoner of the village hides the [homicidal plot], even though he knows (lit. hears) about it, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be let off.

23. If someone comes to say that somebody has plotted to kill someone else and the accused one is caused to be brought there and is interrogated, but it is ascertained that no plot was planned and this false accusation was made out of anger, the false accuser, [if he is] a man, shall be [subjected to] confiscation of his [share] of property and shall be imprisoned for 2 years; a woman shall be fined 20 rupees and, unless the fine is paid, she shall be imprisoned.

24. If someone opens fire with a rifle, releases an arrow or discharges [any other] weapon which injures a sentry of a government treasury or of any [other] treasury, a guard of any other place who watches by order or command, a sentry [watching] money, immovable property, quadrupeds or a person, or a sentry patrolling during the night—irrespective of whether the victim dies or not—he who discharges the weapons shall be executed, even if only blood is drawn. If the weapon is discharged, but no blood is drawn, the [assailant] shall be punished by *dāmala*.

25. If someone lets a murderer escape, who earlier had been forbidden by a *lālamohora* or *daskhata* to make a journey, in that he takes a bribe or out of greed, he shall be punished by *dāmala*. If someone lets a thief escape, whatever [amount] is stolen shall be taken from the one who lets the thief escape. If the thief is found, he shall be handed over to the person [who let him escape] and that person shall be told to recover the fine [from the thief]. If someone lets a perpetrator escape who commits [an offence] in matters other [than murder and theft] and flees, the one who lets the perpetrator escape shall be punished by the same punishment and fine as prescribed for the absconder.

26. If someone uses a weapon in a police station or sentry post established by [official] order and kills or hits the sentry—irrespective of whether the sentry dies or stays alive after being injured—the one who opened fire in the police station shall be punished by *dāmala*, if he belongs to a caste whose members are to be punished by *dāmala* as punishment for murder. If he [belongs] to a caste group whose members may be executed, he shall be executed.

27. If someone—while being stopped by a sentry or a guard saying: ‘[one shall not] enter into the watch-house or the sentry post [established by official] order’—takes out a weapon [in order to attack] the sentry or guard or aims a rifle [at him], that sentry or guard shall kill [the assailant]. [In so doing, the sentry or guard] shall not be held accountable.

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28. If a man—who, with the intention to kill a person, is ready to administer poison to someone else or lies in wait for [him] in a narrow street or narrow pass—is arrested, and while obtaining a confession from him (*sābita garnu*), it transpires that he has not taken the [victim's] life, [but] had the intention [to do so], all those who joined the plot of murder shall be imprisoned for 9 years. If a weapon is used, but [the victim] survives [nevertheless], the one who used the weapon shall be imprisoned according to [the severity] of the wound, as measured by the length of the wound in cases of striking, and the depth in cases of stabbing. If the wound is one finger's breadth [long or deep], [the perpetrator] shall be imprisoned for 7 years; if it is two fingers' breadth [long or deep], he shall be imprisoned for 8 years. The culprit shall be imprisoned for a number of years corresponding to how many fingers' breadth [long or deep] the wound is. Whoever joined the plot [of murder], but did not use a weapon [himself], shall be imprisoned only for 6 years. If poison is administered, but [the victim] does not die, the one [who administered] the poison shall be imprisoned for 12 years. Even if the [perpetrators] say that [they will] pay double the fine in lieu of the prison term, they shall not be [permitted] to pay it and shall not be let off. If the [perpetrators] are set free in that the fine is accepted [that is in lieu of the prison term], the *hākima* of the *adālata*, *ṭhānā* or *amāla* shall be imprisoned proportionally to the imprisonment of that perpetrator. If it transpires, while obtaining a confession, that a person is killed, the one who plotted [the murder] (*matalaba dinu*) and the one who killed the person shall be executed—taking life for life.

29. If a woman—who, with the intention to kill a person, is ready to administer poison to someone else or lies in wait for [him] in a narrow street or narrow pass—is arrested and, while obtaining a confession from her, it transpires that she has not taken the [victim's] life, [but] had the intention [to do so], all those who joined the plot of murder shall be imprisoned for 3 years. If a weapon is used, but [the victim] survives [coincidentally], the one who used the weapon shall be imprisoned according to [the severity] of the wound as measured by its length in cases of striking, and depth in cases of stabbing. If the wound is one finger's breadth [long or deep], [the perpetrator] shall be imprisoned for 4 years, if it is two fingers' breadth [long or deep], she shall be imprisoned for 5 years. The culprit shall be imprisoned for a number of years corresponding to how many fingers' breadth [long or deep] the wound is. Whoever joined the plot [of murder], but did not use a weapon [herself], shall be imprisoned only for 3 years. If poison was administered, but [the victim] did not die, the one [who administered] the poison shall be imprisoned for 12 years. Even if the [perpetrators] say that [they will] pay twice the fine in lieu of the prison term, they shall not be [permitted] to pay this and shall not be let off. If the [perpetrators] are set free by accepting the fine [in lieu of the prison term], the *hākima* of the *adālata*, *ṭhānā* or *amāla* shall be imprisoned in proportion to the imprisonment of that perpetrator. If it transpires, while obtaining a confession, that a person was killed, the woman who plotted [the murder] and the woman who killed the person shall be punished by *dāmala*.

30. When executing criminals who have committed homicide, they shall either be beheaded or hanged. They shall not be put to death by any other means. If the prime minister (*bajira*) orders an execution by any other than these two methods, he shall be fined 1,000 rupees.



31. If someone dies having jumped or having [accidentally] fallen into a pond, a well, a river, from a beam bridge, a suspension bridge, a tree, a window, a balcony, a roof, or into a deep pit, or committed suicide by hanging or by using a weapon, or by consuming poison, or if he consumed intoxicants, went unconscious and died, or hit against something and died, or fell down with the load he was carrying and died, or died being hit by a stone that fell down while going to a forest, or died all of a sudden without being sick or injured, or died while he was asleep, or someone else killed him using a weapon, and if a third person out of anger and malice comes to complain that such and such a person killed such and such a person, and if the person who is accused is summoned and interrogated, but the accuser could not present any evidence and witnesses and could not prove that the one who is accused in fact killed that person, and if it is ascertained that it was a natural death as explained above or it was a suicide, or it was an accidental death, or it is proved that the person who was reported to be dead is alive, such a false complainer shall be imprisoned for 5 years. Even if he pays twice the amount set for cancelling the prison term, it shall not be accepted and he shall not be let off. He shall be imprisoned. If such a false complainer is a woman, and if she could not prove it, she shall be imprisoned for 2½ years. If she pays twice the amount set for cancelling the prison term, it shall be accepted and she shall be let off.

32. If someone assaults someone else with a club, stone, stick, his hand, foot or the like, and that person is capable of walking and taking up his work after being incapacitated for a few days, but dies within 22 days due to another disease, his death shall be considered a natural death and the assailant shall not be convicted as a murderer, but shall, according to the *Ain's* [Art. 58] 'On Brawling', be punished.

33. If someone assaults a person and that person is not incapacitated or recovers and takes up his work, but dies after 22 days due to another disease and someone lodges a complaint, saying 'that person died before 22 days have passed because of the pain of your beating', and it becomes known after an investigation that he died after 22 days had already passed, action shall be taken only to the extent required by what had happened when the brawl took place. The [perjurer] who lodged the complaint shall be liable to the punishment of imprisonment for 1½ years. If a perjurer exaggerates what had happened and lodges a complaint out of anger, he shall be imprisoned for 2½ years. If the [perjurer] pays twice the fine required in lieu of imprisonment, it shall be accepted and he shall be set free. If a woman commits [perjury], she shall be imprisoned for half of the [term of a man].

34. If two people go together, but unaccompanied, to a foreign territory, forest or site of work or the like, and one of them dies, either when both are together, or [one is] slightly behind or ahead while crossing a river, walking on a mountain track or swimming, either because he is hit by a stone or a log [falling from the hill], or he falls, or is swept away, and his travel mate goes to the home of the deceased one and explains that such and such a person died in such and such a manner, but the relatives of the deceased person doubt it and come to complain, saying 'this person killed such and such of our [relatives] out of malice', yet during the interrogation it is not ascertained through eyewitnesses that there was hatred among the two [travellers], and it

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is ascertained that the [deceased] died of a natural cause and the complaint was made because of suspicion attaching to the fact that only two people travelled [together], the family member who lodged the complaint shall not be subjected to any punishment. If somebody else lodges [such a] complaint out of anger, he shall be imprisoned for 2½ years. If twice the fine required in lieu of imprisonment is paid, it shall be accepted and he shall be set free. If [the perjurer] is a woman, she shall be imprisoned for 1½ years.

35. If someone consumes an alcoholic drink (*jāḍa-raksi*), liquor (*araka*), opium, *bhāṅga*,<sup>276</sup> *dhaturo*<sup>277</sup> or the like, and assaults someone verbally or physically or breaks any limb of a person, he shall, according to the *Ain*'s [Art. 56] 'On Assault and Bodily Injury', be punished. If it is ascertained that [the victim] lost his life, the perpetrator shall be punished by *dāmala* and his share of property shall be confiscated, if he belongs to a caste group whose members are liable to being shaved [instead of being sentenced to death]. If he belongs to a caste group whose members may be executed, he shall be executed.

36. If an insane person who does not know what is to be done and what not, eats unsuitable food that leads to his cast degradation, roams around [as if he were] in the state of liberation (*nirvāṇa*) and kills a person, he shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated. If that insane person knows what is to be done and what not, does not eat inedible food and does not roam around [as if he were] in the state of liberation, he shall, in accordance with the *Ain*, be punished by *dāmala* and his [share] of property shall be confiscated, if he belongs to a caste group whose members are liable to being shaved [instead of being sentenced to death]; he shall be executed, if he belongs to a caste group whose members may be executed. If it transpires that this insane person did not eat unsuitable food before [committing homicide], but it is ascertained that he started eating afterwards, it is understood that this person ate unsuitable [food] in order to save his life. Such an insane person shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated, if he belongs to a caste group whose members are liable to being shaved [instead of being sentenced to death]; he shall be executed, if he belongs to a caste group whose members may be executed.

37. If it transpires that someone contracts diseases such as Āṭhyā, emaciation or [any other] fever, dysentery, diarrhoea, bloody diarrhoea, gout, colic and asthma, and is ill due to having been beaten up by somebody earlier or collided [with something], or having fallen, and if such a person is sick in such a manner that he is unable to work because of his illness, and this person is killed by someone else, and even if the [perpetrator] struck only once, it shall be deemed that he killed the person and not that the [victim] died in consequence of his illness. The murderer shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated, if he belongs to a caste group whose members are liable to being shaved [instead of being sentenced to death]; he shall be executed, if he belongs to a caste group whose members may be executed.

276 An intoxicating drink made from hemp leaf.

277 Thorn-apple, the seeds of which are intoxicating and poisonous.

If the person who was beaten up has not died, the [perpetrator] shall, be fined and imprisoned twice as much as what is laid down in the *Ain*'s [Art. 58] 'On Brawling'.

38. If someone kills a person by assault, who has fallen sick and is bed-ridden with an abscess or some such, even if the [perpetrator] strikes only once, it shall be deemed that the [victim] was killed by him and not that the [victim] died in consequence of his illness. The murderer shall, in accordance with the *Ain*, be punished by punished by *dāmala* and his share of property shall be confiscated, if he belongs to a caste group whose members are liable to being shaved [instead of being sentenced to death]; he shall be executed, if he belongs to a caste group whose members may be executed. If the person who was beaten up has not died, the [perpetrator] shall be fined and imprisoned twice as much as what is laid down in the *Ain*'s [Art. 58] 'On Brawling'.

39. If somebody is beaten by someone, and another person beats him again before the beaten person has recovered, and within eight *ghaḍī* or up to 22 days after [the first incident] the beaten person dies, the first assailant shall be found guilty for his assault and shall, according to the *Ain*'s [Art. 58] 'On Brawling', be fined and imprisoned. The later assailant shall be found guilty of killing a person and shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property shall be confiscated, if he belongs to a caste group whose members are liable to being shaved [instead of being sentenced to death]; he shall be executed, if he belongs to a caste group whose members may be executed. If the person who was beaten up has not died, the [perpetrator] shall be fined and imprisoned twice as much as what is laid down in the *Ain*'s [Art. 58] 'On Brawling'.

40. If somebody comes to complain that such and such a person has done such and such, and upon interrogation it is ascertained that it is merely a perjury, the perjurer who makes a false accusation of homicide and writes and also signs a statement at a *kacaharī* office, shall be subjected to that punishment which is laid down for a perjurer of homicide. If it transpires that the [perjurer] has not written and signed [such a] statement and the *beḍī* and *karpana* fees are not paid and [the perjurer] says that he is not able to make [the defendant] confess, it shall be deemed verbal assault, and he shall be punished with a fine of 20 rupees if the affair [could have] led to a death [sentence]. If it [could have] led to the punishment of *dāmala*, the [perjurer] shall be fined 15 rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

41. If someone is arrested and brought before an *aḍḍā*, *gauḍā*, *adālata* or *amāla* [to stand trial] in a case involving homicide, and if he confesses to the crime and is brought before the *Iṭācapali* [court], then if the evidence of direct witnesses who have provided written depositions—those who saw [the crime] or know [about it]—or [in the form of] confessions written by third parties corresponds with what the offender has asserted, there is no need to summon the direct witnesses and third parties. The offender shall be dealt with in accordance with the *Ain*. If the particulars of the evidence [from] the direct witnesses and the written confessions of third parties differ from what the offender has stated, the persons and evidence shall be brought forth as required, and whatever is decided upon interrogation shall be carried out in accordance with the *Ain*.

## 65. On Manslaughter

1. If someone hits a person who is past the age of 12 with one punch on his buttocks or back, or slaps him once on his cheek, and if that person dies,<sup>278</sup> it shall be considered an accident. That share of property which is his according to the *Ain* shall be confiscated for unlawfully killing a person, and he shall be set free. If someone hits a person at any other place on the body, [hitting an] organ, [and the victim dies], it shall not be considered an accident. If someone hits a person who is below the age of 12 only once or twice with the hand, and if that person dies, it shall also not be considered an accident. If [such an offender] is a Brahmin, he shall be punished by *dāmala* and the share of property which is his according to the *Ain* shall be confiscated. If he is from any other caste, he shall be executed—taking life for life.<sup>279</sup>

2. When somebody, during the night, strikes at [a person], mistaking him or her for an animal or the like, and that person dies in the course of the attack, it shall be considered an unintentional (*bhora*) [manslaughter] if, in the interim, it becomes apparent that the slayer and the deceased harboured no [mutual] malice, nor engaged in any dispute [concerning] any matter—slaves, land, wives, property, quadrupeds or the like. [In such circumstances] the slayer shall not be held accountable. The slayer shall be granted penance for having committed manslaughter after being made to pay 50 rupees to cover the expenditures for the funerary rites of the deceased, being made to visit 1 pilgrimage site and being made to pay to the religious judge (*dharmādhikāra*) a *godāna* fee of 15, 10, 5 and 2 rupees for a person of an *abbala*, *doyama*, *sima* and *cahāra* category, respectively.

3. When somebody, while striking with a stone, stick or cane (*jhaṭāro*) in order to hit a land animal or bird, or to cause fruits to fall down [from trees], hits [instead] a human and that person dies, the striker shall be made to pay 50 rupees to cover the expenses of [the victim's] funerary rites. If the [victim] turns out to have been only injured, the striker shall be made to pay 10 rupees [as damages]. No other punishment shall be assigned.

4. If somebody hunting in a jungle fires a rifle or discharges an arrow without being certain that [the target] is a deer or any other animal, and if a person dies from that shot, the slayer shall be

278 *kasailē 12 varṣa deṣī ubhokā manisalāi jyāna marna gayo bhanyā bhavitavya thaharcha*, read *kasailē 12 barkhadekhī ubhokā mānisalāi kaṃṭhā piṭhiyāmā yakai choṭa muḍkile hāndā ra labaṭāle gālāmā yakai choṭa hāndā jyāna marna gayo bhanyā bhavitavya thaharcha* (MA<sub>2</sub>).

279 In MA<sub>1</sub> the passage *kaṃṭhā piṭhiyāmā yakai choṭ muḍkile hāndrā ra lavaṭāle gālāmā yakai coṭ hāndā* of the last sentence is misplaced. It should, as in MA<sub>2</sub>, appear at the beginning of the section.

made to pay 50 rupees to the deceased person's brothers or sons to cover the expenditures for the funerary rites. If [the victim] does not die, but is only injured, the one who injured the victim shall be made to pay 10 rupees as damages (*ghākharca*). No other punishment shall be assigned.

5. If, because of a breakage, slippage or a loss of control during the discharge, a person is struck by a bullet or arrow shot from a rifle or bow, or by a kukri or sword while slaughtering an animal, and that person dies, [the slayer] shall not be held accountable. He shall undergo penance. The slayer shall be made to pay 50 rupees to cover the expenses of [the victim's] funerary rites. If the [victim] does not die, [but is only injured], the slayer shall be made to pay 10 rupees as damages, and the *dharmādhikāra* shall grant him expiation by taking 5 rupees from him as a *godāna* fee.

6. If somebody, while discharging a rifle inside a city or near a city or any place where people walk—without urging them to leave that place and without taking any other measures to prevent them being hit by a bullet—shoots a person and [that person] is injured, [the shooter] shall be made to pay 50 rupees as damages. If the victim dies, the shooter shall be made to pay 100 rupees to cover the expenses of [the victim's] funerary rites. No other punishment shall be assigned.

7. If men, women or children are being led across a river or ford (*jāghāra*) and sink into [the river] and are swept away and drown, having slipped loose from the grip of the person leading them across, and if the strength [of that person] was not sufficient to hold them back, the person who had been leading them across [the river or ford] shall neither be held accountable nor does he need to undertake penance.

8. While slash-and-burn farming, hunting or setting fire to a forest, if someone sets fire to a forest without having noticed any humans or quadrupeds, and the fire [he sets] burns any humans or quadrupeds to death, it shall be considered a mishap. If any human dies [due to the fire], the one who sets the fire shall be made to pay 20 rupees to cover the expenses of [the victim's] funerary rites. He shall not be further held accountable.

9. If a tree being felled, a branch being cut, or a log being sectioned strikes a person or a livestock animal and this person or animal dies as a result, or else is crushed [to death] by wood that is being dragged or rolled [further], or if, when a tree is being felled, wood being dragged, a field<sup>280</sup> being ploughed or dug, a path or water channel being constructed, [a person or a livestock animal] is hit by a stone [or any other] round object, or wood which has been projected and could not be stopped, and if that animal or person dies, it shall be considered a mishap. The person responsible [for the activity] shall neither be held accountable nor does he need to undergo penance.

280 We have translated here both *khoriyā* and *bārī* into 'field' understanding it as a generic meaning. Usually, these terms refer to two different categories of land.

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10. If a person dies after being struck by an axe, kukri, sickle (*khurpā*) or knife (*cupī*) which has slipped out of [the wielder's hand] while cutting a tree or log, [the slayer] shall be made to pay 20 rupees to cover the expenses of [the victim's] funerary rites and be made to undertake penance. If the [victim] is only injured, [the slayer] shall be made to pay 5 rupees as damages.

11. Except for those people who die through misfortunes (*daivāgata*), such as falling [into a river] and being swept away while crossing a river; falling off a tree, cliff, or from a roof or window; from being eaten, bitten, hit or crushed by animals such as snakes or quadrupeds; from being struck by a thunderbolt (*vajra parī*) or being burnt by fire or killed by ammunition; from being crushed by stones, logs, trees or a landslide, or by the hand of someone belonging to a Water-unacceptable caste, no expiation and penance shall be required for performing the crematory and funerary rites of any person who dies after having been poisoned by a person from a Water-acceptable caste, being pushed off by such a person from a cliff, into a river, from a roof or out of a window, or being hit by a weapon wielded by such a person, or being slaughtered by a thief or being executed by a woman's husband for committing adultery with her. If someone fines him on the ground that he should not have performed funerary rites [for the deceased person] before undertaking expiation, he shall be made to return the amount he required and be fined an amount equal to that. If someone obstructs the performance of the crematory and funerary rites of such a deceased person, he shall be fined 5 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

12. If someone constructs a house or cowshed near a forest, he shall have to keep the surroundings [of the house] clean in a manner that makes it safe from forest fire. If the person who has constructed a house or wooden shed (*kaṭero*) [near a forest] does not keep the surroundings clean, and if he comes to complain that a forest fire set by someone destroyed the house or wooden shed and caused the death of a person or quadruped or otherwise destroyed his property, it shall be considered a mishap. Ten rupees shall be collected from the person who set fire [to the forest] as a fine for acting carelessly, and the amount shall be given to the person whose house caught fire. [The offender] shall neither be required to pay any additional amount in damages, nor shall he be held accountable, nor does he need to undergo penance.

13. From now on, no one who goes hunting in a forest shall kill any rhinoceros. If someone kills a rhinoceros, he shall be fined 50 rupees. If it is proven that someone has killed [a rhinoceros] on the order of someone else, then the person who has given the order shall be fined 25 rupees and the person who has killed it shall be fined 25 rupees.

14. If a person shoots a wild elephant, he shall be fined 200 rupees. If he has shot it on the order of someone else, then the person who has given the order shall be fined 100 rupees and the person who has shot it shall be fined 100 rupees. No fault shall be assigned to a person who shoots and kills an elephant that enters a village and causes destruction and injures people.

15. No fault shall be assigned to someone who kills a wild tiger, bear or boar.

16. If someone hunts in a forest in which hunting has been prohibited through a royal order or *sanada*, and kills a deer, spotted deer, antelope, rabbit, porcupine or the like, he shall be fined 5 rupees.

17. If someone hunts in a forest other than those in which hunting has been prohibited by a royal order or *sanada*, and kills a deer, spotted deer, antelope, rabbit, porcupine or the like, he shall not be held accountable.

18. If someone kills a deer, spotted deer, antelope, rabbit, porcupine or the like who come to eat the standing crops [on his field], he shall not be held accountable.

19. Within the Nepal Valley, if a person kills a domesticated antelope, hog deer or spotted deer or a deer that has escaped [from its shed], he shall be fined 70, 20 and 10 rupees, respectively. If several persons jointly kill [such a domesticated animal], the damages shall be exacted from all of them who are involved in the killing. No fine shall be required for those persons who are not involved in the killing, but have received and eaten a share of its meat.

## 66. Killing a Cow

1. If someone has intentionally killed a cow, he shall be punished by *dāmala*.
2. If someone intentionally strikes a cow with a weapon, and if it does not die, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be set free if he belongs to a Non-enslavable caste. If he belongs to an Enslavable caste, he shall be enslaved.
3. If a cow has accidentally died when someone is driving it back, preventing it [from going ahead] or trying to guide it by striking it with sticks or stones, or an ox has [accidentally] died while being castrated or while training it for ploughing (*dāunu*) or letting it thresh rice straw (*dāi hānu*) or drawing the plough, any such person who has accidentally caused this shall be fined 1 rupee and be granted penance (*prāyaścitta*).
4. If someone comes to report<sup>281</sup> himself for having killed a cow while preventing it [from going ahead] or while driving it back by striking it with stones or a lump of clay<sup>282</sup> so that it was hit on a sensitive part of the body, he shall, in accordance with the *Ain*, be fined 1 rupee and [be granted expiation] in accordance with the customs and [holy] scriptures. If he has accused somebody else, stating that this other person has killed it and later on, it is ascertained that he himself did it, he shall be fined 100 rupees. If someone accuses someone else of having killed a cow which died a natural death, and if it is ascertained that the cow was not killed, but the accuser made his allegation out of anger, he shall be fined 60 rupees and shall be granted penance. If he does not pay the amount of the fine, he shall be imprisoned.
5. If someone has seen the killing of a cow and does not report it, but conceals [the incident], he shall be fined 50 rupees.
6. Someone who hits a cow in such a way that blood is drawn shall be fined 2½ rupees. If someone breaks the leg of a cow or female water buffalo, he shall compensate the owner for the price in question and he shall be fined 10 rupees. The injured animal shall be given to the person who injured it. The cow shall not be given to the person who injured the animal if he belongs to

281 *āhera*, read *jāhera* (MA<sub>2</sub>).

282 *dahale*, read *dallāle* (MA<sub>2</sub>).



a caste whose members consume cow meat; the cow and the price in question shall then belong to the owner.

7. If someone sees a person who intentionally is killing a cow or an ox, except for the case of an accident, and if the former then kills the person who is killing the cow or ox, he shall not be held accountable. If somebody has killed a person who accidentally killed a cow or an ox, he shall be punished by *dāmala* if he belongs to a caste whose members' heads are to be shaved [in lieu of execution]; if he belongs to a caste whose members may be sentenced to death, he shall be executed, taking life for life.

8. For the welfare of the cow everyone is permitted, if necessary, to cut the horns of a cow or an ox or, in the case of foot-and-mouth disease, to cut the hooves, to remove worms from wounds and to clean [the wounds], to open boils or painful body parts injured by stumbling, to brand it, and to draw blood from it. Whoever, in such a case, acts for the welfare [of the animal], shall not be held accountable. Such cases shall not be referred to an *aḍḍā*, *adālata* or *amāla* office.

9. If in the realm of the entire kingdom of Gorkhā someone sees a person who draws a weapon and prepares to slaughter a cow or an ox, and if the former forbids [the latter] to kill [the animal], stating that it is forbidden, and if, although [the former] does so, the latter does not obey and kills the animal in [the former's] presence, and such a cow slaughterer is killed on one and the same day, time and spot, the person who killed him shall not be held accountable for murder. If the former did not see the cow being slaughtered at the time it happened, but found out later that such and such a person killed a cow, he shall catch and fetter him, and bring him to an *adālata* or a *ṭhānā*.

10. In the realm of the entire kingdom of Gorkhā, no one from the entire Four Varṇas and Thirty-six castes shall kill any animal, bird or aquatic being on the following recorded days: the 11<sup>th</sup> day (*ekādaśī*) [of any fortnight], Kṛṣṇajamāṣṭamī and Śivarātri—with the exception of an obligatory animal sacrifice [performed] in accordance with the ancient tradition in a worship or *guthī* [context]. One shall also not hunt or fish. Someone who kills on these recorded days a quadruped, a bird, or any aquatic being, shall be fined according to the price of whatever animal he has killed. If an official of an *adālata* or *ṭhānā*, on one of these recorded days, enforces capital punishment on a person who has confessed his crime, which is punishable by death, in written form, he shall be fined 25 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If someone who is allowed to consume [fish or meat] eats on these days old fish or meat [of an animal slaughtered before this day], he shall not be held accountable. If he does not consume such [fish or meat], he shall also not be forced to do so.

11. If someone has no intention of killing a cow or an ox, but it dies when he strikes it with a pole, a stone or a stick 2, 4, 5 or 7 times (i.e. several times) in order to chase it away [from the fields] and prevent it from eating the standing crops, it shall be deemed an accident. He shall be

## 66. Killing a Cow

made to compensate for the price in question [to the owner] and shall be fined according to the price [of the animal] in question.

12. If someone does not reveal the accidental killing of a cow to others and hides it, or sees or hears that someone else has accidentally killed a cow or an ox and does not reveal this to others and hides it, and if he contaminates [fellow caste members] through cooked rice and water, each [one of such culprits] shall be fined 20 rupees and be granted expiation, because even someone who has had illicit sexual intercourse is granted expiation for an accidental [act]. If an *amāli* or *dvāre* arbitrarily, i.e. without consulting and understanding the *Ain*, imposes fines in such cases, thinking ‘What will happen to us if we fine [the culprit] such an amount?’, the amount in question which has been collected as a fine shall be restored to whom it belongs and the official shall be fined 10 rupees. If someone is accused, [his case] shall be decided according to the *Ain* if it is dealt with in the *Ain*. If [the case] is not dealt with in the *Ain*, [the case] shall be reported to the Kausala, a law shall be passed and [the case] shall be decided according to the sanction which has been given in conformity with the *Ain*.

13. If a cow or an ox that is tied in a cow pen is devoured by a tiger or killed by fire or lightning, or if it pines away through a disease or dies all of a sudden without any disease, or strangles itself with the halter by which it was fettered, such cases shall be deemed accidents. An *adālata* or an *amāla* shall take a fee of 2 *ānās*, issue a *pūrjī* and grant expiation for an accidental [act].

14. If a mute person who cannot speak hurts a cow or an ox, striking it with a weapon, pole or stone, and if it is not injured, he shall be set free after being flogged with 10 lashes. He shall not be [further] punished and be granted expiation.

## 67. On Chilli

1. If someone comes to complain that such and such a man has thrown chilli at him, and it is ascertained by an inquiry bringing both parties together that chilli has been thrown at him, the one who has thrown or smeared chilli on [the victim's] face or ear—irrespective of whether it has been thrown at a man or woman—shall be fined 20 rupees. If chilli smoke has been blown [on the victim], the perpetrator shall be fined 50 rupees; if chilli has been thrown into the victim's eyes, the perpetrator shall be fined 50 rupees; if it has been thrown on the victim's rectum, he shall be fined 100 rupees; if it has been smeared on the victim's penis, he shall be fined 200 rupees, and if it has been thrown on the victim's vagina, he shall be fined 400 rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

2. If someone comes to complain that such and such a woman has thrown chilli at someone else, and it is ascertained by an inquiry that chilli has been thrown [at that person], the one who has thrown or smeared chilli at or on [the victim's] face or ear—irrespective of whether it has been thrown at a man or woman—shall be fined 10 rupees. If chilli smoke has been blown [at the victim], she shall be fined 25 rupees; if chilli has been thrown into the victim's eyes, she shall be fined 25 rupees; if it has been thrown on the victim's rectum, she shall be fined 50 rupees; if it has been thrown on the victim's penis, she shall be fined 10 rupees; and if it has been thrown on the victim's vagina, she shall be fined 200 rupees. If the fine is not paid, she shall, in accordance with the *Ain*, be imprisoned.

3. If a woman has thrown chilli at a man or woman, she shall be fined 25 rupees if it has been thrown at the victim's eyes, 50 rupees if it has been smeared on the victim's rectum and 200 rupees if it has been smeared on the victim's vagina. If the fine is not paid, she shall, in accordance with the *Ain*, be imprisoned.

4. If a male or female bondservant or male or female slave comes to complain that his or her master has thrown chilli at him or her, and it is ascertained upon inquiry that chilli smoke was blown into, or chilli was thrown on, his or her eyes, the loan agreement of the male or female bondservant shall be torn apart and he or she shall be released.<sup>283</sup> If [the victim] is a male or female slave, he or she shall be unconditionally emancipated. If chilli was smeared on the face or ear [of the victim], [the offender]—if it is a man—shall be fined 10 rupees, or—if it

283 Lit. 'let him or her be free according to his or her own will' (*āphu khusi garāidinu*).

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is a woman—shall be fined 5 rupees, but [the victim] shall not be emancipated. If it appears that chilli was thrown on the victim's rectum or it was smeared on the victim's penis, [the offender]—if it is a man—shall be fined 100 rupees, or—if it is a woman—shall be fined 50 rupees and [the victim] shall be emancipated. If chilli was thrown on the victim's vagina, [the offender]—if it is a man—shall be fined 200 rupees, or—if it is a woman—shall be fined 100 rupees and [the victim] shall be emancipated. If the fine is not paid, [the offender] shall be imprisoned.

5. If a man throws chilli on the vagina of a wife of those persons who have, in accordance with the *Ain*, the right to kill their paramours,<sup>284</sup> and her husband kills [the offender] on the grounds that his wife was insulted, the husband shall not be held accountable of committing a heinous crime (*rājakhata*), given the condition that he has killed someone other than an Upādhyāya Brahmin, a Duī-Liṅga-Jaisī Brahmin<sup>285</sup> or someone from his kinsfolk or lineage. Such a woman neither loses her caste status nor needs to observe penance, because chilli had been thrown on her by force and there was no indication of illicit sexual intercourse. If [such a husband] kills [the offender] after the case has been brought to the court and [the offender] has been punished [by the court], the husband—if he is a Brahmin—shall, in accordance with the *Ain*, be punished by *dāmala* and his share of property confiscated; if he belongs to another caste, he shall be executed. If he does not kill [the offender] and comes to complain, the one who has thrown chilli [on his wife] shall, in accordance with the [above-mentioned] regulation of the *Ain*, be punished.

6. If a man accuses such and such a person of having thrown chilli at him, and it is ascertained upon inquiry that chilli has not been thrown, but the accusation has been made unlawfully, he shall be fined 10 rupees if he claims that chilli has been thrown at or smeared on his ears or face, 25 rupees if he has claimed that chilli smoke has been blown at him or chilli has been thrown into his eyes, 100 rupees if he has claimed that it was thrown or smeared on his rectum or penis, and 200 rupees if he has claimed that chilli has been thrown on [someone's] vagina. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

7. If a woman accuses such and such a person of having thrown chilli at him, and it is ascertained upon inquiry that chilli was not thrown, but that the accusation has been made unlawfully, she shall be fined 5 rupees if she has claimed that chilli was thrown at her face or ears, 12½ rupees if she has claimed that chilli smoke was blown at her or chilli was thrown into her eyes, 50 rupees if she has said that it was thrown or smeared on her rectum or on [someone's] penis, and 100 rupees if she has claimed that chilli was smeared on her vagina. If the fine is not paid, she shall, in accordance with the *Ain*, be imprisoned.

284 Who and under which circumstances somebody is allowed to kill his wife's paramour is regulated in Art. 134–135 and 138–141.

285 This refers to a Jaisī whose mother was previously married to two other men (cp. Höfer 1979: 121 or 2004: 89 for the term *tin liṅga dekhiko jaisi*). Among other criteria, Jaisīs were hierarchised according to the number of former husbands of their mother (cf. §§ 115.2–4). Whereas the MA<sub>1</sub> here reads *uiliṅgakā jaisi* ('a Jaisī from the same *liṅga*'), we follow MA<sub>2</sub> 63.5 which gives 2 [*duī*] *liṅga-kā jaisi*. This reading is also supported by a similar phrasing in MA<sub>1</sub> 134.3 where Jaisīs of two *liṅgas* along with Upādhyāya Brahmins are not allowed to be killed by the husband of a married woman with whom they have had sex.

8. If a man throws chilli at someone or blows chilli smoke into the eyes of a person and it becomes apparent that one eye of that person has been damaged, he shall be imprisoned for 6 years. If he offers double the fine required in lieu of imprisonment, it shall be accepted and he shall be set free. If both eyes [of the victim] have been damaged, [the offender's] share of property shall, in accordance with the *Ain*, be confiscated, [the confiscated property] shall be given to the one whose eyes have been damaged, and the one who has damaged [the victim's] eyes shall be punished by *dāmala*.

9. If a woman throws chilli at someone or blows chilli smoke into the eyes of a person and one eye of that person is damaged, she shall be imprisoned for 3 years. If she offers double the fine required in lieu of imprisonment, it shall be accepted and she shall be set free. If both eyes [of the victim] have been damaged, she shall be imprisoned for 12 years. If the fine required in lieu of imprisonment is offered, it shall be accepted.

10. If a man throws chilli at someone or blows chilli smoke into the eyes of a person or brawls with him, and if that person suffers [in consequence] from cataracts in his eyes and cannot see any more, [the offender]—if [the victim] loses his sight from the cataracts in one of his eyes—shall be imprisoned for 6 years. If he offers double the fine required in lieu of imprisonment, it shall be accepted and he shall be set free. If both eyes [of the victim] have been damaged, [the offender's] share of property shall, in accordance with the *Ain*, be confiscated, [the confiscated property] shall be given [to the victim] and the one who has caused the cataract in [the victim's] eyes shall be punished by *dāmala*. If [the victim still] can see, [the offender]—if the victim suffers from cataracts in one of his eyes—shall be imprisoned for 3 years, and if [the victim] suffers from cataracts in both of his eyes, [the offender] shall be imprisoned for 6 years. If the fine required in lieu of imprisonment is offered, it shall be accepted and he shall be set free.

11. If a woman throws chilli at someone or blows chilli smoke into the eyes of a person or brawls with him, and if that person suffers from cataracts in his eyes [in consequence], but still can see, [the offender]—if [the victim] suffers from cataracts in one of his eyes—shall be imprisoned for 1½ years. If [the victim] suffers from cataracts in both of his eyes, [the offender] shall be imprisoned for 3 years. If the fine required in lieu of imprisonment is offered, it shall be accepted.

## 68. On Theft

1. If someone was a petty thief in the past, and he steals someone's belongings, and if among 4–5 stolen items, he—considering the evidence—confesses to the theft of one item, but adamantly denies having stolen other items, and if the person who has raised the accusation of theft is right and has informed others on the day the theft happened, stating 'A certain number of things were stolen from me', while the thief remains adamant on not having stolen other things except for the one item, and even after castigation, interrogation or beguilement, [the further allegations] cannot be substantiated [against him], then he shall—after the matter has been consulted with the prime minister—be interrogated by whipping him in such a way that he does not die. If the thief dies in the course of the whipping, the *dvāre* and *bicārī* of the *adālata*, *ṭhānā* or *amāla* offices shall not be held accountable.

2. If someone who had already been convicted of thievery once or twice before is [again] being accused of thievery, and if suspicions or evidence for his theft come forth in the course of interrogation, or if someone who has been arrested in a case of killing a person without authorisation is apprehended out of suspicion or due to the hints gained from the statement of a witness, and if such [suspects] die while they are—after the matter has been consulted with the prime minister—beaten or whipped in a reasonable manner, the *hākima*, *ḍiṭṭhā*, or *bicārī* of the *adālata* or *ṭhānā* shall not be held accountable.

3. If someone, without any evidence, beats a person, suspecting that he has taken his belongings, and kills him, then such a murderer shall be executed—taking life for life.

4. If someone, without any evidence, accuses a person of thievery, and if the accuser dies while the accused person denies the accusation, claiming that it was not him, and [also] does not confess [to the thievery], then the case has been settled by force majeure. [The accused person] shall not be required to compensate the stolen amount. He shall not be made to compensate [the stolen amount]. The accused person shall not be considered a thief from the *adālata*, *ṭhānā*, *amāla* or *kacaharī*. Such a case shall not be investigated [further]. The accused person shall be set free.

5. If someone confesses that he has committed thievery once or twice in the past as well, and if such a person again goes to steal, and if the injured party, having no way to tie up<sup>286</sup> or

286 *vā dhana*, read *bādhana* (MA<sub>2</sub>).

catch the thief and realizing that the thief is stronger than him, kills the thief out of fear while he is stealing, then he shall not be held accountable.

6. If someone, whether for the first or second time, comes with an armed gang and breaks into premises to burgle, and if the owner of the property kills such burgling thieves, wielding a weapon or hitting them with a stick or stone, then he shall neither need to be fined nor to undergo expiation. Also, he shall not be held accountable for having committed a heinous crime (*rājakhata*).

7. Irrespective of how many times a child below the age of 12 years commits thievery, the damages of the person whose property was stolen shall be compensated from [the person] to whom the stolen property has been given or sold. Ten percent [of the damages] shall be collected [as a court fee] from the owner. The amount paid by the person for the purchase of the item shall not constitute a valid sale. If the father, mother, elder brother, an acquaintance, friend or relative [of such children] sells the stolen objects, the purchase amount of the buyer shall be compensated from these [relatives]. They shall be fined an amount equal to the purchase amount. No punishment or imprisonment shall be required for children below the age of 12.

8. If a person between the ages of 12 and 16 commits thievery once, he shall be made to pay compensation for the damage and shall be fined an amount equal to the damage. If he commits thievery for the second time, he shall be made to pay compensation for the damage, too, and shall be fined an amount equal to the damage. If he commits thievery for the third time, he shall be made to pay compensation for the damage and shall be fined an amount double that of the damage. If he commits thievery for the fourth time, he shall be made to pay compensation for the damage and shall be imprisoned for 3 years; for the fifth time, he shall be made to pay compensation for the damage and shall be imprisoned for 6 years; for the sixth time, he shall be made to pay compensation for the damage and shall be imprisoned for 12 years. If he commits thievery seven times or more, he shall be made to pay compensation for the damage and shall be punished by *dāmala* after the share of property which is his according to the *Ain* has been confiscated.

9. If a thief steals the wealth, goods, grain, quadrupeds, commodities or the like of others for the first time, he shall be made to pay compensation for damages to the person whose goods he has stolen and shall be fined an amount equal to the damages. If he fails to compensate the damages and also fails to pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees of the damages and fine [he did not pay] and shall be set free.

10. If a thief enters someone's house and steals during the day or night, forcibly takes the jewellery a person wears on the body, robs and loots someone passing through a secluded jungle with a load of cash and goods, and if the owner of the goods wields a weapon and kills the thief, lacking the strength to capture him, then the injured party who kills the thief under such circumstances shall not be held accountable.

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11. If a thief past the age of 16 steals by tearing the lobe of someone's ear or nose, beating him with a stick and drawing blood from him or beating him in such a way that it leads to bruises, and even if [the injured party] does not die, such a thief—whether he steals a little or a lot of goods—shall be made to pay compensation for the damage and be imprisoned for 6 years, even though he has stolen for the first time. If such a thief, after being released from prison, steals [again] in the same manner, such a second-time offender shall be punished by *dāmala*, after the share of property which is his has been confiscated according to the *Ain*, because he is considered to be a manslayer.

12. If a first-time thief pays damages and the amount of a fine equal to the damages, it shall be accepted and [the thief] shall be set free. If he does not pay this, he shall be imprisoned at the rate of 1 month for every 5 rupees for the total amount of the damages and fine until he has atoned [for the unpaid sum], and he shall be freed once the prison term is over.

13. If a thief past the age of 16 does not even break in, bursting through a wall, picking locks or using keys, also does not enter through a window and does not enter the house during a day or night either, but steals cash or goods [worth] less than 20 rupees from the roadside or cowshed, or steals clothes kept outside or hung out to dry, or steals birds and animals like sheep, goats, ducks, chicken or the like, or steals the quadrupeds which are brought to pasture for grazing, then a first-time thief shall be made to pay damages for the stolen goods and be fined an amount equal to the damages. A second-time thief, who steals in the same manner, shall be made to pay damages for the stolen goods and be fined an amount double that of the damage. A third-time thief, who steals in the same manner, shall be made to pay damages for the stolen goods and be fined triple the amount of the damage. A fourth-time thief, who steals in the same manner, shall be imprisoned for 3 years. If the thief steals again in the same manner for a fifth time after he has been released from imprisonment, he shall be imprisoned for 6 years. If the thief steals again in the same manner for a sixth time after he has been released from imprisonment, he shall be imprisoned for 12 years. If he steals for a seventh time, he shall be punished by *dāmala*. Such a thief who steals little is considered to be a petty thief. If such a petty thief, who steals by picking up things outside, steals several times, but every time goods worth less than 20 rupees, and if after his arrest the total worth of the goods [he has stolen] is calculated, even if it is ascertained that [all the goods stolen by him together] are worth more than 20 rupees, the excess [to the threshold amount of 20 rupees] upon the calculation of the total value [of the things stolen] on multiple occasions shall not be accounted for. As he is ascertained to be a petty thief, since he has stolen goods worth less than 20 rupees on each occasion, only as many occasions as there are written confessions [by the thief] shall be taken into account, and not every occasion. If he has stolen goods worth more than 20 rupees in total, the [number of] his confessions shall not be taken into account. The number of acts of thievery shall be taken into account. He shall be punished in accordance with the present regulations.

14. If a thief past the age of 16 breaks in through a wall, opens the doors or locks and steals the goods inside a house, or breaks into a house or shop through the roof, windows or doors, such



a thief—if he is a first-time thief—shall be made to pay the damages and be fined an amount equal to the damages. If he pays the damages and the amount of the fine, it shall be accepted and [the thief] shall be set free. If he fails to pay [the damages and fine], then he shall be imprisoned as per the damages and fine. A second-time thief, who steals in the same manner, shall be made to pay the damages and be fined double the damages, and shall be imprisoned at the rate of 1 month for every 5 rupees [of the total amount of the damages and fine]. Even if he pays [the damages and fine] at the rate of 10 rupees for 1 month in lieu of his prison term, it shall not be accepted. A third-time thief who steals in the same manner shall be imprisoned for 6 years; a fourth-time [thief] shall be imprisoned for 9 years. A fifth-time [thief] shall be imprisoned for 12 years. A sixth-time thief shall be punished by *dāmala*, after his share of property has been confiscated. If a thief steals in this manner, whether he steals [only] on a single night or on multiple occasions, as many occasions as he has committed thievery in houses and shops shall be taken into account. [All the goods that he has] stolen shall be reckoned and he shall be punished accordingly.

15. If a thief commits thievery by picking up items kept outside and steals by entering into a house as well, the thief—irrespective of whether he has confessed one act of thievery or 2–3, shall be imprisoned after the regulation on thievery by breaking into a house<sup>287</sup> and the regulation on thievery committed by a petty thief<sup>288</sup> have been consulted, and after reckoning the prison terms prescribed for both kinds of thievery.

16. A thief who steals grain such as rice, wheat or the like, or hay from a haystack placed outside or on the threshing floor (*khalā*) or in the courtyard (*āgana*) to dry, shall be made to pay damages and be fined double the damages. If a thief steals grain, fruits or the like from a field or garden, he shall be made to pay damages and be fined treble the damages. If a recipient of *jāgira* land commits such an act of thievery, he shall be made to pay the damages and be dismissed from his post. He shall not be fined or imprisoned once he has been dismissed from his post.

17. If someone steals someone else's possessions, having rendered him unconscious<sup>289</sup> by feeding him intoxicants such as opium, cannabis, poisonous white thorn-apple (*dhaturo*), nutmeg (*jāiphala*), mace (*jāipatrī*), opium seeds (*birau*), gallnut (*mājuma*), spirituous liquor (*madirā*) or the like, he shall be made to return to him the items he has stolen; 10 percent of the value shall be collected [as a court fee] from the person to whom the [returned] property belongs. The person who ordered the theft and the person who [actually] committed thievery by feeding [the victim] intoxicants shall both be imprisoned for 6 years after the shares of property which are theirs according to the *Ain* have been confiscated. Even if they pay double the amount set in lieu of the prison term, it shall not be accepted. If someone feeds a person an intoxicant [to steal his possessions] but fails to do so, then he shall be imprisoned for 2 years. If he pays the amount set in lieu of the prison term, it shall be accepted. If [such a thief] is a woman, she shall be made

287 § 14 of the present Art.

288 § 13 of the present Art.

289 *gaphalata pari*, read *gaphalata pārī* (MA<sub>2</sub>).

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to pay for the stolen items and be fined an amount equal to the damages and be imprisoned for 3 years. If she feeds a person intoxicants [to steal his possessions] but fails to do so, she shall be imprisoned for 1½ years. If she pays the amount set in lieu of the prison term, it shall be accepted, and she shall be set free.

18. If one thief steals goods from several people, and after the thief is arrested and a list of the property (*tāyadāta*) of his house has been prepared, all the goods retrieved from his house which can be identified as belonging to certain persons and are proven to be so shall be handed over to the respective owners. Regarding cash and other goods [whose owner] cannot be identified, no one else shall receive them until the damages for the person who has apprehended the thief are covered first. After the damages of the person who has apprehended the thief are covered, the remaining property and goods [along with the confiscated] share [of the thief's property] shall, in accordance with the *Ain*, be distributed proportionally to each person whose goods have been stolen and by whom he has been identified as the thief. If the damages cannot be recovered from the [property of] of the thief's house, the thief shall, in accordance with the *Ain*, be imprisoned for his theft and the [outstanding payment] of the damages. If, after the payment of the damages, there is property left, the thief's share [of property] shall, in accordance with the *Ain*, be confiscated. If the family members of the thief are his accomplices (*matiyāra*), then the property of all those family members shall be confiscated, except the shares for the sons under the age of 12 and the marriage expenses for the daughters. After the thief has been arrested and interrogated, those who have entered the claim that so many of their goods have been stolen and who have their claims verified shall be provided with a proportional share. Once the *adālata*, *amāla* or *ṭhānā* has punished the thief, the person who has not entered a claim [during the trial], declaring that his [property] was stolen, too, shall not receive [such a share].

19. If several people connive and go to burgle someone's house [jointly], and if someone [amongst them] steals property or goods, but someone else [amongst them], without any counsel with the others, kills a person [living in that house], everyone who takes part in the killing, i.e. who obstructs [the victim], strikes him, restrains him, or orders him to be killed, shall be executed—taking life for life. Those among the others who did not participate in the plot of killing the victim, but conceal the murder [although] they are aware of it, shall be imprisoned for 6 years each, after their share of property according to the *Ain* has been confiscated. If they are aware that the victim is only wounded, but conceal it, they shall be imprisoned for 3 years. Even if they pay double the fine set in lieu of the prison term, it shall not be accepted. If a woman conceals [such a crime], she shall be imprisoned at a rate of half [of what has been laid down for men]. If the woman pays the fine set in lieu of the prison term, it shall be accepted, and she shall be set free.

20. If 5 persons or more gang up, break through the wall of a house and commit burglary, or loot the house with violence or commit rape [there], then the leaders of these robbers shall be executed, even if the raped [woman] has not died. Among the other gang members, the offenders who have committed a crime of the second degree shall be punished by *dāmala*, having had their shares of property confiscated. The offenders who have committed a third and fourth degree crime

shall be imprisoned for 12 and 6 years, respectively. The ones who committed a crime below the fourth degree shall be punished either by confiscation, or those who are to be fined shall be fined after considering their wrongdoings.

21. If around 2–4 thieves steal someone’s property or goods, and if some among them escape while some of them are arrested, then, under such circumstances, while paying damages for the stolen objects, the arrested thieves each shall be made to pay a proportional share of the damages. If a fine or imprisonment is imposed, the fine and imprisonment shall be imposed on each thief in accordance with the total value of the stolen objects. The fine and imprisonment shall not be proportionally shared. A thief who escaped, shall, in accordance with the *Ain*, be punished on the very day he is apprehended. The thieves arrested earlier shall not have to pay that share of the damages to be paid by the thief who fled. If all of the thieves are arrested, all of them shall be made to compensate for the damages proportionately. The fine and imprisonment shall be imposed on all as per the total [amount of stolen goods].

22. If two persons have gone abroad and one of them kills the other and returns alone and comes to declare: ‘We both went abroad together. My friend betrayed and tried to kill me and I killed him in a bid to save my own life and wealth’, and if there are neither witnesses [to the murder] nor does either have a past record of disputes or enmity, then the killer shall not be held accountable, if [the deceased person] is, in the presence of the village people, found to have been a first- or second-time thief previously. If the [deceased] person was neither a thief in the past nor are there any witnesses to the murder, and if there is no past record of enmity or dispute on any issue between the two either, and if [the deceased person] has not opened any locks or broken through any wall or door, [the murderer] from any of the Four Varṇas and Thirty-six castes shall, in accordance with the *Ain*, be punished by *dāmala*, after that share of property which is his according to the *Ain* has been confiscated; this is because he himself has come to admit: ‘I have killed [my friend], as he came to kill me’. If the murderer does not reveal [his crime] himself, [but] it is revealed by others upon investigation, then he shall not be excused on the ground that he killed a first- or second-time-thief. He shall be executed—taking life for life.

23. If someone from our kingdom goes of his own accord—and not on [government] order or command—on pilgrimage or a trading journey, and if he commits an act of injury or theft beyond the border demarcation or border pillar to a foreign kingdom such as Bhoṭa or Madhesa, irrespective of whether he returns after being punished there or not, he shall not be punished here [in our kingdom] again for the same crime, if no complaint is lodged by that country [against him]. If [such a person] returns [from a foreign land] after committing theft or murder, and if that kingdom requests [our kingdom to extradite him], then the case shall be referred to the government and actions shall be taken in accordance with the treaty (*ahada*) [between the two countries]. If such a person returns after committing a crime which [is punishable] by ostracisation with respect to cooked rice and water, he shall be ostracised with respect to cooked rice and water. No [further] punishment shall be imposed on him.

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24. If any low- or high-ranking *jāgira* holder or the like steals an amount of one *mohora* or more, up to a total amount that can be recovered from [the income of] his *jāgira*, he shall be made to compensate that amount, be dismissed from his *jāgira*, and the crop yield [from his *jāgira* land] shall also be seized for the theft he has committed. No fine shall be required. If he has stolen an amount that exceeds [the income from] his *jāgira* land, he shall be made to compensate that amount. Concerning the fine [imposed on him], [the crop yield from his] *jāgira* land shall be seized to such an extent that the amount of the fine is recovered. If [the crop yield from] his *jāgira* land is not enough to cover the amount of the fine, then this shall be recovered from his household [possessions]<sup>290</sup>. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

25. If a person who is required to submit an account to the government and receive the acquittance deed for it, misappropriates goods under his responsibility and while submitting the accounts is not able to hand over [those goods], and if it is ascertained that he did misappropriate [the goods], he shall be made to compensate for the amount he misappropriated, an interest of 10 percent shall be set, in accordance with the *Ain*, for as many years and months [as he had misappropriated it] and he shall also be fined at a rate of 2½ rupees for every 100 [rupees he has misappropriated] and he shall be set free. If he is not able to submit all the misappropriated [goods], he shall be executed for embezzlement of government revenue that has been collected [in the form of] goods, if he belongs to a caste whose members may be sentenced to death. If he belongs to a caste whose members are to be punished by having their heads shaved [in lieu of a death sentence], he shall, in accordance with the *Ain*, be punished by *dāmala*, after [his share] of property has been confiscated.

26. If any soldier (*sipāhī*) or army worker (*pipāī*) down to the porters (*khalāsī*), including any *jāgiradāra* or high-ranking official (*umarāva*), steals any goods or equipment (*asavāba*) belonging to the government and which he has taken under his responsibility during his guard, he shall be executed if he is from a caste whose members may be sentenced to death. If he belongs to a caste whose members are to be punished by having [their heads] shaved [in lieu of a death sentence], he shall be punished by *dāmala* after [his share of] property has been confiscated.

27. If someone steals either only a military badge (*cāda*) or only a turban emblem (*toḍā*)<sup>291</sup>, or both a badge and a turban emblem, while they are being worn by someone or from the place where they are stored, such a thief shall be made to pay compensation in an amount equal to their value. If he steals [a badge or turban] studded with diamonds (*hirā*), rubies (*māṇika*), emeralds (*pannā*), yellow sapphires (*puṣparāja*) or the like, he shall be imprisoned for 10 years. If he steals [a badge or turban emblem] made of gold, he shall be imprisoned for 8 years. If he steals [a badge or turban emblem] made of silver, he shall be imprisoned for 6 years. If he steals

290 *ghara ghānāvāṭa*, read *ghara gharānāvāṭa* (MA<sub>2</sub>).

291 A chain of gold or silver attached around the edge of a *paḡarī* worn by the *jāgiradāras* during the Rāṇā regime.

[a badge or turban emblem] studded with the aforementioned [gems] and made of gold at the same time, he shall be imprisoned in accordance with the provision laid down for a person who steals [badges and emblems] studded [with gems]. If he steals [a badge or emblem] made of both gold and silver, he shall be imprisoned in accordance with the provision laid down for a person who steals [badges and emblems] made of gold. Even if he pays double the fine set in lieu of the prison term, it shall not be accepted.

MA<sub>2</sub> 68.27b. If someone steals military badges, turban emblems or insignia while they are being worn by someone on his head, or from a place where they are stored, he shall be made to pay the damages and be imprisoned for 6 years. If he does not pay the damages, he shall be imprisoned at the rate of 5 rupees for every month for the damage, as well as for the 6 years. Once [both] the prison terms [the regular one and the additional one resulting from the damages] are over, he shall be set free. Even if such a thief pays double the fine set in lieu of the prison term, it shall not be accepted.

28. If a *jāgira* holder melts a badge or turban emblem worn by him, an amount equal to their value shall be recovered from him, he shall be fined five times that amount, his insignia shall be torn off and the crop yield [from the land assigned to him] shall be auctioned off and [the auction proceeds] shall be seized. If he has someone else melt [the badge or turban emblem], the person who has them melted shall be punished in the same manner. Anyone who melts [such items], even though he is aware that they are a badge or turban emblem, shall be fined five times the amount of their value. Someone who melts [such items] without knowing [that they are a badge or turban emblem] shall be held accountable. If the [offender] does not pay the amount of the fine, he shall be imprisoned at the rate of 5 rupees for every month.

29. If, while going to war, a porter is taken along to carry loads, and if he steals them and flees or leaves the loads behind and flees, [such a porter] shall be enslaved if he belongs to an Enslavable caste, and the loads shall be returned to their owner by charging 10 percent [of their value as a fee]. If the porter is from a Non-enslavable caste, he shall be made to compensate for damages and be imprisoned for 2 years. If he pays the fine set in lieu of the prison term, it shall be accepted, and he shall be set free.

30. In the course of a royal outing or hunting trip or any other state business, if a bondservant, who has been taken along to carry loads, throws the loads away and flees or takes them with him and flees, such a bondservant shall be enslaved. The *adālata* shall collect 10 percent [of the value of such loads as a fee], and the bondservant shall be handed over to his owner.

31. If a person who has been taken along as a porter by merchants or other travellers or the like, steals or secretly picks up the loads or goods [he is supposed to carry] and flees, such a thieving porter shall be made to pay compensation for the value of the load and be fined double the amount. If he is unable to pay the amount of the fine, he shall be imprisoned at the rate of 5 rupees for every month.

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32. If a person's property or goods are stolen by someone from among his relatives or clan members or by his servant, without any person being killed, and if the owner searches for his property or goods and takes them back, [but] does not come to complain at an *adālata* or *amāla* and lets the thief go free, such a thief shall not be arrested by an *adālata* or *amāla*.

33. If a person's relative, clan member or servant commits thievery [at his house], and if [the owner] lodges a complaint at an *adālata* or *amāla*, [such a thief]—once the *adālata* or *amāla* has arrested him and recovered the [stolen] property or goods—shall not be freed, even if [the owner] requests the thief to be set free. The *adālata* or *amāla* shall, in accordance with the *Ain*, punish [the offender] for his act of thievery.

34. If someone burgles [a house], and the owner, after being informed about the burglary, lets the thief go free from his house without taking him to an *adālata*, *ṭhānā*, or *amāla*, and if the same thief, later on, burgles at another place, and if upon the interrogation after his arrest, his previous burglary is also revealed, such a thief shall not be arrested for the previous burglary he had committed, once the owner [of the goods he stole there] let him go free, either relinquishing the stolen items to the thief or recovering them from him. The person shall not be ascertained to be a thief in the previous case, as the owner had let him go free from his house and did not hand him over to an *aḍḍā*, *gauḍā*, *adālata* or *amāla*. If the owner has made [such a thief] issue a loan agreement for the stolen items, and if [the owner] comes to complain [that the thief] does not pay his loan, this shall not be considered a case of burglary. [The authorities] shall compel [the thief] to pay [his loan] in accordance with the provisions laid down for debtor and creditor.

35. If someone accuses a person of thievery, and if the thievery is not proven upon interrogation, then [the false accuser] shall be fined an amount equal to that which such a false accuser accused him of having stolen<sup>292</sup>. If he is unable to pay the amount of the fine, he shall be imprisoned at the rate of 5 rupees for every month. If he pays the amount set in lieu of the prison term, it shall be accepted.

36. If someone breaks into [a house] through a wall, door, roof or window with the intention to steal, but is arrested before he is able to steal anything, such a thief—if he is a first-time thief—shall be imprisoned for 1 year. If he pays the amount set in lieu of the prison term, it shall be accepted.

37. If someone cries for help to catch a thief, and if [no one] comes to help him, those persons [who do not come to help him] shall be fined at the rate of 12½, 10, 7½ and 5 rupees, respectively, for people of the *abbala*, *doyama*, *sima* and *cahāra* categories. If the amount of the fine is not paid, they shall be imprisoned.

292 *cori lyāyākā*, read *cori lāyākā* (MA<sub>2</sub>).

38. If someone from a Water-unacceptable or Untouchable caste enters the house or shop of someone from a Water-acceptable pure caste and commits thievery for the first time, he shall be made to sign a confession, pay compensation<sup>293</sup> for the stolen [items] and shall be enslaved. If he has entered the house in an unconscious state of mind in the course of the consumption of alcohol (*jāda*) or any other intoxicant or in a state of lunacy, he shall be made to pay compensation for damages for the goods he polluted by touching<sup>294</sup> and shall be fined 5 rupees. If he fails to pay the amount of the fine, he shall be imprisoned for 1 month and be released.

39. If a man or woman from an Enslavable caste kidnaps someone else's children or orders someone to do so, he or she shall be enslaved. If they are from a Non-enslavable caste, the man shall be imprisoned for 3 years after the share of property which is his according to the *Ain* has been confiscated, and the woman shall be imprisoned for 3 years without confiscation. If they pay double the fine set in lieu of the prison term, it shall be accepted, and they shall be set free. Those men or women who are aware that they have kidnapped the children of someone else, but conceal [the crime], shall be fined 50 rupees. If they fail to pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

MA<sub>2</sub> 68.39kh. If an unmarried girl who is living at her parental household and is past the age of 12 kidnaps someone else's children, and if she belongs to a Non-enslavable caste, the marriage expenses which her father would have spent on her marriage, and the dowry which he would have given to her during her marriage, shall be confiscated; if she belongs to an Enslavable caste, she shall be enslaved.

MA<sub>2</sub> 68.39kh.<sup>295</sup> Although the following has been written in the *Ain*: 'If a man or woman kidnaps someone else's children or orders someone to do so, the perpetrator, if she is a woman, shall not be punished by confiscating her property', the man or woman perpetrator, if he or she belongs to an Enslavable caste, shall be enslaved for kidnapping [a child]; if he or she belongs to a Non-enslavable caste, he or she shall, in accordance with the *Ain*, be punished by confiscating his or her property and he shall be imprisoned for 3 years and she shall be imprisoned for 1½ years. If the relatives of such a perpetrator pay the money in lieu of imprisonment, it shall be accepted and the perpetrator shall be set free. If someone knows that a certain person has kidnapped children, but conceals [the information], he or she shall be fined 50 rupees. The kidnapped children shall be handed over to those to whom they belong.

40. If a burglary has taken place, [the thief and the stolen goods] shall be searched for by positioning an official of the *adālata*, *ṭhānā* or *amāla* in the passages in all four directions, east, west, north and south. If the stolen goods are found in the course of the search, the goods and the

293 *bharāimā*, read *bharāi* (MA<sub>2</sub>).

294 *chuna lāgnyā*, read *chuta lāgnyā* (MA<sub>2</sub>).

295 MA<sub>2</sub> records two sections numbered as 39kh, which are marked as cancelled in MsA.

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person [who committed the burglary] shall be arrested without giving them any chance to escape and the verdict shall, in accordance with the *Ain*, be delivered from the *adālata*, *ṭhānā* or *amāla*.

41. The *adālata*, *amāla* or *ṭhānā* shall keep records of the households where stolen goods are knowingly accepted, kept or bought. If a burglary takes place, the *adālata*, *amāla* or *ṭhānā* shall search those houses of such people who accept and keep or buy stolen goods. If the stolen goods are recovered again from their houses, they shall be proven to be accomplices of the thief. The goods recovered from their houses shall be confiscated, and they shall be fined an amount equal to the value of the stolen goods.

42. If an unknown or suspicious person brings cash, goods, or quadrupeds to sell, [or he wants] to sell land, and if the items are bought and this is witnessed by the *mālikas* of an *adālata*, *ṭhānā* or *amāla* and after being checked by them, the purchase shall be valid even if the items [brought to be sold] were stolen by the seller. If the goods are purchased without the *adālata*, *ṭhānā* or *amāla* as witnesses and later it turns out that the goods have been stolen from someone, and if the owner of the goods seizes the thief, claiming that the stolen goods belong to him and he proves his claim, the goods shall belong to the person from whom they were stolen. The thief shall, in accordance with the regulation on thievery, be punished. After the thief is punished, the buyer shall retrieve his purchase amount from the thief. If the person who bought the stolen goods from the thief declares that he cannot retrieve his money from him and demands that [the thief] shall be imprisoned, the thief shall be imprisoned at the rate of 1 month for every 5 rupees until he has atoned for [the purchase amount he did not return to the buyer]. He shall be set free after his prison term is over.

43. If someone buys goods, such as gold, silver, jewellery, quadrupeds, male or female slaves, kitchen utensils, cloth or the like, and if he buys them from an unknown and unfamiliar person 1½ times cheaper [than the market rate] without knowing whether the vendor has any urgent necessity<sup>296</sup> [to sell the goods at such a low price] or not, [the purchaser] shall be made to return the [the stolen] goods [to their original owner]. No fault shall be assigned to the purchaser. If [the purchaser buys the goods] more than 1½ times cheaper, and if, later on, it is proven that [the goods sold] were stolen by the vendor, the goods shall be returned to the [the rightful] owner, and the purchaser shall be fined an amount equal to the profit he made from the purchase. He shall recover his purchase amount from the thief once his prison term is over. If [the purchaser] comes to complain that [the thief] does not pay him back his money, the thief shall be made to pay the amount in question if he is capable of paying it. If he is not able [to pay back the money] and [the purchaser] demands his imprisonment, the thief shall be imprisoned at the rate of 1 month for every 5 rupees. Once the prison term is over, he shall be set free.

44. If someone sells someone else's property, such as *birtā* land, house and homestead, jewellery, male or female slaves, quadrupeds, weapons, or the like, claiming that these goods

296 *garja paryo napāryāko*, read *garja paryā naparyāko* (MA<sub>2</sub>).



belong to him, the person who sells someone else's goods claiming that they belong to him shall be considered a blackguard (*lucco*). The goods sold by such a [person] shall be retrieved from the purchaser and be handed over to the [rightful] owner after 10 percent [of the value of the stolen goods] has been collected [from the owner as a fee]. The vendor shall be fined an amount equal to the value of the goods. If the purchaser wittingly buys such goods, knowing that they belong to someone else, then such a purchaser shall be considered to be an accomplice of the crooked vendor. Such a purchaser shall also be fined an amount equal to the purchase sum in question. If the purchaser buys the goods without knowledge of such details, then he shall not be held accountable. Irrespective of whether the purchaser buys [such goods] with or without the knowledge [of such details], he shall have the right to retrieve the money from the vendor. If [the vendor] fails to pay back the purchase sum, it shall be at the pleasure of the purchaser as to whether he accepts [the vendor] as his debtor, making him issue a loan agreement without security, or has him imprisoned.

45. If someone finds lost gold, silver, jewellery, brass or copper utensils (*kasana tamana*), cash, goods, clothes or the like, he shall keep them after informing the *adālata*, *ṭhānā* or *amāla*. Later, if someone finds out [about the goods] and comes to claim that the goods belong to him, the goods shall be handed over to the [rightful] owner after providing 20 percent [of the value of the goods] to the person who found the lost goods [as a finder's reward] and 10 percent shall be collected from the *adālata*, *ṭhānā* or *amāla* [as a court fee]. The 20 percent [court fee] shall not be applicable to the finder. It shall not be imposed on him. If no one comes to claim the lost goods, they shall belong to the finder. He shall not be required to pay any fee, either. The finder shall keep them.

46. If someone finds lost items and does not report them to an *adālata*, *ṭhānā* or *amāla*, but conceals them, and if the [rightful] owner [of the lost items] seizes him, claiming that the goods belong to him, and if it is ascertained upon interrogation that the items belong to that person, [the finder] shall be considered a blackguard. He shall be fined 20 percent of [the value of] the items he has found, and the items shall be returned to their [rightful owner] after 10 percent [of the value of the items] has been collected [as a court fee]. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees. If the fine is paid, he shall be set free.

47. If someone finds items a person has lost, but in the meantime someone else comes to claim that the items belong to him, and if it is ascertained upon interrogation that the items do not belong to him, then such a blackguard shall be fined an amount equal to the value of the items. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees. If the amount set in lieu of the prison term is paid, it shall be accepted.

48. If someone takes away [certain items from someone], pretending that such and such a person told him to do so, and if he carries them away in a deceitful manner by putting worthless items underneath<sup>297</sup> and showing cash or grain on the top, such a swindler shall be made to pay an

297 *bhanivātakāsana lāgnyā*, read *manibāṭa kāma nalāgnyā* (MA<sub>2</sub>).

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amount equal to the value of the goods [he has stolen in that manner] and be fined an amount equal to that. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees. If the amount set in lieu of the prison term is paid, it shall be accepted.

49. Except for minted coins, new clothes and grain, if a man or woman borrows any other items, such as jewellery, gold, silver, utensils, silk brocade, pashmina<sup>298</sup>, books, documents (*patrā*), weapons, male and female slaves, quadrupeds, or the like, promising that he or she needs them for some specified work and will return them once the work is accomplished, and if he or she returns<sup>299</sup> the item after using it, he shall not be held accountable. If he deceitfully keeps<sup>300</sup> [the borrowed items] and does not return them when [the owner] comes to ask [for them back], and if a complaint is filed at an *adālata*, *ṭhānā* or *amāla*, and if he, after he has been arrested and brought [to the *adālata*, *ṭhānā* or *amāla*], returns the items he has borrowed<sup>301</sup>, no punishment shall be required. Ten and 20 percent [from the owner and the borrower, respectively,] shall be collected [as a court fee], and the items shall be returned to the [rightful] owner. If the borrowed items are sold or used up, then the person shall be considered a blackguard. The price [for such items] shall be determined by the elders, and the [borrower] shall be made to compensate that price and be fined an equal amount. Irrespective of how often such a blackguard takes away [goods] by swindling, lying or cheating,<sup>302</sup> he shall be made to compensate the value of the items and be fined an amount equal to that for each time he borrows [an item without returning it]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

50. If a thief takes a child wearing jewellery to an isolated place, kills it and takes the jewellery, or he breaks into a house and steals goods, or [else] only steals some goods here and there, the person whose goods are stolen shall immediately come to an *adālata*, *ṭhānā* or *amāla* and submit a signed and sealed report enlisting all particulars [of the stolen items] without omission or addition, specifying how many items of what kind have been stolen. The *adālata*, *ṭhānā* or *amāla* shall make copies of the list with the particulars of the stolen items, send them to the *mahānes* of the three cities and [other] villages, and have it read out loud at every household, announcing what types of goods have been stolen. If someone comes to any person's house, shop or workshop to sell, mortgage or pawn the items that have been announced [as stolen], then it shall be ensured that the person who brings those items to sell does not escape, and he shall be handed over to the *adālata*, *ṭhānā* or *amāla* along with the items. If [the person who identifies the thief] is not strong enough to overpower the thief, he shall call for help from the *mahānes* or neighbors, catch the thief and bring him [to the court]. The *mahānes* shall have the proclamation read out to every household in their surrounding areas<sup>303</sup> and localities (*ṭola*), announcing: 'If the

298 *yasa vinā*, read *pasabinā* (MA<sub>2</sub>).

299 *virtā*, read *phirtā* (MA<sub>2</sub>).

300 *adhyāyo*, read *aḍyāyo* (MA<sub>2</sub>).

301 *legayāko*, read *laigayāko* (MA<sub>2</sub>).

302 *estā luccāle jati sai pherāṭha giḍhā dī lucco gari*, read *yastā luccāle jatisukai pherā ṭhagi ḍhāṭi luccai gari* (MA<sub>2</sub>).

303 *pherākāra*, read *pherākā ra* (MA<sub>2</sub>).

thief cannot be arrested and only the [stolen] items are found and brought [to an *adālata*, *ṭhānā* or *amāla*], then that person [who brings the stolen goods] shall not be accused of abetting the thief to escape.’ If the stolen items are [actually] fewer and [the owner] writes down the particulars of more items, claiming that more of his items have been stolen, and if he fails to prove that the thief [has stolen more of his items] and it is ascertained that he [fraudulently] added [to the list of stolen items], then he shall be fined an amount equal to the value of the additional items he has recorded [in the list]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

51. If it is ascertained that the *mahānes*, *kaṭuvālas*, *jeṭhā-buḍhās*, *gauruñ*, *nāikes* and village watchmen (*goḍāitas*) do not make a proclamation according to the list [of stolen items] by going through their localities, surrounding areas and to every household, then those *mahānes* shall be brought to the *adālata*, *ṭhānā* or *amāla* and be replaced.

52. If several thieves participate in a murder, and if one person holds and obstructs [the victim], another restrains him, another blocks [his way], another strikes him, and another orders him to be struck while another keeps watch on the streets, and if [the victim] is killed by using a weapon<sup>304</sup> and the stolen goods are shared equally [among the thieves], then [a] if up to five criminals have come together and killed one person, all five persons shall be executed; [b] if 10 persons have come together to kill two persons, then [all] 10 persons shall be executed; and [c] if 15 persons have come together to kill three persons, then [all] 15 persons shall be executed. Any further [thief] after the fifth shall be punished by *dāmala*. Among them, the criminal who obstructs, restrains, strikes, orders [the victim] to be struck, and the one providing the weapon shall be identified and these five shall be executed. The person who keeps watch on the streets and the one who remains aloof<sup>305</sup> shall be punished by *dāmala*.

53. If a thief steals an idol of any deity, effigy<sup>306</sup> or a statue established by the government or anyone else and blemishes such a glorious item, he shall, in accordance with the *Ain*, be punished by *dāmala* after his share of property has been confiscated, if he belongs to [one of the following castes] whose members are to be punished by having their heads shaved [in lieu of the death sentence]: [a] a person belonging to a Brahmin caste, [b] a Brahmin or Rajapūta who has become an ascetic, [c] an offspring born by a Daśanāmī ascetic to a widow of a Brahmin who has become an ascetic and whose maternal side is unidentified, or [d] a Kanaphaṭṭā ascetic with pierced ears. If such [a thief is] from any other caste whose members may be punished by death, he shall be executed. If [the thief] has only damaged [the idol, effigy or statue] but has not stolen it, then he shall be imprisoned for 2 years. If he pays double the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

304 *sahastra*, read *śastra* (MA<sub>2</sub>).

305 *alaga basyā*, read *alaga basnyā* (MA<sub>2</sub>).

306 *mālika*, read *sālika* (MA<sub>2</sub>).

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54. If someone accuses someone else of having stolen the items mentioned in the particulars below, and if the accused person is summoned and the accusation is proven upon interrogation, then he shall be made to return the stolen items, if they are available. If he is not able to furnish the items, he shall be made to pay compensation in the form of a cash amount at the rate written [below] and be fined an amount equal to that amount. If a person raises an accusation in such matters, but fails to prove it, such a [false] accuser shall also be punished in the same manner. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

*Particulars*

For 1 <i>śālagrāma</i> [which has the form of] Lakṣmīnārāyaṇa <sup>i</sup> or for 1 other [kind of] <i>śālagrāma</i> or 1 <i>gomaticakra</i> <sup>ii</sup> —Rs. 100	For 1 one-faced <i>rudrākṣa</i> bead – Rs. 1
For 1 <i>soṇa bhadrageṣa</i> <sup>iii</sup> —Rs. 2	For 1 two-, three-, seven-, eight-, nine-, ten-, eleven-, twelve-, thirteen-faced <i>rudrākṣa</i> bead—Rs. 5
For 1 large <i>bāṇaliṅga</i> —Rs. 50	For 1 four or six-faced <i>rudrākṣa</i> bead—½ rupee
For 1 small <i>bāṇaliṅga</i> —Rs. 2	For 1 five-faced <i>rudrākṣa</i> bead—1 <i>sukā</i>
For 1 conch with right hand imprint of Viṣṇu ( <i>dāhinā śaṃkha</i> )—Rs. 100	For 1 fourteen-faced or above <i>rudrākṣa</i> bead—Rs. 14
For 1 <i>syālasimḡhi</i> <sup>iv</sup> , <i>golocana</i> <sup>v</sup> or bundle of <i>kuśa</i> grass—Rs. 1	For 1 elephant pearl ( <i>gajamotī</i> ) <sup>iv</sup> —½ rupee

i *lakṣmīnārān* (MA<sub>1</sub>), *lakṣmīnārāna* (MA<sub>2</sub>), read *lakṣmīnārāyaṇa*

ii *aru śālagrāma ko maticakra*, read *aru śālagrāma gomaticakra* (MA<sub>2</sub>). *Gomaticakra* probably refers to certain shells found in the Gomti river which are considered as a representation of Viṣṇu's *sudarśanacakra*.

iii A golden Gaṇeśa idol.

iv Mythical horn believed to be protruding from a jackal's head when it howls at midnight.

v A ball of hair collected in a cow's throat.

vi A pearl said to be found in the head of an elephant.

55. If someone from a Water-unacceptable or Untouchable caste enters the house or shop of a person from a pure caste from whose members water may be acceptable, and commits thievery 2–3 times, then he shall, in accordance with the *Ain*, be imprisoned and be enslaved.

56. If a public proclamation (*istihāra*) is posted from city to city and announced under the sound of cymbals (*jhyālī pīṭanu*) or under the beat [of drums] (*cuiki pīṭanu*) with [one of the following instructions]: ‘No one shall commit a certain act; perform a certain task; sell a certain item; or purchase a certain item if it is offered by someone, but he shall instead report it. Otherwise, one may be executed, be punished by confiscation of one's entire property or by the imposition of a fine’, and if any man violates [the regulation of that] proclamation and commits an offence for which execution is prescribed, then such an offender shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated, if he is from a caste whose members are punished by shaving their heads [in lieu of the death sentence]. If [the offender is

a man] from a caste whose members may be punished by execution, he shall be executed. If the offender commits an offence for which the confiscation of property is prescribed, then his share of property shall, in accordance with the *Ain*, be confiscated and he shall be set free. If the offender commits an offence for which a fine is prescribed, then he shall be fined the prescribed amount. If a woman commits an offence for which execution is prescribed, then she shall be punished by *dāmala*. If she commits an offence for which confiscation of property is prescribed, she shall be fined 120 rupees.

57. If someone defames (*naṣṭa*) a meritorious act (*dharma*) by stealing an inscription erected at a shrine, or someone's glorious items (*kīrti*) or chronicles (*vaṃśāvalīs*), or documents recording the past events or affairs relating to land, or *sanadapatras*, or inscriptions relating to a *guṭhī* or pasture (*gaucara*), or inscriptions relating to the daily, occasional or annual ritual affairs of a deity or of a seat of a deity (*pīṭha*), or inscriptions relating to the *guṭhī* feasts, to an alms-giving trust (*sadāvarta*), whether posted at the localities of the deities or kept in the house of their owner or *guṭhī* members, and whether such inscriptions are made of a golden, silver, copper, gilt-copper or any other metal plate, then [such a thief] shall be made to compensate the damage and be imprisoned for 4 years. If he pays the amount set in lieu of the prison term, it shall be accepted, and he shall be set free. If someone wittingly buys such items and melts them wittingly, he shall be imprisoned for 2 years. If he pays the amount set in lieu of the prison term, it shall be accepted, and he shall be set free. If someone goes to steal such items, but is arrested before he could steal them, then he shall be imprisoned for 1 year. If he pays the amount set in lieu of the prison term, it shall be accepted, and he shall be set free.

58. If someone blemishes a meritorious monument by stealing an inscription erected at a shrine, or someone's glorious deeds or chronicles, or documents recording the past events or affairs relating to land, or *sanadapatra*, or documents recording [the matters of] a *guṭhī* or village households, or documents recording the daily, occasional or annual ritual affairs of a deity or deceased person, or documents recording the *guṭhī* feasts or alms-giving activities (*sadāvarta*), whether posted at the localities of deities or kept in the house of the owner or a *guṭhī* member, and whether such documents are *lālamohoras*, stone inscriptions (*silāpatra*), palm-leaves, gift-deeds or the likes, then he who steals such *sanadas* shall be imprisoned for 2 years. If the offender is a woman, she shall be imprisoned for 1 year. If he or she pays the amount set in lieu of the prison term, it shall be accepted, and he or she shall be set free.

59. If a cheat or a swindler fraudulently sells or collects someone else's [property] such as goods or slaves to another person, the goods shall be returned to the person whom they belong to. If the purchaser [of such goods] demands that [the seller] issues a loan agreement [for the purchase sum], then [the seller] shall be made to issue a loan agreement without security. If [the purchaser] does not demand that a loan agreement be issued, then [the purchaser] shall be let off, declaring that it is at his own pleasure as to whether he recovers [the purchase sum from the seller] or lets him go. If a cheat fraudulently brings goods of someone else to sell, a sale or [revenue] collection with such goods shall not be valid.

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60. If a thief steals military or governmental goods<sup>307</sup> or other equipment or the like which is punishable by fine or imprisonment, such a thief shall be fined twice as much and imprisoned twice as long as what has been laid down in the *Ain* for a thief who steals from commoners. If someone commits a crime which is punishable by execution, *dāmala* or enslavement, the punishment shall be the same, irrespective of whether he has committed such a crime once or multiple times. The punishments for these 3 offences shall not be added up (*khāpnu*).

61. If someone—by breaking in through a wall, the roof, the windows, the doors or the balcony with the intention of committing theft—enters the government treasury (*tahabila*), an *adālata* where the governmental turban emblems or treasures have been brought, the treasury of an *adālata*, or other government offices [where] treasuries [are kept], and if in the meantime he is arrested before he can steal [anything from there], such a person shall be imprisoned for 2 years. If he pays double the fine set in lieu of the prison term, it shall be accepted.

62. If someone's goods are lost or stolen and he goes to a person who can perform shamanism, wizardry, *koharo*<sup>308</sup> or the like and asks: 'Take me to the person who has taken my goods!', and if the person who performs shamanism, wizardry, *koharo* or the like takes [his client] to a certain person and states without any evidence: 'He is the one who stole your goods', and it is not proven that [the accused person] has stolen the goods, then such a person who performs shamanism, wizardry, *koharo* or the like shall be fined an amount equal to the amount he has accused him of having stolen. If that person [whose goods are stolen] restrains and detains [the accused person] after the shaman, wizard, *koharo* or the like identifies him as the thief, considering him to be the person who has stolen his goods, then [the owner of the stolen goods] shall also be fined an amount equal to the amount [he has accused him of having stolen]. If the owner [of the stolen goods] does not restrain, detain and obstruct [the accused person], considering the statements of a shaman, wizard, *koharo* or the like to be untrue on the grounds that they are not based on any evidence, then that owner who took recourse to practices of shamanism, wizardry or *koharo* shall not be held accountable.

63. If someone steals someone else's loan deed or account book and collects credits from a debtor on the basis of these documents, such a person shall be made to return the amounts collected (*bigo*) and be fined an amount equal to that. If he has stolen [such documents], but has not [yet] collected a loan from the debtor, he shall be fined 20 percent of the total amount of [that loan], if he has stolen a loan deed. If he has stolen an account book, he shall be fined 15 percent of the total amount of the [loans or revenue collections recorded in that account book]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

64. If someone steals a gun belonging to the government, he shall be imprisoned for 3 years; if he steals the lock of a gun or a bayonet, he shall be imprisoned for 2 years in each case; if he

307 Om., read *aru sarkāriyā māla* (MA<sub>2</sub>).

308 This might refer to the shamanic practice in which a shaman projects the face of a thief on the palm of the person whose goods have been stolen.

steals a buckle or badge (*caprāsa*), elephant equipment, a bayonet sheath (*saṃginako lotā*), cannon, frock coats (*kurthi*) or riding trousers (*custā*) or overcoats (*balam*), he shall be imprisoned for 1 year in each case. If he pays the amount set in lieu of the prison term, it shall be accepted.

65. If a thief, who was previously punished for thievery by an *adālata* by mutilating his hand, finger, nose or ear before the promulgation of the *Ain* commits thievery again, then such a thief shall, in all cases requiring a fine or imprisonment and excluding cases requiring execution, *dāmala* or confiscation of property, be punished, fined or imprisoned in accordance with the *Ain* for as many times as he is proven to have committed thievery and he shall be fined an additional 20 rupees and be set free. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned for the latter [additional] fine as well.

66. If there is a case of thievery, and the thief is apprehended and brought to an *adālata*, *ṭhānā* or *amāla* to be handed over into custody, the person who has apprehended the thief shall be asked whether his [stolen] goods have to be traced or whether he has already recovered them and only requests the punishment of the thief. If he replies that his goods have been found and he requests only the punishment of the thief, then he shall be made to issue a document accordingly and be let off, once the thief is convicted. [The court fee of] 10 percent [of the value of the recovered goods] is not applicable in this case. If [the owner whose goods have been stolen] requests his goods to be located as well, then the *adālata* or *amāla* shall find the stolen goods and return them [to the owner], charging him [a court fee of] 10 percent [of the value of the recovered goods].

67. If a thief who has been punished by *dāmala* and imprisoned for committing theft escapes [from prison] and steals again, and he belongs to a caste whose members may be punished by death, then he shall be executed, if he belongs to a caste whose members may be punished by death; if he belongs to a caste whose members may not be punished by death, he shall again be punished by *dāmala*.

68. Up to now, for some [thieves] there has been the following provision: ‘If a thief pays an amount equal to the value of the stolen items and a fine, the *aḍḍā*, *adālata*, *ṭhānā* or *amāla* shall accept it and the thief shall be set free. If the thief fails to pay this, he shall be imprisoned at the rate of 1 month for every 5 rupees and be set free once the prison term is over.’ For other [thieves], there has been the following provision: ‘Even if [a thief] pays an amount equal to the value of the stolen items and a fine, he shall not be set free until his prison term is over. He shall be imprisoned.’ The following provision was not there: ‘A guarantor shall be accepted and [the thief] shall be set free<sup>309</sup>.’ From now on, a thief who is to be set free once the amount in question and the fine have been collected from him, or a thief who has been imprisoned because he could not pay the amount in question and the fine, or a thief who has been imprisoned because of the regulation that a thief should not be set free before his prison term is over, when such thieves are to be set free, they shall not be released without a guarantor. [Such thieves] shall be released on the very

309 *nachādanu*, read *chādanu* (MA<sub>2</sub>).

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day when they present a guarantor. If a thief from throughout the Gorkhā Kingdom fails to present a guarantor and he turns out to be a destitute person (*phakaḍā*) without any house or land, such a thief shall be taken to an arsenal (*megajina*) within Nepāla and be made to work in shackles<sup>310</sup> at the arsenal, providing him with a daily ration of 2 *ānās* in cash for food, if he is a man. If it is a woman, she shall also be taken to Nepāla and be made to grind gunpowder, providing her with a daily ration of 2 *ānās* in cash. On the very day when [such a thief] can present a guarantor, he or she shall be released from his or her shackles and be set free.

69. If someone steals flowers planted in the gardens of others, and if it is ascertained that he has stolen less than 1 load [of flowers], he shall be fined 8 *ānās*. If he steals more than one load, he shall be fined more, corresponding to the estimate of the quantity of flowers stolen from one garden.

70. After the interrogation and investigation of a person arrested by an *aḍḍā*, an *adālata*, *ṭhānā*, *amāla* or the like and charged with theft, as long as the rightful owner of the wealth and property, such as cash, goods, slaves or the like recovered from the thief or from the place where the thief has sold or stolen the goods identified, these items shall, in accordance with the *Ain*, be handed over to the owner after the investigation process has been concluded. 10 percent [of the property] shall be collected [as a court fee]. If the owner [of such properties] is not identified, such wealth and property shall be recorded in the deposit ledger (*dharoṭa syāhā*) for 3 months and be disseminated in a report. It shall not be recorded in the income ledger (*āmadānīkā syāhā*). If someone comes to claim [such properties] within the time allotted, it shall be handed over [to the owner] after charging 10 percent [of the value of the property as a court fee]. If neither the owner, his beneficiary nor any representative (*vārisa*) comes to look for or to claim such property within the time allotted, the property recovered from the thief shall be auctioned off, converted into cash, recorded in the ledger of income, submitted to the Mulukīkhānā and a receipt shall be received [for it]. If someone comes after the deadline elapses, claiming that he is entitled to receive his goods, he shall not receive them.

**Six regulations on the actions to be taken when any government items, whether marked or unmarked, are stolen:**

71. If someone knowingly buys such [goods], he shall be made to pay an amount equal to their value and be fined an amount equal to that.

72. If someone unknowingly buys such goods which do not bear any governmental mark, only the goods shall be reclaimed [from him]. No punishment shall be required. It shall be at the pleasure of the buyer himself as to whether he recovers the purchase sum from the thief or not.

310 *ne lai smet*, read *nelaismet* (MA<sub>2</sub>).



If [the buyer] hands over the thief, declaring that he cannot reclaim his purchase sum from this thief, [the thief] shall be imprisoned at the rate of [1 month for] every 5 rupees.

73. If someone buys [such goods] which bear a governmental mark, an amount equal to their value and a fine equal to that shall be collected from him, even if he claims that he bought the items without knowing [that they were stolen government goods]

74. Any number of persons to whom such [marked] government goods are sold, shall all be fined an amount equal to their value.

75. An amount equal to the value of such [marked] goods shall be collected from all person whom such goods have reached. Since the items belong to the government, the [fee of] 10 percent is not required.

76. If the purchase sum is to be compensated to the injured party [who unknowingly bought stolen government goods], [the injured party] who receives his purchase sum back shall be charged [a fee of] 10 percent of [his purchase sum]. Once the buyer is fined, [the fee of] 20 percent [for recovering his purchase amount] is not applicable to him.

**Three regulations on the actions to be taken when persons who sell food items or the like commit a fraud by mixing the pure items with other materials for the sake of profit:**

77. If a person who consumes any [food or drink] item he has bought, whether cooked or uncooked, loses his caste status [through eating contaminated food], then the person who contaminated the [food or drink] item shall be fined double the price [of the food item] he deceitfully mixed [with impure substances]. Since the [food or drink] was consumed unknowingly, all persons who consume [such contaminated food] shall be purified through penance.

78. If a person buys and consumes such an item [of contaminated food or drink] and does not lose his caste status<sup>311</sup> [for eating it], then [the person who contaminated the food or drink item] shall be fined an amount equal to the price [of the food item] he deceitfully mixed [with impure substances].

79. If a person sells an item other than food items which he has deceitfully mixed with another [substance], then he shall be fined 50 rupees.

311 *jāta jānyā rahacha bhanyā*, read *jāta jānyā rahenacha bhanyā* (MA<sub>2</sub>).

## 69. Deposit and Pledge

1. If someone comes to arrest someone else, saying: ‘I had deposited gold, silver, valuables, kitchen utensils, cash, commodities, houses, land, bondservants, [land received as] *birtā* or by a *sanadapatra* etc. with your father or grandfather (*bābu bājyā*)<sup>312</sup>, and if there is no written deed nor are there eyewitnesses for this deposit, and if it is verified and proved upon inquiry or through the *sanadapatra* that such a deposit was made, said deposit shall be returned to its owner and 10 percent of [its total value] shall be collected from him as a court fee. Twenty percent of [its value] shall be collected from the depositor of the property. If neither a written deed nor an eyewitness exists, and if the party with whom the valuables were deposited is also not alive, the person who comes to arrest someone else claiming that he has deposited [property] with him shall be fined an amount equal to the claimed amount and shall be set free. If someone accuses someone else in such circumstances, the false accuser shall not be fined. In such a case, no *jitāuri* and *baksāunī* fee shall be required.

2. If someone has gone somewhere else after depositing [his property such] as *birtā*, bondservants, *gūthī* property, land, cash, commodities or quadrupeds, etc. with someone else, he shall later be permitted to take it back. He shall take it back after procuring the eyewitnesses or the written deed. If there is no eyewitness or written deed, he shall not get the property back.

3. If someone has taken someone else’s cash, commodities, valuables, gold, silver, household utensils, grain etc., quadrupeds or [any other form of] property into his custody, and if a thief has killed him while he was on the way and has taken away the property, or if the thief has robbed and taken away the property by beating him with a stick, by tying him up or by inflicting injuries on him<sup>313</sup> with the use of a weapon, neither the custodian of such property nor his brothers, sons or family shall be required to pay it back.

4. If property given into someone’s custody as a deposit or a pledge is stolen [while it is in the possession of] the person who has taken it into custody, the person who has accepted such property as a pledge [or deposit] shall not be permitted to claim ‘The property has been stolen [and I am, thus, exempted from refunding it]’. An *adālata*, *thānā* or *amāla* office shall make [the pledgee or depositee] return the property, [such as] cash, commodities, valuables, gold, silver,

312 Lit. ‘father’ or ‘grandfather’.

313 *ghāihatyā*, read *ghāityā* (MA<sub>2</sub>).

household utensils, grain or quadrupeds, etc., to the pledger [or the depositor] after taking 10 and 20 percent [of the total] value as court fees.

5. If somebody has taken someone else's property, [such as] cash, commodities, valuables, gold, silver, household utensils, grain or quadrupeds, etc., as a pledge or deposit, and if [this custodian's house] is consumed by fire, and if the price of his house is higher than the pledge or deposit, [the custodian] whose house is consumed by fire shall not be required to refund the pledge or deposit. If the house of the custodian is consumed by fire, and if his family members are also burnt there, the custodian whose house is consumed by fire shall not be required to refund [the deposit or pledge]. If the price of the custodian's house is less than the value of the deposit or pledge, [the custodian] shall not be permitted to claim that his house has burnt down and thus he is not required to refund [the deposit or pledge]. An *adālata*, *ṭhānā* or *amāla* shall make [the custodian] return the property. If the person whose house is burnt down has [another] house (*koṭhī*),<sup>314</sup> *birtā* land, a shop, a debtor or male or female slaves or bondservants, or has a cowshed elsewhere, but has no cow, buffalo or [any other] quadruped, and if [all his belongings] from a small earthenware lamp (*diyo*) to brush (*kuco*) has been burnt and also the pledge or deposit was destroyed (*marmu*), and if it is not proved that he has hidden any property, he shall not be required to refund [the pledge or deposit].

6. If someone has carried [the property] of someone else, [such as] cash, commodities, etc., given as a deposit, and if the property is swept away while he is crossing a river and the boat capsizes, and if also the custodian himself falls [into the water], but saves his life, he shall not be required to refund [the deposit].

7. If a male or female slave or quadruped belonging to someone has been pledged, and if [the pledge] is consumed by fire, [the custodian] shall not be required to refund [the pledge].

8. If a quadruped which has been pledged or which has been kept as a deposit in a cowshed dies a natural death, or if it is eaten by a tiger, or if it falls down a steep slope, or if it is swept away in a river, [the custodian] shall not be required to refund [the pledge or deposit].

9. If someone borrows someone else's male or female slave or bondservant, or a quadruped [such as] an elephant, a horse, cow or an ox, etc., stating that he needs him, her or it for his work, and if such [a slave or animal] runs off before he, she or it can be returned to the custody of the owner, [the borrower] shall be made to refund his, her or its price [to the owner] as determined by the *pañca*. If the borrowed [slave or animal] dies before he, she or it is returned to the custody of the owner, [the borrower] shall not be required to refund his, her or its price.

314 The term *koṭhī* literally refers to a large house, business complex, bungalow or a brothel. However, the context here suggests that it simply refers to any kind of a house (cp. Fezas 2000b/I: 365 n. 2, see also TND under s.v. *koṭhī*).

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10. If someone's male or female slave or quadruped has been pledged, and he, she, or it dies or runs off, the custodian shall not be required to refund [his, her or its price to the pledger] in exchange. Whatever fruit is borne [from the pledge] shall belong to [the custodian].

**The regulation in [the case] when commodities given to someone else and to be returned are stolen by a robber or a thief through brawling:**

11. If someone has made someone else carry gold, silver, valuables, clothing, household utensils, cash or commodities, or if the former has given [such articles] to the latter to be returned [later], and if a robber or a thief snatches these away during a brawl while it is being carried by the latter, and if there are eyewitnesses, the person who had been carrying such articles or his family shall not be required to refund [the stolen property to its owner] when such an incident has taken place by mischance (*daibagata parnu*).

**The regulation in [the case] when a commodity carrier falls down a steep slope, or is eaten by a tiger or bear, or drowns in water or is swept away in the river and dies:**

12. If someone has made someone else carry gold, silver, valuables, clothing, household utensils, cash or commodities, and if the former has given [such articles] to the latter to be returned [later], and if the latter, while he is carrying such things, falls down a steep slope, or is eaten by a tiger or a bear, or drowns in [a river], or is swept away and dies, and if the articles carried by him are lost or taken away by another person, and if such articles are found after a search, the owner shall receive his articles back. If they are not found after a search, no one shall be permitted to arrest the person who had been carrying such articles, or his family.

## 70. Finding Lost [Animals]

1. If someone has found a missing quadruped and kept it after informing an *amālī* or a *dvāre* official of the respective village, or his neighbours, and if its owner traces [the animal] and comes [to claim it] within 6 months, it shall be returned to its owner. A suitable price for that animal<sup>315</sup> shall be settled, and the one who has kept [the animal] shall be given a reward of 10 percent for returning the lost object (*panaunī*). It shall not be considered a theft. If the owner comes to claim [his missing animal] after 6 months have passed, he shall not be entitled to get it back.

2. If someone has found a missing quadruped, and if he has kept it by hiding and without informing an *amālī*, *dvāre* or the villagers, he shall be fined an amount equal to the price [of that animal] and it shall be handed over to its owner. If the owner of the animal is not traced, an *adālata*, *ṭhānā* or *amāla* office shall take it.

3. If someone has found a missing quadruped and kept it after informing the villagers that he has found it, and if its owner has not shown up [to claim it], the finder shall take it. It becomes his [property]. In such a case no *adālata* or *ṭhānā*, *amālī*, member of a *guṭhī* or *birtā* holder shall be entitled to get it. They shall not take it.

4. If someone has found someone else's missing quadruped, and if a cunning person (*labaracaṭṭā*) comes to claim that it belongs to him, and if it is not ascertained upon interrogation that [the animal] belongs to him, [such a plaintiff] shall be considered a wicked person (*lucco*). Such a person shall be fined an amount equal to the price of that animal which he has claimed to be his own. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned in proportion to the fine equalling that price.<sup>316</sup>

315 *anusārako mola*, read *māla-anusārako mola* (MA<sub>2</sub>).

316 *viḡā vamojim kā daḡamā*, read *biḡā-bamojima-kā daḡḡa-mā* (MA<sub>2</sub>).

## 71. On Quadrupeds

1. One shall not bring a cow which has given birth to twin calves to the government.<sup>317</sup> The cow owner shall keep her. He shall not be held accountable. The cow is his [property].

2. If someone comes to complain that a goat, sheep, male or female water buffalo, or a cow has eaten his standing crops, [the cattle owner] shall compensate for the cost of the damage to the standing crops and shall be fined an amount equalling these damages. If the fine is not paid, he shall be imprisoned.

3. If someone cuts the ears of a sheep, goat, male or female water buffalo on the grounds that it has eaten his standing crops, the owner of the standing crops shall not be entitled to compensation for the cost of the damage to the standing crops. The one who has cut the ears of the animal shall not [otherwise] be held accountable.

4. If someone unlawfully cuts the ears of a sheep or goat, he shall be fined half a [rupee]. If the fine is not paid, he shall be imprisoned for 3 days.

5. The one who unlawfully cuts the ears of a male or female water buffalo which has not eaten his standing crops shall be fined 5 rupees. If the fine is not paid, he shall be imprisoned for 1 month.

6. If an owner of standing crops, out of anger, slaughters or kills a quadruped, such as a water-buffalo, goat or sheep, because it was about to eat the standing crops, claiming that it had eaten the standing crops, he shall be impelled to pay that animal's owner a price settled upon by the *pañca* and he shall be fined an amount equal to the cost of the damage. The dead animal shall be handed over to the one who paid the price [for that animal]. The owner of the standing crops shall be compensated for the cost of the damage to the standing crops eaten [by the animal], settled upon by the *pañca*.

317 This regulation mirrors the idea that the birth of twins was perceived as inauspicious. According to AB 7.9.8, someone who has established the fire for *agnihotra* and has a wife or cow that gives birth to twins has to undergo penance.

7. If a cow or an ox kills its owner's family members or its own herdsman by attacking him, trampling or crushing him, such a cow or ox is a murderer (*ḥyā*). It shall not be kept at the village. It shall be sent to its cowshed, if there is one, and shall not be auctioned off. If there is no cowshed, the owner shall sell it. [The cow or ox] shall be neither [considered] a *cakuī* nor does [the owner] need to undergo expiation. If a male or female water buffalo attacks and kills a person (i.e. its owner's family members or its own herdsman), it is a murderer. The owner shall kill it and sell its meat. It shall not be [considered as] *cakuī*.

8. If a male or female water buffalo attacks and kills a person, such a male or female water buffalo is a murderer. An *adālata*, *ṭhānā* or *amāla* office shall kill it and auction off its meat, too.

9. If a male or female water buffalo which has been kept in a city attacks a person and draws blood, it shall be auctioned off [by an *adālata*, *ṭhānā* or *amāla*]. If [a male or female buffalo] which has been kept outside the city or at a village attacks a person and draws blood, half of its price shall be taken [by these offices]. If [a male or female buffalo] which has been kept in a forest or in a cowshed attacks a person and draws blood, no blame shall be assigned. Even if it attacks its owner or its herdsman, no action shall be required.

10. If quadrupeds attack each other and [one of them] is killed, [the surviving quadruped] shall not be [considered] a *cakuī*. The owner of the animal which attacked [the animal killed] shall neither pay a fine nor the cost of the damage.

11. If someone knowingly slaughters or kills a pregnant quadruped, excluding cows, and the animal he kills belongs to him, he shall be fined 5 rupees per animal in the case of killing a buffalo, and 2 rupees per animal in the case of killing a goat or a sheep, respectively. If it is ascertained that he has killed quadrupeds belonging to someone else, he shall compensate [the owner] for the price of the animal killed, according to the current rate of the place where the animal was kept, as settled upon by the *pañca*, and he shall be fined an amount equal to that price. If the amount is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees.

12. If a pregnant quadruped, excluding cows, kills a person, it shall not be slaughtered instantly, since it is pregnant. It shall be slaughtered 6 months after delivering its young.

13. [This section is] cancelled.

MA<sub>2</sub> 71.13. From now onward, no female quadruped, such as a buffalo, goat, sheep, mountain goat, pig or the like, shall be slaughtered as a sacrifice in worshipping the deities, or for organizing feasts or parties. If someone slaughters a female buffalo, he shall be fined 10 rupees. If a female goat, sheep or mountain goat is slaughtered, he shall be fined 1½ rupees. He shall be fined 1 rupee if he slaughters a female pig. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

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14. If someone who has killed a female buffalo, goat, Tibetan goat (*cyāgri*), sheep, or pig has, in accordance with the *Ain*, been punished, no other fine shall be required. If someone has fined [him], the amount fined shall be returned to him, and [the one who fined him] shall, in turn, be fined an amount equalling the amount that had been required as a fine. Those who consume its meat shall not be fined.

**The regulation to be applied when a female quadruped is killed, either to worship a deity, or to consume or sell its meat:**

15. One who kills a healthy female buffalo shall be fined 10 rupees.

16. One who kills a healthy she-goat or female *kāge* or *baruvāla* sheep (*kāge bheḍā*, *baruvāla bheḍā*) shall be fined 1½ rupees.

17. One who kills a healthy female pig shall be fined 1 rupee.

18. If around 2–3 people jointly kill a healthy female buffalo, she-goat, female *kāge* or *baruvāla* sheep or female pig, the cost of the damage shall be collected equally from as many people as jointly killed it.

19. Someone who watches the killing [of a female quadruped] or consumes its meat shall not be fined.

20. No blame shall be assigned to those who kill, order to kill, or sell [a female quadruped] whose legs have been broken by falling down a steep slope or by falling into a deep pit or abyss or which has become ill, is not able to stand but still breathes, and to the consumers of its meat, if they belong to a caste whose members may consume the meat of the respective animal.



## 72. On Cavalcade

1. If an elephant feels panicked or startled, and if its mahout [tries to stop it], using a goad or chains, but it does not obey the mahout, pushes him and goes away, and if it damages something or somebody is killed by it, the mahout shall not be held accountable.

2. If a rutting elephant kills or injures a person, the mahout shall not be held accountable. If a rutting elephant has been untied which was supposed to be tied, and if it does something threatening, the *hākima* of an *adālata* office shall make a judgment at his own discretion.

3. When an elephant is taken to a crowded place (*mānisakā bhīdamā*) or to a festival or a procession by its mahout, and if it is taken there by the order of his master, or it is taken out for the master's ride, and if the elephant tramples a person or crushes him and the person is injured, [the master] shall be made to pay 25 rupees to the injured person and shall be fined [a further] 25 rupees. If the elephant has been taken out by the mahout [without the master's order], and it tramples on a person or crushes him, the mahout shall be made pay 10 rupees to the injured person and shall be fined [a further] 10 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

4. If a mahout, of his own accord, has taken an elephant to a crowded place or to a festival or a procession, and the elephant kills a person by trampling on him or crushing him, [the mahout] shall be made to pay 50 rupees for the funeral expenses of the deceased person and shall be fined 50 rupees. If the elephant has been taken there by the order of his master, or if it is taken out for the master's ride, and if the elephant kills a person by trampling on him or crushing him, [the master] shall be made to pay 100 rupees for the funeral expenses of the deceased person and shall be fined 100 rupees.

5. If a mahout is riding an elephant and taking it out for a walk, to graze or to drink water, and if he cannot control the elephant and a person dies through being crushed or struck by it, such a mahout who is unable to control the elephant shall be dismissed from his job. He shall not be further held accountable.

6. If an elephant procession comes from one direction and a cavalcade from the other direction, or if an elephant procession or a cavalcade come from two [different] directions, and if they collide with each other, the rider lower in rank shall clear the route (*bāto*) for the rider of

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higher rank, guiding his elephant or horse aside. If a carriage is coming, both elephant and horse [riders] shall clear the route. If someone does not clear the route and obstructs [the higher-ranking rider], the *hākima* of an *adālata* shall fine such an obstructer at his own discretion.

7. If a person dies when he is dragged along by a horse carriage and crushed, without anyone noticing, 50 rupees shall be required to be paid for the funeral expenses of the deceased person. If the person was not dragged along by the horse carriage, but he was crushed by it and died, having been seen [by the coachman], the Kausala or an *adālata* shall make a judgment at its own discretion.

8. If a person is dragged along by a horse [which is pulling] a carriage and is trampled or crushed, that person, if he has been injured, shall be given 25 rupees for the expenses of his injury. If that person dies, 50 rupees shall be given for funeral expenses. [The coachman] is not required to pay a fine.

9. If a procession with a carriage takes place and a person is crushed by it or is injured, the injured person shall be given 25 rupees for the expenses of his injury, and [the coachman] shall be fined 25 rupees. If a person is crushed [by the carriage] and dies, 50 rupees shall be given for the funeral expenses, and [the coachman] shall be fined 50 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

10. If a procession with a carriage is coming, the person who carries an umbrella shall close it and clear the route. If he does not clear the route and does not close the umbrella, and if the horse is panicked by the umbrella, the carriage is damaged and the procession is interrupted, such a person shall restore [the carriage] to its original state, and he shall be fined 50 rupees.

11. If a carriage is askew, and if it damages a bridge or a wall because [its operator] could not control it, the owner of the carriage shall repair [the damaged bridge or wall] and restore it to the intact state it had before. If he does not repair it within 5 days, the cost of repair shall be collected from him and he shall be fined 5 rupees.

12. If a procession with a carriage is passing through a narrow street, the elephant rider shall clear the route and the horse rider shall take the horse to the left side of the street. If the elephant or horse rider does not clear the route [for the carriage], and if the rider of the carriage is injured, or if the carriage is damaged, [such a culprit] shall be made to repair the carriage and shall be fined 50 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

13. If a procession with a carriage is coming, and if an elephant is coming by [the same] route, the mahout or elephant rider shall go 30 steps back, removing the elephant [from the route]. If the elephant is not removed and the carriage is damaged or the person who is riding in or on the carriage is injured, the mahout—if the elephant is being taken for a walk (*tala*)—shall be

fined 40 rupees. If it was a procession, the owner of this procession shall be fined 50 rupees and he shall be made to repair the carriage.

14. If a horse rider carelessly drives through an alley, a street, procession or a festival, and if a person dies by being crushed [by the horse], the rider shall be made to pay 50 rupees for the funeral expenses of the deceased person and shall be fined 50 rupees. If that person died when the horse uplifted him by its mouth and crushed him, [the rider] shall give 50 rupees for the funeral expenses of the deceased person. He shall not be required to pay a fine.

15. If someone who is riding on a horse through an alley, a street, procession or a festival without enough care, and if a person is crushed by the horse, [the rider] shall give 10 rupees to the one who has been injured for the injury expenses and shall be fined 10 rupees. If that person is crushed when the horse uplifted him by its mouth, [the rider] shall give 10 rupees to the injured person. He shall not be fined.

16. If a horse which escapes after its carriage has fallen over, or if a horse which escapes because its groom could not control it, or if a horse escapes after its bridle is broken and kills or injures a person, the groom shall not be held accountable.

17. If a horse kicks a person with its back [legs] and that person dies or is injured, neither the horse rider nor its groom shall be held accountable.

18. If someone, for his amusement, goes out [on a horse] and organises a horse race, [surrounded by] a circle of people or a crowd, and if a person being crushed by the horse dies within 3 days, the Kausala or an *adālata* shall make a judgement at its own discretion.

19. Everyone knows that horse racing takes place in Ṭuḍikhela during the *ghoḍā-jātrā*. Therefore, while the horse race takes place, if a person is injured or dies from being crushed [by a horse], the horse rider shall not be held accountable.

20. If cows and buffalos are on the street, and if an elephant rider or a horse rider tells [their herdsman] to remove [the cattle from the route], and if the herdsman do not do so and the elephant or the horse panics, the herdsman shall be fined 1 rupee. If the rider falls off his mount, [the herdsman] shall be fined 5 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

21. If a cow or bull attacks a procession or a horse which is being taken [out for a walk] by its groom (*ḍoryānu*), [the owner of the cattle] shall be fined 1 rupee. If a buffalo attacks it, [the owner] shall be fined 2 rupees.

## 73. Arson

1. Only [oil] lamps shall be lit, with caution, in government treasuries, in the Tahabīla, in the Toṣākhānā, Mulukīkhānā, in the Sadaradaphadara, *daphadara*, Kumārīcoka, Iṭācapali where account or treasury records are stored, and in the *aḍḍā* or *gauḍā* offices where treasury records and other documents are stored, and in the arsenal (*silakhānā*) and places where military ammunition and equipment are stored. No fire or torch shall be brought [to such places]. No one shall smoke a hookah in such places. No lamp shall be brought to a place where gunpowder is stored. Also, no one shall enter such places with shoes. A person who violates the *Ain* and disobeys orders by bringing a lamp to a place where gunpowder is stored or entering there with shoes, shall be fined 10 rupees. If someone brings fire to other places where it is prohibited or smokes a hookah there, he shall be fined 2½ rupees. If he does not pay the amount of the fine, he shall be imprisoned according to the *Ain*.

2. If a person sets someone's house on fire, but the house and the goods within are not burnt and remain intact, both the person who set the fire and the one who gave the order to set fire, shall be fined 60 rupees each. If the amount of the fine is not paid, they shall be imprisoned.

3. If a person plots to burn down someone's house, but he himself does not go to the site where the house is to be burnt down, and if, while the house is on fire, people, cows and oxen die, the person who made the plot shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If people and cows and oxen are not burnt by the [fire], but only the property and other livestock are burnt, the person who set the fire and the one who made the plot shall be made to compensate the damages. The person who gave the order to set fire shall be imprisoned for 6 years. If he pays twice the amount set in lieu of the prison term, it shall be accepted and he shall be set free.

4. If a person sets someone's house on fire, and if cows, oxen or other quadrupeds are burnt and die, the person who set the fire shall compensate the damages from his own property to the owner of the burnt-down house. If [after compensation has been made,] something [of the offender's property] is left, the shares [from the remaining] property [which his family members are entitled to] shall, in accordance with the *Ain*, be put aside and [his share] shall be confiscated. If cows or oxen have burnt, [the offender] shall be punished by *dāmala*. If other quadrupeds are burnt, he shall be imprisoned for 6 years. If he is from an Enslavable caste, he shall be enslaved and be made to undergo penance.

5. If a person sets someone's house on fire and someone dies, and also the property catches fire, [the offender] shall immediately pay compensation from his property to the owner. If his property is not sufficient to cover the compensation, once [the offender] is executed, shaved, punished by *dāmala* or enslaved, the owner shall not be allowed to claim: 'I will recover the outstanding damages from the offender's brothers, sons or grandsons once they are well-off.'

6. If a person sets someone's house on fire and a person also gets burnt [to death], the damages shall be paid to the owner of the burnt-down house from the confiscated property of the person who set the fire. Whatever remains as surplus [after the compensation] shall be returned. If [the confiscated property] is not sufficient [to pay] the damages, the person whose house was set on fire shall not receive the outstanding damages. The person who gave the order to set someone's house on fire, and the person who set the fire, shall be executed—taking life for life—if they are men. If the men are from a caste whose heads are shaved [instead of them undergoing execution], they shall be punished by *dāmala*, after the shares which are theirs according to the *Ain* have been confiscated. If they are women, they shall also be punished by *dāmala*.

7. If a person sets [someone's] house on fire, and if neither a person nor cows nor oxen die, but only the property, goods and other quadrupeds are burnt, and if the owner of the house writes down a declaration of will (*rājīnāmā*) that he will recover the damages from the [offender], [the offender] shall be fined 60 rupees for setting fire. If he does not pay the amount of the fine, he shall be imprisoned. It shall be up to the will of the owner as to whether he recovers his wealth [from the offender] or not.

8. If a person sets someone else's house on fire, and if no person, cow or ox is harmed, but only other quadrupeds, wealth and goods, and if the person who set the house on fire rebuilds it and also compensates for the damage to the wealth and goods, the person who set the house on fire shall be fined 60 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If he pays the amount set in lieu of the prison term, it shall be accepted.<sup>318</sup>

9. If someone comes to complain that such and such a person has set his house on fire, and it is ascertained upon investigation that the accused person did not set the fire, such a false accuser shall be imprisoned for 6 years if he claims that a person also came to harm. If he claims that a cow or ox came to harm, he shall be imprisoned for 3 years. If he pays the amount set in lieu of the prison term, it shall be accepted. If he claims that other quadrupeds, wealth and goods have been burnt, the false accuser shall be fined an amount equal to the damages he has claimed. If he claims that only property burned down, he shall be fined 20 rupees. If he does not pay the fine, he shall, in accordance with the *Ain*, be imprisoned.

318 Om., read *rupaiyā natiryā aina-bamojim kaida garnu myādako rupaiyā diyā linu* (MA<sub>2</sub>).

## 74. On Witchcraft

1. If [two parties] abuse each other verbally in a dispute over land, cash or commodities, and if one comes to complain that the other called her a witch (*bokṣī*)<sup>319</sup>, the person who called her a witch shall be fined 5 rupees. If they first abuse [each other] verbally and later one person calls the other a witch, he or she shall be fined 2½ rupees. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

2. If a man or woman comes to complain that someone accuses him or her of witchcraft, and if, after bringing him or her [before the court], it is ascertained upon investigation that no accusation of witchcraft was made, the false complainant shall be fined 20 rupees. If he or she does not pay the amount of the fine, he or she shall, in accordance with the *Ain*, be imprisoned.

3. If, while a patient is being branded, [instead of the patient] the witch is branded, or if [the witch] dances when she is made to dance through a mantra, or if, while the head of a patient is being shaved, [instead] the witch's head is shaved, such a witch shall be exiled and chased away from the village. Persons who exile such a witch shall not be held accountable.

4. If someone who is accused of witchcraft<sup>320</sup> was not made to dance [through a mantra], did not receive a mark while a patient is branded, but he or she undertook the ordeal at his or her own decision and failed it, he or she shall neither lose his or her caste status nor does he or she require expiation. He or she shall not be considered a witch. If anyone again accuses such a person of witchcraft and exiles him or her from the house, [the accuser] shall be fined 60 rupees. If [the accuser] does not exile him or her from the house, but merely calls him or her a witch, [such an accuser] shall be fined 20 rupees.

5. In a case of witchcraft, if a woman who has not received any mark [while] a patient [is branded] by a shaman or the like or who has not been made to dance through a mantra or tantric [power] is being tested by an *adālata*, *ṭhānā* or *amāla* office through an ordeal, no one shall order her to undergo the ordeal of putting her hands on a [hot] iron cooking pot (*karāhī*), of submerging

319 'Witch' or *bokṣī* are culturally feminine words. This is why witches are often assumed to be women, but in Nepal and historically even in Europe, the term 'witch' could also refer to men.

320 *voksyārolāi mārnyāharūko*, read *boksyāro lāi māgnyāharuko* (MA<sub>2</sub>).

her in a *sahela*<sup>321</sup>, metal vessel (*gāgrī*) or pond, of smearing mustard (*rāyo*, *Brassica juncea*) on her eyes or of grasping a [hot] iron or the like. If the woman fails such an ordeal, it shall not be considered that she failed it. The *dvāre* or *bicārī* official who ordered such ordeals shall be fined 50 rupees. The woman shall be declared the winner [of this dispute].

6. If a shaman brands a patient, declaring that [instead of the patient] the witch will be branded with a mark, and if the patient is injured, but not the witch, such a shaman or the like shall be fined 30 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If a shaman or anyone else accuses [someone] of witchcraft by playing a drum or beating on the roof [of the accused person's house], and if [the accused person] has not received any mark [through branding] or has not been made to dance [through a mantra by the shaman], but is chased away only on the basis of the prattle (*baknu*) of the patient,<sup>322</sup> he or she shall not be considered a witch. Such [an accused person] shall not be ordered to undergo an ordeal. He or she is not a witch. The shaman or the like who accused [that person] of witchcraft shall be fined 80 rupees. If the amount of the fine is not paid, he or she shall be imprisoned. [To restore his or her honour,] a turban shall be tied [on the head of the person] who is accused of witchcraft, and 1 rupee for the turban and 2 rupees as winning fee, in total 3 rupees, shall be collected from him or her.

8. If one accuses another of witchcraft and chases him or her away from his or her house, [the accuser], whether he is a shaman or someone else, shall be fined 60 rupees. If [the accuser] does not chase [the accused person] away from his or her house, but only accuses him or her of witchcraft, [the accuser] shall be fined 20 rupees. If the amount of the fine is not paid, he or she shall be imprisoned.

9. If a shaman or the like from an inferior caste forces [a patient] from a caste superior to his own to lick the sole of his foot during a treatment, a [shaman] from a Kṣatriya caste shall be fined 60 rupees if he forces [a patient] from a Brahmin or Rajapūta caste to lick the sole of his foot. If [a shaman] from an Alcohol-drinking caste forces [a patient] from a Sacred Thread-wearing caste to lick the sole of his foot, he shall be fined 70 rupees. If [a shaman] from an Untouchable caste from whose members water is not acceptable forces [a patient] from a pure caste to lick the sole of his foot, he shall be fined 100 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The patient who licked the sole of the [shaman's] foot shall be granted penance after a fee of 1 *mohora* has been collected. [The patient] receives expiation.

321 The meaning of the term is unclear. It might refer to a certain type of water vessel. Alternatively, it could be derived from Arabic *sāhil* 'shore, beach, coast', probably referring to the shore of a river or lake.

322 The patient, either under the influence of the shaman or on his or her own, enacts the role of the witch who cast a spell on him and makes a confession on his or her behalf.

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10. If a shaman or the like who removes a colic from an unmarried girl, married woman or widow or sucks on her body with his mouth, declaring ‘I sweep [the bad influence from her] and blow [mantras on her] (*jhāraphuka*) and I cure her’, he shall be fined 20 rupees. If he does not pay the amount of the fine, he shall be imprisoned.

11. If a woman falls sick and needs to be treated by *jhāraphuka*, a man shall perform the *jhāraphuka* at a distance by using a brush made of broom grass (*amriso*, *Thysanolaena agrostis*), by a yak tail whisk (*cāmara*), cloth or *kuśa* grass. He shall not touch her. If boils on the body or the like are to be lanced, the person who lances them and applies medicine to them shall neither be held accountable nor shall he receive any punishment.

12. If a man confesses in express terms: ‘I am the one who killed such and such a person through a tiger<sup>323</sup> with the help of a *gurau*<sup>324</sup>, shaman, wizard (*jhākrī*), witch or demon (*rākasa*)<sup>325, 326</sup> by conjuring a deity through a mantra and *yantra* or by using witchcraft’, and if it is ascertained that he [really] killed that person, such a man who has declared that he killed a person through a mantra, tantric [power] or a tiger and who [really] had killed that person in this way by using a mantra and *yantra*, witchcraft or a demon, such a man shall be exiled from the country, after his share of property has been confiscated, according to the *Ain*. If a woman confesses in express terms that she has killed a person in the same manner, she shall be exiled from the village without confiscation<sup>327</sup>.

13. If someone confesses in express terms: ‘I am the one who hurt<sup>328</sup> a person in the same manner [as mentioned in § 12] through a mantra, *yantra* or wizardry’, he or she shall be exiled from the village, having been fined 50 rupees.

14. If someone confesses in express terms: ‘I killed a quadruped, an animal or a bird in the same manner [as mentioned in § 12] through a mantra, *yantra* or wizardry’, he or she shall [be made to pay]<sup>329</sup> the damages for the killed animal (*māla*) and shall be fined an amount equal to the damages. If he or she confesses: ‘I did not kill it, [but] only hurt it’, he or she shall be fined half of the price of the animal (*māla*) and be exiled from the village.

15. Someone who gives the order to use magic on a person, to put him under a spell or under control, and the person who carries [the order] out, both shall be fined 60 rupees. If [the

323 *vaidyai*, read *bāgha* (MA<sub>2</sub>).

324 A *gurau* is a shaman being able to transform himself at will into animals, especially tigers (Riboli 2009: 354).

325 Both MA<sub>1</sub> and MA<sub>2</sub> read *-lāi* in *rākasalāi* as a postposition, whereas we understand *lāi* as the absolutive of *lāumu*.

326 The meaning of this passage is not entirely clear. Probably the offender asks a person with magical powers to kill the victim by transforming himself into or controlling a tiger.

327 *sarvasva gari*, read *sarbasva nagarī* (MA<sub>2</sub>).

328 *pani śāyako*, read *dukhāyāko* (MA<sub>2</sub>).

329 We follow Jean Fezas’s suggestion to insert here *bharāi* (Fezas 2000b/I: 382 n. 6).



victim] is harmed<sup>330</sup>, both shall be fined 120 rupees. If [the victim] dies, the property which is theirs according to the *Ain* shall be confiscated and both shall be set free. If, in such a case, the plaintiff makes an accusation, [but] cannot prove it, that person shall, according to [the respective regulation of] the *Ain*<sup>331</sup>, be fined or punished, depending on the allegation he has made.

16. If a man or woman is not be proven to be a witch according to the *Ain*, but a shaman or someone else accuses that person of witchcraft and chases him or her away, the persons who accompany [the shaman] and strike [the accused person] with a cut branch, the bark of a plantain or unfired clay pellets<sup>332</sup> shall be fined 30 rupees each. Those who strike with a stick or stone shall be fined 40 rupees each. If [the accused person] dies, [the offenders] shall be executed—taking life for life. Those who [just stand by and] watch the witch being chased away, [but] do not strike him or her, shall not be held accountable.

17. If someone faints due to sickness, and if, while the patient is being treated by a shaman, wizard or anyone else through *jhāraphuka* and is being diagnosed (*ra kha gardā*)<sup>333</sup>, he utters, in express terms: ‘A male or female witch is hurting me’, and if, upon investigation, it is ascertained that the patient uttered this out of pain from the sickness, and if the shaman, wizard or anyone else who has treated him does not catch hold of the person<sup>334</sup> [accused of being a witch by the patient], stating that he or she is a witch, the persons who call the [accused person] a witch [only because of] listening to that patient’s prattle, uttered out of pain from the sickness, shall be fined 5 rupees. If they do not pay the amount of the fine, they shall, according to the *Ain*, be imprisoned. The patient and the shaman, wizard or the like who treated him shall not be held accountable.

18. If someone from a Water-unacceptable caste or from an Untouchable caste treats [a patient] and [therefore] performs the *ulṭā*<sup>335</sup> on water or<sup>336</sup> medicine which came into contact with water and blows mantras<sup>337</sup> on it at a distance, without touching it himself and without letting

330 *uccārana*, read *uccātana* (MA<sub>2</sub>).

331 Om., *ain* (MA<sub>2</sub>).

332 ... *hāṃnyākā cāmaṭeṃgrāle*, read ... *hānyā kācā maṭeṃrāle* (MA<sub>2</sub>).

333 MA<sub>2</sub> reads *rakha gardā*. However, the meaning of the term *rakha* is unknown to us. Therefore, we tend to understand *ra* as a conjunction and *kha garnu* (lit. ‘to determine, make sure’, and ‘inquire’) in the meaning of ‘to diagnose’. A. W. Macdonald (1976: 381) seems to have understood the term in the sense of compelling the patient to speak. It remains obscure to us how he derived this meaning.

334 *samāyāko rahecha*, read *samāyāko rahenacha* (MA<sub>2</sub>).

335 A. W. Macdonald (1976: 384 n. 23) describes the practice of *ulṭā garnu* as follows: ‘The practice of ulto garnu has not as yet been made clear by ethnographers. According to my friend, K. B. Bista (who kindly read this text with me and who allowed me to profit from his advice), the *jhākri*/dhāmi or the *jhārphuke* (who can be neither *jhākri* nor dhāmi) blows (*phukcha*) on a piece of food or drink destined to be consumed by the patient. Having done this, he murmurs mantra and also turns the food/drink with the aid of a knife or another sharp instrument. When consumed the substance in question will have the effect of reversing (*ulto garnu*) the patient’s pain and transforming his malaise into comfort. A special medication (*ultā khānu*) is sometimes prepared by the practitioner and given to the patient who suffers from stomach pains.’

336 Om., *pāni ra* (MA<sub>2</sub>).

337 *matri*, read *mantri* (MA<sub>2</sub>).

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his saliva drop into it,<sup>338</sup> the one who blows the mantras [on the water or medicine] and the one who consumes it shall not be held accountable. No penance is required.

19. If someone who, without any reason, disfigures a person, smears colours on his or her clothes, insults him or her, and drags him or her through the village or city, then [the offender] shall be fined 25 rupees if he dragged a man, and 50 rupees if he dragged a woman. If the culprit does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

338 *thukana parnyā*, read *thuka naparnyā* (MA<sub>2</sub>).

## 75. On Gambling

1. Barring the day when gambling is opened, if someone after or before offers betting at a market place or house, both the one who offers betting and who accepts it shall be fined twice the amount in question of their betting. If the amount of the fine is not paid, imprison them; in accordance with the *Ain*.

2. If none of the gamblers comes to complain, but someone else comes to do so, the winner of the money which has not been placed in [the gambling venue], but has been wagered only orally (*phvāka bolnu*), shall not be permitted to take it. The loser, too, shall not be obliged to pay it. Both the one who wagered the money orally and the one who accepted the wager shall be fined 20 rupees each.

3. If, during gambling by oral wager, the loser comes to complain, the complainer shall neither be obliged to pay the orally wagered sum nor need he require a fine. The winner shall not receive the amount he won. [Both] shall be fined 20 rupees for gambling by oral wager. If the winner comes to complain that he has won such and such an amount during a game by oral wager, he shall not receive the amount he won, and he shall also not be fined.

4. From the time when gambling is opened by proclamation with sounding cymbals—‘one may gamble’—until it is closed, no one shall sell gold, silver, valuables or the like at the gambling venue or in the house of a gambling organiser. Also no one shall buy. If someone sells, at whatever price it has been sold, such an amount shall be confiscated. The bought article shall be confiscated from the buyer. If [the article] has only been pledged, the amount shall be confiscated from the seller. The pledgee shall be fined according to the amount for which the pledge has been taken. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

5. If someone, after gambling has been opened, organises gambling, giving loans (*sāhu basnu*) [to the gamblers], and if neither the loser<sup>339</sup>, the winner, the creditor, the third-party bettors (*cyāṅkhe thāpnu*)<sup>340</sup> nor the spectators come to complain, the share property of the one who has given the loans shall, in accordance with the *Ain*, be confiscated putting marriage expenses for his

339 *hānyā*, read *hāryā* (MA<sub>2</sub>).

340 The third-party bettors do themselves not roll the dice, but bet on individual players by increasing their stakes.

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daughter aside. The amount for gambling which was ascertained as to be taken from the debtor shall also be confiscated. The winning sum from the winners who have played, taking the amount from the creditor, shall also be confiscated. They shall be fined 20 rupees each. Those who played at the same game out of their own pockets, without borrowing, shall be fined 20 rupees each. The third-party bettors and the spectators who knew<sup>341</sup> that someone gave loans shall be fined 10 rupees each. The third-party bettors and the spectators who did not know that someone gave loans shall not be held accountable. If someone other than those who played comes to complain at an *adālata*, *ṭhānā* or *amāla* office that playing was arranged by giving loans, 5 percent of the income which is collected from the players of that game for [illegal] gambling<sup>342</sup> shall be given to him.

6. A minor below the age of 12 who gambles all the time shall be imprisoned for 10 days. Anyone from the age of 12 up to 16 shall be fined 10 rupees. During gambling, if the players past the age of 16, the persons who organise gambling, the third-party bettors or reputable persons [such as] holders of land, businesses, arable property, revenue or professionals gamble, such persons shall decide voluntarily whether they agree that their share of property, in accordance with the *Ain*, is confiscated, or they state that they prefer to be in prison for 2½ years. If a fool who does not hold any land, business, arable property or revenue gambles, such a person shall be imprisoned for 2½ years. If he pays the amount in lieu of his prison term, he shall be set free. Someone who does not come to report at an *adālata*, *ṭhānā* or *amāla*, although he has seen that gambling has taken place at someone else's house, shall be fined 20 rupees. If he does not pay the amount [of the fine], he shall, in accordance with the *Ain*, be imprisoned. Someone who comes to report at an *adālata*, *ṭhānā* or *amāla* shall not [be fined].

7. Within the entire Gorkhā realm from now onwards, the players may gamble every year for 5 days of the Yamapañcaka festival from the 13<sup>th</sup> of the dark fortnight of Kārttika to the 2<sup>nd</sup> of the bright fortnight. They shall not be held accountable. No one shall play before or after, except during these days. Those who gamble before or after, except during the days written down in the *Ain*, shall, in accordance with the *Ain* and the copperplate, be punished.

MA<sub>2</sub> 75.7kh.<sup>343</sup> Within the entire Gorkhā realm, east from the river Mahākālī and west from the river Mecī, [including] Bhoṭa, Madhesa, hilly region, from now onwards no one, including *umarāvas* of higher or lower rank [such as] *ḍhākres*, *jāgira* holders, military officials or subjects and so forth, shall gamble. Someone who gambles when gambling is closed shall, in accordance with the *Ain* and the copperplate,<sup>344</sup> be punished.

341 *thāhā napāi*, read *thāha pāi* (MA<sub>2</sub>).

342 *juvā vatmātahasil garnyākā*, read *juvā bāpatmā tahasīla garyākā* (MA<sub>2</sub>).

343 Fezas 2000b/I: 386 n. 3 reports that there is a marginal note in MsA which specified that the section was cancelled in VS 1918.

344 Maybe this refers to King Surendra's copperplate inscription of 1855, which has been edited by Tevārī (VS 2031 [1974]).

8. No one shall borrow [any amount] in the venue where gambling is taking place, or in the house of a gambling organiser, from the day when gambling is opened by playing sounding cymbals proclaiming that one may gamble, until it is closed. If it is ascertained that an amount has been borrowed, the amount in question of the creditor shall be confiscated by an *adālata*, *ṭhānā* or *amāla*, and the one who has borrowed [the amount from the creditor] shall be fined an equal amount to that in question. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If someone who has gambled by borrowing [an amount] or someone who has gambled [without borrowing any amount] comes to complain at an *adālata*, *ṭhānā* or *amāla*, he shall not need to pay the amount in question back to the creditor. The one who came to complain shall not be accused. If someone who has gambled and won reports to an *adālata*, *ṭhānā* or *amāla*, the amount he won shall become his [property] and he shall not be accused.

9. During gambling, someone who gambles shall gamble by staking [coins like] an *asarphī*, a *kallāra*, *paṭanā*-[coin],<sup>345</sup> *mohora*, *paisā* or a *phukādāma*. While playing in this manner, whatever the loser has lost<sup>346</sup> and the winner has won shall be valid. No one shall gamble by staking articles such as jewellery, clothes, vessels, valuables, weapons, cows, water buffalos, persons or the like. The winner shall return the articles in kind, such as unminted gold, silver, valuables or the like, except cash. The one who has won the articles in kind shall be fined at the rate of 10 percent of the total value. Twenty percent shall be taken and the articles shall be returned. Anyone who has played by staking unminted articles shall be fined at the rate of 10 percent. Ten percent shall be taken and the articles in kind shall be returned.

10. One shall gamble 2 days and 2 nights for the vigil during the Kṛṣṇajanmāṣṭamī day at the Pāṃcāyaṇa Ghāṭa above the Thāpāthalī Bridge and two days and two nights outside the gate in Ṭḍikhela, starting from the 14<sup>th</sup> day of the bright fortnight of Caitra.<sup>347</sup> Early in the morning of [the first] day, an *adālata* or *ṭhānā* shall publicly proclaim that gambling has been opened. Early in the morning, when 2 days and 2 nights have passed, [these offices] shall proclaim its closing. The ones who gamble in different cities or areas, except the places that have been written down, shall be punished, in accordance with the *Ain* and the copperplate.

11. When gambling has been opened, no one who gambles shall play by rigging dice, cowries or other throwable objects. If it is ascertained that someone has played by rigging dice, cowries or other throwable objects, the total amount of whatever has been won by rigging shall be returned to whom it belongs, and the winner shall be fined a sum equal to the total amount in dispute. Ten percent of the refunded wealth shall be taken. If its owner has not been traced, it shall be confiscated. If [the culprit] does not pay the amount, he shall, in accordance with the *Ain*, be imprisoned.

345 This refers to the currency minted by the East India Company in Patna.

346 *hānyāle hānyāko*, read *hāryāle hāryāko* (MA<sub>2</sub>).

347 This refers to the *caitedasāi*.

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12. Before or after, other than on the days when gambling has been opened, if someone plays Okharapāṃgrā, Vasupati, Cayāmgrāpati, Jorabijora or the like and gives or takes money because he won or lost, those who are above the age of 16 shall be fined 30 rupees each, those who are past the age of 12 and up to the age of 16 shall be fined 10 rupees each, and children below the age of 12 shall be scolded and told that they should not play and be let off. No punishment shall be required.

13. Before or after any days other than those days when gambling has been opened, while playing Raṃga, Gaṃjiphā or Pacisa, no one shall play by giving and taking money. If play involves the giving and taking money, it shall be regarded as gambling. [Such players] shall be punished in accordance with the law laid down for those who gamble all the time. If it was not played<sup>348</sup> by giving and taking money, but only by oral betting (*mukhale mātra sarada garnu*)<sup>349</sup>, the players shall be fined 10 rupees each.

14. If persons from a foreign kingdom from the Tibetan side, except those who have been living within the Gorkhā realm and have established a household, enter the Gorkhā realm and gamble before or after those days when gambling has been opened, the amount they won shall be confiscated and they shall be fined 20 rupees each. If the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

15. Every year on the 5<sup>th</sup> day of the dark fortnight of Kārttika, the *bhāradāras* shall order materials for worship to be brought according to their capacity and wish to Mṛgasthalī where Viśvarūpa has been established, and they shall worship Viśvarūpa. Making a public proclamation early in the morning of that day, gambling shall be opened at the whole Mṛgasthalī. The one who wishes to gamble for the celebration shall gamble two days and two nights from early in the morning of that day. It shall be closed early in the morning on the seventh day of the dark fortnight of Kārttika.

16. If it is ascertained that someone who has passed the age of 12 has played Okharapāṃgrā on days other than those days when gambling has been opened, he shall be fined 8 *ānās*.

348 *ṣelyāko rahecha*, read *khelyāko rahenacha* (MA<sub>2</sub>).

349 As Fezas (2000b/I: 389 n. 9) indicated, the term *sarada* could be a corrupt form of *sarta*. We follow his suggestion.

## 76. On Building Houses

1. Whoever erects a tiled house outside a city or in the hill areas<sup>350</sup> on barren *chāpa* or *raikara* land, this person who erects the house shall receive the land inside the eaves of the house and 10 cubits [of land] for the courtyard as *birtā*. He is allowed to sell it. A *lālamohora* and the [required] documents (*dastābeja*) shall be issued<sup>351</sup> from the Sadaradaphadarakhānā office. If someone erects<sup>352</sup> [such a house] on cultivated land, and gives other land he owns in exchange for that, the exchange shall be accepted if [the land] is of the same size, and a *sanada* for the house<sup>353</sup> shall be issued. If he cannot give [land] in exchange, he does not receive cultivated land, and cannot declare ‘I erected a house<sup>354</sup> [on it]’.

2. If the houses<sup>355</sup> belonging to the government or the houses<sup>356</sup> belonging to the *guthīs* or *birtās* of the commoners in the cities of Kathmandu, Patan or Bhaktapur collapse and are ruined, no written order to rebuild the house shall be posted during the 4 months of the rainy season<sup>357</sup>, i.e. Asāra, Śrāvaṇa, Bhādra and Asauja, because [a house] cannot be erected [during these months]. Apart from these months, the owner of the house shall be given a 4-month deadline to rebuild the house. If the owner fails to rebuild the house by that date, his neighbours shall be ordered to rebuild<sup>358</sup> the house, with a 35-day deadline. If the neighbours, too, do not rebuild it by the deadline,<sup>359</sup> whosoever comes and declares that he will rebuild the house on the site shall be requested by an *adālata* or *ṭhānā* office to do so. If a person rebuilds a house on someone’s land which has turned into the site of a ruin, this house becomes the *birtā*<sup>360</sup> of the one who rebuilt it. The respective *adālata* or *ṭhānā* by which the written order to rebuild the house was posted shall issue a *rukkā* or *daskhata* with a *pramāṅgī* bearing stamps from a subordinate official at the bottom margin (*puchryā chāpa*),<sup>361</sup> and the *mohora*

350 *pavatmā*, read *parbatmā* (MA<sub>2</sub>).

351 *gāja garī dīnu*, read *garī dīnu* (MA<sub>2</sub>).

352 *vanāyo cha*, read *banāyecha* (MA<sub>2</sub>).

353 *ghako*, read *gharko* (MA<sub>2</sub>).

354 *gharra*, read *ghara* (MA<sub>2</sub>).

355 *gha*, read *ghara* (MA<sub>2</sub>).

356 *gha*, read *ghara* (MA<sub>2</sub>).

357 *vaṣāmā*, read *barkhāmā* (MA<sub>2</sub>).

358 *vau*, read *banāu* (MA<sub>2</sub>).

359 *myāda bhitra māchimyākiharule pāni vanāyānan*, read *myādabhitramā chimyākiharule pāni banāyenan* (MA<sub>2</sub>).

360 Om., *birtā* (MA<sub>2</sub>).

361 According to §§ 33.10–11, *lālamohoras*, *rukkās*, *daskhatas* and similar documents are to be stamped by the subordinate clerks of the offices concerned at the bottom of the deeds or documents, before the royal or prime ministerial seal is put on them.

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shall be issued by the Sadaradaphadara[khānā]. The person [who rebuilt the house] shall be allowed to sell it or deal with it at his own discretion. If the [original] owner of the site comes and says ‘Give me [land] in exchange for the ruined site. I will also build a house on that land<sup>362</sup>, [a building plot] of the same size shall be given to him in exchange, inside or outside the city, wherever he demands. A *mohora* shall be issued [to the original owner] stating ‘[You] may erect a house and may sell it or deal with it at your own discretion.’ It becomes his *birtā*.

MA<sub>2</sub> 76.2kh. If the houses on the streets or the houses belonging to the government, the *guhīs* or *birtās* in the cities of Kathmandu, Patan or Bhaktapur collapse and are ruined, an *adālata* or *ṭhānā* shall inspect it and issue an order to the owner of the house, stating ‘Rebuild the house!'; after the order is issued, one shall wait for 15 days, to see whether the owner of the house rebuilds it [or not]. If the owner does not rebuild it, his neighbours shall be asked to rebuild the house. If the neighbours, too, do not rebuild it, whosoever comes and asks for the land to rebuild the house on that ruined site may erect the house with the permission of the *adālata* or *ṭhānā*. It becomes his *birtā*. A *sanada* validating his *birtā* shall be issued by the Cyāngrākausī. If the original owner of such a ruined site, after some days, states that he will build a house with his own means of support, [another building plot] of the same size shall be given to him from the Cyāngrākausī inside or outside the city, wherever it is available, after marking the boundaries. The one who erects the house shall be allowed to transact or sell it.

3. If a creditor accepts a house and its corresponding plot as a usufructuary mortgage, and if the house collapses while he is making use of it, the creditor shall be allowed to use<sup>363</sup> the site of the ruin along with the corresponding plot. If only the house is recorded as a mortgage [in the loan deed], and if it collapses while the creditor is making use of it, and it turns into a ruin, the creditor loses the amount of credit he has given. He shall not be allowed to take the site into his possession. It belongs to the mortgagor.

4. If anyone from the high-ranking officials (*umarāva*), *bhāradāras* or the subjects, including the government, comes to complain that ‘The owner of a house and a corresponding plot located in Nepāla did not agree when I proposed to him or her “Let us make an exchange. I will build [a beautiful house on your land] or rebuild it better than it was before”, the *adālata* or *ṭhānā* shall make [that person] compensate [the original owner] for 20 percent [of the value of the house and its corresponding plot] on top of its estimated price. The person who rebuilds [the house] better than it was before, shall be allowed to exchange it.

5. If someone erects a house on his land, [located] in [one of] the cities [of Kathmandu, Patan or Bhaktapur], he shall not be allowed to transgress the boundaries of his land, encroaching on borders and erecting a house on someone else’s land. Even if the water from the eaves of his

362 *akau jagāmā*, read *arkai jagāmā* (MA<sub>2</sub>).

363 *cal*, read *calana* (MA<sub>2</sub>).



house (*balyānī/balēsi*) drips on someone else's land, [his neighbour] shall not be allowed to stop him from erecting a house. One may be permitted to erect a house [in such a case].

6. If someone, whose land, [located] in any of the villages belonging to the three cities [Kathmandu, Patan or Bhaktapur], borders on someone else's land, erects a tiled house on the latter's land, claiming that it is his own land, and if the owner of that land obstructs him [in erecting the house], as long the ground floor is not completed and he states that it is his land, and if it is proven that the person [who is erecting the house] encroached on [the land], the encroacher shall be fined according to [the amount of land on which] he has encroached. The land shall be restored to its owner. If the owner of the land and his family are aware [of the erection of the house], from the laying of the foundation up to the completion of the [ground] floor, [but] keep silent, and if later on they come to complain, they shall not receive [the encroached land] back, even if it is their *birtā*. [The possession of the land] shall be confirmed to the person who erected the house and it shall be given to him. If he whose land was encroached upon and his family members are not aware of the erection of the house, and the house is completed, and if he comes to complain after he has been informed about it, the price of the land settled upon by the *pañca* shall be paid in compensation [to the owner]. If he declares 'I do not accept the price of the [encroached] land [as compensation], [but] I will pay the price for the house', the one who erected the house shall be compensated with the price of the erected house as settled upon by the *pañca* and the owner of the land shall be given the entire house.

7. If someone, without any right, demolishes someone else's house, and if the house he demolishes is in the city, [the offender] shall be made to pay the damages to the owner as decided upon by the officials of the Chebhaḍela office, and if the house he demolished is outside of the city, [i.e. in a] hill area or in the village, he shall be made to pay the damages as settled upon by the elders or nobles of the respective place. The one who, without right, demolished someone else's house shall be fined a sum equal to the damages, and [the fine] shall be collected from the *adālata*, *ṭhānā* or *amāla*. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

8. If a creditor accepts a house as a mortgage and it collapses<sup>364</sup>, he shall rebuild it in the presence of the debtor. If the debtor is not present, he shall rebuild it in the presence of around 1–2 nobles of that area. If the debtor comes to pay back the debt, [the amount to be paid] shall be calculated, including the expenses which accrued for rebuilding the house, and [the debtor] shall pay it back. If the creditor [rebuilds the house] neither in the presence of the debtor nor are there other witnesses to this, the creditor shall not receive the expenses [for rebuilding], in that he only claims that he spent a specified amount.

9. If a wayside public shelter, fountain, rest house, resting place, water fountain, well, plank bridge, road bridge, or track is built, and if there is no *guthī* for it and if it is damaged or

364 *bhatkāyo*, read *bhatkyo* (MA<sub>2</sub>).

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collapses, the main person who built it shall rebuild it. If it was built by someone from a previous generation, his descendants shall rebuild it. As long as they [wish] to rebuild it, no one else shall be allowed to do so. If there are descendants,<sup>365</sup> but they are not capable of rebuilding it, or if there are<sup>366</sup> no descendants, and [someone] comes to an *aḍḍā*, *adālata*, *ṭhānā* or *amāla* office and states ‘I will renovate<sup>367</sup> and rebuild it’, he shall be allowed to do so.

10. If someone builds a house with a roof thatched with cogon grass or rice straw on someone’s *birtā*, *raikara*, *chāpa*, *guṭhī* land or the like, paying a levy [for confirming his tenure] (*cāradāma ṭhekī*), no one shall be allowed to reassign [that land to anyone else] and chase him away as long as he lives there paying his levies. If he himself leaves and migrates, or the owner of that land chases him away because he stopped paying his levies, he shall be allowed to take any moveable objects, such as threshers (*ḍhikī*), stone grinders (*jāto*), doors<sup>368</sup> or ladders. He shall not be allowed to sell or [dismantle he house and] take it away. The house belongs to the person who possesses the land.

11. In whichever city a house is located, one shall be allowed to take the bricks or timber from that house and to build a house in [another place] of that city. It is not allowed to take [the bricks or timber] from one city to another and build [a house there] or to take [such materials] out of the city<sup>369</sup> and build [a house there].

12. Kathmandu, Patan, and Bhaktapur: in these three cities a [house] owner, from the palace down to the subjects, may be allowed at his own pleasure to sell, pledge, donate or gift his house as either received as *birtā*, as a pledge or a donation, or as built on *raikara* land. If the owner for some reason demolishes the house, it shall be at his pleasure whether he uses the timber and bricks of this house and builds a smaller or bigger house [than the previous one]. If it is proven that he demolished his house<sup>370</sup> in [one of these] cities, took the timber and bricks somewhere outside of the city<sup>371</sup> and built a house there, [that house] falls under the possession of the government<sup>372</sup>.

13. Earlier, if someone wanted to erect a hut with a tiled roof such as a shrine, a *dharmaśālā*, a wayside shelter or a fountain on *raikara* land, his own *birtā*, *bekha*, *phikadhāra*, *marauṭa*, *mānācāmala*, *chāpa*, *jiunī*, *peṭiyākharca* land or the like, he had to obtain permission from the government [before] he could tile the roof. From now onwards, to erect such a hut with a tiled roof, one neither needs permission from the government nor is one required to pay any fee.

365 *saṃtānchausle*, read *saṃtāna chan usale* (MA<sub>2</sub>).

366 *rahe*, read *rahecha* (MA<sub>2</sub>).

367 *marjirṇoddhāra*, read *ma jirṇoddhāra* (MA<sub>2</sub>).

368 *jātodvāra*, read *jāto dvāra* (MA<sub>2</sub>).

369 *saha*, read *sahara* (MA<sub>2</sub>).

370 *gherbhatkāi*, read *ghara bhatkāi* (MA<sub>2</sub>).

371 *sarharvāharī*, read *saharabāhira* (MA<sub>2</sub>).

372 *sakā riyā*, read *sarkāriyā* (MA<sub>2</sub>).

14. If the owner of a collapsed or damaged house [located] in the cities [Kathmandu, Patan or Bhaktapur] is not able to rebuild it, and if someone else arranges that a note with a deadline [for rebuilding the house] according to the *Ain* is posted [to the original owner] and rebuilds it [after the given deadline passes], and if [the original owner] comes to complain, saying ‘Such and such a person arranged that a note with a deadline was posted at my house and rebuilt it [after I missed the deadline]. I should not lose [the ownership] of my house’, he shall not be allowed to claim the house and obtain it once it has been rebuilt by someone else after a note with the deadline was posted. The owner of the house shall be allowed to take the price for the bricks, timber or the like of the house, as settled upon by the elders. He shall receive that. If he comes and states ‘My house is gone, nevertheless I would<sup>373</sup> erect a house in another place if I receive in exchange [a building plot] of the same size as the building plot of my [previous] house’, he shall be given another building plot of the same size as the building plot of his [previous] house. Once he accepts a building plot in another place and states that he will build a house [there], he shall not be held accountable for not building the house during the 4 months of the rainy season, i.e. *Asāra*, *Śrāvaṇa*, *Bhādra* and *Āśvina*. Apart from these 4 months, if he, after accepting in exchange the building plot, builds a house within 35 days, a *lālamohora* [confirming the house as his] *birtā* shall be issued. He shall be allowed to sell the house. If he does not build the house within 35 days, and if someone else comes and declares that ‘Such and such a person did not build a house on the building plot he received. I will build a house there’, he shall be allowed to build a house there. The previous person (i.e. the one who received the plot in exchange, but failed to build a house there within 35 days) shall not obtain it.

15. If a government house or a house [built] on someone’s *birtā* or *gūṭhī* land, or the like, which is located in one of the 3 cities<sup>374</sup>, [i.e.] Kathmandu, Patan or Bhaktapur, including the villages belonging to them, collapses and turns into a ruin, and if the *adālata* or *ṭhānā* issues [a written] order [with a deadline] to the owner of the house, but he fails to rebuild<sup>375</sup> it within the given amount of time, and if a third party claims that he will rebuild the house and a deadline [with the permission for rebuilding] is issued under his name and he rebuilds the house [within the time allowed], and if a *sanada* [confirming the ownership of the house to the third party] is required to be issued, then the Sadaradaphadarakhānā shall obtain a letter stamped by the *hākima* or clerk of the office which posted the note to rebuild the house, containing the following: ‘Issue a *sanada* [confirming the ownership of] the house as *birtā* to such and such a person who has rebuilt the house after the deadline posted on such and such a date [to the original owner] had passed’. [The Sadaradaphadarakhānā] office shall consult the prime minister (*mukhtiyāra*), send the *rakama* holders of the Chebhaḍela and the *tharagharas* to that place, the boundaries shall be marked and a *lālamohora* [confirming the house as] *birtā* shall be issued. Only 5 rupees in total—3 rupees for writing down [the *lālamohora*] and 2 rupees for stamping it—shall be collected by the Chebhaḍela and Sadaradaphadarakhānā for issuing the [*lāla*] *mohora* for a house which was built after the deadline posted [to the original owner had passed].

373 *huncha*, read *huṃ* (MA<sub>2</sub>).

374 *sahar*, read 3 *sahara* (MA<sub>2</sub>).

375 *banāūdā*, read *nabanāūdā* (MA<sub>2</sub>).

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16. No one shall build a house on land requested<sup>376</sup> from a *rakama* holder for cultivation<sup>377</sup>, such as *rājagūṭhī*, *raikara*, governmental<sup>378</sup> or *serā* land, which is assigned as *rakama* for gardening (*byān*), for lumbermen's tasks (*bālā*), for sawing (*bosi*) or for grass-cutting (*ghāsi*). If he builds [a house on such land], and if he, [before] building the house, informs the *rakama* holder that he will erect a house on such and such a piece of land, once the house is built the *rakama* holder shall not be allowed to evict him [from his house] on the grounds that it is *rakama* land.<sup>379</sup> If the cultivator of that land just builds a house on that land without informing the *rakama* holder that he is building a house there, and if the *rakama* holder comes to know that the house is being built, and if he does not obstruct [the cultivator] on the grounds that he gave that land only for cultivation, [but] not for erecting a house, the *rakama* holder shall be allowed to take the land back, paying the price for the house, as settled upon by the elders, to the one who built the house. If it is ascertained that [the cultivator] built the house in spite of the *rakama* holder forbidding him to so do, he shall neither be allowed to sell the house and receive the price for it, nor shall he be allowed to take the material assets (*acala*) [of the house], such as bricks, timber or the like. The one to whom the land is assigned as *rakama* shall be allowed to use it, paying the applicable taxes. The one who built the house shall not be allowed to live there claiming that he built it.

376 *namāgī*, read *māgī* (MA<sub>2</sub>).

377 *banāṇyale*, read *kamāṇyale* (MA<sub>2</sub>).

378 Om., *sarkāriyā* (MA<sub>2</sub>).

379 *kasko jagā*, read *rakamko jagā* (MA<sub>2</sub>).

## 77. On Setting a Trap

1. Except in cases where a tiger, bear, boar or the like has eaten [or destroyed] standing or harvested crops [or a human or lifestocks<sup>380</sup>], if somebody turns out to have set up a trap such as a booby trap (*solā*) or the like on his own, without informing [anyone in advance] and without issuing a warning message, and a human being dies upon falling into that trap, the one who set up the trap shall be punished by *dāmala*. If quadrupeds or the like die, the setter of the trap shall be made to compensate the owner their full price. If a person is injured and paralysed, [the setter of the trap] shall be made to compensate the victim with 50 rupees as damages for pain and suffering. If [the victim] is only injured, [the setter of the trap] shall be made to compensate [the victim] with 10 rupees. If quadrupeds or the like are paralysed after falling into that trap, [the setter of the trap] shall be made compensate those animals' owner with an amount as settled upon by the *pañca*.

2. Except for cases where a tiger, bear, boar or the like has eaten standing or harvested crops, if someone out of amusement sets up a trap, such as a booby trap for hunting, after issuing a warning message to the village<sup>381</sup>, and if a human dies upon falling into that trap, the one who set up the trap shall be made to pay a compensation 50 rupees for the expenses of the deceased's funerary rites. If the person does not die<sup>382</sup>, [but] only becomes paralysed, [the setter of the trap] shall be made to compensate the victim with 20 rupees as damages for pain and suffering. If [the victim] is injured only, [the setter of the trap] shall be made to compensate [the victim] with 10<sup>383</sup> rupees as damages for pain and suffering. If quadrupeds or the like die upon falling into that trap, the price of the animals shall be settled upon by the *pañca* and [the setter of the trap] shall be made to compensate half of that price to the owner of that animal.

3. Except in cases where a tiger, bear, boar or the like has slain a human or quadruped or else eaten standing or harvested crops, if somebody sets up a trap, such as booby trap, along a path, at a public water source (*padhyerā*) or in a garden, *kareso*<sup>384</sup> or the like, after issuing a warning message to the village, [but] without guarding [the access to the site] himself, and if

380 See § 3.

381 *gāṭha gharmā*, read *gāugharmā* (MA<sub>2</sub>).

382 *marye na*, read *marena* (MA<sub>2</sub>).

383 20, read 10 (MA<sub>2</sub>).

384 The term *kareso* (Skt. *grhāṃśa*) denotes the portions of land belonging to a household other than the area taken by the house itself and front yard (i.e. the areas along the side and to the back of the house).

## 77. On Setting a Trap

a human dies upon falling into the trap, the setter [of the trap] shall be made to pay compensation of 10 rupees for the expenses of the deceased's funerary rites. If [the victim] does not die, but becomes paralysed, [the setter of the trap] shall be made to compensate [the victim] with 5 rupees as damages for pain and suffering. If [the victim] is injured only, [the setter of the trap] shall be made to compensate [the victim] with 2½ rupees as damages for pain and suffering.

4. If a tiger, bear, boar or other wild animal has killed a human being, quadrupeds, or has eaten standing or harvested crops, and if somebody sets a trap, such as a booby trap or the like, without issuing a warning message to the village, and a human being dies upon falling into the trap, the setter [of the trap] shall be made to pay compensation of 25 rupees for the expenses of the [deceased's] funerary rites. If quadrupeds or the like die upon falling into the trap, [the setter of the trap] shall be made to compensate the owner of the dead animals ¼ of the price as settled upon by the *pañca*. If the person does not die [upon falling into that trap], but becomes paralysed, [the setter of the trap] shall be made to compensate [the victim] with 10 rupees. If [the victim] is injured only, [the setter of the trap] shall be made to compensate the injured person with 5 rupees as damages for pain and suffering.

5. If a tiger has killed a human being or quadrupeds, or a bear, boar or the like has killed a human being or cattle, or has eaten standing or harvested crops, and if somebody sets a trap, such as a booby trap, a knife trap (*phyāñ*), a bamboo trap (*phaṭkyā*)<sup>385</sup>, a string trap (*darjan*) or a deadfall trap (*dharāpa*)<sup>386</sup> or the like, after informing [in advance] the village, and if a person, quadruped or the like die upon falling into the trap, neither the one who ordered the trap to be set up nor the one who set it up shall be held accountable. [The setter] neither needs to pay a fine nor does he need to [undertake] expiation.

6. If a person, quadruped or the like die upon falling into a trap, such as a booby trap, a knife trap, a string trap or deadfall trap set up at a redoubt, path, fortress or fort closed by order of His Five Times Venerable Majesty, no blame shall be assigned to the person who had ordered [the trap] to be set up or to the person who had set it up. They neither need to pay compensation for the expenses for [the victim's] funerary rites, nor do they need to [undertake] penance.

385 See TND s.v. *phanke*: 'trap to catch birds or animals (consisting of a long bamboo bent down and attached by a string; this, when released by the animal, catches it in the noose, and hangs it).'

386 For *darjan* and *dharāpa*, see Rai 1985: 35.

## 78. On Treasure Troves

1. If someone finds a hidden or buried treasure in other [places] than his house, for example on *raikara*, *birtā*, *guḥī*, *bekha*, *kipaṭa* land and so forth, and if it is ascertained upon investigation that it was buried by criminals, it shall become government [property]. If it is ascertained that [the treasure] was buried by a debtor, it shall, in accordance with the deed of debt, become [the property] of the creditor. If it is ascertained that [the treasure] was buried by the owner of the land, it shall become his and his descendants' property. If no owner of the treasure is traced, or if no rightful heir is there, the government shall not be entitled to receive it. [The treasure] shall become [property] of the one who has found it and he shall take it.

2. If, in a house transaction, the seller has sold and the buyer has bought [the house], and if later a hidden or buried treasure is found while demolishing the house, the seller shall not be entitled to obtain [the treasure]. It shall become [the property] of the buyer and he shall take it.

## 79. Cleaning of Alleys

1. If a stranger comes to the premises of someone's house and defecates there or makes them dirty, it shall be up to the owner of the house as to whether he collects a fine of 2 *ānās* from such a person who has defecated [on his premises] or made them dirty, or draws him through the faeces or dirt and makes him sweep it up. No report or complaint shall be heard in this matter.

2. The *dvāres* shall arrange the cleaning<sup>387</sup> of the premises of the palace and its surroundings. If venerable ministers, generals, colonels, senior captains, *kājīs*, chamberlains (*kapardāra*), treasurers, *sardāras*, captains, lieutenants, *subbās*, *subedāras*, *ḍiṭṭhās*, *kharadāras*, *jamādāras*, managers of the elephant stables (*dāroga*), the majors of the *koṭas*, adjutants or the like, subjects and nobles are house owners, they shall arrange for the cleaning of the premises of their houses. If they do not clean, the door or ladder [from their houses] shall be taken out and thrown into the dirt and they shall be made to clean it. If they do not clean it, even after such an action, an *adālata* or *ṭhānā* office shall fine the owner of the house from 8 *ānās* to 5 rupees, depending [on his rank] and arrange the cleaning from that money.

3. No one shall throw water out of the window on the main alley where people walk. If the water thrown out [of the window] falls on a person walking on the street and if someone comes to complain about it, the person who threw water out [of the window] shall be fined 1 rupee.

4. If someone carelessly throws faeces or urine out of the window, or from the roof or balcony, and it falls on someone walking on the alley or street, the person who threw the ordure shall be fined 5 rupees. If he throws out leftovers and they fall [on someone], he shall be fined 2½ rupees. If someone comes to complain [about such a matter] without reason and cannot prove [his allegation], he shall be fined half the amount laid down for someone who throws faeces, urine or leftovers [onto the street]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

387 *saphā sughara vadāunālāi*, read *saphā sughara banāunālāi* (MA<sub>2</sub>).



## 80. Letting Slaves or Bondservants Escape

1. If someone comes to complain at an *adālata*, *ṭhānā* or *amāla* office that such and such a person has aided such and such a person's male or female slaves to escape and has brought them to Mugalāna, and if it is ascertained upon interrogation that he has aided the slaves to escape, the person who has aided them to escape shall be made to bring [them] back and hand them over [to their master] together with [a payment of compensation] for the value of their labour (*nimyāka*) [the master could not enjoy in their absence]. If the master traces them and has them brought back, it shall be arranged that he receives compensation for the expense incurred and the value of their labour from the person who has aided them to escape. If the one who has aided [them] to escape is not able to bring them back, he shall be made to compensate their master for the price of the slaves [depending on their] age, in accordance with the *Ain*,<sup>388</sup> and he shall be fined an amount equal to that. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

2. If someone himself steals another's male or female slaves or male or female bondservants or orders someone to do so, or aids them to escape, takes them and hides them at his home, or takes them out somewhere and hides them—irrespective of whether they die at the place where they have been kept by him or flee from there—[the culprit] shall be made to compensate [the master], in accordance with the *Ain*, for the value of their labour up to the day of their death or their escape from his home, and he shall be fined an amount equal to the price [of the slaves]. If they have neither died nor escaped, [the culprit] shall be made to compensate the value of their labour, shall be made to return the slaves and shall be fined an amount equal to the price [of the slaves]. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

3. If a male slave of one person and a female slave of another person escape without the knowledge of their masters, neither shall the master of the male slave pay compensation to the amount in question to the master of the female slave, nor shall the master of the female slave pay compensation to the amount in question to the master of the male slave. If they are traced, [the masters] shall take their respective slaves back. If they have been arrested either by an *aḍḍā*, an *adālata*, *ṭhānā* or *amāla*, or any other person arrests and brings them back, [their masters] shall be

388 This is a reference to § 82.4, in which the price of slaves has been regulated depending on their age and gender. For example, a male or female slave who is past the age of 12 and below 50 is priced at 100 and 120 rupees, respectively.

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made to pay 5 rupees as a reward (*panaunī*) for each slave to the person who arrests them and brings them back, and the male and female slaves shall be handed over to the person to whom they belong.

4. If someone knows that the male or female slave or bondservants who have run off and come to his house belong to such and such a person, he shall notify their owner and hand them over to him. If [the master] is far away, he shall send a letter or a message [to him] stating: ‘your male or female bondservants or slaves are at our house, send [someone] to take them [back]’, and hand them over [to their master]. If the master does not send anybody to take [the slaves or bondservants back], [the person at whose house they are staying] shall pay neither for the value of their labour nor their price, even if they die or flee from there. He shall not be held accountable.

5. If someone’s male or female slaves or male or female bondservants escape and go to live at someone else’s house, lying about their status (*jāta*) [as slaves or bondservants], and if the one who keeps them without knowing that they are such fugitive bondservants or slaves, and if the master traces them and comes to arrest them, the one who has kept them by providing them with a place to stay shall hand over the slaves or bondservants. Since he has kept them without knowing [that they are fugitive servants], he shall not pay the value for their labour. If the slaves or bondservants die or also escape from his house, he shall neither pay the price [of the slave or bondservant] nor shall he be fined.

6. A person who sells another’s male or female slaves, pretending that they belong to him, shall be made return the total price of the male or female slaves to the buyer, 10 percent [of the total price] shall be collected [as court fee], and [the culprit] shall be fined an amount equal to the sale price and shall be made to hand over the male or female slaves to their master. If [the culprit] has received money for transferring another person’s bondservant to another household, pretending that the bondservant belongs to him, the bondservant shall be returned to the master, the buyer shall get his sales price back, 10 percent of it shall be collected [as a court fee], and person who transferred the bondservant of someone else, pretending that he belonged to him, shall be fined an amount equal to the sales price. If the amount of the fine is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees.

7. If male or female slaves do not obey their master, do not carry out their tasks, do their work improperly, and if their master declares that he will confine them without beating them, he shall [first] consult an *aḍḍā*, *ṭhānā* or *amāla*. The *aḍḍā*, *ṭhānā* or *amāla* shall give him verbal permission. The master shall put [his slaves] into iron, wooden or leather fetters. If a male or female slave who ran off is arrested, the *adālata*, *ṭhānā* or *amāla* is not required [in order to confine him]. The master shall put him into iron, wooden or leather fetters. [The master] shall not be held accountable.

8. If a person is pledged as a usufructuary mortgage, and if that person intends to move to another person’s house, he shall be allowed to do so [only] at the end date of the loan agreement

upon repayment of his debt.<sup>389</sup> He shall not be allowed to move upon repayment of his debt before that date arrives, or afterwards. If the bondservant intends to redeem himself by repaying his debt, the creditor shall accept [his payment], shall tear up the loan agreement and let him go whenever he repays his debt, except for the month of Aṣāḍha.

9. If a master traces his male or female bondservants who have run off of their own will, and such male or female bondservants intend to repay their debt, concerning the compensation for the value of labour [the master lost through their escape], [the bondservants] shall be made to pay compensation for the value of their labour at the rate of 1 *ānā* per day as long as [the compensation] does not reach double the principal sum. If [the compensation] has reached double the principal sum, [further] compensation for the value of his labour shall not be calculated. They shall be made to pay double the principal sum [as compensation for their value of labour].

10. When the value of labour of a male or female slave or bondservant has to be compensated, from 2 *ānās* for one [slave or bondservant] for 1 day, 1 *ānā* is counted for food. A person who has aided a slave or bondservant to escape and taken him with him shall be made to return him, together with the total compensation for the value of labour calculated on the basis of the remaining 1 *ānā* per day—starting from the day of [the slave's or bondservant's] escape [and continuing] for as long as he kept him at his house. When the price of [a slave or bondservant] has to be compensated, the master shall, in accordance with the *Ain*, be compensated with his credit sum for a bondservant or his sales price for a slave together with the value of their labour, determined according to the above-mentioned rate. If [the slave or bondservant] dies after he was aided to escape and taken away, and before he is returned to his master's responsibility, [the culprit] shall be made to pay [the master] compensation for the value of labour until the day of [the slave's or bondservant's] death, together with an amount equal to the sales price or credit sum, respectively.

11. If a bondservant who has run off is arrested and returned, and the master wants to have him put into iron, wooden or leather fetters, he shall calculate the total compensation for the value of labour for the days he was on the run, and shall let him be put into fetters for an equivalent period of time. The master shall not be allowed to take the compensation for the value of labour after he has [the bondservant] put into iron, wooden or leather fetters, and [the bondservant] shall not be made to pay [any compensation]. If the master declares that he will not have [the bondservant] put into iron, wooden or leather fetters, he shall, in accordance with the *Ain*, be allowed to take compensation for the value of labour after having it calculated for the days of the bondservant's escape. If [the bondservant] is able to pay, [the master] shall be compensated. If he is unable to pay, it shall be recorded [as an additional debt] in the bond.

389 In this case, the bondservant does not pay off his debt himself, but another person who in return takes over the bondservant.

## 81. On the Sale of Male and Female Slaves

1. If one of the brothers who are living together in the same household without partitioning the property sells a male or female slave or a quadruped or the like without consulting the other elder and younger brothers, and the other brothers make a complaint that he is not allowed to sell their share, [the sale] shall be valid if he has sold [the property] in order to support the family, or if he has sold only that much of the inheritance which would have fallen under his share. If he has sold more than his share without consulting his brothers, and if it was not sold for the support of the family members of the household, and if the brothers who stay at the household make a complaint within 35 days, or the brothers who have gone abroad within 35 days from the day they arrive at home, declaring ‘We have been living in the same household. He alone should not be allowed to sell without consulting us and without keeping our share’, the seller shall be made to return the purchase sum to the buyer, and the commodity shall be returned to the brothers. If the amount paid cannot be recovered from the seller, he shall be made to issue a loan agreement without security (*kapālī tamasuka*). Ten and 20 percent [respectively] shall be collected from the total amount that was refunded [as a court fee].

2. If somebody sells or pledges a male or female slave or quadruped [at the same time] to two [different persons], [the contract made] with the first creditor shall, in accordance with the *Ain*, be held to be valid and [the sold or pledged commodity] shall be handed over to the first person. [The seller or pledger] shall be made to refund the amount in question to the second creditor if he is able to pay the credit amount, or he shall be made to issue a loan agreement without security if he is not able to pay, and he shall be fined an amount equal to the amount he owes to the second buyer or creditor. If the amount [of the fine] is not paid, he shall be imprisoned at the rate of 1 month for every 5 rupees.

3. Children belonging to an Enslavable caste shall not be enslaved if their parents declare: ‘We sell [them] into slavery, anoint them with oil (*tela thoknu*)’.<sup>390</sup> Also an [official of] an *adālata*, *ṭhānā* or *amāla* office shall not anoint them with oil. If someone has them anointed with oil, the sales price shall be confiscated, and the seller and the person who had them anointed with oil

390 The text reads here and in the following *nela thoknu* (‘to put into fetter’). We follow here the reading of MA<sub>2</sub> § 81.3 *tela thoknu* (‘anoint with oil’). According to TND (s.v. *telyāhā*), a slave’s head was anointed with oil on buying. Documents give evidence for this practice. In an emancipation deed from 1892 (VS 1949) it is reported that the anointment with oil on the head completed the enslavement process (see Document ‘Kaisām Khunu VS 1949 [1892 CE]’).

shall be fined 100 rupees each. If the amount [of the fine] is not paid, they shall, in accordance with the *Ain*, be imprisoned. The buyer shall lose his purchase price.

4. If someone pledges his son as a bondservant to his creditor, and if his son is past the age of 16, he shall be brought to an *adālata*, *ṭhānā* or *amāla* office, [the father] who gives [his son into bond service] shall hand him over and [his creditor] shall take him into possession. The *adālata*, *ṭhānā* or *amāla* shall ask the prospective bondservant whether he agrees to enter into bond service. If he declares that he agrees, he shall be made to issue a written statement of consent, declaring: 'I agree to enter into bond service', the contract shall be made, and he shall be handed over. The contract shall [only] be considered valid once his signature is obtained. Even a father or mother shall not be allowed to pledge [their child] as a bondservant by use of force. If a child comes to complain that their father or mother has forcibly pledged them as a bondservant, a loan agreement without security shall be drawn under the father's name and the son or daughter who has been recorded as a bondservant shall be set free. If a child comes to complain after the death of his father or mother, a loan agreement without security shall be drawn under its own name.

5. If somebody comes to complain that such and such a person has enslaved a free person (*ajāputra*), and if [that person] is brought and upon interrogation it is ascertained that [no free person] has been enslaved, but it is only a false accusation made out of anger, such a false accuser shall be fined 100 rupees, if a man; if it is a woman, she shall be fined 50 rupees. If the amount [of the fine] is not paid, [the false accuser] shall, in accordance with the *Ain*, be imprisoned.

6. If somebody falsely and deceitfully sells a son or daughter of someone else belonging to an Enslavable caste, claiming that he or she is his slave, he shall be held accountable for having enslaved a free person, and such a person shall be fined 360 rupees. If the amount [of the fine] is not paid, he shall be imprisoned until the fine is remitted at the rate of 5 rupees for each month. If he has sold [a son or daughter] of someone belonging to a Non-enslavable Alcohol-drinking caste, claiming that he or she is a slave, he shall be fined 540 rupees. If he has sold [a son or daughter] of someone belonging to a Sacred Thread-wearing caste, claiming that he or she is a slave, he shall be fined 720 rupees. If the amount [of the fine] is not paid, he shall, in accordance with the *Ain*, be imprisoned.

7. If someone sells a male or female slave who represents part of his share of the parental property, or whom he acquired by his own achievement, he shall inform his claimants, coparceners and brothers, stating: 'I am selling such and such a [slave]. If you want to take him or her, you may pay me the [same] amount as offered by the external party and take him or her. If you do not take him or her, I will give the slave to that other person.' If the claimants, coparceners or brothers want to take [the slave], they shall be entitled to do so, but not the external party. If the coparceners and brothers are far away, and if [the owner] has sold [the slave] out of necessity, the seller shall write to his coparceners and brothers, and the purchaser, too, shall write to the claimants, coparceners and brothers of the seller [about the sale of the slave]. If they come to buy the slave back (*nikhannu*) within 35 days, they shall be entitled to do so by paying the price paid

81. On the Sale of Male and Female Slaves

by the purchaser, even if a deed of relinquishment of title (*alipatra*)<sup>391</sup> has already been issued. If they do not come to pay the amount paid by the purchaser within 35 days, the sale shall be considered valid, even if no brother has witnessed it or has taken earnest money (*gaurāñī*) for it. The brother who comes once 35 days have passed shall not be entitled to buy back [the slave].

8. If a master of a male or female slave comes to complain that any government officer responsible [for the sale or purchase of slaves], while purchasing the slave or making him be sold, has done so by reducing the price [below] what is regulated in the *Ain*, such an officer shall be made to pay compensation to the amount by which he reduced [the price] to the master, and he shall be fined an amount equal to that by which he reduced [the price]. Half of such a fine shall be imposed on each witness who, in collusion with the officer, deviated from the price regulated in the *Ain* by reducing it. If the amount [of the fine] is not paid, they shall, in accordance with the *Ain*, be imprisoned.

9. While selling or buying a male or female slave, if any subject, except government officers, has willingly repriced a slave above or below what is regulated in the *Ain*, and a deed of sale (*paramabhaṭṭā*), attested by witnesses, has been issued, [the slave] shall belong to the buyer. Whoever comes to complain shall not be heard. If no deed of sale attested by witnesses has been issued, [the sale of the slave] shall be considered to be an act of coercion, and [the culprit] shall be punished in accordance with the law on coercion.

391 We follow here M.C. Regmi's translation of this term (Regmi 1979b: 51), which seems to imply that the slave owner gives up all claims over the slave to the buyer. However, the exact meaning of the term remains unclear.

## 82. Enslaving or Selling a Person

1. If a father and son, a father and daughter, an older and younger brother, an older and younger sister, an older brother and younger sister or an older sister and younger brother who belong to an Enslavable caste [began to] live as bondservants at someone's house before [VS 19]14, and after consulting each other, the 2 persons willingly and of their own volition [decide] that one of them will be enslaved—become a slave—and the other become free, and if they accordingly go to an *adālata*, *ṭhānā* or *amāla* office and the one [who agrees to be enslaved] enters [into slavery] by having [his head] anointed with oil,<sup>392</sup> neither their creditor nor a father who gives [his child] into slavery shall be held accountable, inasmuch as [the future slave] went to the *adālata*, *ṭhānā* or *amāla* and was anointed with oil. The price paid for the bondservant who enters of his own will [into slavery] by having [his head] anointed with oil shall be written down and a [new] loan agreement shall be drawn up. If the *hākima* of an *adālata*, *ṭhānā* or *amāla* gives any person into slavery after the enactment of the regulation prohibiting such enslavement, he shall be fined 100 rupees. [If a creditor] takes [such a person as a slave], having had [his head] anointed with oil, without consulting the *adālata*, *ṭhānā* or *amāla*, the *hākima* [of such an office] shall seize the sum owed to the creditor. The father or mother who takes money and gives [their child] into slavery shall be fined 100 rupees. That [enslaved] person shall be freed. If it happens that a child who is below the age of 16 is enslaved—even if [an official] of an *adālata*, *ṭhānā* or *amāla* has had a deed of consent issued and oil has been poured [on the child's head]—the act shall not be held to be valid. The sum owed to the creditor shall be cancelled; both the guardian who gave him into slavery and the *hākima* who permitted it shall be fined 100 rupees each. The document shall be torn up and [the enslaved person] shall be freed.

2. If someone belonging to any of the Sacred Thread-wearing or Alcohol-drinking castes or the like keeps a female slave of someone else as his wife, and if children, too, are born [to her], the father of such children or his other coparceners (*dājyūbhāi*) shall have no right [to redeem them], if the master [of the slave woman] declares that he neither allows [them] to redeem [the slave children] by paying their price, nor does he sell them [at all]. If the master sells them to

392 *Tela ṭhokī/hālī galnu* ('to be melted/dissolved through applying oil'): The context suggests that this phrase denotes a legal ritual during the process of enslavement of a free person or of buying a slave. This meaning could also be inferred from an emancipation deed issued in VS 1949 (see Document 'Kaisām Khunu VS 1949 [1892 CE]') which records the enslavement of a girl through oil being applied to her forehead (*kapālmā tel ṭhokī*). The term *galnu* might refer to the dissolving of the family ties of the enslaved person. However, the exact meaning of the phrase remains obscure.

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someone else, or is about to do so, then at that moment the father or his coparceners shall have the right to take them if they declare their willingness to buy them back and emancipate them, after paying the price offered by a third party (*desi*). [In such a case] the third party shall not get them. Even if they declare that they are unable to pay that price at the moment and request [the master] to issue a loan agreement with a deadline [for the payment of the price], they shall be allowed to free them only if they pay the price [directly]. A loan agreement with a deadline may not be issued. If the father or the coparceners are far away at the time when the master sells [the slave children], and the father or coparceners come to redeem them once they learn of [the sale], they shall be allowed to redeem the [slave] boys through the payment of the purchase price paid by the third party at any time after they have been shifted from the household where they were born to a different household. In the case of slave girls, they shall be allowed to redeem them as long as they are not past the age of 11. They shall not be allowed to redeem them once they are past the age of 11. The purchaser shall allow the father or his coparceners to redeem them for the purchase amount he has paid. Once the paternal grandparents or uncles [of the enslaved children] redeem and emancipate them on the grounds that [the father of the slave children] is their brother or son, they shall not be allowed to sell [those children] and shift to a different household. [Such children] shall become free. If they sell them, it shall be considered to be the enslavement of a free person (*ajāputra*), and they shall be made to return the purchase amount to the buyer and be fined 360 rupees.

3. If someone keeps a servant on a wage basis, and if it has not been agreed for how many days, months or years [the contract should last], [such a servant] shall be allowed to leave at any time, receiving a wage for the entire period he has served. If someone keeps a servant, agreeing how many years, months or days [the contract should last], [the servant] shall serve according to the agreement, and shall not be allowed to leave [before the termination of the contract]. Even if he can get higher wages at other places, he shall not be allowed to leave. He shall be allowed to leave once the agreement expires. If he escapes before the agreement expires, he shall be made to serve without wages for as many days as he has left his work [before the expiry of the agreement]. If a person who keeps a servant does not pay the agreed wages on the specified dates, though he is requested to do so, and if the servant comes to complain, he shall be made to pay the due wages or rent for the outstanding months, together with the additional payment of 1 rupee for each month in addition to what has been agreed upon. Afterwards, it shall be at his pleasure as to whether he willingly continues working [there] or quits.

4. Concerning a dispute [on the price] of a male or female slave, if an *adālata*, *ṭhānā* or *amāla* orders someone to pay the price [for a male or female slave], it shall be determined as follows: [1] 20 rupees for a slave boy below the age of 3 years, [2] 25 rupees for a slave girl [of the same age], [3] 30 rupees for a male slave from 3 to 6 years of age, [4] 35 rupees for a female slave [of the same age], [5] 50 rupees for a male slave from 6 to 12 years of age, [6] 55 rupees for a female slave [of the same age], [7] 100 rupees for a male slave from 12 to 40 years of age, [8] 120 rupees for a female slave [of the same age], [9] 60 rupees for a male or female slave from 40 to 50 years of age, and [10] 50 rupees [for a male or female slave] from 50 to 60 years



of age. If someone seizes a certain male or female, claiming that they belong to him, but fails to prove his claim upon interrogation, he shall be fined according to the rates mentioned, based on the age [of a male or female slave]. One-fourth of the amount of the fine shall be collected as a winning fee.

5. If, in a dispute concerning male or female slaves, cash, goods, jewellery, quadrupeds, grain or the like, no documentary evidence is found, [but] there are witnesses who know [of the ownership], and if the case cannot be settled by any other means, [then] both litigants give [the case] into the hands of the witnesses; [the litigants] shall be made to issue a *sirabandī* certificate, [the jury members] shall be made to take the oath on the *Harivaṃśa* and the case shall be decided according to the statement [given by the witnesses]. The litigant who loses the case shall be fined an amount equal to the amount in dispute, and  $\frac{1}{4}$  of the amount of this fine shall be collected from the winning party as a winning fee. If the amount of the fine is not paid, [the losing party] shall be imprisoned at the rate of 1 month for every 5 rupees [of the fine]. The winning fee shall be realised from the goods [for which the winning litigant claimed] and won.

6. When a creditor accepts a person as a bondservant, only this person him- or herself shall be recorded as a bondservant [in the deed], naming an *adālata* or *amāla* as witnesses. None of his or her household [members] shall be recorded as a bondservant. If a person who has been accepted as a usufructuary or non-usufructuary mortgage (*bādhā*) by [the creditor] himself [dies], irrespective of whether he dies in the creditor's or debtor's house, [the creditor] shall not seize his other coparceners and household members. If someone comes to complain that [a creditor] who has accepted a person as bondservant has seized the coparceners or family members of that bondservant after he dies, [the creditor] who has seized [the deceased bondservant's family members] shall be fined according to the amount he claimed. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If parents who belong to a caste whose members are allowed to enter into debt bondage take a loan, and if they have both sons and daughters, the creditor shall not accept the daughter as a bondservant, even if [the deed] has been witnessed by an *adālata* or *amāla*, because the daughter is not entitled to a share in the paternal property. If it becomes apparent that [a creditor] has accepted a daughter as a bondservant, naming an *adālata*, *ṭhānā* or *amāla* as witnesses, the official from the *adālata* or *amāla* who witnessed [the deed] shall be fined 10 rupees. Both the creditor who accepted her as a bondservant and the debtor who gave her into bondservanthood, shall be fined 5 rupees each, and the deed confirming the debt bondage shall be torn up. [The creditor] shall be made to issue a loan agreement without security (*kapālī tamasuka*) [to the debtor] who gave her into bondservanthood. Such a daughter or sister becomes a free person.

8. If a slave commits a crime that mandates the death sentence, he shall be executed. If he commits a crime that mandates the punishment of *dāmala*, he shall be punished by *dāmala*. If he commits a crime that mandates a fine, he shall be imprisoned. If he pays the amount set in lieu of the prison term, action shall be taken according to the *Ain*. If a slave commits a crime

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that mandates confiscation of his property, his property cannot be confiscated. [One] shall not confiscate his property.

9. If parents have been freed from slavery, and if their sons are living in the same or different jurisdictions [as slaves], and if the parents redeem some of their sons from slavery, while others remain in servitude (*kariyā*), and if [the parents] die [in the meantime], from the remnant of their personal property after meeting the funeral expenses, the amount equal to what was paid for redeeming [the freed sons] shall [first] be given to the sons who are still in slavery. The remaining property shall then be distributed equally among the free and unfree sons. If the value of the property [left by the deceased parents] is not equal to what was paid for redeeming [the free sons], the free sons do not receive any property. The sons who are still in slavery shall receive it. If [the deceased parents] had begotten any sons after they were freed from slavery, all sons, regardless of whether they are slaves or free, shall be permitted to enjoy the paternal property left after meeting the funeral expenses.

10. If someone with several members in his family has executed a deed of debt bondage recording the name of one of his family members [as a mortgage], and if, by mutual consent, the person who has been recorded as bondsman [in the deed] stays at home and another member of the family goes in his stead to work for the creditor, or if they work for the creditor in rotation, and the person who is working for the creditor [at the moment] dies, the creditor may oblige the person whose name has been recorded [in the deed] to work for him. If the person who has been recorded as bondsman [in the deed] dies, the creditor shall not be permitted to seize the person who had been working on behalf of the deceased person, or any other member of [the deceased's family]. If [the creditor] seizes such a person, he shall be fined 10 percent [of the credit sum].

11. If someone sells a free person (*ajāputra*), [lying] that he or she is a slave, the persons who wittingly prepare the sales deed stating that he or she is a slave, the main person responsible for the sale, and the witnesses shall each be fined 100 rupees. If a person is sold [into slavery] or purchased without knowing that he or she is a free person, the persons who prepare the sale deed and the witnesses shall each be fined 20 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned. If someone buys a person knowing that [he or she is not a slave], the purchase amount shall not be compensated, and [the purchaser] shall be fined an amount equal to the purchase sum. If someone unwittingly buys [a free person as slave], [the seller] shall be made to return the purchase sum to the buyer, if he is able to repay. If [the seller] is not able to return it, he shall be made to issue a loan agreement without security (*kapālī tamasuka*) [in favour of the purchaser] and be let off.

12. The persons who offer or accept [children] below the age of 16 years as bondservants shall be fined 10 rupees each. The persons who offer or accept persons who are past the age of 16 years as bondservants by force, without having [the deed] witnessed by an *adālata*, *ṭhānā* or *amāla*, shall be fined 5 rupees each. If an *amālī* witnesses [the deed confirming] that a person below the age of 18 has been given into debt bondage, he shall be fined 5 rupees.

13. If a person has no son, but only daughters, and if a daughter who has passed the age of 16 years signs a document of consent at an *adālata*, *ṭhānā* or *amāla*, stating that she, by her own will and volition, enters into debt bondage for a loan taken by her parents, it shall be valid to accept her as a bondservant once the deed of consent signed by her is received. If [the daughter] has not passed the age of 16 years, it shall not be valid even if [the creditor] accepts her as a bondservant after she is made to sign the deed of consent. The official concerned of the *adālata*, *ṭhānā* or *amāla* who made her sign [the deed of consent] shall be fined 5 rupees, and the creditor and debtor shall each be fined 5 rupees. The loan deed shall be torn up, and a deed without security for the loan shall be issued to her parents.

14. If someone's male or female slave comes to lodge a complaint at an *adālata*, *ṭhānā* or *amāla*, claiming that he or she is a free person, and if a member of his or her paternal or maternal family or any authorised person comes forward to verify [the claim], stating: 'The person concerned is a free person. If he or she loses the case, I will pay the fine, and if he or she wins it, I will pay the winning fee', and if, upon hearing both parties, it is ascertained that the complainant is a free person, the person who claims that the complainant is a slave shall be fined an amount equal to the purchase amount [of the illegally enslaved person], and  $\frac{1}{4}$  of the amount of the fine shall be collected as winning fee, and [both] shall be let off. If it is not ascertained that [the complainant] is a free person, but a slave, then the [complainant] who claims that he or she is a free person shall be fined an amount equal to what was paid for him or her. If he or she does not pay the amount of the fine, he or she shall be imprisoned according to the *Ain*. If no authorised person, such as someone from his or her maternal family or someone of his or her in-laws, from among the seniors (*purkhā*) or coparceners, comes forward to confirm the claim that the complainant is a free person, and if it is found that he or she has made such a claim that he or she is a free person on his or her own in order to quarrel [with the master], and if such a slave has been in the master's possession for a longer period of time, his or her complaint against the owner shall not be heard. Such a slave shall be returned to the master's authority after a *baksāunī* fee of 5 rupees per head has been collected from him for recovering the slave. If someone seizes a person, arguing that he or she is his slave, but who has not been in his possession, and if that person [who is seized] lodges a complaint stating that he or she is a free person, the case shall be decided [by investigating] the documented [evidence] and summoning the witnesses of the area. If it is proved that the complainant is a slave, he or she shall be handed over to the owner, after  $\frac{1}{4}$  of the amount of the fine has been collected as a winning fee. If [the complainant] is proven to be a free person, [the person who seized him or her] shall be fined an amount equal to the value [of the illegally enslaved person].

15. If one of several brothers who are past the age of 16 years is given into [debt bondage] by his parents, naming an *adālata* or *amāla* as witnesses, and he becomes a bondservant of his own volition, and if his parents or coparceners repay the debt and redeem him, he must repay his share of the loans which accrued while he was living in the joint household. If he redeems himself by repaying the debt through his own personal property or earnings, or by winning the favour of the creditor, he is not required to repay other debts [of his household]. He shall be permitted

## 82. Enslaving or Selling a Person

to receive his share from the joint property. The debts due to other creditors shall be repaid by his brothers who are living in the joint household. Other creditors shall not be permitted to seize such a person who has redeemed himself.

16. When someone emancipates a slave, if a deed [of emancipation] is prepared, citing witnesses along with the particulars that he or she is emancipated from slavery (*hāḍa pāra*), but not freed from servitude (*kāma pāra*), in accordance with such a deed [of emancipation] neither the male or female slave shall be permitted to leave work and go somewhere else, nor shall the owner be permitted to sell [such a slave] and enjoy the sales proceeds. If someone comes to lodge a complaint at an *adālata*, *ṭhānā* or *amāla* concerning such matters, the case shall be decided to the effect that the owner shall not be permitted to sell such a slave and the slave shall not be permitted to quit work.

17. If someone from a Brahmin caste, including any of the Sacred Thread-wearing castes, has sexual intercourse with a person belonging to an Enslavable, Water-unacceptable or Untouchable caste, or else becomes contaminated by such a person with respect to cooked rice or water, and thereby becomes [a member] of the latter's caste [as punishment], and if such a person commits a crime [that mandates enslavement], he shall neither be enslaved nor shall he be accepted as a bondservant. If anyone enslaves him, that person shall be punished according to the *Ain*, as applicable to someone who enslaves a free person. If a creditor accepts such a person as a bondservant, he shall lose his credit sum and be fined an equal amount. If such a person who has been placed in one of these lower castes keeps a woman of a lower caste, and if their children commit a crime, they shall be fined and punished according to the *Ain*, as laid down for the members of their mother's caste.

18. If someone entices someone else's children, who are below the age of 12 years, without the knowledge of their guardians such as their parents, brothers, sisters, maternal relatives or the like, and hands them over to someone into servitude, and if it is ascertained that [such an enticer] when asked by the guardians of these children does not admit that he handed them over to someone in servitude, but conceals it, such a person—if it is a man—shall be fined 50 rupees, and 25 rupees, if it is a woman. The children shall be summoned and handed over to their rightful guardians.

19. If someone from a Sacred Thread-wearing or Non-enslavable caste lives together with someone's female slave, and if a son born to them has illicit sexual intercourse, or else he commits any other crime, such a slave boy shall not be considered a Ghartī [for the imposition of punishment], if his father, paternal uncles, brothers [or the like] have already redeemed him, on the grounds that he is their offspring and they have provided him with the Sacred Thread, if his father is from a Sacred Thread-wearing caste, or have freed him, if his father is from a Non-enslavable Alcohol-drinking caste. Such a son shall be punished according to the *Ain*, as laid down for the respective caste to which he belongs. If such a son has not been redeemed [by his father or family member], and is still in servitude, he shall be considered a slave, although he is born

from the semen of a person belonging to a high caste. He shall be [punished] in accordance with the *Ain*, as applicable to a slave. If such a son has previously committed a crime while he was in servitude, and he has already been punished according to the law applicable to a slave, and if his father, paternal uncles, brothers [or the like] later redeem him and provide him with the Sacred Thread, if his father is from a Sacred Thread-wearing caste, or emancipate him, if his father is from any other caste, the official of the respective *aḍḍā*, *adālata* or *amāla*, who previously punished him according to the law applicable to a slave, when he was still a slave, shall not be held accountable.

## 83. On the Sale [of Slaves] That Separates Children from Their Mother

1. If there is a female slave who has children below the age of 11 in a household, and, during the partition of the joint property amongst the brothers, the slave mother falls under the property of one brother, and her children below the age of 11 under that of another brother, it is allowed to separate them and take the slaves (*vyū*) falling under their respective share, even though the children are below the age of 11.<sup>393</sup> No one shall be held accountable. If [the slave children] are given to the sisters or daughters as a dowry or gift, they shall be taken when they are past the age of 11. No one shall be held accountable.

2. If there is a female slave who has children below the age of 11 in a household, and if the master, being unable to keep them, hands over the children below the age of 11 or the mother to his creditor, thus separating [them from each other], the creditor shall not be allowed to separate the children from their mother as long as they are under the age of 11. The creditor who separates them and takes them away and the debtor who willingly hands them over shall be fined 10 rupees each. The creditor shall be permitted to take the slaves who have been signed over to him once [the slave children] are past the age of 11. No one shall be held accountable.

3. If someone receives a male and female slave as a gift (*dāna*) or present (*bakasa*), and if the female slave has children below the age of 11, [the recipient]—irrespective of whether he or she has received the mother or the children—shall not be allowed to separate the children from their mother and take them, as long as [the children] are not past the age of 11. If the recipient separates the children from their mother and takes her away or separates the mother from her children and takes them away, both the person who has received [the slaves] and taken them away and the person who gave them away [as a gift] shall be fined 5 rupees each, and mother and children shall be kept at one place. Someone who separates [a slave mother and her children from each other] once the children have passed the age of 11 shall not be held accountable.

4. If someone sells a female slave who has children below the age of 11, he is allowed to sell [the mother together with her children] to the same household (*ekai thāu*). If he separates

393 The age restriction for a child being separated from a slave mother is 11 years. If the ownership of the child is transferred within a family after partition of property, no age restriction exists. This is most probably due to the fact that in such a case the child might still live in the vicinity of its mother.

83. On the Sale [of Slaves] That Separates Children from Their Mother

the children below the age of 11 from their mother and sells her to one household or he separates the mother from her children and sells only them to another household, the seller shall be fined 20 rupees and the one who knowingly buys them shall be fined 10 rupees. The [slave] children below the age of 11 and their mother shall be kept at the same household, irrespective of whether the seller returns the purchase amount [to the buyer and takes back the slaves] or the buyer also pays the price for those [slaves being sold into another household] and takes them.

## 84. Selling a Wife

1. If someone belonging to a Sacred Thread-wearing caste sells his wife, and her status is such that her husband may, in accordance with the *Ain*, kill her paramour, and if she does not lose her caste status and the right of consuming cooked rice with her fellow caste members, she must not observe penance (*prāyaścitta*). Such a wife retains her caste status. The seller shall be set free after his share of property has been confiscated. If [the wife] loses her caste status and the right of consuming cooked rice with her fellow caste members, the Sacred Thread of a seller belonging to a Sacred Thread-wearing caste shall be removed, his share of property shall be confiscated and he shall be set free, after he has been excluded from his caste. Cooked rice from the hands of such a person who has sold his wife may not be accepted. Only water may be accepted. The wife—irrespective of whether she continues to live with him or not—shall be permitted to take her share of property and leave. If she runs off with another man, her husband shall not be permitted to kill his wife’s paramour. If he kills him, he shall be executed—taking life for life.

2. If someone belonging to a Sacred Thread-wearing, a Non-enslavable Alcohol-drinking, a Water-acceptable Enslavable caste or the like sells his wife, declaring her a slave on the grounds that she has been deprived of the right to consume cooked rice with her fellow caste members and has become a common woman [through illicit sexual intercourse], or if he sells a concubine from an Enslavable or a Non-enslavable caste, he shall be regarded as a person who has enslaved a free person. Such a person who sells a woman who has become a common woman and belongs to a Sacred Thread-wearing caste, or who sells a concubine belonging to a Non-enslavable Alcohol-drinking caste, shall be fined 540 rupees. If he has sold his concubine and she belongs to an Enslavable caste, he shall be fined 360 rupees. If it is ascertained that the buyer has knowingly bought such a woman, the purchase sum for her shall be confiscated by an *adālata* or *amāla* office and the buyer shall be fined half of what is applicable to someone who has sold a free person. If he buys the woman without knowing [about her caste status], [the seller] shall be made to issue a loan agreement without security (*kapālī tamasuka*) [for the purchase amount he paid]. The person who buys her without knowing about her caste status<sup>394</sup> shall be considered foolish, and he shall be fined 20 rupees. The woman shall become a free person. If such a woman runs off with another man, her husband shall not be permitted to kill his wife’s paramour. If he kills him, he shall be executed—taking life for life. Except for Muslims, if someone belonging to a Water-unacceptable or an Untouchable caste sells his wife, and if the buyer does not know that

394 *jāta vujhi*, read *jāta nabujhī* (MA<sub>2</sub>).



she is the wife of that person, the purchase amount shall be confiscated, and both buyer and seller shall be enslaved. If he buys her without knowing about it, [the buyer] loses his purchase sum once the seller has been enslaved. The woman shall become a free person. The person who buys her without knowing her caste status shall be considered foolish, and he shall be fined 5 rupees. If some belonging to a Muslim caste sells his wife, he shall be regarded as someone who has enslaved a free person. Such a culprit shall be fined 360 rupees.

3. If someone knowingly buys the wife of a person belonging to a Sacred Thread-wearing caste who, in accordance with the *Ain*, bears the right to kill his wife's paramour, and if he deprives her of her caste status by having illicit sexual intercourse with her or by feeding her cooked rice, such a buyer shall be set free after his share of property has been confiscated. The woman shall become a free person. If he buys her knowing [that she is the seller's wife] and if she does not lose her caste status through cooked rice [and illicit sexual intercourse], the buyer shall lose his purchase amount and he shall be fined 100 rupees. If he buys her without knowing [that she is the seller's wife] under the impression that she is a slave, and if the woman, too, does not inform him that she belongs to such and such a caste, and if she loses her caste status through cooked rice and illicit sexual intercourse, [the seller] shall be made to issue a loan agreement without security for the purchase sum. The person who has bought her without knowing her caste status shall be considered foolish and he shall be fined 20 rupees. The woman shall become a free person.

4. If someone sells his wife, those persons who witness the sale, who write down the sales deed and who accept the earnest money—knowing that she is [the seller's] wife—shall be fined 360 rupees if she belongs to a Sacred Thread-wearing caste and her husband bears the right to kill his wife's paramour. If she is a woman belonging to a Sacred Thread-wearing caste and has become a common woman, or if she belongs to a Non-enslavable caste,<sup>395</sup> [the culprits] shall be fined 270 rupees. If she is a woman belonging to a Water-acceptable or an Enslavable caste, [the culprits] shall be fined 180 rupees. If she is a Muslim woman, [the culprits] shall be fined 180 rupees. If she is a woman belonging to a Water-unacceptable or an Untouchable caste, [the culprits] shall be fined 20 rupees. If the woman belongs to a Sacred Thread-wearing caste, those persons who witness the sale, who write down the sales deed and who accept the earnest money without knowing that she is [the seller's] wife shall be fined 20 rupees, on the grounds that they unknowingly did so. If she belongs to a Sacred Thread-wearing caste and has become a common woman, or if she belongs to a Non-enslavable caste, they shall be fined 15 rupees. If she belongs to a Water-acceptable or an Enslavable caste, they shall be fined 10 rupees. If she belongs to a Water-unacceptable or an Untouchable caste, they shall be fined 5 rupees.

5. If someone belonging to a Non-enslavable caste sells his wife, he shall be regarded as someone who enslaves a free person. He shall be fined 540 rupees. If someone belonging to an Enslavable caste does so, he shall be fined 360 rupees. If the buyer knows [about her caste status], he shall lose his purchase amount and be fined an [amount] equal [to that]. If the buyer

395 *māsinyā jāta*, read *namasinyā jāta* (MA<sub>2</sub>).

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does not know about it, [the seller] shall be made to issue a loan agreement without security [for the purchase sum]. He shall require no fine.

MA<sub>2</sub> 83.6do. If someone emancipates his male or female slave, and if the deed of emancipation is issued in the presence of witnesses, recording the following particulars: ‘He or she is emancipated from slavery (*hāḍapāra*), but not from servitude (*kāmapāra*)’, neither the male or female slave shall be permitted to leave service and move somewhere else, [violating the arrangement] made in the deed, nor shall the master be permitted to sell them and take money. If a complaint in such matters is lodged by any party at an *adālata*, *thānā* or *amāla* office, [the master] should be told that he shall not be permitted to sell [the slave] and the slave should be told that he or she shall not be permitted to leave service.

## 85. On Removing Sick Slaves

1. If a master removes a male or female slave or a male or female bondservant who have fallen sick from his house, takes them to a [burning] *ghāṭa*, wayside public shelter or crossroads, and abandons them there without leaving them in anyone's care, and they survive and recover, the master shall not be allowed to recapture them. They shall become free. An *adālata*, *ṭhānā* or *amāla* office shall emancipate them by issuing a deed (*sanada*) stating that they are free and shall not be under [anybody's] control. If it turns out that, after removing them from the house, [the master] provided the male or female slave or male or female bondservant with food and drink and took good care of them, they shall not be freed. The master shall take them and put them [back] to work.

2. No one shall remove [a servant] who has been kept at one's house, providing him with a place to stay when he falls sick, stating that he should not stay at the house [anymore]. The master of the household shall be fined 10 rupees if he removes [a servant] who has fallen sick from his house.

3. If someone keeps a servant working only for food (*bhatuvā*) at his home, and [such a servant] suffers from cholera, Aṭhyā fever, smallpox or emaciation, the person who removes him from the house and throws him into destitution (*alapatra phālnu*), without taking care of him and without offering support on the grounds that he suffers from such a disease, shall be fined 20 rupees.

4. If someone takes male or female slaves or male or female bondservants to a foreign territory to carry his loads, and [such slaves or bondservants] fall sick on the way, and if [the master] provides them with food and drink and leaves them under somebody's care and returns, and thereafter [the slaves or bondservants] survive and return, the master shall be allowed to make use of them. If the master, while [the slaves or bondservants] are sick, does not leave them under anyone's care, and does not make provisions for their expenses, and returns leaving them destitute and abandoned, and thereafter [the slaves or bondservants] survive and return, [such slaves or bondservants] shall become free, and shall not be under the control of their master. An *adālata*, *ṭhānā* or *amāla* shall emancipate them by issuing a deed stating that they are free and shall not be under [anybody's] control.

## 86. On the Amālī's Right to Take Slaves into His Possession

1. If a man or a woman who belongs to an Enslavable caste flees to another jurisdiction and settles there after it becomes known that he or she has committed a crime that mandates enslavement, and if a confession had [earlier] been obtained, then [the *amālī* officer] of the jurisdiction from which he or she fled after committing the crime—the *amālī* that drew up the confession—shall take him or her into his possession. If the person flees after the crime has become known, but with no confession having been obtained, and if information [regarding the crime] becomes known [more widely], the *amālī* of that jurisdiction that apprehends [him or her] after such information has been made known shall take him or her into possession. The *amālī* of the jurisdiction to where the person flees and settles shall not take him or her into possession, even though it obtains a confession. If the person flees from that place and settles in another jurisdiction before the crime that mandates enslavement becomes known, and if the matter becomes known [later], the *amālī* of the place where the person went and settled shall be permitted to take him or her into possession. If they flee before the crime becomes known, the *amālī* or *dvāre* officer of the place where they lived before shall not be entitled to take them into possession on the grounds that they are tenants from his jurisdiction and he is the one to capture them. He shall not take them into possession.

2. If [a man and a woman who live as tenants] on *guṭhī*, *birtābitalapa*, *bekha*, *mānācāmala*, *phikadāra*, *marauṭa* or *chāpa* land commit a [sexual] offence that mandates enslavement, and the *cāka* and *cakuī* flee from that place and settle on *guṭhī* or *birtābitalapa* land or the like, the owner of that land to which they belonged [before they fled] shall have custody [of the offenders]. If they flee and settle on state-owned or *khuvā* land, the owners of the *birtābitalapa* land shall have custody if a confession has earlier been obtained. If no confession has [earlier] been obtained, the *adālata* office shall have custody.

3. If a woman is pregnant and she commits theft or has illicit sexual intercourse with a man from a different caste, the child in her womb shall also be enslaved. If children are born [before their mother is enslaved for her crimes], such children shall not be enslaved for their mother's crime.

4. If a slave has illicit sexual intercourse with the daughter or daughter-in-law [of someone] belonging to an Enslavable caste, such as Bhoṭe, Cepāṅga, Mājhī, Danuvāra, Hāyu, Darai, Kumāla, Paharī or the like, and if that slave who has had illicit sexual intercourse belongs to the owner of *guṭhī*, *birtā*, tax-exempted, *bekha*, *chāpa* land or the like, or to an *ijārā* or *ṭheka* holder, both the

*cāka* and *cakuī* shall become government property. The *adālata* or *ṭhānā* office shall take them into possession. If a slave belonging to a commoner has such illicit sexual intercourse, the *amālī*, *ṭheka* holder or *dvāre* or the owners of *bekha*, *birtā*, *chāpa* and tax-exempted land shall take the woman (*cakuī*) into possession. A slave who has illicit sexual intercourse with the daughter or the daughter-in-law of [someone belonging to] a Parjā caste shall, in accordance with the *Ain*, be imprisoned by an *adālata*, *ṭhānā* or *amāla*. If his master pays the amount set in lieu of his prison term and takes him back, he shall be set free and handed over to his master, the amount being accepted in accordance with the *Ain*.

5. Concerning a case of incest which mandates enslavement or the punishment applicable to a *cāka* and *cakuī*, if the *cāka* belongs to one jurisdiction and the *cakuī* to another, the respective jurisdiction shall take the respective offender into possession.

6. If a woman from an Enslavable caste or the like, who has been enslaved after her paramour was killed [by her husband], runs off with [another] paramour and they flee to another jurisdiction and [the paramour] is killed on that soil (*ḍallo galnu*), [the official concerned of that jurisdiction] shall not be allowed to take [the woman] into possession on the grounds that [the paramour was killed] on the soil of his jurisdiction. The [respective official] of the jurisdiction where they lived as tenants [before they fled] shall take her into possession.<sup>396</sup>

7. If someone from an Enslavable caste commits a crime that mandates enslavement and, thus, is enslaved in accordance with the *Ain*, and if once he is freed and not in servitude [any more], he commits again a crime that mandates enslavement and he shall again be enslaved.

8. If there is a dispute concerning *khuvā* or *jāgira* land belonging to two different *jāgira* holders, and if the [respective] *amālī* comes to complain that [one of the *jāgira* holders] does not give him the income [generated from the case] on the grounds that the income should belong to him because the case was settled on his land, and if both litigants are from [the *amālī*'s] jurisdiction, the income in accordance with the *Ain* shall belong to the *amālī* of that land. If tenants from two different [jurisdictions are in dispute], and if the dispute is settled by only the *amālīs* or *dvāres* of one jurisdiction, 1/3 of the income shall be given to [the *amālīs* or *dvāres*] who settled the case and the remaining income shall be handed over to the respective *amālīs* of the jurisdictions to which the tenants belong.

396 The exact meaning of this section is unclear, especially since the meaning of the phrase *ḍallo galnu* ('a clod that dissolves') remains obscure to us.

## 87. Drinking Liquor and Untouchability

1. If someone belonging to a Water-unacceptable caste consumes alcohol and enters, in a heavily drunken state (lit. 'becoming mad'), the house of someone from a purer caste than his own and touches [any article which then] becomes polluted (*kharāba*), he shall compensate the amount in question for the article and shall be fined 5 rupees. If the amount of the fine is not paid, he shall be imprisoned.

2. The [following] items touched by someone who belongs to a Water-unacceptable or an Untouchable caste [such as] Christian, Muslim, Kāmī, Sārki, Damāi or the like, may not become impure: pounded, ground or husked grain or the like, other than boiled or parched, raw fish or raw meat if it has not come into contact with water, tobacco, perfume, flower scent (*phulela*) or the like, sweet-scented items, spices or the like, sweet-scented fruits and or the like, and items kept inside the house. One shall be permitted to consume some of the [above mentioned] items touched by Water-unacceptable and Untouchable caste members without touching [these persons] and sitting separately from them. Someone who consumes [these items] requires neither expiation (*patiyā*) nor a fine.

3. A clay pot touched by someone who belongs to a Water-unacceptable or an Untouchable caste becomes impure after it has come into contact with water. A clay pot which has not come into contact with water will not become impure, it is pure by itself. Wooden pots and Chinese [ceramic] pots or [glass] bottles touched [by someone belonging to a Water-unacceptable or an Untouchable caste] may become pure after they have been washed and dried.

4. If someone comes to complain that a person belonging to a Sacred Thread-wearing caste has consumed forbidden food [such as] liquor, chicken, beef or water buffalo meat or the like, and if this is proven upon interrogation, the consumer who has knowingly consumed [such forbidden food] shall be deprived of his right of consuming cooked rice with his fellow caste members. Someone who has consumed such food by deception shall be made to undertake penance (*prāyaścitta*). If the complainant has made a complaint but could not prove it, he shall be imprisoned for 11 months. If he pays the fine in lieu of his prison term, he shall be set free after a fine of 10 rupees per month of the prison term has been applied, which is double the commonly applicable fine in lieu of one's prison term.

5. If someone consumes boiled, parched or grilled grains or the like from the hands of a person belonging to a Water-unacceptable or an Untouchable caste, he shall be made to undertake expiation by making him pay 2 rupees, 1½ rupees, 1 rupee, or ½ rupee, respectively, for persons of the *abbala*, *doyama*, *sima* and *cahāra* category to the religious judge (*dharmādhikāra*) for the *godāna* fee.

6. If someone has seen a person belonging to a Water-unacceptable or an Untouchable caste or a pig coming into contact with water or a substance which has then come into contact with water, and if he conceals this without telling anybody, and if he reveals the fact after someone belonging to a Sacred Thread-wearing caste has consumed such a substance, the person who knew the fact but concealed it shall be fined 10 rupees. Someone who has consumed such a substance by deception shall be made to undertake penance by paying a fee of ½ rupee for *godāna*. He may become pure.

7. If someone who has been deprived of his right of water acceptability or someone who belongs to a Water-unacceptable or an Untouchable caste has deceived a person [from a pure caste] into consuming cooked rice and water from the former's hands, the former—if he belongs to an Enslavable caste—shall be enslaved. If this is done by someone belonging to a Non-enslavable caste, his property shall be confiscated after setting the shares of his wife, brothers and sons and the marriage expenses for his daughters aside, and he shall be exiled from the village or city where he lives.

8. If someone forcibly brings liquor, chicken or a pig into the house of a person belonging to a Sacred Thread-wearing caste, and if the Sacred Thread-wearing caste member complains that such and such a person has brought liquor, chicken or a pig into his house, the person who has brought liquor or chicken into the house of the Sacred Thread-wearing caste fellow shall be fined 5 rupees. Someone who has brought a pig into the house shall be fined 10 rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. One rupee shall be taken from such a culprit and it shall be given to the owner of the house to purify it.

9. If someone consumes bhang (*bhāna*), the exudation of hemp flowers or opium as a drug, except when it has come into contact with medicines for saving lives, each of such consumers shall be fined 10 rupees. If [such a culprit] consumes it again, he shall be fined 10 rupees for each time that he has been arrested.

10. During the childbirth of women from the Four Varṇas and Thirty-six castes, if there is no other woman to cut the umbilical cord, and if an emergency occurs, someone belonging to a Water-unacceptable caste shall be permitted to cut the umbilical cord of the child belonging to a Water-acceptable caste, etc. If someone [from a higher caste] allows a person [belonging to a Water-unacceptable caste] to enter his house and cut the umbilical cord without letting that person touch any substance which may be polluted by touching, he shall not be held accountable. He shall neither require penance nor need he purify the house. It may be purified through the naming

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ritual of the child. Moreover, persons of higher castes may be permitted to cut the umbilical cord of a child belonging to a Water-unacceptable or an Untouchable caste. They will be purified by taking a bath. They shall neither require a fine nor need they undertake penance. One's husband may be permitted to cut the umbilical cord of his child. He shall not be held accountable. If nobody is available, even a woman lying-in may be permitted to cut the umbilical cord.

11. If it is found that a child, together with the umbilical cord, has been abandoned in the neighborhood (*ṭola*) of a town or village, [officials of] an *adālata*, *ṭhānā* or *amāla* office shall bring a midwife and make her carefully inspect the bodies of the women of the respective place who are widowed, or who are married to a husband who has gone abroad. [The office] shall let [the midwife] inspect the body of any woman by force who vigorously tries not to let her inspect it. She [the midwife] shall not be held accountable.

12. If someone belonging to a Sacred Thread-wearing caste or the like knowingly drinks liquor prepared by himself at his house, bringing it from somewhere else or having gone somewhere [for its consumption], and if he also contaminates his fellow caste members through cooked rice, his share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread shall be removed, and he shall be degraded to a pure Non-enslavable Alcohol-drinking caste. If he has not contaminated his fellow caste members through cooked rice, his share of property shall not be confiscated. Only his Sacred Thread shall be removed and he shall be degraded to a Non-enslavable Alcohol-drinking caste.

13. If someone takes a person belonging to an Untouchable caste to the ground floor<sup>397</sup> or to the upper floors of the house of someone belonging to a Water-acceptable pure caste, where they live and dine, he shall be made to pay compensation for the polluted article.<sup>398</sup> Both the person belonging to the Untouchable caste and the one who has brought him there shall be fined 5 rupees each. Expiation shall be granted for the purification of the house.

14. If someone belonging to an Untouchable caste knowingly enters the ground floor<sup>399</sup> or the upper floors of the house of someone belonging to a Water-acceptable pure caste, where they live and dine, he shall be made to pay compensation for the polluted article, and shall be fined 5 rupees. Expiation shall be granted for the purification of the house.

15. If someone belonging to a Sacred Thread-wearing or a Non-enslavable Alcohol-drinking caste knowingly, by force, or for no reason (*usai*) makes a person belonging to a Sacred Thread-wearing caste consume alcohol etc. or any other forbidden substance which leads to his caste degradation, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be imprisoned for 1 year. If he pays the fine in lieu of his prison term, it shall be accepted

397 *chīḍī bhai gharamā*, read *chīḍī bhai gharamā* (MA<sub>2</sub>).

398 *chuta lāgnyā vastu*, lit. 'articles that may be polluted upon touching [by a person belonging to an Untouchable caste]'.  
399 *chīḍī bhai gharamā*, read *chīḍī bhai gharamā* (MA<sub>2</sub>).



and he shall be set free. If a person belonging to an Enslavable caste has made [the victim] consume such things, his share of property shall be confiscated and he shall be enslaved. Someone who has consumed such things by deception or force shall be granted expiation. If the Sacred Thread-wearing caste member has lied about his caste and consumed such things, the person who has made him consume such things without knowing [his caste status] shall not be accused. The caste status of the person who has consumed such things shall be degraded to a Non-enslavable Śūdra caste. He shall not be granted expiation.

16. If someone belonging to a Sacred Thread-wearing or a Non-enslavable Alcohol-drinking caste knowingly, by force, or for no reason makes a person belonging to a Non-enslavable Alcohol-drinking caste consume any forbidden substance or food which leads to his caste degradation, he shall be fined 50 rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. If someone belonging to an Enslavable caste has done so, he shall be enslaved. The person who has consumed such by deception or force shall be granted expiation. If the person belonging to a Non-enslavable Alcohol-drinking caste has lied about his caste status and consumed such matter, the one who has made him consume it shall not be accused. The consumer shall be degraded from his caste.

17. If someone belonging to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or an Enslavable Alcohol-drinking caste knowingly, by force, or for no reason makes a person belonging to an Enslavable Alcohol-drinking caste consume any forbidden substance or food which leads to his caste degradation, he shall be fined 25 rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The person who has consumed such by deception or force may become pure by performing his caste's customs. If the consumer has lied about his caste and consumed such matter, the person who has made him consume it shall not be accused. The consumer shall be degraded from his caste.

18. If someone belonging to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking, an Enslavable Alcohol-drinking or an Untouchable caste knowingly, by force, or for no reason makes a person belonging to a Water-Unacceptable but Touchable caste consume any forbidden substance or food which leads to his caste degradation, he shall be fined 12½ rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The person who has consumed such by deception or force may become pure by performing his caste's customs. If the consumer has lied about his caste and consumed such matter, the person who has made him consume it shall not be accused. The consumer shall be degraded from his caste.

19. If someone belonging to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking, an Enslavable Alcohol-drinking, a Water-unacceptable but Touchable or an Untouchable caste knowingly, by force, or for no reason makes a person belonging to an Untouchable caste consume any forbidden substance or food which leads to his caste degradation, he shall be fined 6 rupees and 1 *sukā*. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The person who has consumed such by deception or force may become pure by performing his

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caste's customs. If the consumer has lied about his caste and consumed such matter, the person who has made him consume shall not be accused. The consumer shall be degraded from his caste.

20. If someone belonging to an Untouchable or a Water-unacceptable caste knowingly, by force, or under no particular circumstance makes a person belonging to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste consume any forbidden substance or food which leads to his caste degradation, such a culprit shall be imprisoned for 3 years, if he is a man and belongs to a Non-enslavable caste. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. If the deed has been committed by a [man] belonging to an Enslavable caste, he shall be imprisoned for 1½ years and be enslaved. If he has made a person belonging to an Enslavable Alcohol-drinking caste consume such matter, the person who has made the latter consume it and who belongs to a Non-enslavable caste shall be imprisoned for 1½ years. If he pays double the fine in lieu of his prison term, it shall be accepted. If the deed has been committed by a person belonging to an Enslavable caste, he shall be enslaved. The person who has consumed such matter by deception shall be granted expiation. If the consumer has lied about his caste and consumed such matter, he shall be degraded from his caste. The person who has made him consume it shall not be accused.

21. If someone belonging to an Untouchable caste knowingly, by force, or for no reason makes a person belonging to a Sacred Thread-wearing, Non-enslavable or an Enslavable Alcohol-drinking caste consume any forbidden substance or food which leads to his caste degradation, such a culprit shall be imprisoned for 3 years and he shall be enslaved if he is a man. The person who has consumed such matter by deception or force shall be granted expiation. If he has made a person belonging to a Water-unacceptable but Touchable caste consume such matter, he shall be fined 20 rupees. The consumer shall become pure by performing his caste's customs. If the consumer has lied about his caste and consumed such matter, he shall be degraded from his caste, and the one who has made him consume it shall not be accused.

22. If someone has brought any forbidden substance or food, the consumption of which leads to caste degradation, to someone else's house, and if a person from the house unknowingly consumes it by deception, the culprit shall be fined 10 rupees. Someone who has consumed such matter unknowingly or by deception shall be granted expiation.

23. If someone belonging to a Water-acceptable pure caste, including the Sacred Thread-wearing castes, has knowingly smoked the same hookah with a person belonging to Water-unacceptable but Touchable caste, he—whether water has been put into it or not—shall be fined 20 rupees and be granted expiation after paying 2½ rupees for *godāna*. If someone [belonging to a Water-acceptable pure caste, including the Sacred Thread-wearing castes] has smoked his hookah—into which water has been put—sitting together with a person [belonging to a Water-unacceptable but Touchable caste], he shall be fined 5 rupees and be granted expiation after paying 1 rupee for *godāna*. If somebody has been deceived into smoking, he shall be granted

expiation. If such person has smoked his hookah—into which no water has been put—sitting together with a person [belonging to Water-unacceptable but Touchable caste], he shall not require expiation.

24. If someone has written a statement that such and such a person has consumed such and such a forbidden food<sup>400</sup> which would lead to his caste degradation, and if he later cannot prove it, he shall, in accordance with the law on false accusation which results in caste degradation of the accused, be punished. If such a false accuser has not written down the statement, it shall be regarded as verbal abuse. He shall be fined 10 rupees.

25. No one belonging to a Sacred Thread-wearing or a Non-enslavable or an Enslavable caste from whose members water may be accepted and who are pure shall consume meat which has been touched and grilled by a person belonging to an Untouchable caste such as Kāmī, Sārkī, Damāī, Vādī, Gāine or the like and which has not come into contact with water. If the meat is consumed, he shall be fined 5 rupees and shall be made to observe penance after paying 2½ rupees for *godāna*. He shall not lose his caste status.

26. If someone belonging to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking, an Enslavable or a Water-unacceptable caste has smoked a hookah touched or smoked by a person belonging to an Untouchable caste by deception, he shall require no expiation. He shall be granted expiation after paying 1 rupee for *godāna*. If someone who has made [a person from a pure caste] smoke such a hookah has knowingly done so, the culprit who has made a person belonging to a Sacred Thread-wearing or a Non-enslavable or an Enslavable caste, from whose members water may be accepted and who are pure, smoke the hookah shall be fined 20 rupees. If someone from the Water-unacceptable castes has made a person belonging to a Touchable caste smoke such a hookah, he shall be fined 5 rupees.

27. If someone belonging to a Water-acceptable caste, including a Sacred Thread-wearing caste, and someone belonging to a Water-unacceptable or an Untouchable caste have plucked fruits from the same tree of a garden or forest and have consumed it, [the pure caste member] shall—irrespective of whether [the fruit] has been plucked climbing up the tree or has been plucked from below—require neither a fine nor expiation, if it is proved that one person has plucked from one branch of the tree and the other person from another branch.

28. If someone belonging to a Water-acceptable caste, including Brahmins, and someone belonging to a Water-unacceptable or an Untouchable caste walk, sit or eat separately, without touching each other, while crossing a suspension or plank-bridge, while crossing [a river] by boat, or while sitting on a carpet on the floor, no pollution shall incur. [The higher caste member] shall require neither expiation nor a fine.

400 *bhakṣa*, read *abhakṣa* (MA<sub>2</sub>).

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29. If someone unknowingly or by deception smokes the hookah of a person belonging to a lower caste than his, a *pūrjī* [for expiation] shall be issued for him after he pays a fee of 8 *ānās* for the deception. Also, the religious judge (*dharmādhikāra*) shall grant him expiation after taking 8 *ānās* and making him visit one nearby pilgrimage site.

30. From Tuesday, the 6<sup>th</sup> of the dark fortnight of Jyeṣṭha in [VS] 1922 onwards, if an Upādhyāya Brahmin consumes alcohol or liquor made out of fruits or herbs, such as the bark of the cinnamon-tree, orange, guava, mango, jackfruit etc., and if he has contaminated his fellow caste members thorough cooked rice, his share of property shall be confiscated, his Sacred Thread shall be removed, he shall be deprived of his right to eat cooked rice with his fellow caste members and he shall be placed in an Alcohol-drinking caste. Water may be accepted from his hands. If he has not contaminated anybody after consuming alcohol, his share of property shall not be confiscated, [but] his Sacred Thread shall be removed, he shall be deprived of his right to eat cooked rice with his fellow caste members and he shall be placed in an Alcohol-drinking caste. Water may be accepted from his hands. If he has consumed English liquor and has contaminated his fellow caste members through cooked rice and water, his Sacred Thread shall be removed, he shall be deprived of his right to consume cooked rice and water with his fellow caste members and he shall be placed in a Water-unacceptable caste. If he has consumed alcohol himself, but has not contaminated anybody through cooked rice and water, his share of property shall not be confiscated, [but] his Sacred Thread shall be removed, he shall be deprived of his right to consume cooked rice and water with his fellow caste members and he shall be placed in a Water-unacceptable caste.

31. From Tuesday, the 6<sup>th</sup> of the dark fortnight of Jyeṣṭha in [VS] 1922 onwards, if someone belonging to a Rajapūta, Jaisī or Kṣatrī caste consumes alcohol, and if he has contaminated his fellow caste members thorough cooked rice, his share of property shall be confiscated, his Sacred Thread shall be removed, he shall be deprived of his right to eat cooked rice with his fellow caste members and he shall be placed in an Alcohol-drinking caste. Water may be accepted from his hands. If he has not contaminated anybody after the consumption of alcohol, his share of property shall not be confiscated. His Sacred Thread shall be removed, he shall be deprived of his right to eat cooked rice with his fellow caste members and he shall be placed in an Alcohol-drinking caste. Water may be accepted from his hands. If he has consumed English liquor and has contaminated his fellow caste members through cooked rice and water, his Sacred Thread shall be removed, he shall be deprived of his right to consume cooked rice and water with his fellow caste members and he shall be placed in a Water-unacceptable caste. If he has consumed alcohol himself, but has not contaminated anybody through cooked rice and water, his share of property shall not be confiscated. His Sacred Thread shall be removed, he shall be deprived of his right to consume cooked rice and water with his fellow caste members and he shall be placed in a Water-unacceptable caste.

32. From Tuesday, the 6<sup>th</sup> of the dark fortnight of Jyeṣṭha in [VS] 1922 onwards, if someone belonging to a Water-acceptable Alcohol-drinking caste has consumed English liquor, and if he

has contaminated other persons through cooked rice and water, his share of property shall be confiscated, he shall be deprived of his right to consume cooked rice and water with his fellow caste members and he shall be placed in a Water-unacceptable caste. If he has consumed the liquor himself, but has not contaminated anybody through cooked rice and water, his share of property shall not be confiscated. He shall be deprived of his right to consume cooked rice and water with his fellow caste members and he shall be placed in a Water-unacceptable caste.

33. From Tuesday, the 6<sup>th</sup> of the dark fortnight of Jyeṣṭha in [VS] 1922 onwards, if someone belonging to a Rajapūta, Jaisī, Kṣatrī or Sacred Thread-wearing caste has consumed liquor made of fruits or herbs, such as the bark of the cinnamon tree, orange, guava, mango, jackfruit, etc., he—if he is a former state official (*dhākre*)—shall be fined 20 rupees. If a *jāgira* holder has consumed such liquor, he shall be dismissed from his *jāgira*. He shall not lose his caste status. Cooked rice and water may be accepted from his hands.

34. From Tuesday, the 6<sup>th</sup> of the dark fortnight of Jyeṣṭha in [VS] 1922 onwards anyone belonging to an Alcohol-drinking caste shall be permitted to consume alcohol prepared by someone belonging to the Water-acceptable castes of his own kingdom. If a *jāgira* holder consumes alcohol and sleeps on the street, he shall be dismissed and his insignia torn off.

## 88. Conversion to Asceticism by Fakirs

1. If a Jogī, Sannyāsī, Vairāgī, Nānaka, Udāsī, Jaṅgama, Sebaḍā or the like who put on the robe has forcefully converted someone's children to asceticism who have not been initiated and who are below the age of 12—irrespective of whether he has taken them by flattering or stealing, and if the father, brothers, uncles, maternal or other near relatives of the one who has been converted to asceticism comes to report to an *adālata*, *ṭhānā* or *amāla* office, the person who took others' children and converted them to asceticism [shall be punished]; if this was done by a Ramatā acetic, he shall be exiled from the country after his head has been shaved. If the abbot of a monastery did so, he shall be imprisoned for 3 years after he has been dismissed from the monastery and another abbot placed there. If a household ascetic did so, he shall be imprisoned for 3 years after his share of property has been confiscated. If he pays the fine in lieu of his prison term, it shall be accepted and he shall be set free. If relatives or friends of the one whose share of property has been confiscated pay the fine in lieu of his prison term, it shall be accepted and he shall be set free. Even if a man who has not been initiated has been converted to asceticism, he shall re-join his caste after being ordered to undergo expiation (*patiyā*). If an unmarried girl who has not yet menstruated [has been converted to asceticism] and if she has not had illicit sexual intercourse, such a girl shall be granted expiation, and a suitable man (*kuṭumba*) similar to her in caste shall be permitted to marry her. Cooked rice may be accepted from her hands.

2. If a Jogī, Sannyāsī or a Vairāgī has converted someone's wife, who has been brought [into his household] by ritual marriage or by worshipping oil lamp (*dīyo*) and water vessel (*kalaśa*) or [only] by their own will,<sup>401</sup> such a person shall be arrested and exiled from the country after having his head shaved [as punishment]. If the woman has not consumed cooked rice from others' hands after the conversion, and if she has illicit sexual intercourse with no other person, she shall be re-joined with her caste after making her observe expiation and penance (*prāyaścitta*). If she has run off [with another man], [her husband]—if he belongs to a caste bearing the right to kill his wife's paramour—shall first ascertain who the paramour was that had illicit sexual intercourse with her first, and shall kill him. If he does not belong to a caste bearing the right to kill his wife's paramour, he shall sue the culprit in an *adālata*, *ṭhānā* or *amāla*. From there, [the culprit] shall, in accordance with the *Ain*, be punished.

401 Three types of marriage are referred to here. The first is the marriage by the proper 'Vedic' marriage ceremony, the second refers to a marriage by performing the simplified rites of the lamp and water vessel, and the last refers to the Gandharva-type marriage by consent and without any marriage rituals.

3. If an ascetic [such as a] Sannyāsī or Vairāgī flatters and converts an unmarried, married or widowed woman, who is below the age of 16, to asceticism, and if he is ready to take her out of the village or city to a foreign territory, the master of that woman shall make a complaint at an *adālata*, *ṭhānā* or *amāla*. From there, this Jogī, Sannyāsī or Vairāgī ascetic shall be captured, be imprisoned for 1 year and be exiled from the country. If a widowed woman who is past the age of 16 has been converted to asceticism at her consent, no one shall be blamed.

4. If a woman who has been converted to asceticism has consumed cooked rice from the hands of her guru, then as soon as she runs off with another man, her husband shall ascertain his wife's paramour and kill him. If she has remained within the ascetic tradition (*phakīrakai dharma*), and if she has not run off with a man, and if she stays [there], declaring that she will spend her life in this manner, it shall be up to the will of that woman. It shall be up to her husband's will as to whether he wants to have sexual intercourse with her without consuming cooked rice from her hands, or whether he lets her go, declaring that he does not want to have sexual intercourse with her since she has become a fakir.

5. If an ascetic [such as a] Jogī, Sannyāsī, Vairāgī, Nānaka, Udāsī, Jaṅgama, Sebaḍā or the like, who put on the robe, has taken someone's children past the age of 11 up to the age of 16 and who are married or have undergone the *vratibandha* ritual, and if their father or mother, brother,<sup>402</sup> maternal or close relatives come to complain, and if he has converted someone who has not been initiated, [the converted children] shall remain in their castes. If an initiated [person] past the age of 12 comes to complain within the time period of 35 days, stating that he was restrained and forcefully converted, but he has not consumed cooked rice from the hands of a guru, and if it is ascertained upon interrogation that he has not consumed cooked rice, he shall be allowed to undergo penance. If [the ascetic] has converted a girl below the age of 12 and has also had illicit sexual intercourse with her, such a girl shall not be allowed to undergo penance. No one shall grant it to her. If a man or woman past the age of 12 has consumed cooked rice [from the hands of their guru] after their conversion, they shall not be allowed to undergo penance for [eating] cooked rice [together with their fellow caste members]. Whatever [ascetic] group (*jāta*) they have been converted to, to that they shall belong. While granting expiation to whom expiation has to be granted, the *dharmādhikāra* shall grant the expiation by taking a *godāna* fee of 5, 4, 3, and 2 rupees from a person of the *abbala*, *doyama*, *sima* and *cahāra* categories, respectively.

402 *dājyū*, read *dājyū bhāi* (MA<sub>2</sub>).

## 89. On the Religious Judge (*Dharmādhikāra*)<sup>403</sup>

1. All Sacred Thread-wearing castes [such as] Upādhyāya Brahmins, Rajapūta, Jaisī, Kṣatriya etc., Non-enslavable Alcohol-drinking, Enslavable Alcohol-drinking castes, as well as the European and Muslim castes, Water-unacceptable but Touchable, or Untouchable castes, [all these castes] may, in the entire Kingdom of Gorkhā, perform any act that is in accordance with their family traditions and beliefs and leads to the *dharmā*, except for cow slaughter.<sup>404</sup> Nobody shall be enraged about such matters. If somebody becomes enraged or quarrels and comes to complain in a *kacaharī* office about such matters, this person who is thus disturbing the religion of others shall be fined 100 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If a clash occurs, leading to the death of any person, [the culprit] shall be executed—taking life for life, provided the guilty person belongs to a caste that can be sentenced to death. If this is not the case, his share of property, in accordance with the *Ain*, shall be confiscated and he shall be punished by *dāmala*.

2. If someone has illicit sexual intercourse with a non-widowed or widowed woman belonging to any Sacred Thread-wearing caste, including Upādhyāya Brahmins, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes, and if other persons unwittingly become contaminated through cooked rice or water [touched by such a man and woman], and if such a person—if he has brought a written order [for expiation]—needs to be granted expiation on grounds of ignorance (*bhorako patiyā*), the *adālata*, *ṭhānā*, *amāla* office shall collect a fee of 2 rupees for [persons of the] *abbala*, 1½ rupees for the *doyama*, 1 rupee for the *sima* and ½ rupee for the *cahāra* category, and shall issue a written order to the *dharmādhikāra*.

3. If a person other than the *dharmādhikāra* grants [a contaminated person] expiation, he shall be imprisoned for 1½ years. If he has only expressed his intent [to do so], he shall be imprisoned for 1 year. If he pays double of the amount to substitute his prison term, it shall be accepted and he shall be set free.

4. The *dharmādhikāra* shall grant expiation only [in cases] of unintentionality. To persons who wittingly contaminate themselves, [the *dharmādhikāra*] shall grant expiation only after an order (*hukuma*) from the king (*sarkāra*) or a declaration (*marjī*) from the prime minister is

403 The translation is a revised version of Michaels 2005.

404 Art. 67.



received. And if, according to the *Ain*, expiation should not be granted, [the *dharmādhikāra*] shall grant it only if a *lālamohora* is issued [by the king] or an order is signed by the prime minister. If the *dharmādhikāra* grants expiation with intent to a person to whom expiation should not be given without a *lālamohora* or *daskhata*, he who is in charge [to grant expiation] shall be fined 500 rupees and shall be dismissed from his duty as *dharmādhikāra*. If [expiation] has been granted by [other] officials, he shall be fined 50 rupees and dismissed.

5. Regarding the regulation laid down in the *Ain* which directs [the authority] for granting expiation for water to a person who has committed a crime [which is punishable] through degradation of caste status and deprivation of the right of consuming cooked rice together with his fellow caste members, or who has had illicit sexual intercourse, if a main officer has granted expiation for water to such an offender without punishing him, confiscating his share of property or imposing a fine on him according to the *Ain*, the officer shall be fined 40 rupees. Such offenders<sup>405</sup> to whom expiation for water is laid down in the *Ain* shall be granted expiation only after punishing them according to the *Ain*.

6. If any *hākima*, *ḍiṭṭhā*, *bicārī*, *amālī* or *dvāre* of a *gauḍā*, *adālata*, *ṭhānā* or *amāla* office, issues a decree cancelling an order of banning issued by his predecessor against somebody belonging to a Sacred Thread-wearing caste, who had thus been deprived of the right to consume cooked rice and water with his fellow caste members by this predecessor, and does so by committing forgery or hiding an earlier letter of confession, preparing false documents, and thus cancels the [order of] banning without consulting the government (*sarkāra*), and if inquiries reveal that the confession [statement] obtained by the predecessor was valid, and that the accused should be deprived of the right to consume cooked rice with his fellow caste members, the officer or *dvāre* who has countermanded the ban shall not be degraded to a lower caste if he himself has not accepted cooked rice from the hands of the guilty person. He shall only be fined 500 rupees and be set free. If he has [cancelled the banned and] himself accepted cooked rice from the hands of the guilty person, he shall be fined 500 rupees and shall be degraded to a low caste after removing his Sacred Thread. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If an insane person who cannot show the intelligence to know about respect, nor what to do and what not to do, nor what to eat and what not to eat, then eats some forbidden food or [food] from the hands of a person either from an Untouchable caste or from the hands of someone lower than his own caste, he shall be made to pay a *godāna* to the *dharmādhikāra*, after his senses have returned, at the rate of 5 rupees for [persons of the] *abbala*, 4 rupees for the *doḡama*, 3 rupees for the *sima* and 2 rupees for the *cahāra* category. He shall be made [also] to undergo penance.

8. If someone, by his own will and because of misery or anguish, attempts to die by jumping [off a high place], cutting his own throat, stabbing himself, hanging himself or taking

405 *vā patiyālāi*, read *bābatilāi* (MA<sub>2</sub>).

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poison, but survives after medical treatment,<sup>406</sup> he shall be made pay a *godāna* fee of 1 *ānā* to 2 rupees to the *dharmādhikāra* according to his financial capacity. The *dharmādhikāra* shall grant him expiation and penance. Such a person shall not be punished by an *amālī* officer.

9. In cases where a person makes a mistake (*virāṃ garnu*) and [thereby] [kills] himself by cutting [his throat] or hanging, or he commits suicide by hanging himself, saying ‘I [want to] die’, or by using a weapon against himself, or by jumping into a river, off a cliff, into a well, off a roof, into a deep pit, or by [wilfully] consuming poison, or who is killed at the hands of a member of an Water-unacceptable caste, a *godāna* to be given to the *dharmādhikāra* shall be put aside at a rate of 1 rupee for [persons of the] *abbala*, ½ rupee for the *doyama*, and 4 *ānās* for the *sima* and *cahāra* category; having given [the fee] into the *amālī*’s responsibility, the sons, brothers or other kin [of the deceased person] shall perform the funerary rites.

10. If somebody has been executed by the government [on the charge of murder], taking life for life, and if the brother, son or any other kin comes [to any government office], saying ‘May I have [permission] to perform cremation rites (*sadgati*, i.e. death rituals)’, the *adālata*, *ṭhānā* or *amāla* shall allow the funerary rites to be performed after issuing a written order and after the *dharmādhikāra* has granted post-mortem rehabilitation (*prāyaścittako patiyā*). For performing expiation, [the applicant] shall pay a fee from 1 *ānā* to 2 rupees, depending on his financial capacity.

11. If someone dies who was degraded by caste, cooked rice and water because of illicit sexual intercourse with a blood relative, a person belonging to a lower caste, a Water-unacceptable [but Touchable] caste or an Untouchable caste, or because he took cooked rice and water from [these persons], and if [then] his sons, brothers and brother’s sons come, saying ‘If [the deceased] receives expiation, I want to perform [his or her] funerary rites’, expiation with respect to the funerary rites of purification (*kṛyā śuddha*) shall be granted.

12. If a person dies who had been degraded from his caste due to having illicit sexual intercourse with a [blood] relative, a person from the same *gotra*, a person belonging to a lower caste or a person belonging to an Untouchable caste, or by taking cooked rice or water from the hands of somebody from a lower caste, those persons who perform the funerary rites or arrange for such performances without obtaining expiation through [a writ of] expiation for [performing the] funerary rites shall each be punished [with a fine] of 5 rupees. [In addition,] the *dharmādhikāra* shall collect 2 rupees for [persons of the] *abbala*, 1 for the *doyama*, ½ for the *sima* and 4 *ānās* for the *cahāra* category, and grant expiation, thereby entitling [the offenders the right] to consume cooked rice and water with their fellow caste members.

406 Attempted suicide is not regarded a crime but a sin. It is therefore necessary to grant rehabilitation. However, note that in this paragraph both *patiyā* and *prāyaścitta* are required.

13. If any man or woman is found guilty of murder<sup>407</sup> or infanticide<sup>408</sup> and the crime was not known before, [but] became known [only] later, the *dharmādhikāra* shall collect a *godāna* from the persons who—out of ignorance—have accepted cooked rice from the hands of such sinners (*pātakī*) at the rate of 3½ rupees for [persons of the] *abbala*, 1 rupee and 12 *ānās* for the *doyama*, 14 *ānās* for the *sima* and 7 *ānās* for the *cahāra* category, and shall then grant them expiation for cooked rice and water.

14. If someone dies who had been punished with *dāmala* or death, or who had been deprived of his Sacred Thread, or who had been ostracised from cooked rice and water because of illicit sexual intercourse with [a person from] an Untouchable caste and who was [then] degraded to that caste, and if his brother, son, daughter or anybody from his clan comes, saying ‘If [the deceased person] receives expiation for death rituals [being performed], I will perform the funerary rites’, the *dharmādhikāra* shall collect a *godāna* at the rate of 5 rupees for [persons of the] *abbala*, 4 rupees for the *doyama*, 3 rupees for the *sima* and 2 rupees for the *cahāra* category, and grant expiation for funerary rites.

15. If somebody is banned from cooked rice and water without disclosing the details of the illicit sexual intercourse, [the acceptance of] cooked rice [from a contaminated person or a person from the low castes] or harlotry (*patari*) [that led to his or her being banned], and if it is subsequently proven that such an accusation had been made out of anger, the person who had made such a [false] accusation shall be imprisoned for 11 months. Even if he pays the amount in lieu of his prison term, such a person shall not be set free by accepting the amount [in lieu of imprisonment]. He shall remain imprisoned. If, over the course of inquiries, the slanderer accuses someone on the grounds of suspicion, but fails to make [the accused person] confess, and if it is found that the fellow caste members of the accused person have accepted cooked rice from his hands, the [slanderer] shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The accused person shall not require expiation. He shall remain in his caste status.

16. If any person from the Sacred Thread-wearing castes commits any act, which mandates the punishment of having his head shaved, and who is [indeed] shaved [and thereby] degraded to a Non-enslavable Śūdra caste to whom expiation for water [only] is granted, the naming ceremony, rice-feeding ceremony, marriage or funerary and death rites of children born to [his ritually] married or other wives taken as concubines shall be performed by Brahmins as if they belonged to a Non-enslavable Śūdra caste. In the case [of children belonging to men] who have not obtained expiation for water, the performance of any rites shall not be allowed. [Both] the Brahmin who performs any ritual for such a member of a Water-unacceptable caste and the patron of any sacrifice (*jajamāna*) belonging to [the Water-unacceptable caste] shall be fined 5 rupees each. If they do not pay the amount of the fine, [each] shall be imprisoned for 1 month and set free [afterwards].

407 Cf. Art. 64.

408 Cf. Art. 143.

89. On the Religious Judge (*Dharmādhikāra*)

17. In [cases of] granting expiation for water to sinners (*pātakī*) [having committed incest], if the *Ain* prohibits the granting of expiation for water to persons who are guilty of committing incest with [somebody from] their blood relations or having illicit sexual intercourse with [somebody from the] Untouchable castes, and if [this person] has consumed cooked rice and water [served] by them (i.e. the Untouchables) and has been shaved (i.e. degraded) for that offence, water from the hands of [such a] sinner shall not be acceptable. Expiation shall not be granted to him. Except for these [two] categories, persons who have been punished by shaving their heads for other reasons shall be regarded sinners and belong to a Śūdra caste. Water may be accepted [from their hands]. They shall not receive expiation for cooked rice. While granting them expiation for water, the *dharmādhikāra* shall collect a *godāna* at the rate of 10 rupees for [persons of the] *abbala*, 8 rupees for the *doyama*, 4 rupees for the *sima* and 2 rupees for the *cahāra* category, and [then] grant expiation for water. Such sinners shall not be allowed to apply a *ṭikā* to Brahmins, [but] they shall be allowed to give ritual gifts (*dāna*) and fees (*dakṣiṇā*) to the Brahmins. Ritual gifts and fees shall be given without applying *ṭikā*. A Brahmin who accepts *ṭikā* from the hands of such [sinners] shall be fined 2½ rupees, and the person who gives the *ṭikā* shall be fined 5 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned and then set free. Any Brahmin who accepts a *ṭikā* [from them] without knowing [about their status] shall be not be held accountable.

18. If any woman commits sexual intercourse with any person from any caste, from Brahmin to Poḍe, either unwittingly, believing him to be her husband, or [occurring] at a time when she was deprived of [all] her senses (*indriya*) through having been given intoxicants, and if she [then] comes [to court] asking [for expiation], saying ‘It happened unwittingly; let me receive expiation’, [such a] woman who unwittingly had illicit sexual intercourse with another man shall not receive expiation. This shall not be regarded as [a case of] ignorance. If [however] a man [has committed illicit sexual intercourse] out of ignorance, he shall receive penance according to the *Ain*.

19. If any man commits illicit sexual intercourse with a widow, a married or unmarried woman from the Sacred Thread-wearing castes [such as] Upādhyāya, Jaisī Brahmin, etc. [as well as women from the] Alcohol-drinking castes, and no report [is given] of that adultery, and if the man runs away before such illicit sexual intercourse becomes known [to others] and is not found after being sought, and if he later dies, [then] a statement shall be taken [from those persons] who had known or heard [about the matter] and penance shall be granted to [the offender’s] fellow caste members who have unwittingly accepted cooked rice [from him or her]. If there is nobody who had known or heard [about this matter], the confession and whatever else is necessary shall be obtained from the adulteress and penance shall be granted to those fellow caste members who have unwittingly consumed cooked rice and water [from him or her].

20. If any man from the Four Varṇas and Thirty-six castes, including Upādhyāya [Brahmins], commits incest with one of his blood relations or with a woman from any Water-unacceptable but Touchable caste, and takes cooked rice and water [from her hands], and [then] has sexual

intercourse with his own wife and feeds her cooked rice and water, and runs away before the *kacaharī* can question him on whether or not he had disclosed this matter to his wife, and if his wife [then] comes [to the court], complaining, ‘I did not know that my husband had committed adultery with such [a woman and] that he had consumed cooked rice and water [from her hands, which is why] I unwittingly had sexual intercourse with my husband and [then] took cooked rice and water [from his hands]’, she shall be granted expiation [only] after she has issued a written statement, saying ‘If my husband is arrested, and [during the interrogation] it is proven that he had informed me of this matter, I should be degraded from [my] caste.’ Any unborn children, too, shall become pure through the expiation of their mother. If the husband is arrested and it is proven upon interrogation that he had disclosed [the matter to his wife], the woman shall lose her caste and expiation shall be granted [to all persons] who have consumed [cooked rice and water] from such [a woman]. If it is proven that he had not disclosed the matter [to his wife], the woman is to be regarded as sound (i.e. pure) and she remains [acceptable] with [respect to] cooked rice and water.

21. If any man who has, in accordance with the *Ain*, been deprived of the right to consume cooked rice and water [with his fellow caste members] because of his crime, or who has committed incest with a woman from his blood relations, has sexual intercourse with his ritually married wife, or with any other wives from whom cooked rice may be accepted, before the matter of incest is known, and if she has let him have sexual intercourse without knowing [about his contamination], expiation shall be granted for cooked rice and water to such an unknowingly contaminated woman. If the husband had illicit sexual intercourse and afterwards had sexual intercourse with [his wife] and she became pregnant, and if a son or daughter is born, water shall be acceptable [from her], [but] cooked rice shall not be acceptable. The son and daughter also shall become pure by the expiation of their mother. If the wife lets her husband have sexual intercourse with her after knowing that he has [already] contaminated himself through illicit sexual intercourse, she shall be placed in the same caste in which her contaminated husband has (i.e. has been degraded to). Son and daughter also shall be placed in the caste of their mother.

22. If any person has knowingly committed illicit sexual intercourse with a woman belonging to a Water-unacceptable but Touchable caste, but has not consumed cooked rice or water [from her hands], and if the man does not reveal his offence and if there was no expiation [granted to him], if he [then] commits sexual intercourse with his [ritually] married wife, a concubine, or a common woman, etc., or feeds them cooked rice and water from his hands, and if the woman allowed the husband to have sexual intercourse with her without knowing of his offence, and if she has unwittingly consumed cooked rice and water from his hands, the wife and the child in her womb or any born to her subsequently shall be deemed ritually pure through the expiation of the wife, because the man can retain his caste [status] through expiation. Cooked rice and water may be accepted from the hands of such persons. If the woman (i.e. mother) who had unknowingly had illicit sexual intercourse [with her husband] dies without obtaining expiation, and her children come to ask for expiation, expiation shall be granted. If the wife has knowledge of her husband’s illicit sexual intercourse with such a woman and has [therefore] abstained from having

sexual intercourse with him and from taking cooked rice and water from his hands, but has not been able to talk about it due to shame and keeps [the matter] hidden, and if she then lets [her husband] contaminate his fellow caste members through cooked rice and water, keeping them in ignorance, she shall be fined 20 rupees for hiding the fact which has [subsequently] contaminated others through [the acceptance of] cooked rice and water from his hands, even though she was aware of it. All persons who unwittingly [accepted cooked rice and water from the hands of the guilty person] shall be granted expiation for unwitting contamination.

MA<sub>2</sub> 89.22a. If a man has knowingly had illicit sexual intercourse with a woman belonging to a Water-unacceptable but Touchable caste, and has consumed cooked rice from her hands, and if the man, without revealing the sexual intercourse he has had with that woman, continues to have sexual intercourse with his ritually married wife, a concubine, common woman or the like, and feeds them cooked rice [from his hands], irrespective of whether the wife—who allowed him to have sexual intercourse with her and accepted cooked rice from him without knowing that he had had sexual intercourse with a woman from a Water-unacceptable caste and accepted cooked rice from her hands—becomes pregnant by him or not, she shall be granted expiation with respect to cooked rice and water. Cooked rice and water shall be acceptable from her. The children born from her receive her caste status. They shall be purified through the expiation undertaken by their mother. If children are already born [before she has sexual intercourse with such an adulterous husband], they, too, shall be granted expiation. If the wife has knowledge of her husband's illicit sexual intercourse with such a woman [from a Water-unacceptable caste] and has [therefore] abstained from having sexual intercourse with him and from taking cooked rice and water from his hands, but has not been able to talk about it due to shame and keeps [the matter] hidden, she shall be fined 20 rupees. All persons who have unwittingly [accepted cooked rice and water from the hands of the guilty person] shall be granted expiation for unwitting contamination with respect to cooked rice and water. If the wife has knowledge of her husband's illicit sexual intercourse [with the woman from an Water-unacceptable caste], but knowingly allows her husband to have sexual intercourse with her and accepts [cooked rice] from his hands, she shall not be granted expiation, although she accepted cooked rice from her own husband and allowed him to have sexual intercourse with her. She shall be placed in the caste of the woman with whom her husband committed adultery.

23. If any man knowingly has illicit sexual intercourse with [a woman from] an Untouchable caste and [then] consumes cooked rice or water from her hands, yet does not tell [his wife] that he himself had illicit sexual intercourse or consumed [cooked] rice or water from her, and [then] has sexual intercourse with his [ritually] married wife, concubine wife, or common woman, etc., or feeds them cooked rice or water from his hands, and if the woman does not become pregnant who has allowed such a husband to have sexual intercourse with her without knowing the offence which her husband had committed by having sexual intercourse with a woman from an Untouchable caste or by accepting cooked rice or water from his hands, she shall be granted expiation for

cooked rice and water. She shall not lose her caste. If the woman becomes pregnant, cooked rice shall not be accepted [from her hands]. Expiation for water only shall be granted. Water may be taken from the hands of children who are later born to such a woman. Cooked rice shall not be acceptable [from their hands]. Children born to such women shall not receive the Sacred Thread, no matter whether [their father] belongs to any Brahmin or other Sacred Thread-wearing caste; they shall become [members of a] Non-enslavable Śūdra caste. The children of the Non-enslavable Alcohol-drinking caste shall become [members of an] Enslavable Alcohol-drinking caste. Children born to men belonging to an Enslavable Alcohol-drinking caste shall belong to a lower category [within the group] of the Enslavable Alcohol-drinking castes. If the wife has knowledge about her husband's sexual intercourse with such a woman and has [thus] abstained from having illicit sexual intercourse with him and from taking cooked rice and water from his hands, but has not been able to talk about it out of shame and keeps [the matter] hidden, and if she then lets [her husband] contaminate his fellow caste members through cooked rice and water, she shall be fined 25 rupees for hiding the fact which [subsequently] contaminated others through [the acceptance of] cooked rice and water [from his hands] even though she was aware of it. All persons who unwittingly [accepted cooked rice and water from the hands of the guilty person] shall be granted expiation for unwitting contamination.

MA<sub>2</sub> 89.23a. If a man has knowingly had illicit sexual intercourse with a woman belonging to an Untouchable caste and has consumed cooked rice or water from her hands, and if the man, without revealing the sexual intercourse he has had with that woman, continues to have sexual intercourse with his ritually married wife, a concubine, common woman or the like, and if the wife who allowed him to have sexual intercourse with her and accepted cooked rice from his hands without knowing that he had had sexual intercourse with a woman from an Untouchable caste, does not become pregnant by him, she shall be granted expiation with respect to water. She shall not be granted expiation with respect to cooked rice if she becomes pregnant by him. Only water shall be acceptable from her; thus, expiation with respect to water shall be granted to her. Only water shall be acceptable also from the children born to her [from him], but not cooked rice. If the wife has knowledge of her husband's illicit sexual intercourse with such a woman [from an Untouchable caste] and has [therefore] abstained from having sexual intercourse with him and from taking cooked rice and water from his hands, but has not been able to talk about it due to shame and keeps [the matter] hidden, she shall be fined 20 rupees. All persons who have unwittingly [accepted cooked rice and water from the hands of the guilty person] shall be granted expiation for unwitting contamination with respect to cooked rice and water. If the wife has knowledge of her husband's illicit sexual intercourse [with the woman from an Untouchable caste], but knowingly allows her husband to have sexual intercourse with her and accepts [cooked rice] from his hands, she shall not be granted expiation with respect to cooked rice and water, although she accepted cooked rice from her own husband and allowed him to have sexual intercourse with her. She shall be placed in the caste of the woman with whom her husband committed adultery.

24. If any person belonging to a caste whose members are to be punished by having their heads shaved [in lieu of the death sentence] and whose head has been shaved [and he has thereby been degraded to a lower caste], and while being shaved was also forced to eat forbidden food, and was punished as such because of the malice of ministers (*bajira*) and *bhāradāra*, although he has not caused any harm to his government, nor spoiled [friendly relations] with the northern and southern emperors, nor threatened the life of the king, ministers and nobles, nor had illicit sexual intercourse with the wife of another person, nor committed any murder or any other crime punishable by the shaving of the head, he shall not receive expiation for cooked rice, [but] he shall receive [expiation] for water. Expiation shall be granted for water only. If such a person asks for expiation, saying: ‘It is true that my head has been shaved, but I was not fed forbidden food’, expiation shall be granted if the nobles hold [it to be true] that he was shaved without being fed forbidden food. After looking at [the status of] the person, the *dharmādhikāra* shall collect a *godāna* at the rate of 25 rupees for [persons of] the *abbala*, 12½ rupees for those of the *doyama*, 6 rupees for those of the *sima* and 3 rupees for those of the *cahāra* category, and expiation shall be granted for cooked rice and water. Such a person shall then rejoin his caste and fellow caste members, after performing penance.

25. Subsection [1]: When any person belonging to a Brahmin, Rajapūta, Kṣatriya or other Sacred Thread-wearing caste commits incest or has illicit sexual intercourse with a blood relative or with someone from the same *gotra*, or with someone belonging to a [Water-unacceptable but] Touchable caste, without taking cooked rice and water [from her hands], except for [a woman from an] Untouchable caste;

Subsection [2]: When any person belonging to an Enslavable Alcohol-drinking or Water-unacceptable caste has illicit sexual intercourse with a woman whose caste status is higher than his own, up to the Brahmin caste, or with someone from the same *gotra* or with classificatory or clan relatives;

Subsection [3]: When any person kills an Upādhyāya or Jaisī Brahmin who committed adultery with his wife who had [so far] remained faithful to [her husband];

Subsection [4]: When he had been punished by shaving his head on charges of treason; if any person who has committed any of the crimes in subsections [1–4], [but] has not been branded with a letter or insignia on his face, goes to a place where armed combat is taking place between his government and an enemy, saying ‘I will expiate my crime by fighting to the death (*dehānta prāyaścitta*)’, and fights [accordingly], the *dharmādhikāra* shall grant him expiation. He shall be pardoned if the woman with whom he has had sexual intercourse is related to him by blood, sharing a common ancestor up to 7 generations back. Water may be taken [from his hands], but not cooked rice. Water may be accepted [from his hands], but cooked rice shall not be accepted. Both cooked rice and water may be accepted from his hands if he has committed any other crime.

26. A person branded with the [initial] letter of a caste [name] on the face for having illicit sexual intercourse with a member of a [Water-unacceptable but] Touchable or an Untouchable low caste; a person branded with the letters *dā-ma-la*; a person from a Water-acceptable caste



who has been deprived of the right to consume water with his fellow caste members and whose share of property has, in accordance with the *Ain*, been confiscated for having illicit sexual intercourse with somebody from a Water-unacceptable caste: and a person who has knowingly consumed cooked rice and water from [the hands] of [somebody from] a [Water-unacceptable but] Touchable or Untouchable caste—such kinds of guilty persons shall not regain their [previous] caste status and [right of eating] cooked rice [together with their fellow commensals]. If such persons go to a place where armed combat is taking place and they participate in the fighting, their crime shall be pardoned, but they shall not regain their [previous] caste status and [the right of consuming] cooked rice and water [with their fellow commensals].

27. If any man or woman from any of the Four Varṇas and Thirty-six castes commits any crime punishable by *dāmala*, and is accordingly branded on the face, but escapes, their children shall belong to a fallen caste. If [her sons] take as wives, with mutual consent, women from a [Water-unacceptable but] Touchable or Untouchable castes, provided they do not accept cooked rice and water from the hands of such women, this shall not be considered a crime. If they take a wife from a Water-acceptable caste, they shall be punished in the same manner as a man from an Untouchable caste who takes as his wife a woman from a Water-acceptable caste.

28. If anybody who takes cooked rice and water from the hands of somebody from the Four Varṇas and Thirty-six castes who is guilty of sexual intercourse with, or of having accepted cooked rice and water from the hands of, somebody from a low caste, after having seen [the offence being committed] or knowing about it, but has not offered cooked rice and water to other persons, he shall be degraded to the caste of the person from whose hands he had consumed cooked rice and water. [Imposing] fines and confiscating [his property] shall not be allowed. If such a person, having accepted cooked rice and water [from the hands of a person who is guilty of the offences mentioned above], allows his fellow caste members to consume cooked rice touched by him, or offers water from his hands to any other commoner, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be degraded to the same caste [as the person from whose hands he had consumed cooked rice and water]. If his wife unwittingly allows him to have sexual intercourse [with her], and if his sons and other family members have [unwittingly] consumed cooked rice and water from his hands, they shall be granted expiation [for] unwitting contamination. If his wife has knowingly allowed him to have sexual intercourse with her, and if other persons knowingly consume cooked rice and water from his hands, those who are past the age of 12 shall be degraded to his caste. Expiation shall be granted to innocent children under the age of 12. After [the share of property] of the chief offender in the household has been confiscated, the share of property of other family members shall not be confiscated. If a person from an Enslavable caste takes cooked rice and water [from the hands of a person who is guilty of the offences mentioned above], [but] does not contaminate his fellow caste members through cooked rice, and other persons through water, he shall be degraded to the same caste [as the offender]. [Imposing] fines and confiscating [property] shall not be allowed. If he has contaminated his fellow caste members through cooked rice and has contaminated others through water, he shall be expelled from his caste, he shall be degraded to the same caste [as the original

offender] and be enslaved. If his wife unwittingly allows him to have sexual intercourse [with her], and his sons and [other members of] his family consume cooked rice and water from his hands, they shall be granted expiation [for purification] from unwitting contamination. If his wife has knowingly allowed him to have sexual intercourse [with her] and others have knowingly consumed cooked rice and water from his hands, they shall be degraded to the same caste [as the original offender] if they are past the age of 12, and expiation shall be granted if they are under 12. After the chief offender has been enslaved, the other members of his family shall not be enslaved.

29. If any person belonging to the Four *Vaṛṇas* and Thirty-six castes, including the Sacred Thread-wearing castes, being away from home or while being abroad falls ill, suffers a fall, is wounded or is bitten [by animals], [thus] becoming helpless, and because no one from an appropriate caste is available in the foreign country [this person] takes cooked rice and water from the hands of a person of a lower caste than his, or water from the hands of a person from a Water-unacceptable caste, and if such a person, after becoming well again, offers the reason, saying, ‘I have accepted cooked rice and water from the hands of such persons while being very ill and helpless’, then, because the latter had offered [cooked rice and water] in order to help, while the former was unable to move, and because no other person of appropriate caste status was available at that place, [the low-caste person] who had offered cooked rice and water to him shall not be held accountable. Penance shall be granted to the person who has accepted cooked rice and water [from the hands of the low-caste person]. If this person, who himself reports that he has eaten [cooked rice and water] in a helpless condition, dies without receiving penance, his sons, brothers or other [members of the] family shall also receive penance. If any person has accepted cooked rice and water from the hands of a person belonging to a lower caste while being in a helpless condition, [but] neither the eater nor the one offering reports [the matter] and [thus] keeps it secret, and if the secret is reported by a third person, then, because they had failed to report the matter, the person [who has accepted cooked rice and water from the hands of a low-caste person] shall be deemed to have done so of his own will. [The low-caste person] who had offered him [cooked rice and water] shall be fined 20 rupees. The eater shall not receive expiation; it shall not be granted [to him]. If the eater offers cooked rice to other innocent persons, he shall be fined 40 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

30. If a father and a mother have been degraded because they have had illicit sexual intercourse with or consumed cooked rice and water from somebody belonging to a [Water-acceptable but] Touchable caste or Untouchable caste, and were [then] placed in these castes, and if children born to them before such degradation have remained with them and consumed cooked rice and water [from their hands], and if the relatives of such children on the paternal or maternal side, or any friends, come and submit a petition before the children have crossed the age of 12, saying ‘They are of pure birth and we are willing to consume cooked rice and water [from their hands] if expiation is granted to them’, penance shall be granted to them. If the children between the ages of 12 and 16 and having [thus] become reasonable (*jñāna*), do not have a guardian, and if they

have not accepted cooked rice and water from the hands of their father and mother, and if they then come to [court], claiming ‘We were innocent children, there was nobody to take care of us, [and so] we lived together with our father and mother, consuming cooked rice [and water] from their hands; we [therefore] want to do penance’, they shall be considered to have unwittingly eaten [cooked rice and water offered by their parents]. Inquiries shall be conducted if they approach any *adālata*, *ṭhānā* or *amāla* with this petition. Or, even if they do not submit any petition, but it becomes known to others, penance shall be granted to them. Children who continue to consume cooked rice and water even after they have passed the age of 16 shall not be granted expiation. If any head government official issues a written certificate of rehabilitation in the case of water, saying ‘They are eligible for expiation’, [yet] knowing about their offence, his share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread, if he belongs to a Sacred Thread-wearing caste, shall be removed, and other persons [belonging to other than the Sacred Thread-wearing castes] shall be degraded to the same caste [as the children]. If other local officers [such as a] *tharī* or *mukhiyā* declare that water can be accepted [from the hands of such children], they shall be fined 20 rupees each, and every [other] member of the *kacaharī* shall be fined 5 rupees each. No fine shall be imposed on persons who were not present in the *kacaharī*. If the fellow caste members who have consumed cooked rice and water [from their hands] and members of his family ask ‘Kindly grant us expiation, we will not mix with him’, expiation shall be granted.

31. If any person from the Upādhyāya Brahmin caste to [other] Sacred Thread-wearing castes is punished by shaving his head [in lieu of death sentence] after having committed incest with a blood relative other than his natural mother and his daughter whom he himself has begotten, or after having been charged with treason, the offspring born to such sinful persons before they had received expiation shall be granted expiation for water and shall become member of a Non-enslavable Śūdra caste.

32. If a man who has passed the age of 12 and who belongs to any of the Four Varṇas and Thirty-six castes has had illicit sexual intercourse with a woman from an Untouchable or a Water-unacceptable [but Touchable] caste, or has committed incest with a blood relative, or has eaten forbidden food [such as] human faeces, or has had anal intercourse, and the man [then] marries a girl of his own caste before the matter is known to others, and if one or two such cases of misconduct are reported after the marriage, the wife who has married that boy shall be granted expiation for cooked rice and water if she says, ‘I will not be with this man and I will also not consume cooked rice and water from his hands’, and if she has not had any children nor been pregnant [by him]. If she has had children or is pregnant, she shall be granted expiation for water only. Due to the expiation [granted] to the mother, water can [also] be accepted from her children. If such a woman subsequently commits adultery with another [man], the husband shall not be entitled to kill his wife’s paramour. If he kills [his wife’s paramour], he shall be executed—taking life for life.

33. If any person belonging to the Sacred Thread-wearing caste knowingly accepts cooked rice and lentils, not including rice cooked in milk (*khīra*), from the hands of a person belonging to

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a low caste from whom cooked rice is not acceptable, or from a kitchen which has been polluted by such a person, he shall not receive expiation; it shall not be granted [to him]. If he consumes cooked rice and lentils from the hands of a person belonging to a lower caste or from a kitchen which has been polluted by a person belonging to a lower caste, and if he contaminates his fellow caste members [through cooked rice], his share of property shall, in accordance with the *Ain*, be confiscated, and he shall be placed in the caste of that person whom he has touched and from whose hands he has eaten. He shall not be granted expiation for cooked rice.

34. If a man from any Sacred Thread-wearing or Alcohol-drinking caste other than Upādhyāya Brahmins has taken as his wife a girl of commensal relatives, [i.e.] of a matching caste, after the girl has been given the initiatory mantra [if she belongs to a family where it is customary] to give the initiation [to the married wives],<sup>409</sup> [then] the man who has taken the girl [as his wife], and also his brothers, are under obligation to consume cooked rice [from her hands]. If they do not consume [cooked rice from her hands], and a complaint is made at any *adālata*, *ṭhānā* or *amāla*, [the officers] from these offices shall fine them 10 rupees each. [The brothers] shall be forced to consume cooked rice [from her hands]. Their fellow caste members shall not be obliged to accept cooked rice from the hands of a widow who has been taken as wife [by a person belonging to a Sacred Thread-wearing or Alcohol-drinking castes other than the castes of Upādhyāya Brahmins] or a married woman who has been taken as mistress by him after committing adultery with her, even if she is of the same caste, if they do not want to do so. While partitioning the property, such persons as [a widow or remarried wife] shall be given a share of  $\frac{2}{5}$ , if a ritually married wife<sup>410</sup> receives a share of  $\frac{3}{5}$ .

35. When hearing the mantra (i.e. during the initiation), the members of Sacred Thread-wearing castes, including Brahmins, and those belonging to Alcohol-drinking castes for whom it is customary to receive the initiation, shall hear and recite the mantra given by their guru according to their own tradition as followed by their fathers and forefathers (*purkhā*). If they do not recite the mantra according to their own tradition as followed by their fathers and forefathers, and follow the Buddhist path or any [other] atheistic *jhannā-pannā* doctrine<sup>411</sup>, a fine of 50 rupees shall be imposed on them. If they have themselves consumed cooked rice from a follower of the *jhannā-pannā* doctrine, and if they have also contaminated others [by feeding them cooked rice], their share of property shall, in accordance with the *Ain*, be confiscated. Their Sacred Thread shall be removed and they shall be degraded from their caste status.

36. When hearing the mantra (i.e. during the initiation), a person following the householder (*grhastha*) *dharma* and belonging to the Brahmin, Rajapūta, Sacred Thread-wearing or Kṣatriya castes shall not hear the initiatory mantra from an ascetic [such as a] Sannyāsī, Vairāgī, Nānaka, Kanaphaṭṭā, Jogī, Jaṅgama or Sebaḍā who has put on the robe, and [he shall not] respect them

409 In some Newar castes (e.g. Karmācārya, Śreṣṭha, Rājopādhyāya etc.), it is usual that the wife receives the tantric *dikṣā* after marriage.

410 *sa*, read *sadyale* (MA<sub>2</sub>).

411 The meaning of this term is not clear. It seems to refer to a doctrine rejected by Hindus.

as his preceptor. If such a householder does respect somebody amongst these ascetics who has put on the robe as his guru and receives the initiatory mantra from him, the householder shall be fined 50 rupees. If he has consumed cooked rice [from the hands of such a guru] and has also contaminated others [by feeding them cooked rice], he shall be punished according to the *Ain*'s [Art. 90] 'Contamination through Cooked Rice'. If any person, man or woman, who is not following the *dharma* of a householder receives the initiatory mantra from any ascetic who has put on the robe, it shall not be considered a crime.

37. If a man from a caste not allowed to wear the Sacred Thread lies about his caste status and states, 'I belong to a high caste' and wears the Sacred Thread in his own country or goes to a foreign country and returns with the Sacred Thread, and if he contaminates other persons [by feeding them] cooked rice while wearing the Sacred Thread, and if he belongs to a Non-enslavable Alcohol-drinking caste, his share of property shall, in accordance with the *Ain*, be confiscated after putting the wedding expenses [for his children] aside, his Sacred Thread shall be taken, he shall be imprisoned for 1 year and [then] be set free. If he belongs to an Enslavable Alcohol-drinking caste, the Sacred Thread shall be taken away from him and he shall be enslaved. The granting of expiation and for the purification of unwitting contamination shall be arranged for any person who ignorantly [takes cooked rice from his hands]. If he has worn the Sacred Thread while staying in his own country and did not contaminate others [by feeding them cooked rice], he shall be fined 60 rupees. If he goes to a foreign country and returns with the Sacred Thread from there, [but] does not contaminate others by feeding them cooked rice, he shall be fined 20 rupees. If he does not pay the amount [of the fine], he shall, in accordance with the *Ain*, be imprisoned at the rate of 1 month for every 5 rupees [of the unpaid fine].

38. If someone has had illicit sexual intercourse with a woman belonging to any of the Water-unacceptable but Touchable castes, such as a Muslim, Mleccha, Kusle, Kasāī, Kalavāra, Dhobī or Kulu, but has not taken water from her [hands], and if the same person then has sexual intercourse with his wife, the children born to such a wife shall become pure through the expiation of their father.

39. If someone from a Sacred Thread-wearing caste has committed incest with a blood or classificatory relative (*nātā*), [and if they] are degraded and placed in a Non-enslavable Śūdra caste because of that guilt, the children born to that man and woman after they have become such sinners shall not receive the Sacred Thread. They shall remain in a Non-enslavable Śūdra caste. Water may be accepted [from their hands].

40. Anyone from a Sacred Thread-wearing caste other than Brahmins may wash the feet of a daughter born to him by a girl or widow of a matching caste whom he has taken as a wife, and drink the washing water.<sup>412</sup> Any man who washes the hands of a daughter born to him from a wife from whose hands he is not allowed to consume cooked rice, etc., and [then] drinks the washing water shall not be held accountable. Whoever drinks used foot-washing water shall be

412 *Godādhoi* (or *godḍhuāi*) is the ritual washing of the bride's and groom's feet during the wedding.

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fined 2½ rupees and penance shall be arranged for him after he has been charged a fee of 8 *ānās*. If anybody belonging to a Sacred Thread-wearing or Alcohol-drinking caste washes the feet of a daughter born to him by a common woman or by a wife who belongs to a Water-unacceptable caste whose members may or may not be enslaved, and [then] drinks the washing water, shall be fined 5 rupees and expiation shall be granted after a *godāna* of 1 rupee has been collected.

41. The father, brother, friends and relatives may wash the hands of the bride and the bridegroom during the wedding of a daughter born to an Upādhyāya Brahmin by an Upādhyāya widow, or by a girl of a Sacred Thread-wearing caste who has been taken as a wife with the [proper] rites of marriage, or who has simply been taken (i.e. without any marriage ritual). If such relatives and friends wash the hands [of the bride and bridegroom] and [then] drink the washing water, they shall not be held accountable. Those who wash the feet and drink the washing water, shall be fined 2½ rupees and penance shall be arranged for them after they having been charged a *godāna* of ½ rupee. If someone from a Sacred Thread-wearing caste washes the feet of a daughter born to him by a common woman or a wife of a Water-unacceptable caste whose members may or may not be enslaved, and drinks the washing water, he shall be fined 5 rupees and penance shall be arranged for him after a *godāna* of 1 rupee has been collected.

42. A Brahmin may receive the *ṭikā* and accept *sidhā*, *dakṣiṇā* and so forth, given either with the ritual declaration (*saṃkalpa*) or just like that (i.e. without *saṃkalpa*) by the hands of [persons belonging] to a Water-acceptable caste, including the Sacred Thread-wearing castes. Neither the giver nor the taker shall be held accountable. [However], a Brahmin may not receive any *ṭikā* and accept *sidhā*, *dakṣiṇā* and so forth, given either with the *saṃkalpa* or bringing it into contact with water by the hands of [persons belonging] to a Water-unacceptable [but Touchable] or Untouchable caste. If he receives such things, the objects in question (*bigō*) shall be confiscated and he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. Both the giver and taker shall not be held accountable if anybody from a Water-unacceptable [but Touchable] caste offers pure (*cokho*) things, such as grain, which have not come into contact with water, or other pure things, such as *dakṣiṇā*, land, slaves or the like, without performing *saṃkalpa*.

43. If anybody from a Water-acceptable caste receives the *ṭikā* from the hands of somebody from a Water-unacceptable [i.e.] Untouchable caste, both the giver of the *ṭikā* and the taker of the *ṭikā* shall be fined 5 rupees each. Expiation shall be granted to persons from higher castes who receive the *ṭikā* after a *godāna* of ½ rupee has been collected.

44. If someone belonging to a Jaisī caste or any other caste hides his caste status and falsely claims to belong to an Upādhyāya Brahmin caste and lets any other person sip water with which his feet have been washed, he shall be imprisoned for 6 months, if he is a member of the Jaisī caste, or for 18 months, if he belongs to any other caste. He shall not be released before the end of his term of imprisonment, even if he pays the amount in lieu of the prison term. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

45. If someone belonging to a Jāisī caste or any other caste hides his caste status and falsely claims to belong to an Upādhyāya Brahmin caste and takes the *ṭīkā* and lets others worship him, he shall be imprisoned for 4 months, if he belongs to a Jaisī caste, or for 12 months, if he belongs to any other caste. If he pays the fine in lieu of the prison term, it shall, in accordance with the *Ain*, be accepted and he shall be set free.

46. If someone from a Sacred Thread-wearing caste consumes cooked rice or other food either after sunset, [though] it had been cooked in the kitchen in the morning, or after sunrise, [though] it had been cooked the previous evening, regardless of whether the cook had stayed in the kitchen or not, such a person need not obtain expiation or be fined, if the kitchen has not been touched by anybody from a caste not allowed to touch the kitchen and from whose hands cooked rice is unacceptable. He shall remain in his own caste.

47. If a person eats cooked rice cooked with milk that was prepared in a cowshed or left overnight, he need not obtain expiation nor can he be fined if it had been brought in after cooking it separately by people of his caste, without<sup>413</sup> letting it be touched by someone from whose hands food cannot be taken if touched.<sup>414</sup> He shall remain in his own caste.

48. If someone belonging to a Sacred Thread-wearing caste consumes cooked rice cooked by a person from whose hands he is allowed to consume cooked rice and who is wearing a shirt (*labedā*) and trousers (*surūvāla*),<sup>415</sup> excluding leather, or if he himself consumes [cooked rice] wearing a shirt and trousers containing no leather, neither the cook nor the eater need to obtain expiation or be fined. They shall remain in their own caste.

49. [The following decision was made on] Saturday, the first day of the bright fortnight of Pausa in the year [VS] 1917: It became apparent that the people of Mugalāna do not accept water [touched by] the Meczyā caste, who live at Morang district in Madhesa of the Gorkhā realm, owing to the fact that they consume buffalo, pig and chicken meat. [The subjects of] our realm, too, do not accept water from the Meczyā caste. While [discussing the question] in the Kausala of the *bhāradāras* whether water can be accepted from the members of Meczyā caste or not from now [on], the Kausala of the *bhāradāras* decided the following: water shall be accepted from Meczyā for the [following] reasons: [a] water from Newar, Magara, Guruṅga, Bhoṭe and Lāpacyā is also accepted in our realm, although they, too, consume buffalo, pig, chicken, cow and elephant meat; [b] earlier, water had been accepted from the Meczyā caste and sons and daughters of theirs are in the palace as slaves; [c] they do not accept water from Water-unacceptable and Untouchables and Muslims; [d] they respect Śiva as their God, and therefore they are the caste whose path is Shaivism. From today onwards, whoever [belonging] to the Parvatīya Thārū caste does not accept water from Meczyā caste shall be fined 5 rupees. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

413 *chuvāī*, read *nachuvāī* (MA<sub>2</sub>).

414 *choyo śāna nahunyā jāta*, read *choi khāna nahunyā jāta* (MA<sub>2</sub>).

415 For Twice-born, it is traditionally prescribed to wear a *dhoti* during meals.

50. From now on, all [people belonging to the] Khasa caste who wear the Sacred Thread have been granted the title (*ilakāpa*) ‘Kṣatri[ya]’ by [His Majesty]. In all documents, their first names shall be written first, followed by the family name (*thara*) and then the title ‘Kṣatri[ya]’.

51. If a woman who was to be punished by *dāmala* because of killing somebody without any right to do so is granted expiation, or a man who belongs to a caste whose members cannot be punished with capital punishment [but] who has confessed before an *adālata*, *ṭhānā* or *amāla* that he is guilty of murdering another person, is granted expiation—but ostracised with respect to water only, yet not branded with the letter[s on his left cheek]—, the *hākima* of the *adālata*, *ṭhānā* or *bhāradāra* of any *aḍḍā* or *gauḍā* office, [or other judicial officers such as] *diṭṭhā*, *bicārī*, *amālī*, *dvāre*, *mukhiyā* or *jimmāvāla* who [decide] to grant the man or woman expiation, and the *dharmādhikāra* who grant him or her expiation, shall be fined 50 rupees and be released, if he has not taken water or cooked rice from the hands of such a guilty person. If he has taken only water, he shall be fined 60 rupees and expiation shall be granted for water. If he has consumed cooked rice, he shall be fined 50 rupees and be set free after being degraded [to a lower caste and] having his Sacred Thread removed, if he belongs to a Sacred Thread-wearing caste; if he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded and be set free. If he accepts cooked rice [from the hands of the guilty person] and contaminates his fellow caste members through cooked rice, his share of property shall, in accordance with the *Ain*, be confiscated, and he shall be set free after having been degraded [to a lower caste and] having had removed his Sacred Thread, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded. If persons present at the *kacaharī* have knowingly consumed cooked rice and water from the hands of [such a guilty person] because their *hākima* himself had done so, they shall be fined 30 rupees if they have consumed cooked rice, and 20 rupees if they have consumed water. They shall be granted expiation for cooked rice and water. If the *hākima* had not granted expiation [to the murderer], and they themselves have knowingly taken water [from such a guilty person], the main person shall be fined 50 rupees and the others 20 rupees each. They shall be granted expiation for water. If they have [knowingly] consumed cooked rice, the main person shall be fined 50 rupees and he shall be set free after having been degraded [to a lower caste and] after having had his Sacred Thread removed, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he shall simply be degraded. If he has consumed [cooked rice] and has contaminated others [through it], his share of property shall, in accordance with the *Ain*, be confiscated, and he shall be set free after having been degraded [to a lower caste and] after having had his Sacred Thread removed, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he shall simply be degraded. If other persons have knowingly accepted [cooked rice and water from his hands], they shall not lose their caste, because the chief guilty person has already been punished. [However, each of them] shall be fined 30 rupees and be granted expiation for cooked rice. Expiation shall be granted for cooked rice and water to persons who have unwittingly accepted cooked rice and water [from the hands of the guilty person]. After the person who has to be punished by *dāmala* is arrested, he shall, in accordance with the *Ain*, be punished by *dāmala*.



52. If anybody accuses somebody else of having committed an act which is punishable through degradation [of caste status] and [banning with respect to] cooked rice, but the accused person has not confessed it, and in the meantime another person consumes cooked rice and water from his hands, and if afterwards the accused confesses his guilt, the person who had consumed cooked rice or water from his hands before the accused had made his confession shall be fined 30 rupees if he has consumed cooked rice, and 10 rupees if he has consumed water, and shall be granted expiation.

53. If somebody whose head has been shaved [in lieu of death sentence] for committing a crime punishable through shaving his head and who has also been ostracised with respect to water and cooked rice [touched by him], steals, under any pretext (*dhāṭanu*), the printed form (*liphā*) of the *dharmādhikāra* [used for issuing writs of expiation] and forges such a writ [and then] presents it [to others], and if another person believes the certificate of expiation to be authentic and consumes cooked rice and water [from the forger], that person shall not lose his caste status because it is assumed that he had consumed [cooked rice and water] without understanding the [authenticity of the writ of] expiation which had been presented [to him]. He shall be fined 20 rupees if he has consumed cooked rice from the hands of any person ostracised with respect to cooked rice, and 10 rupees if he has consumed water from the hands of any person ostracised with respect to water, and he shall be granted expiation.

54. If a man or woman from any Sacred Thread-wearing caste who is below the age of 12, who is initiated (*karma calnu*), who has been ostracised with respect to cooked rice for consuming forbidden food which causes the loss of caste and who has begotten offspring, dies without obtaining expiation, and if his or her funerary rites are performed after obtaining rehabilitation for ritual purification (*kryāśuddhako patiyā*), and if his or her offspring or any other relative comes complaining, ‘This person was ostracised with respect to cooked rice for eating forbidden food that caused the loss of his caste status, at a time when he was under the age of 12. He died before obtaining expiation, and his funerary rites were performed after obtaining *kryāśuddhako patiyā*. [Therefore] his offspring cannot be deprived of their caste status just because of this. Cooked rice shall be acceptable [from them]’; and if the fellow commensals, notables, and *amālīs* who know of this fact certify that the parents [of the offspring] had consumed [forbidden food] when they were minors under the age of 12, [but] not after the age of 12, [in such a case] that statement shall be accepted. Since the parents had obtained *kryāśuddhako patiyā*, no other expiation shall be required. [The offspring] shall become pure after their initiation (*vratibandha*), wedding and other life-cycle rituals [are to be performed] according to their caste [customs]. They shall not lose their caste, and cooked rice shall be accepted [from their hands].

55. If any former *hākima* [of a government office] had ostracised, with respect to water, anybody from a pure caste [i.e.] from a Sacred Thread-wearing caste down to a Water-acceptable caste, because such a person had accepted cooked rice and water from the hands of somebody from a Water-unacceptable and Untouchable caste or had illicit sexual relations [with a woman

from an Untouchable caste], and if the *hākima*, *diṭṭhā*, *bicārī*, *amālī* or *dvāre* of any government office [such as] an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *amāla*, fraudulently or by hiding previous documents relating to the confession in such cases, arranges for the issue of *lālamohora* or *daskhata*, or a certificate or letter of expiation, falsely representing that water [from the hands of the guilty person] can be accepted, or falsely says, without actually referring the matter to the government, ‘I have referred the matter [to higher authorities and obtained an order accordingly]’, and if subsequent inquiries confirm that the previous *hākima*, etc. had actually obtained a confession and ordered that the water [from the hands of such a guilty person] shall not be accepted, [in such a case] such a *hākima* or *dvāre*, who has declared that water can be accepted, shall be set free, having fined him 500 rupees only. If he has not accepted water from the hands of such a [guilty person], he shall not lose his caste. If he has consumed water from the hands of such a [guilty person], he shall be released after being fined 500 rupees and after having had his Sacred Thread removed, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded after ostracising him with respect to cooked rice and water. If he does not pay the amount [of the fine], he shall be imprisoned at the rate of 1 month for every 5 rupees until [the fine] has been paid off in full. If the *hākima* who [said] that water can be accepted [from the guilty person] has not taken water [from the hands of such a person], but if it is proven that he has eaten [from the hands] of other persons who had had contaminating contact [with the guilty person], he shall not lose his caste. Expiation shall be granted to him.

56. If anybody knowingly consumes cooked rice and water from the hands of any person who has been punished by *dāmala* or who has been degraded [to a lower caste] by being given water to consume from the hands of somebody from a Water-unacceptable caste, or who has accepted cooked rice and water from the hands of somebody from a Water-unacceptable caste, and also had illicit sexual intercourse [with such a person], and if [the person who has accepted cooked rice and water] from the hands of such a [guilty person] has contaminated other persons through cooked rice and water, [in such a case] his share of property shall, in accordance with the *Ain*, be confiscated and he shall be set free after being placed in the same caste [as the guilty person]. If he did not contaminate other persons through cooked rice and water, his share of property shall not be confiscated and he shall be set free after being placed in the same caste as such a [guilty person]. His fellow commensals and other common people who have unwittingly consumed cooked rice and water from his hands shall be granted expiation [for purification] from unwitting contamination. No fine shall be required.

57. If any *hākima*, *amālī* or *dharmādhikāra* knowingly grants an order or certificate of expiation to any person who has been punished by *dāmala* or who has been degraded [to a lower caste] by being given water to drink from the hands of somebody from a Water-unacceptable caste, or who has consumed cooked rice and water from the hands of somebody from a Water-unacceptable caste and also had illicit sexual intercourse [with such a person], then such a *hākima*, *amālī* or *dharmādhikāra* shall not lose his caste, if he has only issued an order or certificate of expiation and has not consumed cooked rice and water from the hands of such a [guilty person].

He shall be set free after being fined 500 rupees. If such a *hākima* or *dharmādhikāra* has issued an order or certificate of expiation and consumed cooked rice and water from the hands of such a [guilty person] and then contaminated other persons, his share of property shall, in accordance with the *Ain*, be confiscated and he shall be set free after being placed in the same caste [as the guilty person]. If he has not contaminated other persons through cooked rice and water, his share of property shall not be confiscated and he shall be set free after being placed in the same caste as such a [guilty person]. His fellow commensals and other common people who have unwittingly consumed cooked rice and water from his hands shall be granted expiation [for purification] from unwitting contamination. No fine shall be required. If the person who had to be punished by *dāmala* is [caught and] arrested, he shall be punished by *dāmala*.

58. If anybody unknowingly consumes cooked rice and water from the hands of a person who has been punished by *dāmala* or who has been degraded [to a lower caste] by being given water to drink from the hands of somebody from a Water-unacceptable caste, or who has consumed cooked rice and water from the hands of somebody from a Water-unacceptable caste and also had illicit sexual intercourse [with such a person], yet did not know that consuming cooked rice and water from his hands would result in punishment by loss of caste, [in such a case] expiation [for purification] from unwitting contamination shall be granted, because consuming [food] without knowing [about its contamination] is considered ignorance (*bhor*). No fine shall be required. If the person who had to be punished by *dāmala* offered cooked rice and water from his hands to another person, [thus] deceiving him, he shall be punished by *dāmala* once he is arrested.

59. A person who has knowingly had illicit sexual intercourse with a woman from a Water-unacceptable but Touchable caste and afterwards consumes cooked rice and water [from her hands], or a person who knowingly consumes cooked rice and water [from her hands] and nothing more (i.e. without having sexual intercourse), and does not report that he had consumed cooked rice and water [from her hands], whether having had sexual intercourse with her or not, and [then] has sexual intercourse with his other ritually married wife or a concubine or a common woman, or offers them cooked rice and water from his hands, and if such a woman has had sexual intercourse with her husband or had consumed cooked rice or water from his hands without knowing that he had consumed cooked rice and water [from a woman of a Water-unacceptable but Touchable caste] whether having sexual intercourse with her or not, and if the wife, or concubine, or common woman does not become pregnant, [in such a case] she shall be granted expiation for cooked rice and water. She shall not lose her caste. If she becomes pregnant, cooked rice shall not be accepted [from her hands]. Expiation shall be granted for water only. Only water shall be acceptable from the hands of children born later to such a person, not cooked rice. Such children, if they belong to a Sacred Thread-wearing caste, including Brahmins, shall not receive the Sacred Thread; they shall become [members of a] Non-enslavable Śūdra caste. The children of a Non-enslavable Alcohol-drinking caste shall become [members of] an Enslavable Alcohol-drinking caste. The children of an Enslavable caste shall become [members of] an Enslavable caste which is below them in rank. If the wife had knowledge that her husband had consumed cooked rice and water from such a woman [from an Untouchable caste], whether he had sexual intercourse

with her or not, and if [afterwards] the wife has avoided sexual intercourse [with him] and also has abstained from consuming cooked rice and water from his hands, but could not report this fact out of shame and kept it secret, and [thereby] his fellow commensals have been unwittingly contaminated through cooked rice and water offered by him, [in such a case] she shall be fined 25 rupees for having hidden the fact which resulted in the contamination of others through cooked rice and water [offered by her husband], even though [she was] aware of the wrongdoing. Expiation [for purification] from unwitting contamination shall be granted to all the persons who ignorantly [consumed cooked rice and water from the hands of the guilty person].

60. If a person from any of the pure castes down to the Water-acceptable castes, including Sacred Thread-wearing castes, has illicit sexual intercourse with, and accepts cooked rice and water from the hands of somebody from a Water-unacceptable [but Touchable] or Untouchable caste, or from someone who had been removed from his [previous] caste, and if another person accepts cooked rice and water from the hands of such a person and is [therefore] ostracised with respect to cooked rice and water, and, because a confession to or admission of the first person's guilt was [later] obtained from said person, or even before such a confession or statement was obtained, and he or she has orally reported the matter on his or her own initiative, saying 'We have had illicit sexual intercourse with such a person and have also taken cooked rice and water', and if [then] any *hākima*, *diṭṭhā*, *bicārī*, *amālī*, *dvāre*, *ṭhekadāra*, *ijārādāra*, *tharī*, *mukhiyā*, *jimmāvāla*, *mijhāra*, *gauruṇi*, *jethā-būdhā*, *chaudharī*, *mukaddama*, *thāni* or *tharī* or any noble person who is from the same place [as the guilty person], or who comes from another [area], but knows that such a person has been ostracised with respect to cooked rice and water; [if such a person, officer or noble,] does not examine the confession [statement] or does not understand it or ignores the fact that the person in question has already confessed his or her guilt and has been ostracised with respect to cooked rice and water, or hides such a confession [statement] out of favouritism or intent to fraud, or arranges to have a *lālamohora*, *daskhata*, letter or certificate of expiation falsely declare that water [from the hands of the guilty person] can be accepted, or falsely says without actually referring the matter to the government, 'I have referred the matter to higher authorities and obtained an order', and if the officer has lifted the ban with respect to cooked rice and water after granting expiation, saying 'It happened out of ignorance', and if the case is later discussed in the *kacaharī* and it is decided that the confession [statement] that had previously been obtained is valid, or that the ban with respect to cooked rice and water is valid because of the oral confession and that [the guilty person, therefore,] should remain ostracised with respect to cooked rice and water; then the share of property of the main functionary who has lifted the ban shall, in accordance with the *Ain*, be confiscated, and his Sacred Thread shall be removed if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded and released [after] [his left cheek] has been branded with one (i.e. the initial) letter of [the name of] the caste [he is degraded to], if he has lifted the ban [on the guilty person] with respect to cooked rice and water, and knowingly accepted cooked rice and water from the hands of such a [guilty person], or from the hands of a person who has done likewise, and [then] offered cooked rice and water to family members and other fellow commensals who unwittingly accepted it.

If [such an officer or functionary] has consumed cooked rice and water [from the hands of the guilty person] and has not contaminated the members of his family and other fellow commensals through cooked rice, his share of property shall not be confiscated and he shall be set free after being placed in the same caste as such [a guilty person and] he shall not be branded with one (i.e. the initial) letter [of the name of the caste he is degraded to], [but] he shall be degraded [to a lower caste], having had his Sacred Thread removed, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded. If [such officers or functionaries] have not knowingly consumed cooked rice and water [from the hands of such a guilty person], or from the hands of a person who has consumed cooked rice and water from such a [guilty person], they shall be fined 500 rupees each. They shall not lose their caste.

If any *hākima* or *amālī* who hears about and is [thereby] informed about a case in which his predecessor had lifted [an order of] banning with respect to cooked rice and water, [and then], instead of arresting [the predecessor] and [thus] serving justice, later allows, because of negligence or favouritism, [other persons] to consume cooked rice and water in similar cases, he (i.e. the officer) and other persons who have consumed cooked rice and water [from the hands of the guilty person], because the predecessor had allowed them to do so, shall be fined 250 rupees each and he shall be granted expiation. They shall not lose their caste. For other [officers], including *tharī*, *mukhiyā* and *jimmāvālas*, and respective persons present in the *kacaharī* who have signed a statement saying that cooked rice and water can be taken from the hands of such a [guilty person], and have themselves consumed cooked rice and water from his hands, maintaining though that [the guilty person] had previously been banned with respect to cooked rice and water, no action shall be taken against the officer or functionary for having issued an order [lifting the ban] or granting expiation. Although [the *tharīs*, etc.] should have maintained that [the guilty person] be banned with respect to cooked rice and water, even though the officer or functionary had issued an order lifting the ban, they shall not lose their caste. Any persons who, after seeing the certificate of rehabilitation, have consumed cooked rice and water from their hands, or from the hands of other persons who have done so, shall not lose their caste. Each *mukhiyā*, *tharī*, *jimmāvāla*, *mijhāra*, *gauruṇi*, *jeṭhā-buḍhā*, *chaudharī*, *mahatau*, *ṭhekadāra*, *ijārādāra*, *thāni* or *tharī* shall be fined 100 rupees if they have issued and signed the statement, or fined 50 rupees each if they have only orally stated, but not signed, that it is permissible to accept cooked rice and water [from such guilty persons]. Persons who have stated in writing that it is only orally said that it is permissible to accept cooked rice and water [from such guilty persons] shall be fined 10 rupees, and expiation for cooked rice and water shall be granted. They shall not lose their caste. If persons who have either issued or signed a document fraudulently saying ‘Cooked rice and water may be taken from the hands of such persons’, [but] have not yet consumed cooked rice and water [from the hands of the guilty person], and if the matter is reported in the meantime, the person who had the document issued shall be fined 100 rupees, and the person who wrote it shall be fined 50 rupees, and any other persons who were present in court [on that occasion] shall be fined 10 rupees each. If any person has unwittingly consumed cooked rice and water [from the hands of the guilty person], he shall be granted expiation [and purification] for unwitting contamination. No punishment shall be required. Any person who does not pay the fine shall, in accordance with the *Ain*, be imprisoned.

61.<sup>416</sup> If a person from any of the pure castes down to the Water-acceptable [castes], including Sacred Thread-wearing castes, has illicit sexual intercourse with, and consumes cooked rice and water from the hands of somebody from a Water-unacceptable and Untouchable caste or was removed from his [previous] caste, and if another person consumes cooked rice and water from such a person and has [therefore] been banned with respect to cooked rice and water, because a confession or admission of his guilt was obtained from him or her, or even before such a confession [statement] was obtained, and if he or she has orally reported the matter on his or her own initiative, saying ‘We have had illicit sexual intercourse with such a person and have also consumed cooked rice and water’, and [then] if any *hākima*, *diṭṭhā*, *bicārī*, *amālī*, *dvāre*, *ṭhekadāra*, *ijārādāra*, *tharī*, *mukhiyā*, *jimmāvāla*, *mijhāra*, *gauruṇ*, *chaudharī*, *mukaddama*, *thāni* or *tharī* or [other] respective person who is from the same place [as the guilty person] or who has come from another [area], but knows that such a person has been banned with respect to cooked rice and water, does not examine the confession [statement], or does not understand it or takes bribes, and if the officer has lifted the ban with respect to cooked rice and water after granting expiation, saying ‘It happened out of ignorance’, and if the case is later discussed in the *kacaharī* and it is decided that the confession [statement] that had previously been obtained is valid, and that [the guilty person] should remain banned with respect to cooked rice and water, then the amount of the bribe and share of property of [each of] the main functionaries who lifted the ban shall, in accordance with the *Ain*, be confiscated, and his Sacred Thread shall be removed if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded and he shall be set free after one (i.e. the initial) letter of [the name of the] caste [to which he has been degraded] has been branded on his left cheek, if he has lifted the ban [on the guilty person] with respect to cooked rice and water, knowingly consumed cooked rice and water from the hands of such a [guilty person], or from the hands of a person who has done likewise, and [then] offered cooked rice and water to innocent family members and other fellow commensals.

If [such an officer or functionary] has consumed cooked rice and water [from the hands of the guilty person], and has not contaminated the members of his family and other fellow commensals through cooked rice and water, the branding [of his left cheek] with the [initial] letter [of the name of the caste he is degraded to] and confiscation of his share of property shall not be carried out. He shall be set free after being placed in the same caste as such a [guilty person], and after the amount of the bribe has been confiscated, and after his Sacred Thread has been removed, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded. If [such officers or functionaries] have not consumed cooked rice and water [from the hands of such a guilty person], or from the hands of a person who has consumed cooked rice and water from such a [guilty person], [each] shall be fined 500 rupees after the amount of the bribe has been confiscated. They shall not lose their caste.

If any *amālī* or *hākima* hears about any case in which his predecessor had lifted a ban with respect to cooked rice and water, [and then,] being informed, instead of arresting [the predecessor] and thus serving justice, later allows [other persons] to consume cooked rice and water in

416 This section is almost identical with § 60, except that it deals with bribery rather than favouritism, etc.

similar cases, because of negligence or favouritism, he (i.e. the officer) and other persons who have consumed cooked rice and water [from the hands of the guilty person], because the predecessor had allowed them to do so, shall be fined 250 rupees each and expiation shall be granted after the amount of the bribe has been confiscated. They shall not lose their caste. Other [officers], including *tharī*, *mukhiyā*, *jimmāvāla*, and noble persons present in the *kacaharī*, who signed a statement saying that cooked rice and water can be taken from the hands of such a [guilty person], and have themselves consumed cooked rice and water from his hands, or who allowed [this to occur] without first preparing a document saying that cooked rice and water can be taken from such persons, maintaining that though [the guilty person] had previously been ostracised with respect to cooked rice and water, no action shall be taken against the officer or functionary for having issued an order [lifting the ban] or for granting expiation. Although [the *tharīs*, etc.] should have maintained that [the guilty person] be ostracised with respect to cooked rice and water, even though the officer or functionary had issued an order lifting the ban, they shall not lose their caste. Any persons who, after seeing the certificate of rehabilitation, have consumed cooked rice and water from their hands, or from the hands of other persons who have done likewise, shall not lose their caste. If they have issued and signed the statement of confession, each *mukhiyā*, *tharī*, *jimmāvāla*, *mijhāra*, *gauruñ*, *chaudharī*, *mahatau*, *ṭheka* or *ijārā* holder, *thāni* or *tharī* shall be fined 100 rupees after the amount of the bribe has been confiscated. If they have only orally stated, but not signed [a statement], that it is permissible to accept cooked rice and water [from such guilty persons], each [of the abusers] shall be fined 50 rupees after the amount of the bribe has been confiscated. The [respective] persons in court who have stated in writing that it is only orally said that it is permissible to accept cooked rice and water [from such guilty persons] shall be fined 10 rupees, and expiation with respect for cooked rice and water shall be granted. They shall not lose their caste. If somebody has either issued or signed a document fraudulently saying ‘Cooked rice and water may be taken from the hands of such persons’, [but] has not yet consumed cooked rice and water [from the hands of the guilty person], and if the matter is reported in the meantime, the person who had the document issued shall be fined 100 rupees after the amount of the bribe has been confiscated, and the person who wrote it shall be fined 50 rupees after the amount of the bribe has been confiscated, and the remaining persons who were present in court [on that occasion] shall be fined 10 rupees each after the amount of the bribe has been confiscated. If any person has unwittingly consumed cooked rice and water [from the hands of the guilty person], expiation [and purification] for unwitting contamination shall be granted.

62. If any woman from the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearing castes, verbally admits that she had illicit sexual intercourse with a man from a higher or lower caste, or a caste equivalent to her own, or with a man from a Water-unacceptable [but Touchable] or Untouchable caste, but inquiries prove that there had been no actual sexual intercourse, or if the accused person dies without confessing his guilt, but the woman still confesses verbally before the *kacaharī* and signs a statement of confession that she has had illicit sexual intercourse with such a man, [in such a case] the woman shall be considered a verbally degraded offender as defined in the *Ain*’s [Art. 111] ‘Degradation through Verbal Declaration’. The commensal fellows of such a woman who consumed [cooked rice and water] from her hands before

the case is filed in the *kacaharī* shall not require expiation. They shall remain in their caste. But if they have knowingly consumed cooked rice and water from the hands of such a woman after the case had been filed in the *adālata*, *amāla* or *kacaharī*, and if such a woman has signed a [statement of] confession, they shall not be granted expiation; they shall [be degraded] to the same caste [as the woman]. The persons who unwittingly consume [cooked rice or water from the hands of such a guilty woman], shall be granted expiation [and purification] for unwitting contamination.

63. If anybody consumes cooked rice and water from the hands of any person who had confessed having committed any offence [which is punishable] through banning with respect to cooked rice and water, and if the guilty person could obtain expiation [for such an offence], thereby permitting cooked rice and water to be taken from his hands, the person who knowingly consumes cooked rice and water from the hands of the guilty person shall be fined 30 rupees, if he has consumed cooked rice, and 10 rupees if he has consumed water. Expiation for cooked rice and water shall be granted because the instigator obtains expiation. If the guilty person could not obtain expiation [for such an offence], the person who knowingly consumes cooked rice and water from his hands shall [also] not obtain expiation. He shall be set free after being placed in the caste of the guilty person. If he was not informed, it is a case of ignorance; expiation [and purification] for unwitting contamination shall be granted. No fine is required.

64. If any man or woman has knowingly had illicit sexual intercourse with somebody from a Water-unacceptable caste, and has knowingly consumed cooked rice and water from the hands of [a person] of such a caste, and if the matter is reported [to the court, etc.], and the guilty person has been degraded [to a lower caste], and persons who have ignorantly [consumed cooked rice and water from his or her hands] have undergone penance according to the *Ain*, and if anybody out of favouritism helps the person who has been banned with respect to cooked rice and water to have the ostracism lifted and succeeds in doing so, and himself consumes cooked rice and water from the hands of the guilty person, the main person who took the initiative shall be fined 500 rupees, and his Sacred Thread shall be removed, if he belongs to a Sacred Thread-wearing caste. If he does not belong to a Sacred Thread-wearing caste, he simply shall be degraded and he shall be set free. If such a person has not consumed cooked rice and water [from the hands of the guilty person], but has contaminated others by persuaded them to do so, he shall be fined 500 rupees. He shall not lose his caste. There shall be no need for a fine if any person has consumed [cooked rice and water from the hands of the guilty person] because the *hākima* or *amālī* has allowed it without knowing the facts. Expiation [and purification] for unwitting contamination shall be granted. If a [statement of] confession has been prepared and signed, but other persons have not yet consumed cooked rice and water [from the hands of the guilty person], the *hākima* or *amālī* who wanted to allow, out of favouritism, the acceptance of cooked rice and water [from such guilty persons] shall be fined 100 rupees, and the *tharī*, *mukhiyā* or *jimmāvāla* present in the *kacaharī* shall be fined 25 rupees, and the remaining nobles shall be fined 20 rupees each. If the *amālī* has only prepared the document of the confession, but other persons have not yet consumed cooked rice and water [from the hands of the guilty person], the other persons who have consumed cooked rice and water from the hands of such a [guilty person], believing that



cooked rice and water can be consumed from this person without first knowing the facts, shall be fined 10 rupees each. Expiation, in accordance with the *Ain*, shall be granted. If the amount [of the fine] is not paid, he shall, in accordance with the *Ain*, be imprisoned.

65. If anyone receives the *īkā* or [any ritual gifts such as] *sidhā*, *dakṣiṇā* and so forth, given by bringing them item into contact with water<sup>417</sup> or given with a ritual declaration, from the hands of a person who has been punished by *dāmala*, irrespective of whether or not the [initial] letter [of the name of the caste he is degraded to] has been branded on him, the objects in question (*biga*) shall be confiscated and he shall be fined 20 rupees, and expiation shall be granted after charging 4 *ānās*. The taker shall not be held accountable if he takes pure things, such as grain, *dakṣiṇā* (i.e. cash), land or slaves, which are given without performing the ritual declaration and without them being brought into contact with water.

66. If a woman from the Four Varṇas and Thirty-six castes is accused and arrested because of committing incest with a blood relative, or for having illicit sexual intercourse with a person who is not a relative, but belongs to a higher, equal, or lower caste, and if, after interrogation at any government office such as an *aḍḍā*, *adālata*, *īhānā* or *amāla* she says, ‘That person is the first to commit sexual intercourse with me’, and if such a person is arrested and interrogated and confesses his guilt, the procedure shall be according to the *Ain*. If the woman has accused any person who has gone to a distant [place or] foreign country, such a person shall be summoned by a *daskhata*, written order (*pūrjī*), letter or through a messenger if he is [still] in the [foreign] country, and [then] judgement shall be pronounced. If such a person is not in the country, and if any of his brothers or other relatives approaches the *kacaharī* with a statement saying, ‘We have met such and such a person at such and such a place, and told him: “You have been accused by such and such a woman as being the first person to have illicit sexual intercourse with her. If you are not guilty, go back and state your case. If you have had illicit sexual intercourse with that woman, confess that fact, and we shall arrange for expiation issued in your name according to the *Ain*.”’ The man replied, “It is true that I have had illicit sexual intercourse with that woman. If she has made a statement saying that I am the first person to have illicit sexual intercourse with her, I cannot state anything in my defence. My house and other property are there, do whatever is necessary according to the *Ain*. Whoever has ignorantly taken [cooked rice and water] from our hands should obtain expiation, issued in my name. But I will not go back there (i.e. to my country).” We have interrogated him and recorded his statement, taking a witness. If it is proven that he has not made such a statement, and that our evidence is false and baseless, we are ready to bear any penalty according to the *Ain*’, [then in such a case] the statement shall be filed, and the guilty person’s share of property shall be confiscated, [taking it from] his hands, according to the *Ain*. If necessary, expiation shall be granted, issued in the name of the persons who have ignorantly consumed cooked rice and water from the hands of the guilty person. If the person who has been accused comes back and files a complaint, saying ‘I have not had illicit sexual intercourse with such a woman and did not make the statements mentioned above to those persons when we met; they have caused my property [to be] confiscated

417 See §§ 87.2–3.

and expiation [to be] wrongly issued in my name', a hearing for the accused shall be held and [also] for those persons who had acted as his representatives and recorded a statement. If it is proven in court that those persons recorded a false and fictitious statement, thereby causing the property of the accused to be confiscated and expiation issued in his name, the shares of property of such persons shall be confiscated according to the *Ain*, and they shall be imprisoned for 2 years. If the fine in lieu of the prison term is offered, it shall be taken. They shall not lose their caste. The property confiscated from them shall be used to refund the property confiscated from the person who had earlier been wrongfully charged, and only the excess shall be given to the government. If the money is not sufficient, it shall not be [additionally] claimed. No fees of 10 and 20 percent and *baksāunī* for refunding the property, shall be charged. If the statement recorded in court by the persons concerned, saying 'This was said thus', is proven to be true, and [the person accused of illicit sexual intercourse] signs such a [statement of] confession, such a liar shall be imprisoned for 3 years, if such additional punishment is due according to the *Ain*, and he shall [then] be set free. If the person concerned submits his complaint after the death of the person who had recorded a statement in court claiming that the former had confessed his guilt, such a statement shall be regarded as valid and the case shall not be reviewed. If the guilt is punishable with fines or requires the payment of marriage expenses, and if the person accused of the offence is arrested, the fine or marriage expenses, whatever is necessary, shall be collected from him and he shall be set free. No punishment shall be inflicted unless the guilty person is arrested, nor shall any marriage expenses be paid. Expiation shall be granted to those persons who have ignorantly consumed [cooked rice and water from the hands of the guilty person].

67. If any person is arrested for [violating the rules of accepting] cooked rice and water, the *hākima*, *diṭṭhā*, *bicārī*, *amālī*, *dvāre*, *mukhiyā* of any *aḍḍā*, *adālata*, *ṭhānā* or *amāla* shall, after the matter is proven, judge the case after issuing an order, saying 'Do not offer cooked rice and water to anybody; you are [provisionally] banned'. If [the order] is necessary for cooked rice and water, then [it should be done so] for cooked rice and water. If it is necessary for water [only], then [it should be done] for water only. If, after investigation, it is found that expiation should be granted, or that the offence had been unwittingly committed, expiation shall be granted. If it is found to be true or doubts have been raised that expiation need not be granted, the person who had ordered: 'You are provisionally banned with respect to the use of cooked rice and water until the investigations are finished' shall not be considered to have committed any offence, if it is confirmed that he has not accepted cooked rice and water [from the hands of the person concerned]. No expiation shall be granted to him. He shall remain in his caste. If, after investigation, it is found that expiation cannot be granted [to the guilty person], he shall be banned, if it is necessary, from touching cooked rice and water, then [it shall be done so] for cooked rice and water; if it is necessary for water [only], then [it should be done so] for water only. Regarding the officer of the *kacaharī* who did not order the provisional ban with respect to the use of cooked rice and water [from the hands of the guilty person], after doubts have been raised and as a result of others unwittingly consuming cooked rice and water [from the hands of the guilty person], he shall be fined 100 rupees, if the matter concerns failure to prescribe a provisional ban with respect to the use of cooked rice, and 50 rupees in the case of water. Since [the guilty person]

had not been provisionally banned with respect to the use of cooked rice and water by the court, expiation shall be granted to persons who have consumed cooked rice and water from his hands. No fine shall be required.

68. If anyone ignores the provisional ban and fails to have [a certificate of] expiation issued in the name of a person who had been provisionally banned with respect to the use of cooked rice and water by any *adālata*, *ṭhānā* or *amāla* office, including the *dharmādhikāra*, *tharī*, *mukhiyā*, fellow commensals or noble persons, even if, according to the *Ain*, expiation shall be granted with respect to the use of cooked rice and water, and thus virtually purifying [the person alleged to have committed the offence], and if [the former] freely involves the latter in the use of cooked rice and lets him perform ceremonies for gods or ancestors, he shall be fined 50 rupees if he has done so with respect to cooked rice, and 25 rupees with respect to water. Expiation shall be granted to the person who had been provisionally banned according to the *Ain*. He shall not be degraded to a lower caste. If anyone who had been provisionally banned with respect to the use of cooked rice and water does not obtain expiation and ignorantly lets other persons consume cooked rice and water from his hands, or performs any ceremonies for gods or ancestors, the granting of expiation shall be arranged after imposing a fine of 50 rupees on him for having let others consume cooked rice from his hands, or for having performed ceremonies for gods and ancestors, and 25 rupees for letting others consume water from his hands.

69. Any Jaisī Brahmin shall be permitted to give the initiatory mantra or *gāyatrī* mantra only to a Jaisī of equal status (*bhāta mildā*), according to the tradition that has been handed down to him. Neither the one who receives nor the one who gives [the mantra] shall be considered as having committed any offence. [A Jaisī Brahmin] shall not be allowed to give [such mantras] to a person from any other Sacred Thread-wearing caste or from a Jaisī caste of higher status. If he does so, he shall be fined 50 rupees if he has given the mantra to an Upādhyāya Brahmin, 40 rupees if he has given the mantra to a Rajapūta, 30 rupees if he has given the mantra to a Sacred Thread-wearing Kṣatriya, and 20 rupees if he has given the mantra to a Jaisī of higher status. If an Upādhyāya, Rajapūta, Kṣatriya or Jaisī of higher status has received the mantra from a Jaisī who is of lower status and also is past the age of 16, he shall be fined at half rates. If the person who listened to the mantra is under the age of 16, the main person responsible for the arrangement of the [initiatory] mantra shall be fined at half rates. After that punishment, the Upādhyāya, Rajapūta or Kṣatriya shall receive the initiatory or *gāyatrī* mantras from an Upādhyāya Brahmin, whereas a Jaisī Brahmin [shall receive them] from an Upādhyāya Brahmin or from a Jaisī of equivalent or higher status, and according to the tradition of their castes. After listening to [the mantra] they shall be taken (i.e. initiated) into their caste.

70. With effect from the first day of the dark fortnight of [the lunar month] Vaiśākha in the year [VS] 1922, no person from any Water-acceptable caste of the Four Varṇas and Thirty-six castes such as Brahmins, Rajapūtas, Kṣatriyas, Vaiśyas and Śūdras, who have been recruited to the English Company, shall be allowed to let others consume cooked rice and water from their hands

without royal order), because it is heard that they sleep in the same tent and consume alcohol with the Water-unacceptable castes like Damāīs and Kāmīs. Nobody shall consume [cooked rice and water from their hands].

**The regulation regarding the granting of expiation with respect to water for persons employed in foreign countries:**

71. If persons return from foreign countries [such as] Tibet (*bhoṭa*) or Madhesa after having worked there as servants, labourers or porters, and having received payment of wages or salaries, and if it seems that they have slept in the same tent and used tobacco, etc. with people belonging to Water-unacceptable castes, no one shall consume water from the hands of such persons unless they have obtained expiation with respect to water. A certificate of expiation shall be issued by an *adālata* or *amāla* on payment of a fee of 4 *ānās*. The *dharmādhikāra* shall then grant expiation on payment of 4 *ānās*. [Penance] shall be arranged as taught in the authoritative scriptures (*nīti-smṛti*) for [a guilty person] who knowingly consumes [water] from the hands of such a person having no expiation.

**The regulation on granting expiation with respect to cooked rice and water to persons who have consumed cooked rice and water out of ignorance of any offence relating to cooked rice and water committed by any person, because of delays in disposing of the case:**

72. If the son, daughter, sister, daughter, daughter-in-law, mother, grandmother, paternal aunt, wife of maternal uncle, or any other relative of a person belonging to the Four Varṇas and Thirty-six castes is charged with any offence relating to the taking of cooked rice and water from the hands of a [person belonging to a lower caste], or relating to illicit sexual intercourse, until the matter is resolved, neither the plaintiff nor the respondent shall be allowed to touch cooked rice, if it is a matter of being banned with respect to cooked rice, or touch water if it is a matter of being banned with respect to water. The ban may or may not be lifted according to the *Ain* after the matter is disposed of in the case of those who have suppressed information relating to illicit sexual intercourse or any offence relating to the taking of cooked rice and water [from the hands of the guilty person]. As for other persons who have done so unwittingly, an *adālata*, *ṭhānā* or *amāla* shall issue a certificate of expiation in the name of the guilty person, if he or she loses the case, and of purity of the body (*dehaśuddha*), if he or she wins. The *dharmādhikāra* shall then issue a certificate of expiation mentioning both conditions. If the case has been disposed of on the basis of a confession, a certificate of expiation shall be granted in the name of the respondent according to the previous *Ain*.

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1. If a widow or an unmarried girl below the age of 11 from any of the Sacred Thread-wearing or Kṣatriya castes has consensual illicit sexual intercourse with someone from a Sacred Thread-wearing caste or the like whose [caste status] is inferior to her own and from whom she is not allowed to accept cooked rice, and if he contaminates her through cooked rice, he shall be fined 50 rupees. The fellow caste members [of such a contaminated person] shall be ordered to seek expiation with respect to cooked rice [in case they are contaminated by her].

2. If someone who is not entitled to wear the Sacred Thread and is born of a concubine belonging to a caste from whose members cooked rice may not be accepted, has sexual intercourse with a widow or an unmarried girl past the age of 11 from any of the Sacred Thread-wearing castes, and if he contaminates her through cooked rice, he shall be fined 120 rupees. The fellow caste members [of such a contaminated person] shall be ordered to seek expiation [with respect to cooked rice].

3. If someone from a Sacred Thread-wearing caste knowingly consumes cooked rice from the hands of someone from a caste inferior [in status] to his own, from whose hands water, at least, may be accepted, or if he consumes cooked rice or water from the hands of someone belonging to a Water-unacceptable or Untouchable caste, no fine shall be required [from him] in the case where he has not contaminated his fellow caste members through cooked rice. He shall become [a member] of the caste [of the person] from whose hands he has consumed cooked rice. He shall be assigned to that caste. He shall not be [further] held accountable. If such a person consumes cooked rice from the hands of someone whose caste status is inferior to his own and who wears the Sacred Thread, and if he contaminates his fellow caste members through cooked rice, he shall be fined 50 rupees and shall be assigned to the caste of that person [from whose hands he has consumed cooked rice]. He does not lose his Sacred Thread. If such a person consumes cooked rice from the hands of someone from any Non-enslavable Alcohol-drinking caste from whose members' hands water may be accepted, and if he contaminates his fellow caste members through cooked rice, he shall be fined 100 rupees and shall be assigned to the caste of that person, his Sacred Thread having been removed. If such a person consumes cooked rice or water from the hands of someone from a Water-unacceptable or Untouchable caste, and if he contaminates his fellow caste members through cooked rice, or [else] he contaminates any other person through water, his share of property shall, in accordance with the *Ain*, be confiscated, the initial letter of the caste [name] of that [person from whose hands he has consumed cooked rice or water]

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shall be branded [on his left cheek], and he shall be assigned to the caste of that person, having been ostracised with respect to cooked rice and water.

4. If someone from a Non-enslavable Alcohol-drinking caste knowingly consumes cooked rice from the hands of someone belonging to a Non-enslavable caste inferior [in status] to his own, from whose members' hands water, at least, may be accepted, or if he consumes cooked rice or water from the hands of someone belonging to a Water-unacceptable or Untouchable caste, no fine shall be required [from him] in the case where he has not contaminated his fellow caste members [through cooked rice or water]. He shall become [a member] of the caste [of the person] from whose hands he has consumed cooked rice. He shall be assigned to that caste. He shall not be [further] held accountable. If such a person consumes cooked rice from the hands of someone from a Non-enslavable Alcohol-drinking caste inferior [in status] to his own, and if he contaminates his fellow caste members through cooked rice, he shall be fined 10 rupees and be granted expiation. If such a person consumes cooked rice from the hands of someone from any Enslavable Alcohol-drinking caste from whose members' hands water may be accepted, and if he contaminates his fellow caste members through cooked rice, he shall be fined 20 rupees and be granted expiation, if his fellow caste members agree to consume cooked rice [from his hands]. If they refuse to consume cooked rice [from his hands], he shall be assigned to the caste of that person from whose hands he has consumed cooked rice. If such a person consumes cooked rice or water from the hands of someone from a Water-unacceptable or Untouchable caste,<sup>418</sup> and if he contaminates his fellow caste members through cooked rice, or [else] he contaminates any other person through water, the share of property which is his according to the *Ain* shall be confiscated, the initial letter of the caste [name] of that [person from whose hands he has consumed cooked rice or water] shall be branded [on his left cheek], and he shall be assigned to the caste of that person, having been ostracised with respect to cooked rice and water.

5. If someone from an Enslavable Alcohol-drinking caste knowingly consumes cooked rice from the hands of someone from an Enslavable Alcohol-drinking caste inferior [in status] to his own, from whose members' hands water, at least, may be accepted, or if he consumes cooked rice or water from the hands of someone belonging to a Water-unacceptable or Untouchable caste, no fine shall be required [from him] in the case where he has not contaminated his fellow caste members [through cooked rice or water]. He shall become [a member] of the caste [of the person] from whose hands he has consumed cooked rice or water. He shall be assigned to that caste. He shall not be [further] held accountable. If such a person consumes cooked rice from the hands of someone from an Enslavable Alcohol-drinking caste inferior [in status] to his own, and if he contaminates his fellow caste members through cooked rice, he shall be fined 5 rupees and be granted expiation. If such a person consumes cooked rice or water from the hands of someone from a Water-unacceptable or Untouchable caste, and if he contaminates his fellow caste members through cooked rice, or [else] he contaminates any other person through water, the share of property which is his according to the *Ain* shall be confiscated, the initial letter of the caste [name]

418 *choyā chiṭo lāhanu parnyā*, read *choyā chiṭo hālanu parnyā* (MA<sub>2</sub>).

of that [person from whose hands he has consumed cooked rice or water] shall be branded [on his left cheek], and he shall be assigned to the caste of that person, having been ostracised with respect to cooked rice and water.

6. If someone from a Water-unacceptable but Touchable caste knowingly consumes cooked rice or water from the hands of someone from a Water-unacceptable or Untouchable caste inferior [in status] to his own, no fine shall be required [from him] in the case where he has not contaminated his fellow caste members [through cooked rice or water]. He shall become [a member] of the caste [of the person] from whose hands he has consumed cooked rice. He shall be assigned to that caste. He shall not be [further] held accountable. If such a person consumes cooked rice from the hands of someone from a Water-unacceptable caste inferior [in status] to his own, he shall be fined 5 rupees and [be granted expiation] according to the caste's customs, if his fellow caste members agree to consume cooked rice from his hands. If they refuse to consume cooked rice from his hands, he shall be assigned to the caste of that person from whose hands he has consumed cooked rice.

7. If someone from an Untouchable caste knowingly consumes cooked rice or water from the hands of someone from a Water-unacceptable and Untouchable caste inferior [in status] to his own, no fine shall be required [from him] in the case where he has not contaminated any [of his fellow caste members through cooked rice or water]. He shall become [a member] of the caste [of the person] from whose hands he has consumed [cooked rice or water]. He shall be assigned to that caste. He shall not be [further] held accountable. If such a person has contaminated his fellow caste members through cooked rice after consuming cooked rice [from the hands of that person belonging to a Water-unacceptable or Untouchable caste inferior to his own], he shall be fined 2½ rupees and be granted expiation, if his fellow caste members agree to consume cooked rice from his hands. If they refuse to consume cooked rice from his hands, he shall be assigned to the caste of that person from whose hands he has consumed cooked rice.

8. If someone from a Sacred Thread-wearing caste consumes any substance (*kuro*) such as cooked rice from the hands of someone belonging to a Sacred Thread-wearing caste inferior [in status] to his own, from whose members' hands he does not accept cooked rice, leading to his degradation in caste, and if [the inferior caste member] who offered him cooked rice offered it without knowing that [that person's] caste status is superior to his own, [the inferior caste member] who offered [him cooked rice] shall not be held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the hands of the inferior caste member] and [the inferior caste member] wittingly offers him any substance such as cooked rice which leads to [the superior caste fellow's] degradation in caste, knowing that he belongs to a Sacred Thread-wearing caste superior [in status] to his own, and if [the inferior caste member], before [the superior caste member] contaminates his fellow caste members through cooked rice, reports that he has offered [him cooked rice], [the inferior caste member] shall not be held accountable. If he does not report it and hides [the fact] that he has offered [him cooked rice] and so lets [the superior caste member] contaminate his fellow caste members through cooked rice, [the inferior

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caste member] shall be fined 25 rupees for offering cooked rice to him, because he should not have offered [such a substance] to the [superior caste member] knowing that this superior caste member would be degraded from his caste if he consumed [cooked rice] from the hands of a member of an inferior caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The persons who, under deception, consume [cooked rice from the hands of the superior caste member] shall be granted expiation.

MA<sub>2</sub> 90.8b. If someone from a Sacred Thread-wearing caste consumes any substance (*kuro*), such as cooked rice, from the hands of someone belonging to a Non-enslavable Alcohol-drinking caste, and if [the latter], who offered [the former] cooked rice, offered it without knowing that the caste status of [that person], who belongs to a Sacred Thread-wearing caste, is superior to his own, [the inferior caste member] who offered [the superior caste member cooked rice] shall not be held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the hands of the inferior caste member] and [the inferior caste member]—although he knows that [the person to whom he is offering cooked rice is of superior caste status]—knowingly offers him any substance, such as cooked rice, which leads to [the superior caste fellow's] degradation in caste status, and if [the inferior caste member], before [the superior caste member] contaminates his fellow caste members through cooked rice, reports that he has offered [him cooked rice], [the inferior caste member] shall not be held accountable. He shall be fined 12½ rupees for offering the [superior] caste member cooked rice, because he offered [the superior caste member] cooked rice although he knew that [the superior] caste member would lose his caste status if he accepted [cooked rice from] him.<sup>419</sup> If [such an inferior caste member] does not report this and hides [the fact] that he has offered [the superior caste member cooked rice], and so lets [the superior caste member] contaminate his fellow caste members through cooked rice, [the inferior caste member] shall be fined 25 rupees for offering cooked rice to him, because he should not have offered [such a substance] to the [superior caste member] knowing that this superior caste member would be degraded from his caste if he consumed [cooked rice] from the hands of a member of an inferior caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The persons who, under deception, consume [cooked rice from the hands of the superior caste member who has accepted cooked rice from the person of an inferior caste] shall be granted expiation.

9. If someone from a Sacred Thread-wearing caste consumes a substance such as cooked rice from the hands of someone from a Non-enslavable Alcohol-drinking caste, leading to the former's degradation in caste, and if [the inferior caste member] who offered cooked rice [to the superior caste member] offered it without knowing that [the superior caste member] belongs to

419 This sentence is marked as crossed out in in MsB of MA<sub>2</sub> apparently because it contradicts the previous sentence stating that the inferior caste members shall not be held accountable in the given circumstances.



a Sacred Thread-wearing caste superior [in status] to his own, [the inferior caste member] who offered [the cooked rice] shall not be held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the inferior caste member's hands], [and if the inferior caste member] wittingly offers him any substance such as cooked rice which leads to the degradation in his caste, knowing that he belongs to a Sacred Thread-wearing caste superior [in status] to his own, and if [the inferior caste member], before [the superior caste member] contaminates his fellow caste members through cooked rice, reports that he offered [him cooked rice], [the inferior caste member] shall not be held accountable. If he does not report this and hides [the fact] that he offered [him cooked rice], and so lets [the superior caste member] contaminate his fellow caste members through cooked rice, [the inferior caste member] shall be fined 50 rupees for offering cooked rice, because he should not have offered [such a substance] to [the superior caste member], since he knew that [the superior caste member] would be degraded from his caste if he consumed [cooked rice] from the hands of the member of an inferior caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The persons who, under deception, consume [cooked rice from the hands of the superior caste member] shall be granted expiation.

10. If someone from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste consumes any substance such as cooked rice from the hands of someone from an Enslavable Alcohol-drinking caste, leading to his degradation in caste, and if [the inferior caste member] who offered cooked rice to him offered it without knowing that [that person's] caste status is superior to his own, [the inferior caste member] who offered [him cooked rice] shall not be held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the hands of the inferior caste member], and if [the inferior caste member] wittingly offers him any substance such as cooked rice which results in the degradation of [the superior caste member's] caste status, knowing that he belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste superior to his own, and if [the inferior caste member], before [the superior caste member] contaminates his fellow caste members through cooked rice, reports that he offered [him cooked rice], [the inferior caste member] shall not be held accountable. If [the inferior caste member] does not report this and hides [the fact] that he offered [cooked rice] to him and so lets [the superior caste member] contaminate his fellow caste members through cooked rice, [the inferior caste member] shall be enslaved for offering cooked rice to such a person belonging to a Sacred Thread-wearing caste, because [the inferior caste member] should not have offered [such a substance] to him, knowing that [the superior caste member] would be degraded from his caste if he consumed [cooked rice] from the hands of a member of an inferior caste. If [the superior caste member] who has been fed [cooked rice by the inferior caste member] belongs to a Non-enslavable Alcohol-drinking caste, [the inferior caste member] shall be fined 10 rupees. The [superior caste member] who consumed cooked rice from him shall be granted expiation, if his fellow caste members agree to accept cooked rice from his hands. If they do not agree to accept cooked rice from his hands, he shall be assigned to the caste of the person from whose hands he had consumed cooked rice. The persons who, under deception, consume [cooked rice from the hands of the superior caste member] shall be granted expiation.

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11. If someone from a Sacred Thread-wearing or any other caste, from whose members water at least is acceptable, consumes any substance such as cooked rice from the hands of someone from a Water-unacceptable or Untouchable caste, leading to his degradation in caste, and if he pretends that [the inferior caste member's] caste status is equal to his own, and if [the inferior caste member] who offered cooked rice [to the superior caste member] offered it without knowing that [that person's] caste status is superior to his own, [the inferior caste member] who offered [cooked rice to the superior caste member] shall not be held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the hands of the inferior caste member], and if [the inferior caste member] wittingly offers him any substance such as cooked rice, water or the like which leads to the degradation of [the superior caste member] in caste, knowing that [that person's] caste status is superior to his own, and if [the inferior caste member], before the [superior caste member] contaminates his fellow caste members through cooked rice and water, reports that he has offered [the superior caste member cooked rice], [the inferior caste member] shall not be held accountable. If [the inferior caste member] does not report this and hides [the fact] that he offered [the superior caste member cooked rice], and so lets [the superior caste fellow] contaminate his fellow caste members through cooked rice and others through water, [the inferior caste member] shall be enslaved for offering [cooked rice or water] to the [superior caste member], namely for offering him such a substance which should not have been offered to him, because the inferior caste member was aware that [the consumptions of the substance offered] would lead to the [superior caste member's] degradation in caste. The persons who, under deception, consume [cooked rice from the superior caste member's hands] shall be granted expiation.

12. If someone from a Water-unacceptable but Touchable caste consumes cooked rice or water from the hands of someone whose caste status is inferior to his own and from whose hands cooked rice is not acceptable, pretending that [the inferior caste member's] caste status is equal to his own, and if [the inferior caste member] who offered cooked rice [to the superior caste member] offered it without knowing that [that person's] caste status is superior to his own, [the inferior caste member] who offered [him cooked rice] shall not be accused and held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the hands of the inferior caste member], and if [the inferior caste member] wittingly offers him any [cooked rice or water], knowing that [that person's] caste status is superior to his own, [the superior caste member] who has consumed [cooked rice or water from the hands of the inferior caste member] shall be fined 2½ rupees, if his fellow caste members accept him back in commensality, having [made him] perform the caste's customs [for purification]. If his fellow caste members do not accept him back [in commensality], he shall be fined 5 rupees and be assigned to the caste of the person [from whose hands he consumed cooked rice or water].

13. If someone from an Untouchable caste consumes cooked rice or water from the hands of someone whose caste status is inferior to his own and from whose hands cooked rice is not acceptable, pretending that [the inferior caste member's] caste status is equal to his own, and if [the inferior caste member] who offered cooked rice [to the superior caste member] offered it without knowing that [that person's] caste status is superior to his own, [the inferior caste

member] who offered [him cooked rice] shall not be accused and held accountable. If [the superior caste member] declares that he wants to consume cooked rice [from the hands of the inferior caste member], and if [the inferior caste member] wittingly offers him [cooked rice or water], knowing that [that person's] caste status is superior to his own, [the superior caste member] who has consumed [cooked rice or water from the hands of the inferior caste member] shall be fined 2½ rupees, if his fellow caste members accept him back in commensality, having [made him] perform the caste's customs for purification. If his fellow caste members do not accept him back [in commensality], he shall be fined 5 rupees and be assigned to the caste of the person [from whose hands he consumed cooked rice or water].

14. If someone is from any of the Upādhyāya [Brahmin], Rajapūta, Jaisī [Brahmin], Kṣatriya, Non-enslavable Alcohol-drinking, or Enslavable Alcohol-drinking castes, and has been excluded from eating cooked rice together with his fellow caste members, has been degraded from his caste, so that only water is acceptable from his hands, and this person contaminates his fellow caste members through cooked rice, pretending that he is pure and cooked rice from his hands is acceptable, he shall be fined 50 rupees. If such a person, who has been excluded also from consuming water together with his fellow caste members, contaminates his fellow caste members through cooked rice, he shall be fined 100 rupees. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees. The persons who consume [cooked rice from him] under deception shall be granted expiation.

15. If a woman from any of the Sacred Thread-wearing castes, such as the Upādhyāya Brahmin, Jaisī Brahmin or Kṣatriya caste or any of the Non-enslavable castes, has become a common woman by having sexual intercourse with a man [other than her husband], and if such a woman later on contaminates her fellow caste members through cooked rice, [falsely] stating: 'We are pure. We have not had sexual intercourse [with anyone]', such a woman shall be fined 100 rupees, and the persons who consumed cooked rice [from her hands] under deception shall be granted expiation. If she does not pay the amount of the fine, she shall, in accordance with the *Ain*, be imprisoned.

16. If a man or woman from an Enslavable caste lies about his or her caste status and contaminates someone from a Non-enslavable caste superior [in status] to his or her own, he or she shall be enslaved. If [such a man or woman] notifies [the victim] about his or her caste status [beforehand], and if [the victim] who consumes [cooked rice] from his or her hands wittingly does so, [the offender] who offered [the victim] cooked rice shall neither receive a fine nor be enslaved.

17. If a person who is from a caste whose members' heads are shaved [in lieu of a death sentence] commits incest, his offspring who are born after his head has been shaved [as punishment for the crime of incest he committed] become members of a Non-enslavable Śūdra caste from whom water is acceptable. If someone from an Enslavable caste has consensual sexual intercourse with an unmarried girl past the age of 11 or a widow of such [a Non-enslavable Śūdra caste], he shall be enslaved. If a slave has sexual intercourse with such an [unmarried girl or widow], he shall be imprisoned for 3 years. If his master declares that he will pay the amount [set in lieu

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of the slave's prison term] and will take him back, the slave shall be set free once the amount, according to the *Ain*, has been collected.

18. If someone from a Water-unacceptable caste contaminates someone else [from a Water-acceptable caste] through water, he shall be enslaved, if he is a free person (*āphusukhi paunī jāta*). If [the offender] was already enslaved or is a male or female slave from an Untouchable caste, he or she shall be imprisoned for 2 years and then set free. Such a male or female slave becomes [the property] of his or her master.

19. [No one] shall consume fermented radish (*sinki*), fermented vegetables [made from cabbage, radish or mustard] (*gundruka*), fermented bamboo shoots (*tāmā*) or fruits which have been cut, peeled or broken and which have been touched by someone from a Water-unacceptable and Untouchable caste. If someone consumes [such food from such a person], he shall be fined 4 *paisās* for his misconduct, [but] he shall not lose his caste status.

20. If someone from any of the Sacred Thread-wearing castes, including Brahmins, consumes vegetables roasted or cooked on an earthen or metal pot without water by someone from a Sacred Thread-wearing or Non-enslavable or Enslavable caste whose caste status is inferior to his own, such a person who consumes [such food] shall not lose his caste status, even if salt was put [in the food]. He does not need to undergo expiation. If he consumes [such food] cooked with water, he shall be fined 10 rupees, irrespective of whether salt was put [in the food] or not, and he shall be granted expiation.

21. If a Jaisī Brahmin offers beaten rice mixed with yogurt to a person from a caste superior [in status] to his own, he shall be fined 20 rupees. The person who wittingly consumes [such food] shall be fined 10 rupees and be granted expiation.

22. If a Danuvāra, Kumāla, Mājhi, Darai, Ṭhokryā<sup>420</sup> or Galahatyā<sup>421</sup> approaches a place where someone from a Sacred Thread-wearing caste is cooking [food] and he forcibly touches the cooked lentils or the rice and feeds [it to the Sacred Thread-wearing caste member], he shall be made to pay damages and be fined an amount equal to that. Once the person who touched the food has been fined, the person who consumed it does not lose his caste status. If [the Sacred Thread-wearing caste member] consumed the food of his own will and at his pleasure, neither shall the one who consumed it lose his caste status, nor shall the person who fed him be held accountable.

23. If an Upādhyāya Brahmin wittingly consumes duck meat, he shall be fined ½ rupee and be issued a writ [to undergo] expiation. The religious judge (*dharmādhikāra*) shall charge him a fee of ½ rupee and make him undergo expiation.

420 *ḍhokryā*, read *ṭhokryā* (MA<sub>2</sub>).

421 *ḍāla haṭyā*, read *galahatyā* (MA<sub>2</sub>).

## 91. On Bestowing the Sacred Thread

1. If someone—unless he acts on government order—bestows the Sacred Thread on someone who belongs to a caste whose members are not entitled to receive the Sacred Thread, claiming ‘He is the son of someone belonging to a caste whose members are entitled to bear the Sacred Thread’, the Sacred Thread of the person who received it shall be removed and he shall be placed in his [original] caste [again]. Among those who bestowed on him the Sacred Thread, the main person shall be fined 60 rupees, and the priest who performed the initiation ritual (*vratabandha*) and the guru who gave him the [initiatory] mantra shall be fined 5 rupees each. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

2. If someone from a Sacred Thread-wearing caste emancipates a female slave of his household and keeps her as his wife, or else keeps her as his wife with the knowledge of his family members [but] without having emancipated her, and if offspring are born to her and—assuming that she does not run off with another man while she is being kept as a wife by her master—the sons or daughters are from his semen, then when it comes to sons born to such a slave woman being given the Sacred Thread, their father, other family members or relatives shall be allowed to give the Sacred Thread to such sons and to marry off such daughters after [the father] has emancipated their slave mother. If someone keeps a slave woman [belonging to someone else] and sons and daughters are born to her, he shall—even if the slave mother is not emancipated—be allowed, with the owner’s consent, to ransom [the offspring] and give the Sacred Thread to his sons and marry off his daughters. The one who gives [such sons] the Sacred Thread shall not be held accountable.

3. If the father from a Sacred Thread-wearing caste wishes to bestow the Sacred Thread to his sons born to his wife from a Non-enslavable Alcohol-drinking caste, or if, after his death, his coparceners or relatives and friends wish to bestow the Sacred Thread on such sons, it is allowed to bestow on them the Sacred Thread after having performed the *vratabandha*. The one who performs the *vratabandha* and the one who bestows on them the Sacred Thread shall not be held accountable. If someone obstructs them, declaring ‘They should not be given the Sacred Thread’, the one who obstructs them shall be fined 5 rupees. If he has even fined them, he shall be made to return the fine and shall [himself] be fined an amount equal to the fine he imposed [on them]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

4. While he is alive, the father from a Sacred Thread-wearing caste is allowed to bestow on his sons born to his wife or bondservant from an Enslavable Alcohol-drinking caste the Sacred

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Thread, performing the *vratabandha*, or, after his death, his coparceners, relatives and friends. If the sons themselves wish to put on the Sacred Thread, they are allowed to bear the Sacred Thread after undergoing the *vratabandha*. The one who bestows on them the Sacred Thread and the one who performs the *vratabandha* shall not be held accountable.

5. If the Sacred Thread is ripped during a dispute between two members of a Sacred Thread-wearing caste, or between a member of a Sacred Thread-wearing and a member of any other caste, the one who ripped the Sacred Thread shall be fined 5 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

6. Someone who, without authority, removes the Sacred Thread from someone else, shall be fined 100 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If any *hākima*, *diṭṭhā* or *bicārī* of an *adālata*, *aḍḍā* or *gauḍā* office or the *amālī* of an *amāla* office, or a *dvāre*, *tharī*, *mukhiyā*, a *ṭheka* or *ijārā* holder or the like orders the removal of the Sacred Thread from someone from a Sacred Thread-wearing caste or the like, in a case which does not result in the loss of the Sacred Thread, the one who orders the removal of the Sacred Thread and the one who gives his consent shall be fined 100 rupees each. If the *tharīs*, *mukhiyās* or *jimmāvālas* who sit [on the bench] at the *kacaharī* office, look on while the Sacred Thread is without authorisation being removed and keep silent in such a matter, where they should have objected that the Sacred Thread should not be removed, they shall be fined 50 rupees each. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

8. If someone, without authority, removes or rips the Sacred Thread of a person belonging to a Sacred Thread-wearing caste, the one whose Sacred Thread was ripped without authority does not lose his caste status because it was removed or ripped without authority. He shall undergo penance and put on his Sacred Thread [again]. The *adālata* or *amāla* office shall issue a writ and grant him [the permission] to put on the Sacred Thread.

## 92. Juvenile Delinquency

1. If a boy or girl below the age of 12 has neither father and mother nor an older brother and is an orphan, and if he or she is in need of food and is not able to maintain his or her quadrupeds or servants, the *adālata* or *ṭhānā* office, acting as witnesses, shall arrange that the *pañca* determine the appropriate price for [the quadrupeds or servants] and they shall be sold, if it is in the city, or, if it is in outside in the village, the *amālī* or *tharī* official [shall do so]. The *hākima* who arranges that the price or weight is estimated, shall not accept the object sold by such a [minor]. The *hākima* who buys it shall be fined half of the price and the object shall be returned to its owner. If a commoner<sup>422</sup> buys from a boy or girl below the age of 12 with the sale witnessed by the *adālata* or *amāla*, it shall be valid. In such cases, the fees of 10 and 20 percent [to be collected] from the *adālata*, *ṭhānā* or *amāla* shall not be applicable. No one shall collect them.

2. If someone takes a loan such as cash, grain or a loan in kind from a boy or girl below the age of 16, making a written loan agreement with him or her, he shall be made to return the loan, because he took it by making the written loan agreement [with a minor] without consulting the head of the household. He shall be fined 20 percent [of the loan] in rupees and [a fee of] 10 percent shall be collected from the person to whom [the loan] is returned. If the loan is taken without making a written loan agreement with the boy or girl, [but only by] shamelessly cajoling him or her, he shall be made to return the loan and be fined an amount equal to that. A fee of 10 percent shall be collected from the person to whom [the loan] is returned.

3. If someone advances a loan to a boy or girl below the age of 16 with a written loan agreement, but without consulting his or her mother, father or older brother, he loses his credit sum. He shall not be allowed [to recover his credit sum] from the boy or girl. The written loan agreement shall be torn apart at the *kacaharī* office. Neither a fine nor a winning fee is required. If the loan has been spent by [the minor's] father and mother, and if the loan was taken by order of the father, mother or older brothers, the *kacaharī* shall make them return the loan, collect 10 and 20 percent as fees, and tear apart the loan agreement.

4. If a boy or girl below the age of 16 sells currency (*nagada*), a commodity, a male or female slave or the like, and if someone comes to complain that the buyer accepted it from such

422 *duniñāko ādhi daṇḍa gari*, read *duniyāle* (MA<sub>2</sub>).

a boy or girl, the buyer loses his purchase sum and the item shall be returned after collecting 10 percent [of its value]. No fine and no fee is required for the seller and buyer. If the father, mother or older brother were informed that [the minor] sold the commodity or he or she did so on their orders, and if they later on come to complain that such and such a person bought the commodity from a boy or girl, and if it becomes apparent upon inquiry that the commodity was sold with their knowledge or by their order, the buyer shall not be required to return the commodity. The person who earlier made the boy or girl sell the commodity and [now] comes to complain shall be considered a fraud. Such a person shall be fined equal to the amount he has claimed for.

5. If a woman whose son or daughter is an infant [still being breastfed] runs off with another person, the father who is able to hire a wet-nurse, shall hire a wet-nurse and take care [of his child], keeping it with himself. If the father is not able to hire a wet-nurse, he is not allowed to separate the child from the mother's lap and kill it by preventing it from drinking breast milk<sup>423</sup>. Therefore, even though she ran off with another man, he shall not bring the child back, separating it from its mother's lap, until it reaches the age of 7. He shall let her take care [of the child]. Once the child stops drinking breast milk, it shall be at the will of the child as to whether it stays with its mother or wants to stay with its paternal uncles or its brothers. If it declares that it does not wish to stay with its mother, its older brothers or uncles shall bring it back and take care of it. If the child is brought back by separating it from its mother's lap and it dies, the person who separated the child [from its mother] and brought it back shall be fined 50 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

6. Among the members of Brahmin, Rajapūta and other Sacred Thread-wearing castes, if a boy or girl below the age of 12 eats rice without washing off his faeces and urine and also unwittingly [contaminates] his or her fellow caste members by feeding them rice, the fellow caste members shall be granted expiation for accidentally eating rice [from a contaminated person]. Since such a child is not mature, boys or girls who eat without washing off faeces shall not be held accountable. No fine is required. While granting expiation, the religious judge (*dharmādhikāra*) shall charge a *godāna* fee of 2½, 2, 1 and ½ rupees from a person of the *abbala*, *doyama*, *sima*, *cahāra* categories, respectively, and shall grant him expiation. [A boy or girl] who is past the age of 12 shall be fined 5 rupees and be granted expiation. While granting expiation, the *dharmādhikāra* shall charge the *godāna* according [to the rates mentioned above] and grant expiation.

7. If a boy or girl below the age of 12 from any of the Four Varṇas and Thirty-six castes eats forbidden food or eats rice from the hands of someone from a caste inferior to his own, he or she shall be granted penance and expiation.

423 *dina dhāi*, read *duda nakhvāi* (MA<sub>2</sub>).



8. If a minor boy below the age of 11 and a girl who is past the age of 10 from a Sacred Thread-wearing caste have illicit sexual intercourse, the girl shall not be granted expiation. She is excluded from her caste. The boy requires neither royal punishment (*rājadaṇḍa*) nor a fine.

9. If a minor below the age of 12 commits a minor offense or homicide, he shall not be held accountable. If he commits homicide, he shall be persuaded [to tell the truth] and questioned in front of notables from the *adālata*, *ṭhānā* or *amāla*. [The minor] shall not be scolded. If he says that he was ordered to do so by someone else, investigation shall be made as to whether the person who instigated [the minor] to commit homicide had or has any malice towards the deceased person. If it is ascertained to be true and the person who instigated [the murder] confesses, he shall be made to write down his confession and then he shall be executed. The boy or girl who committed homicide shall be imprisoned for 1 month and shall be set free, and made to undergo penance.

10. If a boy below the age of 11 and a girl below the age of 10 have sexual intercourse, it shall not be considered that the hymen is ruptured, because they have not reached the age of having [real] sexual intercourse. They retain their caste status and they do not need to undergo penance. Such a boy and girl shall be scolded and be let off. Neither a fine nor a fee is required.

## 93. On Poor and Indigent Persons

1. If someone finds an abandoned infant whose umbilical cord has not been cut, or a child whose teeth have not come out, and whose father and mother are unidentified, and this person brings it home and brings it up, and if later on its father and mother are identified, the entire property of the father and mother which is, according to the *Ain*, theirs, shall be confiscated by the *adālata*, *ṭhānā* or *amāla* office from them for abandoning an innocent infant without mercy; the property shall be handed over to the foster parent. If it is a son born from an adulterous relationship, the dowry of the mother and the entire property of the father shall be confiscated and be given to the foster parent. If an infant from a Water-unacceptable or Untouchable caste has been brought to the house and has been brought up, the entire property of the father and mother shall be confiscated and be given to the foster parent. The infant shall be handed over to someone of equal caste status. If someone from any of the Sacred Thread-wearing castes has brought such an infant from a Water-unacceptable or Untouchable caste to the house and brought it up, the foster parents and their fellow caste members shall be granted penance for accidental [contamination], after they have been made to pay ½ rupee as a *godāna* fee to the religious judge (*dharmādhikāra*).

2. Whatever wealth and property, such as land, quadrupeds, cash and the like, an infant or child who has neither father or mother possesses, such wealth and property shall be estimated in the presence of the elders and notables of the place and two copies [of the inventory of the infant's property] shall be prepared. The wealth and property and one copy of the estimate shall be kept in the custody of trustworthy and notable persons and one copy shall be kept in the custody of the *amālī*. The infant shall be brought up and be taken care of, with reasonable expenses from the income of that property. Once the infant becomes mature and capable [of acting on its own account], the document with the earlier estimate [of its property] shall be checked, whatever has been reasonably spent from this earlier property shall be examined, and the remaining wealth and property shall be handed over to the custody of that person in the presence of the village notables.

3. If the government brings up unmarried girls whose fathers and mothers have died and who have no custodian, or those whose fathers and mothers have not been traced and who are in distress, not receiving any means of livelihood, once they reach the marriage age, the *adālata* or *ṭhānā* shall approach the *bhāradāra* positioned at the Kausītoṣākhānā office and ask for marriage expenses appropriate for their caste and marry them off to someone from an equal caste status.

4. Since there is the order that men suffering from leprosy (*mahāroga*) shall not enter the city, such men shall be kept outside the city, the clerks from the *guṭhī* or *kacaharī* shall daily bring alms food (*haṇḍī*) to them, and annually two sets of cloth made from *khāḍī* or *sardu* from the *guṭhī* income. If any of those [sick men] complain that they did not receive food or cloth, the clerks from the *guṭhī* or *kacaharī* shall be fined 10 rupees.

5. The *adālata* or *ṭhānā* shall arrange that alms food from an alms giving trust (*sadāvarta*) and annually two sets of cloth made from *khāḍī* or *sardu* is given to those from our country who suffer from a bodily disease, such as being one-eyed, lame, maimed, one-legged or paralysed, and who are not able to till the earth, or old people who have neither homestead, land, debtors, jewellery and valuables, foodstuffs, nor sons and daughters or any coparceners (*bhāī bhatijā*), nor do they have any other opportunity to receive food in the morning and evening. They shall be recorded in the ledgers and they shall be taken care of at the respective places.

6. If minors below the age of 12 and elderly people who have passed the age of 60, or elderly people who cannot walk [any more] or move otherwise, are not taken care of by their fathers or mothers, sons or daughters, sons-in-law, sisters, paternal aunts or the like, and who have neither relatives nor homestead, land, debtors, foodstuffs and so forth, nor do they have any other opportunity to receive food in the morning and evening, and if someone files a complaint with the venerable prime minister or at the Kausala that the *hākima* of the *adālata* or *ṭhānā* has not examined those who were either traced and taken [into care] by an *adālata* or *ṭhānā* or who came on their own upon being so ordered, nor has he, according to the *Ain*, arranged for alms food in the morning and evening [for them] as their *sidhā* plate and has not put them to work [according to their capabilities], the *hākima* of the *adālata* or *ṭhānā* shall be fined 20 rupees. If the *mālīka* of the *Guṭhī Jāca* [Aḍḍā] or the *kacaharī* does not provide such people with *sidhā* or cloth, [even though] the *adālata* or *ṭhānā* gave him the order [to do so], he shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If a living new-born with placenta and umbilical cord is abandoned on the street, road or junction, the *adālata* or *ṭhānā* office shall take it [into their care], arrange for its upbringing by finding a wet-nurse who breastfeeds it and by providing it with a ration (*sidhā*) of the morning and evening meals, and annually two lengths of cloth from the alms-giving trust. Until he reaches the age of 16, he shall be provided with *sidhā* of the morning and evening meals and also clothes to wear. Once he is past the age of 16, he shall be given state employment according to his intelligence.

8. If father and mother in the cities or villages or the hamlets in the hill region die of a disease such as cholera, Āṭhyā fever, emaciation or smallpox, and if they have children, and if they have no one, such as coparceners, maternal or other relatives, to take care of these children properly, the *dvāre*, *tharī*, *mukhiyā*, *koṭavāla*, *pradhāna* or *nāike* officials shall take them [into care] and bring them up properly. If they have paternal property, he shall bring them up using the income from this property. If they have no [property], he shall feed them, spending whatever is

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necessary from the income of the land [assigned to him], and he shall bring them to the *adālata* within 2 months. The owner of the land shall deduct the expenses which incurred when [the children] were brought to the *adālata* office [from the dues of] the *ṭheka* holder or *dvāre* [who took the children into their care]. The person who enjoys the production of *birtā*, *gūḥī*, state-owned or *khuvā* land or the like shall cover the expenditure which had been incurred by feeding [the children]. If the land is [distributed] under *ijārā* or *amānata* [conditions], the *ijārā* or *amānata* holder shall take [the children] into their care. If the children died of hunger, [although] such [officials] heard, knew or saw this, [but] did not take due care, the property of the *dvāre* or *ṭheka* holder—whoever is the chief of the village—shall, in accordance with the *Ain*, be confiscated. If the children have not [yet] died, [but] have been left in distress, the *dvāre* shall be fined 20 rupees and the *tharī* shall be fined 10 rupees.

## 94. On Widow Burning (*Satī*)

1. If someone's wife, married or brought in from a caste from which one may or may not accept cooked rice and [other cooked] food, says 'I shall go for *satī*',<sup>424</sup> and if she is under the age of 16, she shall not [be allowed to] go.

2. If a married wife or a wife brought in from a caste from which one may or may not accept cooked rice and [other cooked] food, and who is past the age of 16, says 'I shall go for *satī*', she shall not [be allowed to] go for *satī* if her youngest son has not yet reached the age of 16.

3. If a married wife or a wife brought in from a caste from which one may or may not accept cooked rice and [other cooked] food, and who is past the age of 16, says 'I shall go for *satī*', she shall not [be allowed to] go if her daughter has not yet reached the age of 5.

4. If a wife who has two or more husbands says 'I shall go for *satī*', she shall not be allowed to go.

5. When the queen of an enthroned king passes away or the wives of high-ranking officials (*umarāva*), *bhāradāras*, subjects and so forth die, and if the female servants, slaves or so forth declare 'We shall go for *satī*', they shall not be allowed to go for *satī*.<sup>425</sup> Those chief persons who order such a woman to go for *satī* and have her burnt to death shall be fined 500 rupees, and the other funeral attendants who carry out her burning shall be fined 250 rupees each.

6. If a wife who carries a baby in her womb when her husband dies declares, after the delivery, 'I shall go for *satī*', she shall not be allowed to go.

7. If a pregnant wife knows about her conception (lit. 'foetus'), even if the foetus is just 1 month old, such a pregnant wife shall not be allowed to go for *satī*.

424 In the Nepālī text, the *pluralis majestatis* is used in this phrase. Here and in the following we have translated it as singular when only a single person is referred to.

425 Cf., however, § 12.

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8. [A mother] shall not [be allowed] to [become] her son's *satī* upon his death on the grounds that he is the [auspicious] vermilion of her shoulder<sup>426</sup>. If someone belonging to a caste whose members are to be shaved [in lieu of a death sentence] allows such a woman to become her son's *satī*, he shall be punished by *dāmala*, after his share of property, in accordance with the *Ain*, has been confiscated. If he belongs to another caste, he shall be executed. The funeral attendants who knowingly burn her shall be set free after their share of property in accordance with the *Ain* has been confiscated.

9. Among ritually married women or those brought in from a caste from which one may or may not accept cooked rice, if a woman who is past the age of 16 declares, of her own will, 'I shall go for *satī* for our husband', irrespective of whether she stays with her youngest son or alone, and if [her youngest son] is 16 years old, she shall be restrained as far as possible by trying to convince and persuade her [to change her mind]. If it is not possible to restrain her and she keeps on insisting, such a woman shall [be allowed to] go for *satī*. Those who light the pyre and burn her shall not be accused.

10. Among ritually married women or those brought in from a caste from which one may or may not accept cooked rice, if a woman who past the age of 16 declares, of her own will, 'I shall go for *satī* for my husband', and if her daughter is past the age of 5, she shall be restrained as far as possible by trying to convince and persuade her [to change her mind]. If it is not possible to restrain her, she shall [be allowed to] go for *satī*. Those who light the pyre and burn her shall not be accused.

11. If a wife whose husband has died, having gone to war or while being on governmental duties, or if he has died, having gone for his own [private] pleasure to far-off or foreign countries, declares 'I shall go for *satī*', and if, as a wife from a caste other than Brahmins, being entitled in accordance with the *Ain* to go for *satī*, she declares of her own will 'I shall go for *satī*', then she shall be allowed to go for *satī*. A second pyre is not allowed once the corpse of a Brahmin has been lit; it shall not be done.

12. If a master has kept his own slave girl from maidenhood on as his wife, and if she has attained the age of 16, her son has also attained the age of 16 and her daughter is past the age of 5, and if she declares of her own will 'I shall go for *satī*', she shall be allowed to go, even if she is a slave-wife.

13. If [a woman] who is entitled in accordance with the *Ain* to go for *satī* and who belongs to a caste from whom cooked rice may be accepted has to be burnt, she shall not be burnt on the same pyre, but she shall be burnt by making a separate pyre.

426 When a man marries, a red mark with vermilion is made on the forehead of the bride, and some parts of the same red powder are strewn on the shoulder of the mother of the bridegroom.

14. If a wife whose husband has died and who is allowed by the *Ain* to go for *satī* declares 'I shall go for *satī*', and if she pours water [over her head], ascends the pyre and reaches the river (lit. 'ocean'), and even if at that place the necessary worship of Gaurī has been completed in accordance with her respective caste's custom, [in such a case] that [would-be] *satī* should be reminded by saying once more [to her] 'Remain or go, decide!' If she can be stopped, rehabilitation should be granted [to her] according to the *Ain*, and one may continue to accept cooked rice and water [from her]. If she cannot be stopped and if she is allowed by the *Ain* to go for *satī*, there will be no accusation in the matter of the burning.

15. If [a woman] declares 'I shall go for *satī*', pours water [over her head], ascends the pyre and if she [thereafter] falls from the pyre or stands up with [a last] effort and runs away after the fire has been lit, one should tell such a *satī*,<sup>427</sup> without hitting her with poles or stones, and without forcing or catching her: 'Only if you say 'I shall go for *satī* voluntarily', will we burn you; if you say 'I shall not go', we will care for you, give you medicine [for the wounds caused already by the fire], grant expiation (*patiyā*) and keep you in your home'; and if she [still] says 'I go voluntarily, burn me!', she shall be burnt after having appointed a witness and having written a witnessed statement on that *satī*. [In such a case] nobody shall be accused. If it is determined that she was burnt without having appointed a witness and without a witnessed statement being written, then those who burnt her and those who lit the fire shall, in accordance with the *Ain*, be punished. If [the wife] says 'I shall not go for *satī*', she shall be treated medically and provided with the right care and shall be granted expiation for water only; since [the woman] has survived the fire, she shall not be granted expiation for cooked rice.

16. If [a woman] says 'I shall go for *satī*', pours water [over her head], ascends the pyre, [and then] says, before fire is applied [to the pyre], 'I shall not go for *satī*' or falls with [a last] effort from the pyre, escapes and runs away, and if somebody with the intention of killing hits her with poles or stones, and catches, burns and kills such a woman, the one who first said 'Kill her', the one who first hit her, and the one who first caught her shall be punished by *dāmala* after their share of property has been confiscated in accordance with the *Ain*. Apart from them, those who went there and caught her shall be punished [with fines of] 25, 20, 10 or 5 rupees for [persons of the] *abbala*, *doyama*, *sima* or *cahāra* categories [respectively].

17. If a wife who is permitted to go for *satī* says 'I shall go for *satī*', pours water [over her head and] ascends the pyre, [but] falls from the pyre before fire is applied, slips [from it], stands up in [a last] effort or runs away, and if she says 'Don't burn me, I am afraid', such a wife shall not be burnt. She shall, in accordance with the *Ain*, be granted expiation for cooked rice and water.

18. If a woman who is below the age of 16, or a woman who is past the age of 16 and for whom it is laid down in the *Ain* that one shall not allow her to go for *satī*, pours water [over her

427 Although the woman is not yet physically dead, she is ritually dead and already considered to be (the goddess) *Satī*, since she has performed the last rites by throwing water over her head and so forth.

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head] and ascends the pyre voluntarily, declaring ‘I shall go for *satī*’, or if she does so [after being manipulated by] someone who makes her consume intoxicants or narcotics or wheedles or coaxes her, she shall not be allowed to go for *satī*.

19. If a wife says ‘I shall go for *satī*’, pours water [over her head] and ascends the pyre, [but] falls from the pyre before fire is applied, slips and is swept downstream, or stands up in [a last] effort and runs away, and if she says ‘Don’t burn me, I am afraid’, [such a] surviving wife shall be granted expiation for cooked rice, and a wife who survives after she has ascended the pyre and the fire is lit, shall be granted expiation for water by making her pay 5 rupees, 3 rupees, 2 rupees and 1 rupee, respectively, for women of the *abbala*, *doyama*, *sima* and *cahāra* categories as a *godāna* to the religious judge (*dharmādhikāra*).

20. If somebody burns a woman who was, in accordance with the *Ain*, permitted to go for *satī* and she was made to explicitly say ‘I shall go for *satī*’ by being forced or by having had narcotics administered, or by being coaxed, the one who burnt her and [the one] who caused her to be burnt shall be punished according to the *Ain*. If the culprit is entitled to receive a share of [the inheritance] of the childless [deceased woman], an *adālata* or *amāla* office shall take whatever he is entitled to, if [the property] of the childless [deceased] is *raikara* land; if [the property] is *guthī*, *birtā*, *bekha*, *phikadāra*, *marauṭa*, *mānācāmala*, *chāpa*, *jiunī* or *peṭīyā* land, or the income [derived from such land], the owner shall be entitled to receive this. [Also] her classificatory relatives who did not join the gathering at that place [where the burning took place] shall receive their share from the property of the childless [deceased woman].

21. If somebody burns a woman who is, in accordance with the *Ain*, permitted to go for *satī*, making her explicitly say ‘I shall go for *satī*’ by giving her narcotics or by coaxing her, the one who lit the fire shall be fined 40 rupees, if he is her own son, and 100 rupees if he is her stepson or somebody else. The one who carried her [to the cremation ground] and the other funeral attendants shall be fined 20 rupees.

22. If somebody burns a woman who is, in accordance with the *Ain*, permitted to go for *satī*, by giving her narcotics or forcing her, he shall be imprisoned for 6 years after his share of the property and the *jiunī* land of his father and mother which he is entitled to receive has been confiscated, if she was burnt by her own son. If he pays double the amount in lieu of his imprisonment, it shall be accepted. If she is burnt by somebody else other than [her son], and if [this person] belongs to a caste whose members’ heads are to be shaved [in lieu of a death sentence] and he is the first to light the fire, he shall, in accordance with the *Ain*, be punished by *dāmala* after his share of property has been confiscated. If he belongs to a caste whose members may be sentenced to death, he shall be executed. The other funeral attendants shall be fined at the rate of 20 rupees, 15 rupees, 10 rupees and 5 rupees, respectively, for persons of the *abbala*, *doyama*, *sima*, and *cahāra* categories. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned. If [the widow] was burnt by her stepson, only around  $\frac{1}{10}$  of the property which he is entitled to get shall be confiscated, and he shall be set free.



23. If a woman declares 'I shall go for *satī*', pours water [over her head and] ascends the pyre, [but] falls from the pyre before fire is applied, slips and is swept downstream, or stands up in [a last] effort and runs away, or if she says 'Don't burn me, I am afraid', and if she already has, in accordance with the *Ain*, been granted expiation for cooked rice and water, all those of her fellow caste members and so forth who do not consume cooked rice and water [from her hands], declaring that they do not consume [from her hands], shall be punished by being fined 5 rupees each.

24. If a woman declares 'I shall go for *satī*', ascends the pyre, [but] runs away after it has been lit and [thus] survives, and if she afterwards is granted expiation for water, those [of her fellow caste members and so forth] who declare 'We do not consume water [from her hands]' shall be punished by being fined 5 rupees each. Cooked rice, however, may not be accepted from such a woman.

25. If any woman whose husband has died declares 'I shall not go for *satī*' and breaks her bangles<sup>428</sup> and observes the mourning [period], [but] that wife who breaks her bangles and observes the mourning [period later] says 'I shall go for *satī*', and if she is burnt by somebody after she has poured water [over her head], and if that person is her own son who is below the age of 12, he shall not be held accountable. If the son is past the age of 12, as well as in the case of others, the share of property of those who acted as leaders during the burning and those who gave the order for burning her shall, in accordance with the *Ain*, be confiscated. Other funeral attendants shall be fined 10 rupees, 7½ rupees, 5 rupees and 2½ rupees, respectively, for persons of the *abbala*, *doyama*, *sima* and *cahāra* categories. If it appears that there is no son [as heir] for the property of that *satī* after she has been burnt, and if the person who is entitled to receive such property of the childless [deceased] was [involved in burning her] as the main person, such property which he is entitled to receive, as well as his share of property, shall, in accordance with the *Ain*, be confiscated. If a classificatory relative of [such a *satī*] who is entitled to inherit her property for which there is no son [as heir], is not the main person [in burning her], such property for which there is no son [as heir] shall not be confiscated by the government. Her agnatic relatives shall receive it.

26. If the husband of a woman dies, and if she washes the feet of her deceased husband and drinks the water from washing his feet on the same day or she continues to drink that water later as well, such a woman shall not be held accountable. She neither needs expiation nor need she undergo penance (*prāyaścitta*).

27. A woman who is not entitled by the *Ain* to go for *satī* shall not be allowed to go for *satī*, even if she declares voluntarily 'I shall go for *satī*', and even if she pours water [over her head]. She shall be granted expiation according to the *Ain*. If someone burns such a *satī* who has declared of her own will 'I shall go for *satī*' after she has poured water [over her head] thinking

428 The breaking of the bangles expresses the entering into widowhood.

94. On Widow Burning (*Satī*)

that nothing will happen to her, shall not be held accountable, if [this person] is her son who is below the age of 12. If the son is past the age of 12, as well in the case of others, the share of property of those who act as main persons during the burning and of those who give the order for burning shall, in accordance with the *Ain*, be confiscated. Other funeral attendants shall be fined at the rate of 10 rupees, 7½ rupees, 5 rupees and 2½ rupees, respectively, for persons of the *abbala*, *doḃama*, *sima* and *cahāra* categories.

28. A *satī* to whom, in accordance with the *Ain*, expiation needs to be granted, [but] is not granted, and who makes no distinction with regard [to the acceptance] of cooked rice and water, as well other persons who do not make [such a distinction], shall be fined 5 rupees each. [Such a *satī*] shall, in accordance with the *Ain*, be permitted to consume cooked rice and water [together with her fellow caste members] after she has been granted expiation.

29. If a certain woman sees a dead [man], and if she confirms herself that her husband has died, and if she, without investigating the fact, declares ‘I shall go for *satī*’ and afterwards pours [water over her head], and it is ascertained upon inquiry that her husband is not dead, but is still alive, such a foolish woman who, without making inquiry, declares ‘the dead person is my husband. I shall go for *satī*’, shall be fined 20 rupees and shall be granted expiation. If she does not pay the amount of the fine, she shall be imprisoned at the rate of 1 month for every 5 rupees.

## 95. On Carrying a Corpse

1. If somebody from the Sacred Thread-wearing castes, [such as] a Brahmin, Rajapūta, Kṣatriya or the like dies, and if nobody from the respective caste appears to carry (lit. 'to lift') the corpse [to the cremation ground], it shall be allowed, among all Sacred Thread-wearing castes, to touch and carry the corpse of a higher fellow caste member by a lower fellow caste member, and the corpse of a lower fellow caste member by a higher fellow caste member. If there is nobody from a Sacred Thread-wearing caste, someone from a Water-acceptable Alcohol-drinking caste may also carry it. If a corpse from a Sacred Thread-wearing caste is touched or carried by a person from a Water-acceptable Alcohol-drinking caste, a *godāna* fee [costing between] 5 *ānās* and 5 rupees shall be offered to a Brahmin in the name of the deceased person, depending on the ability of the person who performs the death ritual. No expiation (*patiyā*) or penance (*prāyaścitta*) shall be required.

2. If any poor or bankrupt person who does not have any wealth or property dies, and if nobody is ready to carry the corpse and to perform the death ritual, the *amālī*, *tharī*, *dvāre*, *mukhiyā*, *ṭhekadāra* or *ijārādāra*<sup>429</sup> officials of the respective *amāla* office or village where that person has died shall arrange to carry the corpse and perform the death ritual by spending 2½ rupees from the income of that village. If it is confirmed that a corpse has not been carried [to a cremation ground] and has remained in the village for more than two or 3 days, the *amālī* and *tharī* shall be fined 2½ rupees. If the amount of the fine is not paid, he shall be imprisoned for 15 days and shall be set free. The contractor (*ṭhekadāra*) shall be compensated for the expenditure of carrying the corpse by the government, if the land is owned by the government, by the *jāgira* holder if it is *jāgira* land, or by the owner if it is *birtā*, *bekha*, *chāpa* land or the like.

3. Any *amālī* who does not appoint a person to carry the corpse of the person who dies in his own village [to the cremation ground] shall be fined 5 rupees. Also, the person who does not go [to do the work of carrying] after being appointed by the *amālī* shall be fined 2½ rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

4. If any unidentified or unknown person comes and dies in a village, the *amālī* and *tharī* of the respective village shall cause somebody to carry the corpse. If the corpse remains in the village for 2 or 3 days without being carried [to the cremation ground], the *amālī* shall be fined 5 rupees and the *tharī* shall be fined 2½ rupees. If the amount of the fine is not paid, he shall, in

429 *ṭhakaijārādāra*, read *ṭhekadāra ijārādāra* (MA<sub>2</sub>).

95. On Carrying a Corpse

accordance with the *Ain*, be imprisoned. If no confirmation of an heir [of the deceased] is obtained, and if any wealth or article [tied] in his waistband are found, the money left after paying from it for the cremation ritual (*satagati*) shall belong to the *amālī*, if [the deceased] is a resident of our realm. If the heir is found, the property left after paying for the cremation shall be given to the person to whom it belongs after making an investigation. If it is of a traveller belonging to a foreign territory, the property left after spending for his cremation ritual shall belong to the government. It shall be taken to an *adālata*.

5. If any male or female subject living in the three cities (Kathmandu, Patan and Bhaktapur), other than those who have been living in the Kathmandu (lit. ‘Nepālā’) valley [for generations],<sup>430</sup> dies, and if there is nobody from his or her kin nor is there any *gūṭhī* to cremate [the corpse], [and if then] the corpse remains there in the city, and if [even] after the appointment of a person for the cremation of the corpse by an *adālata* or *ṭhānā*, the corpse remains there in the city for 2–3 days without being taken out, the person who has been appointed to do so shall be fined 20 rupees. If the amount of the fine is not paid, he shall be imprisoned.

6. If anybody from the Water-unacceptable Alcohol-drinking or Untouchable castes dies in somebody’s house, in the neighbourhood or in the village, the main person (*mokhya*),<sup>431</sup> if found to be of the same caste [as the dead person], shall be caused to carry the corpse [to the cremation ground]. If a person of the same caste is not found, anybody even from Water-acceptable castes, such as Brahmin, Rajapūta, Kṣatriya, Magara, Guruṅga or the like, shall carry the corpse to a cremation place. If a Brahmin touches the corpse of a member of an Untouchable caste, he shall be purified after taking a bath and fasting at a pilgrimage site (*kṣatropavās*). Those belonging to Sacred Thread-wearing castes and others shall be purified after taking a bath.

7. If someone belonging to a Sacred Thread-wearing caste, who has been to the countryside or abroad, dies, or if someone dies by drowning, being eaten by a wild animal like a tiger in the forest, falling or jumping down a steep slope, into a pond or into a well or from a suspension bridge or a bridge or into a deep pit, and if someone from [a caste] lower than [the deceased person’s]—[e.g.] from a Śūdra, Water-unacceptable or Untouchable caste—touches the corpse, and if the brothers or sons of the deceased person find the corpse, they shall set fire (*dāga vatti*) to the corpse. Later on, after having arranged expiation for death purification (*kṛyā śuddha*), they shall perform the death ritual. If the death is confirmed, but the corpse is not found, his or her brothers or sons shall [first] make the *nārāyaṇabali*<sup>432</sup> ritual and perform the death ritual. No penance shall be required [in this case].

430 This refers to Newars. Since all Newars have to take membership in a *sigūṭhī* (a *gūṭhī* established to take care of funerary rites and rituals if a *gūṭhī* member dies, cf. Gutschow/Michaels 2005: 84), they apparently had no such problem of organizing the transportation of a corpse to the cremation ground and of performing death rituals.

431 What the term *mokhya* exactly refers to is not clear. In the absence of a priest in Untouchable funeral ceremonies, *mokhya* might either refer to the head of the funeral procession or the headsman of the respective caste group.

432 The *nārāyaṇabali* is a special Brahmanical death ritual which is used for those who cannot have the normal death ritual (Michaels 2004: 147).

## 96. Reporting a Death

1. If someone comes to the house of a person and says that such and such a person [of that house] who had gone abroad has died, and if the wife [dies by] committing *satī* because of that news, and if later on this person who had been reported to be dead comes back alive, the person who came to tell [the false news of the death]—if he belongs to a caste whose members may be sentenced to death—shall be executed, taking life for life. If he belongs to a Brahmin caste, he shall be punished by *dāmala* after his share of property has been confiscated.

2. If someone says that a person who had gone abroad has died, but that person comes back [alive] before the fulfilment of his funerary rites, the person who has told [the fake news] of someone's death shall be fined 100 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. No [ritual] ought to be performed for [the purification of a] person who has been pronounced to be dead.

3. If someone has gone abroad, and if someone else comes to the former's house and says that the former has died, and if the family of that house observes mourning and also performs the funerary rites [because of this news], and if [later on] the person who had been pronounced dead is found not to be dead, but comes back home alive, the person who has reported the [false] news of the death shall be fined 150 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. The person who has come back home [alive] shall require no penance (*prāyaścitta*). He shall be purified [simply] by having a feast at a pilgrimage site. He shall live in the house after having a feast at a pilgrimage site.

4. If somebody hears talk about a person who is in a serious condition because he fell sick, was burnt in a fire or bush fire, fell and drowned in the water, fell down from a tree, down a slope, off a roof or from a window, or was attacked by an animal, hit by a stone or by a piece of wood, or due to any other reason, saying 'this person is finished', and if, after hearing this from another person and being unable to understand [its real meaning], he decides by intuition that the person is dead and tells the [allegedly dead person's] brothers and others that the person has died, and if due to this news, the person's [relatives] who hear [this news] also observe mourning period impurity rules, then [in such a case] the person who conveyed this news of death without properly understanding the gossip of others, shall be fined 20 rupees. If the mourning has not yet been observed, he shall be fined 10 rupees [only]. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

## 97. On Observing Impurity

1. From now on, when one needs to observe mourning for an enthroned king, queen consort or crown prince, the Upādhyāya and Jaisī Brahmins shall observe mourning for 3 days, shaving their heads, but not their moustaches. They shall not observe the one-year mourning period (*varsī*). Members from other castes shall observe mourning for 13 days, shaving [their heads] and also their moustaches. They shall neither wear a cap nor turban. The one-year mourning period shall only be observed for 45 days. One shall not wear [clothes] in a monochrome red colour. There is no fault [in wearing] red spotted [fabrics]. One shall not eat betel, shall not carry a red umbrella and shall not wear leather shoes. While worshipping gods and deities, one shall worship them simply without playing any musical instruments, for 3 days. From the 4<sup>th</sup> day onward, one shall play musical instruments [again], sing hymns, and worship them according to the tradition. While performing the *chaiṭhī* ritual after birth, the name-giving and rice feeding ceremony, the marriage ritual and initiation, such rituals shall be performed without playing musical instruments and singing auspicious songs. The Dasaī and Tihāra festivals shall be celebrated. For 13 days, it shall not be allowed to build a wayside public shelter, rest house or [any other] house or to tile a house. After that period, it is allowed. If someone within these 45 days hears [about the death] and does not follow [these rules] accordingly, an *adālata*, *ṭhānā* or *amāla* office shall fine him 10 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. After 45 days, it shall be allowed to wear red, eat, play musical instruments, sing auspicious songs and to act according to the customs handed down from the past. Nothing shall be restricted.

2. *Jāgira* holders of a *kampu*, *paṭṭana* and *kampanī*, courtiers and civil servants shall, if someone belonging to their blood relations or clan dies, except for their parents, pay a *godāna* fee in the name of the deceased ranging from 1 *ānā* to 5 rupees—as much as they are able [to pay]—for shaving their heads and moustaches. They are not required to shave their heads or moustaches. If they need to perform the funerary rites themselves, they shall shave their heads and moustaches and perform the funerary rites. If someone amongst courtiers or civil servants shaves his head and moustache [of his own volition], he shall not be held accountable.

3. Among the Sacred Thread-wearing castes, if a common woman, a slave woman, a Bhoṭe or Newar woman dies, who has been kept by the grandfather, father, elder brother or younger brother, son or grandson [as a wife], brought into the household and given a share of the paternal property, and if there are illegitimate (*khaccara*) sons [born to her], these sons shall be made to

perform the funerary rites for her. If there are no such illegitimate sons, the person who inherits her property shall perform the funerary rites himself.

4. If, in a city, village or abroad, someone's natural mother or father, grandfather or grandmother, father's younger brother or his wife, or mother's younger sister, brothers, or brother's wife dies, and he—as the son, grandson, nephew or brother being responsible [for their funeral]—does not perform the funerary rites, such a person shall be fetched by an *adālata*, *ṭhānā* or *amāla*, be fined 20 rupees and made to perform their funerary rites. If someone keeps a wife from a caste lower than his own, one shall bring someone of similar caste status to carry out her funerary rites. If such a person is not found, [the husband] himself shall carry out [her funerary rites]. [The husband] shall not be held accountable [for carrying out the funerary rites of a person from a caste lower than his own]. If a person dies without leaving a son as heir, the coparcener (*dājyūbhāi*) who declares that he will perform his funerary rites for the sake of religious merit shall not be obliged to inherit his estate, for which there is no son as heir. He shall also not be obliged to settle his debts. If the creditor seizes [that person], claiming that he has to settle the debt since he carried out the funerary rites, and the creditor recovers his loan, the amount in question shall be returned [to the coparcener] and the creditor shall be fined an equal amount. If the creditor only seizes [the coparcener], [but] has not yet collected the amount, he shall be fined 5 percent of the total credit sum he claims and he shall be beaten as a warning to him that he is not allowed to seize [the coparcener].

5. If a brother who has separated [from the joint household] by taking his share of property dies without leaving a son as heir, and if the person who is entitled to inherit his estate after performing his funerary rites, does not perform these funerary rites, an *amālī* or *tharī* officer of the respective village shall make [someone] perform the funerary rites, covering the expenses from the deceased person's property as determined by the local notables. If there is still some property left, and if [the deceased] has left [unsettled] debts, the remaining property shall be proportionately divided among his creditors. If there are no outstanding debts or if there is still property left after settling the debts, the government or *amāla* shall take [the remaining] property for which the deceased person has no son as heir, on the grounds that it arranged for the deceased person's funerary rites.

6. If a person dies [without leaving a son as heir], and there is no relative nearby who is entitled to enjoy his estate for which he has no son as heir, and if his corpse has to be carried and the funerary rites are to be performed by a distant relative, such as a person from the same *gotra*, a relative or friend, from what remains of the [deceased's] estate after covering the funeral expenses, an allowance at the rate of 20, 15, 10 and 5 rupees from [a deceased of] the *abbala*, *doyama*, *sima* or *cahāra* category, respectively, shall be given to the person who performs the funerary rites. The relative who, according to the *Ain*, is entitled to receive the deceased's estate for which there is no son as heir, shall receive the remaining property after settling the deceased person's debts.

7. Newar women shall not wail on the way while visiting a Newar mourning house. They shall only wail after reaching the mourning house. The women who walk wailing on the street

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shall each of them be fined 8 *ānās*. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

8. If someone plots to kill a person of his blood relations, or uses black magic (*kr̥tyā prayoga*) to kill him, or has sexual intercourse with his wife or concubine, and if [the victim] declares: 'I neither perform the funerary rites nor do I observe the impurity of birth and death (*juṭho sutaka*) for such a person who has committed such [a heinous] act, even though he is my blood relative', he shall not be held accountable.

9. If someone abandons his married wife, saying, '[From now on you are not my wife any longer.] I consider you as if you were my sister, daughter or mother', a share of his property shall be given to his [abandoned] wife according to the *Ain*. If such a woman, abandoned by her husband, has sexual intercourse with any other person, she shall not be held accountable. [The former husband] shall not be permitted to kill [his abandoned wife's] paramour. If he kills her paramour, he shall be executed—taking life for life. If a husband has sexual intercourse with his wife who is living separately and has a status allowing her husband to kill her paramour, he shall be fined 30 rupees. He does not need to undergo penance. If again, the [separated] husband and wife stay together, and later the wife runs off with her paramour, the husband shall, in accordance with the *Ain*, be permitted to kill her paramour or punish him. If a husband [abandons his wife and] says in express terms: '[From now on you are not my wife any longer.] I consider you as if you were my sister, daughter or mother', but continues having sexual intercourse with her, he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. If a man says to his concubine: '[From now on you are not my wife any longer.] I consider you as if you were my sister, daughter or mother', but also continues having sexual intercourse with her, he shall be fined 10 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

10. If a person quarrels with his father, son, brother or any blood relatives, and if he takes a ceremonial bath (*ṣalko*) [which is taken on a kinsman's death] pouring water down [his body] and saying, 'You are dead for me. I will abstain from the mourning and *pinḍa* [offerings for you]', he shall be fined 10 rupees and be made to undergo expiation. Later, if the person with whom he had a quarrel dies or a baby is born into that person's family, he shall be ordered to observe birth impurity or death mourning, if necessary [by law].

11. If a woman is pregnant, and if she has a miscarriage of a 3 to 6-month-old foetus, the mother shall observe the birth impurity at the rate of 1 day for every month of pregnancy. The father shall be purified just by taking a ritual bath. The other kinsmen (*dasāha*) shall not observe such an impurity. If a child is born after 7 months of pregnancy, whether dead or alive, the parents and the kinsmen shall observe the birth impurity for 10 days.

12. If a child dies before the name-giving ritual, [the dead body of the child] shall not be cremated, but be buried after digging [a grave]. The father and mother shall observe the death



impurity for 3 days, but the birth impurity remains for 10 days. The other kinsmen for whom [the parents of the deceased child] would have to observe a 10-day death impurity [upon their death] (*dasāhā bhāi*), shall only take a ritual bath for [the purification from] the death impurity, whereas they shall observe the birth impurity for 10 days.

13. If a wife gives birth to a child, whether a boy or girl, others shall not touch the child as long as the husband has not taken a ritual bath. The [mother] who is lying in shall not be touched for 10 days. If she falls ill during these days and in the course of medical treatment it becomes necessary to touch her, or she is accidentally touched by a person, the person who touches her shall be purified after taking a ritual bath and consuming *pañcagavya*, if he or she comes from a Sacred Thread-wearing caste.

14. [If a child is born into a family and] birth impurity is to be observed, kinsmen from an equal caste status for whom [the parents of the new-born child] would have to observe a 10-day death impurity [upon their death], shall observe the birth impurity for 10 days. The other kinsmen for whom they would have to observe [only] a 3-day death impurity, shall observe the birth impurity for 3 days. If the news of the birth of a child is heard within the period prescribed [for observing birth impurity], one shall observe the birth impurity for the remaining days [only]. If a child is born of a father to a wife from whose hands the husband is not allowed to consume cooked rice, the father shall observe the birth impurity for [only] 3 days. The other kinsmen for whom he would have to observe a 10-day death impurity shall also observe it for 3 days. If the news [of the birth] is heard after the period prescribed [for observing the birth impurity] has passed, the birth impurity shall not be observed. It is no transgression concerning the observance of birth impurity.

15. Everyone from a Sacred Thread-wearing caste shall [only] accept water from the hands of a woman [from an equal caste] when 20 days after her delivery have passed, and accept cooked rice from her hands only when 1 month has passed. For the other castes, cooked rice and water shall be accepted from her hands when 20 days after [her delivery] have passed. If [a woman] has a miscarriage before her pregnancy is over, cooked rice and water shall be accepted from her hands when 11 days after [her miscarriage] have passed.

16. Once a child is born, [no one] is afflicted by birth impurity as long as the umbilical cord of the new-born is not cut, and on the day of the *chaiṭhī* ritual as long as the *rāhurvedhana*<sup>433</sup> ritual is not completed. [During that time] it is allowed to give religious gifts and fees to Brahmins and offer them a feast. Neither those who offer [religious gifts, fees and feasts] nor [the Brahmins] who accept them during that period are considered guilty. Except for that period, the birth impurity shall be observed.

433 A ritual for the new-born baby where a clay image of Rāhu is made and then pierced (see Thakur 1997: 97). It is meant to dispel the evil aspects of the stars, especially Rāhu.

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17. If a child dies within 7 months after the completion of the name-giving ritual, it shall not be cremated. One shall dig [a pit] and bury it. If a child past the age of 7 months dies, [the body] shall be cremated or buried according to one's own traditions. The father and mother are afflicted by death impurity for 3 days. The other kinsmen for whom [the parents of the deceased child] would have to observe a 10-day death impurity [upon their death], are afflicted by death impurity for 1 day.

18. If a boy or girl who is past the age of 3 dies before he is initiated or before she is married off, the parents and their kinsmen for whom [the parents of the deceased child] would have to observe a 10-day death impurity [upon their death], shall observe death impurity for 3 days. If the news [of the child's demise] is heard after 3 days, the parents shall observe death impurity for 1 day, and the other kinsmen for whom [the parents of the deceased child] would have to observe a 10-day death impurity shall only take a ritual bath.

19. Once a person who is initiated and belongs to a Sacred Thread-wearing caste dies, [his immediate family members] shall observe the death impurity for the entire period. The other kinsmen for whom [the deceased person] would have had to observe a 10-day death impurity [upon their death] and who share [with him] a common male ancestor up to 7 generations back shall observe the death impurity for 10 days. If [the news of the death] is heard after 10 days, the death impurity shall be observed for 3 days only. If someone's kinsman or fellow caste member (*jāti bhāi*) with whom he shares a common male ancestor 8 to 14 generations back dies, he shall observe death impurity for 3 days. If [the news of the death] is heard after 3 days, the death impurity shall be observed for 1 day. If a kinsman or clan member with whom one shares a common ancestor 14 to 21 generations back dies, death impurity shall be observed for 1 day. If [the news of the death] is heard after the prescribed time period, a ritual bath shall be sufficient for purification.

20. If a son hears the news of the death of his father or mother within 10 days, but before the funeral mound (*dhikuro*) is destroyed (*phuṭāunu*)<sup>434</sup>, he shall observe the death impurity for the remaining days. [Thereafter] he shall be purified by performing his own caste rituals as handed down from the past. If [a son] hears the news of the death of his father or mother after the *dhikuro* is destroyed, and if the funerary rites have already been completed, he shall shave his head, eat a sacrificial meal once a day for 10 days, and at the end of the mourning period he

434 *Dhikuro* refers to a mound of earth erected after the death of a deceased person. The chief mourner erects a small mound of earth on the day after the death, either in the courtyard or in a secure place near a water-source or a river. It is believed that the corpse, which takes the form of a ghost/spirit (*piśāca*) before it is admitted to the world of ancestors, is linked to the mound. Bouillier (1976: 39) notes that the cherry-branches 'support a small earthen ball with a hole in it through which the son pours milk onto a *piṇḍa* resting on the *dhikuro*'. This ritual is carried out every morning for 9 days, which is meant to aid in the formation of a spiritual body for the *piśāca*. The *piśāca*'s spiritual body is finished on the 10<sup>th</sup> day. It should be fed from the 10<sup>th</sup> day onwards, and so the person who is performing the funerary rites puts out a *piṇḍa* and the various dishes for a full meal. The *dhikuro* is finally destroyed with his forehead on the same day. For more details, see Bouillier (1976) who worked with a group of non-ascetic *sannyāsins* in central Nepal.

shall give a *godāna* fee, *sidhā* and sacrificial fee to a Brahmin. He becomes purified by doing this. If the son who has the obligation of performing the *sapiṇḍa*-rite<sup>435</sup> is absent from the place [where the funerary rites are taking place], the person who is performing the funerary rites shall also perform the *sapiṇḍa*-rite and complete the [whole] ritual. If the son who was supposed to perform the *sapiṇḍa*-rite, performs it again [later], the *pretapiṇḍa*<sup>436</sup> shall not be offered. The son shall consume *pañcagavya*, prepare three *piṇḍas* and perform *śrāddha* in accordance with the *pārvaṇa* regulations,<sup>437</sup> and offer a *godāna* fee and feast to the Brahmins. By doing this, he becomes purified [from death impurity]. If the funerary rites have not yet been performed for the deceased person, he shall perform them according to his own caste's customs as handed down from the past.

21. If [a step-son] hears the news of the death of his step-mother, whose caste status was equal to his own, within 10 days [after she has died], he shall observe mourning for the remaining days. If he hears the news after 10 days, mourning shall be observed only for 3 days. If [a step-son] hears the news of the death of his step-mother, from whom cooked rice is unacceptable and who is from a caste inferior [to that of her husband], within 10 days, he shall be afflicted by death impurity for 3 days. If he hears the news after 10 days, he shall observe mourning for 1 day, then he becomes purified.

22. One shall observe the death impurity for 3 days for [the death of] one's married daughters, full sisters of equal caste status, father's full sisters, mother's brothers, wives of one's mother's brother, sister's sons, daughter's daughters, guru from whom the initiatory mantra was received and the guru's wife, one's mother's full sisters, mother's father and mother, and father- and mother-in-law. A daughter shall observe death impurity of her parents for 3 days. If she hears [the news of her parent's death] after 3 days, she shall observe the mourning for 1 day.

23. One shall observe death impurity for 1 day [for the death of] the [following relatives] whose caste status is equal to one's own: a half sister born from the same father as oneself, a father's half sister, mother's half brother, mother's half sister, and a son-in-law to whom one's daughter is married. If the news [of the death of any of these relatives] is heard after 1 day, one becomes purified [from the death impurity] by taking a ritual bath.

435 The *sapiṇḍa* (Skt. *sapiṇḍīkaraṇa*) ritual is usually performed by the eldest son for his deceased parent, which often takes place on the twelfth or, among the Newars, on the 45<sup>th</sup> day after death, at present. This ritual is performed to join the deceased person with his forefathers, thus elevating him from the *pretaloka* to *pitṛloka* (ancestral realm). For details, see Knipe 1977: 111, and Gutschow/Michaels 2005: 125–152.

436 It refers to one of the four *piṇḍas*, which is offered to a deceased person (*preta*) on the 12<sup>th</sup> day of the funerary rites.

437 The *pārvaṇa-śrāddha* is one of the various classifications of the *śrāddha* rites. It is considered the basic *śrāddhavidhi* on which all other *śrāddhavidhis* have been modelled. In contrast to the *ekoddiṣṭaśrāddha* 'determined for a single deceased person', the *pārvaṇaśrāddha* aims at different treatments for the deceased person, the forefathers and ancestor-gods (cf. Gutschow/Michaels 2005: 194), mainly the three forefathers of the deceased person.

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24. A husband or wife does not get rid of the death impurity of his ritually married wife or husband, whose caste status is equal to his or her own, even if the funerary rites for him or her have already been performed [in their absence]. Whenever the news [of the spouse's death] is heard, he or she shall observe the mourning for complete 10 days. He or she becomes purified after consuming *pañcagavya* and offering a *godāna* fee and a feast to a Brahmin on the 11<sup>th</sup> day.

25. If [someone] brings a girl or widowed woman [into his household without marrying her ritually] or commits adultery with a married woman who belongs to a caste from whose members' hands he is not allowed to consume cooked rice, and brings her [into his household], and if, upon her death, there is someone else from a caste equal to her own who is [ready] to perform her funerary rites, the husband shall be afflicted by death impurity for 3 days. If there is nobody else to perform the cremation ritual, the husband [himself] shall perform the funerary rites of his wife, and [in such a case] the full mourning period [of 10 days] shall be observed. He shall offer a *godāna* fee upon completion of the funerary rites. After offering a feast to a Brahmin, the person shall be considered pure. If such a kept [woman] who remained faithful to her deceased husband dies, the brother of the husband who inherits the [deceased woman's] property shall arrange for the performance of her funerary rites by a person who is from the same caste as she was. If nobody is found from the same caste to perform the funerary rites, [the family] shall be considered pure after arranging for a good passage [into the afterlife] (*satgati*) for her, offering a *godāna* fee and a feast to a Brahmin on the 10<sup>th</sup> day, spending for it in accordance to their economic abilities.

26. If someone brings an unmarried girl or widowed woman into his household [without marrying her ritually] or commits adultery with a married woman who belongs to a caste from whose members' hands he is not allowed to consume cooked rice, and brings her into his household, and offspring are born to her, their father shall be afflicted by birth and death impurity for 3 days after their birth and death. The mother shall be fully afflicted by such impurity. Other family members and kinsmen for whom the father should observe a 10-day death impurity [upon their death], shall be afflicted by such impurity for 3 days. If no one [from the immediate] family [of such offspring] is alive, the kinsmen for whom the father should observe a 10-day death impurity shall perform their funerary rites. Once the funerary rites have been carried out, the kinsmen become purified by offering a *godāna* fee and a feast to a Brahmin. If such kinsmen do not perform the funerary rites for such offspring, the [nearest] kinsman who is entitled to enjoy the deceased person's property for which the latter has no son as heir, shall be fined 10 rupees and he shall be made to perform the funerary rites. The wives who are brought to the household [without ritual marriage] and from whom [the husband] is not allowed to consume cooked rice, and the sons born to such wives, shall fully observe the birth and death impurity of [their father's] legitimate family members and kinsmen for whom a 10-day mourning period is prescribed.

27. One shall observe the death impurity of the following persons for 1 day: one's house priests (*purohita*), teachers, fictive kinsmen (*mīta*), male or female disciples, daughters of brothers, granddaughters who are the daughters of one's son, daughters of father's brothers, the brother-in-law with whom one's own full-sister is married, half sisters born from one's father to another

wife from whose hands he is or was not allowed to accept cooked rice, and granddaughters who are born by one's son to a wife who has been brought into the household by that son [without marrying her ritually] and from whom cooked rice is unacceptable. If the news [of the death of such a relative] is heard after 1 day, one shall just take a ritual bath.

28. If someone adopts a son, having prepared the necessary documents, in accordance with the *Ain*, by requesting the [adoptee's] parents who gave birth to him [for permission] or paying them [for the permission], and if such an adopted son dies [or a child is born to him], the adoptive parents shall be fully afflicted by death and birth impurity. Also, the adopted son shall be fully afflicted by the death and birth impurity of his adoptive parents. If an adopted son is brought from a different clan (*gotra*) [than the adoptive father's], the adoptive parents shall be fully afflicted by his death impurity; [however,] the other kinsmen [of the adoptive father] for whom he would have to observe a 10-day death impurity [upon their deaths] shall be afflicted by the death impurity for 3 days. The kinsmen [of the adoptive] father for whom a 10-day mourning period is prescribed shall be fully afflicted by the death impurity of the children of his adopted son. Also, the children of an adopted son shall be fully afflicted by the death impurity of their father's kinsmen for whom [the adoptive father] would have to observe a 10-day death impurity. If an adopted son belongs to a caste inferior to his adoptive father's and from whom [the latter] is not allowed to accept cooked rice, the adoptive parents shall be afflicted by the death and birth impurity for 3 days, [whereas] the adoptive father's kinsmen, for whom he would have to observe a 10-day death impurity [upon their deaths], shall be afflicted by the death and birth impurity for 1 day; [however,] such an adopted son shall fully observe the death impurity of his adoptive parents and [his parent's] kinsmen for whom they would have to observe a 10-day death impurity.

29. If [several] sons are born to the same mother by 2–3 [different] fathers, the sons shall observe the death impurity for each other for 3 days on the grounds that they are born from the same womb.

30. If one's master or mistress dies, and the household is polluted by [death] impurity, a servant in servitude, a *Khavāsa*, a maid, or a male or female slave is fully afflicted by the death impurity. A wage-earning servant, a male or female bondservant, or a servant working for his keep are afflicted by the impurity for 3 days. A servant is not afflicted by the impurity, except when the master or mistress of his household dies, [but not] if any other of the master's [more distant] family members dies for whom a 10-day mourning period is prescribed.

31. If a father or mother dies, and if their children are not yet initiated [so as to be able to perform the life-cycle rituals], and if no kinsmen of a caste status equal to that of the deceased parent are available to performing the funerary rites, the guardians (*vāris*), friends or relatives of such children shall arrange that the children, if they are able to do so, consume [only] sacrificial meals from the day of the death of their parent. If the children are not able [to do this], they shall be fed with a sacrificial meal on the 9<sup>th</sup> day, and it shall be arranged that they, with their own

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hands, offer their deceased parent 10 *piṇḍas* made of rice or barley flour, consume *pañcagavya* and give a feast to a Brahmin. By so doing, they become purified.

32. If a person who has neither kinsmen nor relatives and friends, dies, any persons, irrespective of whether their caste status is equal, inferior or superior to that of the deceased, who, without taking any money and property of the deceased, carry, dispose, burn or bury the corpse, for the sake of religious merit (*dharma*), shall attain the merit equal to that of performing a huge fire-sacrifice (*yajña*). Such persons who have cremated the corpse become purified by taking a ritual bath, touching fire and burning incense. They shall not be [further] afflicted by death impurity.

33. If [a man in the life stage (*āśrama*) of being] a celibate student (*brahmacārin*), forest hermit (*vānaprastha*), Sannyāsī or the like who has put on the robe, dies, his kinsmen for whom a 10-day mourning period is prescribed, become purified just by taking a ritual bath. Also, the person who has put on the robe becomes purified just by taking a ritual bath if his kinsmen die. Even if a father has put on the robe, his wife and son shall be afflicted by his death impurity for 10 days. If someone has put on the robe and his father or mother dies, he shall observe death impurity for 10 days.

34. If [someone] is observing the birth impurity occurring in the family of his kinsmen, for whom a 10-day mourning period is prescribed, and if an additional birth impurity (*vṛddhi sutaka*) occurs before the naming ceremony for the child born first is performed, the members of the household where the first birth impurity occurred and their kinsmen, for whom a 10-day mourning is prescribed, become purified after observing the first birth impurity [until the day of naming ceremony]. Only the members of the household where the second birth impurity occurred are afflicted by that birth impurity; they become purified after 10 days. If a birth impurity occurs which should be observed for 3 days, and if, in the meantime, another birth impurity occurs which should be observed for 10 days, the kinsmen of [the household where the second birth took place] and for whom a 10-day mourning period is prescribed, shall observe the birth impurity for the complete 10 days. The observance of the first birth impurity does not remove the impurity of the second birth.

35. If a birth impurity occurs first, and then, in the meantime, a kinsman for whom a 10-day mourning period is prescribed dies and also the death impurity occurs, the observance of the birth impurity does not remove the death impurity. After the observance of the death impurity for 10 days, one becomes purified from the birth impurity after performing the naming ceremony.

36. If someone among the kinsmen for whom a 10-day mourning period is prescribed dies and a death impurity occurs, and if another kinsman dies within 10 days and another death impurity occurs, the one who is performing the funerary rites for the first deceased person and his kinsmen for whom a 10-day mourning period is prescribed become purified after the observance of the first death impurity. Only the members of the household where the second death impurity

has occurred and [the deceased person's] sons who are living in a separate household become afflicted by the second death impurity. If another kinsman for whom a 10-day mourning period is prescribed dies within the mourning period of the second death impurity, [the members of the household of the second deceased person] who are still afflicted by the death impurity become purified after observing the second death impurity for 10 days. If [the members of the household] where the second death impurity has occurred were already purified [before the third death impurity occurred], they shall observe the third death impurity for the complete 10 days.

37. Among someone's kinsmen for whom a 10-day mourning period is prescribed, if around 2–3 persons die—some die on the same day and some after 9 or 7–8 days—and he hears the news of all deaths at the same day, he shall observe the death impurity for 10 days for the person about whose death he heard first. This observance of the death impurity removes the impurity [of the deceased persons] about whose death he heard later. He shall not observe the death impurity for more than 10 days [in such cases].

38. If someone first hears the news of a death impurity which should be observed for 3 days, and later on he hears the news of another death impurity [within these 3 days] which should be observed for 10 days, the observance of the death impurity for 3 days about which he heard first does not remove the impurity of the death which he should observe for 10 days. He shall fully observe the death impurity [which he heard later]. If someone first hears the news of a death impurity which should be observed for 10 days, and later on he hears the news of another death impurity [within these 10 days] which should be observed for 3 days, the observance of the death impurity for 10 days about which he heard first removes the impurity which he should observe for 3 days.

39. If the news of a death impurity is heard first, and if [in the meantime] a birth impurity occurs, one may perform at least the birth rites. The naming ceremony shall not be performed until the death impurity is over. The naming ceremony shall be performed after the observance of the death impurity.

40. If the first anniversary of the death of a person (*barkhī*) who died in a pure month (i.e. a non-intercalary month) falls in an intercalary month (*malāmāsa*),<sup>438</sup> it shall be performed in that very intercalary month, whereas the other *kṣayāha-śrāddhas* to be performed annually<sup>439</sup> shall be performed in a pure month, [if the year] contains an intercalary month. The first anniversary ritual for a person who died in an intercalary month<sup>440</sup> shall be performed as soon as 1 year after the

438 The term *malāmāsa*, lit. 'unclean month' (also known as Skt. *adhikamāsa* or *kṣayamāsa*, or Nep. *puruṣottama mahinā*) refers to an extra month in the Hindu calendar that is inserted to keep the lunar and solar calendars aligned. The differences in the days between the lunar and solar calendars make up the additional month in about every 32 months, 16 days and 8 *ghaḍīs*. This extra month is considered unclean and inauspicious, therefore no auspicious rituals or religious ceremonies or festivals can be undertaken in this month.

439 *arū varṣa dīnamā nagarinyā*, read *aru barkha dīnamā garinyā* (MA<sub>2</sub>).

440 *malāmāsa paryākāko*, read *malāmāsamā maryākāko* (MA<sub>2</sub>).

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death is over. If the *śrāddhas* to be performed later occur in an intercalary month, they shall be performed in that very intercalary month.

41. If a father dies and he does not have any son, wife or brothers of an equal caste status, but has only the sons and wives from whose hands he is not permitted to consume cooked rice, they shall search for someone of an equal caste status, as long as such a person could be found, and arrange for the performance of the deceased's funerary rites by him. If no person of an equal caste status is found, these very wives, sons and daughters themselves shall eat a sacrificial meal once a day for 9 days, shall offer [the deceased person] 10 *piṇḍas* made of barley flour on the 10<sup>th</sup> day without erecting the *dhikuro*, shall perform whatever rites are permitted for them to be carried out by their own hands [by the traditions] from the 11<sup>th</sup> day onward, and shall offer a *godāna* fee and a feast to a Brahmin. By so doing, they become purified.

42. Amongst [the members of] any of the Śūdra castes, if a child below the age of 10 dies or a child is born, the birth and death impurity shall be observed according to the *Ain*'s regulation applicable to the death and birth of a child. The death impurity<sup>441</sup> shall fully be observed if [the deceased person] is past the age of 10. The deceased person's kinsmen for whom a 10-day period of mourning is prescribed, and his father and mother shall observe the death impurity for the complete mourning period, depending on how many days they have been observing it according to their own caste customs.

43. Since the king and his ministers need to carry out state affairs for the various territories and countries and need to maintain law [and order] and make the necessary arrangements within their own country, they shall not be afflicted by any impurity.

44. Even if someone is afflicted by death or birth impurity, once it is fixed that he is to go to a war, he is allowed to leave on that very day and join the war. The death or birth impurity does not restrict him from going [to war].

45. Except for the sons and wives of a brave person who dies by his enemies' hands during a war, all of his kinsmen otherwise, for whom a 10-day mourning period is prescribed, become purified just by taking a ritual bath. If such a person has neither a son nor wife, it is allowed to perform the entire funerary rites (*ūrdhvadehika kṛyā*) for him on 1 day. [However], his sons and wives shall be afflicted by death impurity for an entire 10 days, as it has been handed down [from the past]. If a person is wounded in war, and he takes his last breath later, suffering from the same wound inflicted on him at the battlefield, or a person dies while protecting a cow, Brahmin, child or woman, his kinsmen for whom a 10-day mourning period is prescribed shall be afflicted by his death impurity [only] for 1 day.

441 MA<sub>1</sub> speaks of death and birth impurity (*juṭho sutaka*), but the context suggests that only death impurity is meant here.



46. The death and birth impurity do not restrict a doctor from undertaking his duties of giving treatment, an artisan (*karmi*) from continuing his professional duties, a washer man from doing laundry, or a male or female slave or servant from performing their tasks. They are permitted to carry out their duties and professions.

47. If a person dies by falling, being swept away into water, being eaten by a [wild] animal, being struck by an animal, in a fire, being hit by a rock or log, being crushed by a landslide or being hit by lightning, one is permitted to cremate him and perform his funerary rites. No one is required to undertake penance after doing so. If a person commits suicide by jumping, using a weapon, cutting his throat by his own hand, stabbing himself or strangling and hanging himself, or consuming poison or jumping into a fire, one is permitted to cremate him. [However], one shall, through the [respective] *amālī*, give 5 *ānās* as a *godāna* fee to the religious judge (*dharmādhikāra*) in order to perform [other] funerary rites and carry out the rites according to one's caste's customs.

48. If someone is swept away into water, or eaten by a [wild] animal, and the person who was accompanying him has witnessed this, and it becomes certain that that person died but his corpse is not found, the death impurity of such a deceased person shall be observed from the day when the *nārāyaṇabali*-ritual<sup>442</sup> is performed within 10 days [after his death]. One becomes purified carrying out the customs of one's caste after 10 days from the day of the death. If the news of such a death is heard after 10 days have passed and the *nārāyaṇabali*-ritual is performed, the kinsmen of the deceased person shall be afflicted by the death impurity for 3 days and the chief mourners for 10 days.

49. If the birth or death impurity occurs during the time of an epidemic, such as smallpox, cholera, fever or the like, and if a person who is afflicted by such an impurity or a person who is observing the death impurity himself becomes affected by such diseases and is about to take his last breath and declares: 'I want to organize a recitation of mantras and holy texts and religious worship, and want to give religious gifts for accumulating merit', he is permitted to do so. Neither the one who performs such acts nor the one who officiates over them, shall commit any sin by doing so. Except for these, no other rituals meant for gods or ancestors shall be performed when one is afflicted by birth and death impurity.

50. If a woman from a Sacred Thread-wearing caste who has her menstrual period falls ill, and someone touches her while she is being taken to a *ghāṭa* for medical treatment, or someone accidentally touches her, he becomes purified by taking a ritual bath and replacing his Sacred Thread.

442 This refers to a special ritual performed in the case of an untimely death or when the dead person's body is not found (see Gutschow/Michaels 2005: 11).

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51. If a daughter who is not married and who has already had her first menstrual period dies in her parental household, her father and mother, if they are still alive, and otherwise her brothers who are living in the same household shall be afflicted by death impurity for 10 days. They shall become purified after offering 10 *piṇḍas* made of barley flour or rice on the 10<sup>th</sup> day and consuming *pañcagavya* and giving a *godāna* fee and a feast to a Brahmin on the 11<sup>th</sup> day.

52. If a pregnant woman dies before the delivery of her child, and if her pregnancy lasted more than 3 months, the husband, if he is alive, and otherwise his brothers and kinsmen for whom a 10-day mourning period is prescribed, shall take the foetus out of the womb and bury it, and shall cremate the woman, smearing her body with mud, cow dung, and holy ash and showering it [with water mixed with] *pañcagavya*, *kuśa* grass, and holy water from the sacred pilgrimage places, putting her on a bamboo bier (*nāṅglo*) and dressing her with pure garments, and they shall perform the funerary rites.

53. If someone has gone abroad, and no news arrives about the death of that person, and if his lawful heir declares: ‘It has been a very long time since such and such a person went abroad. It is not known to this day whether he has died or is still alive. He had already reached a very old age, so I will perform his funerary rites’, he shall do so by performing the *parṇasara*<sup>443</sup> and *nārāyaṇabali* rituals once it has been determined that, in view of his age before he left his home and the years he had spent abroad, he would now be past the age of 100. If such [a missing] person, by chance, has not yet died, and returns home, the persons who performed the funerary rites for him after he passed the age of 100, shall not be held accountable. [Such a person] who has returned home does not lose his caste status. He becomes purified by a feast on a pilgrimage<sup>444</sup> and retains his caste status. If the person who performed the funerary rites for a missing person who has not reached the age of 100, performed them in hopes of inheriting the property for which the person missing has no son as heir, and if the missing person returns home alive, the one who performed the funerary rites [for the missing person] shall be fined an amount equal to the missing person’s property for which he has no son as heir. The one who returned home becomes purified by a feast on a pilgrimage.

54. The death and birth impurity shall not prevent [the following] persons from continuing the performance [of the rituals they had begun before being informed about the impurity]. These include those who are about to undertake penance, having made the ritual declaration (*saṃkalpa*), anyone who has started the recitation of mantras or holy texts or the giving of a fire oblation after having made the ritual declaration, a Brahmin who has accepted a ritual invitation to officiate over a *śrāddha* and has started officiating [as a priest], anyone who has finished cooking the rice in milk for the *piṇḍas* for a *śrāddha*, a Brahmin who has been ritually accepted by his client for the performance of a sacrifice and so forth, anyone who does work for an alms-giving trust

443 According to the NBS (s.v. *parṇasara*), this refers to a special death ritual (such as crematory and other purificatory rituals) to be performed for a person who is missing and is believed to be dead.

444 NBS gives the meaning of this term s.v. *tīrthe bhoja* as ‘feast held by pilgrims on the return home’.

distributing food, and anyone who continues performing marriage or initiation rituals, sacrifices or the like which have been started by performing the *nāndīśrāddha*<sup>445</sup>.

55. If the patron of a sacrifice (*yajamāna*) is giving a ritual feast to Brahmins, and if someone from his household dies and the death impurity occurs while they are eating, they shall stop eating. They shall not further eat [at this house]. If [the death] did not occur in this household, but the news of the death of the patron's kinsman, for whom a 10-day mourning is prescribed, arrives while the Brahmins are eating, they shall—on the grounds that the [food] was cooked before the news of the death was heard—be allowed [to continue] eating, after separating the food from the kitchen and without letting the patrons touch it.

56. Someone who knowingly eats cooked food from the hands of a person who is observing mourning shall also be afflicted by the death impurity for as many days as the death impurity remains for the latter. If someone eats unknowingly or accidentally [from the hands of such a person,] he shall [also] be afflicted by the death impurity for 1 day. He becomes purified by offering a *godāna* fee. If someone eats [from the hands of such a person] in an emergency, he shall be afflicted by the death impurity for as many days as he has eaten [from such person's hands]. He is not required to offer a *godāna* fee. No one shall eat from the hands of someone who is afflicted by a death impurity. If someone consciously does so, he may be committing a sin (*pātaka*).

57. If one has to accept salt, oil, ghee, honey, jaggery, sugar, syrup (*khudo*), meat, fruit, herbs, medicine, wooden pots, leaves, clay, curd, milk, dry skin, raw grain, metal, untouched water, cloth, quadrupeds, dry tobacco leaves (used for chewing), tobacco, spices or the like from a household afflicted by death impurity, such edible foods and other things shall not be accepted if they have been touched [by a person afflicted by death impurity]. If such items are offered by a household member and they have not been touched by the chief mourners, one is permitted to accept them.

58. When someone dies or is born during the night, and if the day of death or birth is to be determined, for a death occurring before sunrise the day before shall be considered as the date of death, whereas for a death occurring after sunrise, that very day shall be considered the date of birth. For a birth occurring before the 24 hours of the day have passed, that very day shall be considered the date of birth. For a birth occurring after the 24 hours of the day have passed, [but before the sunrise of the next day], the day before shall be considered the date of birth.

59. If death or birth impurity occurs in one's own household, or in the household of one's kinsman for whom a 10-day mourning period is prescribed, [the members of the household] shall

445 Also known as *nāndīmukha*, *māṅgalikaśrāddha* or *ābhyudāyikaśrāddha*, this *śrāddha*-ritual, meant for the ancestors, is performed before starting the performance of the auspicious rituals such as marriage, initiation or the like (see NBS s.v. *nāndīmukha*).

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not recite the *gāyatrī* or any other mantra which they have been reciting [from their initiation onward], but shall only recall them in their minds. They shall offer [water] to the Sun-god with the open palms of their hands joined together (*añjalī*), followed by the mantra and *prāṇāyāma*. They shall not perform other [daily] rites.

60. If a son, after hearing the news of the death of his father or mother, does not perform the funerary rites and does not observe mourning, he shall be fined 20 rupees and be forced to perform the funerary rites. Apart from the father and mother, if someone does not observe the death impurity of his kinsmen for whom a mourning period is prescribed in the *Ain*'s regulations, he shall be fined 5 rupees. If someone does not observe the death impurity of his maternal or nuptial relatives, or fictive kinsmen (*mīta*), guru or the wife of the guru, for whom a mourning period is laid down in the *Ain*'s regulations, he shall be fined 2½ rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

61. If [a household] is afflicted by death impurity, the persons who are observing mourning (*juṭho bārnyā*) including the main persons who perform the funerary rites (*kṛyā putrī*), are allowed to eat rice, barley, wheat, corn, *kerāu* (a sort of pea), lentils called *rahara* and *mugī*, rock-salt from the Indus, ginger, milk, curd, ghee, sweet items made out of sugarcane, green and root vegetables. If someone declares of his own volition that he does not want to eat [any of these foods and vegetables during the mourning period], he shall not be held accountable.

62. If [a household] is afflicted by death impurity, the main persons who perform the funerary rites, including the persons who are mourning are not allowed to consume fish, meat, Kodo millet, black lentils (*māsa*), oil, alcohol, liquor, garlic, shallots, black soybeans, onions and mushrooms. If anyone eats any of these things [during the mourning period], he shall be fined 1 rupee.

63. A man or woman from any of the Sacred Thread-wearing castes, down to the Water-acceptable castes, may perform the *vr̥ṣotsarga* ritual for the sake of *dharma*. The man or woman who performs the *vr̥ṣotsarga* ritual shall not be held accountable.

64. If someone from any of the Sacred Thread-wearing castes, down to the Non-enslavable and Enslavable Alcohol-drinking castes, dies, and if the lawful heirs of the deceased person, although they were not prevented from performing the funerary rites, do not perform them, they shall be fined 20 rupees and be forced to perform the funerary rites. If they do not perform the funerary rites because they are obstructed from doing so, they are not required to pay the fine. The kinsmen [of the deceased person for whom the funerary rites have not been performed], become purified by observing the death impurity, after they hear the news of the death, for as many days as it has been practiced according to their caste's customs. They are allowed to carry out marriage rituals or the like [after the observance of the death impurity]. Their marriage ritual cannot be interdicted on the grounds that [the deceased person's lawful heirs] have not performed the funerary rites. When [the deceased person's lawful heirs] perform the funerary rites later on, the kinsmen [of the deceased person] for whom a 10-day period of mourning is

prescribed, shall not observe the death impurity [again]. The members of the household of the deceased person shall observe the death impurity when the funerary rites take place later and become purified.

65. If a woman dies after it is known that she is pregnant, the foetus shall, in accordance with the *Ain*<sup>446</sup>, be taken out of her womb and be buried, and the corpse shall be cremated. If a woman is cremated, and it is known [that she was pregnant, but] the foetus is not taken out, then amongst the main persons who cremate her dead body with the knowledge [that she was pregnant], the main person who sets fire [to the pyre] shall be fined 10 rupees, and be granted expiation, after making him pay a *godāna* fee of 2½ rupees. If it is ascertained that an innocent person who does not know that [a pregnant woman's corpse] should be cremated [only] after taking the foetus out, has cremated her dead body without taking the foetus out, he shall be fined 2 rupees and be granted expiation, after making him pay a *godāna* fee of ½ rupee. If the dead body of woman is cremated without anyone knowing whether she was pregnant or not, the ones who cremated her shall not be held accountable. Also, the mourners at the funeral shall neither be fined nor do they need to undergo expiation.

66. If a woman leaves her husband and runs off with another man, and if her former husband dies and she performs his funerary rites, she shall be fined 20 rupees. If someone, knowing that she has run off with another man, makes her perform the funerary rites [for her former husband], telling her that she is permitted to do so, he also shall be fined 10 rupees. If a woman performs the funerary rites for her former husband after she runs off with another man, his funerary rites shall be considered unperformed. If a woman runs off with another man, but the former husband takes her back into his household and keeps her as his wife and also consumes cooked rice from her hands, but [his fellow caste members] do not consume cooked rice from her hands following their caste's customs, she shall be permitted to perform her husband's funerary rites to the extent a concubine would be allowed to perform them. She shall not be held accountable for doing so.

67. ([This Section is] not valid.) From now on, the bulls [ritually offered to Śiva] after performing the *vṛṣotsarga* ritual, or freed because of any other reason, shall, within 7 days, be brought to the cowshed in the Cakhela [village] and be handed over to the cowherds there, and a receipt for this shall be received. If they are not brought to Cakhela, they will destroy the standing crops of the subjects. Therefore, [if they are not brought to Cakhela], the persons who offered them [to Śiva] or freed them shall be fined 4 rupees by the respective *thānā*. Salt shall be bought from the amount of the fine, and it shall be handed over to the cowherds [of Cakhela]. They shall feed salt to the bulls. The Cakhela village shall erect a cowshed to take care of such bulls. The government shall employ 6 cowherds: 4 [civilian], paid 200 *mohorū* as an emolument, and 2 soldiers from *Sālaḍuraṃja*<sup>447</sup>. Among them, one person who is able to write [should be given the tasks of registration, etc.] and 5 persons should be employed as cowherds. These [6] cowherds

446 This refers to § 52 above.

447 This most probably refers to the Śārdūlajaṅga regiment.

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shall receive the bulls handed over by the subjects, issue a receipt for them, and shall not let the bulls escape from the shed. If they escape from [the shed] and destroy the standing crops of the subjects, the person who freed them shall not be held accountable.

68. If someone performs purifying rituals or the name-giving ritual before he observes the death or birth impurity for the complete period as handed down from the traditions, and offers water to others<sup>448</sup>, he shall be fined 5 rupees. The priest who knowingly officiates over such ritual acts shall be fined 2½ rupees.

448 This symbolises that he is purified from the death or birth impurity.

## 98. On Paying Obeisance

1. While paying obeisance, any person from all the Four Varnas and Thirty-six castes shall do it by lying flat on the ground and laying his head at the feet [of the following persons]: the father, by whom he was begotten, his grandfather or great-grandfather, and his mother, who gave birth to him, his paternal grandmother or great-grandmother, and the mother and father of his mother, guru, or wife of his guru. One shall pay obeisance to all other uterine elder brothers and sisters etc. from a distance. Except for these relatives, if someone pays obeisance by placing his head at the feet of other close relatives at his own pleasure, he shall not be held accountable.

2. A woman shall pay obeisance by placing her head at the feet [of the following persons]: her husband, mother-in-law, wife of her guru, grandmother, and great-grandmother. A woman shall not pay obeisance to [any] other persons by placing her head at their feet. A woman shall not pay obeisance to any other person by placing her head at his or her feet. She shall pay obeisance to other persons from a distance. A woman from a household where a salute [is the common form of obeisance], may only salute.

3. If obeisance to Rajapūtas and high-ranking officials (*umarāva*) is paid, no one shall speak out the word *jadau*,<sup>449</sup> but shall only raise his hand and pay obeisance [to them] without speaking out the word *jadau*. Anyone who continues to pay obeisance to [such a person], who does not greet back by raising his hand when he is greeted, shall be proven to be an unmanly person.

4. When someone confers the initiatory mantra on his ritually married wife or on his concubine by performing all the necessary rituals, no [punishment] shall be required for the wife. The husband who confers the mantra shall be fined 20 rupees. No penance shall be required. The husband and wife shall not be required to separate. [The husband] shall not be held accountable if he personally teaches [his wife] other skills, such as writing, reading, or the like.

449 A form of greeting (especially from a lower to a higher caste). According to TND (s.v. *jadau*), it is derived from *jai deva* 'give victory' or 'hail, divine one'. It is accompanied by bowing down and tapping one's forehead with the fingers of the right hand.

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5. From now onwards, women from all the Four Varṇas and Thirty-six castes shall receive the [initiatory] mantra from women only. Women shall not receive mantras from men. If a man confers the mantra on a woman, he shall be fined 20 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned and be set free [after his prison term is over].



## 99. On Marriage

1. If [two persons] commit incest, and if the degree of their kinship (*pustā*) is to be determined [to decide on what punishment is to be imposed], and if one party [involved in the incest] is beyond the degree of kinship which, in accordance with the *Ain*, mandates punishment, while the other party is not beyond it, then the party with the lower degree of kinship shall not be taken into consideration. The case shall be decided by calculating [the degree of kinship] on the basis of the party who is beyond [the degree of kinship mandating punishment]. They shall not be held accountable.

2. [Kinsmen] who are removed from the common ancestor up to the 7<sup>th</sup> degree are in *sapiṇḍa*-relation. The *sapiṇḍa*-relation ceases beyond the 7<sup>th</sup> degree. If the degree of kinship is to be determined, one shall count the degrees starting from oneself up to the common ancestor from where the family tree branches off.

3. If someone brings his maternal uncle's daughter, who is past the age of 12, [into his household as a wife] with the consent of the girl and she is commensal in sharing cooked rice and lentils [with him and his fellow commensals], he [and his fellow commensals] are allowed to accept cooked rice from her [hands] after she has been given the [initiatory] mantra. She shall be entitled to receive a share of the inheritance as any other married wife would receive.

4. If someone brings his maternal uncle's widowed daughter, whose [deceased husband's] caste status is similar to hers, [into his household as a wife], he shall not be held accountable. If she is married, it shall be at the pleasure of the aggrieved husband [as to whether he kills his wife's paramour or lets him off].

5. As it has been written down in the authoritative scriptures (*śāstra*), anyone from the Four Varṇas and Thirty-six castes may marry the sister of his wife. It shall not be considered incest (*pātaka*). It shall also not be considered [a heinous] crime [punishable] by the king.

6. When marrying a daughter from the Sacred Thread-wearing castes or the like, no one shall marry a girl below the age of 5. Among them, too, if someone marries off a girl who is not past the age of 30 months, the share of property of the person who marries her off shall, in accordance with the *Ain*, be confiscated, 10 percent [of the confiscated property] shall be collected [as a court fee] and [the rest of it] shall be handed over to the girl herself as dowry, and

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[the person who marries her off] shall be freed. Among those who knowingly ask for the hand of a girl who is below the age of 30 months in marriage or marry [such a girl], if the main person [arranging the marriage] from the bridegroom's side is authorised [to do so], and if the groom is a person known to him, and if [the groom] himself is authorised [to marry], the share of property belonging to the groom shall be confiscated and he shall be set free. The bride shall belong to the [groom] who married her. If someone lies, saying that a girl who is below the age of 30 months is past the age of 30 months and marries her off, the share of property of the main person from the bridegroom's side who is authorised to arrange the marriage and the bridegroom, who himself is authorised to get married, shall not be confiscated. They shall be fined 20 rupees. The priest who officiates over the marriage of a girl below the age of 30 months shall be fined 10 rupees. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

7. If someone marries off a girl who is above the age of 30 months and below the age of 5 years and belongs to a Sacred Thread-wearing caste, he shall be fined 20 rupees. If such a girl is given in marriage under the false pretence that she is past the age of 5, no one from the bridegroom's side shall be punished. If someone knowingly marries a girl who is below the age of 5, the main person from the bridegroom's side who is authorised [to arrange the marriage] and the bridegroom, who himself is authorised to get married, shall be fined 20 rupees. Anyone who gives a girl in marriage who is past the age of 5 and anyone who marries her shall not be held accountable.

8. If the parental family members (*māitī*) or relatives of a widowed sister, daughter, daughter-in-law, granddaughter, sister's daughter or the like from a Sacred Thread-wearing caste or Non-enslavable Alcohol-drinking caste give [the widow] in marriage, with her consent, to someone from a caste superior or equal in status to hers, [the family member or relative who] gives the widow, who is past the age of 11 and who [agrees] by stating: 'I shall go with the said person' in marriage, shall not be held accountable. If [the family member or relative] gives such a widow in marriage despite her being against it and despite her stating: 'I shall remain faithful to my husband. I shall not go with anyone', and if the widow comes to complain before her [new] husband takes her away, [such family members or relatives]—if they belong to a Sacred Thread-wearing caste—shall be fined 100 rupees. If they belong to a Non-enslavable Alcohol-drinking caste, they shall be fined 50 rupees. If they belong to an Enslavable Alcohol-drinking caste, they shall be fined 15 rupees, if they belong to a Water-unacceptable but Touchable caste, they shall be fined 10 rupees, and if they belong to an Untouchable caste, they shall be fined 8 rupees. Someone who takes [the widow] with him after she has been handed over to him by her paternal family members or relatives shall not be held accountable. It shall be at her pleasure as to whether she stays with him or not. If such a woman has illicit sexual intercourse with someone else, [the aggrieved] husband shall not be permitted to kill her paramour. If he kills her paramour, he shall be executed—taking life for life. If someone gives a widow in marriage to someone, and the widow says: 'I shall remain faithful to my husband and I shall not go with anyone', and if [her new husband] forces her to have sexual intercourse, breaking her vows of chastity, his share of property shall, in accordance with the *Ain*, be confiscated and be handed over

to that woman as compensation, and 10 percent of this compensated property shall be collected [as a court fee]. The person who has given such a widow in marriage shall be imprisoned for 1 year. If he pays double the fine in lieu of the prison term, it shall be accepted and he shall be set free.

9. When the Upādhyāya Brahmins give their daughters away [in marriage], who are commensal in cooked rice, they shall give them in marriage to families that are commensal with respect to cooked rice. If someone willingly gives his daughter away [in marriage] to a person from a caste inferior in status to his own and non-commensal with respect to cooked rice, his share of property shall, in accordance with the *Ain*, be confiscated and the daughter shall be provided with half [of the confiscated property] while the [other] half shall be deposited with the Iṭācapali court. Anyone who belongs to a lower caste and is non-commensal with respect to cooked rice with Upādhyāya Brahmins, [but] marries a daughter of theirs, shall be punished in accordance with the *Ain*'s [regulations] for having illicit sexual intercourse with an Upādhyāya Brahmin girl, and the husband and wife shall be separated. [If she has sexual intercourse with her] paramour, [the aggrieved husband] shall not be permitted to kill him. If he kills the paramour, he shall be punished by *dāmala* after his share of property has been confiscated. The wife shall belong to whichever caste is that of the person she is married to.

10. If someone from any of the Four Varṇas and Thirty-six castes asks for the hand of any girl in marriage, and, after the marriage has already taken place, the bridegroom turns out to be impotent, a person without a penis, or a leper, and the wife, without affecting the commensality of cooked rice, runs off with someone else from a caste equal in status to hers, but who is not a blood relative, she shall not be held accountable, if [such a woman is from] a Brahmin caste and runs off with [a man from] a Brahmin caste. [If the aggrieved husband] has the right to kill her paramour, he is not permitted to do so. If he is not allowed to kill her paramour, the paramour shall neither be punished nor does he need to pay a fine. [If her paramour] belongs to an Enslavable caste, he shall not be enslaved. If [the aggrieved husband] is a Brahmin and kills her paramour, he shall be punished by *dāmala* after his share of property has, in accordance with the *Ain*, been confiscated. If he is from any other caste, he shall be executed—taking life for life.

11. If a daughter, brother's daughter, younger sister, granddaughter, sister's daughter or a foster daughter of someone from any of the Four Varṇas and Thirty-six castes, who is past the age of 14, is asked for in marriage by [a suitor] or by his relatives (*kuṭumba*), and if the girl—after the *janai supārī* ritual is performed [in the case of the Sacred Thread-wearing castes] and the ritual of offering and accepting the customary marital gifts (*chāmṅrā rita*) is performed in the case of Alcohol-drinking and Enslavable castes without consent—states: 'Do not marry me off to that bridegroom. I shall not go [with him]', [the girl] shall not be forced [to go ahead with the marriage], even if the *janai supārī* ritual has been [already] performed or the customary marital gifts have been accepted [from the bride's family]. It shall be at the girl's pleasure [as to whether or not to accept the marriage proposal]. The girl shall be married off to a place of the girl's choice, [but] to a family of a caste status equal to hers.

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12. If the father, mother or brothers of a girl have not betrothed her to anyone, [but] someone comes to make a false complaint at an *adālata*, *ṭhānā* or *amāla* office, stating: ‘Such and such a girl from one of the Four Varṇas and Thirty-six castes has been betrothed to me’, and if it is proven upon investigation that [the girl’s] father, mother or brothers have neither betrothed her ritually (*rita*) nor verbally, and if it is ascertained that the person made a false complaint by claiming that something has been given to him that [in fact] was not given to him, then such a false complainant shall be fined 100 rupees, if he is from a Sacred Thread-wearing caste; 50 rupees, if he is from a Non-enslavable Alcohol-drinking caste whose members bear the right to kill their wives’ paramours; 10 rupees, if he is from a Non-enslavable Alcohol-drinking caste whose members do not bear the right to kill their wives’ paramours; 10 rupees, if he is from an Enslavable caste whose members bear the right to kill their wives’ paramours; 5 rupees, if he is from an Enslavable caste whose members do not bear the right to kill their wives’ paramours; 2½ rupees, if he is from a Water-unacceptable but Touchable caste; and 1½ rupees, if he is from an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

13. If someone asks any girl from any of the Four Varṇas and Thirty-six castes [for her hand] in marriage, and if [her family] only verbally agrees to give [her hand in marriage], but the customary [betrothal] rituals of his caste, such as the *janai supārī*, *sāhipātā*<sup>450</sup> or *chāmṅrā* ritual, have yet to be performed, and if someone comes to complain: ‘Such and such a person who betrothed the girl [to me] now declines to give her [to me in marriage]’, the claim of someone who says: ‘The girl was betrothed [to me] only verbally and no customary rituals have been performed’ shall not be heard by an *adālata*, *ṭhānā* or *amāla*. The boy’s imposition [for marriage] shall not be valid if the girl is betrothed only verbally without any customary rituals being performed. Even if the parents give the girl away in marriage to someone else, they shall not be held accountable. After the *adālata* or *amāla* reply: ‘You shall not get a girl without the performance of the customary rituals’, and if the boy causes trouble and files a complaint, the person who caused the trouble shall be fined 20 rupees, if he is from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste; he shall be fined 10 rupees, if he is from an Enslavable, Water-unacceptable or Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

14. If a boy does not marry the girl [who has been betrothed to him] after the *janai supārī* ritual<sup>451</sup> has been performed, he shall be fined 50 rupees. The parents shall again give away the said girl in marriage [to someone else] of an equal caste status. If the girl is suffering from leprosy, has broken eyes, has a uterine prolapse, is a mute, epileptic or a Hijra, has broken limbs, or suffers from syphilis, and if later the boy [to whom she has been betrothed] knows about [her disabilities]

450 The term *sāhipāṭa* (var. *sāhipatra*) refers to the document on which the agreement is signed by the parties negotiating a marriage; or to the present sent by the bridegroom to the bride with this document and consisting usually of sugarcane, fish and curds.

451 *janai supārī garyā ki keṭile vihā garena bhayā*, read *janai supārī garyāki keṭi keṭāle bihā garena bhanyā* (MA<sub>2</sub>).

and declines to marry her, he shall not be forced to marry her. He shall be entitled to leave the girl and collect [from her family] the cost for the customary gifts and fees such as goats (*chāmṅrā*) and 4 *dāmas*. The boy shall neither be forced [to stay with the girl] nor shall he be held accountable.

15. If someone asks for the hand of someone's daughter in marriage and [the betrothal] ritual, according to his caste customs, such as *janai supārī* or the offering of marital [gifts] or fees is performed, but the marriage for some reason is delayed due to obstructions, whether from the bridegroom's or bride's side, and if the bridegroom—except in cases where he has gone on a state business—does not come to marry the girl within a year, [even] after the girl's family requests [the bridegroom's side] to come to marry the girl, or if the boy goes far away to a different territory or abroad on his private business and does not come to marry the girl within a year, the parents and relatives of the girl shall give her away in marriage to whomsoever they choose. If [the bridegroom] comes to quarrel after 1 year has passed, saying that the girl was given to him, he shall be fined 10 rupees. If he kills the [bride's] husband under such circumstances, he shall be executed—taking life for life.

16. If someone gives away his ritually married wife to another person and takes in exchange the latter's ritually married wife, and if both of those who have exchanged wives with each other have equal caste status and have not contaminated their fellow commensals with respect to cooked rice [after they have exchanged their wives], they shall not be held accountable. They shall not be permitted to kill their wives' paramours [if the wife runs off]. If they kill their wives' paramours, they shall be executed—taking life for life. Cooked rice may not be accepted from the hands of such unmanly men [who have exchanged their wives with each other]. If someone from any of the Sacred Thread-wearing castes down to the castes from whose members water at least may be accepted, exchanges his wife with the wife of someone else from a caste inferior or superior in status to his own, both [men's] share of property which is theirs according to the *Ain*, shall be confiscated, and [both] shall be excluded from the commensality with respect to cooked rice and be set free.

17. If anyone from any of the Four Varṇas and Thirty-six castes, such as the Upādhyāya Brahmin, Jaisī Brahmin, Rajapūta, Sacred Thread-wearing Kṣatriya, Non-enslavable Alcohol-drinking, Enslavable Alcohol-drinking, Water-unacceptable, Untouchable caste or the like, marries the daughter of his maternal uncle or aunt, who are born to the same father of his mother, he shall not be held accountable. If any of the fellow commensals from the equal status caste declines to accept cooked rice from the person who marries [within the above-mentioned relation], an *addā*, *adālata* or *amāla* shall fine him 10 rupees and set him free, after having him consume cooked rice from the hands of that person. If they are not from a caste equal in status, they may [still] proceed with the marriage. [However,] consuming cooked rice from their hands shall not be mandatory.

18. Someone from a caste whose members, since the time of their fathers and forefathers, customarily marry the daughters of their paternal aunts, may marry the daughter of his paternal aunt who is born to the same grandfather [as his father]. He shall not be held accountable. If

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someone from a caste whose members, since the olden times, do not marry the daughters of their paternal aunts, marries his paternal aunt's daughter, he shall, in accordance with the *Ain*, be punished.

19. If a boy who is from an inferior caste lies about his caste status and asks [for the hand of] a girl in marriage who is from a caste superior in status to his, and if the girl's father [afterwards] declines to give the girl [in marriage to him], arguing: 'Your caste status is inferior to [ours]', [the father] shall not be held accountable, even if a [betrothal] ritual such as *janai supārī* has already been performed. If the boy attempts to forcefully marry [the girl], he shall be fined 20 rupees. It shall be at the pleasure of the parents to marry off the girl to another person of their choice.

20. If someone from a Sacred Thread-wearing caste knowingly marries a daughter of someone from a caste inferior in status to his and from whose hands water is not acceptable, and if he consumes cooked rice from the girl's hands and also contaminates his fellow commensals through cooked rice, he shall be fined 100 rupees and be placed in the caste of that girl's parents. If he consumes [the cooked rice from the girl's hands], but does not contaminate any of his fellow commensals, no fine is required for him. He shall only be placed in the caste [of that girl's parents]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If he asks for penance [for re-admission to his caste], he who has wittingly consumed [cooked rice from the hands of such a girl] shall not receive expiation with respect to cooked rice.

21. If someone from a Non-enslavable Alcohol-drinking caste marries a daughter from the Water-unacceptable caste, a caste lower in status to his own, and consumes cooked rice from the girl's hand and transfers the defilement to his fellow commensals as well, then he shall be fined 40 rupees and be placed in that girl's maternal caste. If he consumes [cooked rice from the girl's hands], but does not transfer the defilement to others, then there shall be no punishment. He shall only be placed [in that caste]. If he fails to pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

22. If someone from an Enslavable caste marries the daughter of someone from a caste inferior in status to [his own] and from whose hands he does not accept cooked rice, and if he consumes cooked rice from the girl's hands and also contaminates his fellow commensals through cooked rice, he shall be fined 10 rupees and be placed in the caste of that girl's parents. If he consumes [cooked rice from the girl's hands] but does not contaminate his fellow commensals, he does not need to pay a fine. He shall only be placed in the [girl's parent's] caste.

23. If someone from a Water-unacceptable or Untouchable caste marries a daughter of someone from a caste inferior in status to his and from whose hands he does not accept cooked rice, and if he consumes cooked rice from the girl's hands and also contaminates his fellow commensals, he shall be fined 5 rupees and be placed in the caste of that girl's parents. If he consumes [cooked rice from the girl's hands], but does not contaminate his fellow commensals, he does not need to pay a fine. He shall only be placed in the caste [of that girl's parents].

24. If [a boy] mistakenly thinks that the girl [he is going to marry] belongs to a caste equal in status to his, [although] she belongs to a caste inferior in status to his, and if the [betrothal ritual] such as the *janai supārī* is completed, but later he comes to learn that the girl [actually] belongs to a caste inferior in status to his and therefore declines to marry her, the boy shall not be obliged to marry her even though the *janai supārī* was accidentally performed. The parents may give the girl in marriage to someone else from a caste equal in status to their own. If the marriage has already taken place [in such a case], the boy shall not be permitted to leave the wife. He shall not be obliged to accept cooked rice [from the girl's hands]. If the marriage has already taken place and [the boy] has already consumed cooked rice and water [from the girl's hands], but comes to learn [about her caste status] only later, and asks for expiation for accidental contamination, saying: 'I shall not consume cooked rice from her hands [any more]', he shall be granted penance.

25. If someone asks for [the hand of] someone's daughter in marriage, and if her parents, brothers or paternal uncles betroth her to him, and if he has already offered the customary fee (lit. 'money') to them and she is handed over to him, he shall be allowed to marry the girl.

26. If someone takes the full sister of the wife of the son he himself has begotten as concubine or marries her, he shall not be held accountable.

27. If someone, whether a man or a woman, from a Rajapūta, Jaisī, Sacred Thread-wearing Kṣatriya, Non-enslavable or Enslavable Alcohol-drinking caste, Water-unacceptable or Untouchable caste or the like, including Upādhyāya Brahmin castes, lies about the caste status of any unmarried girl or widowed woman and tells [a boy from] an Upādhyāya Brahmin caste that she is from a caste equal in status to his, [although in fact] she is from a caste inferior in status to his and he is not permitted to accept cooked rice from her hands, and gets him to marry her, or arranges that she is given [in marriage] to that boy by lying about the girl's caste status through providing other [false] details, and if [thereby] the Upādhyāya bridegroom becomes contaminated through [the bride] with respect to cooked rice, [the culprit who lied about the inferior caste status of the bride] shall be fined 200 rupees, [if he or she deceitfully] gives the daughter of a Rajapūta or a Jaisī Brahmin in marriage to [an Upādhyāya Brahmin] and gets him contaminated with respect to cooked rice through her; 210 rupees shall be fined if [the culprit] gives a daughter from a Sacred Thread-wearing Kṣatriya caste in marriage [to an Upādhyāya Brahmin and] gets him contaminated with respect to cooked rice through her; 220 rupees shall be fined if [the culprit] gives a daughter from a Non-enslavable Alcohol-drinking caste in marriage [to an Upādhyāya Brahmin and] gets him contaminated with respect to cooked rice through her; and 230 rupees shall be fined if [the culprit] gives a daughter from an Enslavable Alcohol-drinking caste in marriage [to an Upādhyāya Brahmin and] gets him contaminated with respect to cooked rice through her. If the amount of the fine is not paid, [the culprit] shall, in accordance with the *Ain*, be imprisoned. If [the culprit] only arranges for the marriage to take place, but [the Upādhyāya Brahmin] does not become contaminated with respect to cooked rice through the bride, [such a culprit] shall be fined half of what has been laid down in the *Ain*, depending on the caste of the girl he or she deceitfully has

given in marriage, or whom he has arranged it by lying about her caste status. If a daughter from a caste inferior in status [to that of the bridegroom-to-be], from whom he does not accept cooked rice, is given in marriage, and if he [and his fellow commensals] become contaminated through her with respect to cooked rice, and if someone who requires expiation after he has knowingly consumed cooked rice from the hands of the said girl or from the hands of the persons who have consumed cooked rice from her hands, does not undergo expiation, but contaminates other fellow commensals with respect to cooked rice, such a person—if it is a man—shall be placed in the caste of the said girl, after his property, in accordance with the *Ain*, has been confiscated. If it is a woman, she shall be placed in the caste of the said girl without having her share of property confiscated. If such a person consumed cooked rice from the hands of the said girl, but has not contaminated any other fellow commensals through cooked rice, he shall, in accordance with this *Ain*, be punished and be placed in the said [girl's] caste without his share of property being confiscated. He shall be set free thereafter. The bridegroom and his fellow commensals who have unwittingly consumed cooked rice shall be granted expiation for accidental contamination. Because the rituals of marriage have already been fulfilled, [the bridegroom] shall not be permitted to abandon the bride. He shall keep her, but shall not consume cooked rice [from her hands].

28. If someone, whether a man or a woman, from a Rajapūta, Jaisī, Sacred Thread-wearing Kṣatriya, Non-enslavable or Enslavable Alcohol-drinking caste, Water-unacceptable or Untouchable caste or the like, including Upādhyāya Brahmin castes, lies about the caste status of any unmarried girl or widowed woman and tells [a boy from] a Rajapūta or Jaisī caste that she is from a caste equal in status to his, [although in fact] she is from a caste inferior in status to his and he is not permitted to accept cooked rice from her hands, and gets him to marry her, or arranges that she is given [in marriage] to that boy by lying about her caste status through providing other [false] details, and if [thereby the Rajapūta or Jaisī bridegroom] becomes contaminated through [the bride] with respect to cooked rice, [the culprit who lied about the inferior caste status of the bride] shall be fined 60 rupees [if he or she deceitfully] gives the daughter of a Rajapūta to a Jaisī or the daughter of a Jaisī to a Rajapūta and gets him contaminated with respect to cooked rice through her; 200 rupees shall be fined if [the culprit] gives the daughter from a Sacred Thread-wearing Kṣatriya caste in marriage to a Rajapūta or Jaisī and gets him contaminated with respect to cooked rice through her; 210 rupees shall be fined if [the culprit] gives the daughter from a Non-enslavable Alcohol-drinking caste in marriage [to a Rajapūta or Jaisī and] gets him contaminated with respect to cooked rice through her; and 220 rupees shall be fined if [the culprit] gives the daughter from an Enslavable Alcohol-drinking caste in marriage [to an Upādhyāya Brahmin and] gets him contaminated with respect to cooked rice through her. If the amount of the fine is not paid, [the culprit] shall, in accordance with the *Ain*, be imprisoned. If [the culprit] only arranges for the marriage to take place, but [the Rajapūta or Jaisī] does not become contaminated with respect to cooked rice through the bride, [such a culprit] shall be fined half of what has been laid down in the *Ain*, depending on the caste of the girl he or she deceitfully has given in marriage or for whom he has arranged it by lying about her caste status. If a daughter from a caste inferior in status [to that of the bridegroom-to-be] from whom he does not accept cooked rice, is given in marriage, and if he [and his fellow commensals] become contaminated through



her with respect to cooked rice, and if someone who requires expiation after he has knowingly consumed cooked rice from the hands of the said girl, or from the hands of the persons who have consumed cooked rice from her hands, does not undergo expiation, but contaminates other fellow commensals with respect to cooked rice, such a person—if it is a man—shall be placed in the caste of the said girl, after his property, in accordance with the *Ain*, has been confiscated. If it is a woman, she shall be placed in the caste of the said girl without having her share of property confiscated. If such a person has consumed cooked rice from the hands of the said girl, but has not contaminated any other fellow commensals through cooked rice, he shall, in accordance with this *Ain*, be punished and be placed in the said [girl's] caste without his share of property being confiscated. He shall be set free thereafter. The bridegroom who unwittingly married her and his fellow commensals who have unwittingly consumed cooked rice shall be granted expiation for accidental contamination. Because the rituals of marriage have already been fulfilled, [the bridegroom] shall not be permitted to abandon the bride. He shall keep her, but shall not consume cooked rice [from her hands].

29. If someone, whether a man or a woman, from a Rajapūta, Jaisī, Sacred Thread-wearing Kṣatriya, Non-enslavable or Enslavable Alcohol-drinking caste, Water-unacceptable or Untouchable caste or the like, including Upādhyāya Brahmin castes, lies about the caste status of any unmarried girl or widowed woman and tells [a boy from] a Sacred Thread-wearing Kṣatriya caste that she is from a caste equal in status to his, [although in fact] she is from a caste inferior in status to his and he is not permitted to accept cooked rice from her hands, and gets him to marry her, or arranges for her to be given [in marriage] to that boy by lying about her caste status through providing other [false] details, and if [thereby the Sacred Thread-wearing Kṣatriya bridegroom] becomes contaminated through [the bride] with respect to cooked rice, [the culprit who lied about the inferior caste status of the bride] shall be fined 200 rupees [if he or she deceitfully] gives a daughter from a Non-enslavable Alcohol-drinking caste to [a boy from a Sacred Thread-wearing Kṣatriya caste] and gets him contaminated with respect to cooked rice through her; 210 rupees shall be fined if [the culprit] gives a daughter from an Enslavable Alcohol-drinking caste in marriage to [a boy from a Sacred Thread-wearing Kṣatriya caste] and gets him contaminated with respect to cooked rice through her. If the amount of the fine is not paid, [the culprit] shall, in accordance with the *Ain*, be imprisoned. If [the culprit] only arranges for the marriage to take place, but [the boy from a Sacred Thread-wearing Kṣatriya caste] does not become contaminated with respect to cooked rice through the bride, [such a culprit] shall be fined half of what has been laid down in the *Ain*, depending on the caste of the girl he or she deceitfully has given in marriage, or for whom he has arranged it by lying about her caste status. If a daughter from a caste inferior in status [to that of the bridegroom-to-be] from whom he does not accept cooked rice, is given in marriage, and if he [and his fellow commensals] become contaminated through her with respect to cooked rice, and if someone who requires expiation after he has knowingly consumed cooked rice from the hands of the said girl or from the hands of the persons who have consumed cooked rice from her hands, does not undergo expiation, but contaminates other fellow commensals with respect to cooked rice, such a person—if it is a man—shall be placed in the caste of the said girl after his property, in accordance with the *Ain*, has been confiscated. If it is

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a woman, she shall be placed in the caste of the said girl without having her share of property confiscated. If such a person has consumed cooked rice from the hands of the said girl, but has not contaminated any other fellow commensals through cooked rice, he shall, in accordance with this *Ain*, be punished and be placed in the said [girl's] caste without his share of property being confiscated. He shall be set free thereafter. The bridegroom who unwittingly married her and his fellow commensals who have unwittingly consumed cooked rice shall be granted expiation for accidental contamination. Because the rituals of marriage have already been fulfilled, [the bridegroom] shall not be permitted to abandon the bride. He shall keep her, but shall not consume cooked rice [from her hands].

30. If someone, whether a man or a woman, from a Rajapūta, Jaisī, Sacred Thread-wearing Kṣatriya, Non-enslavable or Enslavable Alcohol-drinking caste, Water-unacceptable or Untouchable caste or the like, including Upādhyāya Brahmin castes, lies about the caste status of any unmarried girl or widowed woman and tells [a boy from] a Non-enslavable Alcohol-drinking caste that she is from a caste equal in status to his, [although in fact] she is from a caste inferior in status to his and he is not permitted to accept cooked rice from her hands, and gets him to marry her, or arranges for her to be given [in marriage] to that boy by lying about her caste status through providing other [false] details, and if [thereby the Non-enslavable Alcohol-drinking bridegroom] becomes contaminated through [the bride] with respect to cooked rice, [the culprit who lied about the inferior caste status of the bride] shall be fined 200 rupees [if he or she deceitfully] gives a daughter from an Enslavable Alcohol-drinking caste to [a boy from a Non-enslavable Alcohol-drinking caste] and gets him contaminated with respect to cooked rice through her. If the amount of the fine is not paid, [the culprit] shall, in accordance with the *Ain*, be imprisoned. If [the culprit] only arranges for the marriage to take place, but [the boy from a Non-enslavable Alcohol-drinking caste] does not become contaminated with respect to cooked rice through the bride, [such a culprit] shall be fined half of what has been laid down in the *Ain*, depending on the caste of the girl he or she deceitfully has given in marriage, or for whom he has arranged it by lying about her caste status. If a daughter from a caste inferior in status [to that of the bridegroom-to-be] from whom he does not accept cooked rice, is given in marriage, and if he [and his fellow commensals] become contaminated through her with respect to cooked rice, and if someone who requires expiation after he has knowingly consumed cooked rice from the hands of the said girl or from the hands of the persons who have consumed cooked rice from her hands, does not undergo expiation, but contaminates other fellow commensals with respect to cooked rice, such a person—if it is a man—shall be placed in the caste of the said girl after his property, in accordance with the *Ain*, has been confiscated. If it is a woman, she shall be placed in the caste of the said girl without having her share of property confiscated. If such a person has consumed cooked rice from the hands of the said girl, but has not contaminated any other fellow commensals through cooked rice, he shall, in accordance with this *Ain*, be punished and be placed in the said [girl's] caste without his share of property being confiscated. He shall be set free thereafter. The bridegroom who unwittingly married her and his fellow commensals who have unwittingly consumed cooked rice shall be granted expiation for accidental contamination. Because the rituals of marriage have already

been fulfilled, [the bridegroom] shall not be permitted to abandon the bride. He shall keep her, but shall not consume cooked rice [from her hands].

31. If someone, whether a man or a woman, from a Sacred Thread-wearing, Non-enslavable or Enslavable Alcohol-drinking, Water-unacceptable or Untouchable castes or the like, lies about the caste status of any unmarried girl or widowed woman and tells [a boy from a caste superior in status to hers] that she is from a caste equal in status to his [although in fact] she is from a caste inferior in status to his and he is not permitted to accept cooked rice from her hands, and gets him to marry her, or arranges for her to be given [in marriage to that boy by lying about her caste status through] providing other [false] details, and if [thereby the boy] becomes contaminated through [the bride] with respect to cooked rice, and if [the boy or his family] comes to complain [against the culprit], [such a culprit] shall be punished or fined as deemed right by the venerable prime minister or the *hākima* of the *adālata* court [concerned].

32. If someone, whether a man or a woman, from any of the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearing caste, lies about the caste status of a man and gets him to marry an unmarried girl or widowed woman from an Upādhyāya Brahmin caste, and his caste status is [in fact] inferior to hers and he is one from whom she is not permitted to consume cooked rice, and if the bride's parental family members and their fellow commensals become contaminated through [the bridegroom] with respect to cooked rice, [such a culprit who arranged the marriage by lying about the caste status of the bridegroom]—if the girl is given to [a man from] a Jaisī, Rajapūta, or Sacred Thread-wearing Kṣatriya caste—shall be imprisoned for 6 years, because the bride loses her caste status; he shall be imprisoned for 9 years, if the girl is given to a man from a Non-enslavable Alcohol-drinking caste; he shall be imprisoned for 12 years, if the girl is given to [a man from] an Enslavable Alcohol-drinking caste. If [the culprit] only arranges for the marriage to take place, or gives the girl in marriage while providing any other details, but [the bridegroom] has not contaminated [the bride's] parental family members and their fellow commensals with respect to cooked rice, [such a culprit] shall be imprisoned for half of the term laid down in the present [section] of the *Ain*. If he pays double the amount in lieu of the prison term, it shall be accepted and he shall be set free. The bridegroom who ignorantly marries the girl after being told lies by others about how [the girl's] caste status is equal to his, shall not be held accountable. The girl shall belong to the [bridegroom] who married her.

33. If someone, whether a man or a woman, from any of the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearing caste, lies about the caste status of a man and gets him to marry an unmarried girl or widowed woman from a Rajapūta or Jaisī caste, and his caste status is [in fact] inferior to hers and he is one from whom she is not permitted to consume cooked rice, and if the bride's parental family members and their fellow commensals become contaminated through [the bridegroom] with respect to cooked rice, such a culprit who gives a Rajapūta girl to a Jaisī man or Jaisī girl to a Rajapūta man, shall be imprisoned for 1½ years, because the bride loses her caste status; he shall be imprisoned for 6 years, if the girl is given to a man from a Sacred Thread-wearing Kṣatriya caste; he shall be imprisoned for 9 years, if the girl is given to

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a man from a Non-enslavable Alcohol-drinking caste; he shall be imprisoned for 12 years, if the girl is given to a man from an Enslavable Alcohol-drinking caste. If [the culprit] only arranges for the marriage to take place, or gives the girl in marriage while providing any other details, but [the bridegroom] has not contaminated [the bride's parental family members and their fellow commensals] with respect to cooked rice, [such a culprit] shall be imprisoned for half of the term laid down in the present [section] of the *Ain*. If he pays double the amount in lieu of the prison term, it shall be accepted [and he shall be set free]. The bridegroom who ignorantly marries the girl after being told lies by others about how [the girl's] caste status is equal to his, shall not be held accountable. The girl shall belong to the [bridegroom] who married her.

34. If someone, whether a man or a woman, from any of the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearing caste, lies about the caste status of a man and gets him to marry an unmarried girl or widowed woman from a Sacred Thread-wearing caste, and his caste status is [in fact] inferior to hers and he is one from whom she is not permitted to consume cooked rice, and if the bride's parental family members and their fellow commensals become contaminated through [the bridegroom] with respect to cooked rice, [such a culprit who arranged the marriage by lying about the caste status of the bridegroom]—if the girl is given to [a man from] a Non-enslavable Alcohol-drinking caste—shall be imprisoned for 9 years, because the bride loses her caste status; he shall be imprisoned for 12 years, if the girl is given to a man from an Enslavable Alcohol-drinking caste. If [the culprit] only arranges for the marriage to take place, or gives the girl in marriage while providing any other details, but [the bridegroom] has not contaminated [the bride's parental family members and their fellow commensals] with respect to cooked rice, [such a culprit] shall be imprisoned for half of the term laid down in the present [section] of the *Ain*. If he pays double the amount in lieu of the prison term, it shall be accepted [and he shall be set free]. The bridegroom who ignorantly marries the girl after being told lies by others about how [the girl's] caste status is equal to his, shall not be held accountable. The girl shall belong to the [bridegroom] who married her.

35. If someone, whether a man or a woman, from any of the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearing caste, lies about the caste status of a man and gets him to marry an unmarried girl or widowed woman from a Non-enslavable Alcohol-drinking caste, and his caste status is [in fact] inferior to hers and he is one from whom she is not permitted to consume cooked rice, and if the bride's parental family members and their fellow commensals become contaminated through [the bridegroom] with respect to cooked rice, [such a culprit who arranged the marriage by lying about the caste status of the bridegroom]—if the girl is given to [a man from] an Enslavable Alcohol-drinking caste—shall be imprisoned for 3 years, because the bride loses her caste status. If [the culprit] only arranges for the marriage to take place, or gives the girl in marriage while providing any other details, but [the bridegroom] has not contaminated [the bride's parental family members and their fellow commensals] with respect to cooked rice, [such a culprit] shall be imprisoned for half of the term laid down in the present [section] of the *Ain*. If he pays double the amount in lieu of the prison term, it shall be accepted [and he shall be set free]. The bridegroom who ignorantly marries the girl after being told lies by others about

how [the girl's] caste status is equal to his, shall not be held accountable. The girl shall belong to the [bridegroom] who married her.

36. If someone from a Non-enslavable Alcohol-drinking caste or a Newar caste, or from an Enslavable Alcohol-drinking caste, lies about his caste status and marries a daughter of someone from a Sacred Thread-wearing caste, he shall be punished by *dāmala* after his share of property has, in accordance with the *Ain*, been confiscated. [The bride's family members] who ignorantly gave their daughter [in marriage] to a person who lied about his caste status shall not be held accountable. If the parents from a Sacred Thread-wearing caste give [their daughter's hand in marriage] to someone from an Alcohol-drinking caste whose members do not bear the Sacred Thread, knowing that his caste status is inferior to theirs, then these parents who gave their daughter [in marriage] shall be imprisoned for 3 years. If they pay the amount in lieu of the prison term, it shall be accepted and they shall be set free. Irrespective of whether the father knowingly or unknowingly gave [his daughter in marriage to such a bridegroom], he shall not have the right to keep the girl. They shall be separated.

37. If someone from a Newar caste lies about his caste status and marries a daughter of someone from a Non-enslavable Alcohol-drinking caste, the person from the Non-enslavable Newar caste shall be imprisoned for 1½ years. If he pays the amount in lieu of the prison term, it shall be accepted and he shall be set free. If the bridegroom belongs to an Enslavable [Newar] caste, he shall be enslaved. [The parents] who ignorantly gave their daughter [in marriage] to a person who lied about his caste status shall not be held accountable. If the parents gave [their daughter] knowingly [in marriage to such a person] and the [bridegroom] married her, the bridegroom shall be fined 20 rupees, if he is from a Non-enslavable caste, and [the parents] who gave their daughter [in marriage to him] shall be fined 30 rupees. If the bridegroom is from an Enslavable caste, he shall be fined 40 rupees and [the parents] who gave their daughter [in marriage to him] shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned. Irrespective of whether [the father] knowingly or unknowingly gave [his daughter in marriage to the bridegroom], he shall not have the right to keep the girl. They shall be separated.

38. Throughout the Gorkhā kingdom, if someone [from a Guruṅga caste] rapes an unmarried girl or a widowed woman, whether she is below the age of 11 or is past the age of 11, from any of the castes named Guruṅga, whose members are indiscriminately commensal with respect to cooked rice with him, he shall be punished or fined in accordance with the law prescribed for the Non-enslavable Alcohol-drinking castes.<sup>452</sup> If he has consensual sexual intercourse with an adult girl or widow, neither person shall be held accountable, irrespective of whether they have contaminated [their fellow commensals] with respect to cooked rice or not, because [the persons with the family] name Guruṅga are all the same and they have indiscriminately accepted cooked rice from each other until now. If [a Guruṅga man] commits adultery with the wife of another

452 See Art. 132–133.

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Guruṅga man, it shall, in accordance with the *Ain*, be at the pleasure of the aggrieved husband [as to whether he kills his wife's paramour or not]. If someone [with the family] name Guruṅga asks the family members (*dāiyādara*) of a girl with the family name Guruṅga for her hand in marriage and marries her, neither the person who gave her in marriage nor the person who married her shall lose their caste status. They shall retain their caste status. If someone [from a Guruṅga caste] declines to marry the daughter of someone [from a Guruṅga caste], or someone [from a Guruṅga caste] declines to give his daughter to someone [from a Guruṅga caste], they shall be free to do so. [Neither of them] shall be forced. Amongst the persons from Guruṅga castes, if someone states: 'Our caste status is superior [to such and such a person from a Guruṅga caste] and his caste status is inferior [to ours]', and they exclude [that person] from the right of consuming cooked rice together with them, [such culprits] shall be fined 20 rupees each. The one who wins the caste matter shall not be required to pay the winning fee [to the court].

## 100. Marriage by Abducting a Girl

1. If [someone from] a caste whose members put on the Sacred Thread abducts (*cornu*) a daughter of [someone else from] a caste commensal [to him] with respect to cooked rice and forcefully marries her, [his share from the property] shall be confiscated, putting the shares of his brothers, sons and wives as well as the marriages expenses for his daughters aside. He shall not keep the girl he abducted and married. It shall be at the pleasure of the girl's parents to marry their daughter off to whomsoever they wish. [The parents] shall not be obliged to consume cooked rice [from her hands]. If [the person who had abducted and married her] kills her [ritually married] husband, the share of property which is his according to the *Ain* shall be confiscated, and he shall be punished by *dāmala*, if he is a Brahmin. If he is from any other caste, he shall be executed, taking life for life. If the girl's parents make a complaint in such cases [of marriage by abduction], it shall be heard. If the parents do not make a complaint, the case shall not be heard. If the parents of the girl [who was abducted and married forcefully] have passed away, an *adālata* or *thānā* office shall investigate the case and decide it in accordance with this very regulation (*aina*). If someone from a caste equal to that of the girl, who is past the age of 12, takes her away secretly (*cornu*) at her will and pleasure and marries her, no one shall be held accountable. They do not lose their caste status, nor their right to eat cooked rice [together with their fellow caste members].

2. If [someone from] a caste whose members do not put on the Sacred Thread abducts a girl from a caste of equal status and forcefully marries her, and if the parents of the girl come to complain, the person [who forcefully married the girl] shall be fined 20 rupees. It shall be at the pleasure of the parents as to whether or not to give the girl [to that man]. If someone seduces an adult girl and takes her away consensually and marries her, then no one shall be held accountable. [No one] shall be allowed to bring the girl back.

3. Among the subjects, if [someone] abducts someone else's girl without asking [for the hand of the girl in marriage] with her parents or uterine brothers, and he ritually marries her off (*kanyādāna garnu*) to a groom of equal caste status with whom she is allowed to consume cooked rice, then the share of property of the person who [abducted] the girl and ritually married her off, shall, in accordance with the *Ain*, be confiscated, after putting [the shares of his family members] aside according to the *Ain*. One-tenth [of the confiscated property] shall be collected [as a court fee], and [the rest] shall be handed over to the said girl as a dowry. If someone abducts a girl and gives her [hand in marriage] to [a groom] from a caste inferior to her own, the government shall

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take the confiscated property. The marriage after the abduction of that girl shall not be valid. She shall belong to the person to whom her parents give her [hand in marriage]. After the parents give the girl [in marriage] to someone else, that person (who is from a lower caste and had married the girl before) shall not have the right to kill the groom. If he kills him and is a Brahmin, he shall be punished by *dāmala*, after his share of property has been confiscated, which is his according to the *Ain*. If he is from any other caste, he shall be executed, taking life for life. The person who marries the said girl later shall not be obliged to consume cooked rice [from her hands].

4. Among the persons from the Sacred Thread-wearing castes, except for the Upādhyāya Brahmins, if someone from a pure caste (*sadya jāta*) abducts a daughter from a Sacred Thread-wearing caste and marries her, and she is not over the age of 12, and her caste status is inferior to [that of the one who abducted her] and from whose hands cooked rice and other meals are not acceptable for [the person who abducted her], he shall have to consume cooked rice from the hands of the said girl, because he abducted [and married] her. His fellow caste members shall not be obliged to consume cooked rice [from her hands]. If someone [from the above-mentioned caste] consensually takes away an adult girl [of the above-mentioned caste and status] who is past the age of 12, he shall not be held accountable. It shall be at his pleasure as to whether he consumes cooked rice [from her hands] or not.

5. If someone abducts a girl of another family and marries her off to any of his brothers, friends or relatives, the share of property which is his according to the *Ain* shall be confiscated, and it shall be given to that girl as a dowry, after 10 percent has been collected [as a court fee]. Those who accompany him while abducting the girl shall be fined 20 rupees each. Those who ritually give her away in marriage and the priest who officiates over the marriage, knowing the girl has been abducted and [forcibly] brought there, shall be fined 20 rupees each. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

6. If someone abducts someone else's daughter in order to marry her and, before the marriage is performed, her families (*māiti*) snatch away their girl and bring her back, and then come to complain [against the abductor], the main person who abducted the girl shall be fined 100 rupees; others who accompanied him in the abduction shall be fined at the rate of 20, 10, 5 and 2½ rupees, respectively, for people of the *abbala*, *doyama*, *sima* and *cahāra* categories. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.



## 101. On the Betrothal of a Girl to Two Persons

1. If a person from any of the Sacred Thread-wearing castes betroths a girl, who has already been betrothed to a boy by performing the *janai supārī* ritual, to another boy who also accepts the Sacred Thread and betel nuts (*janai supārī*) [from him], and if the first boy lodges a complaint, the girl shall belong to him if she has not yet been married to the second boy. The person who betrothed one girl to two boys shall be fined 50 rupees. If the second [boy] has [already] married the girl, [the person who betroths one girl to two persons] shall be fined 100 rupees. If the second [boy] asks for the hand of the girl in marriage and performs the *janai supārī* ritual, knowing that someone has already asked for the hand of that girl in marriage and has offered the *janai supārī*, but he has not yet married her, he shall be fined 20 rupees; if he has [already] married her, he shall be fined 40 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. As the marriage has already taken place, the girl shall belong to the second boy. Someone who asks for the hand of a girl in marriage and marries her without knowing that someone else has [already] performed the *janai supārī* ritual [and asked for her hand in marriage] shall not be held accountable.

2. If someone from a Non-enslavable Alcohol-drinking caste betroths a girl, who has already been betrothed to a boy by accepting the customary gifts and fees according to his own caste customs, again to another boy by accepting the customary gifts and fees from him [as well], and if the first boy, who has given the [customary] fees, comes to lodge a complaint, the girl shall belong to him, if the marriage with the second boy has not yet taken place. The person who betroths one girl to two boys shall be fined 20 rupees. If the second [boy] has [already] married the girl, [the person who betroths one girl to two persons] shall be fined 30 rupees. If the second boy knows that the first [boy] has [already] asked for the hand of the girl in marriage and has offered the customary fees and gifts such as goats (*chāṅgrā*), but he still asks for the hand of the girl in marriage and offers the customary fees [and gifts] such as goats, he shall be fined 20 rupees, if he has not married her; if he has married her, he shall be fined 40 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. As the marriage has already taken place, the girl shall belong to the second boy. Someone who marries a girl without knowing that someone else has [already] offered the customary gifts [and has asked for her hand in the marriage] shall not be held accountable.

3. If someone from an Enslavable Alcohol-drinking caste betroths a girl, who has already been betrothed to a boy by accepting<sup>453</sup> the customary gifts and fees such as goats or the 4 *dāmas*

453 *di*, read *li* (MA<sub>2</sub>).

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from him, again to another boy by accepting the customary gifts and fees [from him as well], and if the first boy, who has given the [customary] fees, comes to lodge a complaint, the girl shall belong to him, if the marriage with the second boy has not yet taken place. The person who betroths one girl to two boys shall be fined 6 rupees. If the second [boy] has [already] married the girl, [the person who betroths one girl to two persons] shall be fined 12 rupees. If the second boy knows that the first [boy] has [already] asked for the hand of the girl in marriage and has offered the customary fees, but he still asks for the hand of the girl in marriage and offers the customary fees, he shall be fined 10 rupees, if he has not married her; if he has married her, he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. No fault shall be assigned to anyone who marries a girl without knowing that someone else has [already] offered the customary gifts [and has asked for her hand in the marriage]. As the marriage has already taken place, the girl shall belong to the second boy.

4. If someone from any of the Water-unacceptable but Touchable castes betroths a girl, who has already been betrothed to a boy by accepting the customary gifts and fees from him, again to another boy by accepting the customary gifts and fees [from him as well], and if the first boy, who has given the [customary] fees, comes to lodge a complaint, the girl shall belong to him, if the marriage with the second boy has not yet taken place. The person who betroths one girl to two boys shall be fined 4 rupees. If the second [boy] has [already] married the girl, [the person who betroths one girl to two persons] shall be fined 8 rupees. If the second boy knows that the first [boy] has [already] asked for the hand of the girl in marriage and has offered the customary fees, but he still asks for the hand of the girl in marriage and offers the customary fees, he shall be fined 5 rupees, if he has not married her; if he has married her, he shall be fined 10 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. As the marriage has already taken place, the girl shall belong to the second boy. Someone who marries a girl without knowing that someone else has [already] offered the customary gifts [and has asked for her hand in the marriage] shall not be held accountable.

5. If someone from any of the Untouchable castes betroths a girl who has already been betrothed to a boy by accepting the customary gifts and fees from him, again to another boy by accepting the customary gifts and fees [from him as well], and if the first boy, who has given the [customary] fees, comes to lodge a complaint, the girl shall belong to him, if the marriage with the second boy has not yet taken place. The person who betroths one girl to two boys shall be fined 2 rupees. If the second [boy] has [already] married the girl, [the person who betroths one girl to two persons] shall be fined 4 rupees. If the second boy knows that the first [boy] has [already] asked for the hand of the girl in marriage and has offered the customary fees, but he still asks for the hand of the girl in marriage and offers the customary fees, he shall be fined 2½ rupees, if he has not married her; if he has married her, he shall be fined 5 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. As the marriage has already taken place, the girl shall belong to the second boy. Someone who marries a girl without knowing that someone else has [already] offered the customary gifts [and has asked for her hand in the marriage] shall not be held accountable.

6. If a girl is betrothed and her parents and brothers are living together in the same household without having separate kitchens, [only] the betrothal arranged by her father shall be valid. If the father is not living any more, the betrothal arranged by the mother shall be valid. If both father and mother are not living any more, the betrothal arranged by her eldest brother shall be valid. If even none of her brothers is living any more, the betrothal arranged by any of her father's brothers shall be valid. As long as the person who comes first in the line of succession, as laid down in the *Ain*, is alive, the betrothal [of a girl] arranged by a person who comes later in the line of succession shall not be valid. If the person who comes first in the line of succession betroths a girl to someone whose caste status is not equal to hers, who is non-commensal with respect to cooked rice and with whom [marriage] is forbidden in the *Ain*, the betrothal arranged by that person who comes first in the line of succession shall not be valid. The betrothal [to a proper boy] by a person subsequent in the line of succession shall be valid.

7. If a father favours one wife of his two wives, be they ritually married or concubines, and lives with her and throws the other out of the house without providing her with the means of support, or else keeps her separately, and her daughter also lives with the mother, and if the mother gives that daughter [in marriage] to a boy from a caste equal in status, who is commensal with respect to cooked rice and with whom [marriage] is not forbidden by the *Ain*, then the betrothal arranged by the mother shall be valid. The girl shall be married off to that boy. The betrothal arranged by her father [in such a case] shall not be valid.

8. If the mother of a girl dies and her father and elder brother, having been unable to take care of her, give her to someone else to raise her, and if [the father and elder brother] also continue taking care of her by providing the means of support for her upbringing, then the betrothal [of the girl] arranged by her father or elder brother, which is in accordance with the *Ain*, shall be valid. If the father and elder brother hand over the girl to someone else, do not continue taking care of her by providing any means of support and neglect her, then the betrothal arranged by the person who has provided appropriate care to her from her childhood on shall be valid.

9. If a girl does not have her parents any more, and she has been raised by her brothers or their wives, her maternal family members, parental aunts (*phupu didi*), or her father's brothers and their wives or the like, then whatever person has provided her with appropriate care from her childhood on shall marry her off. Anyone who has not provided appropriate care to her from her childhood on shall not have the right to file a complaint that he is entitled to perform the *kanyādāna* ritual [during her marriage] or to marry her off. If the person who has raised her gives her hand in marriage to someone who is not from a caste equal in status, not commensal with respect to cooked rice or [with whom marriage] is forbidden by the *Ain*, then the betrothal shall not be valid. The betrothal arranged by someone subsequent in the line of succession as laid down in the *Ain* shall be valid.<sup>454</sup>

454 This is a reference to § 6 above.

## 102. Refusal to Give a Girl in Marriage to a Diseased Person

1. If someone belonging to any Sacred Thread-wearing caste is getting married, and the bridegroom is completely mute, suffers from an incurable disease,<sup>455</sup> is maimed, paralysed, blind in both eyes, impotent due to the lack of his penis, disabled due to a fracture of his hands or legs, mentally ill, or suffering from epilepsy, and if a girl's hand is asked in marriage under the pretence that such a bridegroom is flawless and *janai supārī* has been offered, and if, after the marriage procession has reached [the bride's home], it comes to be known that [the bridegroom] has only one of these disabilities, and if the girl's father, mother or brothers after getting to know [of his disability] decline to [give her hand in marriage] before the ritual of *kanyādāna* is performed, then the bridegroom shall have no right to force [her into marriage], and the girl's parents shall not be held accountable. The person [who] has asked for the girl's [hand] in marriage under the pretence that such a disabled bridegroom is flawless shall be fined 50 rupees. If he does not pay the fine, he shall, in accordance with the *Ain*, be imprisoned. It shall be up to the wish of the girl's parental family to give the girl away to whomsoever. The girl shall not be considered defiled. She shall retain her caste status. She shall be given in marriage to someone belonging to a caste similar in status to hers. She shall be allowed to consume cooked rice together with her fellow caste members. If the person who asked for the girl's [hand] in marriage has notified [her parents], while asking for her hand, that the bridegroom has such and such disabilities, such a person who asked for the marriage with her shall not be held accountable. Even if the girl's hand is asked in marriage by notifying [her parents] about his disabilities, the bridegroom shall have no right to force her [into the marriage], because the girl would suffer her whole life.

2. If someone belonging to any Non-enslavable Alcohol-drinking caste is getting married, and if the bridegroom is completely mute, suffers from an incurable disease, is paralysed, maimed, blind in both eyes, impotent due to lack of a penis, disabled due to a fracture of his hands or legs, mentally ill, or suffering from epilepsy, and if a girl's [hand] is asked in marriage under the pretence that such a bridegroom is flawless, and if it comes to be known, after the ritual of offering and accepting the customary gifts and fees (*chāmgrā rita dastura*) as per one's caste customs has been carried out and the marriage procession has already reached [the bride's home], that the [bridegroom] has only one of these disabilities, and if the girl's father, mother or brother, after getting to know [about his disability], declines to [give her hand in marriage] before the ritual of *kanyādāna* has been performed, then the bridegroom shall have no right to force [her into the

455 This might refer to white leprosy, which was not curable then (see TND s.v. *mahārog*).

marriage], and the girl's parents shall not be held accountable. The person who asked for [the girl's] hand in marriage under the pretence that such a disabled bridegroom is flawless shall be fined 25 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The bride's family shall marry [the girl] off wherever they like. She shall retain her caste status. If the person who asked for marriage has notified [her parents], while asking for her hand in marriage, that the bridegroom has such and such disabilities, such a person who asked for her hand in marriage shall not be held accountable. Even if for the girl's hand is asked in marriage by notifying [her parents] about his disabilities, the bridegroom shall have no right to force her [into marriage], because the girl would suffer her whole life.

3. If someone belonging to any Enslavable Alcohol-drinking caste is getting married, and if the bridegroom is completely mute, suffers from an incurable disease, is maimed, paralysed, blind in both eyes, impotent due to the lack of a penis, disabled due to a fracture of his hands or legs, mentally ill, or suffering from epilepsy, and if a girl's [hand] is asked in marriage under the pretence [that such a bridegroom is flawless], and if it comes to be known, after the ritual of offering and accepting the customary gifts and fees as per one's caste customs has been carried out and a marriage procession has already reached [the bride's home], that the [bridegroom] has only one of these disabilities, and if the girl's father, mother or brother, after getting to know [about his disability], declines to [give her hand in marriage] before the ritual of *kanyādāna* has been performed, then the bridegroom shall have no right to force [to force her into marriage], and the girl's parents shall not be held accountable. The person who has asked for the [hand of the] girl in marriage under the pretence that such a disabled bridegroom is flawless shall be fined 5 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The bride's family shall marry [the girl] off wherever they like. She shall be allowed to consume cooked rice together with her fellow caste members. If the person who asked for the girl's [hand] in marriage has notified [her parents], while asking for her hand, that the bridegroom has such and such disabilities, such a person who asked for her hand in marriage shall not be held accountable. Even if the girl's hand is asked in marriage by notifying [her parents] about his disabilities, the bridegroom shall have no right to force her [into the marriage], because the girl would suffer her whole life.

4. If someone belonging to any Touchable<sup>456</sup> but Water-unacceptable caste is getting married, and if the bridegroom is completely mute, or suffers from an incurable disease, or is maimed, paralysed, blind in both eyes, impotent due to the lack of his penis, disabled due to a fracture of his hands or legs, mentally ill, or suffering from epilepsy, and if a girl's [hand] is asked in marriage under the pretence that such a bridegroom is flawless, and if it comes to be known, after the ritual of offering and accepting the customary gifts and fees as per one's caste customs has been carried out and a marriage procession has already reached [the bride's home], that [the bridegroom] has only one of these disabilities, and if the girl's father, mother or brother, after getting to know [about his disability], declines to [give her hand in marriage] before the

456 *choi chiṭo hālanu parnyā* (MA<sub>1</sub>), read *choi chiṭo hālanu naparnyā* (MA<sub>2</sub>).

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ritual of *kanyādāna* has been performed, then the bridegroom shall have no right to force [her into marriage], and the girl's parents shall not be held accountable. The person who has asked the girl's [hand] in marriage under the pretence that such a disabled bridegroom is flawless shall be fined 2½ rupees. The bride's family shall marry [the girl] off wherever they like. She shall retain her caste status and shall be allowed to consume cooked rice together with her fellow caste members. If the person who asked for the girl's [hand] in marriage has notified [her parents], while asking for her hand, that the bridegroom has such and such disabilities, such a person who asked for her hand in marriage shall not be held accountable. Even if the girl's hand is asked in marriage by notifying [her parents] about his disabilities, the bridegroom shall have no right to force her [into marriage], because the girl would suffer her whole life.

5. If someone belonging to any Untouchable caste is getting married, and if the bridegroom is completely mute, suffers from an incurable disease, is maimed, paralysed, blind in both eyes, impotent due to the lack of a penis, disabled due to a fracture of his hands or legs, mentally ill, or suffers from epilepsy, and if a girl's [hand] is asked in marriage under the pretence that such a bridegroom is flawless, and if it comes to be known, after the ritual of offering and accepting the customary gifts and fees as per one's caste customs has been carried out and the groom's family has come for the marriage [to the bride's place on a procession], that the [bridegroom] has only one of these disabilities, and if the girl's father, mother or brother, after getting to know [about his disability], declines to [give her hand in marriage], then the bridegroom shall have no right to force [her into marriage], the girl's parents shall not be held accountable. The person who has asked for the girl's [hand] in marriage under the pretence that such a disabled bridegroom is flawless shall be fined 1½ rupees. The bride's family shall marry [the girl] off wherever they like. She shall retain her caste status and shall be allowed to consume cooked rice together with her fellow caste members. If the person who asked for the girl's hand in marriage has notified [her parents], while asking for her hand, that the bridegroom has such and such disabilities, such a person who asked for her hand in marriage shall not be held accountable. Even if the girl's hand is asked in marriage by notifying [her parents] about his disabilities, the bridegroom shall have no right to force her [into marriage], because the girl would suffer for her whole life.

## 103. Refusal to Marry a Girl Whose Hand Has Been Asked in Marriage

1. If someone belonging to any of the Sacred Thread-wearing castes asks for [the hand] of an unmarried girl [in marriage], and it turns out that she suffers from an incurable disease, her eyes are damaged, she is mute, or suffers from [diseases such as] epilepsy and syphilis, is inefficient due to her broken hands or legs, has a uterine prolapse, is a Hijra, has had frail limbs from birth onward, or is affected with insanity, and if the fiancé refuses to marry her once he comes to know [about her deficiency], then in such a case he shall not be obliged to go ahead with the marriage, even if the *janai supārī* ritual has already been performed according to one's own caste's custom. [Such a fiancé] shall be allowed to leave the girl after having his expenses [in preparation for the marriage] refunded. If someone declines to marry and leaves a girl who does not suffer from these diseases after having asked for the [hand of this] girl in marriage and after *janai supārī* has [already] been offered, he shall be fined 50 rupees. The girl's parents shall be allowed to marry her off to someone else belonging to a caste which is equal in status to their own.

2. If someone belonging to any of the Non-enslavable Alcohol-drinking castes asks for [the hand] of an unmarried girl in marriage, and it turns out that she suffers from an incurable disease, her eyes are damaged, she is mute, or suffers from [diseases such as] epilepsy and syphilis, is inefficient due to her broken hands or legs, has a uterine prolapse, is a Hijra, has had frail limbs from birth onward, or is affected with insanity, and if the fiancé refuses to marry her once he comes to know [about her deficiency], then in such a case he shall not be obliged to go ahead with the marriage, even if the ritual of offering and accepting the customary marital gifts (*chāmṅrā*) according to one's caste customs has [already] been performed. [Such a fiancé] shall be allowed to leave the girl after having his expenses refunded. If someone declines to marry and leaves the girl, who does not suffer from these diseases, after having asked for the [hand of this] girl in marriage and after the ritual of offering and accepting the customary marital gifts according to one's caste customs has been performed, he shall be fined 25 rupees. The girl's parents shall be allowed to marry her off to someone else belonging to a caste which is equal in status to their own.

3. If someone belonging to any of the Enslavable Alcohol-drinking castes asks for [the hand] of an unmarried girl in marriage, and it turns out that she is suffering from an incurable disease, her eyes are damaged, she is mute, or suffers from [diseases such as] epilepsy and syphilis, is inefficient due to her broken hands or legs, has a uterine prolapse, is a Hijra, has had frail limbs from birth onward, or is affected with insanity, and if the fiancé refuses to marry her

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once he comes to know [about her deficiency], then in such a case he shall not be obliged to go ahead with the marriage, even if the ritual of offering and accepting the customary marital gifts according to one's caste customs has [already] been performed. [Such a fiancé] shall be allowed to leave the girl after having his expenses refunded. If someone who declines to marry and leaves the girl, who does not suffer from these diseases, after having asked for the [hand of this] girl in marriage and the ritual of offering and accepting the customary marital gifts according to one's caste customs has [already] been performed, he shall be fined 5 rupees. The girl's parents shall be allowed to marry her off to someone else belonging to a caste which is equal in status to their own.

4. If someone belonging to any of the Water-unacceptable but Touchable castes asks for [the hand] of an unmarried girl in marriage, and it turns out that she suffers from an incurable disease, her eyes are damaged, she is mute, or suffers from [diseases such as] epilepsy and syphilis, is inefficient due to her broken hands or legs, has a uterine prolapse, is a Hijra, has had frail limbs from birth onward, or is affected with insanity, and if the fiancé refuses to marry her once he comes to know [about her deficiency], then in such a case he shall not be obliged to go ahead with the marriage, even if the ritual of offering and accepting the customary marital gifts according to one's caste customs has [already] been performed. [Such a fiancé] shall be allowed to leave the girl after having his expenses refunded. If someone declines to marry and leaves the girl, who does not suffer from these diseases, after having asked for the [hand of the] girl in marriage and the ritual of offering and accepting the customary marital gifts according to one's caste customs has [already] been performed, he shall be fined 2½ rupees. The girl's parents shall be allowed to marry her off to someone else belonging to a caste which is equal in status to their own.

5. If someone belonging to any of the Untouchable castes asks to marry an unmarried girl, and it turns out that she suffers from an incurable disease, her eyes are damaged, she is mute, or suffers from [diseases such as] epilepsy and syphilis, is inefficient due to her broken hands or legs, has a uterine prolapse, is a Hijra, has had frail limbs from birth onward, or is affected with insanity, and if the fiancé refuses to marry once he knows [about her deficiency], then in such a case he shall not be obliged to go ahead with the marriage, even if the ritual of offering and accepting the customary marital gifts according to one's caste customs has [already] been performed. [Such a fiancé] shall be allowed to leave the girl after having his expenses refunded. If someone declines to marry and leaves the girl, except for those who suffer from these diseases, after having asked for the [hand of this] girl in marriage and the ritual of offering and accepting the customary marital gifts according to one's caste customs has been performed, he shall be fined 1½ rupees. The girl's parents shall marry her off to someone else belonging to a caste which is equal in status to theirs.



## 104. Illicit Sexual Intercourse before Marriage after [an Unmarried Girl] Has Been Betrothed to Another Person by Performing the Caste's Customs

1. If a man has illicit sexual intercourse with an unmarried girl who is past the age of 11 and has been betrothed to somebody, and the engagement ceremonies have, in accordance with the caste's customs, already been concluded along with the performance of the *janai supārī* ritual—in the case of Sacred Thread-wearing castes—or the ritual of offering and accepting the customary marital gifts and fees (*chāmgrā rita dastura*)—in the case of Alcohol-drinking castes—, [but] the vermilion mark is yet to be put [on her forehead], and if [this girl] has illicit sexual intercourse of her own will and at her pleasure with that man (lit. 'somewhere else') before the marriage takes place and without [her hand] being offered [in marriage] by her parents, [then in such a case] the man shall be fined in accordance with the *Ain*'s [Art. 146–150 and 152–153] on illicit sexual intercourse with members of higher or lower castes, if he has illicit sexual intercourse with a girl whose caste status is lower than his own. If a man of a Sacred Thread-wearing caste has illicit sexual intercourse with [such a girl] belonging to a caste which is equal to his own, he shall be fined 100 rupees; if she belongs to a Non-enslavable Alcohol-drinking caste 50 rupees; if she belongs to an Enslavable caste 8 rupees; if she belongs to a Touchable but Water-unacceptable caste 4 rupees; and if she belongs to an Untouchable caste 2 rupees. [The fiancé] shall not be allowed to kill the paramour of his [fiancée]. If he kills [her paramour], his life shall be taken—taking life for life.

2. If [the hand of] an unmarried girl past the age of 11 and who belongs to a Sacred Thread-wearing caste is asked for in marriage, and the *janai supārī* ritual is performed, [but] the vermilion mark is yet to be put [on her forehead], and she has illicit sexual intercourse of her own will and at her pleasure with someone else without [her hand] being offered [in marriage] by her parents, [the fiancé] shall not be allowed to kill the paramour of [his fiancée], because the marriage has not yet taken place<sup>457</sup>. If he kills [her paramour], his life shall be taken—taking life for life. Her paramour shall, in accordance with the *Ain*'s [Art. 146] on illicit sexual intercourse with a person of higher or lower caste status, be punished, if [the fiancée with whom he has had illicit sexual intercourse] belongs to a caste which is of lower or higher caste status than his own. If her caste status is equal to [that of the offender], he shall be fined 100 rupees.

3. If [the hand of] an unmarried girl past the age of 11 and who belongs to a Non-enslavable Alcohol-drinking caste is asked for in marriage, and [her parents] have accepted the

457 *bihā bhaisakiyāko hunāle*, read *bihā bhai sakiyāko nahunā-le* (MA<sub>2</sub>).

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customary martial gifts and fees according to their caste's customs, and [the fiancée] has illicit sexual intercourse with someone else before the marriage takes place, of her own will and at her pleasure and without [her hand] being offered [in marriage] by her parents, [the fiancé] shall not be allowed to kill the paramour [of his fiancée], even if he belongs to a caste whose male members have the right to kill their wives' paramours, because the marriage has not yet taken place. If he kills [her paramour] his life shall be taken—taking life for life. The offender shall be punished in accordance with the *Ain's* [Art. 152] 'On Illicit Sexual Intercourse with a Person of Lower or Higher Caste Status', if [the fiancée] with whom he has had illicit sexual intercourse belongs to a caste lower or higher than his own. If she belongs to a caste which is equal to [the offender's caste], he shall be fined 50 rupees.

4. If [the hand of] an unmarried girl past the age of 11 and who belongs to an Enslavable Alcohol-drinking caste is asked for in marriage, and [her parents] have accepted the customary martial gifts and fees according to their caste's customs, and [the fiancée] has illicit sexual intercourse with someone else before the marriage takes place, of her own will and at her pleasure and without [her hand] being offered [in marriage] by her parents, [the fiancé] shall not be allowed to kill the paramour [of his fiancée], even if he belongs to a caste whose male members have the right to kill their wives' paramours, because the marriage has not yet taken place. If he kills [her paramour], his life shall be taken—taking life for life. The offender shall be punished in accordance with the *Ain's* [Art. 153] on illicit sexual intercourse with a person of lower or higher caste status, if [the fiancée] with whom he has had illicit sexual intercourse belongs to a caste lower or higher than his. If he belongs to a caste which is equal to [the offender's caste], he shall be fined 8 rupees.

5. If [the hand of] an unmarried girl past the age of 11 and who belongs to a Water-unacceptable [but Touchable] caste is asked for in marriage, and [her parents] have accepted the customary martial gifts and fees according to their caste's customs, and [the fiancée] has illicit sexual intercourse with someone else before the marriage takes place, of her own will and at her pleasure and without [her hand] being offered [in marriage] by her parents, [the fiancé] shall not be allowed to kill the paramour [of his fiancée], even if he belongs to a caste whose male members have the right to kill their wives' paramours, because the marriage has not yet taken place. If he kills, his life shall be taken—taking life for life. The offender—in the case where [the fiancée] with whom he has had illicit sexual intercourse belongs to a caste lower or higher than his own—shall be punished in accordance with the *Ain's* [Art. 154] on illicit sexual intercourse with a person of lower or higher caste status. If she belongs to a caste which is equal to [the offender's caste], he shall be fined 4 rupees.

6. If [the hand of] an unmarried girl past the age of 11 and who belongs to an Untouchable caste is asked for in marriage, and [her parents] have accepted the customary martial gifts and fees according to their caste's customs, and [the fiancée] has illicit sexual intercourse with someone else before the marriage takes place, of her own will and at her pleasure and without [her hand being offered in marriage] by her parents, [the fiancé] shall not be allowed to kill the

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paramour [of his wife-to-be], even if he belongs to a caste whose male members have the right to kill their wives' paramours, because the marriage has not yet taken place. If he kills, his life shall be taken—taking life for life. The offender, if [the fiancée] with whom he has had illicit sexual intercourse belongs to a caste lower or higher than his own, shall be punished in accordance with the *Ain's* [Art. 155] on illicit sexual intercourse with a person of lower or higher caste status. If she belongs to a caste which is equal to [the offender's caste], he shall be fined 2 rupees.

## 105. On Sexual Intercourse before Marriage

1. If an Upādhyāya Brahmin has illicit sexual intercourse with an Upādhyāya Brahmin virgin girl (*kanyā*) whose wedding has not yet taken place and who is past the age of 11, and if the person who has illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with that girl shall be made to compensate [her husband] with 100 rupees for the marriage expenses, and shall be fined 100 rupees. The person who has consumed cooked rice [from the hands of such culprits] shall be granted expiation. If [an Upādhyāya Brahmin man] who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall not be held accountable.

2. If someone belonging to a Sacred Thread-wearing caste, including Rajapūta and Jaisī, has illicit sexual intercourse with an Upādhyāya Brahmin virgin girl whose wedding has not yet taken place and who is past the age of 11, and if the person who has illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage, the person who had illicit sexual intercourse with her shall be made to compensate [her husband] with 100 rupees for the marriage expenses, and shall be imprisoned for 6 years. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall be imprisoned for 3 years. If he pays double the amount in lieu of his prison term, it shall be accepted. The persons who have consumed cooked rice [from the hands of such a girl] shall be granted expiation.

3. If a Bhaṭṭa Brahmin coming from the foreign territory,<sup>458</sup> a Devabhāju, a Brahmin from Tirhut, a Brahmin from Madhesa or [any other] foreign territory, or an ascetic who has put on the robe, such as a Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebādā or the like, or a Tīna-Liṅga-Jaisī or the like, has illicit sexual intercourse with an Upādhyāya Brahmin virgin girl whose wedding has not yet taken place and who is past the age of 11, and if the person who had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal

458 *devi bhaṭṭa*, read *desi bhaṭṭa* (MA<sub>2</sub>).

in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses, and shall be imprisoned for 6 years. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring 'I have had illicit sexual intercourse [with her]', he shall be imprisoned for 3 years. If he pays double the amount in lieu of his prison term, it shall be accepted. The persons who are unwittingly contaminated [through such a girl] shall be granted expiation.

4. If someone belonging to a Non-enslavable Alcohol-drinking caste or a Newar caste whose members may not be [punished by] enslavement and who may or may not wear the Sacred Thread has illicit sexual intercourse with an Upādhyāya Brahmin virgin girl whose wedding has not yet taken place and who is past the age of 11, and if the person who has illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses, and shall be imprisoned for 8 years. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring 'I have had illicit sexual intercourse [with her]', he shall be imprisoned for 4 years. If he pays double the amount in lieu of his prison term, it shall be accepted. The persons who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such a girl] shall be granted expiation.

5. If someone belonging to an Enslavable Parjā caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place and who is past the age of 11 and belongs to a Sacred Thread-wearing caste, such as an Upādhyāya Brahmin, Rajapūta or Jaisī, and if the person who has illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be imprisoned for 4 years and be enslaved. If the person who has had illicit sexual intercourse with [such a girl] discloses this before her marriage, he shall be imprisoned for 2 years and be enslaved. The persons who have unwittingly consumed [cooked rice from the hands of such a girl] shall be granted expiation.

6. If someone belonging to an Upādhyāya Brahmin caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and who belongs to a Rajapūta or Jaisī caste or any other caste [inferior to the Upādhyāya Brahmins] whose members wear the Sacred Thread, and if the person who has had illicit sexual intercourse does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse

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is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses and shall be fined 30 rupees. If he does not pay the amount of the fine, he shall be imprisoned. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring 'I have had illicit sexual intercourse [with her]', he shall be fined 20 rupees. If he does not pay the amount of the fine, he shall be imprisoned. The persons who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such a culprit] shall be granted expiation.

7. If someone belonging to a Rajapūta caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and belongs to a Jaisī caste, or someone belonging to a Jaisī caste has illicit sexual intercourse with a virgin girl [whose wedding has not yet taken place, who is past the age of 11 and] who belongs to a Rajapūta caste, and if the person who has had illicit sexual intercourse does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses and shall be fined 30 rupees. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring 'I have had illicit sexual intercourse [with her]', he shall be fined 20 rupees. If he does not pay the amount of the fine, he shall be imprisoned. The [respective fellow caste members] who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such culprits] shall be granted expiation.

8. If someone belonging to a Jaisī Brahmin caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place and who is past the age of 11 and belongs to a Jaisī caste, and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses and shall be fined 30 rupees. If he does not pay the amount of the fine, he shall be imprisoned. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring 'I have had illicit sexual intercourse [with her]', he shall not be held accountable. [The fellow caste members] who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such culprits] shall be granted expiation.

9. If someone belonging to a Sacred Thread-wearing Kṣatriya caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and who belongs to a Rajapūta or Jaisī caste, and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this

previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses and shall be imprisoned for 4 years. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall be imprisoned for 2 years. If he pays double the amount in lieu of his prison term, it shall be accepted. The persons who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such a girl] shall be granted expiation.

10. If someone belonging to a Non-enslavable Alcohol-drinking caste or a Newar caste whose members are not to be punished by enslavement and who may or may not wear the Sacred Thread has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and belongs to a Sacred Thread-wearing caste, such as a Rajapūta or Jaisī Brahmin or the like [but excluding the Upādhyāya Brahmins], and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses and shall be imprisoned for 6 years. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall be imprisoned for 3 years. If he pays double the amount in lieu of his prison term, it shall be accepted. [The fellow caste members] who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such a girl] shall be granted expiation.

11. If someone belonging to an Upādhyāya Brahmin, Jaisī or Rajapūta caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, is past the age of 11 and who belongs to a Sacred Thread-wearing caste [but excluding Upādhyāya Brahmin, Jaisī or Rajapūta], and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses, and shall be fined 30 rupees. If he does not pay the amount of the fine, he shall be imprisoned. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall not be held accountable. [The fellow caste members] who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such a culprit] shall be granted expiation.

12. If someone belonging to a Sacred Thread-wearing caste [excluding an Upādhyāya Brahmin, Jaisī or Rajapūta] has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, is past the age of 11 and who belongs to a Sacred Thread-wearing caste

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[excluding an Upādhyāya Brahmin, Jaisī or Rajapūta], and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 100 rupees for the marriage expenses, and shall be fined 30 rupees. If he does not pay the amount of the fine, he shall be imprisoned. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall not be held accountable. [The respective fellow caste members] who are unwittingly contaminated [through the consumption of cooked rice or water from the hands of such culprits] shall be granted expiation.

13. If someone belonging to a Sacred Thread-wearing caste, such as an Upādhyāya Brahmin, Rajapūta or Jaisī, has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, is past the age of 11 and who belongs to a Non-enslavable Alcohol-drinking caste, and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 60 rupees for the marriage expenses, and shall be fined 20 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall not be held accountable.

14. If someone belonging to a Non-enslavable Alcohol-drinking caste or a Newar caste, whose members are not to be punished by enslavement and who may or may not wear the Sacred Thread, has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, is past the age of 11 and who belongs to a Non-enslavable Alcohol-drinking caste, and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 60 rupees for the marriage expenses, and shall be fined 60 rupees. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall not be held accountable.

15. If someone belonging to an Enslavable Parjā caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and who belongs to a Non-enslavable Alcohol-drinking caste, and if the person who has had illicit sexual intercourse with her does not disclose it to anyone, and if someone else belonging to a caste equal in



status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be imprisoned for 1 year. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall be fined 60 rupees if the woman can rejoin her caste. If she cannot rejoin her caste, that person shall be enslaved.

16. If someone belonging to a Sacred Thread-wearing caste, such as an Upādhyāya Brahmin, Rajapūta, Jaisī or the like, or a Non-enslavable Alcohol-drinking caste, has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and who belongs to an Enslavable Alcohol-drinking caste, and if the person who has had illicit sexual intercourse with her does not disclose this to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 20 rupees for the marriage expenses, and shall be fined 10 rupees. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall not be held accountable.

17. If someone belonging to an Enslavable Parjā caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, is past the age of 11 and who belongs to an Enslavable Alcohol-drinking caste, and if the person who has had illicit sexual intercourse with her does not disclose this to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 20 rupees for the marriage expenses, and shall be fined 10 rupees. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage, declaring ‘I have had illicit sexual intercourse [with her]’, he shall be fined 5 rupees [if only someone] comes to complain that he contaminated him or her with respect to cooked rice through this girl. If they do not come to complain, he shall not be held accountable.

18. Amongst persons of the Water-unacceptable [but] Touchable castes, if a man has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place and who is past the age of 11, and if someone else asks for her hand in marriage without knowing that she has already had illicit sexual intercourse<sup>459</sup> and marries her, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her [before the marriage] shall be made to compensate [her husband] with 15 rupees for the marriage expenses, and shall be fined 15 rupees. If the person who has had illicit sexual intercourse

459 *karaṇi bhayāko thāhā pāi*, read *karaṇi bhayāko thāhā napāi* (MA<sub>2</sub>).

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with [such a girl] discloses it before her marriage, declaring 'I have had illicit sexual intercourse [with her]', he shall not be held accountable, if [the girl] belongs to a caste equal or lower in status to his own. If he has had illicit sexual intercourse with [a girl] whose caste status is higher than his, and if he has contaminated her fellow caste members with respect to cooked rice or water through her, he shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall be purified [from his guilt] by performing [the purificatory rites] according to his caste's customs.

19. If someone belonging to a Touchable [but] Water-unacceptable caste has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place, who is past the age of 11 and who belongs to an Untouchable caste, and if someone else asks for her hand in marriage without knowing that she has already had illicit sexual intercourse and marries her, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the share of property of the culprit who had illicit sexual intercourse with her [before the marriage] shall be confiscated, the initial letter of the caste [name] of that woman shall be branded [on his left cheek], and he shall be placed in the caste of that girl. If the person who has had illicit sexual intercourse with [such a girl] discloses it before her marriage and before contaminating anybody through water, declaring 'I have had illicit sexual intercourse [with her]', he shall not be held accountable.

20. Amongst persons of the Untouchable castes, if a man has illicit sexual intercourse with a virgin girl whose wedding has not yet taken place and who is past the age of 11, and if the person who has had illicit sexual intercourse with her does not disclose this to anyone, and if someone else belonging to a caste equal in status to that of the girl marries her before the illicit sexual intercourse is disclosed, and if this previous illicit sexual intercourse is disclosed after the marriage [has taken place], the person who had illicit sexual intercourse with her before [the marriage] shall be made to compensate [her husband] with 15 rupees for the marriage expenses, and shall be fined 15 rupees. If the person discloses the illicit sexual intercourse before [her marriage], he shall not be held accountable, if he has only had illicit sexual intercourse with a girl belonging to a caste equal or lower in status to his own and he has not contaminated his [fellow commensals] through water. If he has had illicit sexual intercourse with a girl whose caste status is higher than his own, and if he has contaminated his fellow caste members through cooked rice or water, he shall be fined 10 rupees. Amongst persons of these castes, if someone has illicit sexual intercourse with a girl from whose hands water is not acceptable and whose caste status is lower than that of his own, and if he has contaminated his fellow commensals through cooked rice and water, he shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned and be placed into the caste of that girl.

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1. Except for a woman who has not had her [first] menstrual period, if a married woman who has reached the age of majority goes out alone during the day or night without telling any of the heads of the household, without asking for permission or without taking anybody along with her, and if she stays overnight at someone else's house, thus raising her husband's suspicion, but it is not found upon interrogation that she has had sexual intercourse [with anyone else], cooked rice from the hands of such a woman shall be acceptable [only] if the fellow commensals, coparceners (*bhāi*) and relatives from her parental side consume cooked rice together with her. If they do not want to consume cooked rice together with her, they shall not be forced to accept cooked rice from her hands. She shall be ostracised with respect to the right of consuming cooked rice with her fellow commensals.

2. If a woman, while she is being molested [by a man] with the intention of having sexual intercourse with her, saves [herself] from the sexual assault, and if she immediately reports it, she shall not be ostracised from her caste and with respect to cooked rice. She shall retain her caste status. She shall neither need expiation (*patiyā*) nor need to observe penance (*prāyaścitta*).

3. If someone asks someone else to seduce an unmarried girl or a widow [so as to have sexual intercourse] with him, the one who seduces her shall be fined 60 rupees, and the one who asks for her to be seduced shall be fined 120 rupees. Someone who asks someone else to seduce a common woman shall be fined 40 rupees, and the one who seduces her shall be fined 20 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

4. If someone's male or female slave seduces a daughter, daughter-in-law or wife of a noble person or of a high-ranking official (*umarāva*) and has sexual intercourse with her, the slave shall be imprisoned for 1½ years and be handed over to the person to whom he or she belongs. If [the offender] pays four times the amount in lieu of the prison term, it shall be accepted. If such an act is carried out by a male or female bondservant, the *adālata*, *ṭhānā* or *amāla* office shall enslave the bondservant, putting the credit sum [owed to] his or her creditor (*dhaniko thailī*) aside.

5. If a man or woman makes a married woman—whose husband belongs to a caste whose members are to be shaved [in lieu] of the death sentence, or belongs to a caste whose members

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bear the right to kill their wives' paramours—have sexual intercourse with another man or paramour under the pretence that she is a widow or common woman, [such an offender]—if he or she belongs to an Enslavable caste—shall be enslaved. If such an offender is a man and belongs to a Non-enslavable caste, he shall be imprisoned for 6 years, and if it is a woman, she shall be imprisoned for 3 years, and both shall be set free. If [such an offender wants] to pay the amount in lieu of the prison term, it shall not be accepted. If he or she pays twice the amount in lieu of the prison term, it shall be accepted and he or she shall be set free.

6. If someone belonging to a Sacred Thread-wearing caste, including the Upādhyāya Brahmin, seduces a woman with the intention of having sexual intercourse with her, and she shares a common ancestor with him up to 7 generations back from his son's side, or 3 generations from his daughter's side, and she is past the age of 11, he shall be fined 40 rupees. If such an offender seduces such a woman using beguiling words and also touches her hands, or kisses her, or gropes her breasts, or makes her fall over and gropes her legs, he shall be fined 80, 100, 150, and 500 rupees, respectively. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned; after he has been set free, he shall pay to the religious judge (*dharmādhikāra*) a *godāna* fee at the rate of 5, 4, 3 or 2 rupees for a person of the *abbala*, *doyama*, *sima* and *cahāra* categories, respectively, and he shall be granted expiation.

7. If a person approaches a woman and seduces her after he is asked by another person [saying] 'Seduce such and such a woman [to engage in sexual intercourse with me]', and if sexual intercourse has not yet taken place, such a procurer (*lamī*) who approaches and seduces an unmarried girl, married woman or widow belonging to a Sacred Thread-wearing caste shall be fined 20 rupees.

8. If a person approaches a woman and seduces her after he is asked by another person [saying] 'Seduce such and such a woman [to engage in sexual intercourse with me]', and if sexual intercourse has not yet taken place, such a procurer who approaches and seduces an unmarried girl, married woman or widow belonging to a Non-enslavable Alcohol-drinking caste shall be fined 10 rupees.

9. If a person approaches a woman and seduces her after he is asked by another person [saying] 'Seduce such and such a woman [to engage in sexual intercourse with me]', and if the sexual intercourse has not yet taken place, such a procurer who approaches and seduces an unmarried girl, married woman or widow belonging to an Enslavable Alcohol-drinking caste shall be fined 5 rupees.

10. If a person approaches a woman and seduces her after he is asked by another person [saying] 'Seduce such and such a woman [to engage in sexual intercourse with me]', and if sexual intercourse has not yet taken place, such a procurer who approaches and seduces an unmarried girl, married woman or widow belonging to a [Water-unacceptable but] Touchable caste shall be fined 2½ rupees.

11. If a person approaches a woman and seduces her after he is asked by another person [saying] ‘Seduce such and such a woman [to engage in sexual intercourse with me]’, and if sexual intercourse has not yet taken place, such a procurer who approaches and seduces an unmarried girl, married woman or widow belonging to an Untouchable caste shall be fined 1 rupee and 1 *sukā*.

12. If an unmarried girl, married woman or widow past the age of 11 and belonging to a Sacred Thread-wearing caste delouses a man from her family who is past the age of 12 in the presence of the family members living in the house, both [the woman] who deloused him and [the man] who had her delouse him shall be assigned no fault.

13. If a married woman, widow or an unmarried girl past the age of 11 and belonging to a Sacred Thread-wearing caste delouses a man who is her relative and whose caste status is equal to her own or whose caste status is lower or higher to her own in the presence of other people, or if the man [delouses] the woman, and if any suspicion of sexual intercourse [between them] arises, the case shall, in accordance with the *Ain*, be settled after investigation. If no suspicion of sexual intercourse between them arises and it is ascertained that this was only delousing, both [the woman] who deloused [the man] and [the man] who had her delouse him shall be fined 20 rupees each.

14. If someone belonging to any of the Non-enslavable Alcohol-drinking castes seduces a woman with the intention of having sexual intercourse with her, and who shares a common ancestor with him up to 7 generations back from his son’s side or up to 3 generations from his daughter’s side, and is past the age of 11, he shall be fined 20 rupees. If he seduces her using beguiling words and also touches her hands, or kisses her, or gropes her breasts, or makes her fall over and gropes her legs, he shall be fined 40, 50, 75, or 250 rupees, respectively. If he does not pay the amount of fine, he shall, in accordance with the *Ain*, be imprisoned; upon being set free, he shall pay to the *dharmādhikāra* a fee for *godāna* at the rate of 2½, 2, 1½ or 1 rupees for a person of the *abbala*, *doyama*, *sima* and *cahāra* categories, respectively, and be granted expiation.

15. If someone belonging to any of the Enslavable Alcohol-drinking castes seduces a woman with the intention of having sexual intercourse with her, and who shares a common ancestor with him up to 5 generations back from his son’s side or up to 3 generations from his daughter’s side, and is past the age of 11, he shall be fined 10 rupees. If he seduces her using beguiling words and also touches her hands, or kisses her, or gropes her breasts, or makes her fall over and gropes her legs, he shall be fined 20, 25, 37½, or 120 rupees, respectively. If he does not pay the amount of fine, he shall, in accordance with the *Ain*, be imprisoned.

16. If someone belonging to any of the [Water-unacceptable but] Touchable or Untouchable castes seduces a woman with the intention of having sexual intercourse with her, and who shares a common ancestor with him up to 4 generations back from his son’s side or up to 3 generations from his daughter’s side, and is past the age of 11, he shall be fined 5 rupees. If he seduces her

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using beguiling words and also touches her hands, or kisses her, or gropes her breasts, or makes her fall over and gropes her legs, he shall be fined 10, 12½, 18½, or 62½ rupees, respectively. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

17. If a married woman or widow or an unmarried girl has had illicit sexual intercourse with someone, and if someone else seduces her [so she has sexual intercourse] with another person before the matter of the illicit sexual intercourse is disclosed, and this other person believes that she has not had illicit sexual intercourse, and if it is ascertained upon interrogation that she had [in fact] had illicit sexual intercourse with that previous person, the procurer who seduced such a clandestine prostitute [so she would have sexual intercourse with another person], who is a married woman, widow or an unmarried girl belonging to a Sacred Thread-wearing caste, shall be fined 8 rupees, if that person [who asked the procurer to seduce the woman for him] has not yet had sexual intercourse with her. If such a procurer has seduced a woman belonging to a Non-enslavable Alcohol-drinking caste [so she will have sexual intercourse] with another person, he shall be fined 4 rupees. If he has seduced a woman belonging to an Enslavable Alcohol-drinking caste [so she will have sexual intercourse] with another person, he shall be fined 2 rupees. Among the women from the Water-unacceptable castes, if he has seduced a woman belonging to a [Water-unacceptable but] Touchable caste [so she will have sexual intercourse] with another person, he shall be fined 1 rupee, but ½ rupee if he has seduced a woman belonging to an Untouchable caste [so she will have sexual intercourse] with another person.

18. If someone asks someone else to seduce a woman [so she will have sexual intercourse] with the former, and [the procurer] seduces an unmarried girl, married woman or widow past the age of 11 and belonging to a Sacred Thread-wearing caste [so she will have sexual intercourse] with that person who [too] belongs to a Sacred Thread-wearing caste, and if [the procurer] has the woman have sexual intercourse with him, [the procurer] shall be fined 40 rupees. If [the procurer] has the woman have sexual intercourse with a person who belongs to a Non-enslavable caste, he shall be fined 60 rupees. If he makes the woman have sexual intercourse with a person who belongs to an Enslavable caste, he shall be fined 80 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Amongst the persons belonging to the Water-unacceptable castes, if [such a procurer] makes the woman have sexual intercourse with a person who belongs to a [Water-unacceptable but] Touchable caste, he shall be imprisoned for 2 years and be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 4 years. If [such a procurer] makes the woman have sexual intercourse with a person who belongs to an Untouchable caste, he shall be imprisoned for 4 years and be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 8 years. If he pays double the amount in lieu of his prison term, it shall be accepted [and he shall be set free].

19. If someone asks someone else to seduce a woman [so she will have sexual intercourse] with the former, and if [the procurer] seduces an unmarried girl, married woman or widow past the age of 11 and belonging to a Non-enslavable Alcohol-drinking caste [so she will have

sexual intercourse] with a person who belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste, and if [the procurer] makes the woman have sexual intercourse with that person, [the procurer] shall be fined 30 rupees. If [the procurer] makes the woman have sexual intercourse with a person who belongs to an Enslavable caste, he shall be fined 40 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Amongst the persons belonging to the Water-unacceptable castes, if [such a procurer] has the woman have sexual intercourse with a person who belongs to a [Water-unacceptable but] Touchable caste, he shall be imprisoned for 1 year and be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 2 years. If [such a procurer] has the woman have sexual intercourse with a person who belongs to an Untouchable caste, he shall be imprisoned for 2 years and be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 4 years. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

20. If someone asks someone else to seduce a woman [so she will have sexual intercourse] with the former, and if [the procurer] seduces an unmarried girl, married woman or widow past the age of 11 and belonging to an Enslavable Alcohol-drinking caste [so she will have sexual intercourse] with a person who belongs to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, and if [the procurer] makes the woman have sexual intercourse with that person, [the procurer] shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Amongst the persons belonging to the Water-unacceptable castes, if [such a procurer] makes the woman have sexual intercourse with a person who belongs to a [Water-unacceptable but] Touchable caste, he shall be imprisoned for 6 months and be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 1 year. If [such a procurer] has the woman have sexual intercourse with a person who belongs to an Untouchable caste, he shall be imprisoned for 1 year and be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 2 years. If he pays double the amount in lieu of his prison term, it shall be accepted [and he shall be set free].

21. If someone asks someone else to seduce a woman [so she will have sexual intercourse] with the former, and if [the procurer] seduces a married woman, widow or an unmarried girl past the age of 11 and belonging to a Water-unacceptable but Touchable caste [so she will have sexual intercourse] with a person who belongs to a Sacred Thread-wearing caste, and if [the procurer] has the woman have sexual intercourse with that person, [the procurer] shall be fined 50 rupees. If [the procurer] has the woman have sexual intercourse with a person who belongs to an Enslavable Alcohol-drinking caste, he shall be fined 12½ rupees. Amongst the persons belonging to the Water-unacceptable castes, if [such a procurer] has the woman have sexual intercourse with a person who belongs to a [Water-unacceptable but] Touchable caste, he shall be fined 2½ rupees. If he makes the woman have sexual intercourse with a person who belongs to an Untouchable caste, he shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

106. Intention of Committing Sexual Intercourse

22. If a Damāī, Gāine or Vādī caste member asks a person to seduce a woman [so she will have sexual intercourse] with him, and if [the procurer] seduces an unmarried girl, married woman, or widow belonging to a Kāmī, Sārki or Kaḍārā caste and past the age of 11 [so she will have sexual intercourse] with that person, and if [the procurer] has the woman have sexual intercourse with that person, [the procurer] shall be fined 5 rupees.

23. If someone asks someone else to seduce a woman [so she will have sexual intercourse] with the former, and if [the procurer] seduces a married woman, widow or an unmarried girl past the age of 11 and belonging to an Untouchable caste [so she will have sexual intercourse] with a person who belongs to a Sacred Thread-wearing caste, and if [the procurer] makes the woman have sexual intercourse with that person, [the procurer] shall be fined 80 rupees. If [the procurer] makes the woman have sexual intercourse with a person who belongs to a Non-enslavable Alcohol-drinking caste, he shall be fined 60 rupees. If he makes the woman have sexual intercourse with a person who belongs to an Enslavable Alcohol-drinking caste, he shall be fined 40 rupees. Amongst the persons belonging to the Water-unacceptable castes, if [such a procurer] makes the woman have sexual intercourse with a person who belongs to a [Water-unacceptable but] Touchable caste, he shall be fined 10 rupees. If he has the woman have sexual intercourse with a person who belongs to an Untouchable caste, he shall be fined 1½ rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

24. If someone from any of the Four Varṇas and Thirty-six castes seduces a married woman, widow or an unmarried girl [so she will have sexual intercourse] with a man who belongs to a Water-acceptable or an Untouchable caste, and if [the procurer] has the woman have sexual intercourse with that person, and if [the procurer] has not consumed cooked rice and water from the hands of that man and woman [after they have had sexual intercourse], [the procurer], who had the woman have sexual intercourse with that person shall, in accordance with the *Ain*, be punished only with imprisonment or a fine. He shall not lose his caste status. If [such a procurer] has consumed cooked rice and water from the hands of that man or woman after they have had sexual intercourse, he, who had that woman have sexual intercourse with a man who belongs to a Water-acceptable caste shall, in accordance with the *Ain*, be fined or imprisoned and then be set free after being placed into the caste of that [man and woman]. If [such a procurer] has made that woman have sexual intercourse with a man who belongs to an Untouchable caste, and if the procurer has consumed cooked rice and water from their hands, he shall, in accordance with the *Ain*, be imprisoned or fined and then be set free, after the initial letter of the caste [name of that man or woman] has been branded on his left cheek, and he shall be placed [into their caste]. If [such a procurer] has also contaminated his other [fellow commensals] through cooked rice [and water] after himself consuming cooked rice and water from the hands of that man and woman who have had illicit sexual intercourse, the share of property which is his in accordance with the *Ain*, shall be confiscated and he shall be set free after punishing him as mentioned above.

25. If [a servant] seduces a wife, daughter, or daughter-in-law past the age of 11 of his master—who belongs to a Sacred Thread-wearing caste and [in whose house] he serves—to have



illicit sexual intercourse with a man who belongs to a Sacred Thread-wearing caste, and if he has her have sexual intercourse with that man, [such a servant] shall be imprisoned for 1½ years. If he has her have sexual intercourse with a man who belongs to a Non-enslavable Alcohol-drinking caste, he shall be imprisoned for 2 years. If he has her have sexual intercourse with a man who belongs to an Enslavable Alcohol-drinking caste, he shall be imprisoned for 1½ years and he shall be enslaved. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

26. If [a servant] seduces a wife, daughter, or daughter-in-law past the age of 11 of his master—who belongs to a Non-enslavable Alcohol-drinking caste and [in whose house] he serves—so she has illicit sexual intercourse with a man who belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste, and if he has her have sexual intercourse with that man, [such a servant] shall be imprisoned for 9 months. If he has her have sexual intercourse with a man who belongs to an Enslavable Alcohol-drinking caste, he shall be imprisoned for 1 year and be enslaved. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

27. If [a servant] seduces a wife, daughter, or daughter-in-law past the age of 11, of his master—who belongs to an Enslavable Alcohol-drinking caste and [in whose house] he serves—so she has illicit sexual intercourse with a man who belongs to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, and if he has her have sexual intercourse with that man, [such a servant] shall be imprisoned for 4½ months. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

28. If [someone] has not molested a married woman, widow or unmarried girl, but he states in express terms: ‘I have molested such and such a woman with the intention of having sexual intercourse with her’, and if it is proved upon interrogation that he has [in fact] not molested her, he shall be punished in accordance with the *Ain*, [according to the regulation] applicable to a person who, with the intention of having sexual intercourse, molests a woman from a caste whose status is higher, lower or equal to his own caste status.

29. Concerning a man and woman who are to be held accountable for committing a sexual offence, if a man or woman past the age of 11, without being ill, willingly apply oil or the like to each other’s body or they let each other [do so] in the presence of other people, and if it is ascertained that they had no intention of having sexual intercourse with each other, the man shall be fined 20 rupees and the woman shall not require any fine. If they are past the age of 11 and the oil or the like is applied for medical treatment when nobody is at home because the person [to whose body the oil is applied] is ill, or it has been applied to a minor below the age of 11, nobody shall be held accountable in either case—whether one party applies oil to someone else or lets someone else apply oil to him or her. Since it cannot be ascertained that they had any intention of having sexual intercourse with each other, no expiation is required. If [the offender] does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

## 107. Molestation with the Intention of Committing Illicit Sexual Intercourse or Adultery

1. [This section is] not valid.

(Amongst persons of equal caste status, if someone molests a widowed or married woman or an unmarried girl with the intention of having sexual intercourse with her, and someone comes to complain, [a molester] from a Sacred Thread-wearing caste shall be fined 50 rupees if the woman he has molested [also] belongs to a Sacred Thread-wearing caste; if someone from a Non-enslavable Alcohol-drinking caste has molested [such a woman or girl] from a Non-enslavable [Alcohol-drinking caste], he shall be fined 30 rupees, if [the molester from] the Non-enslavable Alcohol-drinking caste has assaulted a woman from the same Non-enslavable Alcohol-drinking caste, 20 rupees, if someone from a Newar caste whose members can be charged with committing illicit sexual intercourse (*misākhata*) has molested [a woman from] a Newar caste whose members can be charged with *misākhata*, 15 rupees if someone from an Enslavable caste has molested [a woman from any] of the Enslavable castes, 10 rupees if someone from any of the Water-unacceptable [but] Touchable castes, [such as] Kasāī, Kusle, Ḍoma, Kulu or the like, has molested [a woman from] a caste equal in status to his own, and 5 rupees if someone from the Poḍe or Cyāmakhala has molested [a woman from] a caste equal in status to his own. If [the molester] does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.)

2. [This section is] not valid.

(In the case of castes lower or higher in status than one's own, if someone molests a married or widowed woman or an unmarried girl belonging to a Sacred Thread-wearing caste with the intention of having sexual intercourse with her and her caste status is equal to his own, but he fails to commit sexual intercourse, and then the woman comes to complain [about it], the molester shall be fined 50 rupees. If [such a molester] has molested a woman from a caste higher in status than his own, he shall be fined 80 rupees. If someone belonging to a Sacred Thread-wearing caste molests [a woman from] a Non-enslavable Alcohol-drinking caste [with the intention of committing sexual intercourse with her, but fails to do so], he shall be fined 30 rupees; if someone belonging to a Non-enslavable Alcohol-drinking caste molests a woman belonging to [one of the] Parjā castes, he shall be fined 15 rupees; when someone belonging to a Water-acceptable caste molests a woman belonging to a Water-unacceptable caste, he shall be fined 80 rupees; when someone belonging to a Water-unacceptable or Untouchable caste molests a woman belonging to a Water-acceptable caste with the intention of having sexual intercourse with her, he shall be

fined 80 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall require no expiation [*patiyā*].)

3. Except for the caste whose members can be charged as *cāka* or *cakuī* in the case of having illicit sexual intercourse, if the husband of a woman, a man belonging to a caste whose male members have the right to kill their wives' paramours, comes to know or witnesses that she has allowed someone else other than her own husband to grope her breasts, and if the husband comes to complain at an *adālata*, *thānā* or *amāla* office, the share of property of such a paramour (*nātho*) who groped the breasts of someone else's wife shall be confiscated. The *kacaharī* office shall collect 10 percent from the confiscated property and the rest shall be handed over to the aggrieved husband (*sādhu*). The wife who allows someone else to grope her breasts shall be degraded from her caste.

4. If the wife of a man belonging to a Sacred Thread-wearing caste, including Brahmins, kisses or hugs another man with the intention of committing adultery with him, irrespective of whether he belongs to a caste higher or equal in status to her own caste, or he belongs to any Water-acceptable caste, or if she allows him to grope her breasts, or if she willingly touches him from the soles of his feet up to the head or touches him at his *dhoti*, girdle or waist, or if she says herself when seduced by that man: 'I will let you commit adultery [with me]', and if she has not actually committed adultery, cooked rice [from her hands] shall not be acceptable for her fellow commensals, even if she has committed only one of these [aforementioned] acts. She shall also not receive her share [from her husband's property]. If the husband of a woman, a man bearing the right to kill his wife's paramour in accordance with the *Ain*, does not provide her with the means of support and throws her out [of the house], and she commits adultery with someone else, the aggrieved husband shall not be allowed to kill his wife's paramour. If he kills, he shall be executed—taking life for life. No fault shall be assigned to that person who committed adultery with [such a woman]. If the husband of a woman has been providing her with the means of support, and if she runs off with someone else, it shall be at the pleasure of the aggrieved husband as to whether he, in accordance with the *Ain*, shaves [the head of] his wife's paramour or kills him, or he acquits [his wife's paramour], taking the marriage expense from him or making him pass under his (i.e. aggrieved husband's) legs (*ṭāgamani chirāunu*)<sup>460</sup> or he acquits [his wife's paramour] without doing any such. If someone's wife has not committed adultery [with someone else], but has only been degraded from her caste, and if she has been kept separate (*kināra garnu*) by her husband, while providing her with the means of support, and if she has sexual intercourse with her husband and offspring are born to her from his semen, such offspring shall receive the Sacred Thread. The offspring by her husband who are born to a wife who has attempted to commit adultery [with another man] belonging to a caste equal or higher in status to her own shall be given a share [from the parental property] as the offspring born to a concubine or a wife who was widowed [before] and from whose hands cooked rice is acceptable [for the husband], would have received. Those offspring who are born to the wife who has attempted to commit adultery

460 This customary practice is meant to humiliate the culprit.

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with another man belonging to a Sacred Thread-wearing caste which is lower in status than her own shall be given a share [from the parental] property at the rate of 10 percent; those offspring who are born to the wife who has attempted to commit adultery with another man belonging to an Alcohol-drinking caste shall be given a share [from the parental property] at the rate of 5 percent. Those offspring born to the wife from whose hands [the husband] can at least accept cooked rice shall receive a share of property at the rate of 10 percent of the total [property] received by the offspring born to a ritually married wife (*sadya*); those offspring born to the wife from whose hands [the husband] cannot accept cooked rice, or born to a concubine girl, concubine widow or married woman taken as wife, being himself her paramour, shall receive a share of property at the rate of 5 percent of the total [property] received by the offspring born to a ritually married wife; and the offspring born to a common woman or female bondservant or slave shall receive a share of property at the rate of 2½ percent of the total property received by the offspring born to a ritually married wife.

5. If an unmarried girl, widowed or married woman who belongs to a Non-enslavable Alcohol-drinking caste and is past the age of 11, hugs or kisses [a man] with the intention of committing illicit sexual intercourse or adultery with him, irrespective of whether he belongs to a caste higher, equal or lower in status to her own caste, or if she allows him to grope her breasts, or if she willingly lets him touch her body from the soles of her feet up to her head, or if she touches him at his *dhoti*, girdle or waist, and if she has not yet had illicit sexual intercourse or committed adultery [with such a man], she shall be fined 10 rupees for her misconduct, even if she has committed only one of these acts written down above. It shall be at the pleasure of her fellow commensals as to whether or not they consume cooked rice and lentils [from the hands of such a woman]. The offspring born to such a wife [from the semen] of her husband shall retain the father's caste. If her fellow commensals consume rice from the hands of such offspring, the [offspring] shall also receive a share of [parental] property equal [to that of the offspring] who are born to a ritually married and faithful wife. If her fellow commensals do not consume cooked rice [from the hands of such offspring], they (the offspring) shall receive ⅓ of the [parental] property, if offspring born to a ritually married [and faithful] wife receive ⅔ of the [parental] property. If the husband has kept such a wife, providing her with the means of support, and if she runs off with someone else, it shall, in accordance with the *Ain*, be at the pleasure of the aggrieved husband [as to whether or not he kills his wife's paramour], if he belongs to a caste whose male members have the right to kill their wives' paramours. If [the aggrieved husband] does not belong to a caste whose male members have the right to kill their wives' paramours, but belongs to a caste whose members take marriage expenses from their wives' paramours, [the paramour] shall, in accordance with the *Ain*, be made to compensate [the aggrieved husband] for the marriage expenses and shall be fined [an amount] equal to the sum of compensation in question. If a husband who has thrown his wife [out of the house] without providing her with the means of support kills his wife's paramour, he shall be executed—taking life for life. Neither shall [such an aggrieved] husband receive [compensation] for the marriage expenses [from his wife's paramour] nor shall such a paramour be required to pay a fine equal to [the marriage expenses] in question.

6. If an unmarried girl, widowed or married woman who belongs to an Enslavable Alcohol-drinking caste and is past the age of 11 hugs or kisses [a man] with the intention of having illicit sexual intercourse or committing adultery with him, irrespective of whether he belongs to a caste higher or equal in status to her own caste or whether he belongs to a Water-acceptable caste, or if she allows him to grope her breasts, or if she willingly lets him touch her body from the soles of her feet up to her head, or if she grabs him by his *dhoti*, girdle or waist, and if she has not yet had illicit sexual intercourse or committed adultery [with such a man], she shall be fined 5 rupees for her misconduct, even if she has committed only one of these acts mentioned above. Such a woman shall not lose her caste status, but she shall remain in her caste. If the husband of such a woman keeps her [even after her misconduct] and offspring are born to them, the offspring shall receive a share of [parental] property equal to that of those offspring who are born to a ritually married and faithful wife. If she runs off with another man, [the aggrieved husband], if he belongs to a caste whose male members have the right to kill their wives' paramours, shall kill his wife's paramour. If [the aggrieved] husband belongs to a caste whose members take [a compensation] from their wives' paramours for the marriage expenses, he shall be allowed to take the marriage expenses [from the paramour]. [The paramour] shall be made to compensate [the aggrieved husband] with 20 rupees and shall be fined an amount equal to the sum of the compensation. If the husband throws his wife out without providing her with the means of support, saying: 'I will not keep her', and then she runs off with another man, he shall not be allowed to kill his wife's paramour. If he kills, he shall be executed—taking life for life. Neither shall [such an aggrieved] husband receive [compensation] for the marriage expenses [from his wife's paramour], nor shall such a paramour be required to pay a fine equal to [the marriage expenses] in question.

7. If an unmarried girl, married or widowed woman who belongs to a Water-unacceptable and Untouchable caste and is past the age of 11 hugs or kisses [a man] with the intention of having illicit sexual intercourse or committing adultery with him, irrespective of whether he belongs to a caste higher, equal or lower in status to her own caste, or if she allows him to grope her breasts, or if she willingly lets him touch her body from the soles of her feet up to her head, or if she touches his *dhoti*, girdle or waist, and if she has not yet had illicit sexual intercourse or committed adultery [with such a man], she shall be fined 2½ rupees, even if she has committed only one of these acts mentioned above, given the fact that [such misconduct] takes place with a man belonging to a Viṣṭa caste which is higher than her own. If [such misconduct] takes place with a man whose caste status is lower than her own and from whose hands she is not allowed to consume water, she shall be fined 5 rupees. It shall be at the pleasure of her fellow commensals whether they consume cooked rice from her hands or not. If the husband of such a woman keeps her [even after her misconduct] and offspring are born to them, the offspring shall receive a share of [parental] property equal to that given to those offspring who are born to a ritually married and faithful wife. If she runs off with another man, and if [the aggrieved] husband belongs to a caste whose members take [compensation] from their wives' paramours for the marriage expenses, [the paramour] shall be made to compensate [the aggrieved husband] for the marriage expenses and shall be fined an amount equal to the sum of the compensation in

question. If [the aggrieved husband] belongs to a caste whose male members have the right to kill their wives' paramours, it shall be at the pleasure of the aggrieved husband [as to whether or not to kill his wife's paramour]. If the husband throws such a wife [out of the house] without providing her with the means of support, saying: 'I will not keep such a wife who has orally confessed her [guilt]', and if she then runs off with another man, he shall not be allowed to kill his wife's paramour. If he kills him, he shall be executed—taking life for life. Neither shall [such an aggrieved] husband receive [compensation] for the marriage expenses [from his wife's paramour], nor shall such a paramour be required to pay any fine equal to [the marriage expenses] in question.

8. If a woman belonging to a Water-acceptable caste, including up to Brahmins' castes, [such as] Sacred Thread-wearing, Non-enslavable or Enslavable castes, and who is past the age of 11, hugs or kisses [a man] belonging to a Water-unacceptable [but Touchable] or Untouchable caste with the intention of having illicit sexual intercourse or committing adultery with him, or if she allows him to grope her breasts, or if she willingly lets him touch her body from the soles of her feet up to her head, or if she touches him at his *dhoti*, girdle or waist, and if she has not yet had illicit sexual intercourse or committed adultery [with such a man], she shall belong to the caste of that man even if she has committed only one of the acts mentioned above. Cooked rice and water shall not be acceptable from her hands. If the husband throws such a wife [out of the house] without providing her with the means of support, and then she runs off with another man, he shall not be allowed to kill his wife's paramour and shall also not be allowed to take [any compensation] for the marriage expenses from him. If such a wife has been kept separate by her husband, and provided with the means of support, and if she runs off with another man, [the aggrieved husband], depending on his caste, shall be allowed to kill his wife's paramour or to take [compensation] for the marriage expenses from him. The ritually married husband shall not have sexual intercourse with such a woman whose caste has been degraded and thereby has become a member of a Water-unacceptable caste. If the husband has sexual intercourse with her, saying 'Although my wife is degraded from the caste, I will not abandon her', he shall also become a member of the wife's caste. If any other man willingly commits adultery with such a woman, such a man who has committed adultery with such a woman shall not retain his caste status, but become a member of the woman's caste. The initial letter of the caste [name] of that woman shall be branded on his left cheek, and he shall be set free.

**The regulation applicable when persons from Sacred Thread-wearing castes, including Brahmins, molest an unmarried girl or widowed or married woman with the intention of having illicit sexual intercourse or committing adultery:**<sup>461</sup>

9. If someone belonging to a Sacred Thread-wearing caste, including Brahmins, has neither had illicit sexual intercourse nor committed adultery nor slept together laying his thigh over hers

461 The following four sections (§§ 9–12) are not available in MA<sub>2</sub>.

(*ghura khāpi sutnu*) with a married or widowed woman or unmarried girl from a caste equal to his own, but it is ascertained that he has only groped her breasts or molested her with the intention of having illicit sexual intercourse or committing adultery with her, he shall be fined 50 rupees. If it is proven that such a man has merely molested a woman who belongs to a Non-enslavable Alcohol-drinking caste, he shall be fined 30 rupees; if such a man has molested a woman who belongs to an Enslavable and Water-unacceptable caste, he shall be fined 15 rupees; and if he has molested a woman who belongs to an Untouchable caste from whose members water is unacceptable, he shall be fined 80 rupees. If he is not able to pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Both such a man and such a woman shall not require expiation, since the [act of molestation] is not taken as illicit sexual intercourse or adultery.

**The regulation applicable when persons from the Non-enslavable Alcohol-drinking castes molest a married or widowed wife or an unmarried girl with the intention of having illicit sexual intercourse or committing adultery:**

10. If someone belonging to a Non-enslavable Alcohol-drinking caste has neither had illicit sexual intercourse nor committed adultery nor slept together laying his thigh over hers with a married, widowed or unmarried girl who belongs to a Sacred Thread-wearing caste, including Brahmins, but it is ascertained that he has only molested her with the intention of having illicit sexual intercourse or committing adultery, he shall be fined 80 rupees. If it is proven that such a man has merely molested a woman who belongs to a Non-enslavable Alcohol-drinking caste, he shall be fined 30 rupees; if such a man has merely molested a woman who belongs to an Enslavable caste, he shall be fined 15 rupees; and if he has merely molested a woman who belongs to a Water-unacceptable and Untouchable caste, he shall be fined 80 rupees. If he is not able to pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Both such a man and such a woman shall not require expiation, since the [act of molestation] is not taken as illicit sexual intercourse or adultery.

**The regulation applicable when persons from the Enslavable Alcohol-drinking castes molest a married or widowed woman or an unmarried girl with the intention of having illicit sexual intercourse or committing adultery:**

11. If someone belonging to an Enslavable Alcohol-drinking caste has neither had illicit sexual intercourse nor committed adultery nor slept together laying his thigh over hers with a married, widowed or unmarried girl who belongs to a Sacred Thread-wearing caste, including Brahmins, but it is ascertained that he has merely molested her with the intention of having illicit sexual intercourse or committing adultery, he shall be fined 80 rupees. If it is proven that such a man has merely molested a woman who belongs to an Enslavable Alcohol-drinking caste,<sup>462</sup> he

462 *namāsinyai matuvāli* (MA<sub>1</sub>), read *māsinyai matuvāli*.

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shall be fined 15 rupees; if he has merely molested a woman who belongs to a Non-enslavable Alcohol-drinking caste, he shall be fined 30 rupees; and if he has merely molested a woman who belongs to a Water-unacceptable and Untouchable caste, he shall be fined 80 rupees. If he is not able to pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. [Both such a man and such a woman] shall not require expiation, since the [act of molestation] is not taken as illicit sexual intercourse or adultery.

**The regulation applicable when persons from the Water-unacceptable or Untouchable castes molest a married or widowed woman or an unmarried girl with the intention of having illicit sexual intercourse or committing adultery:**

12. If someone belonging to a Water-unacceptable or Untouchable caste has neither had illicit sexual intercourse nor committed adultery nor slept together laying his thigh over hers with a married, widowed or unmarried girl who belongs to a Sacred Thread-wearing caste, including Brahmins or any Water-acceptable caste [such as the] Non-enslavable or Enslavable Alcohol-drinking castes, but it is ascertained that he has merely molested her with the intention of having illicit sexual intercourse or committing adultery, he shall be fined 100 rupees. The woman requires no expiation, since [the act of molestation] is not considered as illicit sexual intercourse or adultery. If it is proven that such a man who belongs to a Water-unacceptable caste has merely molested a woman who belongs to a Water-unacceptable caste, he shall be fined 15 rupees; if such a man who belongs to an Untouchable caste has merely molested a woman who belongs to an Untouchable caste, he shall be fined 5 rupees; if such a man who belongs to a Water-unacceptable [but Touchable] caste merely molested a woman who belongs to an Untouchable caste, he shall be fined 15 rupees; and if such a man who belongs to an Untouchable caste has merely molested a woman who belongs to a Water-unacceptable [but Touchable] caste, he shall be fined 30 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.



## 108. When Someone [Falsely] Declares That Such and Such a Woman Is His Wife or That He Has Had Sexual Intercourse with Such and Such a Woman

1. When someone has not had sexual intercourse with the wife of someone else who, in accordance with the *Ain*, bears the right to kill his wife's paramour, or with a widowed woman or unmarried girl (*kanyā*), but states that 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person shall be imprisoned for 2 years, if both that man who made such [a false] statement and woman belong to a Sacred Thread-wearing caste. If he pays the amount in lieu of the prison term, it shall be accepted. He shall be fined 50 rupees if the woman belongs to a Non-enslavable Alcohol-drinking caste. He shall be fined 10, 50 or 60 rupees, respectively, if she belongs to an Enslavable, Water-unacceptable but Touchable or Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Such women retain their caste status. No expiation is required.

2. If someone who, in accordance with the *Ain*, does not bear the right to kill his wife's paramour, has brought a common woman (*vesyā-pātara*) or female servant into his household and [has kept her] as his wife, and if someone else states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person shall be fined 20 rupees, if he belongs to a Sacred Thread-wearing caste. If he belongs to a Non-enslavable Alcohol-drinking or Enslavable caste, he shall be fined 25 or 30 rupees, respectively. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If he belongs to a Water-unacceptable but Touchable caste, he shall be imprisoned for 1 year, and 1½ years if he belongs to an Untouchable caste. If he pays the fine in lieu of the prison term, it shall be accepted and he shall be set free. The woman retains her caste status. No expiation is required.

3. If someone has not had sexual intercourse with the wife of someone else who, in accordance with the *Ain*, bears the right to kill his wife's paramour, or with a widowed woman or unmarried girl, and he states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person shall be imprisoned for 3 years, if he belongs to a Non-enslavable Alcohol-drinking caste and the woman belongs to a Sacred Thread-wearing caste. He shall be imprisoned for 1 year if the woman belongs to a Non-enslavable caste. If he pays the fine in lieu of the prison term, it shall be accepted. He shall be fined 10 rupees if the woman belongs to an Enslavable caste, and 40 and 50 rupees, respectively, if the woman belongs to a Water-unacceptable but Touchable or

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Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status. No expiation is required.

4. If someone has not had sexual intercourse with a common woman who has been brought into the household and [kept] as a wife by someone else who, in accordance with the *Ain*, does not bear the right to kill his wife's paramour and who has not consumed cooked rice from her hands, and if he states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person, if he belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste, shall be fined 10 rupees. If he belongs to an Enslavable Alcohol-drinking caste, he shall be fined 15 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. If he belongs to a Touchable but Water-unacceptable caste, he shall be imprisoned for 1 year, and 1½ years if he belongs to an Untouchable caste. If the fine in lieu of the prison term is paid, it shall be accepted and he shall be set free. The woman retains her caste. No expiation is required.

5. If someone has not had sexual intercourse with the wife of someone else who, in accordance with the *Ain*, bears the right to kill his wife's paramour, or with a widowed woman or unmarried girl, and he states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person shall be imprisoned for 3 years if he belongs to an Enslavable Alcohol-drinking caste, and the woman belongs to a Sacred Thread-wearing caste. He shall be imprisoned for 1½ years if the woman belongs to a Non-enslavable Alcohol-drinking caste. If he pays the fine in lieu of the prison term, it shall be accepted. He shall be fined 8 rupees if the woman belongs to an Enslavable Alcohol-drinking caste, and 16 and 24 rupees, respectively, if the woman belongs to a Water-unacceptable but Touchable or Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status. No expiation is required.

6. If someone has not had sexual intercourse with a common woman belonging to an Enslavable Alcohol-drinking caste and who has been brought into a household and [kept] as a wife by someone else who, in accordance with the *Ain*, does not bear the right to kill his wife's paramour, and if the former states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person, if he belongs to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, shall be fined 5 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall be imprisoned for 1 or 1½ years, respectively, if he belongs to a Water-unacceptable but Touchable or Untouchable caste. If he pays the fine in lieu of the prison term, it shall be accepted and he shall be set free. The woman retains her caste status. No expiation is required.

7. If someone has not had sexual intercourse with a common woman, maid, or a female slave who belongs to a Water-acceptable caste and who has not been kept as a wife by anyone,

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and if that person states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person, if he belongs to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, shall be fined 5 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall be imprisoned for 1 or 1½ years, respectively, if he belongs to a Touchable but Water-unacceptable or Untouchable caste. If he pays the fine in lieu of the prison term, it shall be accepted and he shall be set free.

8. If someone has not had sexual intercourse with the wife of someone else who, in accordance with the *Ain*, bears the right to kill his wife's paramour, or with a widowed woman or unmarried girl, and he states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person shall be imprisoned for 4 years, if he belongs to a Water-unacceptable but Touchable caste, and the woman belongs to a Sacred Thread-wearing caste. If the woman belongs to a Non-enslavable Alcohol-drinking caste, he shall be imprisoned for 2 years. If he pays the fine in lieu of the prison term, it shall be accepted. If the woman belongs to a Water-unacceptable but Touchable caste, he shall be fined 4 rupees, and 12 rupees if the woman belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status. No expiation is required.

9. If someone has not had sexual intercourse with the wife of someone else who, in accordance with the *Ain*, bears the right to kill his wife's paramour, or with a widowed woman or unmarried girl, and he states: 'I have had sexual intercourse [with that woman]' or else states 'She is my wife', and if it is proven upon interrogation that he has not had sexual intercourse with her, such a person shall be imprisoned for 5 years, if the woman belongs to a Sacred Thread-wearing caste. If the woman belongs to a Non-enslavable Alcohol-drinking caste, he shall be imprisoned for 4 years, and 3 years if she belongs to an Enslavable caste. If he pays the fine in lieu of the prison term, it shall be accepted. If the woman belongs to a Water-unacceptable but Touchable caste, he shall be fined 12 rupees, and 4 rupees if the woman belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status. No expiation is required.

## 109. Lying in Wait [to Have Sexual Intercourse]

1. If someone lies in wait at someone else's water source, homestead, garden, courtyard, veranda (*pīḍhī*) or door, and if he, after he is found in the very act and captured, confesses upon interrogation that he has come there with the intention of having sexual intercourse with such and such a woman, [the accused person]—if he belongs to a Non-enslavable Alcohol-drinking caste, including any of the Sacred Thread-wearing castes, and if he has admitted to having come [there] to have sexual intercourse with a married woman, widow or unmarried girl from a Non-enslavable Alcohol-drinking caste, including any of the Sacred Thread-wearing castes—shall be fined 20 rupees. If the accused person belongs to an Enslavable caste, he shall be fined 30 rupees, and 40 rupees if he is from a Water-unacceptable [but Touchable] or Untouchable caste. If [the accused] has lain in wait for a woman from an Enslavable Alcohol-drinking caste with the intention of having sexual intercourse with her, he—if he is from any of the Sacred Thread-wearing or Non-enslavable or Enslavable castes—shall be fined 5 rupees; 3 rupees if he has lain in wait for a slave girl or common woman; 20 rupees if [the accused] is from a Water-unacceptable [but Touchable] or Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status.

2. If someone lies in wait at someone else's water source, homestead, garden, courtyard, veranda or door, and if he, after he is found in the very act and captured, confesses upon interrogation that he has come [there] with the intention of having sexual intercourse with such and such a woman, [the accused person]—if he belongs to a Non-enslavable or Enslavable caste, including any of the Sacred Thread-wearing castes, and if he has admitted that he lay in wait for a woman belonging to a Water-unacceptable but Touchable caste with the intention of having sexual intercourse with her—shall be fined 10 rupees. If [he admits that] he has lain in wait [for a woman] belonging to an Untouchable caste to have sexual intercourse with her, he shall be fined 20 rupees. If [a person] from a Water-unacceptable caste has lain in wait for a woman whose caste status is equal to his own, he shall be fined 5 rupees. If a person belonging to an Untouchable caste has lain in wait for a woman [belonging to Water-unacceptable but Touchable caste], he shall be fined 15 rupees. If he does not pay the amount of fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status.

3. If someone lies in wait at someone else's water source, homestead, garden, courtyard, veranda or door, and if he, after he is found in the very act and captured, confesses upon interrogation that he has come [there] with the intention of having sexual intercourse with such and such

a woman, [the accused person]—if he belongs to an Enslavable Alcohol-drinking caste, including any of the Sacred Thread-wearing castes, and if he has admitted that he lay in wait for a woman belonging to a Water-unacceptable [but Touchable] or Untouchable caste with the intention of having sexual intercourse with her—shall be fined 20 rupees, and 10 rupees if he belongs to a Water-unacceptable but Touchable caste. Amongst [a couple] from an Untouchable caste, [the accused man] shall be fined 5 rupees, irrespective of whether his caste status [is higher or lower than that of the woman]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

4. If a person makes an accusation that someone has lain in wait at someone else's water source, homestead, garden, courtyard, veranda or door [to have sexual intercourse with a woman of that house], and if [the accusation] is not proven upon interrogation, such an accuser shall be fined half of whatever [fine] is written down in the *Ain*, depending on the caste of the man who has been accused. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

5. If a man—with the intention of having sexual intercourse—has entered [someone's house] by opening a window, or has entered through a balcony, roof or door, and if he, after he is caught, confesses that he has come there with the intention of having sexual intercourse with such and such a woman, he who belongs to an Enslavable Alcohol-drinking caste, including any of the Sacred Thread-wearing castes, shall be fined 30 rupees if he admits to having come [there] with the intention of having sexual intercourse with a married woman, widow or unmarried girl from a Non-enslavable Alcohol-drinking caste, including any of the Sacred Thread-wearing castes, 45 rupees if the man belongs to a Water-unacceptable caste whose members may be enslaved, and 60 rupees if the man belongs to a Water-unacceptable and Untouchable caste. The man belonging to an Enslavable Alcohol-drinking caste, including any of the Sacred Thread-wearing castes, who has admitted to having come there to have sexual intercourse with the woman who belongs to an Enslavable Alcohol-drinking caste, shall be fined 7½ rupees. The man belonging to an Enslavable caste who has admitted to having come there to have sexual intercourse with a slave girl, maid or common woman, shall be fined 4½ rupees, and 30 rupees if the man belongs to a Water-unacceptable and Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Such women retain their caste status.

6. If a man—with the intention of having sexual intercourse—has entered [someone's house] by opening a window, or has entered through a balcony, roof or door, and if he, after he is caught, confesses that he has come there with the intention of having sexual intercourse with such and such a woman, anyone, from members of the Sacred Thread-wearing castes at the top down to the Enslavable castes, shall be fined 15 rupees if he has entered [someone's house] with the intention of having sexual intercourse with a woman who belongs to a Water-unacceptable but Touchable caste. If he has entered the house of [a woman] who belongs to an Untouchable caste and he has lain in wait to have sexual intercourse with her, he shall be fined 30 rupees. If a person from a Water-unacceptable caste has lain in wait [for a woman] who belongs to a

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Water-unacceptable caste [to have sexual intercourse] with her, he shall be fined 7½ rupees. If a man who belongs to an Untouchable caste has lain in wait for her, he shall be fined 22½ rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If a man—with the intention of having sexual intercourse—has entered [someone's house] by opening a window, or through a balcony, roof or door, and if he, after he is caught, confesses that he has come there with the intention of having sexual intercourse with such and such a woman, he who belongs to any of the Enslavable Alcohol-drinking castes, including any of the Sacred Thread-wearing castes, shall be fined 30 rupees, if he has entered [someone's house] with the intention of having sexual intercourse with a woman who belongs to a Water-unacceptable and Untouchable caste, and 15 rupees if he belongs to a Water-unacceptable but Touchable caste. Amongst [a couple] from an Untouchable caste, such a man shall be fined 7½ rupees, irrespective of whether his caste status is lower or higher than that of the woman. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

8. If someone accuses someone else of having entered [someone's house] by opening a window, or a balcony, roof or door, with the intention of having sexual intercourse, and if it is proven upon interrogation that the person has not entered this house, such an accuser shall be fined half of whatever [fine] is written down in the *Ain*, depending on the caste of the man who has been accused. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

## 110. Sleeping Together [with a Woman] by Laying One's Thigh over Hers

1. If an Upādhyāya [Brahmin man] sleeps together with a married or widowed Upādhyāya [Brahmin woman] who is past the age of 11, laying his thigh over hers, it shall be considered sexual intercourse, even if they had no sex. Such a paramour [who slept with a married or widowed Upādhyāya Brahmin woman] should not be killed, since he is a Brahmin. His head shall be shaved, his share of property which he is entitled to in accordance with the *Ain*, shall be confiscated and the expenses for the marriage [of the woman with whom he slept] shall be taken from him. He shall not be let off [unpunished]. It shall be at the pleasure of that woman's aggrieved husband [to impose on his wife's paramour any of the aforementioned punishments]. If [such an offender] slept together with an unmarried [Upādhyāya] girl or [an Upādhyāya] widow, laying his thigh over hers, [but] has not contaminated his or her fellow commensals through cooked rice, he is not to be held accountable. If [the offender] has not himself consumed cooked rice from her, but he has contaminated his or her fellow commensals [making them accept cooked rice] from her, he shall be fined 100 rupees. He does not lose his caste status. If he has consumed cooked rice from her and also contaminated his or her fellow commensals, he shall be fined 100 rupees and both the man and woman shall be placed in the Jaisī caste. The persons who have unwittingly been contaminated, shall be granted expiation (*patiyā*).

2. If a man from a Rajapūta, Jaisī or any other Sacred Thread-wearing caste sleeps together with a married Upādhyāya woman who is past the age of 11, laying his thigh over hers, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If [the above-mentioned man] sleeps together with an unmarried [Upādhyāya] girl or an [Upādhyāya] widow woman, laying his thigh over hers, and he contaminates her fellow Brahmin commensals with respect to cooked rice through her, he shall be imprisoned for 4 years. If he does not contaminate [her fellow Brahmin commensals], he shall be imprisoned for 2 years. If he pays double the money set in lieu of his prison term, it shall be accepted. The woman shall be degraded from her caste status. The fellow commensals who have unwittingly been contaminated shall be granted expiation.

3. If a Rajapūta [man] sleeps together with a married Jaisī woman who is past the age of 11, by laying his thigh over hers, or a Jaisī [man] with a married Rajapūta woman [past the age of 11], it shall be at the pleasure of the aggrieved husband [to decide how to punish his wife's paramour]. If he, after sleeping together with her by laying his thigh over hers, has contaminated his fellow commensals through cooked rice, he shall be fined 60 rupees. If he has not contaminated his fellow

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commensals, he shall be fined 40 rupees. If he has consumed cooked rice from her [after sleeping together with her], both the man and woman shall be ostracised with respect to cooked rice, and their fellow commensals who have unwittingly been contaminated shall be granted expiation.

4. If a man from a Sacred Thread-wearing Kṣatriya caste sleeps together with a married woman from a Rajapūta or Jaisī Brahmin caste who is past the age of 11, laying his thigh over hers, it shall, in accordance with the *Ain*, be at the pleasure of the aggrieved husband [to decide how to punish his wife's paramour]. If he, after sleeping with an unmarried girl or widowed woman [of above mentioned caste and age], laying his thigh over hers, has contaminated her fellow commensals with respect to cooked rice through her, he shall be imprisoned for 4 years. If he has not contaminated [her fellow commensals], he shall be imprisoned for 2 years. If he pays double the money set in lieu of the prison term, it shall be accepted. The woman shall be degraded from her caste status. Those fellow commensals who have unwittingly been contaminated shall be granted expiation.

5. Amongst the persons from the Sacred Thread-wearing castes who do not share commensality with respect to cooked rice, if a man sleeps together with a married woman who is past the age of 11, laying his thigh over hers, it shall, in accordance with the *Ain*, be at the pleasure of the aggrieved husband [to decide how he punishes his wife's paramour]. If he sleeps with an unmarried girl or widowed woman [of the above mentioned category and age], laying his thigh over hers, and if he contaminates his fellow commensals through cooked rice, he shall be fined 60 rupees. If he has not contaminated [them], he shall be fined 40 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The woman retains her caste status. Those fellow commensals who have unwittingly been contaminated shall be granted expiation.

6. If someone from any Sacred Thread-wearing caste [such as] Rajapūta, Jaisī, or Kṣatriya sleeps together with a married woman—who is past the age of 11 and whose caste status is equal to his own with respect to [the acceptability] of cooked rice [from her]—laying his thigh over hers, it shall, in accordance with the *Ain*, be at the pleasure of the aggrieved husband [to decide how he punishes his wife's paramour]. If he sleeps together with an unmarried girl or widowed woman, laying his thigh over hers, and if he contaminates his fellow commensals through cooked rice, he shall not be held accountable. If he contaminates his fellow commensals with respect to cooked rice through that woman, he shall be fined 60 rupees. He does not lose his caste status. If he himself consumes cooked rice from that woman's hand [after he has slept together with her] and also contaminates his fellow commensals with respect to cooked rice, he shall be fined 60 rupees. It is up to the wish of the fellow commensals whether they accept cooked rice [from him] or not.

7. If an Upādhyāya [Brahmin] sleeps together with a married woman—who is past the age of 11 and who belongs to any of the Sacred Thread-wearing castes [such as] Rajapūta, Jaisī or Kṣatriya—laying his thigh over hers, [the aggrieved husband] is not permitted to kill his wife's



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paramour, because the latter is a Brahmin. Excepting killing, it is, in accordance with the *Ain*, at the pleasure of the aggrieved husband [to decide how to punish his wife's paramour]. If [the Upādhyāya Brahmin] sleeps together with an unmarried girl or a widowed woman, laying his thigh over hers, and if he contaminates his fellow commensals through cooked rice, he shall be fined 30 rupees. The fellow commensals who have unwittingly been contaminated shall be granted expiation under the name of that woman. If he has not contaminated [his fellow commensals] through cooked rice, he shall not be held accountable.

8. If someone from a Rajapūta or Jaisī caste sleeps together with a married woman who belongs to a Kṣatriya or any other Sacred Thread-wearing caste and who is past the age of 11, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps together with an unmarried girl or widowed woman, laying his thigh over hers, and if he has contaminated his fellow commensals through cooked rice [after he has slept together with her], he shall be fined 30 rupees. Those fellow commensals who have unwittingly been contaminated shall be granted expiation under the name of that woman. If he has not contaminated [his fellow commensals] through cooked rice, he shall not be held accountable.

9. If someone from a Kṣatriya or any other Sacred Thread-wearing castes sleeps together with a married woman from a Sacred Thread-wearing caste who is past the age of 11, whose caste status is inferior to his own and from whom cooked rice is unacceptable [for him], by laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps with an unmarried or widowed woman, laying his thigh over hers, and if he contaminates his fellow commensals through cooked rice [after he has slept with her], he shall be fined 30 rupees. Those fellow commensals who have unwittingly been contaminated shall be granted expiation under the name of that woman. If he has not contaminated [his fellow commensals] through cooked rice, he shall not be held accountable.

10. If someone from a Non-enslavable Alcohol-drinking caste sleeps together with a married woman who belongs to any of the Sacred Thread-wearing castes, [such as] Upādhyāya, Rajapūta, Jaisī or Kṣatriya, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps with an unmarried girl or widowed woman, laying his thigh over hers, and if he also contaminates [that woman's] fellow commensals through her with respect to cooked rice, he shall be imprisoned for 6 years, but for 3 years, if he has not contaminated [that woman's fellow commensals] through her with respect to cooked rice. If he pays double of the money set in lieu of his prison term, it shall be accepted. The fellow commensals [of that woman] who have unwittingly been contaminated shall be granted expiation. The woman shall be reduced in caste.

11. If someone from any of the Sacred Thread-wearing castes, [such as] Upādhyāya, Rajapūta, Jaisī or Kṣatriya, sleeps together with a married woman from a Non-enslavable Alcohol-drinking caste who is past the age of 11, laying his thigh over hers, it is, in accordance with the

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*Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps with such an unmarried girl or widowed woman, laying his thigh over hers, he shall not be held accountable.

12. If someone from a Non-enslavable Alcohol-drinking caste sleeps together with a married woman who is past the age of 11 and is herself from a Non-enslavable Alcohol-drinking caste, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he, after sleeping with an unmarried girl or widowed woman [of the aforementioned status] by laying his thigh over hers, has not contaminated his fellow commensals, he shall not be held accountable. If someone comes to complain that [the offender] contaminated his fellow commensals through cooked rice, [that offender] shall be fined 10 rupees and the fellow commensals shall be granted expiation. The woman retains her caste status.

13. If someone from an Enslavable Alcohol-drinking caste sleeps together with a married woman who is past the age of 11 and is from a Sacred Thread-wearing caste, [such as] Upādhyāya, Rajapūta, Jaisī or Kṣatriya, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps with an unmarried girl or widowed woman, laying his thigh over hers, and if he contaminates [that woman's] fellow commensals through her with respect to cooked rice, he shall be imprisoned for 3 years, but for 1½ years if he has not contaminated [them through her], and he shall be enslaved.

14. If someone from an Enslavable Alcohol-drinking caste sleeps together with a married woman who is past the age of 11 and is from a Non-enslavable Alcohol-drinking caste, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps with an unmarried girl or widowed woman, laying his thigh over hers, he shall be enslaved, irrespective of whether he has contaminated the fellow commensals with respect to cooked rice or not. The fellow commensals who have unwittingly consumed [cooked rice touched] by him shall be granted expiation.

15. If someone from any of the Sacred Thread-wearing castes, [such as] Upādhyāya, Rajapūta, Jaisī or Kṣatriya or from a Non-enslavable Alcohol-drinking caste, sleeps together with a married woman who is past the age of 11 and is from an Enslavable Alcohol-drinking caste, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he sleeps with an unmarried girl or widowed woman, laying his thigh over hers, he shall not be held accountable. Amongst the Enslavable Alcohol-drinking castes, if a man from one of [the Enslavable Alcohol-drinking castes] sleeps together with a married woman who is past the age of 11 and is from [one of the Enslavable Alcohol-drinking castes], laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour], if [the former] belongs to a caste whose [members] bear the right to kill their wives' paramour. If anyone comes to complain that such an offender slept with an unmarried girl or widowed woman [from

one of the Enslavable Alcohol-drinking castes], [the offender] shall be fined 5 rupees. The woman retains her caste status.

16. If someone from any of the Sacred Thread-wearing castes, [such as] the Upādhyāya, Rajapūta, Jaisī, Kṣatriya, or from any of the Non-enslavable or Enslavable Alcohol-drinking castes, sleeps together with a married woman who is past the age of 11 and is from a Water-unacceptable but Touchable caste, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour]. If he has only slept together with an unmarried girl or widowed woman, laying his thigh over hers, but has not consumed cooked rice and water touched by her, he shall be fined 100 rupees if he is from a Sacred Thread-wearing caste; if he belongs to a Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, he shall be fined 50 and 25 rupees, respectively. [Such an offender] shall be granted expiation by making him visit 1 pilgrimage site. He does not lose his caste status. If [such an offender] has consumed cooked rice and water touched by such a woman after sleeping together with her, laying his thigh over hers, and if he has also contaminated any of his fellow commensals with respect [to cooked rice or water], his share of property that is his according to the *Ain* shall be confiscated, he shall be ostracised with respect to cooked rice, the first letter of the caste [name] of that woman shall be branded on his left cheek, and then he shall be let off. The woman who slept together with [a man] from a caste superior to her own, laying her thigh over his, shall be enslaved.

17. If someone from a Water-unacceptable but Touchable caste sleeps together with a married woman from a [Water-unacceptable but] Touchable caste who is past the age of 11, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour], if [the former] belongs to a caste whose [members] bear the right to kill their wives' paramour. If anyone comes to complain that such an offender slept with an unmarried girl or widowed woman whose members do not bear the right to kill their wives' paramour, laying his thigh over hers, [the offender] shall be fined 4 rupees. If [no one] comes to complain [about it], [the offender] shall not be held accountable. The woman retains her caste status.

18. If someone from a Water-unacceptable but Touchable caste consensually sleeps together with a married woman or an unmarried girl or widowed woman who is past the age of 11 and is from an Untouchable caste, laying his thigh over hers, the offender shall not be held accountable if the aggrieved husband [of that woman] accepts cooked rice [touched] by her and if nobody comes to complain [to any of the offices about this matter]. The woman retains her caste status. If anyone comes to complain about this matter, and if the woman is married, the offender shall be made to pay 15 rupees [to the aggrieved husband] for marriage expenses and shall be fined 15 rupees. If the offender has slept together with an unmarried girl or widowed woman, laying his thigh over hers, and if he has contaminated his fellow commensals with respect to cooked rice, his property shall be confiscated, he shall be ostracised with respect to cooked rice and water, be branded with the first letter of the caste [name] of that woman on his left cheek and then be let off. The

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woman who slept together with [a man] from a caste superior to her own, laying her thigh over his, shall be enslaved.

19. If someone from a Water-unacceptable but Touchable caste sleeps together with a married woman who is past the age of 11 and is from any of the Sacred Thread-wearing castes, [such as] Upādhyāya, Rajapūta, Jaisī, or Kṣatriya, or from any of the Non-enslavable or Enslavable Alcohol-drinking castes, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour], if [the former] belongs to a caste whose [members] bear the right to kill their wives' paramour. If the aggrieved husband does not kill such a paramour of his wife, or the offender has slept together with an unmarried girl or widowed woman, laying his thigh over hers, he shall be imprisoned for 4 years and then be enslaved, if he belongs to an Enslavable caste. If he belongs to a Non-enslavable caste, he shall be imprisoned for 8 years. If he pays four times the fine set in lieu of the prison term, it shall be accepted. The woman, if she belongs to a Sacred Thread-wearing or Non-enslavable caste, shall be set free after having had the first letter of the caste [name] of that man branded on her left cheek, and having ostracised her with respect to cooked rice and water. If that woman is from an Enslavable caste, she shall be enslaved, with the first letter [of the caste name of that man] branded upon her.

20. If someone from any of the Sacred Thread-wearing castes, [such as] Upādhyāya, Rajapūta, Jaisī or Kṣatriya, or from [any of] the Non-enslavable or Enslavable Alcohol-drinking castes sleeps together with a married or widowed woman or with an unmarried girl who is past the age of 11 and is from an Untouchable caste, laying his thigh over hers, irrespective of whether he has contaminated his fellow commensals with respect to cooked rice and water or not, the share of property which is his according to the *Ain*, shall be confiscated, and he shall be imprisoned for 1½ years, the first letter of the caste [name] of that woman whom he has slept with, laying his thigh over hers, shall be branded on his left cheek, and he shall be let off after having been ostracised with respect to cooked rice and water. The woman who slept together with [a man] from a caste superior to her own, laying her thigh over his, shall be enslaved.

21. If someone from an Untouchable caste sleeps together with a married woman from an Untouchable caste who is past the age of 11, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband [to decide how to punish his wife's paramour], if [the former] belongs to a caste whose [members] bear the right to kill their wives' paramour. If the aggrieved husband belongs to a caste whose [members] do not bear the right to kill their wives' paramour, and he accepts his wife with respect to cooked rice, and if none comes to complain, the offender shall not be held accountable. The woman also retains her caste status. If anyone comes to complain about this matter, and if the woman is married, the offender shall be made pay 15 rupees [to the aggrieved husband] for marriage expenses and shall be fined 15 rupees. The offender shall be fined 4 rupees if the woman is unmarried or widowed. If no one comes to complain [about this matter], the offender shall not be held accountable. The woman also retains her caste status.

110. Sleeping Together [with a Woman] by Laying One's Thigh over Hers

22. If someone from an Untouchable caste sleeps together with a married or widowed woman or an unmarried girl who is past the age of 11 and is from any of the Sacred Thread-wearing castes, [such as] Upādhyāya, Rajapūta, Jaisī, Kṣatriya, or from [any of] the Non-enslavable Alcohol-drinking castes, laying his thigh over hers, it is, in accordance with the *Ain*, at the pleasure of her aggrieved husband—if she is married—[to decide how to punish his wife's paramour]. If the aggrieved husband does not kill his wife's paramour, or the woman is unmarried or widowed, the offender shall be punished by *dāmala*, having his share of property, which, according to the *Ain*, is his, confiscated. If such an offender has slept together with a married woman, widow or unmarried girl from [a Water-unacceptable but] Touchable caste, laying his thigh over hers, he shall be enslaved. Amongst the women who sleep together with a man from an Untouchable caste, laying their thighs over his, the women who belong to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste shall be ostracised with respect to cooked rice and water, and be branded with the first letter of the caste [name] of that man on their left cheek, and so let off. The women who belong to an Enslavable or Untouchable caste shall be enslaved, and branded with the first letter [of the man's caste name on their cheek].

## 111. Degradation through Verbal Declaration

1. If an unmarried girl, a married or widowed woman, who is past the age of 12, from any of the Water-acceptable castes including the Sacred Thread-wearing castes, consumes cooked rice or water from the hands of a person from a Water-unacceptable or Untouchable caste, and if the consumption [of cooked rice or water] is proven to be true upon investigation, [such a woman] does not receive expiation with respect to cooked rice and water. She should be placed in the same caste as [of the person] from whom she has consumed [cooked rice or water]. Expiation shall not be granted [to her]. After she is reduced in caste, her husband shall not be permitted to keep such a wife. She shall also not receive her share from the joint property. If such a woman commits sexual intercourse with someone else, the husband shall not be permitted to kill his wife's paramour. If the husband kills [his wife's paramour], he shall be executed—taking life for life. Anyone who wittingly consumes cooked rice or water from the hands of such [a husband] who has kept such a wife, that is one who has been reduced in caste, shall become [a member of] the same Water-unacceptable caste. Expiation shall not be granted to him.

2. If an unmarried girl, a married or widowed woman, who is past the age of 12, from any of the Sacred Thread-wearing caste down to [the lowest of] the Water-acceptable castes, consumes cooked rice or water from the hands of a person from any of the Water-unacceptable<sup>463</sup> or Untouchable castes, and if the consumption [of cooked rice or water] is not proven [to be true] upon interrogation, cooked rice from the hands of such a woman is unacceptable, but water from her hands may be accepted. The offspring born to such a wife after [she has been ostracised with respect to cooked rice] shall receive 1 part each from the joint property, whereas appropriate (*sadya*) offspring born to her before [she has been ostracised with respect to cooked rice] would receive 5 parts each. If [the husband] of such a wife has provided her with the means of support, and if she runs off with someone else, [the husband] shall, in accordance with the *Ain*, be permitted to kill his wife's paramour, shave his head (*mudānu*)<sup>464</sup> or take the marriage expenses from him. Such a paramour shall be fined, if he belongs to a caste whose members are to be fined in such cases. He shall be enslaved if he belongs to an Enslavable caste. If the husband throws such a wife out of his house without providing her with any means of support, saying, 'I am not permitted even to consume cooked rice [touched by my own] offspring [born to my wife], so I will not keep

463 *pānī calanyā*, read *pānī nacalnyā* (MA<sub>2</sub>).

464 The punishment involves cutting off four patches of hair (*cāra pātā mudṇu*) from the head, and cutting off any top-knot in accordance with Art. 42.

her who has been degraded from her caste status [any longer]', and if she runs off with someone else, the husband shall not be allowed to kill his wife's paramour. If the husband kills [his wife's paramour], the former he shall be executed—taking life for life.

3. If a married or widowed woman, or an unmarried girl, who is past the age of 12, and is from a Sacred Thread-wearing caste, declares that she consumed cooked lentils and rice or any other prohibited [food or drink, such as] alcohol or chicken meat from the hands of [a person] who belongs to a caste from whose members cooked rice is unacceptable, but only water may be acceptable, and if the consumption [of such food or drink items] is not proven upon investigation, she shall be fined 10 rupees. Cooked rice and water from the hands of such a woman is acceptable. If the consumption [of such food or drink items] is proven upon investigation, cooked rice from the hands of such a woman is not acceptable, but only water from her hands may be accepted. The offspring born to such a wife after she has been ostracised with respect to cooked rice shall receive 1 part each from the joint property, whereas appropriate offspring born to her before [she has been ostracised] would receive 5 parts each. If [the husband] of such a wife has provided her with the means of support, and she runs off with someone else, [the husband] shall, in accordance with the *Ain*, be permitted to kill his wife's paramour, shave his head, or take the marriage expenses from him. Such a paramour shall be fined, if he belongs to a caste whose members are to be fined in such cases. He shall be enslaved if he belongs to an Enslavable caste. If the husband throws such a wife out of his house without providing her with any means of support, saying, 'I am not permitted even to consume cooked rice [touched by my own] offspring [born to my wife], so I will not keep her who has been degraded from her caste status [any longer]', and if she runs off with someone else, the husband shall not be permitted to kill his wife's paramour. If the husband kills him, he shall be executed—taking life for life.

MA<sub>2</sub> 111.3kh. If an unmarried girl, or a married, widowed or common woman who is past the age of 12 and is from any of the Sacred Thread-wearing castes, down to the castes from whose members at least water is acceptable, declares from her own mouth, 'I have had sexual intercourse with such and such a person from a caste of equal status or from an inferior caste from whose members water is acceptable', cooked rice from the hands of such a woman, who is degraded owing to her verbal declaration, shall not be acceptable. Only water shall be acceptable from her. If she declares that she has had sexual intercourse with someone from a Water-unacceptable or an Untouchable caste, and if it is proven upon investigation that she [actually] has had sexual intercourse with that man, she shall not be granted expiation with respect to cooked rice and water. She shall become a member of the caste of the man with whom she has had sexual intercourse. If it becomes apparent that she [actually] has not had sexual intercourse with that man, but she had just declared it verbally, such a woman, who is degraded owing to her verbal declaration, by her own volition, that she had had sexual intercourse with such an outcast, shall not be reinstated in her caste. She shall be fed cooked rice and water from the hands of a member of a caste of that man of whom she declared verbally that she had had sexual intercourse with him, and the first letter of the caste [name] of

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that man shall be branded on her left cheek, and she shall be placed in that caste. She shall not be granted expiation with respect to cooked rice or water. If such a woman runs off with another man, her aggrieved husband shall not have the right to kill her paramour. If does so, he shall be executed—taking life for life.

4. If an unmarried girl, a married or widowed woman, who is past the age of 11 and is from any of the Sacred Thread-wearing castes, declares from her own mouth, ‘I have had sexual intercourse with such and such a person’, and if it is proven upon investigation that she [actually] has not had sexual intercourse with that man—irrespective of whether [the caste status of that man is] superior, equal or lower to her own—, but she only verbally declared it, cooked rice [touched by] such a woman is unacceptable, because she is degraded owing to her verbal declaration. Only water [touched] by her may be accepted. The offspring born to such a wife and her husband [after she has been degraded because of her verbal declaration] receive the Sacred Thread. It is at the pleasure of their fellow commensals whether they consume cooked rice [touched by such] offspring or not. Such a woman—if she belongs to a caste [whose male members] are to be punished by shaving their heads [in lieu of the death sentence]—becomes [a member] of the Non-enslavable Śūdra castes. If she belongs to a caste [whose male members] may be punished by death, she becomes [a member of] the Enslavable castes, and if she belongs to an Enslavable caste, she shall be enslaved. While giving the shares from the property to the offspring born to such a [degraded] wife with her [married] husband, they shall be given 1 part each, whereas appropriate offspring would receive 5 parts each. If such a wife has been provided with the means of support [by her husband] and she runs off with someone else, it is at the pleasure of the aggrieved husband whether he, in accordance with the *Ain*, kills his wife’s paramour, shaves his head, takes his share of property, or lets him off after forcing him to crawl between [the aggrieved husband’s] legs, or lets him off without doing any such thing, or else takes the marriage expense from him. If the husband throws such a wife [out of his house] without providing her with any means of support, and if she has sexual intercourse with someone else, the aggrieved husband shall not be permitted to kill his wife’s paramour. If he kills [his wife’s paramour], he shall be executed—taking life for life.

5. If an unmarried girl, or married or widowed woman, who is past the age of 11 and is from a Non-enslavable Alcohol-drinking caste, declares from her own mouth, ‘I have had sexual intercourse with such and such a person’, and if it is proven upon investigation that she has not had sexual intercourse with that man—irrespective of whether [the man is] from a caste superior, equal or lower to her own—, but she has only verbally declared it, she shall be fined 10 rupees for making a false statement which pertains to another person. It is at the pleasure of her fellow commensals whether they consume cooked rice and cooked lentils [touched by such] a woman who has been degraded through her own verbal statement, or not. The offspring born to such a wife from her husband [after her degradation] receive the caste status of their father. Such offspring receive equal shares from the joint property [as the other appropriate offspring would receive], if their fellow commensals accept cooked rice [touched by] them. If their fellow commensals do not consume cooked rice and cooked lentils [touched by such offspring], they will each receive



$\frac{1}{3}$  from the joint property, whereas the appropriate offspring would receive  $\frac{2}{3}$ . If such a wife has been provided with the means of support [by her husband] and runs off with someone else, it is at the pleasure of the aggrieved husband [how he punishes his wife's paramour], if the former belongs to a caste whose members bear the right to kill their wives' paramours. If he belongs to a caste whose members do not bear the right to kill their wives' paramours, but they take the marriage expenses from him, [the offender] shall be made to pay [the aggrieved husband] the marriage expenses and shall be fined an amount equal [to the marriage expense]. If the husband throws such a wife [out of his house] without providing her with any means of support, and if he kills his wife's paramour, the aggrieved husband shall be executed—taking life for life. The aggrieved husband does not receive the marriage expenses [from his wife's paramour], nor shall the latter be fined.

6. If an unmarried girl, a married or widowed woman, who is past the age of 11 and is from an Enslavable Alcohol-drinking caste, declares from her own mouth 'I have had sexual intercourse with such and such a person', and if it is proven upon investigation that she has not had sexual intercourse with that man—whether [the man is] from a caste superior or equal to her own, or from a caste lower than her own from whose members water may be accepted—, but she has only verbally declared it, then such a woman does not lose her caste status. She retains her caste status. She shall be fined 5 rupees for making a false statement pertaining to another person. The offspring born to such a wife with her husband [after her declaration], shall receive an equal share [from the joint property], just as her appropriate offspring would receive. If such a woman runs off with someone else, the aggrieved husband shall be permitted to kill his wife's paramour, if he belongs to a caste whose members bear the right to kill their wives' paramours. If he belongs to [a caste whose members do not bear the right to kill their wives' paramours, but] they take the marriage expenses from him, [the offender] shall be made to pay [the aggrieved husband] 20 rupees for the marriage expenses and [otherwise] shall be fined an amount equal [to the marriage expenses]. If the husband throws such a wife [out of his house], because she has been degraded by her verbal declaration 'I have had sexual intercourse with someone else', without providing her any means of support, and if she runs off with another person, the aggrieved husband is not permitted to kill his wife's paramour. If he kills [his wife's paramour], he shall be executed—taking life for life. The aggrieved husband shall not receive the marriage expenses [from his wife's paramour], nor shall the latter be fined.

7. If an unmarried girl, a married or widowed woman who is past the age of 11 and is from a Water-unacceptable or Untouchable caste, declares from her own mouth 'I have had sexual intercourse with such and such a person', and if it is proven upon investigation that she has not had sexual intercourse with that man—irrespective of whether [the man is] from a caste superior, equal or lower to her own—but she has only verbally declared it, then such a wife shall be enslaved if she has accused a person from a higher caste (*viṣṭa-jāta*) of having had sexual intercourse with her. If she has accused a person from a caste equal to her own, she shall be fined 2½ rupees. If she has accused a person from a caste lower than her own and from whom she does not accept water, of having had sexual intercourse with her, water [touched by her] may be accepted, but

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she shall be fined 10 rupees. It is at the pleasure of her fellow commensals as to whether they consume cooked rice [touched by her] or not. The offspring born to such a wife with her husband [after her declaration] shall receive an equal share [from the joint property] as her appropriate offspring would receive. If such a woman runs off with someone else, the aggrieved husband—if he belongs to a caste whose members do not bear the right to kill their wives' paramours, but] they take the marriage expenses from him—shall, according to the *Ain*, be compensated [by his wife's paramour] for the marriage expenses, and the paramour shall be fined an amount which is equal [to the marriage expenses]. If [the aggrieved] husband belongs to a caste whose members bear the right to kill their wives' paramours, it is at his pleasure [as to how he punishes his wife's paramour]. If the husband throws such a wife, who has been degraded by her own verbal declaration, out of his house without providing her with any means of support, and if she runs off with another person, the aggrieved husband is not permitted to kill his wife's paramour. If he kills [his wife's paramour], he shall be executed—taking life for life. The aggrieved husband shall not receive the marriage expenses [from his wife's paramour], nor shall the latter be fined.

8. If an unmarried girl, a married or widowed woman who is past the age of 11 and is from any of the Sacred Thread-wearing caste down to [the lowest of] the Water-acceptable castes, declares from her own mouth 'I have had sexual intercourse with such and such a person who belongs to a Water-unacceptable or Untouchable caste', and if it is proven upon investigation that she has had sexual intercourse with that person, she shall not receive expiation with respect to cooked rice and water. She shall be placed in whatever caste to which [the person] with whom she has had sexual intercourse belongs, and be freed, making her consume cooked rice and water from the hands of that person and having the first letter of the caste [name] of that person branded on her left cheek. She shall not receive expiation with respect to cooked rice and water. Nobody shall grant [her expiation]. If she has only declared from her own mouth 'I have had sexual intercourse with [such and such a person] from a Water-unacceptable or Untouchable caste', but she [actually] has not had sexual intercourse with him, she loses her caste status. Such a woman becomes [a member] of the Śūdra castes, if she belongs to a caste [whose male members' head] is to be shaved [in lieu of the death sentence]. If she belongs to a caste [whose male members] may be put to death, she becomes [a member of] an Enslavable caste. She shall be enslaved if she belongs to an Enslavable caste. Cooked rice [touched by] such a woman is unacceptable. Only water [touched by her] may be accepted. The offspring born to such a wife with her husband [after she has verbally declared having had sexual intercourse with another man] receive their share [from the joint property] at the rate of 2½ percent. If such a case is filed at a *kacaharī* office, and if that woman, after she is interrogated without being beaten up, [issues] a written document and signs it, stating 'I have had sexual intercourse with such and such a person. I shall make him confess it', and if it is ascertained—after the accused person is summoned and interrogated—that she has not had sexual intercourse with him, cooked rice and water from the hands of such a woman is unacceptable, because she has issued a written document [of confession] and signed it. That woman, if she is from a Non-enslavable caste, shall be branded with the first letter of the caste [name] of that person whom she has [accused], by her having issued a [false] document [of confession], of having had sexual intercourse with her, and she shall be ostracised with respect

to cooked rice and water and then be set free, having been placed in the same caste [as that of the person whom she accused of having had sexual intercourse with her]. If she is from an Enslavable caste, she shall be branded with the first letter [of the caste name of that person whom she accused of having sexual intercourse with] and be enslaved.

9. If someone stops consuming cooked rice [touched by] his wife, from whom cooked rice is acceptable, on the grounds of suspecting that the wife who has a status which permits him to kill her paramour, has sexual intercourse with someone else, and if such a husband accuses (lit. 'tells') his wife [by saying] 'You have had sexual intercourse with such and such a person', [but] continues to have sexual intercourse with her, such a husband, who declares that his wife has had sexual intercourse with someone else, [yet continues] to have sexual intercourse with her, shall be fined 20 rupees. He shall not be permitted to kill his wife's paramour. If he kills his wife's paramour, he—if he belongs to a caste [whose male members' head] is to be shaved [in lieu of capital punishment]—shall be punished by *dāmala*, after having had confiscated that share of property which is his, according to the *Ain*. If he belongs to a caste [whose members] may be put to death, he shall be executed. If he has no sexual intercourse with his wife after he has ostracised her with respect to cooked rice and after he has informed her [of his suspicion that she is having sexual intercourse with someone else], and if he has kept her aside, providing her with the means of support, he shall, in accordance with the *Ain*, be permitted to kill his wife's paramour.

## 112. On the Supply of Information Regarding Physical Molestation with the Intention of Having Sexual Intercourse

1. If a married woman, a widowed woman or an unmarried girl from an Upādhyāya Brahmin [caste] grabs an Upādhyāya Brahmin man by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*] or *amāla* office or at his neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman (*vārīsavālā*)<sup>465</sup> shall not be permitted to assign any fault to that man. The *adālata* or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts to someone else’s husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be punished by *dāmala*, after the share of property which is his has been confiscated, according to the *Ain*. If the man does not reveal that acts to the above extent were done [to him] by that woman, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulations]<sup>466</sup> referring to illicit sexual intercourse between [a man and woman from an Upādhyāya Brahmin caste]. If sexual intercourse [between them] is not proven, the man shall be fined 50 rupees. He does not lose his caste status. If such a man comes to complain, stating ‘Such and such a woman did such and such to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has laid a false accusation [on the woman], he shall be fined 50 rupees.

2. If a married woman, a widowed woman or an unmarried girl from an Upādhyāya Brahmin [caste] grabs a man from any of the Sacred Thread-wearing caste by his *dhoti*, or grabs

465 Lit. ‘heir’. This refers either to her husband, her son (in the absence of her husband) or any other male relative who is her guardian in the absence of her husband or son.

466 See § 146.1.

him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or at his neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts to someone else’s husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be punished by *dāmala*, after the share of property which is his has been confiscated, according to the *Ain*. If the man does not reveal that to this extent acts were done [to him] by the woman, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with *Ain*’s [regulation] that refers to illicit sexual intercourse between [a man of a Sacred Thread-wearing caste and a woman from an Upādhyāya Brahmin caste].<sup>467</sup> If sexual intercourse [between them] is not proven, the man shall be fined 60 rupees. He does not lose his caste status. If such a man comes to complain, stating ‘Such and such a woman did such and such to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 60 rupees.

3. If a married woman, widowed woman or unmarried girl from an Upādhyāya Brahmin [caste] grabs a man from any of the Non-enslavable Alcohol-drinking caste by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or his neighbourhood within 7 days, stating ‘Such and such a woman did such and such acts to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts to someone else’s husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and

467 See § 149.1.

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if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be punished by *dāmala*, after the share of property which is his has been confiscated, according to the *Ain*. If the man does not reveal that such acts were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from a Non-enslavable Alcohol-drinking caste and a woman from an Upādhyāya Brahmin caste].<sup>468</sup> If sexual intercourse [between them] is not proven, the man shall be fined 65 rupees. He does not lose his caste status. If such a man comes to complain, stating 'Such and such a woman committed such and such to me', and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 65 rupees.

4. If a married woman, a widowed woman or an unmarried girl from an Upādhyāya Brahmin [caste] grabs a man from any of the Enslavable castes from whom water may be accepted by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or his neighbourhood within 7 days, stating 'Such and such a woman did such and such a thing to me', the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts on someone else's husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be punished by *dāmala*, after the share of property which is his has been confiscated, according to the *Ain*. If the man does not reveal that such acts were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from an Enslavable caste and a woman from an Upādhyāya Brahmin caste].<sup>469</sup> If sexual intercourse [between them] is not proven, the man shall be fined 70 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He does not lose his caste status. If such a man comes to complain, stating 'Such and such a woman did such things to me', and if

468 See § 152.1.

469 See § 153.1.

it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 70 rupees.

5. If a married woman, a widowed woman or an unmarried girl from an Upādhyāya Brahmin [caste] grabs a man from any of the Water-unacceptable or Untouchable castes by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts on someone else’s husband to this extent. Such a woman who has done such acts shall be banned with respect to cooked rice and water; the first letter of the caste [name] of that man [she molested] shall be branded on her left cheek, and then she shall be set free after having been placed in that caste. If the husband of such a woman has sexual intercourse with her [after she committed such acts], or anybody else knowingly has sexual intercourse with her, they shall not be granted expiation, but they also shall be placed in the caste [of that man whom the woman molested]. If such a man does not reveal that such acts were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulation] that refers to illicit sexual intercourse between [a man from a Water-unacceptable or Untouchable caste and a woman from an Upādhyāya Brahmin caste].<sup>470</sup> If sexual intercourse [between them] is not proven, the man who belongs to a Water-unacceptable but Touchable caste shall be fined 70 rupees, and 80 rupees if he belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 80 rupees.

6. If a married woman, a widowed woman or an unmarried girl from any of the Sacred Thread-wearing castes grabs a man from any of the Sacred Thread-wearing castes or the castes of Upādhyāya Brahmins by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts on someone else’s husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and

470 See § 154.1.

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if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or [else] take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from any of the Sacred Thread-wearing castes, including the castes of Upādhyāya Brahmins and a woman from a Sacred Thread-wearing caste].<sup>471</sup> If sexual intercourse [between them] is not proven, the man shall be fined 50 rupees. He does not lose his caste status. If such a man comes to complain, stating 'Such and such a woman did such things to me' and if it is not proven upon interrogation that the woman has done so, but it becomes evident the man has only falsely accused [the woman], he shall be fined 50 rupees.

7. If a married woman, a widowed woman or an unmarried girl from any of the Sacred Thread-wearing castes grabs a man from any of the Non-enslavable Alcohol-drinking castes by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within 7 days, stating 'Such and such a woman did such and such a thing to me', the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts on someone else's husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man of an Enslavable Alcohol-drinking caste and a woman from a Sacred Thread-wearing caste].<sup>472</sup> If sexual intercourse [between them] is not proven, the man shall be fined

471 See § 149.2.

472 See § 152.1.



65 rupees. He does not lose his caste status. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 65 rupees.

8. If a married woman, a widowed woman or an unmarried girl from any of the Sacred Thread-wearing castes grabs a man from any of the Enslavable castes from whom water may be accepted by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata* or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts on someone else’s husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulation] that refers to illicit sexual intercourse between [a man of an Enslavable caste from whom water may be accepted and a woman from a Sacred Thread-wearing caste].<sup>473</sup> If sexual intercourse [between them] is not proven, the man shall be fined 70 rupees. He does not lose his caste status. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 70 rupees.

9. If a married woman, a widowed woman or an unmarried girl from any of the Sacred Thread-wearing castes grabs a man from any of the Water-unacceptable or Untouchable castes by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice and water shall be unacceptable from the hands of such

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a woman who has committed such acts on someone else's husband to this extent. Such a woman who has done such acts shall be banned with respect to cooked rice and water, and the first letter of the caste [name] of that person shall be branded on her left cheek; she shall be set free after having been placed in that caste. If the husband of such a woman has sexual intercourse with her [after she committed such acts], or anybody else knowingly has sexual intercourse with her, they shall not be granted expiation, but they also shall be placed in the caste [of that man whom she molested in the aforementioned ways]. If such [an aforementioned] man does not reveal that such things were done [to him] by that woman, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from a Water-unacceptable or Untouchable caste and a woman from a Sacred Thread-wearing caste].<sup>474</sup> If sexual intercourse [between them] is not proven, the man who belongs to a Water-unacceptable but Touchable caste shall be fined 75 rupees, and 80 rupees if he belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating 'Such and such a woman did such things to me', and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 80 rupees.

10. If a married woman, a widowed woman or an unmarried girl from any of the Non-enslavable Alcohol-drinking castes grabs a man from any of the Sacred Thread-wearing castes, including the castes of Upādhyāya Brahmins, by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within 7 days, stating 'Such and such a woman did such and such a thing to me', the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. It shall be at the pleasure of her fellow commensals as to whether they accept cooked rice from her hands or not. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If [such an aggrieved husband] kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or the *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from

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a Sacred Thread-wearing caste and a woman from a Non-enslavable Alcohol-drinking caste].<sup>475</sup> If sexual intercourse [between them] is not proven, the man shall be fined 35 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 35 rupees.

11. If a married woman, widow or an unmarried girl from any of the Non-enslavable Alcohol-drinking castes grabs a man from among the Enslavable castes, [from whose members] water is unacceptable, by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā* or *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be unacceptable from the hands of such a woman who has committed such acts on someone else’s husband to this extent; only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be killed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulation] that refers to illicit sexual intercourse between [a man from an Enslavable caste from whose members water is unacceptable and a woman from a Non-enslavable Alcohol-drinking caste].<sup>476</sup> If sexual intercourse [between them] is not proven, the man shall be fined 70 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident the man has only falsely accused [the woman], he shall be fined 70 rupees.

12. If a married woman, a widowed woman or an unmarried girl from a Non-enslavable Alcohol-drinking caste grabs a man from any of the Water-unacceptable or Untouchable caste by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within

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476 See Art. 152–153.

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7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, *ṭhānā* or *amāla* shall also not punish or imprison him. Cooked rice and water shall be unacceptable from the hands of such a woman who has committed such acts on someone else’s husband to this extent. Such a woman who has done such acts shall be banned with respect to cooked rice and water, and the first letter of the caste [name] of that person shall be branded on her left cheek; she shall then be set free, having been placed in that caste. If the husband of such a woman has sexual intercourse with her [after she committed such acts], or anybody else knowingly has sexual intercourse with her, they shall not be granted expiation, but they also shall be placed in the caste [of that man whom she molested in the aforementioned ways]. If such [an aforementioned] man does not reveal this much of things done [to him] by the woman, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulation] that refers to illicit sexual intercourse between [a man of a Water-unacceptable or Untouchable caste and a woman from a Non-enslavable caste].<sup>477</sup> If sexual intercourse [between them] is not proven, the man who belongs to a Water-unacceptable but Touchable caste shall be fined 75 rupees, and 80 rupees if he belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 80 rupees.

13. If a married woman, widow or unmarried girl from among the Enslavable caste, [from whose members] water may be accepted, grabs a man from any of the Sacred Thread-wearing castes, including the castes of Upādhyāya Brahmins, Non-enslavable or Enslavable castes, by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall be acceptable from the hands of such a woman who has committed such acts on someone else’s husband to this extent. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on his caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour [or take the marriage expenses from him]. If he kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed

477 See Art. 154.

by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from a Sacred Thread-wearing caste, including the castes of Upādhyāya Brahmins, Non-enslavable or Enslavable caste, and a woman from an Enslavable caste from whose members water may be accepted].<sup>478</sup> If sexual intercourse [between them] is not proven, the man shall be fined 25 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating 'Such and such a woman did such things to me', and if it is not proven upon the interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 25 rupees.

14. If a married woman, a widowed woman or an unmarried girl from among the Enslavable caste, [from whose members] water may be accepted, grabs a man from any of the Water-unacceptable or Untouchable castes by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, *ṭhānā*, *amāla* or the neighbourhood within 7 days, stating 'Such and such a woman did such and such a thing to me', the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice and water shall be unacceptable from the hands of such a woman who has committed such acts on someone else's husband to this extent. Such a woman who has done such acts shall be banned with respect to cooked rice and water; the first letter of the caste [name] of that person shall be branded on her left cheek; she shall be set free after being placed in that caste. If the husband of such a woman has sexual intercourse with her [after she committed such acts], or anybody else knowingly has sexual intercourse with her, they shall not be granted expiation, but they also shall be placed in the caste [of that man whom she molested in the aforementioned ways]. If such [an aforementioned] man does not reveal that such things were done [to him] by that woman, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, *ṭhānā* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man of a Water-unacceptable or Untouchable caste and a woman from an Enslavable caste from whose members water may be accepted].<sup>479</sup> If sexual intercourse [between them] is not proven, the man who belongs to a Water-unacceptable but Touchable caste shall be fined 75 rupees, and 80 rupees if he belongs to an Untouchable caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If such a man comes to complain, stating 'Such and such a woman did such things to me', and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 80 rupees.

478 See Art. 146–150 and 151–152.

479 See Art. 154–155.

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15. If a married woman, widow or unmarried girl from a Water-unacceptable but Touchable caste grabs a man from any of the Sacred Thread-wearing castes, including the castes of Upādhyāya Brahmins, or Non-enslavable or Enslavable Alcohol-drinking castes, by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on his caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulation] that refers to illicit sexual intercourse between [a man from a Sacred Thread-wearing caste, including the castes of Upādhyāya Brahmins or Non-enslavable or Enslavable Alcohol-drinking castes, and a woman from a Water-unacceptable but Touchable caste].<sup>480</sup> If sexual intercourse [between them] is not proven, the man shall be fined 75 rupees. He shall not lose his caste status. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has only falsely accused [the woman], he shall be fined 75 rupees.

16. If a married woman, widow or unmarried girl from a Water-unacceptable but Touchable caste grabs a man from a Water-unacceptable or Untouchable caste by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*ṭhānā*] or *amāla* shall also not punish or imprison him. Cooked rice shall not be acceptable from the hands of such a woman who has done such acts [of molestation] to that man. Only water [touched by her] may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on his caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and if she has sexual intercourse with

480 See Art. 146–153.

someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata* or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from a Water-unacceptable or Untouchable caste and a woman from a Water-unacceptable but Touchable caste].<sup>481</sup> If sexual intercourse [between them] is not proven, the man shall be fined 22½ rupees. He shall not lose his caste status. If such a man comes to complain, stating 'Such and such a woman did such things to me', and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has falsely accused [the woman], he shall be fined 22½ rupees.

17. If a married woman, widow or unmarried girl from a Touchable caste grabs a man from any of the Sacred Thread-wearing castes, including the castes of Upādhyāya Brahmins, or Non-enslavable or Enslavable Alcohol-drinking castes, by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*ṭhānā*], *amāla* or the neighbourhood within 7 days, stating 'Such and such a woman did such and such a thing to me', the master of that woman shall not be permitted to assign any fault to that man. The *adālata* or *amāla* shall also not punish or imprison him. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on his caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata*, [*ṭhānā*] or *amāla*, [both of them] shall be punished in accordance with the *Ain*'s [regulation] that refers to illicit sexual intercourse between [a man from a Sacred Thread-wearing caste, including the castes of Upādhyāya Brahmins or Non-enslavable or Enslavable Alcohol-drinking castes, and a woman from an Untouchable caste].<sup>482</sup> If sexual intercourse [between them] is not proven, the man shall be fined 80 rupees. He shall not lose his caste status. If such a man comes to complain, stating 'Such and such a woman did such things to me', and if it is not proven upon interrogation that the woman has done so, but it becomes evident that the man has only falsely accused [the woman], he shall be fined 80 rupees.

481 See Art. 154–155.

482 See Art. 146–153.

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18. If a married woman, a widow or unmarried girl from a Touchable caste grabs a man from a Water-unacceptable [but Touchable] or Untouchable caste by his *dhoti*, or grabs him by his penis, kisses him or embraces him while he is walking, sitting or sleeping, although he has not made any risqué or joking conversation with her, and if [that person] himself makes a complaint at an *adālata*, [*thānā*], *amāla* or the neighbourhood within 7 days, stating ‘Such and such a woman did such and such a thing to me’, the master of that woman shall not be permitted to assign any fault to that man. The *adālata*, [*thānā*] or *amāla* shall also not punish or imprison him. If such a woman who molested [that man] in such a way has been kept by her husband, providing her with the means of support [for her livelihood after she committed such acts], and if she runs off with someone else, the aggrieved husband shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on his caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the man does not reveal that such things were done [to him] by the woman to this extent, [but] it is revealed by someone else, and if sexual intercourse [between them] is proven during the trial after they are summoned by the *adālata* or *amāla*, [both of them] shall be punished in accordance with the *Ain*’s [regulation] that refers to illicit sexual intercourse between [a woman from a Water-acceptable but Touchable caste and a man from a Water-unacceptable but Touchable or Untouchable caste].<sup>483</sup> If sexual intercourse [between them] is not proven, the man shall be fined 30 rupees if he belongs to a Water-unacceptable but Touchable caste, and 21½ rupees if he belongs to an Untouchable caste. He shall not lose his caste status. If such a man comes to complain, stating ‘Such and such a woman did such things to me’, and if it is not proven upon interrogation that the woman has done so, but it becomes evident the man has falsely accused [the woman], he shall be fined 30 rupees.

19. If an Upādhyāya Brahmin seduces a married woman, widow or unmarried girl from an Upādhyāya Brahmin caste using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her to have sexual intercourse with him] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the ground of the verbal offence (*mukha-patita*) they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 30 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood even after her caste status is degraded on the ground of the verbal offence she committed], and if she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring ‘I will not keep a woman [as

483 See Art. 154–155.



my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be punished by *dāmala*, after the share of property which is his has been confiscated, according to the *Ain*. If the woman did not agree to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

20. If someone from any of the Sacred Thread-wearing castes seduces a married woman, widow or unmarried girl from an Upādhyāya Brahmin's caste using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse with him or not, [the attempt at seducing her to have sexual intercourse with him] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 40 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood even after her caste status is degraded on the ground of the verbal offence she committed], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be punished by *dāmala*, after the property which is his has been confiscated, according to the *Ain*. If the woman has not agreed to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

21. If someone from any of the Sacred Thread-wearing castes seduces a married woman, widow or unmarried girl from any of the Sacred Thread-wearing castes, but excluding the Upādhyāya Brahmins' castes, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse with him or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 30 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a woman has been kept by her husband, providing her with the means of support [for her livelihood even after her caste status is degraded on the ground of the verbal offence she committed], and she runs off with someone

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else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring ‘I will not keep a woman [as my wife any more] who is degraded on the ground of the verbal offence she committed’, and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman has not agreed to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man’s proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

22. If someone from any of the Sacred Thread-wearing castes seduces a married woman, widow or unmarried girl from any of the Non-enslavable Alcohol-drinking castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 15 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood even after her caste status is degraded on the ground of the verbal offence she committed], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him [depending on his caste status]. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring ‘I will not keep a woman [as my wife any more] who is degraded on the ground of the verbal offence she committed’, and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman has not agreed to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man’s proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

23. If someone from any of the Sacred Thread-wearing castes seduces a married woman, widow or unmarried girl from any of the Enslavable Alcohol-drinking castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 5 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support

[for her livelihood even after her caste status is degraded on the ground of the verbal offence she committed], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on [the former's caste] status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the ground of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman has not agreed to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

24. If someone from any of the Sacred Thread-wearing castes seduces a married woman, widow or unmarried girl from a Water-unacceptable but Touchable caste using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 10 rupees. He shall not lose his caste status. Cooked rice from her hands shall be acceptable. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood even after her caste status is degraded on the ground of the verbal offence she committed], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on [the former's caste] status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

25. If someone from any of the Sacred Thread-wearing castes seduces a married woman, a widow or an unmarried girl from an Untouchable caste using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 60 rupees. He neither loses his caste status nor does he require to undertake expiation. Cooked rice from the hands of that woman shall be acceptable. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on [the former's caste] status. If the husband of

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such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the ground of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

26. If someone from any of the Non-enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from any of the Sacred Thread-wearing castes, including the Upādhyāya Brahmins, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 45 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman did not agree to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

27. If someone from any of the Non-enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from any of the Non-enslavable Alcohol-drinking castes themselves using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 25 rupees. He shall not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to

kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman did not agree to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

28. If someone from any of the Non-enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from an Enslavable castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 5 rupees. Cooked rice shall be acceptable from her hands. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former's caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the ground of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

29. If someone from any of the Non-enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from a Water-unacceptable but Touchable caste using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 10 rupees. Cooked rice shall be acceptable from her hands. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former's caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

30. If someone from any of the Non-enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from any of the Untouchable castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not,

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[the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 20 rupees. He neither loses his caste status nor is he required to undertake expiation. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former's caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

31. If someone from any of the Enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from any of the Sacred Thread-wearing castes, including the Upādhyāya Brahmins or Non-enslavable Alcohol-drinking castes, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 50 rupees. He does not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman did not agree to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

32. If someone from any of the Enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from any the Enslavable Alcohol-drinking castes themselves using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 5 rupees. Cooked rice shall be acceptable from her hands. If such a [married]

woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on [the former's] caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

33. If someone from any of the Enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from a Water-unacceptable but Touchable caste using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 5 rupees. Cooked rice shall be acceptable from her hands. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on [the former's] caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be killed—taking life for life.

34. If someone from any of the Enslavable Alcohol-drinking castes seduces a married woman, widow or unmarried girl from any of the Untouchable castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 10 rupees. He neither loses his caste status nor does he require expiation. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on [the former's] caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

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35. If someone from any of the Water-unacceptable but Touchable castes seduces a married woman, widow or unmarried girl from any of the Sacred Thread-wearing castes, including the Upādhyāya Brahmins, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 55 rupees. He does not lose his caste status. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring ‘I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed’, and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman did not agree to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man’s proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

36. If someone from any of the Water-unacceptable but Touchable castes seduces a married woman, widow or unmarried girl from a Water-unacceptable but Touchable caste itself, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 2½ rupees. Cooked rice from the hands of that woman shall be acceptable. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former’s caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring ‘I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed’, and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

37. If someone from any of the Water-unacceptable but Touchable castes seduces a married woman, widow or unmarried girl from any of the Untouchable castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such



a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 2½ rupees. Cooked rice from the hands of that woman shall be acceptable. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former's caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

38. If someone from any of the Untouchable castes seduces a married woman, widow or unmarried girl from any of the Sacred Thread-wearing castes, including the Upādhyāya Brahmins, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 60 rupees. If the woman has agreed to have sexual intercourse [with him], cooked rice shall not be acceptable from her hands. Only water may be accepted. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour, shave his head, or take the marriage expenses from him, depending on his caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour, shave his head, or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life. If the woman did not agree to have sexual intercourse with that man when she was seduced by him, and if she comes herself to [the concerned authority] to reveal [the man's proposition], cooked rice shall be acceptable from her hands. She shall retain her caste status.

39. If someone from any of the Untouchable castes seduces a married woman, widow or unmarried girl from any of the Water-unacceptable but Touchable castes using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 10 rupees. If the woman has not agreed to have sexual intercourse [with him], it shall be at the pleasure of her fellow commensal whether they accept cooked rice [touched by] her or not. If

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such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former's caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

40. If the case where someone from any of the Untouchable castes seduces a married woman, widow or unmarried girl from an Untouchable caste itself, using [beguiling] words, and if, irrespective of whether the woman has verbally agreed to have sexual intercourse or not, [the attempt at seducing her] is revealed before the sexual intercourse takes place, and if [such a man and woman] at least accept their degradation on the grounds of the verbal offence they committed, the man who seduced the woman to have sexual intercourse with him shall be fined 1½ rupees. Cooked rice from the hand of that woman shall be acceptable. If such a [married] woman has been kept by her husband, providing her with the means of support [for her livelihood], and she runs off with someone else, [the aggrieved husband] shall, in accordance with the *Ain*, be permitted to kill her paramour or take the marriage expenses from him, depending on the former's caste status. If the husband of such a woman has thrown her out [of the house] without providing her with the means of support, declaring 'I will not keep a woman [as my wife any more] who is degraded on the grounds of the verbal offence she committed', and she has sexual intercourse with someone else, [the aggrieved husband] shall not be permitted to kill her paramour or take the marriage expenses from him. If he kills her paramour, he shall be executed—taking life for life.

## 113. On Incest among Upādhyāya [Brahmins]

**The regulations applicable to someone belonging to a Brahmin caste, including the Upādhyāya, having illicit sexual intercourse within his blood relations:**

### *Particulars*

1. Someone belonging to a Brahmin caste who commits incest with his natural mother, with his sister born of the same father, or with his daughter born of himself, shall be punished by *dāmala* after his share of property has been confiscated in accordance with the *Ain*.

2. If someone belonging to a Brahmin caste, including the Upādhyāya [castes], commits incest [with the following persons] sharing with him a common ancestor up to 7 generations back, thus within his blood relations, and irrespective of whether or not they have been accepted to consume cooked rice together [with the fellow caste members], and other than his natural mother, sisters born of the same father or his daughters born of himself: stepmother, [step-] grandmother, classificatory sisters-in-law, daughters-in-law, granddaughters-in-law, sisters, daughters, granddaughters or paternal aunts, his share of property shall, in accordance with the *Ain*, be confiscated—irrespective of whether the woman is married, widowed or unmarried—, his Sacred Thread shall be removed, his head shall be shaved, he shall be fed liquor and pig meat, but not human excrement, his caste status shall be degraded and he shall be chased away across the river towards the west, if he comes from the east, or towards the east if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation (*patiyā*) for cooked rice. Even if someone by mistake has granted him expiation, the expiation certificate shall be nullified (*jhiknu*) and he shall be deprived of the right to consume cooked rice with his fellow caste members. Water may be accepted [from his hands]. He shall be granted expiation for water only. Such a culprit shall belong to an Enslavable Śūdra caste.

3. If someone belonging to a Brahmin caste, including the Upādhyāyas, commits incest with an unmarried girl or widow of his blood relations, sharing with him a common ancestor from more than 7 generations up to 14 generations back, and who is past the age of 11, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], his property shall, in accordance with the *Ain*, be confiscated, because it is a heinous crime (*rājakhata*). His Sacred Thread shall be removed, he shall be degraded from his caste and

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he shall be exiled from the village or city where he lives. Cooked rice from the hands of such a person shall not be accepted, [but] water may be accepted.

4. If someone belonging to a Brahmin caste, including the Upādhyāyas, commits incest with an unmarried girl or widow who belongs to his blood relations and who is past the age of 11 and who shares with him a common ancestor from 14 generations up to the 21 generations back, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], and if he has consumed cooked rice from her hands and has also contaminated his fellow caste members through cooked rice after the incest, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. He shall be deprived of his right to consume cooked rice [with his fellow caste members] and shall be let off. If he has not consumed cooked rice from her hands, he shall be fined 100 rupees and shall be granted expiation. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall not lose his caste status. One shall separate the man and woman from each other.

5. If someone belonging to a Brahmin caste, including the Upādhyāyas, commits incest with an unmarried girl or widow of his blood relations is past the age of 11 and shares with him a common ancestor more than 21 generations back, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], and if he has contaminated his fellow caste members through cooked rice after the illicit sexual intercourse, he shall be fined 100 rupees and shall be deprived of his right to consume cooked rice [with his fellow caste members]. If he has not contaminated [his fellow caste members] through cooked rice, he shall be fined 100 rupees and shall be granted expiation. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall not lose his caste status. One shall separate the man and woman from each other.

6. If someone belonging to a Brahmin caste, including the Upādhyāya, has illicit sexual intercourse with his granddaughter who is a daughter of his daughter fathered by himself, or granddaughter-in-law whose husband bears the right to kill his wife's paramour (*jāra hānnu*) according to the *Ain*, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and he shall be chased away across the river towards the east, if he comes from the west, or towards the west, if he comes from the east. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. Even if someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of his right to consume cooked rice [with his fellow caste members]. Such persons shall belong to a Non-enslavable Śūdra caste. Water may be accepted from his hands. He shall be granted expiation for water only.

7. Among the nephews (*bhānjā*) and nieces (*bhānjī*), if someone belonging to a Brahmin caste, including the Upādhyāyas, commits incest with his niece who is the daughter of his sister born of his own father, or with his niece-in-law who is wife of his nephew, bearing the right to kill

his wife's paramour according to the *Ain*—irrespective of whether she is married, unmarried or widowed, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and he shall be taken across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. Even if someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of his right to consume cooked rice [with his fellow caste members]. Such persons shall belong to a Non-enslavable Śūdra caste. Water may be accepted from his hands. He shall be granted expiation for water only.

8. Among the maternal relations, if someone belonging to a Brahmin caste, including the Upādhyāyas, has illicit sexual intercourse with his grandmother who gave birth to his mother, or with his maternal aunt from the same womb (*āta*), who is born to his [maternal] grandmother from the same grandfather, or with his maternal uncle's wife whose husband bears the right to kill his wife's paramour—irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. Even if someone grants him expiation by mistake, the expiation certificate shall be nullified and he shall be deprived of his right to consume cooked rice [with his fellow caste members]. Such persons shall belong to a Non-enslavable Śūdra caste. Water may be accepted from his hands. He shall be granted expiation for water only.

9. Among the maternal relations, if someone belonging to a Brahmin caste, including the Upādhyāyas, commits incest with his maternal aunt who is daughter of the stepmother of his mother, or grandmother who is the daughter born of the same father of the mother's mother (i.e. grand-aunt), and if she is married, the aggrieved husband may decide [whether to kill or not to kill his wife's paramour]. If he lets [his wife's paramour] off, or if she is unmarried or widowed, [the culprit's] share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, he shall be degraded from his caste and shall be exiled from the village or city where he lives. Cooked rice from his hands shall not be accepted. Water may be accepted and he shall be granted expiation for water only. He shall belong to a Non-enslavable Śūdra caste.

10. Among the bridal family, if someone belonging to a Brahmin caste, including the Upādhyāyas, commits incest with his mother-in-law who gave birth to his wife, married stepmother-in-law brought in by his father-in-law, who bears the right to kill his wife's paramour according to the *Ain*, with his grandmother-in-law who gave birth to his father and mother-in-law—irrespective of whether she is married or widowed and whether she has been accepted

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to consume cooked rice [with her fellow caste members] or not, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. If someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of the right to consume cooked rice [with his fellow caste members]. Such a person shall belong to a Non-enslavable Śūdra caste. Water may be accepted from him. He shall be granted expiation for water only.

11. If someone belonging to a Brahmin caste, including the Upādhyāyas and so forth, commits incest with his female guru, who gave himself or his wife the initiatory mantra, and whose husband bears the right to kill his wife's paramour according to the *Ain*, or with the wife of the guru who bears the right to kill his wife's paramour and who gave him the mantra, or with the female disciple to whom he gave the mantra or with the wife of the disciple who bears the right to kill his wife's paramour according to the *Ain*, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. If someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of the right to consume cooked rice [with his fellow caste members]. Such a person shall belong to a Non-enslavable Śūdra caste. Water may be accepted from him. He shall be granted expiation for water only.

12. If someone belonging to a Brahmin caste, including the Upādhyāyas and so forth, commits incest with someone else's wife, whose husband bears the right to kill his wife's paramour according to the *Ain*, from whom cooked rice may not be accepted, who has been brought in [by the latter], being her third [sexual] partner and who is his blood relative, so that [having sexual intercourse] with her would have resulted in a *rājakhata*, [the culprit] shall be imprisoned for 1 year, for the reason that cooked rice cannot be shared between him and her, and her aggrieved husband is not allowed to kill him. He shall not lose his caste status. If he has consumed cooked rice from her hands, but has not contaminated his fellow caste members after the incest, he shall be imprisoned for 1 year. He shall be placed in the caste of that woman and be let off. If he has consumed cooked rice from her hands and has also contaminated his fellow caste members, his share of property shall, in accordance with the *Ain*, be confiscated, he shall be imprisoned for 1 year, and he shall be placed in the respective caste of that woman. If he pays the fine in lieu of his prison term, it shall be accepted and he shall be set free.

13. If someone belonging to a Brahmin caste, including the Upādhyāyas and so forth, commits incest with someone else's wife who has been brought in [by the latter], being her fourth [sexual] partner, who is his blood relative, so that [having sexual intercourse] with her would have

resulted in a *rājakhata*, [the culprit] shall be imprisoned for 6 months and be set free. He shall not lose his caste. If he has sexual intercourse with such a woman who has not been brought in the house or kept hidden, he shall not be held accountable.

14. A man or woman who commits incest with a woman or man from his or her blood relations for whom the punishment [of having illicit sexual intercourse] is written down as that for committing a *rājakhata*, he or she shall, in accordance with the *Ain*, be punished and they shall be separated from each other. If they have illicit sexual intercourse even after they have been separated, the man shall be fined 50 rupees and the woman who has let the man have sexual intercourse with her shall be fined 25 rupees. They shall be [again] separated from each other. If the amount of the fine is not paid, [the culprit] shall, in accordance with the *Ain*, be imprisoned.

15. If someone belonging to a Brahmin caste, including the Upādhyāyas and so forth, commits incest with the niece who is the daughter of the daughter of his paternal uncle, born of the same grandfather, or with the granddaughter who is the daughter of the daughter of his brother, born of the same father, and if she is married, her aggrieved husband may, in accordance with the *Ain*, decide [whether or not to kill his wife's paramour]. If she is unmarried or widowed, his share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, he shall be degraded from his caste and he shall be exiled from the village or city where he lives. Cooked rice from the hands of such a person shall not be accepted. Water may be accepted. He shall be granted expiation for water only. If [such a culprit] commits incest with the daughters of the daughters of other [classificatory kinsmen] other than the above-mentioned relatives, and if he has contaminated his fellow caste members through cooked rice, and she is married, her aggrieved husband may, in accordance with the *Ain*, decide [whether or not to kill his wife's paramour]. If she is unmarried or widowed and is past the age of 11, he shall be punished according to the punishment written down for the one who commits incest with an unmarried girl or widow who is a distant family member and is not his [blood] relative.

## 114. On Incest among Rajapūtas

**The regulations applicable to someone belonging to a Rajapūta Caste and having illicit sexual intercourse within his blood relations:**

### *Particulars*

1. Someone belonging to a Rajapūta caste who commits incest with his natural mother, shall be executed—irrespective of whether she is married, widowed or a common woman.

2. Someone belonging to a Rajapūta caste who commits incest with his sister, fathered by the same father, or with a daughter born of himself, shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*.

3. If someone belonging to a Rajapūta caste commits incest [with the following persons] sharing with him a common ancestor up to 7 generations back, irrespective of whether or not they have been accepted to consume cooked rice together [with their fellow caste members] and who are different from his natural mother, sisters who are born of the same father, daughters born of himself or his older brother's wife: stepmother, [step-]grandmother, classificatory sisters-in-law, daughters-in-law, granddaughters-in-law, sisters, daughters, granddaughters or paternal aunts, his share of property shall, in accordance with the *Ain*, be confiscated—irrespective of whether the woman is married, widowed or unmarried— and his Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, but not human excrement, his caste shall be degraded and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation (*patiyā*). Even if someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of the right to consume cooked rice with his fellow caste members. Such a person shall become [a member of] a Non-enslavable Śūdra caste. Water may be accepted [from his hands]. He shall be granted expiation for water only.

4. If someone belonging to a Rajapūta caste commits incest with an unmarried girl or widow within his blood relations, sharing with him a common ancestor from 7 generations up to 14 generations back, and who is past the age of 11, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], his property shall, in



accordance with the *Ain*, be confiscated, because it is a heinous crime (*rājakhata*). His Sacred Thread shall be removed, he shall be degraded from his caste, and he shall be exiled from the village or city where he lives. Cooked rice from the hands of such a person shall not be accepted, [but] water may be accepted.

5. If someone belonging to a Rajapūta caste commits incest with an unmarried girl or widow within his blood relations, sharing with him a common ancestor from 14 generations up to 21 generations back, and who is past the age of 11, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], and if he consumes cooked rice from her hands and also contaminates his fellow caste members through cooked rice after the incest, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. He shall be deprived of his right to consume cooked rice [with his fellow caste members] and shall be let off. If he does not consume cooked rice from her hands, he shall be fined 100 rupees and shall be granted expiation. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall not lose his caste status. [One] shall separate the man and woman from each other.

6. If someone belonging to a Rajapūta caste commits incest with an unmarried or widowed woman within his blood relations sharing with him a common ancestor more than 21 generations back, and who is past the age of 11, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], and if he contaminates his fellow caste members through cooked rice after the incest, he shall be fined 60 rupees and shall be deprived of his right to consume cooked rice [with his fellow caste members]. If he does not contaminate [his fellow caste members] through cooked rice, he shall be fined 60 rupees and shall be granted expiation. He shall not lose his caste status. Such a man and woman shall be separated from each other.

7. If someone belonging to a Rajapūta caste commits incest with his granddaughter who is the daughter of a daughter fathered by himself, or with his granddaughter-in-law whose husband bears the right to kill his wife's paramour (*jāra hannu*) according to the *Ain*, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. Even if someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of his right to consume cooked rice [with his fellow caste members]. Such a person shall become [a member of] a Non-enslavable Śūdra caste. Water may be accepted from his hands. He shall be granted expiation with respect to water only.

8. Among nephews and niece, if someone belonging to a Rajapūta caste commits incest with his niece, who is the daughter of his sister who has the same father, or with his niece-in-law who is the wife of a nephew bearing the right to kill his wife's paramour according to the

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*Ain*—irrespective of whether she is married or unmarried—his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. Even if someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of his right to consume cooked rice [with his fellow caste members]. Such persons shall belong to a Non-enslavable Śūdra caste. Water may be accepted from his hands. He shall be granted expiation with respect to water only.

9. Among the maternal relatives, if someone belonging to a Rajapūta caste commits incest with his grandmother, born of the same great-grandfather as the grandmother who gave birth to his mother, or with his maternal aunt born to the same womb (*āta*) that bore his mother, or with his maternal uncle's wife whose husband bears the right to kill his wife's paramour—irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members]—, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. Even if someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of his right to consume cooked rice [with his fellow caste members]. Such a person shall become [a member of] a Non-enslavable Śūdra caste. Water shall be accepted from his hands. He shall be granted expiation with respect to water only.

10. Among the maternal relatives, if someone belonging to a Rajapūta caste has illicit sexual intercourse with his maternal aunt, who is the daughter of the step-mother of his mother, his grandmother who is the daughter born fathered by the same father of the mother's mother (i.e. grand-aunt), and if she is married, the aggrieved husband may decide [whether or not to kill his wife's paramour]. If he lets [his wife's paramour] off, or if she is unmarried or widowed, [the culprit's] share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, he shall be degraded from his caste, and he shall be exiled from the village or city where he lives. Cooked rice from his hands shall not be accepted. Water may be accepted from his hands and he shall be granted expiation with respect to water only. Such [a culprit] shall become [a member of] a Non-enslavable Śūdra caste.

11. If someone belonging to a Rajapūta caste has consensual illicit sexual intercourse with his maternal uncle's daughter or with his maternal uncle's daughter-in-law whose husband bears the right to kill his wife's paramour, and if she is married, [the aggrieved] husband may decide [whether he kills his wife's paramour or not]. If she is unmarried or widowed and is above the age of 11, he shall not be held accountable.

12. Among the bridal family, if someone belonging to a Rajapūta caste commits incest with his mother-in-law who gave birth to his wife, with his married step-mother-in-law brought [into the household] by his father-in-law, the latter bearing the right to kill his wife's paramour according to the *Ain*, with his grandmother-in-law who gave birth to his father- or mother-in-law—irrespective of whether she is married or widowed and whether or not she has been accepted to consume cooked rice [with her fellow caste members]—, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed. His head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. If someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of the right to consume cooked rice [with his fellow caste members]. Such a person shall belong to a Non-enslavable Śūdra caste. Cooked rice from the hands of such a person shall not be accepted. He shall be granted expiation with respect to water only.

13. Among the bridal family, if someone belonging to a Brahmin, Rajapūta, Sacred Thread-wearing caste or similar has sexual intercourse with his mother-in-law who is the wife of the brothers of his fathers-in-law, and whose husband bears the right to kill his wife's paramour according to the *Ain*, or with his aunt-in-law or with the wife of the wife's brother—irrespective of whether she has been accepted to consume cooked rice [with her fellow caste members] or not—and if she is not widowed, her aggrieved husband may decide [whether he kills his wife's paramour or not]. If she is married or unmarried, [the man] does not commit a *rājakhata*.

14. If someone belonging to a Rajapūta caste commits incest with his female guru who gave himself or his wife the initiatory mantra, and whose husband bears the right to kill his wife's paramour according to the *Ain*, or with the wife of the guru who bears the right to kill his wife's paramour according to the *Ain* and who gave him the mantra, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed prohibited food, but not human excrement, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation. If someone by mistake grants him expiation, the expiation certificate shall be nullified and he shall be deprived of the right to consume cooked rice [with his fellow caste members]. Such a person shall become [a member of] a Non-enslavable Śūdra caste. Water may be accepted from him. He shall be granted expiation with respect to water only.

15. If someone belonging to a Rajapūta caste commits incest with someone else's wife, whose husband does not bear the right to kill his wife's paramour according to the *Ain*, from whom cooked rice may not be accepted, who has been brought [into the household by her husband] being her third [sexual] partner, and who is his blood relative and [having sexual intercourse] falls under

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a *rājakhata*, [the culprit] shall be imprisoned for 1 year, because cooked rice cannot be shared between him and her. Her aggrieved husband is not allowed to kill his wife's paramour. [The culprit] shall not lose his caste status. If he consumes cooked rice from her hands, but does not contaminate his fellow caste members after the illicit sexual intercourse, he shall be imprisoned for 1 year, shall be placed in the caste of that woman and be let off. If he consumes cooked rice from her hands and also contaminates his fellow caste members, his share of property shall, in accordance with the *Ain*, be confiscated, he shall be imprisoned for 1 year and he shall be placed in the respective caste of that woman. If he pays the fine in lieu of his prison term, it shall be accepted and he shall be set free.

16. If someone belonging to a Rajapūta caste commits incest with someone else's wife who has been brought [into the household by her husband] following three previous paramours, and from whom cooked rice may not be accepted, who is his blood relative and [having sexual intercourse] falls under a *rājakhata*, [the culprit] shall be imprisoned for 6 months and be set free. He shall not lose his caste. If he has sexual intercourse with such a woman who has not been brought into the household but kept hidden, he shall not be held accountable.

17. A man or woman who commits incest with a woman or man from his or her blood relations, for whom as punishment [for committing incest] is the same as that written down for committing a *rājakhata*, shall, in accordance with the *Ain*, be punished and the people involved shall be separated from each other. If they commit incest even after they have been separated, the man shall be fined 50 rupees and the woman who has let the man have sexual intercourse with her shall be fined 25 rupees. They shall be kept separate from each other. If the amount of the fine is not paid, [the culprit] shall, in accordance with the *Ain*, be imprisoned.

18. If someone belonging to a Rajapūta caste has sexual intercourse with his sister-in-law, both the man and woman shall remain in their respective caste, depending on whatever custom is still current. Since this [custom] has been practiced from an early time, the case shall not be considered referring to the present *Ain*. The earlier [practice] shall be valid.

19. From Saturday, the 3<sup>rd</sup> of the bright fortnight of Vaiśākha in the year [VS] 1919 onwards, no one belonging to a Rajapūta caste shall keep his older brother's wife as wife. If anyone belonging to a Rajapūta caste does so, he shall be imprisoned for 1 year. If he pays double the fine in lieu of his prison term, it shall be accepted. His fellow caste members, relatives or family members shall not consume cooked rice from the hands of either the Rajapūta caste fellow who has kept his older brother's wife as his wife or that woman, nor from the hands of their offspring. Such offspring shall marry someone from a caste equal in status.

20. From now onwards, if a man belonging to a Rajapūta caste who has sexual intercourse with his older brother's wife or a woman who has let [her husband's younger brother] have sexual intercourse with her, or the offspring born of [such a couple], contaminates his or her fellow caste members through cooked rice, lying about his or her caste by stating that he or she is pure, he

or she shall be fined 80 rupees, and anyone who has been contaminated under deception shall be granted expiation. If someone consumes rice from the hands [of such persons], knowing that they belong to such an inferior caste, and if he does not contaminate any [of his fellow caste members] through cooked rice, he shall be placed in the caste of that person only, but no fine shall be required. If he consumes cooked rice and also contaminates his fellow caste members, he shall be fined 80 rupees and shall be placed in the caste of that person.

21. If someone belonging to a Rajapūta caste has sexual intercourse with his older brother's ritually married wife, her aggrieved husband shall not be permitted to kill his wife's paramour. [The culprit's] share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread shall be removed, he shall be degraded from his caste, and he shall be placed in a Non-enslavable Śūdra caste. If the aggrieved husband comes to complain, saying 'Punish my wife's paramour', the [concerned] *aḍḍā*, *gauḍā*, *ṭhānā* or *amāla* offices shall arrest the paramour, shall punish him accordingly and shall exile him from the village or city where he lives. [The office] shall take 10 percent of the confiscated property and hand it over to the aggrieved husband. [Regarding the sexual intercourse between someone belonging to a Rajapūta caste] and his older brother's wife, if the aggrieved husband lets his wife's paramour off without punishing him, [the paramour] shall not [be considered to have committed] a *rājakhata*. He shall remain in his caste status.

## 115. On [Incest among] Jaisī Brahmins

1. If a Jaisī Brahmin commits incest with somebody from his blood relations, he shall, in accordance with the law for Upādhyāya Brahmins,<sup>484</sup> be punished.

2. The offspring born of an Upādhyāya Brahmin to a brought-in unmarried Upādhyāya Brahmin girl or to a brought-in widowed Upādhyāya Brahmin woman shall belong to an Asala Jaisī caste. Similarly, also the offspring born to a daughter of a Jaisī [Brahmin] who is ritually married and brought into [the household] by an Upādhyāya Brahmin shall belong to an Asala Jaisī caste.

3. Among the Brahmin women who have been kept [as wives] by Upādhyāya or Jaisī Brahmins, the offspring—born to a widow, a grass widow or a woman whose husband has been punished and has been placed in a Śūdra caste and who has remained faithful [to her husband], [and the offspring fathered by an Upādhyāya or a Jaisī Brahmin] who has brought in the woman, being her second [sexual] partner—shall belong to a Jaisī caste.

4. The offspring—born of [a union between] an Upādhyāya or Jaisī woman who is brought in by [an Upādhyāya] Brahmin, being himself her third [sexual] partner and who is outside of his kinship line—shall be called Bhāṭa Jaisīs. The [boys] shall receive the Sacred Thread. If someone belonging to a Sacred Thread-wearing caste has consensually brought in a widow of a man belonging to such a Bhāṭa Jaisī caste and he is outside of her kinship line and has contaminated her through cooked rice, he shall be fined 50 rupees. If he has not contaminated her through cooked rice, he shall not be held accountable. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

484 See Art. 113.

## 116. On [Incest among] Sacred Thread-wearing Kṣatriya Castes

**The regulation applicable to someone belonging to a Sacred Thread-wearing caste who commits incest within his blood relations:**

### *Particulars*

1. Someone belonging to a Sacred Thread-wearing Kṣatriya caste or the like who commits incest with his natural mother, shall be executed—irrespective of whether she is married, widowed or a common woman.<sup>485</sup>

2. Someone belonging to a Sacred Thread-wearing Kṣatriya caste or the like who commits incest with his sister, fathered by the same father or with a daughter he himself has begotten, shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*.

3. If someone belonging to a Sacred Thread-wearing Kṣatriya caste or the like commits incest [with the following persons], sharing with him a common ancestor up to 7 generations back, and irrespective of whether or they have been accepted to consume cooked rice together [with their fellow caste members] or not and who are different from his natural mother, sisters fathered by the same father, daughters he himself has begotten or his older brother's wife: stepmother, [step-]grandmother, classificatory younger sisters-in-law, daughters-in-law, granddaughters-in-law, sisters, daughters, granddaughters or paternal aunts, his share of property shall, in accordance with the *Ain*, be confiscated—irrespective of whether the woman is married, widowed or unmarried—his Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, his caste shall be degraded and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation (*patiyā*). Even if someone by mistake has granted him expiation, the expiation certificate shall be nullified (*jhiknu*) and he shall be deprived of the right to consume cooked rice with his fellow caste members. Such persons shall become members of a Non-enslavable Śūdra caste. Water may be accepted [from his hands]. He shall be granted expiation for water only.

485 The law prescribing death punishment for incest with one's natural mother is the first section in Art. 116–120.

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4. If someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with an unmarried or widowed woman of his blood relations, sharing with him a common ancestor from more than 7 generations and up to 14 generations back, and who is past the age of 11 and who is not his older brother's wife, irrespective of whether or not she has been accepted to consume cooked rice [with her fellow caste members], his property shall, in accordance with the *Ain*, be confiscated, because it is a heinous crime (*rājakhata*). His Sacred Thread shall be removed, he shall be degraded from his caste and he shall be exiled from the village or city where he lives. Cooked rice from the hands of such a person shall not be accepted, [but] water may be accepted.

5. If someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with an unmarried or widowed woman who belongs to his blood relations, sharing with him a common ancestor from more than 14 generations up to 21 generations back, and who is past the age of 11 and who is not his older brother's wife, irrespective of whether she has been accepted to consume cooked rice [with her fellow caste members] or not, and if he has consumed cooked rice from her hands and has also contaminated his fellow caste members through cooked rice after the incest, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. It shall be up to the will of his fellow caste members whether they accept cooked rice from his hands or not. If he has not contaminated his fellow caste members through cooked rice, he shall be fined 100 rupees and shall be granted expiation. He shall not lose his caste status. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

6. If someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with an unmarried or widowed woman of his blood relations, sharing a common ancestor more than 21 generations back, and who is past the age of 11 and who is not his older brother's wife, irrespective of whether she has been accepted to consume cooked rice [with her fellow caste members] or not, and if he has contaminated his fellow caste members through cooked rice after the incest, it is a *rājakhata*. He shall be fined 50 rupees. It shall be up to the will of his fellow caste members whether they accept cooked rice from his hands or not. If he has not contaminated [his fellow caste members] through cooked rice, he shall be fined 50 rupees and shall be granted expiation.

7. If someone belonging to a Sacred Thread-wearing caste other than an Upādhyāya [Brahmin], a Rajapūta or a Jaisī, whose heads are to be shaved as a substitution for a death sentence, has consensual sexual intercourse with his widowed classificatory elder sister-in-law, both parties shall not be held accountable for committing a *rājakhata*. If he commits adultery with his married classificatory elder sister-in-law, the aggrieved husband shall not be permitted to kill the adulterer. Such a Sacred Thread-wearing adulterer's Sacred Thread shall be removed, and his share of property shall be confiscated in accordance with the *Ain*. He shall be degraded from his caste and shall be placed in a Non-enslavable Śūdra caste. If the aggrieved husband comes to complain [at government offices], stating: 'Punish [my wife's paramour]', the *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *amāla* office shall arrest such a [culprit] who committed adultery and shall exile him from the village or city where he lives, after having him punished accordingly.



8. If someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with his granddaughter, who is the daughter of a daughter he himself has begotten, or with his granddaughter-in-law whose husband bears the right to kill his wife's paramour according to the *Ain*, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. Water may be accepted from his hands. He shall be granted expiation with respect to water only. Such persons shall become [members of] a Non-enslavable Śūdra caste.

9. If someone belonging to a Sacred Thread-wearing caste other than a Brahmin or a Rajapūta has sexual intercourse with the widow of his older brother, and if his caste status is lower than hers and she does not accept cooked rice from his hands, and if he has contaminated [her fellow caste members] her fellow caste members through her with respect to cooked rice after the sexual intercourse, he shall be fined 100 rupees. If he has not contaminated any of the fellow caste members through cooked rice, he shall be fined 50 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

10. Among nephews and nieces, if someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with his niece, who is the daughter of his sister fathered by his own father, or with his niece-in-law who is the wife of his nephew, and the latter bears the right to kill his wife's paramour according to the *Ain*—irrespective of whether she is married or unmarried, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. Water may be accepted from his hands. He shall be granted expiation with respect to water only. Such persons shall become [members of] a Non-enslavable Śūdra caste.

11. Among maternal relatives, if someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with his grandmother who gave birth to his mother, his great-grandmother who is the natural grandmother of his mother, or with his maternal aunt born to the same womb (*āta*) from where his mother is born, or with his maternal uncle's wife whose husband bears the right to kill his wife's paramour—irrespective of whether she has been accepted to consume cooked rice [with her fellow caste members] or not, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. Water from his hands may be accepted. He shall be granted expiation with respect to water only. Such persons shall become [members of] a Non-enslavable Śūdra caste.

12. Among maternal relatives, if someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with his maternal aunt who is the daughter of the step-mother of his mother, or grand-maternal aunt born from the same womb from where his maternal grandmother is born, and if she is married, the aggrieved husband may decide [whether he kills his wife's paramour or not]. If he lets [his wife's paramour] off, or if she is unmarried or widowed, [the culprit's] share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, he shall be degraded from his caste, and he shall be exiled from the village or city where he lives. Cooked rice from his hands shall not be accepted. Water may be accepted and he shall be granted expiation with respect to water only. Such a culprit shall become [a member] of a Non-enslavable Śūdra caste.

13. If someone belonging to a Sacred Thread-wearing Kṣatriya caste or similar has sexual intercourse with his maternal uncle's daughter or with his maternal uncle's daughter-in-law whose husband bears the right to kill his wife's paramour, and if she is married, [the aggrieved] husband may decide [whether he will kill his wife's paramour or not]. If she is widowed or unmarried, [the culprit] shall not be held accountable for committing a *rājakhata*.

14. Among the bridal family, if someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with his mother-in-law who gave birth to his wife and whose husband bears the right to kill his wife's paramour according to the *Ain*, with his grandmother-in-law who gave birth to his father and mother-in-law—irrespective of whether she is married or widowed and whether she has been accepted to consume cooked rice [with her fellow caste members] or not—his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed. His head shall be shaved, he shall be fed alcohol and pig meat, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. Water from his hands may be accepted; he shall be granted expiation with respect to water only. He shall become [a member of] a Non-enslavable Śūdra caste.

15. If someone belonging to a Sacred Thread-wearing Kṣatriya caste or similar commits incest with his step-mother-in-law who is one of the wives of his father-in-law, the latter bearing the right to kill his wife's paramour according to the *Ain*, but she is different from his full mother-in-law who gave birth to his wife, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed. He shall be degraded from his caste and shall be exiled from the village or city where he lives. Cooked rice from the hands of such a person shall not be accepted. Water from his hands may be accepted; he shall be granted expiation for water only. Such a person shall become [a member of] a Non-enslavable Śūdra caste.

16. If someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with his female guru who gave himself or his wife the [initiatory] mantra and whose husband bears the

right to kill his wife's paramour according to the *Ain*, or with the wife of the guru who bears the right to kill his wife's paramour according to the *Ain* and who gave him the [initiatory] mantra, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His Sacred Thread shall be removed, his head shall be shaved, he shall be fed alcohol and pig meat, he shall be degraded from his caste, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. Water from his hands may be accepted; he shall be granted expiation with respect to water only. He shall become [a member of] a Non-enslavable Śūdra caste.

17. If someone belonging to a Sacred Thread-wearing Kṣatriya caste commits incest with someone else's wife, whose husband does not bear the right to kill his wife's paramour according to the *Ain*, from whom cooked rice may not be accepted, who has been brought in [by her husband], being her third sexual [partner], and who is his blood relative and [having sexual intercourse] with her falls under a *rājakhata*, [the culprit] shall be imprisoned for 1 year, because cooked rice cannot be shared between him and her, and her aggrieved husband is not allowed to kill his wife's paramour. He shall not lose his caste status. If he has consumed cooked rice from her hands after committing the incest, but has not contaminated his fellow caste members through cooked rice, he shall be imprisoned for 1 year and let off after he has been placed in the caste of that woman. If he has consumed cooked rice from her hands and also has contaminated his fellow caste members, his share of property shall, in accordance with the *Ain*, be confiscated, he shall be imprisoned for 1 year, and he shall be placed in the respective caste of that woman. If he pays the fine in lieu of his prison term, it shall be accepted and he shall be set free.

18. If someone belonging to a Sacred Thread-wearing Kṣatriya caste or similar commits incest with someone else's wife, who has been brought into the household [by her husband] following three previous paramours, from whom cooked rice may not be accepted,<sup>486</sup> who is his blood relative and [having sexual intercourse] with her falls under a *rājakhata*, [the culprit] shall be imprisoned for 6 months and be set free. He shall not lose his caste. If he has sexual intercourse with such a woman who has not been brought into the household but kept hidden, he shall not be held accountable.

19. If someone belonging to a Sacred Thread-wearing caste other than an Upādhyāya [Brahmin], a Rajapūta or an Asala Jaisī has illicit sexual intercourse with his widowed older brother's wife, who has declared that she will remain faithful to her [deceased] husband and who is below the age of 11, by committing one of the following acts: making her consume intoxicating substances, confining or gagging her, it shall be considered rape. His share of property shall, in accordance with the *Ain*, be confiscated. [A fee] of 10 percent [of his confiscated property] shall be taken from him and it shall be given to that woman. The culprit who raped her shall be

486 *bhāta calanyā*, read *bhāta nacahnyā* (MA<sub>2</sub>).

imprisoned for 6 years. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

20. If someone belonging to a Sacred Thread-wearing caste other than an Upādhyāya [Brahmin], a Rajapūta or an Asala Jaisī has illicit sexual intercourse with the widow of his older brother, who has declared she will remain faithful to her [deceased] husband and who is past the age of 11, by committing one of the following acts: making her consume intoxicating substances, confining or gagging her, it shall be considered rape. His share of property shall, in accordance with the *Ain*, be confiscated. A *kacaharī* office shall collect 10 percent [of the confiscated property as a fee] and it shall be given to that woman. The culprit who raped her shall be imprisoned for 3 years. If he pays double the amount in lieu of his prison term, it shall be accepted and he shall be set free.

21. If someone belonging to a Sacred Thread-wearing Kṣatriya caste or similar, other than an Upādhyāya, who has [not]<sup>487</sup> been initiated, and thus has not been accepted to consume cooked rice [together with his fellow caste members] has consensual illicit sexual intercourse with his older brother's wife, and if someone comes to complain that the former has contaminated [his fellow caste members] through cooked rice, such a younger brother-in-law who has illicit sexual intercourse [with his elder sister-in-law] and who is not initiated shall be fined 20 rupees. Someone who consumes cooked rice from his hands under deception shall be granted expiation. If he has not contaminated [anyone] through cooked rice, he shall not be held accountable. An older brother's wife who lets her younger brother-in-law have illicit sexual intercourse with her shall not be accepted to consume cooked rice with her fellow caste members.

487 The negation is missing in MA<sub>1</sub> and MA<sub>2</sub>.

## 117. [On Incest among] Non-enslavable Alcohol-drinking Castes

**The regulations applicable to someone belonging to a Non-enslavable Alcohol-drinking caste who commits incest within his blood relations:**

### *Particulars*

1. Someone belonging to a Non-enslavable Alcohol-drinking caste or similar who commits incest with his natural mother, shall be executed—irrespective of whether she is married, widowed or a common woman.<sup>488</sup>

2. Someone belonging to a Non-enslavable Alcohol-drinking caste or similar who commits incest with his sister, who his father himself has begotten or with his daughter he himself has begotten, shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*.

3. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest [with the following persons], sharing with him a common ancestor more than 4 generations back, other than his natural mother, sisters who his father himself has begotten, or older brother's wife: step-mother, [step-]grandmother, younger sisters-in-law, daughters-in-law or granddaughters-in-law whose husbands, in accordance with the *Ain*, bear the right to kill his wife's paramour, or classificatory sister, daughter, granddaughter or paternal aunt, his share of property shall, in accordance with the *Ain*, be confiscated—irrespective of whether the woman is married, widowed or unmarried—his head shall be shaved, he shall be fed dog meat, his caste shall be degraded, he shall be deprived of his right to consume cooked rice with his fellow caste members and he shall be chased away—after having taken him around the city or *gaudās*—across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. He shall not be granted expiation (*patiyā*). Such a person shall become [a member of] an Enslavable Bhoṭe caste. Water may be accepted [from his hands]; he shall be granted expiation with respect to water only.

4. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with an unmarried or widowed woman who is within his blood relations, sharing with him

488 The law prescribing death punishment for incest with one's natural mother is the first section in Art. 116–120.

a common ancestor from more than 4 generations up to 7 generations back, and who is past the age of 11, his property shall, in accordance with the *Ain*, be confiscated, he shall be degraded from his caste and shall be placed in a Bhoṭe caste. Water shall be acceptable [from his hands]; he shall be granted expiation with respect to water only.

5. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with an unmarried or widowed woman within his blood relations, sharing with him a common ancestor from more than 7 generations up to 14 generations back, and who is past the age of 11, he shall be fined 50 rupees. Such a man and woman shall be separated from each other and they shall be granted expiation for cooked rice and water. They shall not lose their caste status. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

6. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with an unmarried or widowed woman within his blood relations, sharing with him a common ancestor from more than 14 generations up to any further [generation], and who is past the age of 11, he shall be fined 20 rupees. Such a man and woman shall be separated from each other. They shall not lose their caste status. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

7. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar has consensual sexual intercourse with the widow of his older brother, both parties shall not be held accountable for committing a heinous crime (*rājakhata*). If he commits adultery with his older brother's ritually married wife, it shall be up to the will of the aggrieved husband whether he, in accordance with the *Ain*, confiscates his wife's paramour's share of property and exiles him from the village or city where he lives, after degrading him from his caste, or whether he lets his wife's paramour off without doing anything of that kind. If such an aggrieved husband lets his [wife's paramour] off, giving him an excuse for his crime and without punishing him, [the adulterer] shall not lose his caste. If such an aggrieved husband comes to complain [to government offices], the *aḍḍā*, *gaudā*, *adālata*, *ṭhānā* or *amāla* office shall arrest his wife's paramour, shall, in accordance with the *Ain*, confiscate his share of property, shall place him in an Enslavable Bhoṭe caste and exile him from the village or city. Ten percent of his confiscated property shall be collected [as a fee] and it shall be given to the aggrieved husband. Regarding [the adultery] committed with his older brother's wife, if her aggrieved husband lets his wife's paramour off without punishing him, and if he does not lodge a complaint, [the culprit] shall not be held accountable for committing a *rājakhata*. He shall remain in his caste.

8. If someone belonging to a Non-enslavable Alcohol-drinking caste commits incest with his granddaughter, who is the daughter of a daughter he himself has begotten, or his granddaughter-in-law, whose husband bears the right to kill his wife's paramour according to the *Ain*, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His head shall be shaved, he shall be fed alcohol and dog meat, he shall be degraded from his caste, and he shall be chased away—after having taken him around the city or *gaudā*—across the river towards

the west, if he comes from the east, or towards the east, if he comes from the west. Such culprits shall be regarded as [members of] Enslavable Bhoṭe castes. They shall not be granted expiation for cooked rice. Water may be accepted from their hands; they shall be granted expiation for water only.

9. Among nephews and nieces, if someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his niece, who is the daughter of his sister who his father himself has begotten, or with his niece-in-law<sup>489</sup> who is the wife of his nephew, who bears the right to kill his wife's paramour according to the *Ain*—irrespective of whether she is married, unmarried or widowed, his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His head shall be shaved, he shall be fed dog meat, he shall be degraded from his caste and shall be chased away—after having taken him around the city or *gaudā* and having deprived him of his right to consume cooked rice together with his fellow caste members—across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Such persons shall become [members of] an Enslavable Bhoṭe caste. They shall not obtain expiation for cooked rice. Water may be accepted from their hands; they shall be granted expiation with respect water only.

10. Among the maternal relatives, if someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his grandmother, who gave birth to his mother, or with his maternal aunt born to the same womb from which his mother is born, or with his maternal uncle's wife whose husband bears the right to kill his wife's paramour—irrespective of whether she has been accepted to consume cooked rice [with her fellow caste members] or not—his property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His head shall be shaved, he shall be fed dog meat, he shall be degraded from his caste, and he shall be chased away—after having taken him around the city or *gaudā* and having deprived him of his right to consume cooked rice together with his fellow caste members—across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Such a person shall become [a member of] an Enslavable Bhoṭe caste. He shall not obtain expiation for cooked rice. Water may be accepted from his hands; he shall be granted expiation with respect to water only.

11. Among the maternal relations, if someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his maternal aunt, who is the daughter of the step-mother of his mother, or grandmother who is the daughter fathered by the same father of the mother's mother (i.e. grand-aunt), and she is married, it shall be up to the will of the aggrieved husband [whether he kills his wife's paramour or not]. If he lets [his wife's paramour] off, or if she is unmarried or widowed, [the culprit's] share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*, and he shall be exiled from the village or city where he lives. Cooked

489 *jāṃjyā vuhāriko*, read *bhāṃjyā buhāriko* (MA<sub>2</sub>).

117. [On Incest among] Non-enslavable Alcohol-drinking Castes

rice from his hands shall not be accepted. Water may be accepted; he shall be granted expiation for water only. Such [a culprit] shall become [a member of] an Enslavable Parjā caste.

12. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar has consensual illicit sexual intercourse with his maternal uncle's daughter or with his maternal uncle's daughter-in-law, whose husband bears the right to kill his wife's paramour, and she is married, it shall be up to the will of the aggrieved husband [as to whether he kills his wife's paramour or not]. If she is unmarried or widowed, he shall not be held accountable for committing a *rājakhata*<sup>490</sup>.

13. Among the bridal family, if someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his mother-in-law who gave birth to his wife, with his grandmother-in-law who gave birth to his father and mother-in-law, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*—irrespective of whether she is married or widowed and whether she has been accepted to consume cooked rice [with her fellow caste members] or not. His head shall be shaved, he shall be fed dog meat, he shall be degraded from his caste, and he shall be chased away—after having taken him around the city or *gauḍā* and having deprived him of his right to consume cooked rice together with his fellow caste members—across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Such persons shall become [members of] an Enslavable Bhoṭe caste. Water from their hands may be accepted; they shall be granted expiation with respect to water only.

14. Among the bridal family, if someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his [step] mother-in-law, who is the co-wife of his father-in-law, who bears the right to kill his wife's paramour according to the *Ain*, he shall be exiled from the village or city where he lives, after having his share of property confiscated in accordance with the *Ain*, because it is a *rājakhata*. Cooked rice from his hands shall not be accepted. Water may be accepted from his hands; he shall be granted expiation with respect to water only.

15. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his female guru who gave his wife the initiatory mantra, or with the wife of his guru who gave him himself the initiatory mantra and who bears the right to kill his wife's paramour according to the *Ain*, his share of property shall, in accordance with the *Ain*, be confiscated, because it is a *rājakhata*. His head shall be shaved, he shall be fed dog meat, he shall be degraded from his caste, and he shall be chased away—after having taken him around the city or *gauḍā* and having deprived him of his right to consume cooked rice together with his fellow caste members—across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Such a person shall become [a member of] an Enslavable Bhoṭe caste. They shall not obtain expiation for cooked rice. Water may be accepted from their hands; they shall be granted expiation with respect to water only.

490 *rāja*, read *rājakhata lāgdaina* (MA<sub>2</sub>).



16. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with someone else's wife, whose husband does not bear the right to kill his wife's paramour according to the *Ain*,<sup>491</sup> from whom cooked rice may not be accepted, who has been brought in [by her husband], as her third sexual partner, and who is his blood relative and [having sexual intercourse] with her falls under a *rājakhata*, and if he has not contaminated any of his fellow caste members through cooked rice after the incest, [the culprit] shall be imprisoned for 1 year, because cooked rice cannot be shared between him and her, and her aggrieved husband is not allowed to kill his wife's paramour. He shall not lose his caste status. If he also contaminates his fellow caste members through cooked rice after the incest, he shall be imprisoned for 1½ years. If he pays the fine in lieu of his prison term, it shall be accepted and he shall be set free.

17. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with someone else's wife, who has been brought in [by her husband] following three previous paramours, and from whom cooked rice may not be accepted, who is his blood relative and [having sexual intercourse] with her falls under a *rājakhata*, [the culprit] shall be imprisoned for 6 months and be set free. He shall not lose his caste status. If he has sexual intercourse with such a woman who has not been brought into the house but kept hidden, he shall not be held accountable.

18. If someone belonging to a Non-enslavable Alcohol-drinking caste or similar commits incest with his niece, born to the daughter of his paternal uncle, who is fathered by the same grandfather [who fathered his father], or with his granddaughter, born to the daughter of his brother, who is fathered by the same father, and she is married, it shall, in accordance with the *Ain*, be up to the will of her aggrieved husband [as to whether he kills his wife's paramour or not]. If she is unmarried or widowed, his share of property shall, in accordance with the *Ain*, be confiscated, his head shall be shaved, he shall be fed dog meat, he shall be degraded from his caste, and he shall be chased away, after having taken him around the city or *gauḍā* and having deprived him of his right to consume cooked rice together with his fellow caste members. Cooked rice from the hands of such a person shall not be accepted. Such persons shall become [members of] an Enslavable Bhoṭe caste. Water may be accepted; they shall be granted expiation with respect to water only. If such a person has illicit sexual intercourse with a woman among his relatives or clan members other than the above-mentioned relatives, and who does not fall under his blood relations, and if he contaminates his fellow caste members through cooked rice after the illicit sexual intercourse, and she is married, it shall, in accordance with the *Ain*, be up to the will of her aggrieved husband [as to whether he kills his wife's paramour or not]. If she is unmarried or widowed and has passed the age of 11, he shall be punished in accordance with the regulation applicable to someone who has sexual intercourse with an unmarried or widowed woman who is not of his relatives [or clan members]. If he has not contaminated [his fellow caste members] through cooked rice, he shall not be held accountable.

491 *ainale jāra hāṃna hunyā*, read *ainale jāra hāṃna nahunyā* (MA<sub>2</sub>).

## 118. On [Incest among] Enslavable Alcohol-drinking Castes

**The regulations applicable to someone belonging to an Enslavable Alcohol-drinking Caste who commits incest within blood relations:**

### *Particulars*

1. Someone belonging to an Enslavable Alcohol-drinking caste who commits incest with his natural mother, shall be executed—irrespective of whether she is married, widowed or a common woman.<sup>492</sup>

2. Someone belonging to an Enslavable Alcohol-drinking caste who commits incest with his sister, begotten by his father himself, or with his daughter he himself has begotten, shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*.

3. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with an unmarried girl, married woman or widow of his blood relations who shares with him a common ancestor up to 5 generations back, who is past the age of 11 and who is not his natural mother, nor a sister his father himself has begotten, nor a daughter he himself has begotten, nor an older brother's wife, both such a man and woman shall be enslaved.

4. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with an unmarried or widowed woman of his blood relations who has passed the age of 11 and who shares with him a common ancestor from more than 5 generations back and up to 14 generations, such a man and woman shall be fined 15 and 10 rupees respectively and they shall be separated from each other. Someone [belonging to an Enslavable Alcohol-drinking caste] who commits incest [with a woman] who, in his family tree, is related to him more than 5 generations back shall not be enslaved.

5. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with a person of his or her blood relation who shares a common ancestor from more than 14 generations back, such a man and woman shall be fined 12 and 8 rupees respectively.

492 The law prescribing death punishment for incest with one's natural mother is the first section in Art. 116–120.

6. Among the Enslavable Alcohol-drinking castes, if someone from whom water may be accepted commits incest with a married woman of his blood relations who shares a common ancestor more than 5 generations back, and who has entered marriage or has been wedded according to the marriage rites of her caste, he shall be made to pay 20 rupees to her aggrieved husband for the marriage expenses and shall be fined 20 rupees. Since it is incest, such a woman shall be fined 10 rupees. If he commits incest with such a woman, who has been brought in without being wedded according to the marriage rites of her caste, and who has been accepted to consume cooked rice with [her aggrieved husband's] fellow caste members, he shall not need to compensate [her aggrieved husband] for the marriage expenses. Both such a man and woman shall be fined 10 rupees each. If he commits incest with such a woman who has been brought in and kept in the house, but has not been accepted to consume cooked rice [with her aggrieved husband's] fellow caste members and to perform caste rituals with them, such [an adulterer] shall be fined 10 rupees and she shall be fined 5 rupees. They shall be separated from each other. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

7. If someone belonging to an Enslavable Alcohol-drinking caste has consensual sexual intercourse with the widow of his older brother, both parties shall not be held accountable for committing a heinous crime (*rājakhata*). If he has sexual intercourse with his older brother's ritually married wife, since her aggrieved husband, although he belongs to a caste bearing the right to kill his wife's paramour, is not permitted to kill his wife's paramour [in such a case], it shall be up to the will of the aggrieved husband whether he, in accordance with the *Ain*, confiscates his wife's paramour's share of property, or exiles him from the village or city where he lives, or whether he lets his wife's paramour off without doing any such. If such an aggrieved husband lets his [wife's paramour] off, giving him an excuse for his crime and without punishing him, [the adulterer] shall not lose his caste. If such an aggrieved husband comes [to government offices] and declares that he will not punish his wife's paramour, the *aḍḍā*, *gaudā*, *adālata*, *ṭhānā* or *amāla* offices shall, in accordance with the *Ain*, confiscate the share of property of such [an adulterer], shall collect 10 percent of [the total value], and give it to that aggrieved husband. The adulterer shall be imprisoned for 6 months. If he pays the amount in lieu of his prison term, it shall be accepted. If the aggrieved husband forgives his wife's paramour and lets him off without punishing him, [the latter] shall not be held accountable for committing a *rājakhata*. He shall not lose his caste. Both such a man and woman, if they belong to a caste whose members do not bear the right to kill their wives' paramour [in such a case of adultery], shall be enslaved.

8. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with his granddaughter,<sup>493</sup> who is daughter of the daughter he himself has begotten, or his granddaughter-in-law, whose husband bears the right to kill his wife's paramour according to the *Ain*, both the man who committed incest and the woman who let him do so shall be enslaved, because it is a *rājakhata*.

493 *nāti*, read *nātini* (MA<sub>2</sub>).

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9. Among nephews and nieces, if someone belonging to an Enslavable Alcohol-drinking caste commits incest with his niece, who is the daughter of his sister fathered by the same father as he is, or with his niece-in-law who is the wife of his nephew bearing the right to kill his wife's paramour according to the *Ain*—irrespective of whether she is married, widowed or unmarried, both shall be enslaved, because it is a *rājakhata*.

10. Among the maternal relations, if someone belonging to an Enslavable Alcohol-drinking caste commits incest with his grandmother who gave birth to his mother, or with his maternal aunt fathered by the same father of his mother, or with his maternal uncle's wife whose husband bears the right to kill his wife's paramour, both shall be enslaved, because it is a *rājakhata*.

11. Among the maternal relatives, if someone belonging to an Enslavable Alcohol-drinking caste commits incest with his maternal aunt who is the daughter of the stepmother of his mother, or grandmother who is the daughter fathered by the same father of the mother's mother (i.e. grand-aunt), and she is married, he shall be made to pay 20 rupees to her aggrieved husband for the marriage expenses, and both such a man and woman shall be fined 20 and 10 rupees, respectively. If such a woman is unmarried or widowed, the man shall be fined 15 rupees and woman shall be fined 10 rupees, because it is a *rājakhata*.

12. Among the family from the bride's side, if someone belonging to an Enslavable Alcohol-drinking caste commits incest with his mother-in-law who gave birth to his wife, with a co-wife of his father-in-law who has entered marriage, with his grandmother-in-law who gave birth to his father and mother-in-law,<sup>494</sup> both such a man who committed incest and the woman who let him do so shall be enslaved, because it is a *rājakhata*.

13. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with his female guru who gave him the initiatory mantra, or with the wife of his guru who gave him the initiatory mantra and who bears the right to kill his wife's paramour according to the *Ain*, both shall be enslaved.

14. Among the women, any who lets her natural father, her brother whom her father himself has begotten, her son whom she herself has begotten or her father-in-law commit incest with her, if she belongs to a Non-enslavable caste, she shall be imprisoned for 3 years. If she pays the amount in lieu of her prison term, it shall be accepted and she shall be set free. If such a woman belongs to an Enslavable, Water-unacceptable [but Touchable] or Untouchable caste, she shall be enslaved.

15. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with his niece born to the daughter of his paternal uncle, who is born from the same grandfather, or with his granddaughter born to the daughter of his brother, who is born from the same father, and she

494 *sadhu*, read *sāsu* (MA<sub>2</sub>).

is married, it shall, in accordance with the *Ain*, be up to the will of her aggrieved husband [as to whether he punishes his wife's paramour or not]. If she is unmarried or widowed, both such a man who committed incest and the woman who let him do so shall be enslaved. If such a person has illicit sexual intercourse with a woman among his relatives or clan members other than the ones mentioned above, and if he has contaminated his fellow caste members through cooked rice after the illicit sexual intercourse, and if she is married, it shall, in accordance with the *Ain*, be up to the will of her aggrieved husband [as to whether he punishes his wife's paramour or not]. If she is unmarried or widowed and is past the age of 11, he shall be punished in accordance with the regulation applicable to someone who has sexual intercourse with an unmarried or widowed woman who is not among his relatives [or clan members]. If he has not contaminated [his fellow caste members] through cooked rice, he shall not be held accountable.

## 119. On [Incest among Water-unacceptable but] Touchable Castes

**These regulations are applicable to someone belonging to a Water-unacceptable but Touchable caste, including Curaṭe Muslims, but excludes foreign Muslims; they deal with those committing incest within blood relations:**

### *Particulars*

1. Someone belonging to a Water-unacceptable but Touchable caste other than [foreign] Muslims who commits incest with his natural mother, shall be executed—irrespective of whether she is married, widowed or a common woman.<sup>495</sup>

2. Someone belonging to a Water-unacceptable but Touchable caste who commits incest with his sister, begotten by his own father or with the daughter he himself has begotten, shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*.

3. If someone belonging to a Water-unacceptable but Touchable caste commits incest with a married, widowed or unmarried woman of his blood relations who shares with him a common ancestor up to 4 generations back, who is past the age of 11, and who is not his natural mother, his daughter he himself has begotten, or his older brother's wife, both such a man who committed incest and such a woman who let him do so shall be enslaved.

4. A man belonging to a Water-unacceptable but Touchable caste, excluding [foreign] Muslims, who commits incest with a widowed or unmarried woman of his blood relations who is past the age of 11 shall be fined 12 rupees, irrespective of how many generations back such a woman shares a common ancestor with him, if she shares a common ancestor more than 4 generations back from him. Such a woman shall be fined 8 rupees, and such a man and woman shall be separated from each other. They shall not lose their caste.

5. If someone belonging to a Water-unacceptable but Touchable caste, excluding [foreign] Muslims, commits incest with a married woman of his blood relations who shares with him

<sup>495</sup> The law prescribing death punishment for incest with one's natural mother is the first section in Art. 116–120.

a common ancestor more than 4 generations back, and she has entered marriage or has been wedded by performing the marriage rites according to her caste customs, such a man shall be fined 15 rupees, after having made him compensate [her aggrieved husband] 15 rupees for the marriage expenses. Such an incestuous woman shall be fined 8 rupees. If he commits incest with such a woman who has been brought in without being wedded according to the marriage rites of her caste and who has been accepted to consume cooked rice with [her aggrieved husband's] fellow caste members, he shall not need to compensate [her aggrieved husband] for the marriage expenses. Both such a man and woman shall be fined 15 and 8 rupees, respectively. If he commits incest with such a woman who has been brought in and kept in the house, but has not been accepted to consume cooked rice [with her aggrieved husband's] fellow caste members, such [an adulterer] shall be fined 8 rupees and she shall be fined 5 rupees. They shall be separated from each other. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

6. If someone belonging to a Water-unacceptable but Touchable caste, excluding [foreign] Muslims, has consensual sexual intercourse with his widowed older brother's wife, both parties shall not be held accountable for committing a heinous crime (*rājakhata*). If he has sexual intercourse with his [ritually] married older brother's wife, it shall be up to the will of her aggrieved husband as to whether he, in accordance with the *Ain*, confiscates his wife's paramour's share of property and exiles him from the village or city where he lives, or whether he lets his wife's paramour off without doing any such thing. If such an aggrieved husband lets his [wife's paramour] off, giving him an excuse for his crime and without punishing him, [the adulterer] shall not lose his caste. If such an aggrieved husband comes [to government offices] and complains that [his wife's paramour] should be punished, the *addā*, *gaudā*, *adālata*, *ṭhānā* or *amāla* office shall arrest such a culprit who committed adultery [with someone else's wife], and shall, in accordance with the *Ain*, confiscate his share of property, collect 10 percent of [its total value], and give it to that aggrieved husband. The adulterer shall be imprisoned for 4 months.

7. Among the nephews and nieces, if someone belonging to a Water-unacceptable but Touchable caste, excluding [foreign] Muslims, commits incest with his niece, who is the daughter of his sister, fathered by the same father, or with his niece-in-law who is the wife of his nephew, who bears the right to kill his wife's paramour according to the *Ain*, both such an incestuous man and woman shall be enslaved.

8. Among the maternal relations, if someone belonging to a Water-unacceptable but Touchable caste, excluding [foreign] Muslims, commits incest with his grandmother who gave birth to his mother, or with his maternal aunt born of the mother of his mother, or with his maternal aunt born to a stepmother of his mother, or with his maternal uncle's wife, whose husband bears the right to kill his wife's paramour, or with his grand-aunt who is a sister of his maternal grandmother born from the same womb, both such a man and woman shall be enslaved.

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9. Among the bridal family, if someone belonging to a Water-unacceptable but Touchable caste, excluding [foreign] Muslims, commits incest with his mother-in-law who gave birth to his wife, with a co-wife of his father-in-law who has entered marriage, or with his grandmother-in-law who gave birth to his father and mother-in-law, both such a man who committed incest and the woman who let him do so shall be enslaved.



## 120. On [Incest among] Untouchable Castes

**The regulations applicable to someone belonging to an Untouchable Caste who commits incest within blood relations:**

### *Particulars*

1. Someone belonging to an Untouchable caste who commits incest with his natural mother shall be executed—irrespective of whether she is married, widowed or a common woman.<sup>496</sup>

2. Someone belonging to an Untouchable caste who commits incest with his sister, begotten by his own father, or with the daughter he himself has begotten, shall be punished by *dāmala*, after his share of property has been confiscated, in accordance with the *Ain*.

3. If someone belonging to an Untouchable caste commits incest with a married, widowed or unmarried woman of his blood relations who shares with him a common ancestor up to 4 generations back, who has passed the age of 11 and who is not his natural mother, or sister begotten by his own father, or the daughter he himself has begotten, both such a man who committed incest and the woman who let him do so shall be enslaved.

4. A man belonging to an Untouchable caste who commits incest with a widowed or unmarried woman of his blood relations who has passed the age of 11 shall be fined 12 rupees, irrespective of how many generations back such a woman shares a common ancestor with him, if she shares [an ancestor] up to 4 generations back. Such a woman shall be fined 8 rupees, and both [adulterers] shall be separated from each other. They shall not lose their caste.

5. If someone belonging to an Untouchable caste commits incest with a married woman of his blood relations who shares with him a common ancestor more than 4 generations back, and she has entered marriage or has been wedded by performing the marriage rites according to her caste custom, such a man shall be fined 15 rupees, after he has been made to compensate [her aggrieved husband] with 15 rupees for the marriage expenses. Such an incestuous woman shall be fined 8 rupees. If he commits incest with such a woman who has been brought in without performing the marriage rites of her caste customs, and who has been accepted to consume cooked rice with

<sup>496</sup> The regulation prescribing death for incest with one's natural mother is the first section in Art. 116–120.

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[her aggrieved husband's] fellow caste members, he shall not need to compensate [her aggrieved husband] for the marriage expenses. Both such a man and woman shall be fined 15 and 8 rupees, respectively. If he commits incest with such a woman who has been brought into and kept in the household, but has not been accepted to consume cooked rice [with her aggrieved husband's] fellow caste members, such [an adulterer] shall be fined 8 rupees and she shall be fined 5 rupees. They shall be separated from each other. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

6. If someone belonging to an Untouchable caste has consensual sexual intercourse with the widow of his older brother, both parties shall not be held accountable for committing a heinous crime (*rājakhata*). If he has sexual intercourse with his older brother's ritually married wife, it shall be up to the will of her aggrieved husband as to whether he, in accordance with the *Ain*, confiscates his wife's paramour's share of property and exiles him from the village or city where he lives, or whether he lets his wife's paramour off without doing any such thing. If such an aggrieved husband lets his [wife's paramour] off, giving him an excuse for his crime and without punishing him, [the adulterer] shall not lose his caste. If such an aggrieved husband comes [to government offices] and complains that [his wife's paramour] should be punished, the *aḍḍā*, *gaudā*, *adālata*, *ṭhānā* or *amāla* offices shall arrest such a culprit who committed adultery [with someone's wife], and they shall, in accordance with the *Ain*, confiscate his share of property, shall collect 10 percent of [its total value], and give it to that aggrieved husband. With regard to an adultery committed with an elder sister in-law, if the aggrieved husband lets his wife's paramour off without punishing him, no *rājakhata* shall be assigned.

7. Among nephews and nieces, if someone belonging to an Untouchable caste commits incest with his niece who is daughter of his sister, fathered by the same father, or with his niece-in-law who is the wife of his nephew who bears the right to kill his wife's paramour according to the *Ain*, both such an incestuous man and woman shall be enslaved.

8. Among the maternal relatives, if someone belonging to an Untouchable caste commits incest with his grandmother who gave birth to his mother, or with his maternal aunt born of the mother of his mother, or with his maternal uncle's wife whose husband bears the right to kill his wife's paramour, or with his grand-aunt who is a sister of his maternal grandmother, fathered by the same father, both such an incestuous man and woman shall be enslaved.

9. Among the bridal family, if someone belonging to an Untouchable caste commits incest with his mother-in-law who gave birth to his wife, with a co-wife of his father-in-law who has entered marriage, or with his grandmother-in-law who gave birth to his father and mother-in-law, both such an incestuous man and woman shall be enslaved.

## 121. [On Incest with Non-blood Relatives]

**The regulations applicable to someone who has sexual intercourse with relatives other than those related by blood with whom committing sexual intercourse would result in a heinous crime (*rājakhata*):**

### *Particulars*

1. If someone commits incest [with a woman] of his blood relations or of [any other] relations with whom committing incest, as laid down in the *Ain*, results in punishment, he shall be punished according to the *Ain*. If someone has illicit sexual intercourse [with a woman] among his [non-blood] relatives (*aru nātā*)<sup>497</sup> other than those with whom having sexual intercourse, as laid down in the *Ain*, results in punishment, and if she is married, it shall be up to the will of her aggrieved husband [whether he punishes his wife's paramour or not]. If such a woman is unmarried or widowed and from the same caste as the man, and if the illicit sexual intercourse is consensual, and if such a man has not contaminated his and her fellow caste members through cooked rice after the illicit sexual intercourse, he shall not be held accountable. If he has contaminated any of the fellow caste members after the illicit sexual intercourse, [such a] Brahmin culprit shall be fined 100 rupees. If he belongs to a Rajapūta, Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, he shall be fined 60, 50, 20, or 5 rupees, respectively. If he rapes her, he shall be fined in accordance with the *Ain*'s [Art. 132–133] 'On Rape'. If someone takes a widow as a concubine or enters into marriage with someone who is his relative, other than a blood relative with whom marriage is punishable as laid down in the *Ain*, he shall not be held accountable.

2. If someone commits incest with [a woman] who is his relative on his paternal aunt's side and punishment is laid down in the *Ain* for having illicit sexual intercourse with her, he shall be punished in accordance with the *Ain*. If he has consensual illicit sexual intercourse with such a woman who is married, other than [a woman] for whom punishment is laid down in the *Ain* for having illicit sexual intercourse and who belongs to the [same] caste as he does, and if he has not contaminated his and her fellow caste members through cooked rice, he shall not be held accountable. If he has contaminated any of the fellow caste members through cooked rice after the

497 This refers to all relatives who do not fall under the category of 'bone or blood relatives' (*hādanātā*), that are specified in Art. 113–120.

121. [On Incest with Non-blood Relatives]

illicit sexual intercourse, he—if he is a Brahmin—shall be fined 100 rupees. If he belongs to a Rajapūta, Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, he shall be fined 60, 50, 20, or 5 rupees, respectively. If he rapes her, he shall be fined in accordance with the *Ain*'s [Art. 132–133] 'On Rape'. If someone marries a woman from his paternal aunt's family, but not his parental aunt herself, or if he takes a widowed woman [from his parental aunt's family] to wife, he shall not be held accountable.

3. Among the maternal relatives, if someone commits incest with his maternal grandmother who gave birth to his mother, with his maternal aunt who was born to his maternal grandmother and fathered by his maternal grandfather, with the wife of his maternal uncle who bears the right to kill his wife's paramour according to the *Ain*, with his maternal aunt who is the daughter of his mother's stepmother, or with his grand-aunt who is born from the same womb whence his maternal grandmother was born, he shall, in accordance with the *Ain*, be punished. If he has illicit sexual intercourse with a woman from his maternal [non-blood] relatives other than these, and if she is married, it shall be up to the will of her aggrieved husband [whether he punishes his wife's paramour or not]. If he has illicit sexual intercourse with any such unmarried or widowed woman who belongs to the same caste as he does, and if he has not contaminated his and her fellow caste members through cooked rice after the illicit sexual intercourse, he shall not be held accountable. If he has contaminated any of the fellow caste members through cooked rice after the illicit sexual intercourse, he—if he is a Brahmin—shall be fined 100 rupees. If he belongs to a Rajapūta, Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, he shall be fined 60, 50, 20, or 5 rupees, respectively. If he rapes her, he shall be fined in accordance with the *Ain*'s [Art. 132–133] 'On Rape'. If he marries a woman from his maternal family side, but other than one for whom punishment is written down in the *Ain* for sexual intercourse with her, or if he takes a widowed woman [from his maternal family] as wife, he shall not be held accountable.

4. Among the nephews and nieces, if someone commits incest with his niece who is the daughter of his sister born of the same father, or with his niece-in-law who is the wife of his nephew, bearing the right to kill his wife's paramour according to the *Ain*, he shall, in accordance with the *Ain*, be punished. If he has illicit sexual intercourse with a married woman from his nephew's and niece's family other than those [mentioned above], it shall be up to the will of her aggrieved husband [whether he kills his wife's paramour or not]. If he has illicit sexual intercourse with any such unmarried or widowed woman who belongs to the same caste as he does, and if he has not contaminated his and her fellow caste members through cooked rice after the sexual intercourse, he shall not be held accountable. If he has contaminated any of the fellow caste members through cooked rice after the illicit sexual intercourse, he—if he is a Brahmin—shall be fined 100 rupees. If he belongs to a Rajapūta, Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, he shall be fined 60, 50, 20, or 5 rupees, respectively. If he rapes her, he shall be fined in accordance with the *Ain*'s [Art. 132–133] 'On Rape'. If he marries a woman from his niece's or niece-in-law's family other than his niece or niece-in-law, or he keeps a widowed woman [from such a family] as a wife, he shall not be held accountable.

5. Among the bridal family, if someone commits incest with his mother-in-law who gave birth to his wife, with a co-wife of his father-in-law who bears the right to kill his wife's paramour, or with his grandmother-in-law who gave birth to his father- and mother-in-law, he shall, in accordance with the *Ain*, be punished. If he has illicit sexual intercourse with a married woman from the bridal family other than those [mentioned above], it shall be up to the will of her aggrieved husband [whether or not he kills his wife's paramour]. If he has illicit sexual intercourse with any such unmarried or widowed woman who belongs to the same caste as he does, and if he has not contaminated his and her fellow caste members through cooked rice after the sexual intercourse, he shall not be held accountable. If he has contaminated any of the fellow caste members through cooked rice after the illicit sexual intercourse, he—if he is a Brahmin—shall be fined 100 rupees. If he belongs to a Rajapūta, Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste, he shall be fined 60, 50, 20, or 5 rupees, respectively. If he rapes her, he shall be fined in accordance with the *Ain*'s [Art. 132–133] 'On Rape'. Among the bridal family, if he marries a woman, [such as] the wives of brothers of his father-in-law, the wives of brothers of his wife, or the maternal or paternal aunt of his wife, for whom no punishment is laid down in the *Ain* with regard to having sexual intercourse, or if he keeps any such widowed woman as a wife, he shall not be held accountable.

## 122. On Incest by a Member of a Sacred Thread-wearing Caste with a Blood Relative Who Has Become a Common Woman

1. If someone belonging to a Sacred Thread-wearing caste including Brahmins commits incest with the wife of a person of his blood relations, sharing a common ancestor with him up to 7 generations back [such as] his uncle, grandfather, brother, nephew or grandson, and who, according to the *Ain*, has the right to kill his wife's paramour,<sup>498</sup> his property, in accordance with the *Ain*, shall be confiscated, he shall be deprived of the right to consume rice with his fellow caste members, and he shall be set free, given the fact that [a] the woman in question has been legally married [to the blood relative], or was taken by [that blood relative] as a mistress after committing adultery with her, or being either unmarried or widowed, was taken as a concubine [by that blood relative], [b] she has run off with another man without remaining faithful to her husband and the culprit has had illicit sexual intercourse with her, being unaware that she had run off and committed adultery with somebody else, and [c] he has hidden the incest, consumed rice from her hands and also contaminated his fellow caste members through rice. If he has consumed cooked rice from her hands but has not contaminated his fellow caste members through cooked rice [after the incest], he shall be fined 50 rupees, shall be deprived of the right to consume cooked rice together with his fellow caste members, and shall be set free. If he has not consumed cooked rice from her hands and has also not contaminated his fellow caste members through cooked rice after the incest, he shall only be fined 50 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. He shall not lose his caste status.

2. If someone belonging to a Sacred Thread-wearing caste, including Brahmins, commits incest with a woman from his blood relations, sharing a common ancestor with her up to 7 generations back, except his natural mother, a daughter he himself has begotten and his sister born from the same parents (*ekā āta*), [such as] a paternal aunt, paternal grand-aunt, [classificatory] sister, [classificatory] daughter, granddaughter, any niece who is the daughter of his sister, whom his father himself has begotten, or a maternal aunt begotten by the same father of his mother, and mother-in-law who is the mother of his ritually married wife or his female guru, his share of property shall, in accordance with the *Ain*, be confiscated and he shall not lose his caste, under the condition that the woman in question had run off with another man without remaining faithful to her husband, and if [the offender] has committed incest with her, being unaware that [she had run] off and committed adultery with somebody else. If he has consumed cooked rice from her hands after the incest, his share of property shall be confiscated and he shall be degraded from

498 The different groups of people who bear that right are specified in Art. 134.

his caste status. If he has consumed cooked rice from her hands and has also contaminated his fellow caste members through cooked rice after the incest, he shall be imprisoned for 1 year after having his share of property confiscated in accordance with the *Ain*.

3. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits incest with his sister whom his father himself has begotten, or with his daughter whom he himself has begotten, [or with a woman] who has run off with another man without remaining faithful to her husband, such a culprit's share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread shall be removed, his head shall be shaved<sup>499</sup>, he shall be fed alcohol and pig meat, he shall be degraded from his caste and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west, irrespective of the number of men she has committed adultery with [before]. Cooked rice from the hands of such a culprit shall not be accepted. Water may be accepted; he shall be granted expiation for water only. Such culprits shall become [members] of a Non-enslavable Śūdra caste.

4. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits incest with a woman who has run off with another man without remaining faithful to her husband, and who is not the sister whom his father himself has begotten, or his daughter whom he himself has begotten, [and who is] his paternal aunt fathered by the same grandfather, or a cousin-sister whom his paternal uncle has begotten, or a daughter of his brother who is begotten by the same father, or a granddaughter whom his son himself has begotten, or a granddaughter whom his daughter himself has begotten, any niece whom his full sister has born, or any daughter of his cousin-brother who is born from his paternal uncle, or a grandmother who gave birth to his father or mother, any full maternal aunt, mother-in-law who gave birth to his ritually married wife, a female guru who gave him the initiatory mantra, or any female disciple whom he gave the initiatory mantra, then such a culprit's share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread shall be removed, he shall be degraded from his caste and shall be granted expiation for water only after separating [the culprits] from each other, irrespective of the number of men she has committed adultery with [before]. Cooked rice from their hands shall not be accepted.

5. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits incest with a woman who has run off with another man without remaining faithful to her husband and who is not his natural mother, [but] is the co-wife of his father, who bears the right to kill his wife's paramour, or the wife of his guru who gave him the initiatory mantra, or a maternal aunt who is not the full sister of his mother, a grandmother-in-law who gave birth to his father-in-law or mother-in-law or a co-wife of his father-in-law, who bears the right to kill his wife's paramour, and if he has consumed cooked rice from her hands and has also contaminated his fellow caste members through cooked rice after the incest, such a culprit's share of property shall, in accordance with the *Ain*, be confiscated, he shall be degraded from his caste,

499 *bhuḍi*, read *muḍi* (MA<sub>2</sub>).

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he shall be deprived of the right to consume cooked rice together with his fellow caste members and shall be set free. Cooked rice from the hands of such a person shall not be acceptable. If he has not contaminated [his fellow caste members] through cooked rice, he shall be fined 100 rupees and they shall be separated from each other. They shall not lose their caste status.

6. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits incest with a woman as her third [sexual] partner, and if that woman has run off with another man without remaining faithful to her husband, and is his daughter, paternal aunt, grandmother, sister and granddaughter or great granddaughter of his [classificatory] brothers, paternal uncles, grandfathers, sons or nephews of his blood relations, sharing a common ancestor with him from 3 generations up to 7 generations back, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall be this husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband, or her husband does not kill his wife's paramour, such [an incestuous man]—if he has consumed cooked rice from the hands of that woman and has also contaminated his fellow caste members through cooked rice after the incest—shall be fined 120 rupees and be deprived of the right to consume cooked rice together with his fellow caste members, because it is a heinous crime (*rājakhata*). If he has not consumed cooked rice from her hands, he shall be fined 40 rupees. If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 30 rupees. If he has committed incest with her as her fifth [sexual] partner or more, he shall be fined 15 rupees and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse [before].

7. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits incest with a woman as her third [sexual] partner, and if that woman has run off with another man without remaining faithful to her husband, and is his daughter, paternal aunt, grandmother, sister, the daughter of his sister, the granddaughter, or the great-granddaughter among his family (*dājyūbhāi*) within his blood relation, sharing a common ancestor with him from more than 7 generations up to 14 generations back, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall be the husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 120 rupees and be deprived of the right to consume cooked rice together with his fellow caste members, if he has consumed cooked rice from the hands of that woman and has also contaminated his fellow caste members through cooked rice after the incest. If he has not consumed cooked rice from her hands, he shall be fined 40 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 15 rupees. If he has committed incest with her as her fifth sexual partner or more, he shall be fined 10 rupees and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse [before].

8. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits incest with a woman as her third [sexual] partner who has run off with another



man without remaining faithful to her husband, and is his daughter, paternal aunt, grandmother, sister, niece and granddaughter or great-granddaughter from his family within his blood relations, who shares a common ancestor with him from above 14 generations up to 21 generations back, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall be the husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 120 rupees and be deprived of the right to consume cooked rice together with his fellow caste members, if he has consumed cooked rice from the hands of that woman and has also contaminated his fellow caste members through cooked rice after the incest. If he has not consumed cooked rice from her hands, he shall be fined 20 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 10 rupees. If he has committed incest with her as her fifth sexual partner or more, he shall be fined 5 rupees and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse [before]. If he commits incest with such a woman, who shares a common ancestor with him more than 21 generations back and who has committed adultery with another man without remaining faithful to her husband, he shall not be held accountable for committing a *rājakhata*.

9. If someone belonging to a Sacred Thread-wearing caste, including Upādhyāya Brahmin, commits incest, as her third [sexual] partner, with a woman who has run off with another man without remaining faithful to her husband, and who is [a] a wife of a member of his family, sharing a common ancestor with him up to 7 generations back, and who has been brought [into the household] by ritual marriage or by worshipping oil lamp (*dīyo*) and water vessel (*kalaśa*) [only] or who has been taken as a mistress by [a member of his family] after committing adultery with her, or who, being either an unmarried or widowed woman, was taken as a concubine by his maternal uncle, grandfather, brother, nephew, son or grandson, or who is [b] the wife of his maternal uncle, or [c] the wife of his nephew, the son of his sister, and if under the condition that the culprit has had illicit sexual intercourse with her, being aware that she had committed adultery with somebody else, he has not consumed cooked rice from her hands after the incest, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall, in accordance with the *Ain*, be the husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 25 rupees, because it is a *rājakhata*, if he has not contaminated his fellow caste members through cooked rice after the incest. If he has consumed cooked rice from the hands of that woman and has also contaminated his fellow caste members through cooked rice [after the incest], he shall be fined 120 rupees and be set free, after being deprived of the right to consume cooked rice together with his fellow caste members. If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 15 rupees. If he has committed incest with her as her fifth [sexual] partner or more, he shall be fined 10 rupees and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse [before].

10. If someone belonging to a Sacred Thread-wearing caste, including an Upādhyāya Brahmin, commits, as her third sexual partner, incest with a wife of his male family members

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sharing with him a common ancestor from 7 generations up to 14 generations back—a wife who [a] has been brought [into the household] by ritual marriage or by worshiping *diyo* and *kalaśa* [only] or [b] who has been taken as a mistress by [a member of his family] after committing adultery with her, or [c] who, being an unmarried or widowed woman, was taken as a concubine [by a family member] and who has committed adultery with another man without remaining faithful to her husband, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall, in accordance with the *Ain*, be the husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband, and if he has consumed cooked rice from the hands of that woman and has also contaminated his fellow caste members through cooked rice after the incest, he shall be fined 120 rupees and be deprived of the right to consume cooked rice together with his fellow caste members. If he has not consumed cooked rice from her hands, he shall be fined 15 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 10 rupees. If he has committed incest with her as her fifth sexual partner, he shall be fined 5 rupees and they shall be separated from each other. If he has illicit sexual intercourse with such a woman who shares a common ancestor with him more than 14 generations back, and who has run off with another man without remaining faithful to her husband, he shall not be held accountable for committing a *rājakhata*.

## 123. On [Incest] by a Member of a Non-enslavable [Alcohol-drinking Caste with a Relative Who Has Become a Common Woman]

1. If someone belonging to a Non-enslavable Alcohol-drinking caste commits incest with his sister, whom his father himself has begotten, or with his daughter whom he himself has begotten, and who, being unfaithful to her husband, has committed adultery with another man, such a culprit's share of property shall, in accordance with the *Ain*, be confiscated—irrespective of after whatever number [of other men] he has sexual intercourse with her, his head shall be shaved, he shall be fed dog meat, he shall be deprived of the right to consume cooked rice together with his fellow caste members, and he shall be chased away across the river towards the west, if he comes from the east, or towards the east, if he comes from the west. Cooked rice from the hands of such a person shall not be accepted. Water may be accepted [from his hands]; he shall be granted expiation with respect to water only. Such [culprits] become members of Enslavable Bhoṭe castes.

2. If someone belonging to a Non-enslavable Alcohol-drinking caste commits incest with a woman from his blood relations with whom he shares a common ancestor up to 4 generations back, and who, being unfaithful to her husband, has committed adultery [before] with another man and who is the paternal grand-aunt, paternal aunt, sister, or grandmother who gave birth to his father or mother, or mother-in-law who gave birth to his wife, or maternal aunt who is the full sister of his mother, or the female guru who gave him the initiatory mantra, and if such [an incestuous woman] has a husband bearing the right to kill his wife's paramour, it shall be this husband's decision [whether he kills his wife's paramour or not], irrespective of the number of men with whom she had committed adultery [before]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man's] share of property shall, in accordance with the *Ain*, be confiscated, he shall be imprisoned for 1 year and he shall be degraded to a caste of Bhoṭes, after he has been deprived of the right to consume cooked rice together with his fellow caste members. If he pays four times the amount in lieu of his prison term, it shall be accepted. Cooked rice from the hands of such a person shall not be accepted. Water may be accepted [from his hands]; he shall be granted expiation with respect to water only and the [incestuous couple] shall be separated from each other.

3. If someone belonging to a Non-enslavable Alcohol-drinking caste commits, as her third [sexual] partner, incest with a woman who has run off with another man without remaining faithful to her husband and who is not his natural mother, [but] the co-wife of his father, who bears the right to kill his wife's paramour, or the wife of his guru who gave him the initiatory mantra, or

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a maternal aunt who is the half sister of his mother, or a grandmother-in-law who gave birth to his father-in-law or mother-in-law or co-wife of his father-in-law, who bears the right to kill his wife's paramour, and if such a woman has a husband belonging to a caste whose male members have the right to kill their wives' paramours, it shall be the aggrieved husband's decision [whether he kills his wife's paramour or not]. If she has no husband or her aggrieved husband does not kill his wife's paramour, the latter shall be fined 60 rupees, because it is a heinous crime (*rājakhata*). If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 30 rupees. If he has committed incest with her as her fifth sexual partner or more, he shall be fined 15 rupees and they shall be separated from each other, irrespective of whatever numbers of other men she had illicit sexual intercourse with [before]. They shall not lose their caste status.

4. If someone belonging to a Non-enslavable Alcohol-drinking caste commits, as her third [sexual] partner, incest with a woman who has run off with another man without remaining faithful to her husband, and is the daughter, paternal aunt, grandmother, sister, granddaughter, or great-granddaughter of whichever of his male family members (*dājyūbhāi*) within his blood relations, [such as] paternal uncles, grandfathers, sons or nephews within his blood relations, sharing with him a common ancestor from above 4 generations up to 7 generations back, and if such a woman has a husband belonging to a caste whose male members have the right to kill their wives' paramour, it shall, in accordance with the *Ain*, be her aggrieved husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband<sup>500</sup> or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 40 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 20 rupees. If he has committed incest as her fifth sexual partner or more, he shall be fined 10 rupees and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse.

5. If someone belonging to a Non-enslavable Alcohol-drinking caste commits, as her third [sexual] partner, incest with a woman who has run off with another man without remaining faithful to her husband, and is the daughter, paternal aunt, grandmother, sister, granddaughter, or great-granddaughter of whichever of his male family members within his blood relations, [such as], paternal uncles, grandfathers, sons, nephews or grandsons of his blood relations, who share with him a common ancestor from 7 generations up to 14 generations back, and if such a woman has a husband belonging to a caste whose male members have the right to kill their wives' paramour, it shall be her aggrieved husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 20 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 10 rupees. If he has committed incest with her as her fifth sexual partner or more, he shall be fined 5 rupees and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse

500 *lognyā rahecha bhanyā*, read *lognyā rahenacha bhanyā* (MA<sub>2</sub>).

before. If he has sexual intercourse with such a woman, who shares with him a common ancestor up to 14 generations back, and who has committed adultery with another man without remaining faithful to her husband, such a person shall not be held accountable.

6. If someone belonging to a Non-enslavable Alcohol-drinking caste commits, as her third sexual partner, incest with a woman who has run off with another man without remaining faithful to her husband, and who is [a] the wife of one of his male family members—[such as] parental uncles, grandfathers, brothers or nephews related within 7 generations—who has been brought [into the household] by ritual marriage or by worshipping oil lamp (*diyo*) and water vessel (*kalaśa*) [only], or who has been taken as a wife [by one of the male members of his family], as a paramour, or as an unmarried or widowed woman was taken as a concubine [by one of the male members of his family], or [b] the maternal aunt, or wife of his mother's brother, or [c] wife of his nephew or the son of his [elder or younger] sister, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall be her aggrieved husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 10 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 5 rupees. If he has committed incest with her as her fifth sexual partner or a further one, he shall be fined 2½ rupees and they shall be separated from each other, irrespective of whatever number of other men with whom she had illicit sexual intercourse before.

7. If someone belonging to a Non-enslavable Alcohol-drinking caste commits, as her third sexual partner, incest with the wife of a male member of his family, sharing with him a common ancestor from 7 generations up to 14 generations back, and bearing the right to kill his wife's paramour, the wife having been brought [into the household] by ritual marriage or by worshipping *diyo* and *kalaśa* [only], or who has been taken as a mistress by [a member of his family] after committing adultery with her, or who, being an unmarried or widowed woman, was taken as a concubine, and who has committed adultery with another man without remaining faithful to her husband, and if such a woman has a husband belonging to a caste whose male members have the right to kill their wives' paramour, it shall, in accordance with the *Ain*, be her aggrieved husband's decision [whether he kills his wife's paramour]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 5 rupees, because it is a *rājakhata* crime. If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 2½ rupees. If he has committed incest with her as her fifth or more sexual partner, he shall not be held accountable. If he has illicit sexual intercourse with such a woman, who shares with him a common ancestor more than 14 generations back, and who has run off with another man without remaining faithful to her husband, he shall not be held accountable for committing a *rājakhata*.

## 124. On [Incest] by a Member of an Enslavable [Alcohol-drinking Caste with a Relative Who Has Become a Common Woman]

1. If someone belonging to an Enslavable Alcohol-drinking caste commits incest with a woman from his blood relations, sharing with him a common ancestor up to 4 generations back, and who, being unfaithful to her husband, has run off with another man, and who is the daughter, paternal aunt, grandmother, sister, niece, granddaughter or great-granddaughter of a male member of his family, [such as] parental uncles, grandfathers, sons or grandsons, or a niece who is the daughter of his full-sisters, the grandmother who gave birth to his father or mother, a maternal aunt who is the full-sister of his mother, the mother-in-law who gave birth to his wife or the female guru who gave him the initiatory mantra, such [an incestuous man] shall be enslaved irrespective of whatever numbers of men with whom she had committed adultery [before him]. If such a woman, who has let him commit incest with her, belongs to a Non-enslavable caste, she shall become a common woman. If she belongs to an Enslavable caste, she shall be enslaved.

2. If someone belonging to an Enslavable Alcohol-drinking caste commits, as her third [sexual] partner, incest with a woman who has run off with another man without remaining faithful to her husband, and who is not his natural mother, [but] the co-wife of his father, and his father bears the right to kill his wife's paramour; or the wife of his guru who gave him the initiatory mantra, or a maternal aunt who is the half sister of his mother, or the grandmother-in-law who gave birth to his father-in-law or mother-in-law or co-wife of his father-in-law and the latter bears the right to kill his wife's paramour, and if such a woman has a husband belonging to a caste whose male members have the right to kill their wives' paramour, it shall, in accordance with the *Ain*, be her aggrieved husband's decision [whether he kills his wife's paramour]. If she has no husband or her aggrieved husband does not kill his wife's paramour, the culprit shall be fined 20 rupees, because it is a heinous crime (*rājakhata*). If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 15 rupees. If he has committed incest with her as her fifth sexual partner or beyond, he shall be fined 15 rupees if he belongs to a caste whose members have always borne the right to kill their wives' paramours, and they shall be separated from each other, irrespective of the number of other men with whom she had illicit sexual intercourse before. They shall not lose their caste status.

3. If someone belonging to an Enslavable Alcohol-drinking caste commits, as her third [sexual] partner, incest with a woman who has run off with another man without remaining faithful to her husband, and who is the daughter, paternal aunt, grandmother, sister, granddaughter or great granddaughter of one or more of the male members of his family (*dājyūbhāi*) within his

blood relations, [such as], paternal uncles, grandfathers, sons or nephews sharing with him a common ancestor from 4 generations up to 7 generations back, and if such a woman has a husband belonging to a caste whose members have always borne the right to kill their wives' paramours, it shall, in accordance with the *Ain*, be her aggrieved husband's decision [whether he kills his wife's paramour]. If such a woman has no husband or her husband does not kill his wife's paramour, or if such an aggrieved husband belongs to a caste whose members have not always borne the right to kill their wives' paramours, such [an incestuous man] shall be fined 15 rupees, because it is a *rājakhata*. If he has, as her fourth sexual partner, committed incest with such a woman, he shall be fined 10 rupees. If he has committed incest as her fifth sexual partner or beyond, he shall be fined 10 rupees and they shall be separated from each other, irrespective of whatever numbers of other men with whom she had illicit sexual intercourse before him. If he has sexual intercourse with such a woman, who shares with him a common ancestor more than 7 generations back, and who has run off with another man without remaining faithful to her husband, he shall not be held accountable for committing a *rājakhata*.

4. If someone belonging to an Enslavable Alcohol-drinking caste commits, as her third [sexual] partner, incest with [a] a woman who has run off with another man without remaining faithful to her husband and who is the wife of one of the male members of his family—[such as] parental uncles, grandfathers, brothers, nephews, sons or grandsons sharing with him a common ancestor up to 7 generations back—and this wife has been brought [into the household] by ritual marriage or by worshipping the lamp (*diyo*) and the water vessel (*kalaśa*)<sup>501</sup> [only], or she has been taken as a wife by a [family member as her] paramour, or who, being an unmarried or widowed woman, was taken as a concubine; [b] or with a maternal aunt, the wife of his mother's brother, or [c] with the wife of his nephew and if such a woman has a husband bearing the right to kill his wife's paramour, it shall be her aggrieved husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 15 rupees, because it is a *rājakhata* crime. If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 10 rupees. If he has committed incest with her as her fifth sexual partner or beyond, he shall be fined 5 rupees and they shall be separated from each other, irrespective of whatever numbers of other men with whom she had illicit sexual intercourse before him. If he has sexual intercourse with such a woman, who shares with him a common ancestor more than 7 generations back, and who has run off with another man without remaining faithful to her husband, he shall not be held accountable for committing a *rājakhata*.

5. If someone belonging to a Sacred Thread-wearing, Non-Enslavable Alcohol-drinking, Enslavable Alcohol-drinking, Water-unacceptable but Touchable or an Untouchable caste, excluding Limbu and Kirāti castes, commits incest with his co-mother who has entered into marriage with his father, or who has been taken by his father as a paramour, or who, being an unmarried or widowed woman, was taken as a concubine by his father, and if his father bears the right to kill his

501 A simplified type of marriage based on use of the lamp and water vessel representing Gaṇeśa.

124. On [Incest] by a Member of an Enslavable

wife's paramour, and if the culprit committed incest with such a woman while being unaware that she had committed adultery with somebody else [before], his share of property shall, in accordance with the *Ain*, be confiscated, and [such an incestuous] man and woman shall be separated from each other. Cooked rice from the hands of such [a culprit] shall not be acceptable. Water may be accepted; he shall be granted expiation with respect to water only. If such [a culprit] again commits incest [with his co-mother] after they have been separated, he shall be fined 10 rupees for each time he commits incest with her and they shall be [again] separated from each other.



## 125. On [Incest] by a Member of a Water-unacceptable Caste [with a Relative Who Has Become a Common Woman]

1. If someone belonging to any of the Water-unacceptable, but Touchable or Water-unacceptable and Untouchable castes, excluding Muslims, commits incest with a woman from his blood relations who shares with him a common ancestor up to 4 generations back, and who, being unfaithful to her husband, has run off with another man, and who is one of the following: the daughter, paternal aunt, grandmother, sister, niece, granddaughter or great-granddaughter of a male member of his family (*dājyūbhāi*), [such as] parental uncles, grandfathers, sons or grandsons, or a niece who is the daughter of his full-sisters, the grandmother who gave birth to his father or mother, a maternal aunt who is the full sister of his mother, the mother-in-law who gave birth to his wife or the female guru who gave him the initiatory mantra, both such an incestuous man and woman shall be enslaved, irrespective of whatever number of other men with whom she had committed adultery before.

2. If someone belonging to a Water-unacceptable, but Touchable or Water-unacceptable and Untouchable caste, excluding Muslims, commits, as her third [sexual] partner, incest with a woman who has run off with another man without remaining faithful to her husband and who is not his natural mother, [but] the co-mother who has been taken as a concubine by his father, and he bears the right to kill his wife's paramour, further, a maternal aunt who is the half sister of his mother, a grandmother-in-law who gave birth to his father-in-law or mother-in-law or co-mother-in-law, and whose husband bears the right to kill his wife's paramour, and if such a woman has a husband belonging to a caste whose male members have the right to kill their wives' paramours, it shall, in accordance with the *Ain*, be her aggrieved husband's decision [whether he kills his wife's paramour]. If she has no husband or her aggrieved husband does not kill his wife's paramour, he shall be fined 15 rupees, because it is a heinous crime (*rājakhata*). If he has committed incest with such a woman as her fourth sexual partner, and if he belongs to a caste whose male members have always borne the right to kill their wives' paramours, he shall be fined 10 rupees. If he has committed incest with her as her fifth sexual partner or beyond, he shall be fined 5 rupees, and they shall be separated from each other, irrespective of whatever numbers of other men with whom she had illicit sexual intercourse before.

3. If someone belonging to a Water-unacceptable, but Touchable or Water-unacceptable and Untouchable caste, excluding Muslims, commits, as her third sexual partner, incest with a woman who has run off with another man without remaining faithful to her husband, and who is the daughter, paternal aunt, grandmother, sister, granddaughter, or great-granddaughter

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of one of the male members of his family (*dājyūbhāi*) within his blood relations, sharing with him a common ancestor from more than 4 generations up to 7 generations back, [such as] paternal uncles, grandfathers, sons or nephews, and if such a woman has a husband belonging to a caste whose members have always borne the right to kill their wives' paramours, it shall be her aggrieved husband's decision [whether he kills his wife's paramour or not], if he belongs to a caste whose members have always practiced the right to kill their wives' paramours. If such a woman has no husband or her husband does not kill his wife's paramour, or if such an aggrieved husband belongs to a caste whose members have not always borne the right to kill their wives' paramours, such [an incestuous man] shall be fined 10 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth sexual partner, he shall be fined 5 rupees. If he has committed incest with her as her fifth [sexual] partner or beyond, he shall be fined 2½ rupees and they shall be separated from each other, irrespective of whatever number of other men with whom she had illicit sexual intercourse before. If he has sexual intercourse with such a woman, who shares with him a common ancestor more than 7 generations back, and who has not remained faithful to her husband, he shall not be held accountable of committing a *rājakhata*.

4. If someone belonging to a Water-unacceptable, but Touchable or Water-unacceptable and Untouchable caste, excluding Muslims, commits, as her third sexual partner, incest with a woman who has run off with another man without remaining faithful to her husband, and who is [a] the wife of [one of] the male members of his family—[such as] parental uncles, grandfathers, brothers, nephews, sons or grandsons within 7 generations—and this wife has been brought [into the household] by ritual marriage or by worshipping oil lamp (*diyo*) and water vessel (*kalaśa*) [only], or who has been taken as a mistress by [a member of his family] after committing adultery with her, or who, being an unmarried or widowed woman, was taken as a concubine; or [b] a maternal aunt, the wife of his mother's full brother, or [c] the wife of his nephew, and if such a woman has a husband bearing the right to kill his wife's paramour, it shall, in accordance with the *Ain*, be her aggrieved husband's decision [whether he kills his wife's paramour or not]. If such a woman has no husband or her husband does not kill his wife's paramour, such [an incestuous man] shall be fined 15 rupees, because it is a *rājakhata*. If he has committed incest with such a woman as her fourth [sexual] partner, he shall be fined 10 rupees. If he has committed incest with her as her fifth [sexual] partner or beyond, he shall be fined 5 rupees and they shall be separated from each other, irrespective of whatever numbers of other men with whom she had illicit sexual intercourse [before]. If he has sexual intercourse with such a woman, who shares with him a common ancestor more than 7 generations back, and who has run off with another man without remaining faithful to her husband, he shall not be held accountable for committing a *rājakhata*.

5. If someone has an incestuous relationship with a woman who shares with him a common ancestor up to 7 generations back, coming from the same *gotra* and caste, and a child is born to the pair after they have become incestuous (*pātakin*) and the woman has become a common woman by taking a second husband, [the father] shall be fined 20 rupees and shall be granted penance (*prāyaścitta*).

## 126. Miscellaneous Provisions Relating to Illicit Sexual Relations

1. If a Brahmin priest has consensual sexual intercourse with an unmarried girl or widow who is past the age of 12 and belongs to the household of his sacrificial patron (*yajamāna*) where he works as the main priest to perform sacrifices and rituals (*jajamānī*), such [a priest] shall be imprisoned for 3 years and [then] be set free. If he pays four times the fine in lieu of his prison term, it shall be accepted.

2. If there has been sexual intercourse between the son or daughter of a woman, a child fathered by her [ritually] married husband, and the son or daughter of that same woman, a child to whom she gave birth after running off with another man, then, if the sexual intercourse has taken place between her children who are born from her womb [but with different fathers], [her incestuous son's] share of property shall, in accordance with the *Ain*, be confiscated and he—if he belongs to a Sacred Thread-wearing caste—shall be degraded from his caste status and shall be placed in a Non-enslavable Alcohol-drinking caste after having had his Sacred Thread removed and having fed him liquor and pig meat; if he belongs to a Non-enslavable Alcohol-drinking caste, he shall be placed in an Enslavable Alcohol-drinking caste, and if he belongs to an Enslavable caste, both such a man and such a woman shall be enslaved. If there has been sexual intercourse between the children [of a woman, who are fathered by her ritually married husband and the children fathered by her second husband with his co-wife], but not between the children [born from such a woman to different husbands], no person shall be held accountable.

3. If someone who adopts a son has sexual intercourse with the family members of his or her adopted son, or if an adopted son has sexual intercourse with the family members of his adoptive father, and if the adopted son is a blood relative of the adoptive father, and if such a culprit needs to be punished after counting how many generations back they shared a common ancestor, he shall be punished in accordance with the law applicable to committing incest after however many generations back they shared a common ancestor from the side of such an adopted son's natural father. If an adopted son—who has been adopted by his adoptive father from another *gotra*, who is not related by blood or who has been abandoned [by his natural parents] and is found and brought up by his adoptive father—has sexual intercourse with the wife or daughter of his adoptive father, or if such an adoptive father has sexual intercourse with the wife of his adopted son, [the offender] shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*. With the exception of such relatives, if an adopted son has sexual

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intercourse among the family of his adoptive father, or if his adoptive father has illicit sexual intercourse among the family of his adopted son, it shall not be incest. If such an offender has sexual intercourse with a married woman, it shall be the decision of her aggrieved husband [as to whether he kills his wife's paramour or not]. If he has sexual intercourse with an unmarried girl or widowed woman, he shall be punished according to the *Ain* laid down for the case when someone has illicit sexual intercourse with an unmarried girl or widowed woman who is not his relative.

4. If someone belonging to a Sacred Thread-wearing caste or a Non-enslavable Alcohol-drinking caste, including an Upādhyāya Brahmin, has sexual intercourse with his stepdaughter who was born from his concubine wife to her former husband, and if he has consumed cooked rice from her hands [after the sexual intercourse] and has also contaminated his fellow caste members through cooked rice, he shall be fined 100 rupees, he shall be deprived of the right to consume cooked rice together with his fellow caste members, and he shall be placed in the caste of that stepdaughter with whom he had sexual intercourse. If he has not consumed cooked rice from her hands after the sexual intercourse, but has contaminated [his fellow caste members] through that woman, he shall be fined 25 rupees; he shall not lose his caste status. Someone who unwittingly consumes [cooked rice from the hands of that woman] shall be granted expiation (*patiyā*). If he has neither contaminated his fellow caste members through cooked rice, nor done so through that woman after the sexual intercourse, he shall be fined 20 rupees and they shall be separated from each other. He shall not lose his caste status. If he again has sexual intercourse with her after they have been separated, he shall be fined 10 rupees for each time he has had sexual intercourse with her, and they shall be separated. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

5. If someone belonging to an Enslavable, Water-unacceptable or Untouchable caste has illicit sexual intercourse with his stepdaughter who was born from his concubine wife to her former husband, [such an offender] shall be fined 15 rupees, if he belongs to a Water-acceptable but Enslavable caste; if he belongs to a Water-unacceptable [but Touchable] or Untouchable caste, he shall be fined 10 rupees, and they shall be separated from each other. [Such an offender] shall not lose his caste status. If he again has illicit sexual intercourse with her after they have been separated, he shall be fined 5 rupees for each time he has had illicit sexual intercourse with her, and they shall be separated [again].

6. If a creditor or landlord has sexual intercourse with the daughter, daughter-in-law or wife of his debtor or tenant, he shall not be allowed to collect the debt in question or the standing crops. [Such a creditor's or landlord's] debt shall be nullified. In accordance with the *Ain* and applicable to the respective caste of that unmarried, married or widowed woman with whom such a creditor or landlord had illicit sexual intercourse, he shall be killed by that woman's aggrieved husband, if [the offender] belongs to a caste whose members may be killed by the aggrieved husbands if they commit adultery. [The offender] shall be shaved if he belongs to a caste whose members are to be shaved in lieu of execution, or his [property] shall be confiscated if his [property] is to be

confiscated, or he shall be fined or imprisoned if the law requires him to be fined or imprisoned, or he shall be fined after making him compensate [her aggrieved husband] for the marriage expenses, if the law requires him to be fined after making him compensate [her aggrieved husband] for the marriage expenses. If [such an offender] has sexual intercourse with a woman with whom having sexual intercourse is not a crime, he shall not be fined, [but] the debt owed to him or the value of the standing corps shall be nullified.

7. If someone belonging to the Khavāsa group—irrespective of whether he is a Khavāsa in servitude (*kariyā*), an emancipated Khavāsa or a Khavāsa who entered [the royal service]—has sexual intercourse with his master's wife, daughter or daughter-in-law, he shall be executed. If such [a person] commits any other crime, he—if he is a Khavāsa who entered [the royal service] or an emancipated Khavāsa—shall be punished equal to someone who belongs to a Non-enslavable Alcohol-drinking caste; if he is a Khavāsa in servitude, he shall be punished equal to someone who belongs to an Enslavable Alcohol-drinking caste.

8. If someone belonging to any Sacred Thread-wearing caste commits incest with a wife of his father, grandfather, brothers, sons or grandsons, who was an unmarried girl [before] and was made their concubine or was taken as a wife by them being her paramour, their share of property, in accordance with the *Ain*, shall be confiscated, their Sacred Thread shall be removed, they shall be degraded in caste and shall be placed in a Non-enslavable Śūdra caste. If [the offender] belongs to a Non-enslavable Alcohol-drinking caste, his share of property shall be confiscated and he shall be placed in an Enslavable Parjā caste. [The offender] who belongs to any Enslavable caste shall be enslaved.

9. If someone has illicit sexual intercourse with the queen of an enthroned king or the wife of a prince who is a rightful claimant to the throne, or with the wife of a guru who gave a king or queen the initiatory mantra, or with a female guru who gave him the initiatory mantra, [the offender]—irrespective of whether the woman is married or widowed—shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*, if he belongs to a caste whose members are to be shaved in lieu of execution. If [such a suspect] belongs to a caste whose members may be sentenced to death, he shall be executed.

10. Regarding the regulation which grants someone expiation with respect to water after he is punished for committing incest with [a woman] from his blood relations—but excluding the matter of illicit sexual intercourse among the Water-unacceptable or Untouchable castes—if such [an incestuous] man obtains expiation for water, the woman who let this man of her blood relations commit incest with her shall also be granted expiation for water. With regard to [the regulations] laid down which state that expiation is not to be granted to [an incestuous man], the woman shall [also] not obtain expiation [for water], if she belongs to a Non-enslavable caste. [However] water from the hands of such a woman shall be acceptable after she becomes a common woman. If she belongs to an Enslavable caste, she shall be enslaved and be granted expiation for water. Water shall be acceptable [from her hands].

## 126. Miscellaneous Provisions Relating to Illicit Sexual Relations

11. If someone belonging to a Sacred Thread-wearing caste has illicit sexual intercourse with the daughter, daughter-in-law or wife of his master's house where he has been working as a domestic servant, and she belongs to a Sacred Thread-wearing caste and is past the age of 11, he shall be imprisoned for 3 years. If [the offender] belongs to a Non-enslavable Alcohol-drinking caste, he shall be imprisoned for 4 years. If he belongs to an Enslavable Alcohol-drinking caste, he shall be imprisoned for 3 years and shall be enslaved. If [such an offender] pays double the amount in lieu of his prison term, it shall be accepted.

12. If someone belonging to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste has illicit sexual intercourse with the daughter, daughter-in-law or wife of his master's house where he has been working as a domestic servant, and she belongs to a Non-enslavable Alcohol-drinking caste and is past the age of 11, he shall be imprisoned for 1½ years. If [the offender] belongs to an Enslavable Alcohol-drinking caste, he shall be imprisoned for 2 years and shall be enslaved. If [such an offender] pays double the amount in lieu of his prison term, it shall be accepted.

13. If someone belonging to a Sacred Thread-wearing, a Non-enslavable Alcohol-drinking or an Enslavable Alcohol-drinking caste has illicit sexual intercourse with the daughter, daughter-in-law or wife of his master's house where he has been working as a domestic servant, and she belongs to an Enslavable Alcohol-drinking caste and she is past the age of 11, he shall be imprisoned for 9 months. If [such an offender] pays double the amount in lieu of his prison term, it shall be accepted.

14. If someone has illicit sexual intercourse with [a woman] from his fictive kinship (*mīterī sanahe*),<sup>502</sup> and if the woman is married, it shall, in accordance with the *Ain*, be the decision of her aggrieved husband [as to whether he kills his wife's paramour or not]. If the woman is widowed or unmarried, [the offender] shall be punished in accordance with the *Ain*, applicable to someone who has illicit sexual intercourse with a woman who is not from his kin. If [someone has illicit sexual intercourse with a woman] from his fictive kinship, he shall not be held accountable for committing a heinous crime (*rājakhata*).

15. If suspicion of illicit sexual intercourse by the guru of a king with the queen, daughter-in-law or daughter of the king arises, and if, upon investigation, it is confirmed to be true, a confession [from such a guru] shall be obtained in written form and he shall be exiled from the country, after his share of property which he is entitled to receive has been confiscated in accordance with the

502 This term *mīterī sanahe* refers to a form of kinship or social ties that are based on neither consanguineal nor affinal ties. This term has been often translated into English as 'fictive kinship' by anthropologists and ethnographers (for example see, Messerschmidt 1982). According to Messerschmidt (1982: 5), such systems of fictive or ritual kinship and ceremonial or bonded friendship 'are often modelled on real kin ties and tend to link individuals'. Although the degree of considering 'fictive kin' as real kin varies from one caste group to another in contemporary Nepal, it is clear from this provision of the *Ain* that it does not consider fictive kinship to be real kinship.

*Ain* and after his head has been shaved, irrespective of whether the woman is married, widowed or unmarried. The offspring of such [an offender] shall not be appointed as [royal] guru.

16. If any inhabitant of Madhesa territory of our kingdom, excluding the Sacred Thread-wearing castes such as Brahmins, Rajapūta or Kṣatriya, and Muslims, commits incest with a woman from his blood relations who shares a common ancestor with him up to 14 generations back, or with his maternal aunt who is the sister of his mother, with the wife of his maternal uncle, with the daughter of his sister, with the daughter-in-law of his maternal uncle, or with the daughter or daughter-in-law of his maternal aunts, both [offenders], the man who committed incest and the woman who let him commit incest with her, shall be enslaved. If [such a person] commits incest with the woman of another relative with the exception of those [above mentioned], both [offenders], the man who committed incest and the woman who let him commit incest with her, shall be fined 15 and 12 rupees, respectively. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

17. If someone has illicit sexual intercourse with the mother-in-law of his son or daughter whom he himself has begotten, and if she is married, it shall, in accordance with the *Ain*, be the decision of her aggrieved husband [as to whether or he kills his wife's paramour or not]. If such a woman is married or widowed and belongs to a caste whose members do not bear the right to kill their wives' paramours, and if [the offender] has not contaminated his fellow caste members through cooked rice after the illicit sexual intercourse, no fault shall be assigned. If he has contaminated his fellow caste members through cooked rice after the illicit sexual intercourse, such [an offender]—if he is a Brahmin—shall be fined 100 rupees. If he belongs to a Rajapūta, a Sacred Thread-wearing, Non-enslavable Alcohol-drinking caste or a Water-acceptable or -unacceptable caste who may be enslaved, he shall be fined 60, 50, 20 and 5 rupees, respectively. If [the offender] does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If [such an offender] rapes [such a woman], he shall, in accordance with the *Ain*'s [Art. 132–133] 'On Rape', be punished.

## 127. A Foetus of a Common Woman

1. If someone goes to a common woman, and if she becomes pregnant in the same month he went to her, and if she comes to complain within a 35 days' deadline after the baby is born, stating that it is his sperm and he should perform the naming ritual, and if she did not have illicit sexual intercourse with any other man after she became pregnant, the man shall perform the naming ritual and he shall also give [the child] a share of his property at the rate of 2½ rupees per 100. If he ascertains that she has had illicit sexual relations with another man after she became pregnant and makes him confess, [the child] shall be considered the son of a common woman. The mother herself shall perform the naming ritual [for the newborn]. She shall not be allowed to insist that [the child] is the sperm of that man. Such children shall not receive any share of the property. They shall, in accordance with the *Ain*, only receive the ordinary belongings (*ālamāla*) of their mother.

2. If a woman who has let 2–4 men have illicit sexual intercourse with her gives birth to a son or daughter, and if she points at one of them, stating that this is his child, and if the man comes to complain at an *adālata*, *ṭhānā* or *amāla* office that this is not his sperm, and while considering the day and month of their illicit sexual intercourse and [when] the child was born, if it is born in the tenth month after the illicit sexual intercourse, the baby shall be considered to belong to this man. If it is born before or after the tenth month, it shall not be considered to belong to him. The woman shall not be allowed to insist that it is his child. In such cases, if someone comes to complain within 35 days from the day the child is born, the complaint shall be heard and judgement shall be delivered. If someone comes to complain after 35 days, it shall not be heard. Such offspring shall be considered children of a common woman and the naming ritual shall be performed by the mother. They shall also receive their share of property from the mother in accordance with the *Ain*.

3. If an unmarried girl, a common woman, a maid, a woman of loose character or a female bondservant has let a man have illicit sexual intercourse with her, and if she has become pregnant from him, and if she, in such a situation, has let another man have illicit sexual intercourse with her and she has given birth to a child, and if she comes to take hold of [the first] man, stating that it is his offspring, and if he points at another man and is able to get a confession from that man, although the woman had become pregnant by the first man, the offspring shall not be considered his. He shall not perform the naming and rice feeding rituals for such offspring and he shall not give them a share of his property. He shall have no obligation. The offspring shall be considered



the son of a common woman, the naming and rice feeding rituals shall be performed by the mother, and the offspring shall receive their share of property from their mother in accordance with the *Ain*.

4. If someone has kept a maid, a woman of loose character, a common woman or a female bondservant, and if she has become pregnant, and if she has not let any other man have illicit sexual intercourse with her after she became pregnant, and if the man, after a son or daughter is born, comes to complain at an *adālata*, *ṭhānā* or *amāla* that he or she is not his offspring, and if it is ascertained that the child was born in the tenth month from the day of the illicit sexual intercourse, he shall be considered the father of such a child. If someone comes to complain about the offspring born of his sperm, saying that it is not his, he shall be fined 10 rupees, irrespective of whatever caste he belongs to. Such a father shall do whatever, according to the caste's customs, has to be done, such as the naming or rice feeding rituals, and the offspring shall, in accordance with the *Ain*, receive a share of property from him.

5. If a woman has 2–3 husbands, and if she gives birth to a son or daughter, and if two fathers quarrel and come to complain at an *adālata*, *ṭhānā* or *amāla*, stating 'the son or daughter is not mine but yours', the offspring shall be considered to be of that father about whom the woman says that [the offspring] was born of his sperm, after she is brought [to the office] and questioned.

6. If a married woman of someone from the Four Varṇas and Thirty-six castes, [such as] Brahmins, Rajapūta, Kṣatriya, Vaiśya or Śūdra has become pregnant from her ritually married husband, and if she has illicit sexual intercourse with another man, the foetus in her womb shall not become pure. It shall belong to the caste [of the man] with whom she has had illicit sexual intercourse. For example, if a drop of alcohol goes into a milk vessel, the entire milk becomes impure. Similarly, although the sperm is of a ritually married husband, the foetus shall be considered of the one with whom she has illicit sexual intercourse. Such offspring shall not be allowed to claim a share of property from [his natural] father or [elder] brothers, on the grounds that he is sperm of the man who has ritually married [his mother]. The offspring shall be considered the children of a common woman. Also, the naming and rice feeding rituals shall be performed by the mother. They too shall receive a share of property from their mother in accordance with the *Ain*.

## 128. Sexual Intercourse with Female Litigants

1. If someone belonging to an Enslavable caste is appointed as an *amālī* or *dvāre* at an administrative subdivision (*thuma*) or a province (*khuvā*), and if a woman belonging to an Enslavable caste comes to a *kacaharī* [office to lodge a complaint] regarding a dispute [she had with someone else], and if the *amālī* [or *dvāre*] has illicit sexual intercourse with her after deciding the case, such an *amālī* or *dvāre* shall be enslaved.

2. If a *ṭheka* or *ijārā* holder, or a local official (*amālā*) who has not been assigned land for his emolument, has illicit sexual intercourse with a married or unmarried woman who has come [to the local office] to lodge a complaint, or has been brought there because she is accused of committing a crime, such [an official] shall, in accordance with the *Ain*, be punished and be dismissed from his duty. If [such a woman with whom] he had illicit sexual intercourse is a common woman or a servant, he shall be fined 20 rupees and, after having collected [the amount] for the *ijārā* contract [assigned to him] for the current year as per contract, he shall be dismissed from [his duty] for the following year, once his current contract comes to an end.

3. If [a government officer, such as] a *hākima*, *mālīka*, *ḍiṭṭhā* or *bicārī* of an *adālata* or *ṭhānā* office, or an *amālī* or *dvāre* of an *amāla* office or similar, does not decide on a dispute [involving] a married, widowed or unmarried woman who has been imprisoned at the *adālata*, *ṭhānā* or *amāla* for her crime, or who has been detained by the bailiff, or who has been released on bail, [but rather] has illicit sexual intercourse with her, he shall, in accordance with the respective *Ain*, be punished and be dismissed from his duty, and he shall be forbidden (*thunnu*) to harvest the ripe standing crops [on the land assigned to him]. If he has illicit sexual intercourse with a woman who is a common woman or a servant and has been imprisoned for her crime, he shall be dismissed from his duty, and he shall be forbidden to harvest the ripe standing crops, no matter whether he is the *hākima* of the respective [government office] or a *dvāre* or an *amālī* of the respective *amāla*.

4. If a prison guard has illicit sexual intercourse with a woman who has, in accordance with the *Ain*, been imprisoned for committing a crime punishable by *dāmala*, and if the woman's caste status was degraded after she was branded with a letter [of name of the caste to which she has been degraded on her left cheek], such [a guard], who wittingly had illicit sexual intercourse with her, shall be dismissed from his employment and shall be set free after having him placed in the caste of that woman. He shall not be granted expiation (*patiyā*). If such a woman's caste status

was not reduced and the first letter [of her caste name] was not branded [on her left cheek], [the offender] who had illicit sexual intercourse with her, shall be dismissed from his employment and shall be fined 100 rupees, if the woman belongs to a caste which is higher than his caste; he shall be fined 50 and 25 rupees, respectively, if the woman belongs to a caste equal to or lower than his caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The offender shall retain his caste status. He shall not require expiation. If he had illicit sexual intercourse with that woman under deception (*bhora-mā*)<sup>503</sup>, he shall not have to be fined, and he shall be granted expiation for unwittingly getting contaminated (*bhorko patiyā*).

5. If someone, excluding a prison guard, wittingly has illicit sexual intercourse with a woman who has, in accordance with the *Ain*, been [punished] by *dāmala* and accordingly has been imprisoned, and if the woman's caste was reduced after she was branded with a letter [on her left cheek], such [a man] who had illicit sexual intercourse with her shall be set free, after he has been placed in the caste of that woman. He shall not be granted expiation. If such a woman's caste status was not reduced and no letter was branded [on her cheek], [the man] who had illicit sexual intercourse with her shall be fined 100 rupees, if the woman belongs to a caste which is higher than his caste; he shall be fined 50 and 25 rupees, respectively, if the woman belongs to a caste equal to or lower than his caste. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The offender shall retain his caste status. He shall not require expiation. If he, under deception, had illicit sexual intercourse with that woman, he shall not have to be fined, and he shall be granted expiation for the unwitting contamination.

6. If a prison guard or a bailiff has illicit sexual intercourse with a woman who is in prison because of her crime, or with a woman who is under detention, or who has been brought [to the prison] by sending bailiffs, he shall be punished according to what is laid down in the *Ain* for the respective castes, depending on his caste and that of the married, widowed or unmarried woman with whom he had illicit sexual intercourse, and he shall be dismissed from his employment and forbidden to harvest his standing crops [on the land assigned to him]. If he has illicit sexual intercourse with a woman who is a common woman or a servant and [is in prison or detention], he shall be fined 20 rupees.

7. If any government official of an *adālata* or *amāla*, [such as] the *hākima*, *ḍiṭṭhā*, *bicārī*, *pagarī*, *huddā*, *sipāhī*, *amālī*, *dvāre*, *mahāne* or similar—who has been assigned land for his emolument, but the standing crops [on the land] are still unripe—has illicit sexual intercourse with a woman who is under detention or who has been brought [to the prison] by sending bailiffs, [such an offender] shall be fined, punished or imprisoned according to what is laid down in the *Ain* for the respective castes, depending on his caste and that of the married, widowed or unmarried woman with whom he had illicit sexual intercourse, and he shall be fined an amount which equals the value of the standing crops [of the land] which is assigned to him as his emolument (*raibandī*)

503 This refers to the situation in which the suspect has illicit sexual intercourse with that imprisoned woman without being aware that her caste status was degraded.

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upon his appointment. If he has illicit sexual intercourse with a woman who is a common woman or a servant and [is in prison or detention], he shall be fined 20 rupees.

8. If someone who is imprisoned in a jail has illicit sexual intercourse with a man or woman who is also imprisoned in that jail, and if they need to be punished in accordance with the regulations in the *Ain* applicable to someone who has illicit sexual intercourse with a person belonging to a caste lower or higher than his or her caste, both the man and woman shall be punished [accordingly] and be fined 10 rupees each.

## 129. On Keeping Slave Women as Wives

1. If [a master]—belonging to a Sacred Thread-wearing caste having the right to kill their wives' paramours—keeps an unmarried slave girl as a wife, and if he has informed [his household] about it at his house, and if he has emancipated her, and if his direct son, nephew, uncle,<sup>504</sup> brother or any other person has illicit sexual intercourse with her, [the aggrieved husband ]—irrespective of whether any offspring has been born to her by him or not—shall not be permitted to kill his wife's paramour. The aggrieved husband of such a slave woman shall be allowed, at his own will, [to decide] whether he, in accordance with the *Ain*, removes [the paramour's] Sacred Thread and confiscates his share of property, or he lets [the culprit] go. If [the master] has kept the slave woman as a wife and has not emancipated her, and if she has still been doing the tasks assigned to her [as a slave], [the culprit] shall not be held accountable, even if he is [a blood relative of her master traceable back to] within the 3<sup>rd</sup> generation.

2. If [a master] has kept an unmarried slave girl of his own household [as a wife], and if he has had offspring born [to her], he shall not be permitted to sell the slave. If he sells, the seller shall be made to return the original amount to the buyer. The slave becomes a freed person. The seller shall be fined according to the amount in question. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

3. If [a master] has kept an unmarried slave girl of his own house as a wife, and if he has not emancipated her, and if such a wife runs off with another man, [the master] shall not be permitted to sell her. The slave becomes a freed person. [The master] shall be allowed to take compensation of 300 rupees from the person with whom she has run off. An *adālata* or *amāla* office shall charge 10 percent [of the total amount as a court fee] and shall hand [the remaining amount] over to [the master]. The master shall not sell his offspring born to such wife and receive money [for it]. If he has sold [any], the seller shall be made to issue a loan agreement without security (*kapālī tamasuka*) to the buyer for the paid price. The seller shall be fined in accordance with the amount in question paid. If the buyer knows that [the child] is the son or daughter of such and such a person and buys him or her, the amount paid by him shall be confiscated.

4. If [a master] has kept a slave girl as a wife who has [previously] had illicit sexual intercourse with someone else, and if the former has offspring born to her, and if such a slave woman

504 *sākṣāt chorā bhatijākā*, read *sākṣāta chorā bhatijā kākā* (MA<sub>2</sub>).

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runs off with another man, she shall be [considered] a common woman. [The master] shall not be permitted to sell her and receive money. The slave woman becomes a freed person. [The master] shall be allowed to take compensation of 200 rupees from the person with whom she has run off. An *adālata* or *amāla* office shall charge 10 percent [of the total amount as a court fee] and shall hand [the remaining amount] over to [the master]. The master shall not sell his offspring born to such a wife. If he sells any, the seller shall be made to issue a loan agreement without security (*kapālī tamasuka*) to the buyer for the paid price. The seller shall be fined in accordance with the amount in question paid. If the buyer knows that [the child] is the son or daughter of such and such a person and buys him or her, the amount paid by him shall be confiscated.

5. If [a master] has kept an unmarried slave girl of his own house as a wife, and if he has not emancipated her, and if no offspring has been born to her, and if such a slave woman has illicit sexual intercourse with someone else, the master shall be allowed at his own will [to decide] whether he keeps that woman at his house or sells her to someone else.

6. If [a master] has kept a slave woman as a wife who has previously had illicit sexual intercourse with someone else, and if he has no offspring born to her, the sale of such a slave woman shall be considered valid. Even if [the master's] father, son or brother had illicit sexual intercourse with her, [the culprit] shall not be held accountable.

7. If a slave is a common woman, and if her master has sexual intercourse with her and she also has let someone else have illicit sexual intercourse with her, the offspring born to her shall become slaves. If the slave woman claims that the offspring are sons or daughter of such and such [a man], it shall not be considered valid.

8. If a slave woman—after she has started living with her master as his wife—does not run off with another person, the offspring born [to her] from his semen—irrespective of who they are—shall not be considered slaves. They shall not be sold. If someone sells them, stating that they are male or female slaves, the amount paid by the buyer shall be recovered from the seller, if he is able to return the amount. If the seller is not able to return the amount, he shall be made to issue a loan agreement without security. The offspring born to such a female slave shall become freed persons. If [the master's] father, brother or son sells [such offspring], [the seller] shall be fined in accordance with the amount of sale in question. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned, and the offspring shall, in accordance with the *Ain*, be provided with their share of property.

9. If someone assembles a gang and rapes a slave woman without her consent<sup>505</sup>, who is past the age of 11 and who is a common woman, he shall be fined 30 rupees. If the amount of the fine is not paid, he shall be imprisoned.

505 *manomāna garāi*, read *manomāna nagarāi* (MA<sub>2</sub>).

10. If a woman who belongs to a caste whose members may be made bondservants has been living at her creditor's house as a bondservant for debt, and if a person repays her debt and keeps her as wife at his house, and if such a bondservant runs off afterwards with a third person, the amount which the [first] person paid to repay her debt and kept her as a wife shall be compensated by the [third] person with whom she has illicit sexual intercourse. If she also leaves the [third] person and runs off with someone else, such a woman shall be considered a common woman and [the man who cleared her debt]<sup>506</sup> shall not get back the amount he paid for her.

11. If [a creditor] has taken a woman as a bondservant, and if she has already had two husbands before or after becoming his bondservant, and if her creditor, as her third sexual partner, has sexual intercourse with her, his credit shall not be nullified. He shall be permitted to recover his standing credit.

12. If a creditor has sexual intercourse with a female bondservant who is either an unmarried girl, a married woman who has remained faithful to her husband, or a widow—the creditor shall not be permitted to recover his credit after keeping such a female bondservant as his wife. His credit shall be nullified. Ten percent of [the total credit] shall be taken from that female bondservant [as a court fee] and she shall be freed (*amalekha*), after the loan agreement has been torn apart.

506 It is not entirely clear whether it is the man who initially cleared the bondservant's debt or the second man, with whom she ran off, who is not entitled to receive the paid amount back.

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1. If 2–3 persons have illicit sexual intercourse with a married woman, or a widowed or unmarried woman who has passed the age of 11 and belongs to a Sacred Thread-wearing caste, and who has [already] had illicit sexual intercourse with a man from a caste equal to or higher than her own, and if these 2–3 persons have illicit sexual intercourse [with such a woman] without knowing that she has [already] had illicit sexual intercourse with someone else, and when she was still accepted by her fellow caste members to consume cooked rice together, and on the grounds that she is non-contaminated, the person who was first to have illicit sexual intercourse [with such a woman] shall, in accordance with the *Ain*, be punished. The person who was second to have illicit sexual intercourse with her shall be fined 10 rupees, if his caste status is higher than or equal to the caste status of the first offender. The person who was third to have illicit sexual intercourse with her shall be fined 5 rupees. If the person who was second or third to have illicit sexual intercourse with her belongs to a Sacred Thread-wearing caste and is higher in caste status than the person who was first to have illicit sexual intercourse with her, they shall be fined 20 and 10 rupees, respectively. If the person who was second or third to have illicit sexual intercourse with her belongs to a Non-enslavable Alcohol-drinking caste and had illicit sexual intercourse with her without knowing that she had already had illicit sexual intercourse with a man belonging to a Sacred Thread-wearing caste, they shall be fined 30 and 15 rupees, respectively. If the person who was second or third to have illicit sexual intercourse with her belongs to an Enslavable Alcohol-drinking caste and had illicit sexual intercourse without knowing that she had already had illicit sexual intercourse [with a man belonging to a Sacred Thread-wearing caste], they shall be fined 30 and 15 rupees, respectively. If the person who was second or third to have illicit sexual intercourse with her belongs to a Water-unacceptable but Touchable caste whose members may be enslaved, and he had illicit sexual intercourse [without knowing that she had already had illicit sexual intercourse with a man belonging to a Sacred Thread-wearing caste], he shall be imprisoned for 4 years and shall be enslaved. If he belongs to a caste whose members are non-enslavable, he shall be imprisoned for 8 years. If he pays four times the fine in lieu of his prison term, it shall be accepted. If the person who was second or third to have illicit sexual intercourse with her belongs to an Untouchable caste and had illicit sexual intercourse [without knowing that she had already had illicit sexual intercourse with a man belonging to a Sacred Thread-wearing caste], he shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*. In a [similar] case where a slave has illicit sexual intercourse with such a woman as the second or third man [without knowing that she had already had illicit sexual intercourse with a man belonging to a Sacred



Thread-wearing caste], he shall be imprisoned for 8 months, if he was the second to have illicit sexual intercourse with her. If he was the third to have illicit sexual intercourse with her, he shall be imprisoned for 4 months. If [the slave] pays the fine in lieu of his prison term, it shall be accepted and he shall be set free.

2. If 2–3 persons have illicit sexual intercourse with a married woman, or a widowed or unmarried woman who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, and who has [already] had illicit sexual intercourse with a man equal to or higher than her caste, and if they have illicit sexual intercourse [with such a woman] without knowing that she has [already] had illicit sexual intercourse with someone else, when she was still accepted by her fellow caste members to consume cooked rice together, the person who is first to have had illicit sexual intercourse [with such a woman] shall, in accordance with the *Ain*, be punished. No fault shall be assigned to the person who was second or third to have illicit sexual intercourse with her, if he belongs to a Sacred Thread-wearing caste. If the person who was the second to have illicit sexual intercourse [with such a woman] and belongs to a caste equal to her or belongs to any Non-enslavable Alcohol-drinking caste, he shall be fined 8 rupees, and if he was the third to have illicit sexual intercourse with her, he shall be fined 4 rupees. If the person who was the second or third to have illicit sexual intercourse [with such a woman] belongs to an Enslavable Alcohol-drinking caste, he shall be fined 10 rupees. If he was the third to have illicit sexual intercourse with her, he shall be fined 5 rupees. If the person who was the second or third to have illicit sexual intercourse [with such a woman] belongs to a Water-unacceptable but Touchable caste whose members may be enslaved, he shall be imprisoned for 4 years and shall be enslaved. If he belongs to a Non-enslavable caste, he shall be imprisoned for 8 years. If he pays four times the fine in lieu of his prison term, it shall be accepted. If the person who was the second or third to have illicit sexual intercourse with her belongs to an Untouchable caste and has illicit sexual intercourse [with such a woman], he shall be punished by *dāmala*, after his share of property has been confiscated, in accordance with the *Ain*. If a slave has illicit sexual intercourse with [such a woman] as her second or third sexual partner, he shall be imprisoned for 2 months or 1 month, respectively. If [the slave] pays the fine in lieu of his prison term, it shall be accepted and he shall be set free.

3. If 2–3 persons have illicit sexual intercourse with a married woman, or a widowed or unmarried woman who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, and who has [already] had illicit sexual intercourse with a man whose caste status is equal to or higher than her own, and if they have illicit sexual intercourse [with such a woman] without knowing that she has [already] had illicit sexual intercourse with someone else, then the person who was first to have illicit sexual intercourse with her shall, in accordance with the *Ain*, be punished. No fault shall be assigned to the person who was second or third to have illicit sexual intercourse with her, if he belongs to a Sacred Thread-wearing caste or Non-enslavable Alcohol-drinking caste. If the person who was the second to have illicit sexual intercourse with her belongs to a caste equal to her or belongs to any other Non-enslavable Alcohol-drinking caste, he shall be fined 5 rupees. If he was the third to have illicit sexual with her, he shall be

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fined 2½ rupees. If the person who was the second or third to have illicit sexual intercourse with her belongs to a Water-unacceptable but Touchable caste whose members may be enslaved, he shall be enslaved. If he belongs to a Non-enslavable caste, he shall be imprisoned for 2 years. If he pays four times the fine in lieu of his prison term, it shall be accepted. If the person who was the second or third to have illicit sexual intercourse with her belongs to an Untouchable caste, he shall be imprisoned for 1 year and shall be enslaved. Such a woman who has let a man belonging to a Water-unacceptable caste have illicit sexual intercourse with her shall also be enslaved. If a slave has had illicit sexual intercourse with her as the second or third sexual partner, he shall be imprisoned for 1 month or 15 days, respectively.

4. If someone has illicit sexual intercourse with a married woman, or a widowed or unmarried woman who is past the age of 11 and belongs to an Untouchable caste, and who has [already] had illicit sexual intercourse with someone else, and if he has illicit sexual intercourse with her without knowing that she has [already] had illicit sexual intercourse with another person, the person who was second to have illicit sexual intercourse with her and belongs to a caste equal to her own shall be fined 2½ rupees. If a person belonging to a Water-unacceptable caste, whose caste status is lower than her own, has illicit sexual intercourse with her as her second sexual partner, he shall be fined 10 rupees, and if he is the third, he shall be fined 5 rupees. No fault shall be assigned to the person who is the fourth.

5. If a slave belonging to a Water-unacceptable [but Touchable] or an Untouchable caste has illicit sexual intercourse with a married woman, widow or unmarried girl who is past the age of 11, belongs to a Sacred Thread-wearing or Non-enslavable caste and has [already] had illicit sexual intercourse with someone else, and if [the slave] has illicit sexual intercourse with her as her second or third sexual partner, he shall be punished by *dāmala*. If he has illicit sexual intercourse with such a woman belonging to an Enslavable caste, he shall be imprisoned for 5 years. The woman who let him have illicit sexual intercourse with her shall be enslaved, after being branded with the first letter of [the name of] the caste of such a slave.

6. If 2–3 women belonging to a Water-unacceptable but Touchable caste [individually] let a man—belonging to a Water-acceptable pure caste, including Sacred Thread-wearing castes—have illicit sexual intercourse with them without knowing that someone else had already let [such a man] have illicit sexual intercourse with her, and believing that the man is non-contaminated, and if [such a woman], through such a man, has contaminated his fellow caste members through cooked rice and water, the woman who is first to let [such a man] have illicit sexual intercourse with her shall be enslaved, if she belongs to an Enslavable caste. If [such a woman] belongs to a Non-enslavable caste, she shall be imprisoned for 2 years. If she pays the fine in lieu of her prison term, it shall be accepted and she shall be set free, but she shall not be enslaved. Such a woman who lets [such a man] have illicit sexual intercourse with her as his second sexual partner shall be fined 20 rupees, and if she is the third to let him have illicit intercourse with her, she shall be fined 10 rupees. If she does not pay the amount of the fine, she shall be imprisoned.

7. If 2–3 women belonging to an Untouchable caste let a man—belonging to a Water-acceptable pure caste, including Sacred Thread-wearing castes—have illicit sexual intercourse with them without knowing that someone else had already let [such a man] have illicit sexual intercourse with her, and believing that the man is non-contaminated, and if they, through such a man, have contaminated his fellow caste members through cooked rice and water, the woman who was first to let [such a man] have illicit sexual intercourse with her shall be enslaved. If such a woman lets [such a man] have illicit sexual intercourse with her as his second sexual partner, she shall be fined 20 rupees, and if she is the third to let him have illicit intercourse with her, she shall be fined 10 rupees. If she does not pay the amount of the fine, she shall, in accordance with the *Ain*, be imprisoned. If 2–3 women belonging to [a Water-unacceptable but] Touchable caste let a man whose caste status is higher than their own have illicit sexual intercourse with them, the woman who is the first [to let him do so with her] shall be fined 20 rupees, and the woman who is the second or third [to let him do so] shall be fined 10 and 5 rupees, respectively.

## 131. On Complainants

1. If a complainant informs [the officials] about illicit sexual intercourse [committed by a couple], and the accused persons are brought [to the concerned office], and one of them confesses [the crime] and the other does not, and the person who has confessed [the crime] dies before signing a written confession (*kāyelanāmā*), and the accused person who has not confessed [the crime] confesses after a judicial investigation is made together with the complainant, [the defendant] shall, in accordance with the *Ain*, be punished. If such a [defendant] does not confess and the complainant cannot make him confess, such a complainant shall be fined 50 rupees, after a *kāyelanāmā* [for his false complaint] has been obtained from him. If the defendant who has not confessed dies, a *kāyelanāmā* shall be obtained from the defendant who has confessed, and he shall, in accordance with the *Ain*, be punished. No fault shall be assigned to the defendant who dies before confessing. Neither expiation nor penance shall be required. He shall not lose his caste status.

2. If a complainant informs [the officials] about the matter of a woman's elopement, or about the illicit sexual intercourse that some man has had with a woman belonging to a caste which is higher or lower than his own or belonging to a Water-unacceptable caste, or about the illicit sexual intercourse that some woman has had with a man belonging to a caste which is higher or lower than his own or belonging to a Water-unacceptable caste, and if the complainant dies while the defendants are still denying [the offence], [in such a case] fate gave the verdict. Such male and female defendants shall retain their caste status. The *adālata*, *ṭhānā*, *amāla* or *kacaharī* office shall not further investigate the case. The defendants shall be released.

3. If a male or female complainant accuses someone who is abroad of committing incest with a blood relative, or of having illicit sexual intercourse with a woman whose caste status is higher than that of the accused, or who belongs to a Water-unacceptable caste, or accuses this person of committing a crime which results in the punishment of execution, degradation from caste status or confiscation [of property], or accuses this person of committing theft or adultery, and if such a complainant is still alive at the time when the accused returns home from abroad, the case shall be investigated, bringing the complainant and defendant together. Whatever is proved, [the guilty person] shall, in accordance with the *Ain*, be punished. If the complainant who has made the accusation dies or runs away, the defendant shall not be held accountable only because of such a one-sided accusation. He shall retain his caste status.

4. If someone who is under arrest because of committing illicit sexual intercourse accuses a person who has not yet died [of having had illicit sexual intercourse with him or her], whatever is proved when [the accused person] is summoned and an investigation is made, the case shall, in accordance with the *Ain*, be decided. If the complainant accuses a person who has already died, such an accusation shall not be considered. If the accused person who has already died belonged to a Water-acceptable caste, the complainant shall be imprisoned for 11 months. If he pays the fine at the rate of 10 rupees per month in lieu of his or her prison term, it shall be accepted and he shall be set free. If such a complainant has accused a deceased person belonging to a Water-unacceptable caste, and if he had consumed cooked rice or water from the hands of that deceased accused person before he died, the share of property of such a complainant shall, in accordance with the *Ain*, be confiscated and he shall then be set free. If he has not consumed cooked rice or water from the hands of that deceased accused person, he shall be imprisoned for 22 months. If he pays double the amount in lieu of his or her prison term, it shall be accepted and he shall be set free. If a deceased person is accused [of committing a crime], even if it is punishable by death, degradation from caste status, or confiscation, the accused person shall not be held accountable, irrespective of whether it is a man or woman. He or she neither loses [posthumously] his or her caste status nor the right of consuming cooked rice with the fellow commensals. No penance shall be required. The complainant shall be held guilty; he shall, in accordance with the regulation of this very section, be punished.

5. If [someone is] suspected of having had illicit sexual intercourse with a partner who belongs to a caste which is lower or higher than that of the one under suspicion, and if [such a suspected person] runs away while he is being arrested, or is arrested, but escapes without refuting the accusation, and if [he] returns after the complainant has died, and argues that he has not committed the crime of having illicit sexual intercourse, such an accused person who fails to refute the accusation when the complainant is still alive, but asks for justice after he has died, shall be considered a liar. [Such a liar] shall be punished in accordance with the *Ain* with the punishment applicable to the respective caste of the person with whom he has been accused of having illicit sexual intercourse.

6. If a woman who has had illicit sexual intercourse [with somebody, but] accuses another man—who has gone abroad and who is her blood relative or whose caste status is lower or higher than hers—of having illicit sexual intercourse with her, and if such a woman does not change her position regarding the accusation she made even after interrogation, and restates that [the man] who has gone abroad is the person [who had illicit sexual intercourse with her], her fellow commensals who have unwittingly been contaminated through her with respect to cooked rice and water, shall be granted expiation under her name. Once the man who has gone abroad returns, an investigation shall be made into both the man and the woman, and the case shall, in accordance with the *Ain*, be decided depending on what will be confirmed upon investigation. If such a woman is pregnant and children are born to her, they shall belong to the caste in which their mother was placed after she was degraded from her caste for having illicit sexual intercourse with a man belonging to a Water-acceptable or Water-unacceptable caste.

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7. If someone who is accused of committing [a crime] which requires penance, [such as] illicit sexual intercourse, theft, murder, or similar, dies without confessing to [the crime], such an accused person who died before confessing shall not be held accountable. No penance shall be required. He shall retain his caste status.

8. If a monk residing in a monastery (*maḥadhārī*) or any other ascetic, [such as] Daśanāmī, Sannyāsī, Vairāgī, Jogī, Jaṅgama, Sebaḍā or similar, accuses someone of committing a crime which is punishable by death or caste degradation, and if said monk or ascetic fails to prove the accusation and it is confirmed that the accusation was made out of malice, he shall be dismissed from his abbotship (*mahantyāī*). His monastery shall be seized by the government. After [he has been dismissed from his post] and his monastery has been seized, he shall neither be fined nor need he be imprisoned. He shall be set free.

9. If someone accuses a woman of running off with [her paramour], or accuses someone of committing a murder, and if the complainant dies or flees before the accused person has confessed to [the crime], the accused person wins [the case].

10. If a blind person, out of suspicion, accuses [someone] of having illicit sexual intercourse, and if the accusation is not proven upon interrogation, the blind person, who is a slave of his fate (*suradāsa*)<sup>507</sup>, shall be imprisoned for 4 months. If he pays the amount in lieu of his prison term, it shall be accepted and he shall be set free.

11. If [someone accuses somebody] of having illicit sexual intercourse with another person who belongs to a Water-unacceptable [but Touchable] or Untouchable caste, one rupee shall be collected as the winning fee (*jitāuri*) from the winning party. More shall not be required.

12. If a woman who has been accused of having illicit sexual intercourse accuses [several men], stating: ‘These persons had illicit sexual intercourse with me’, and if, among the accused men, some have gone abroad and some are still here, and if she signs a written [confession], stating that the man who has gone abroad is the first among others to have illicit sexual intercourse with her, and the men who are still here and are under arrest have also had illicit sexual intercourse with her, being her second or third sexual partners, and if the *kacaharī* cannot identify [the guilty person and is thus] not able to decide the case, and if it is found out that the accused person who has gone abroad is in such and such a place, he shall be summoned here and the case shall be decided. If the location of such a person is not found out, or if he has gone to a foreign country, the case shall not be decided until he returns. Such a woman shall be put into custody (*kaida*) until he returns. Even if the men who have been accused [of having illicit sexual intercourse with her], being her second or third sexual partners, have confessed [to the

507 *suradāra*, read *suradāsa* (MA<sub>2</sub>). The more lenient punishment for a blind person might be either due to the fact that his blindness is already regarded as a form of punishment, or his false accusation is to a certain extent the result of his lacking the ability to see.

crime], they shall be released on surety or bail. The persons who have been unwittingly contaminated [through the acceptance of cooked rice or water from the hands of such a woman] shall be granted expiation in the name of that woman. If she makes the man who has gone abroad confess [his guilt] after he returns, [the guilty parties] shall, in accordance with the *Ain*, be punished. If the woman, after she is placed in custody, changes her confession by stating: ‘The man who has gone abroad was not the first [to have illicit sexual intercourse with me, but] such and such a person who is here was the first’, and if she makes that man confess, the man who is confirmed to have been the first shall, in accordance with the *Ain*, be punished, and the man who is confirmed to have been the second or third shall also be punished, in accordance with the respective *Ain*. The persons who have unwittingly consumed [cooked rice and water from the hands of such guilty persons] shall be granted the expiation for unwitting contamination. Since it has then been ascertained that the woman [falsely] accused [the man who went abroad] in order to save [the one with whom she first had illicit sexual intercourse] from execution, she shall not be imprisoned. She shall be set free.

**Three regulations applicable to the case where a woman is ostracised from her caste because of her oral confession and then reports that she had illicit sexual intercourse [with someone] before her oral confession, and her fellow commensals have been contaminated through cooked rice [which was consumed from her hands]:**

13. If a woman is banned from consuming cooked rice with her fellow commensals because of her degradation, [and this was the result] only of her oral [confession], and if it is confirmed, after she is brought to the *kacaharī* and interrogated, that she has had illicit sexual intercourse [with someone] only after [her being banned], such a woman—belonging to a Sacred Thread-wearing caste, including Brahmin—who falsely accuses that person of having illicit sexual intercourse with her before she was degraded owing to her oral [confession], and signs [her statement] deceitfully with the aim that this man should be executed or punished by *dāmala*, depending on his caste—shall be imprisoned for 3 years. If she pays double the amount in lieu of her prison term, it shall be accepted.

14. If someone persuades a woman who has orally confessed [her illicit sexual intercourse] to state [the following]: ‘Before I orally confessed, such and such a person had had illicit sexual intercourse [with me]’, the person who deceitfully persuaded such a woman [to give a false statement] regarding the crime related to caste and commensality with the aim of having [the accused person] executed or punished by *dāmala*, shall be imprisoned for 5 years. If he pays double the amount in lieu of his prison term, it shall be accepted.

15. If a woman falsely accuses [a man] of having had illicit sexual intercourse with her, such a woman’s fellow commensals shall not need to undergo expiation on the grounds that they have been contaminated by her through cooked rice, since the [alleged] illicit sexual intercourse has not occurred.

**The regulation applicable to someone who comes to give a [false] statement against [a woman]—in order to enjoy her property for which she has no son as heir—that he has witnessed or knows about the illicit sexual intercourse of that woman:**

16. If a widow has no sons, and if she has a dispute with [her relatives] who are entitled to enjoy her property for which there is no son as heir (*aputālī*), [the dispute being] about her share of property and her property for which there is no son as heir, and if then [such relatives], in order to enjoy her share of property and her property for which there is not son as heir, accuse her of having had illicit sexual intercourse [with someone], or they appoint a pleader (*vāresa khaḍā garnu*) and let him do so, and if they claim that they themselves have witnessed [her crime], or they have someone to do so, and if it is not proven upon investigation that she has had illicit sexual intercourse, the offenders, as many as they are—who, in order to enjoy the woman's property for which there is no son as heir, accused [the woman] of having illicit sexual intercourse which has not happened—shall be proportionally fined an amount equal to the total value of the woman's property for which there is no son as heir.



## 132. On Rape I

**[The regulations applicable] when someone rapes a married woman, a widow or an unmarried girl under the age of 11:**

1. If someone has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to an Upādhyāya Brahmin caste or to a caste equal to, or higher or lower than his own, and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether a single person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband, if he belongs to a caste whose male members have the right to kill their wives' paramours, [to kill or not to kill] the person who first had sexual intercourse with her. If she is a married woman belonging to a caste whose members do not bear the right to kill their wives' paramours, or if she is a widow or an unmarried girl, the share of that offender's property [who was first to rape her] shall be confiscated, the *kacaharī* office shall take 10 percent of [the confiscated property] and [the rest] shall be given to the woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he shall be imprisoned for 6 years. If the woman [who has been raped] does not lose her caste status, [but] becomes pregnant and cooked rice from her hands is acceptable [for her fellow commensals], [the offender] shall not be punished by confiscation. He shall only be imprisoned for 6 years. If he pays double the amount in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot, whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 3 years. If they pay double the amount in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned. Even if the woman belongs to an Enslavable caste, she shall not be enslaved, because it is rape.

2. If a person belonging to a Rajapūta or Asala Jaisī caste has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to an Upādhyāya Brahmin caste and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the

*Ain*, be at the pleasure of her aggrieved husband—if he belongs to a caste whose male members have the right to kill their wives' paramours—[to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or an unmarried girl, the share of that offender's property [who was first to have sexual intercourse with her] shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be imprisoned for 7 years, irrespective of whether he has contaminated her fellow caste members through cooked rice or not. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot, whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 3½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

3. If a person belonging to any of the Sacred Thread-wearing castes has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to an Upādhyāya Brahmin, Asala Jaisī or Rajapūta caste and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband—if he belongs to a caste whose male members have the right to kill their wives' paramours—[to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or an unmarried girl, the share of the offender's property shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be imprisoned for 9 years, irrespective of whether he has contaminated her fellow caste members through cooked rice or not. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They all shall be imprisoned for 4½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the suspect] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

4. If a Devabhāju, Terhaūte, Bhaṭṭa, Marhaṭṭā, Nāgara, Gujarātī, Māhārāṣṭrīya, Tailāngī, Draviḍa or Madhesī Brahmin, or a Brahmin from any other territory or from any foreign country has sexual intercourse with a married woman, a widow or an unmarried girl who belongs

to a Sacred Thread-wearing caste, including the Upādhyāya [Brahmin], and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or an unmarried girl, the share of the suspect's property shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided among them and he who first had sexual intercourse with her shall be imprisoned for 9 years, irrespective of whether he has contaminated her fellow caste members through cooked rice or not. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They all shall be imprisoned for 4½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

5. If an ascetic [such as a] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Kanaphaṭṭā, Nānaka, Udāsī or Baghara who has put on the robe, or a Jasī [Brahmin] whose mother was previously married with three or more men, or a Doṭyāla or Jumlī Jaisī, has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Sacred Thread-wearing caste, including the Upādhyāya [Brahmin], and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or an unmarried girl, the share of the offender's property shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be imprisoned for 10 years, irrespective of whether he has contaminated the fellow caste members through cooked rice or not. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 5 years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall be imprisoned.

6. If a person belonging to a Non-enslavable Alcohol-drinking caste has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Sacred Thread-wearing caste, including the Upādhyāya [Brahmin], and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or an unmarried girl, the share of the offender's property shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to the woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be imprisoned for 11 years, irrespective of whether he has contaminated the fellow caste members through cooked rice or not. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 5½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

7. If a person belonging to an Enslavable caste has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Sacred Thread-wearing caste, including Upādhyāya [Brahmin], and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or virgin girl, the share of the offender's property shall be confiscated, the *kacaharī* shall take 10 percent from [this property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be punished by *dāmala* after his share of property, in accordance with the *Ain*, has been confiscated, irrespective of whether he has contaminated her fellow caste members through cooked rice or not. If [such an offender] has sexual intercourse, as described above, with a married woman, a widow or a virgin girl who belongs to a Non-enslavable caste and who is under the age of 11, he shall be enslaved. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be enslaved. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

8. If a person belonging to any of the Touchable [but] Water-unacceptable castes has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Sacred Thread-wearing caste, including Upādhyāya [Brahmin] or Non-enslavable Alcohol-drinking castes, and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman—who belongs to a caste whose male members bear the right to kill their wives’ paramours—it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a married woman who belongs to a caste whose male members do not bear the right to kill their wives’ paramours, or a widow or an unmarried girl, the share of the offender’s property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be punished by *dāmala* after his share of property, in accordance with the *Ain*, has been confiscated. If [such an offender] has sexual intercourse, as described above, with a married woman, a widow or an unmarried girl who belongs to an Enslavable caste and who is under the age of 11, he shall be enslaved. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be enslaved. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 70 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

9. If a person belonging to an Untouchable caste has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Sacred Thread-wearing caste, including the Upādhyāya [Brahmin] or a Non-enslavable Alcohol-drinking caste, and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, or without doing any such, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman—who belongs to a caste whose male members bear the right to kill their wives’ paramours—it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill the person who first had sexual intercourse with her]. If she is a married woman who belongs to a caste whose male members do not bear the right to kill their wives’ paramours, or a widow or virgin girl, the share of the offender’s property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be executed. If [such an offender] has sexual intercourse, as described above, with a married woman, a widow or an unmarried girl who belongs to an Enslavable caste and who is under the age of 11, his share of property shall be given to her and he shall be punished by *dāmala*. If [he has sexual intercourse] with a married woman, a widow or an unmarried girl who belongs to a Water-unacceptable [but] Touchable caste

and who is under the age of 11, he shall be enslaved. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They all shall be enslaved, if they have committed sexual intercourse with the woman who belongs to a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste. Each of them shall be imprisoned for 3 years if they have had sexual intercourse with a woman who belongs to a Water-unacceptable [but] Touchable caste. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, they shall be fined 80 rupees each if the woman [who was being raped] belongs to an Enslavable or Water-acceptable caste, including the Sacred Thread-wearing castes. If the woman belongs to [a Water-unacceptable but] Touchable caste, they shall be fined 70 rupees each, and 60 rupees each if the woman belongs to an Untouchable caste. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

10. If a man from a Water-acceptable or any higher caste including the Sacred Thread-wearing castes, has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Water-unacceptable [but] Touchable caste and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, or without doing any such, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. The share of property of [the offender] who was first to have sexual intercourse with her shall, in accordance with the *Ain*, be confiscated, if he has not consumed cooked rice from the hands of that woman after he had sexual intercourse with her; the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with around 2–3 women, it shall be proportionately divided amongst them and he shall be imprisoned for 3 years. If he pays double the amount required in lieu of his prison term, it shall be accepted, and he shall be granted expiation and made to pay a visit to 1 pilgrimage site. Cooked rice and water from his hands shall be acceptable. If he does not pay the amount of the fine, he shall be imprisoned, and expiation shall be granted to him [only after] his prison term is over. If he himself has consumed [cooked rice and water] from the hands of that woman after having sexual intercourse with her, and has also contaminated his fellow commensals, he shall be imprisoned for 3 years, after his share of property has been confiscated, and the first letter of the caste [name] of that woman with whom he had sexual intercourse shall be branded on his left cheek, and he shall be placed in the caste of the woman, banning him with respect to water. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. If they have not consumed [cooked rice and water] from the hands of that woman after having sexual intercourse with her, each of them shall be fined 150, 100, and 60 rupees, respectively, for persons of Sacred Thread-wearing, Non-enslavable and Enslavable castes, and they shall be granted expiation and made to pay a visit to 1 pilgrimage site. Cooked rice and water shall be acceptable from their hands. If they have consumed [cooked rice and water] from her hands after having sexual intercourse and have also

contaminated their other fellow commensals, their share of property shall be confiscated, the first letter of the caste [name] of that woman with whom they have had sexual intercourse shall be branded on their left cheek and they shall be placed in the caste of that woman, banning them with respect to water, and be let off. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, they shall be fined 40 rupees each. If they do not pay the amount of the fine, they shall be imprisoned. Even if the woman belongs to an Enslavable caste, she shall not be enslaved, because it was rape.

11. If a man from a Water-unacceptable [but] Touchable or any higher caste, including the Sacred Thread-wearing castes, has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to an Untouchable caste and who is under the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or around 2–3 persons jointly do it. The person who was first to have sexual intercourse with her shall be imprisoned for 3 years, after being branded with the first letter of the caste [name] of that woman on his left cheek and banning him with respect to water. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. If they have not contaminated their fellow commensals through water after having sexual intercourse with her, each of them shall be fined 30 rupees. If they have contaminated their fellow commensals through water, they shall be imprisoned for 1 year after their share of property has been confiscated, and the first letter of the caste [name] of [that woman] has been branded on their left cheek; they shall be let off, banning them with respect to water. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, they shall be fined 20 rupees each. If they do not pay the amount of the fine, they shall be imprisoned. Even if the woman belongs to an Enslavable caste, she shall not be enslaved, because it was rape.

12. Amongst the Water-unacceptable castes, if a person belonging to a Touchable caste [whose members] may be enslaved has sexual intercourse with an unmarried girl, a widow or a married woman who belongs to an Upādhyāya Brahmin, Rajapūta, Jaisī, Sacred Thread-wearing, Enslavable or Non-enslavable caste, and who is under the age of 11, it shall be considered rape. If [the woman] is married, it shall be at the pleasure of her aggrieved husband as to whether or he kills [the rapist of his wife] or not. If she is an unmarried girl or widow, [the rapist] shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*.

13. If a person who belongs to an Untouchable caste, including [the caste of] Poḍhyā and Cyāmakhala, has sexual intercourse with an unmarried girl, married woman or widow belonging to an Upādhyāya [Brahmin], Rajapūta, Jaisī, Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste who is under the age of 11, it shall be considered rape. He shall be executed.

## 133. On Rape II

**[Regulations applicable] when someone rapes a married woman, a widow or an unmarried girl above the age of 11:**

1. If someone has sexual intercourse with a married woman, widow or unmarried girl from a Water-acceptable or any higher caste, including the Upādhyāya [caste] or a caste equal, higher or lower to his, and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband—if he belongs to a caste whose male members bear the right to kill their wives' paramours—to kill or not to kill the person] who first had sexual intercourse with her. If she is a married woman belonging to a caste whose male members do not bear the right to kill their wives' paramours, or if she is a widow or unmarried girl, the share of the offender's property shall be confiscated, the *kacaharī* office shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, [the confiscated property] shall be proportionately divided amongst them and he shall be imprisoned for 3 years. If the woman [who has been raped] does not lose her caste status and cooked rice [from her hands] is still acceptable, [the offender] shall not be punished by confiscation. He shall only be imprisoned for 3 years. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 1½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall be imprisoned. Even if the woman belongs to an Enslavable caste, she shall not be enslaved, because it is rape.

2. If a person belonging to a Rajapūta or Asala Jaisī caste has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to an Upādhyāya Brahmin and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with



the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is an unmarried girl or widow, the share of the offender's property shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be imprisoned for 4 years, irrespective of whether or not he has contaminated her fellow commensals through cooked rice. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going to [the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 2 years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] such abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

3. If a person belonging to any of the Sacred Thread-wearing castes has sexual intercourse with a married woman, a widow or unmarried girl who belongs to an Upādhyāya Brahmin, Asala Jaisī or Rajapūta caste and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or virgin girl, the share of the offender's property shall be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be imprisoned for 5 years, irrespective of whether or not he has contaminated her fellow commensals through cooked rice. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going to [the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 2½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

4. If a Devabhāju, Tehraūte, Bhaṭṭa, Marhaṭṭā, Nāgara, Gujarātī, Māhārāṣṭriya, Tailaṅgī, Draviḍa or Madhesī Brahmin, or a Brahmin from any other territory or from any foreign country, has sexual intercourse with a married woman, a widow or unmarried girl who belongs to a Sacred Thread-wearing, Jaisī or Rajapūta caste and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape,

irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or virgin girl, the share of the offender's property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [this confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be imprisoned for 5 years, irrespective of whether or not he has contaminated her fellow commensals through cooked rice. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going to [the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 2½ years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

5. If an ascetic [such as a] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī or Baghara who has put on the robe, or a Jasī whose mother was previously married with three or more men, or a Doṭyāla or Jumlī Jaisī has sexual intercourse with a married woman, a widow or unmarried girl who belongs to a Sacred Thread-wearing caste, including an Upādhyāya, and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or virgin girl, the share of the offender's property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be imprisoned for 8 years, irrespective of whether or not he has contaminated her fellow commensals through cooked rice. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going to [the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 4 years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

6. If a person belonging to a Non-enslavable Alcohol-drinking caste has sexual intercourse with a married woman, a widow or an unmarried girl who belongs to a Sacred Thread-wearing

caste, including an Upādhyāya, and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or virgin girl, the share of the offender's property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be imprisoned for 10 years, irrespective of whether or not he has contaminated her fellow commensals through cooked rice. If he pays double the amount required in lieu of his prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be imprisoned for 5 years. If they pay double the amount required in lieu of their prison term, it shall be accepted. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

7. If a person belonging to an Enslavable caste has sexual intercourse with a married woman, a widow or unmarried girl who belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste, including an Upādhyāya, and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman, it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a widow or virgin girl, the share of the offender's property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them, and he who first had sexual intercourse with her shall be punished by *dāmala*, irrespective of whether or not he has contaminated her fellow commensals through cooked rice. If [such an offender] has sexual intercourse, in the same way as described above, with a married woman, a widow or unmarried girl who belongs to an Enslavable Alcohol-drinking caste and who is above the age of 11, he shall be enslaved. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be enslaved. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 60 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

8. If a person belonging to any of the Touchable [but] Water-unacceptable castes has sexual intercourse with a married woman, a widow or unmarried girl who belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste, including Upādhyāya, and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman—who belongs to a caste whose male members bear the right to kill their wives’ paramours—it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a married woman who belongs to a caste whose male members do not bear the right to kill their wives’ paramours, or a widow or virgin girl, the share of the offender’s property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to the woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided among them, and he who first had sexual intercourse with her shall be punished by *dāmala*. If [such an offender] has sexual intercourse, in the same way as described above, with a married woman, a widow or unmarried girl who belongs to an Enslavable caste and who is above the age of 11, he shall be enslaved. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be enslaved. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, each of them shall be fined 70 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

9. If a person belonging to any of the Untouchable castes from whose members water is not acceptable has sexual intercourse with a married woman, a widow or unmarried girl who belongs to a Sacred Thread-wearing caste, including an Upādhyāya or a Non-enslavable Alcohol-drinking caste, and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth or without doing any such, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. If [such a victim] is a married woman—who belongs to a caste whose male members bear the right to kill their wives’ paramours—it shall, in accordance with the *Ain*, be at the pleasure of her aggrieved husband [to kill or not to kill] the person who first had sexual intercourse with her. If she is a married woman who belongs to a caste whose male members do not bear the right to kill their wives’ paramours, or a widow or virgin girl, the share of the offender’s property shall, in accordance with the *Ain*, be confiscated, the *kacaharī* shall take 10 percent from [the confiscated property] and [the rest] shall be given to that woman. If he has had sexual intercourse with 2–3 women, it shall be proportionately divided amongst them and he who first had sexual intercourse with her shall be punished by *dāmala*. If [such an offender] has sexual intercourse, in the same way as described above, with a married woman, a widow or unmarried girl who belongs to an Enslavable caste and who is above the age of 11, he shall be enslaved. If he has sexual intercourse with unmarried girl or widow who belongs to a Water-unacceptable [but] Touchable caste and who is above the age of 11, he shall be imprisoned for 4 years. If he pays double the fine required in

lieu of the prison term, it shall be accepted. If he has sexual intercourse with unmarried girl or widow who belongs to an Untouchable caste and who is above the age of 11, he shall be imprisoned for 3 years. If he pays double the fine in lieu of the prison term, it shall be accepted. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. They [all] shall be enslaved, if the woman belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste. Each of them shall be imprisoned for 3 years, if she belongs to an Enslavable caste. They shall be imprisoned for 1½ years if she belongs to a Water-unacceptable caste. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, shall be fined 70 rupees each if the woman [who was being raped] belongs to a Water-acceptable caste and whose caste status is higher than their own. If the woman belongs to a caste equal to theirs, they shall be fined 60 rupees each. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

10. If a man from a Water-acceptable or any higher caste, including the Sacred Thread-wearing castes, has sexual intercourse with a married woman, a widow or unmarried girl who belongs to a Water-unacceptable [but] Touchable caste and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. Since the woman does not lose her caste status, the offender shall not be punished by confiscation. If he has not consumed cooked rice from the hands of that woman after having sexual intercourse with her, he shall be granted expiation and made to pay a visit to 1 pilgrimage site and fined 150 rupees, if he belongs to a Sacred Thread-wearing caste and 100 and 60 rupees, respectively, if he belongs to an Alcohol-drinking or Enslavable caste. Cooked rice and water from his hands shall be acceptable. If he does not pay the amount of the fine, he shall be imprisoned, and expiation shall be granted to him [only after] his prison term is over. If he himself has consumed [cooked rice and water] from the hands of that woman after having sexual intercourse with her and has also contaminated his fellow commensals, he shall be imprisoned for 1½ years, after his share of property has been confiscated, and the first letter of the caste [name] of that woman with whom he had sexual intercourse shall be branded on his left cheek, and he shall be placed in the caste of said woman, banning him with respect to water. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. If they have not consumed [cooked rice and water] from the hands of that woman after having sexual intercourse with her, each of them shall be fined 150, 100 and 60 rupees, respectively, for persons of Sacred Thread-wearing, Non-enslavable and Enslavable castes, and shall be granted expiation, and be made to pay a visit to 1 pilgrimage site. Cooked rice and water shall be acceptable from their hands. If they have consumed [cooked rice and water] from her hands after having sexual intercourse and have also contaminated their other fellow commensals, their share of property shall be confiscated, the first letter of the caste [name] of that woman [with whom they have had sexual intercourse] shall be branded on their left cheeks, and they shall be

placed in the caste of the said woman, banning them with respect to water, and they shall be let off. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, they shall be fined 40 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned. Even if the woman belongs to an Enslavable caste, she shall not be enslaved, because it is rape.

11. If a man from a Water-unacceptable [but] Touchable or any higher caste, including the Sacred Thread-wearing castes, has sexual intercourse with a married woman, a widow or unmarried girl who belongs to an Untouchable caste and who is above the age of 11, either by administering intoxicating substances to her or tying her up or gagging her mouth, it shall be considered rape, irrespective of whether one person does so or 2–3 persons jointly do it. The person who is first to have sexual intercourse with her shall—irrespective of whether or not he has consumed [cooked rice or water] from the hands of that woman after having sexual intercourse with her—be imprisoned for 1½ years, after [his share of property] has been confiscated, the first letter of the caste [name] of that woman has been branded on his left cheek and he has been banned with respect to water. He shall be set free [after his prison term is over], placing him in the caste of the woman. If there are other persons who participated, going [to the scene] and having sexual intercourse with that woman on the same spot [where she was being raped], whatever they are in number, it shall not be investigated who was second or third [to rape her]. If they have not contaminated their fellow commensals through water after having sexual intercourse with her, each of them shall be fined 30 rupees. If they have contaminated their fellow commensals through water after having sexual intercourse with her, they shall be imprisoned for 1 year, after their share of property has been confiscated, and the first letter of the caste [name] of [that woman] has been branded on their left cheeks; they shall be set free [after the prison term is over], banning them with respect to water. [As to] the abettors who participated, going [to the scene] and accompanying [the offender] and holding [the victim], but did not have sexual intercourse with her, they shall be fined 40 rupees each. If they do not pay the amount of the fine, they shall be imprisoned. The woman shall not be enslaved, since it was rape.

12. If someone has non-consensual sexual intercourse with an unmarried girl or widow belonging to any of the Four Varṇas and Thirty-six castes, [such as] the Water-acceptable or Water-unacceptable castes, including Upādhyāyas, and whose caste status is higher than, lower than, or equal to her own, irrespective of whether she is under or above the age of 11, he shall not be permitted to take her [as a wife], because it is rape. The man shall have no right [to take her away]. It shall be at the pleasure of her parents and family whether they give her hand in marriage to her rapist after he has been punished, stating ‘[This person] belongs to a caste equal to ours, [so I] give her hand [to him in marriage]’ or ‘We will not give her [hand in marriage] to this person, [but] I will give [her hand] to another person [in marriage]’. If [such a woman] has not been given in marriage by her parents and family to anyone, and if she, after becoming an adult, of her own volition says ‘I will go with this man (her rapist)’, she shall be allowed to go with him. If the woman brought in this manner as a wife [into her rapist’s household] commits adultery with another person, he shall be allowed to kill his wife’s paramour. She shall be entitled

to receive a share from her husband's property equal to that of a ritually married wife. It shall be the decision of the fellow commensals whether or not they consume cooked rice and water from her hands. If such a [raped] woman has not been given [in marriage] by her parents and family and [thus] has remained [unmarried], and if another man, whose caste status is lower than the caste status of the person who had previously raped her, has sexual intercourse with her, he shall be punished according to the regulations applicable to a man who commits sexual intercourse with a woman whose caste status is higher than his own. If a person whose caste status is higher than hers has sexual intercourse with that woman, he shall not be held accountable.

13. If a man has sexual intercourse with an unmarried girl, a widow or a married woman who is under the age of 11 and who is not [the man's] blood relative, for which punishment is laid down in the *Ain*, and it is found that the woman is neither under the age of 11 nor that the sexual intercourse was forced by administering intoxicating substances to her, gagging her mouth or tying her up, nor that 2–3 persons have jointly had sexual intercourse with her, but the sexual intercourse was only between the two of them, the man and woman, and if the woman comes to complain that such and such a person has had sexual intercourse with her, it shall not be considered rape. The person who had sexual intercourse with her shall be punished in accordance with the regulations applicable to consensual sexual intercourse. The woman who comes to complain later after she has let the man have sexual intercourse with her shall be fined 50 rupees. If she does not pay the amount of the fine, she shall, in accordance with the *Ain*, be punished.

14. If a man who belongs to a Sacred Thread-wearing caste rapes an unmarried girl who is below the age of 11 and who belongs to a Sacred Thread-wearing caste, and if the caste status of the person who thus has sexual intercourse with the woman is higher than hers, her caste status shall be considered lower than that of her family. If a person who belongs to a Sacred Thread-wearing caste and whose caste status is lower than that of such a woman has had sexual intercourse with her, she shall become [a member] of the caste of that man of a Sacred Thread-wearing caste. If a person belonging to a Non-enslavable Alcohol-drinking caste has had sexual intercourse with her, she becomes [a member] of a Non-enslavable Alcohol-drinking caste. If a person belonging to a Water-unacceptable [but] Touchable caste has had sexual intercourse with a woman from a Water-acceptable or a higher caste, she shall become [a member] of the caste of the person who has had sexual intercourse with her. Water from her hands shall not be acceptable.

15. If someone belonging to a Water-unacceptable and Untouchable caste forcefully touches with his penis the vagina of an unmarried girl who is under the age of 8 and who belongs to any of the Water-acceptable castes, such as Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking castes, water from the hands of such an unmarried girl shall be acceptable, because she is an ignorant minor. If she belongs to any of the Non-enslavable castes, including the Sacred Thread-wearing castes, she shall become [a member] of a Non-enslavable Alcohol-drinking caste. If she belongs to an Enslavable caste, she shall become [a member] of an Enslavable [Śūdra] caste. The religious judge (*dharmādhikāra*) shall grant her expiation with respect to water, taking 2, 1½, 1 or ½ rupees as a *godāna* fee from the persons of *abbala*, *doyama*, *sima* or *cahāra*

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categories, respectively. Her maternal family shall not be permitted to wed such a girl performing the *kanyādāna* ritual. Her father shall be allowed to give her in marriage, by only worshipping the oil lamp (*diyo*) and the water vessel (*kalaśa*). [The groom] who takes her after worshipping *diyo* and *kalaśa* shall be permitted to kill his wife's paramour [if she commits adultery with another person].

16. Expiation shall be granted to [such an above mentioned] minor [girl] under the age of 8 for letting the penis of a person belonging to a Water-unacceptable caste touch her vagina with the following details: 'Water [touched by her] shall become pure.' Such a girl shall, in accordance with the *Ain*, become a [member of] a Water-acceptable Śūdra caste. If such girls belong to a Non-enslavable Śūdra caste, including the Sacred Thread-wearing castes, they shall become [members] of a Non-enslavable caste. If they belong to an Enslavable caste, they become [members] of an Enslavable Śūdra caste.

17. If someone has sexual intercourse with an unmarried girl, a married woman or a widow who is above the age of 11, in a place where nobody is present, or in an isolated place which is out of reach, such as a forest or the outskirts of a city or village, and if she comes to make a complaint [that he committed sexual intercourse with her], it shall be considered rape. He shall be punished according to the *Ain*'s [Art. 132] 'On Rape', depending on his caste and the caste of the woman with whom he has had sexual intercourse. If he has not had sexual intercourse with her, but has only molested her, he shall be fined or punished twice as much as what is laid down in the *Ain*'s [Art.] applicable to someone who molests [a woman] with the intention of having sexual intercourse with her.

18. If a man from any of the Four Varṇas and Thirty-six castes has sexual intercourse with a married woman, widow or unmarried girl whose caste status is higher than, equal to, or lower than his own, without her consent and by using force, and if the woman kills that person while she is being raped<sup>508</sup> or within 2 *ghaḍīs* after the rape with a weapon or a blow with a stick or stone, causing him to fall down a steep slope, or be swept away by a river, or by strangling him, she shall be assigned no fault because she has killed him at the same time [the rape took place]. She shall be let off after granting her expiation for killing a person. If she kills him after 2 *ghaḍīs* and within 1 day and 1 night, she shall be fined 50 rupees and let off after granting her expiation. If she does not pay the amount of the fine, she shall, in accordance with the *Ain*, be imprisoned. If she kills him after this period, she shall be punished by *dāmala*. If the caste status of the man who raped her is higher than, or equal to her caste status, it shall be at the pleasure of her fellow commensals as to whether or not they accept cooked rice from her hands. If she is raped by a person whose caste status is lower than hers and who belongs to a Water-acceptable or any higher caste, she shall, in accordance with the *Ain*, be banned with respect to cooked rice. If she is raped by a person who belongs to a Water-unacceptable caste, she shall be banned with respect to cooked rice and water. The [initial] letter [of the caste of the man] shall not be branded [on her left cheek], because it is rape.

508 *karaṇi gardaimā havas karaṇi gardaimā havas*, read *karaṇi gardaimā hawas* (MA<sub>2</sub>).



**The regulation [applicable to] the case where 2–4 people jointly rape [a woman] in order to gain possession of property belonging to her in default of a son as heir, and if she comes to make a complaint [about it] within 7 days, she shall be permitted to enjoy her property. If such a woman comes to make a complaint [about the matter] after 7 days or she runs off with another man [after the rape], she shall not be permitted to enjoy her property. Those who have a claim on the property in default of a son as heir, shall enjoy it:**

19. If there is a widow, and 2–4 persons have sexual intercourse with her or order someone else to do so in order to gain possession of her property in default of a son as heir, and if she comes to make a complaint [about the matter] at a nearby *adālata*, *ṭhānā* or *amāla* within 7 days, and if, upon investigation, it is proven that it was rape, those who raped her shall, in accordance with the *Ain*, be punished. She shall be permitted to enjoy her property, because it was rape. Those who have a claim on her property in default of a son as heir shall not be permitted to enjoy it. If she does not come to make the complaint within 7 days or it is proven that she ran off with another man at her own consent and pleasure [after she was raped], she shall not be permitted to enjoy her property in default of a son as heir. Those who have a claim on her property in default of a son as heir shall enjoy it in accordance with the *Ain*.

## 134. On Adultery

1. Amongst the members of the Sacred Thread-wearing and Alcohol-drinking castes who bear the right to kill their wives' paramours, if someone commits adultery with the wife of someone else, and if he is [the aggrieved husband's] blood relative (*hāḍa*) or belongs to the same lineage (*gotra*) or is an Upādhyāya Brahmin, or a Jaisī Brahmin whose mother had been previously married to another person (2 *liṅgakā jaisi bāhuna*), or is [the aggrieved husband's] son-in-law who married the daughter he himself has begotten, [the aggrieved husband] shall not be permitted to kill such a paramour of his wife. If someone from a Brahmin or any other caste whose members are, in accordance with the regulations laid down in the *Ain*, to be punished by *dāmala* for committing homicide, kills [such a paramour of his wife], he shall be punished by *dāmala*, after his share of property has been confiscated, in accordance with the *Ain*. If someone from any of the other castes kills [such a paramour], he shall be executed—taking life for life. The aggrieved husband shall get hold of his wife's paramour, shall remove his Sacred Thread, shall make him consume alcohol and pig meat—if he belongs to a Sacred Thread-wearing caste—or other prohibited foods—if he belongs to an Alcohol-drinking caste bearing the right to kill his wife's paramour—shall degrade him from his caste and shall take his share of property, putting aside [the share of his family members] according to the *Ain*. The *amālī* or *dvāre* officials shall not allow such an adulterer to stay in his village. They shall exile him [from there]. If such an aggrieved husband [alone] is not strong enough [to get hold of his wife's paramour], he shall ask for help from the family members of his lineage and punish his wife's paramour as mentioned [above] and take his share of property. If [such an aggrieved husband] comes to make a complaint at an *adālata* or *ṭhānā* office, stating 'The family members of my lineage [did not help me to catch my wife's paramour] out of favouritism and I am not strong enough to do it', [the *adālata* or *ṭhānā*] shall arrest the paramour of his wife, shall remove his Sacred Thread, shall, in accordance with the *Ain*, confiscate his share of property, shall degrade him from his caste, shall give  $\frac{2}{3}$  of the confiscated property to the aggrieved husband, and the *adālata* shall keep the [remaining]  $\frac{1}{3}$ . If such a case is filed at *amāla* office,  $\frac{2}{3}$  of the confiscated property shall be given to the aggrieved husband, and  $\frac{1}{3}$  shall be brought to the *adālata*. If the aggrieved husband declares, 'Although this person committed adultery with my wife, I neither degrade him from his caste nor do I take his share of property. I will not file a case in any place, either. I let him off without [punishing him]', it shall be at his pleasure [to punish his wife's paramour or not], except when the adultery committed by the adulterer and the adulterous wife falls under the category of a heinous crime (*rājakhata*) committed within the blood relations. The aggrieved husband shall be permitted to let off his paramour [without punishing him]. If adultery is committed within

the blood relations and falls under the category of a *rājakhata*, the *adālata*, *ṭhānā* or *amāla* shall confiscate the adulterer's property, shall hand over [the confiscated property] to the government, and shall punish him in accordance with the respective regulation on incest, even if the aggrieved husband lets his wife's paramour off. If the aggrieved husband [punishes his wife's paramour] by removing his Sacred Thread and forcing him to crawl between his legs,<sup>509</sup> expiation with respect to cooked rice and also water shall, in accordance with the *Ain*, be granted to the adulterer. If [the aggrieved husband] has let [his wife's paramour] off after forcing him to crawl between his legs, with or without removing his Sacred Thread, and also after forcing him to lick the soles of his feet and making him consume alcohol and pig meat, cooked rice from the hands of such an adulterer shall not be acceptable. He shall be granted expiation with respect to water only. If the religious judge (*dharmādhikāra*) under deception grants expiation to someone for whom the *Ain* directs expiation not to be granted, his certificate of expiation shall be nullified, and the caste status of the one to whom expiation has been granted [under deception], shall be degraded. If the *dharmādhikāra* has wittingly granted expiation [in such a case], [the person to whom expiation has been granted] shall be punished according to the previous regulation.

2. If an Upādhyāya or Jaisī Brahmin commits adultery with [the wife] of another Upādhyāya or Jaisī Brahmin, it shall be at the pleasure of the aggrieved husband as to whether he shaves the head of his wife's paramour, removes his Sacred Thread, degrades him from his caste, confiscates his share of property and takes it or lets him off without doing any of these actions, stating 'I forgive him and let him off'. If the person who committed adultery [with such a woman] has not consumed cooked rice from her hands and [also] has not contaminated any of their fellow commensals, he who has been let off by the aggrieved husband without being punished and by being pardoned for the crime of adultery, shall not lose his caste status. He retains his caste status. If the woman is not his blood relative and committing adultery with her is not punishable in accordance with the *Ain*, he shall not be held accountable of committing a *rājakhāta*.

3. If an Upādhyāya or pure Jaisī Brahmin whose mother had previously been married to another husband (*dośro liṅga*), commits adultery [with the wife] of any [Brahmin] including the Upādhyāyas, the aggrieved husband shall not kill his wife's paramour. The aggrieved husband shall shave the head of the Brahmin who committed adultery, shall remove his Sacred Thread, shall make him consume alcohol and pig meat, shall degrade him from his caste status, shall confiscate his share of property and take it and shall exile him from the village or city where he lives. If the aggrieved husband does not kill his wife's paramour and comes to make a complaint at an *adālata*, *ṭhānā* or *amāla* or arrests and brings him there, the *kacaharī* shall take 10 percent from the confiscated property of the adulterer and the rest of it shall be handed over to the aggrieved husband. The adulterer shall be exiled, after allowing the aggrieved husband to punish him as mentioned above. If the aggrieved husband declares that he neither punishes his wife's paramour nor does he confiscate his share of property, it shall be at his pleasure and he shall be permitted to let [the adulterer] off.

509 This practice is meant to humiliate the perpetrator in public.

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4. If an Upādhyāya or Jaisī Brahmin whose mother had previously been married with another husband, commits adultery with a widowed woman of a Sacred Thread-wearing caste, takes her to his house and keeps her [as his wife], and if another Upādhyāya or Jaisī Brahmin whose mother had previously been married to another husband, commits adultery with her, he shall be considered an adulterer. It shall be at the pleasure of her aggrieved husband as to whether he shaves the head of the adulterer, makes him consume alcohol, confiscates his share of property in accordance with the *Ain* and takes it and exiles him [from where he lives], or whether he lets the adulterer off without doing any of this. [The adulterer] shall not be held accountable of committing a *rājakhata*.

5. [Section] number [5] is cancelled.

MA<sub>2</sub> 134.5. If anyone, except an Upādhyāya Brahmin or a Jaisī Brahmin down to Duī-Liṅga-Jaisī, commits adultery with the wife of a Brahmin, the Brahmin himself shall kill his wife's paramour if he is able to do so. He shall not be held accountable. If he is not able to kill [his wife's paramour] and thus comes to lodge a complaint at an *adālata*, *ṭhānā* or *amāla* office, [the adulterer] shall be arrested and shall be punished by *dāmala* after his entire property which is his according to the *Ain* has been confiscated. Men from other castes themselves shall kill their wives' paramours. If they have someone else kill their wives' paramours, they shall be punished by death—taking life for life. They shall be executed. If a Brahmin [orders someone to kill his wife's paramour], he shall be punished by *dāmala*, after having his entire property confiscated, which is his according to the *Ain*.

6. If someone belonging to any of the Sacred Thread-wearing castes from the Four Varṇas and Thirty-six castes, except the Brahmin castes, commits adultery with the wife of his cousin, brother, the son of his maternal uncle, paternal aunt or maternal aunt who is the full sister of his natural mother and different from someone from his blood relation or lineage, with the wife of a Jaisī Brahmin whose mother had previously been married to another husband, or with the wife of any other relative with whom committing adultery is not punishable by death according to the *Ain*, and if the aggrieved husband does not kill the adulterer in such a case, but exiles the adulterer from the city or village where he lives after confiscating his property and degrading him from his caste status, such an aggrieved husband shall not be considered unmanly. He shall be seen as a person with wisdom. Someone who kills his wife's paramour who is a near relative shall be considered an evil person (*pājī*). If he kills his wife's paramour, he shall not be held accountable, because it is a custom that has been practiced from time immemorial. If he lets [his wife's paramour] off [without punishing him], [the adulterer] shall not be held accountable of committing a *rājakhata*.

7. If the ritually married wife of someone belonging to a Rajapūta, Kṣatriya, Magara, Guruṅga, Ghale or Sunuvāra caste whose male members bear the right to kill their wives' paramours, or an unmarried girl or widow who was brought [into the household] as wife, runs off with

another man who is not from her blood relations or lineage or is not a Brahmin, it shall be at the pleasure of the aggrieved husband as to whether he kills his wife's paramour or not, whether he confiscates his property in accordance with the *Ain*, or whether he lets him off, taking [a compensation] for his marriage expenses. When such an aggrieved husband wants to take compensation from the adulterer, to confiscate his property and to let him off, or wants to kill him, the *hākima* of the *adālata*, *ṭhānā* or *amāla* shall not be allowed to force [the aggrieved husband to choose one of the punishments]. It shall be at the pleasure of the master of the wife. If [the matter of adultery is settled] by issuing a written document after the aggrieved husband has accepted compensation for marriage expenses from his wife's paramour, or he has confiscated his property and taken it, and later on the aggrieved husband kills his wife's paramour, [the aggrieved husband] shall be executed—taking life for life. If the adulterer for some reason declares 'I neither give him (i.e. the aggrieved husband) [compensation for] marriage expenses nor let him confiscate my property. He may kill me, if he can [do so]', the aggrieved husband himself shall kill the adulterer if he can do so. If the adulterer does not agree [on paying compensation for the marriage expenses or having his property confiscated], the aggrieved husband alone shall not be allowed to [insist] on taking [compensation] for his marriage expenses from the adulterer or on confiscating his property. The *adālata*, *ṭhānā* or *amāla* also shall not be allowed to force the adulterer to give the aggrieved husband any compensation for his marriage expenses and a share of his entire property.

8. If someone gives the hand of the wife of a person who belongs to any of the Sacred Thread-wearing, Non-enslavable, Enslavable, Touchable or Untouchable castes whose male members bear the right to kill their wives' paramours to another man [in marriage], lying to him that she is an unmarried girl, widow or common woman, and if the woman bears the status allowing [her husband] to kill, according to the *Ain*, his wife's paramour, and if the aggrieved husband kills the adulterer who took his wife, without knowing that such and such a person gave the hand of his wife [in marriage] and such and such a person took her, the aggrieved husband shall not be held accountable. If the fact that he had taken that wife after she was given in marriage by such and such a person is disclosed after the adulterer is killed, and if the one who gave her in marriage confesses it, such persons who give someone's wife in marriage to someone else, irrespective of whether they belong to the bridal family or not, shall be imprisoned for 6 years—if a man—, and for 3 years, if a woman. If the convict pays double the fine required in lieu of his or her prison term, it shall be accepted and he or she shall be set free. If the adulterer, before he is killed [by the aggrieved husband], declares 'I did not know that she is such and such a woman. I took her because [such and such a person] said that she is an unmarried girl, widow or common woman', and if he makes the person who arranged that wife for him confess it, the aggrieved husband shall not be permitted to kill his wife's paramour, because the latter took her after she was arranged [for him] by someone else. If he kills [such an adulterer], and if he is a Brahmin, he shall be punished by *dāmala*, after his share of property has been confiscated, in accordance with the *Ain*. If he is from another [caste], he shall be executed. If a woman has done so, she shall be imprisoned for 3 years, because women shall neither be killed nor shall their property be confiscated. If she pays double the fine required in lieu of her prison term, it shall be accepted and she shall be let off. If such a woman was given [in marriage] by the bridal family or by any other man, and if the person

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who gave her [in marriage] is a Brahmin, it shall be at the pleasure of the aggrieved husband as to whether he shaves the head of the culprit, confiscates his property and takes it, or he lets the person off who gave his wife [in marriage] to someone else and made her commit adultery with him without doing any of this. If [the perpetrator] is from a caste other [than Brahmin], it shall be at the pleasure of the aggrieved husband as to whether he kills him, shaves [his head], confiscates his property and takes it, or lets him off without doing any of this. The person who took such a woman shall not be held accountable, because someone else deceitfully gave her to him, [convincing him] that she is an unmarried girl, widow or common woman.

9. If the [ritually married] wife or an unmarried girl or widow [is brought into the household] of someone belonging to any of the Sacred Thread-wearing castes whose male members bear the right to kill their wives' paramours, and such a woman bears the status allowing her husband to kill, according to the *Ain*, her paramour, and then she runs off with another man, and if that man who took her is within the kingdom, he shall be found and killed. Expiation shall be granted to those for whom it is required. Even if the adulterer is not found, and the aggrieved husband finds out that his wife committed adultery with such and such a person, expiation shall be granted [to those for whom it is required]. If the aggrieved husband could not find the person with whom she committed adultery, the *dharmādhikāra* shall grant expiation for cooked rice or water under the name of that woman for running off with her paramour, depending on whether cooked rice from her hands is acceptable or not, by taking 2½, 2, 1 or ½ rupees as a *godāna* fee for persons of the *abbala*, *doyama*, *sima* or *cahāra* categories, respectively. If the aggrieved husband does not search for his wife's paramour, although he is aware of the fact that his wife committed adultery [with him], and he also does not undertake the required expiation, such an aggrieved husband shall be fined and be made to undertake expiation.

10. With regard to the case of adultery committed within blood relations which falls under the crime of committing a *rājakhata*, if the aggrieved husband wishes to punish his wife's paramour, he shall, in accordance with the *Ain*, punish the adulterer. It shall be at the pleasure of the aggrieved husband. Even if the aggrieved husband lets his wife's paramour off after signing a deed of relinquishment of rights (*rājīnamā*), stating 'I neither punish [my wife's paramour] nor do I confiscate [his property] and take it', the *adālata* or *amāla* shall, in accordance with the *Ain*, confiscate the share of the property of the adulterer and also shall punish him in accordance with the *Ain*.

11. If someone commits adultery with [a woman] from his blood relations which falls under a *rājakhata*, or he commits adultery with a woman which is to be punished by confiscation or which results in contamination of fellow commensals through cooked rice and water, either the official [such as a] *dvāre*, *tharī*, *mukhīyā* or *mijhāra* of an *adālata*, *thānā* or *amāla*, or family members or friends of the aggrieved husband, shall take [the adulterer] to the *adālata* or *amāla* and he shall be punished there in accordance with the *Ain*'s [regulations] for incest or for committing adultery which results in the punishment of confiscation or in contamination of fellow commensals through cooked rice and water. If the case is decided by the *adālata*, the confiscation [of the adulterer's property] shall be made by the *adālata* itself, and if the case is filed at the *amāla* [and is decided

there], the confiscated property [of the adulterer] shall be brought to the *adālata*. Once the case is decided by the *adālata* or *amāla*, the aggrieved husband shall neither be permitted to confiscate [the property of his wife's paramour] and take it, nor shall he be permitted to impose on him any other punishment.

12. Amongst the persons of the Sacred Thread-wearing castes, if someone [has punished] his wife's paramour only by removing his Sacred Thread and by forcing him to crawl between his legs, such a person who committed adultery with his wife shall be granted expiation with respect to cooked rice and water. Cooked rice and water shall be acceptable from his hands. If [the aggrieved husband] has forced [his wife's paramour] to crawl between his legs and has also forced him to lick the soles of his feet with or without removing his Sacred Thread, and has made him consume alcohol and pig meat, cooked rice from the hands of such an adulterer shall not be acceptable, but water shall be acceptable. He shall be granted expiation with respect to water.

13. Amongst the persons of the Alcohol-drinking castes, if an aggrieved husband who bears the right to kill his wife's paramour lets the adulterer of his wife off only by forcing him to crawl between his legs, the adulterer shall be granted expiation with respect to cooked rice and water. Cooked rice and water shall be acceptable from his hands. If [the aggrieved husband] has let the [adulterer] off after forcing him to crawl between his legs and forcing him to lick the soles of his feet, cooked rice shall not be acceptable from the hands of such an adulterer. Water shall be acceptable from his hands. He shall be granted expiation with respect to water.

14. If a married woman from a caste other than Brahmins and from whose hands cooked rice is acceptable, commits adultery with someone belonging to a caste higher than or equal to her own caste, no penance shall be required after [the aggrieved husband] kills his wife's paramour. If such a married woman commits adultery with someone belonging to a caste lower than her own caste, and if she contaminates [her husband and fellow commensals] through cooked lentils and rice, penance shall be required after [the aggrieved] husband kills his wife's paramour. [The aggrieved husband and his fellow commensals] shall undertake penance even if he does not kill his wife's paramour. Even if his wife's paramour somehow flees and goes [somewhere], the family members and fellow commensals [of the aggrieved] husband shall purify themselves by undertaking penance in order to carry out the rites for gods and ancestors. Even if such an adulterer is found after the penance has been undertaken, [the aggrieved husband] shall be permitted to kill him. While granting penance, the *dharmādhikāra* shall take 2, 1½, 1 and ½ rupees as *godāna* fee from persons of the *abbala*, *doyama*, *sima* and *cahāra* categories, respectively.

15. If an aggrieved husband belonging to a caste whose members bear the right to kill their wives' paramours is told by someone that the former's wife has committed adultery with such and such a person, and the aggrieved husband kills his wife's paramour only on the basis of the rumours he has heard, and without interrogating his wife and without having a document be written down, and if the wife or a pleader from the side of the killed adulterer comes to make a complaint [about the matter], and if it is ascertained upon inquiry that the wife has not committed

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adultery [with the alleged adulterer], or the first who committed adultery with her is someone else [but not the killed one], the aggrieved husband who killed his wife's paramour only on the basis of the rumours he has heard and without interrogating his wife and without having a document be written down, shall be punished by *dāmala*, after his share of property has been confiscated, in accordance with the *Ain*, if he is a Brahmin. If he is [from a caste] other [than a Brahmin], he shall be executed—taking life for life. The person who caused the death of [the alleged adulterer] by informing [the aggrieved husband] that his wife had committed adultery with such and such a person without having the right to do so, and without investigating that matter of adultery of someone's wife, shall be imprisoned for 6 years, after his share of property has been confiscated, in accordance with the *Ain*. If he pays four times the fine required in lieu of his prison term, it shall be accepted. If it is ascertained upon interrogation that the person [who informed the aggrieved husband about the adultery committed by his wife] had witnessed the adultery when it took place, that person who informed [the aggrieved husband] shall not be held accountable. The aggrieved husband shall be fined 20 rupees for killing his wife's paramour only on the basis of the news he had heard, but without having made his wife sign a document [of confession]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

16. If the wife of someone—except a Brahmin— belonging to a caste whose members bear the right to kill their wives' paramours runs off with another man, and if the wife bears the status allowing [her husband] to kill her paramour, and if the [aggrieved husband], in accordance with the *Ain*, did not kill his wife's paramour or did not impose on him any other punishment while [the adulterer] was still within his own country, or if [the aggrieved] husband has wittingly had sexual intercourse with such a wife who has committed adultery [with her paramour], consumed cooked rice from her hands and also contaminated his fellow commensals through cooked rice, and if expiation is required to be undertaken, the expiation fee for the fellow commensals of the aggrieved husband shall be paid from his wealth, as long as his wealth is enough to cover the expiation fee, irrespective of whatever kind of expiation the fellow commensals, in accordance with the *Ain*, have to undertake, and irrespective of whether they have to undertake expiation with respect to cooked rice only or with respect to water as well. If the wealth of the aggrieved husband is not enough [to cover the expiation fee], they shall undertake the expiation [by paying their expiation fee] individually. The aggrieved husband shall be placed in the caste of his adulterous wife, depending on whatever caste status is decided for her [due to her adultery]. The adulterer shall not be held accountable of committing a *rājakhata* if he belongs to a Water-acceptable caste. He shall be let off. If the adulterer has gone to a foreign kingdom after committing the adultery, and if the aggrieved husband has neither had sexual intercourse with his [adulterous] wife, nor has he consumed cooked rice from her hands after she committed adultery [with her paramour], and if the persons who have been ignorantly contaminated through such a woman need to undertake expiation for unwitting contamination under the name of that woman, they shall undertake the expiation at their own [cost]. The aggrieved husband shall not be obliged to arrange expiation for them.

17. If an Upādhyāya Brahmin or a Jaisī Brahmin whose mother had previously been married to another man, commits adultery [with a woman], or someone commits adultery [with a woman]



from his blood relations, and if the aggrieved husband kills [his wife's paramour], action shall be taken in accordance with the *Ain*. If the adulterer injures the aggrieved husband by using a weapon before he takes a stroke by [the aggrieved husband], and if the aggrieved husband kills the adulterer after he was injured by the adulterer, and if also the witnesses [of the killing] sign a document of testimony, stating 'the aggrieved husband killed the paramour of his wife only after he was injured by him', the aggrieved husband shall not be considered guilty, because it is obvious that the adulterer first injured the aggrieved husband. He shall be granted expiation with respect to cooked rice and water after having him pay a visit to 1 pilgrimage site for killing the Brahmin or kin of the lineage. He shall not lose his caste status.

**The regulation dealing with the matter of whether an aggrieved husband is allowed or not to kill his wife's paramour if a person from an Untouchable caste commits adultery [with the wife of] someone from a pure caste from whose members water is acceptable, [such as] the Sacred Threading-wearing castes:**

18. If someone from any of the Untouchable castes commits adultery with the wife of someone else who belongs to a pure caste, from whose members water may be acceptable, including the castes of Brahmins, irrespective of whether he contaminates that woman [and her fellow caste members] with respect to cooked rice, the aggrieved husband—if he decides to kill his wife's paramour—shall be permitted to kill his wife's paramour, even though such an adulterer used to be executed [by the order] of an *adālata* before the *Ain* was prepared; nevertheless, after [the promulgation of] the *Ain*, it is laid down that [such an] adulterer shall be punished by *dāmala* after his share of property has been confiscated, because it is to be ascertained as a *rājakhata*. Even if such an adulterer is imprisoned at an *adālata*, *ṭhānā* or *amāla*, he shall be handed over to the aggrieved husband. If such an adulterer runs away when he is about to be killed and saves his life, whether he is injured or not, the *adālata* or *amāla* shall neither arrest nor imprison him again, on the grounds that he has committed a *rājakhata*. Also, the aggrieved husband shall not be permitted to kill him. The persons who ignorantly consumed water from his hands shall be granted expiation.

## 135. Adultery with the Wife of Someone Who Has Gone Abroad

1. If a wife whose husband is not at home because he has gone to a foreign country on state or private business, comes to make a complaint that a person molested her with the intention of having sexual intercourse with her, the case shall not be kept undecided on the grounds that her husband is not at home. The case shall be decided, [imposing] a fine on the offender in accordance with the *Ain*'s [regulations] on molestation, and a winning fee (*jītāuri*) shall be collected.

2. If a husband has gone to a foreign country, and if the adultery committed by his wife is disclosed because she became pregnant or it is disclosed [although] she is not pregnant, and if the woman hides [the adultery] committed with her beloved paramour, and she presents a third man as her adulterer, the family members and fellow commensals of the aggrieved husband who has gone abroad shall catch the woman and that third man and bring them to an *adālata*, *ṭhānā* or *amāla* office, because this third man who did not commit adultery with that woman may be killed [by her aggrieved husband] and the aggrieved husband may be killed in turn for killing a person who did not commit adultery with his wife. If, upon interrogation, it is proved that the third person who is caught and brought to [the office] was the first to commit adultery with that woman, both the man and woman shall be made to issue a document [of their confession] and they shall be handed over to the persons who caught and brought them [to the office]. If the adultery is not proved, they shall be set free. If the person who is set free [and is discharged from accusation], comes to complain that he was caught without [anyone having] the right to do so, the persons who caught him shall not be held accountable, irrespective of whether the aggrieved husband, after returning from the foreign territory, caught and brought [him to the office], or the aggrieved husband's family members or fellow commensals did so. The woman who made the false accusation shall be imprisoned for 3 years. If she pays the fine required in lieu of her prison term, it shall be accepted and she shall be let off.

3. If someone commits adultery with the wife of a person who has gone for a war, or has gone to a foreign country on state or other business, or has gone to a place far distant and takes her away along with [the aggrieved husband's] property, and if the family members or friends of the aggrieved husband catch the adulterer and bring him [to an office], whatever of that property—except the clothes that the woman wears on her body—can be recovered from the adulterer, it shall be recovered and be handed over to the responsibility of a heir of the aggrieved husband. The adulterer shall be imprisoned until the aggrieved husband is returned. [Once] the aggrieved husband returns, the adulterer shall be handed over to the aggrieved husband. The aggrieved

husband shall [first] investigate thoroughly who was the first and who was the second to commit adultery with his wife, and shall, in accordance with the *Ain*, punish his wife's adulterer. Whatever [property] of the aggrieved husband is taken away by his wife's adulterer, the former shall take [everything] back. No other [levy such as] *pānaphula*, *baksāunī* or wining fee shall be collected [from the court].

4. If someone commits adultery with the wife of a person who has gone to a different or foreign territory on private business, but not on state business, and who belongs to a caste whose members bear the right to kill their wives' paramours, and [the adulterer] takes her away along with [the aggrieved husband's] property, commodities and male and female slaves, the family members or friends of the aggrieved husband or the *adālata*, *ṭhānā* or *amāla* shall catch him, and the property, commodities and male and female slaves—except the clothes worn by that woman on her body—taken away by the adulterer shall be handed over to an heir of the aggrieved husband after taking 10 percent [of the recovered property as court fee]. The adulterer shall be imprisoned at the rate of 1 month for every 5 rupees until the [amount of the value of] recovered property in question is compensated for. If the aggrieved husband arrives back [from his business] before the prison term of the adulterer is over, the adulterer shall be handed over to the aggrieved husband. If the aggrieved husband does not come until the prison term of the adulterer is over, the adulterer shall be set free. If the adulterer, while taking away the wife of the aggrieved husband after committing adultery with her, has taken away (*cornu*) also the children of the aggrieved husband and has [also] taken them along with him, such a thief shall be arrested and imprisoned until the aggrieved husband returns. He shall be handed over to the aggrieved husband once the latter returns. It shall be at the pleasure of the aggrieved husband whether he, in accordance with the *Ain*, punishes [the adulterer] or lets him off without imposing any punishment.

5. If someone commits adultery with the wife of a person who has gone to a foreign country on private business, but not on state business, or is staying at his place of origin and who belongs to a caste whose members bear the right to kill their wives' paramours, and [the adulterer] takes only his wife away, but not [the aggrieved husband's] property, commodities or male and female slaves, neither the *adālata*, *ṭhānā* or *amāla* office nor a *dvāre*, *mukhiya*, *tharī* or *mijhāra* official shall be permitted to arrest him or the aggrieved husband's family members, friends, villagers or neighbours. The aggrieved husband, once he returns [from the foreign country], shall himself search for his wife's paramour and shall punish him in accordance with the *Ain*. If anyone else than the aggrieved husband catches hold of such an adulterer, he who caught hold of the latter shall be fined 100 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If, under such circumstances, someone's wife's paramour is caught hold of and killed by someone else, [the culprit] shall, in accordance with the *Ain*, be punished.

6. If the wife of someone belonging to any of the Four Varṇas and Thirty-six castes who has left the service (lit. 'salt') of his king's realm and is serving in a foreign country—except [under the conditions] that [he has gone abroad] to pursue his business, to pay visit to pilgrimage sites,

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or to practise vows—runs off with someone else, he shall not be allowed to kill his wife's paramour, to shave the paramour's [top-knot] and to confiscate [his property], even if [the aggrieved husband] later on leaves the service [in that foreign country] and returns, because he has [once] served [in a foreign country]. If he kills his wife's paramour and if he is a Brahmin, he shall be punished by *dāmala* after his property has been confiscated, in accordance with the *Ain*. If he is from another [caste], he shall be executed—taking life for life. If such a person commits incest with someone from his blood relations, or if he commits rape, he shall be punished in accordance with the respective *Ain*'s [regulations].

7. If a man has gone to a foreign country and his wife runs off with another man, and if it is disclosed in his city or village that [the aggrieved husband's] commodities and so forth are decaying, and if there is no one to take care of his commodities and [also] his son is a minor, the *hākima* or other officials [such as] the *ḍiṭṭhā*, *bicārī*, *amālī* or *dvāre* of the respective place—even if no complaint is made in this case—shall summon the woman [to the office], shall obtain her confession, shall seize the commodities of that man and hand it over to the local notables, declaring 'Hand these commodities over to this man after he returns'. [The fee of] 10 percent shall not be collected from this. Once the aggrieved husband returns, it shall be at his pleasure to punish his wife's paramour. The *hākima* or other officials, [such as] the *amālī* or *dvāre*, who does not investigate the matter even after it is known to them shall be fined 20 rupees.

8. If someone commits adultery with the wife of someone else, and if the adulterer persuades the aggrieved husband and takes him to a foreign territory, and if the matter of adultery is disclosed after the adulterer returns, and if the father, son or some other family member comes to complain at an *aḍḍā*, *adālata* or *amāla* that the aggrieved husband is not to be found, and if it is ascertained after the adulterer is arrested and interrogated that he killed the aggrieved husband, the adulterer, if he is a Brahmin, shall be punished by *dāmala* after his share of property has been confiscated, in accordance with the *Ain*. If he belongs to any other caste [than Brahmin], he shall be executed—taking life for life. If the adulterer did not confess that he killed the aggrieved husband, but he confessed that he committed adultery, and if it is not discovered whether the aggrieved husband has died or is still alive, the adulterer shall be imprisoned. If the aggrieved husband returns, the adulterer shall be handed over to the aggrieved husband, if the former was caught and brought [to the office] by a family member, father or son of the latter. If the adulterer was caught and brought [to the office] by somebody else [than a member of the aggrieved husband's family], he shall be let off in the absence of the aggrieved husband. If the aggrieved husband does not return for 20 years, the adulterer shall be set free, because the adulterer did not confess that he killed the aggrieved husband.

9. If someone commits adultery with the wife of someone else and takes her away along with [the aggrieved husband's] wealth and commodities, the aggrieved husband, after he has found the adulterer and has killed him, shall not be allowed to catch the family members or sons of the one who has been killed and recover his wealth back from them, claiming '[The adulterer] destroyed such and such [an amount] of my wealth and commodities'.

10. If someone personally catches his wife's paramour and hands him over to an *adālata*, *ṭhānā* or *amāla*, claiming 'My wife committed adultery with such and such a person', and if it is proved upon interrogation that [the accused person] committed adultery [with the former's wife], the adulterer shall be handed over to the aggrieved husband. If the adultery is not proved, he shall be let off. If the aggrieved husband has only filed a case [at a court], but he himself has not caught the adulterer and has not brought him [to the court], [but rather] someone else has brought [the adulterer to the court], and if the adultery is proved upon interrogation, the adulterer shall not be handed over to the aggrieved husband. He shall be set free in the absence of the aggrieved husband. If nobody has witnessed the adultery, but [the accused person] is caught on suspicion and brought to [the court], and the adultery is not proved upon interrogation, the accuser—irrespective of whether he has [only] filed a complaint against the adultery at the *aḍḍā*, *adālata* or *amāla* or he has caught the accused person and brought him to [the office]—shall be fined 25 rupees, because he arrested [the accused person only] on suspicion [of committing an adultery], which had not taken place. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If [the accuser] does not bring the [accused person] to an *aḍḍā*, *gauḍā*, *adālata*, *ṭhānā* or *amāla*, but lies in wait with a weapon to kill him on suspicion, given the condition that neither the wife has confessed the adultery nor anybody else has witnessed it, such an accuser—from a member of a Sacred Thread-wearing caste whose members bear the right to kill their wives' paramours, down to a member of an Alcohol-drinking caste—shall be imprisoned for 3 years. If he pays double the amount required in lieu of his prison term, it shall be accepted and he shall be let off.

## 136. When [a Married Woman is Accused of] Illicit Sexual Intercourse with Another Man

1. If a woman whose husband is still alive presents a dead man as her husband in order to run off with another man, cooked rice shall not be acceptable from such a woman's hands. The aggrieved husband shall, in accordance with the *Ain*, punish his wife's paramour, the one who, among the paramours of his wife who are still alive, is ascertained to be the first to have had sexual intercourse with her. If [the sexual intercourse with such an offender] falls under a heinous crime (*rājakhata*), that person [who is first to have had sexual intercourse] with that woman shall be punished [accordingly].

2. If someone's wife who so far has been faithful to him runs off with another man, and if she does not disclose [having had sexual intercourse with] him, but presents [another] man [as her paramour], and if that man is killed [by the aggrieved husband] and the nose of that woman is [also] chopped off, such a wife, who saved the man who first had sexual intercourse with her and caused the death of the man who was second to have sexual intercourse with her, shall be imprisoned for 6 years and then be set free. The money [set in lieu of] the prison term shall not be accepted [from her]. If the nose of that woman has not been chopped off, she shall be punished by *dāmala* for life.

3. If someone's daughter or any woman among his relatives declares that she has had sexual intercourse with such and such a person, and if her husband kills that person after calling the *pañca* as witnesses and making him [sign] a document [of confession], and if she, after the aggrieved husband has killed that person, declares that the person whom she first committed adultery with is someone else, and it is ascertained upon interrogation that the person who was killed was the first to have sexual intercourse with her, then her parental family members or relatives who have heard [only] that this woman has become a common woman without any investigation, and lodge a complaint regarding the matter of the murder, shall be fined 50 rupees. The woman, if she belongs to a Non-enslavable caste, shall be imprisoned for 3 years. If she pays the money set in lieu of the prison term, it shall be accepted and she shall be set free. If the woman belongs to an Enslavable caste, she shall be enslaved.

4. If someone's wife who so far has been faithful to him runs off with another man, and if she, in order to save [the life of] that man with whom she has had sexual intercourse, accuses a third person who has not had sexual intercourse with her, and it is ascertained upon interrogation that [the third person] has not had sexual intercourse with her, but that she has accused

him without any grounds (*behaka*), and if the accused person is not killed [by her aggrieved husband], the woman who thus intended letting a person be killed without any reason, shall be imprisoned for 3 years, if she belongs to a Non-enslavable caste. If she pays the money set in lieu of the prison term, it shall, in accordance with the *Ain*, be accepted and she shall be set free. If she belongs to an Enslavable caste, she shall be enslaved. If [the accused person] has been killed [by her aggrieved] husband, she shall be punished by *dāmala*.

5. Regarding a case of sexual intercourse where the aggrieved husband kills his wife's paramour, and [later on] such a wife states to someone from her paternal family or any other relative or friend: 'I have not had sexual intercourse with any other man. I have fulfilled my duty (*dharma*) of remaining faithful to my husband. Such and such a person was killed for no reason', and if the person from her paternal family or any other relative or friend comes to complain at an *adālata*, *thānā* or *amāla* office, and it becomes apparent upon interrogation that [the aggrieved husband] killed a person who had not had sexual intercourse with his wife, that husband shall be executed—taking life for life. If he has killed the person who was first to have sexual intercourse with his wife, he shall not be held accountable. The woman, if she belongs to a Non-Enslavable caste, shall be imprisoned for 3 years for making a false accusation. If she belongs to an Enslavable caste, she shall be enslaved. No fine is required for her paternal family.

6. If a woman from any of the Four Vārṇas and Thirty-six castes makes a written statement, saying: 'Such and such a person was the first to have sexual intercourse with me', and if the aggrieved husband kills that person, and she, after her aggrieved husband killed that person, declares: 'That person [who was killed] was not the first to have sexual intercourse with me. His life is gone for no reason', and the aggrieved husband is arrested and it is ascertained upon interrogation that the person [who was killed by that aggrieved husband] himself had earlier written down [a confession], such a woman who made a false accusation and who belongs to a Non-enslavable caste shall be imprisoned for 3 years. If she pays the money set in lieu of the prison term, it shall, in accordance with the *Ain*, be accepted and she shall be set free. If the woman belongs to an Enslavable caste, she shall be enslaved.

7. If someone is killed [by another man] for having had sexual intercourse with this other man's wife, with or without having her write down a document [of confession], and if the woman, being asked by the brothers, father, sons, loved ones or friends of the killed person, declares: 'I have not had sexual intercourse [with anybody]. The life of such and such a person is gone for no reason', and if [the family members of the killed person] come to complain at an *adālata*, *thānā* or *amāla*, referring to [that woman's] statement, and it is ascertained upon interrogation that the person who was killed had to be killed, no blame shall be assigned to the beloved ones, friends or family members [of the killed person] who came to complain with reference to that woman's statement. The woman who had sexual intercourse with [that killed person], but denied the adultery with him, shall be judged guilty. She shall be imprisoned for 3 years, if she belongs to a Non-enslavable caste. If she belongs to an Enslavable caste, she shall be enslaved. If someone influences that fallen woman to [make a false] statement, or gives her bribes and persuades

her to [lie] about having had sexual intercourse [with such and such a person], the person who persuaded that woman to make a [false] statement about her having had sexual intercourse with such and such a person, or who persuaded her [to make a false] statement to the effect that she has not had sexual intercourse [with anyone], shall be imprisoned for 5 years, because he has conspired to take the life of a person. If [the offender] pays double the money [set in lieu of] the prison term, it shall be accepted and [the offender] shall be set free.

8. If someone's wife who so far has been faithful to him [falsely] declares: 'I had sexual intercourse with such and such a person in such and such a place or village during a procession, festival or in a barracks or camp', and if neither the name nor the house of that man whom she accuses of having had sexual intercourse with her is found upon searching, it is to be considered that the woman declared having had sexual intercourse [only] in order to save her prestige (*nāka*). Such a woman shall be let off. If the name and the house of that man is found upon searching, it is to be considered that she accused that man in order to save the person who [actually] had sexual intercourse with her and in order to have [the accused person] kill without any reason. Such a woman shall be imprisoned for 3 years, if she belongs to a Non-enslavable caste. If she pays the money set in lieu of the prison term, it shall be accepted and she shall be set free. If the woman belongs to an Enslavable caste, she shall be enslaved.

9. If the ritually married wife of someone who belongs to a caste the members of which bear the right to kill their wives' paramours runs off with another man, or the wife of anyone who bears the right to kill her paramour, runs off with another man, and if the husband interrogates her at an *adālata*, *ṭhānā* or *amālā*, and if the wife also writes down a document [of confession] that she has had sexual intercourse with such and such a person, and the aggrieved husband kills her paramour on the basis of that written document, and if the wife, after her paramour is killed, changes her statement and declares: 'I did not have sexual intercourse with that man. He was killed for no reason', and if an heir of the killed person comes [to the office] and states: 'Such and such our relative was killed without any reason', [the aggrieved husband] who killed [his wife's supposed paramour] shall not be held accountable, irrespective of whether she had sexual intercourse with the killed person or not, because [the aggrieved husband] took [his wife] to the *adālata*, *ṭhānā* or *amālā*, made her write down a document [of confession] and [then] killed [her paramour]. The woman who [first] wrote down the document [of confession, stating] that such and such a person was her paramour and who then, after her paramour was killed, changed her statement in order to have another person killed, shall be punished by *dāmala*. If that woman changed her statement, but [the person she accused] has not been killed yet, she shall be imprisoned for 3 years, if she belongs to a Non-enslavable caste. If she pays the money set in lieu of the prison term, it shall be accepted. If the woman belongs to an Enslavable caste, she shall be enslaved.

10. If the ritually married wife of someone who belongs to a caste the members of which bear the right to kill their wives' paramours runs off with another man, or the wife of anyone bearing the right to kill her paramour, runs off with another man, and if the husband does not



136. When [a Married Woman is Accused of] Illicit Sexual Intercourse with Another Man

bring his wife to an *adālata*, *ṭhānā* or *amāla* but he himself makes her write down a document [of confession] by beating her [and then kills her paramour], and if the heirs of the killed person come to complain that ‘Such and such of our relatives is killed without any reason’, and if the wife, too, states: ‘I said this because my husband beat me. I had no sexual intercourse with him’, the husband who killed his wife’s [supposed] paramour, one who had no sexual intercourse with her, shall be executed—taking life for life, if [the aggrieved husband] has not brought [his wife] to the *adālata*, *ṭhānā* or *amāla* and has not interrogated her there, if it is not ascertained that the killed person had sexual intercourse with her, and if it is ascertained that [the aggrieved husband] made his wife issue a document [of confession] by beating her. Amongst the persons from the household of [the aggrieved husband] and amongst the officials of the *kacaharī* office, the main person who was involved in forcing her to issue a false document [of confession] shall be fined 100 rupees. The second, third and fourth persons shall be fined 80, 60, and 50 rupees, respectively. If the fine is not paid, [the offender] shall, in accordance with the *Ain*, be imprisoned. The wife who accused someone of having sexual intercourse with her shall be imprisoned for 1½ years, irrespective of whether her husband has beaten her or not. If she pays the money set in lieu of the prison term, it shall be accepted.

## 137. On Sexual Intercourse with a Woman Who Previously Has Had Sexual Intercourse with Two Other Persons

1. If someone belonging to a caste whose members bear the right to kill their wives' paramours has brought the wife of someone who belongs to a caste whose members bear the right to kill their wives' paramours [into his household], being himself her second sexual partner, and if he has kept her [in his house], handing over his household to her, and if someone else commits adultery with such a woman, being her third sexual partner, the aggrieved husband shall be permitted to kill her paramour. He shall not be held accountable.

2. If someone has sexual intercourse with a widowed woman— being himself her third sexual partner—, who was the wife of someone belonging to a Non-enslavable or Enslavable caste whose members do not bear the right to kill their wives' paramours, and who had brought her into [his household], being himself her second sexual partner, the aggrieved husband shall not be held accountable if he beats [his wife's paramour] [only] to the extent that he does not die or is mutilated. [Such a husband] shall not be permitted to kill his wife's paramour. If he who is a Brahmin kills [his wife's paramour], he shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [Brahmin], he shall be executed—taking life for life. If [the aggrieved husband] does not beat his wife's paramour who has taken his wife, but comes to make a complaint at an *adālata*, *ṭhānā* or *amāla* office, [her paramour,] who has had sexual intercourse with her, shall be fined 60 rupees, if the wife has borne a child [with the aggrieved husband] or 50 rupees, if she has not borne a child [with him]. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

3. If someone has sexual intercourse with a woman, being preceded by more than three other sexual partners, brought into the household and kept [as a wife] by someone else from any of the Four Varṇas and Thirty-six castes, including the caste of the Sacred Thread-wearers, and when the aggrieved husband beats [her paramour] up, the paramour who had sexual intercourse with her retaliates and beats the aggrieved husband in return and mutilates him, [her paramour] shall be punished 1½ times more than the penalty which is assigned in the *Ain*'s [regulation] on mutilation.<sup>510</sup> If [the aggrieved husband] has not been mutilated, [the paramour] shall be fined 60 rupees. If the paramour puts his hands on the aggrieved husband before he beats the paramour and [the aggrieved husband] is not mutilated, [the paramour] shall be fined 60 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

510 See Art. 58.

4. If someone has illicit sexual intercourse with the wife—being himself her fourth sexual partner—of someone else, who himself is her third sexual partner, and takes her away, and if the aggrieved husband kills such a paramour of his wife, he who is a Brahmin shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated, even if the woman has borne a child [by her aggrieved husband] or has been handed over the household responsibilities [by him]. If [the aggrieved husband] belongs to a caste other than [a Brahmin caste], he shall be executed—taking life for life.

5. If someone has brought someone else's wife into his household by paying [the aggrieved husband] the marriage expenses, and if [the second husband] comes to complain that a third person has had sexual intercourse with her, [that third husband] shall be made to compensate the [second husband] for the marriage expenses to a sum equal to the amount paid by him [to her first aggrieved husband] and he shall be fined an amount equal to the marriage expenses in question. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The husband of the wife who has been brought [into household by him as wife] by paying [her aggrieved husband] the marriage expenses shall not be permitted to kill his wife's paramour. If he who is a Brahmin does so, he shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to any caste whose members may be executed other [than the Brahmin castes], he shall be executed—taking life for life. If [such a woman] leaves her third sexual partner as well and runs off with someone else, that woman, after she has sexual intercourse with four persons, shall be considered to be a common woman. The [following person] who has sexual intercourse [with such a woman] neither needs to pay [the aggrieved husband] for the marriage expenses, nor does he need to pay a fine.

6. If someone keeps a widow from a caste superior in status to his own as his wife, being himself her second sexual partner, and she runs off with someone else, [the aggrieved husband] shall not be permitted to kill his wife's paramour. If the paramour is killed, the share of property [of the aggrieved husband] shall, in accordance with the *Ain*, be confiscated and his head shall be shaved if he is from a caste whose members are to be punished by having [their heads] shaved [in lieu of a death sentence]. If he is from a caste whose members may be put to death, then he shall be executed.

## 138. On Sexual Intercourse with a Woman Who Previously Has Had Sexual Intercourse with Four or More Than Four Persons

1. If a man belonging to a caste, including the Sacred Thread-wearers and down to the Non-enslavable Alcohol-drinkers, has kept a woman of equal caste status as his wife at his household for more than a year, being himself her fourth or more than fourth paramour and has handed her over the key and sweeping-brush [of the household]<sup>511</sup>, and if such a wife runs off with another man, the aggrieved husband shall not kill her paramour. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla* office, but he kicks [his wife's paramour] or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after beating his wife's paramour, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife's paramour, [but] comes to complain [at one of the offices], then the paramour who had sexual intercourse with that woman shall be fined 30 rupees if she has borne a child by her aggrieved husband, and 20 rupees if she has not borne a child by him. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain's* [Art. 56] 'On Assault and Bodily Injury', because he has beaten a person who has had illicit sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband who is a Brahmin shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life. If a man belonging to a caste, including the Sacred Thread-wearers and down to the Non-enslavable Alcohol-drinkers, has brought another's wife from an Enslavable Alcohol-drinking caste [into his household] and has kept her [as his wife], being himself her fourth or more sexual partner, the person who has illicit sexual intercourse with such a woman shall be fined 15 rupees, if she has borne a child by her husband, and 10 rupees if she has not borne a child. If he does not pay the amount of the fine, he shall be imprisoned according to the *Ain*.

2. If a man belonging to any of the Enslavable Alcohol-drinking castes has kept a woman as his wife at his household for more than a year, being himself her fourth sexual partner or further, and he has handed her over the key and sweeping-brush [of the household], and if someone

511 The handing over of the key and sweeping brush (*tālākuci saupamu*) to a wife symbolically denotes that she has received full rights to handle the household.

belonging to a caste including the Sacred Thread-wearers and down to the Non-enslavable Alcohol-drinkers has sexual intercourse with such a woman, the aggrieved husband is not permitted to kill her paramour. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks [his wife's paramour] or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife's paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife's paramour, [but] comes to complain [at one of the offices], the paramour who had sexual intercourse with that woman shall be fined 8 rupees if she has borne a child by her aggrieved husband, or 5 rupees if she has not borne<sup>512</sup> a child by him. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain*'s Art. [56] 'On Assault and Bodily Injury', because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband, if he is a Brahmin, shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life.

3. If a man belonging to any of the Water-unacceptable but Touchable castes has kept a woman as his wife at his household for more than a year, being himself her fourth sexual partner or further, and has handed her over the key and sweeping-brush [of the household], and if someone from a caste equal in status to that man's own caste has sexual intercourse with such a woman, the aggrieved husband is not permitted to kill her paramour. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks [his wife's paramour] or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife's paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife's paramour, [but] comes to complain [at one of the offices], the paramour who had sexual intercourse with that woman shall be fined 5 rupees, if she has borne a child by her aggrieved husband, or 4 rupees if she has not borne a child by him. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain*'s [Art. 56] on 'Assault and Bodily Injury', because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating] the aggrieved husband shall be executed—taking life for life.

4. If a man belonging to any of the Untouchable castes has kept a woman as his wife at his household for more than a year, being himself her fourth sexual partner or further, and has handed

512 *bhayāki*, read *nabhayāki* (MA<sub>2</sub>).

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her over the key and sweeping-brush [of the household], and if someone from a caste equal in status to that man's own has sexual intercourse with such a woman, the aggrieved husband is not permitted to kill her paramour. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks [his wife's paramour] or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife's paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife's paramour, [but] comes to complain [at one of the offices], the paramour who had sexual intercourse with that woman shall be fined 6 rupees, if she has borne a child by her aggrieved husband, or 4 rupees if she has not borne a child by him. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain's* [Art. 56] 'On Assault and Bodily Injury', because he has beaten the person who committed sexual intercourse with his wife. If that paramour dies [because of the beating], the aggrieved husband shall be executed—taking life for life.

5. If a man belonging to a Sacred Thread-wearing caste has kept a wanton woman, who has had sexual intercourse with [two other] men from a Sacred Thread-wearing caste, as his wife at his household, being himself her third sexual partner, and if such a woman runs off with another person, the aggrieved husband is not permitted to kill her paramour. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks his wife's paramour or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife's paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife's paramour, [but] comes to complain [at one of the offices], the paramour who had sexual intercourse with that woman shall be fined 50 rupees, if she has borne a child by her aggrieved husband, or 40 rupees, if she has not borne a child by him. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain's* [Art. 56] 'On Assault and Bodily Injury', because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband, being a Brahmin, shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life.

6. If a man belonging to a Non-enslavable Alcohol-drinking caste has kept a wanton woman, who has had sexual intercourse with [two other] men from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste, as his wife at his household, being himself her third sexual partner, and if someone else has sexual intercourse with such a woman, the aggrieved husband is not permitted to kill her paramour. If that paramour is killed [by the aggrieved husband], and the latter is a Brahmin, he shall be punished by *dāmala*, after the share of property which is

his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks his wife’s paramour or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife’s paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife’s paramour, [but] comes to complain [at one of the offices], the paramour [who had sexual intercourse with that woman] shall be fined 40 rupees, if she has borne a child by her aggrieved husband, or 30 rupees, if she has not borne a child by him. If that aggrieved husband has beaten his wife’s paramour, resulting in the breakage of or damage to the latter’s hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain*’s [Art. 56] ‘On Assault and Bodily Injury’, because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband, if he is a Brahmin, shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life.

7. If a woman belonging to an Enslavable Alcohol-drinking, Non-enslavable Alcohol-drinking or Sacred Thread-wearing caste has sexual intercourse with a person from an Enslavable Alcohol-drinking caste, and if someone from a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste has kept such a wanton woman as his wife at his household, being himself her third sexual partner, and if someone else has sexual intercourse with such a woman, the aggrieved husband is not permitted to kill her paramour. If that paramour is killed [by the aggrieved husband], and he is a Brahmin, he shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks his wife’s paramour or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife’s paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife’s paramour, [but] comes to complain [at one of the offices], the paramour [who had sexual intercourse with that woman] shall be fined 15 rupees, if she has borne a child by her aggrieved husband, or 10 rupees, if she has not borne a child by him. If that aggrieved husband has beaten his wife’s paramour, resulting in the breakage of or damage to the latter’s hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain*’s [Art. 56] ‘On Assault and Bodily Injury’, because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband, if he is a Brahmin, shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. If he belongs to a caste other than [the Brahmin castes], he shall be executed—taking life for life.

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8. If a man from a Water-unacceptable but Touchable caste has kept a wanton woman, who has had sexual intercourse with [two] other men belonging to a caste equal or superior in status to her own, as his wife at his household, being himself her third sexual partner, and if someone else from one of the Water-unacceptable but Touchable castes has sexual intercourse with such a woman, and if her aggrieved husband kills his wife's paramour, he shall be executed—taking life for life. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but he kicks his wife's paramour or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife's paramour and has let him off, then the paramour shall not be held accountable either. Such a paramour shall be fined 5 rupees, irrespective of whether she has borne a child by her aggrieved husband or not. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain*'s [Art. 56] 'On Assault and Bodily Injury', because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband shall be executed—taking life for life.

9. If a man from an Untouchable caste has kept a wanton woman, who has had sexual intercourse with [two] other men belonging to a caste equal or superior in status to her own, as his wife at his household, being himself her third sexual partner, and if someone else from one of the Untouchable castes has sexual intercourse with such a woman, and if her aggrieved husband kills his wife's paramour, he shall be executed—taking life for life. If [such an aggrieved husband] does not come to complain [about it] at an *adālata*, *ṭhānā* or *amāla*, but kicks his wife's paramour or beats him with shoes in such a way that he does not die, and his hands, legs or limbs are not broken or damaged, [the aggrieved husband] shall not be held accountable. If the aggrieved husband comes to complain [at one of the offices] after he has beaten his wife's paramour and has let him off, then the paramour shall not be held accountable either. If the aggrieved husband does not beat his wife's paramour, [but] comes to complain [at one of the offices], the paramour [who had sexual intercourse with that woman] shall be fined 5 rupees, irrespective of whether she has borne a child by her aggrieved husband or not. If that aggrieved husband has beaten his wife's paramour, resulting in the breakage of or damage to the latter's hands, legs or limbs, the aggrieved husband shall be awarded half of the punishment [prescribed] in the *Ain*'s [Art. 56] 'On Assault and Bodily Injury', because he has beaten a person who committed sexual intercourse with his wife. If that paramour dies [as a result of the beating], the aggrieved husband shall be executed—taking life for life.



## 139. Adultery Committed with a Woman from an Enslavable Caste

1. If someone from an Enslavable caste who bears the right to kill his wife's paramour, commits adultery with a [married] woman from an Enslavable caste who is not his blood relative, and if the aggrieved husband of that woman has let her paramour off [without killing him] after taking the marriage expenses from him or after [insulting him] by forcing him to crawl between [the aggrieved husband's] legs, her paramour, after he has been let off by the aggrieved husband, shall neither be held accountable for committing a heinous crime (*rājakhata*), nor shall he be enslaved.

2. If someone from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste commits adultery with a married woman of an Enslavable Parjā caste, such a person—if he belongs to a caste of which the members may not be killed by an aggrieved husband—shall be made to pay [the aggrieved husband] 20 rupees for the marriage expenses, and shall be fined 20 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If he belongs to a caste the members of which may be killed by an aggrieved husband, it shall be at the pleasure of that aggrieved husband as to whether he takes the marriage expenses from her paramour or kills him.

3. If someone from an Enslavable caste commits adultery with the wife of a person who also belongs to an Enslavable caste, and the aggrieved husband kills her paramour, such a woman shall be enslaved. The *adālata*, *ṭhānā* or *amāla* office shall take her into possession. If her paramour survives the attempt at killing by the aggrieved husband with injuries, the woman shall not be enslaved. Her paramour, who committed adultery with her, shall be permitted to take her away. If someone else takes such a wife away, who has been brought [into the household by her paramour] bearing the injury given [by the first aggrieved husband], he, if he belongs to a caste [whose members] bear the right to kill their wives' paramours, shall be permitted to kill his wife's [second] paramour. If her [second] paramour belongs to a caste the members of which may not be killed by an aggrieved husband, he shall be fined 20 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. The aggrieved husband does not receive the marriage expenses. It shall be at the pleasure of that woman as to whether she lives together with him or not. She shall not be forced to do so by her second aggrieved husband.

4. If a Pāre Ghartī man commits adultery with a woman from any of the Bhoṭe, Cepāṅga, Darai, Mājhi, Hāyu, Danuvāra, Kumāla or Paharī castes, [whose members] may be enslaved, he shall be fined 20 rupees and be made to pay 20 rupees as compensation for the aggrieved husband's

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marriage expenses. He shall not be enslaved. If such a woman wants to live together with her adulterer, he shall be permitted to keep her after paying the aggrieved husband for the marriage expenses and paying a fine. If such a woman declares that she does not want to live together with her adulterer, it shall be at her pleasure to decide. She shall not be obliged to do so by her adulterer.

5. If someone commits adultery with a Pāre Ghartī man's wife, and this wife has been brought [into the household by the latter] performing his caste's customs, and if the aggrieved husband takes such a woman [back], he does not receive the marriage expenses from the adulterer. The adulterer shall only be fined 20 rupees. If the aggrieved husband does not take such a wife back, the adulterer shall be fined 20 rupees and he shall be made to pay 30 rupees to the aggrieved husband as compensation for his marriage expenses. If such [an offender] commits adultery with such a wife who has been brought [by her husband into his household] without performing his caste's customs, but she has been kept [by him at the household as a wife,] handing the key and sweeping-brush of the household over to her, [her adulterer] shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. It shall be at the pleasure of that woman as to whether she lives together with her adulterer or she runs off with someone else. She shall not be obliged [to stay with him].

6. If someone commits adultery [with the wife] of a Pāre Ghartī man and takes her away, and if [the aggrieved Pāre Ghartī], belonging to the 3<sup>rd</sup> generation after [his forefathers'] emancipation, kills his wife's adulterer, he shall be executed—taking life for life. If [an aggrieved Pāre Ghartī] who belongs to the 4<sup>th</sup> or 5<sup>th</sup> generation after emancipation kills his wife's adulterer, he shall be punished by *dāmala*, after his share of property has been confiscated, which is his according to the *Ain*. If [the aggrieved Pāre Ghartī] belongs to the 6<sup>th</sup> generation or more after emancipation and kills his wife's adulterer, he shall be enslaved.

7. If someone accuses a man or woman of committing the crime [of illicit sexual intercourse] which results in the enslavement [of the accused person], who belongs to a caste whose members may be [punished by] enslavement, whose members may take [compensation] of 8 or 12 [*ānās*]<sup>513</sup> [from the wife's paramour], and may be declared as *cāka* or *cakuī*, who may take marriage expenses [from their wives' paramours] or [else] may bear the right to kill their wives' paramours, and if it is ascertained upon the trial that the accuser made [a false] accusation, he shall be imprisoned for 1 year. If he pays the amount of the fine [set in lieu of the prison term], it shall, in accordance with the *Ain*, be accepted and he shall be set free.

8. If someone accuses a married woman, the wife of a person belonging to an Enslavable caste whose members do not bear the right to kill their wives' adulterers, of having run off with such and such a man, and if it is ascertained upon the trial that the accuser made [a false] accusation, he shall be fined 15 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

513 Note that these terms *āṭha bāhra linyā* are not entirely clear to us.

139. Adultery Committed with a Woman from an Enslavable Caste

9. If someone who belongs to any of the Enslavable castes commits a crime which results in enslavement and is thereby enslaved, and if his wife, with whom he was married before his enslavement, runs off with another man, the aggrieved husband who is enslaved shall not be permitted to kill her adulterer. If he does so, he shall be executed—taking life for life.

10. Amongst the persons from the Water-unacceptable [but Touchable] and Untouchable castes, if a person who bears the right to kill his wife's adulterer commits adultery with a married woman from a Water-unacceptable [but Touchable] caste, and if the aggrieved husband kills her adulterer, the wife becomes a *cakuī*, and she shall thus be enslaved. If the aggrieved husband comes to an *adālata*, *ṭhānā* or *amāla* and states that he will not kill her adulterer, but takes the marriage expenses from him, the adulterer shall be made to pay 30 rupees to the aggrieved husband for the marriage expenses and shall be fined 15 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. Such a woman shall not be enslaved after the aggrieved husband has taken marriage expenses [from her adulterer].

11. Amongst the persons from the Enslavable castes, if a married woman of one caste is taken away by a person of another caste after he has committed adultery with her, [the adulterer] shall be made to pay 20 rupees to her [aggrieved] husband. That woman and her adulterer shall be fined 12 and 8 rupees [each]. If someone [from among the Enslavable castes] comes to complain that 'such and such a person [from among the Enslavable castes] has had sexual intercourse with such and such an unmarried girl or widowed woman from among us. Cooked rice [touched by him] is unacceptable [for us]. He contaminated [our unmarried girl or widowed woman] through cooked rice', [the offender] shall be fined 5 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

MA<sub>2</sub> 139.11a. If someone from a Sacred Thread-wearing caste or Non-enslavable Alcohol-drinking caste commits adultery with the wife of a person belonging to a Non-enslavable caste, and the wife has a status that permits her husband, in accordance with the *Ain*, to bear the right to kill her paramour, and if the aggrieved husband wants to kill his wife's paramour, he shall be allowed to kill her paramour if he belongs to a caste whose members have the tradition from the time of their father and forefathers of killing their wives' paramours. He shall not be held accountable. If he belongs to a caste whose members do not have such traditions of killing their wives' paramours, he shall not be permitted to do so. If he kills his wife's paramour, he shall be executed—taking life for life.

MA<sub>2</sub> 139.11b. If someone from a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or Enslavable caste or the like, from whose members' hands water is acceptable, commits adultery with the wife of a person belonging to a Water-acceptable or an Untouchable caste, who has a status that permits her husband, in accordance with the *Ain*, to bear the right to kill her paramour, he shall be punished according to the

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*Ain*, [but] the aggrieved husband shall not be permitted to kill his wife's paramour. If he does so, he shall be executed—taking life for life.

12. If someone from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste commits adultery with a married woman from an Enslavable caste whose status allows her husband to kill her adulterer according to the *Ain*, and if the aggrieved husband wants to kill her adulterer, he—whose father and forefathers have always had the customary right to kill their wives' adulterers—shall, in accordance with the *Ain*, be permitted to kill his wife's adulterer. He shall not accrue blame [by doing so]. That person whose [father and forefathers] were never allowed to kill their wives' adulterers, shall not be allowed to kill his wife's adulterer. If he does so, he shall be executed—taking life for life. That woman who has sexual intercourse with her adulterer, irrespective of whether it is sexual intercourse with a person of a caste inferior or superior to her own, shall be enslaved after her aggrieved husband kills her adulterer.

13. If someone from any of the Sacred Thread-wearing or Non-enslavable Alcohol-drinking castes or the Enslavable castes from whose members water is acceptable, has sexual intercourse with a married woman from a Water-unacceptable [but Touchable] caste or Untouchable caste, he shall, in accordance with the *Ain*, be punished, but the aggrieved husband shall not be permitted to kill his wife's adulterer. If someone does so, he shall be executed—taking life for life.

## 140. Killing of the Adulterer of One's Wife Only on the Basis of Her Verbal Statement

1. If a husband has gone abroad, and if his wife is made pregnant by someone else before her husband returns home, or is suspected of having had sexual intercourse with someone else, but no interrogation takes place and her paramour is not identified, and her husband who had gone abroad returns: she, in order to save her beloved one with whom she first had sexual intercourse [during the absence of her husband], may present another person [as having had sexual intercourse with her] upon the interrogation conducted by her husband. Therefore, such a woman and the person whom she accuses [of having had sexual intercourse with herself] shall be arrested and brought to the *adālata*, *ṭhānā* or *amāla* office. Whoever is proved to be the first to have had sexual intercourse with that woman upon interrogation, a document of confession shall be obtained [from him], and the adulterer shall be handed over to the aggrieved husband, if [the latter] has captured her adulterer and brought him to [one of the offices]. It is at the pleasure of the aggrieved husband as to whether he kills his wife's adulterer, punishes him according to the *Ain*, or lets him off without doing anything. If the aggrieved husband does not bring his wife's adulterer to the *adālata*, *ṭhānā* or *amāla*, but kills him, considering the wife's verbal statement true, the aggrieved husband shall be fined 100 rupees even if he kills the person who has [actually] committed adultery with his wife. If the aggrieved husband kills someone different from the one [who actually committed adultery with his wife], he—if he belongs to a caste whose members may be punished by death— shall be executed, taking life for life. If he is a Brahmin, he shall be punished by *dāmala*, after having the share of property confiscated, which is his according to the *Ain*.

2. If the aggrieved husband of a wife who has gone out of the household and is wandering around, is [about to] kill her adulterer, considering his wife's verbal statement true, and without bringing [both his wife and her adulterer] to the *adālata*, *ṭhānā* or *amāla*, she, in order to save her beloved one with whom she first had sexual intercourse, may present another person [as having had sexual intercourse with her]. Therefore, whoever is proved to be first to have had sexual intercourse with that woman after she is brought to the *kacaharī* office and interrogated, the aggrieved husband at his pleasure can decide [how he punishes this adulterer]. He shall not be held accountable. If the aggrieved husband does not bring his wife's [supposed] paramour to the *kacaharī* office, but kills him, considering only his wife's verbal statement to be true, the aggrieved husband—even if he kills the person who, upon interrogation, is proven to be first to have had sexual intercourse with his wife—shall be fined 100 rupees for killing the paramour of his wife, the latter having gone out of the house and wandered around, without having brought this adulterer to the *adālata*, *ṭhānā* or *amāla* for a trial. If the aggrieved husband does not pay

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the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If the aggrieved husband kills a person who is not to be killed, he shall be executed—taking life for life. If such an aggrieved husband is a Brahmin, he shall be punished by *dāmala*, after the share of property has been confiscated, which is his according to the *Ain*.

3. If someone commits adultery [with the wife of] someone else, but the adulterer has not yet been identified, and if in such circumstances, the second, third or fourth sexual partner of that wife takes her away from her house and [both] flee, so that the aggrieved husband cannot interrogate [his wife and her adulterer], and if the family members and relatives of the aggrieved husband believe that the person who fled [with that woman] was the first to commit adultery with her, and if the aggrieved husband, too, considers that the person who took his wife away from home and fled [with her], was the first [to commit] adultery with her, and therefore kills him, he shall not be held accountable, even if it turns out that the person who first committed adultery with his wife is someone else. The killing of that person who took [the aggrieved husband's] wife and fled shall be considered lawful. Once such an adulterer is killed by the aggrieved husband, even if someone else comes and confesses that he was [actually] the first [to commit adultery with this woman], or the woman herself confesses [that such and such a person was the first to commit adultery with her], [the first adulterer] shall not be killed. The *adālata*, *ṭhānā* or *amāla* shall fine him 100 rupees if [the adultery committed by him] is not a heinous crime (*rājakhāta*). If it is a *rājakhata*, he shall, in accordance with the *Ain*, be punished.

## 141. Miscellaneous Regulations Concerning Adultery

1. If someone has taken as a concubine a married woman, unmarried girl or a widowed woman from any of the castes whose members bear the right to kill their wives' paramours, and if such a woman has been reduced [in caste] because of the consumption of any prohibited food, such as alcohol, chicken, pork, beef or buffalo meat, or because of the consumption of cooked rice or other food left over from the hands of a person whose caste status is inferior to her own, and if she runs off with another man, the aggrieved husband shall be permitted to kill her adulterer irrespective of whether [the former] has kept his wife, only providing her with the means of support for her livelihood, or whether he has also had sexual intercourse with her. The aggrieved husband shall not be held accountable. If the husband has abandoned such a woman without providing her with the means of support for her livelihood, he shall not be permitted to kill her adulterer. If he does so, he shall be executed—taking life for life.

2. If a married woman, widow or an unmarried girl from any of the Four Varṇas—Brahmin, Rajapūta, Kṣatriya, Vaiśya and Śūdra<sup>514</sup>—and Thirty-six castes, declares that she has had sexual intercourse with a dead body, Muslim, Mleccha or someone from an Untouchable caste, or with someone from a caste superior or inferior to her own, then such an unmarried girl, widow, married woman or common woman shall become a member of the caste of that person [with whom she declared having had sexual intercourse]. If such a widow, unmarried girl or married woman has a status allowing her husband to kill her adulterer, and she has been kept by her husband with only [as little as] 1 *mānā* as a means of support for her livelihood, but without having had sexual intercourse with her, then the aggrieved husband shall not be permitted to mutilate her adulterer if he is [already] dead. He shall be allowed to kill that adulterer who is ascertained to have been the first to have had sexual intercourse with her and who is [still] alive. If the husband of a wife who has been degraded due to her verbal declaration abandons her without providing her with the means of support for her livelihood, or he again has sexual intercourse with his wife [after her degradation], he shall not be permitted to kill her adulterer. If he does so and he is a Brahmin, he shall be punished by *dāmala*, after having his share of property confiscated, which is his according to the *Ain*. If he is from a different caste than Brahmin, he shall be executed—taking life for life.

3. Among the Non-enslavable castes, including the Sacred Thread-wearing castes and the Enslavable castes, if someone who is from a caste whose members [by custom] have had the right

514 Rajapūtas fall under the Kṣatriya Varṇa in the Brahmanical *varṇa* system.

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to kill their wives' paramours from the time of their fathers and forefathers has brought an unmarried girl who is from a caste equal or inferior to his own, [but] at least from a Water-acceptable caste, [into the household] by worshipping or without worshipping oil lamp (*diyo*) and water vessel (*kalaśa*), and someone else commits adultery with this woman, the aggrieved husband shall not be permitted to kill her adulterer, if the adulterer is from his blood relations, who, as laid down in the *Ain*, are not to be killed, or if he is an Upādhyāya or Jaisī Brahmin. He shall, according to the *Ain*, be allowed to impose other punishments. If [the adulterer] is from a caste other [than that of the Upādhyāya or Jaisī Brahmins], it shall be at the aggrieved husband's pleasure as to whether he kills the adulterer or seizes his entire share of property or lets him off after removing his Sacred Thread, if he bears one, or simply lets him off, if he does not bear one, or lets him off without seizing his entire [share of property] and without degrading him from his caste status, [but] forces the adulterer to crawl between the husband's legs and forces him to lick the soles of his feet.

4. Among the Non-enslavable castes, including the Sacred Thread-wearing castes and the Enslavable castes, if someone who is from a caste whose members [by custom] have had the right to kill their wives' paramours from the time of their fathers and forefathers has brought a girl or widow from a caste whose members kill their wives' paramours and who belongs to a caste not inferior to the Water-acceptable castes, [into the household], being himself her second sexual partner, and someone else commits adultery with this woman, the aggrieved husband shall not be permitted to kill her adulterer, if the adulterer is from his blood relations, who, as laid down in the *Ain*, are not to be killed, or if he is an Upādhyāya or Jaisī Brahmin. He shall, according to the *Ain*, be allowed to impose other punishments. If [the adulterer] is from a caste other [than that of the Upādhyāya or Jaisī Brahmins], it shall be at the aggrieved husband's pleasure as to whether he kills the adulterer or seizes his entire share of property or lets him off after removing his Sacred Thread, if he bears one, or simply lets him off, if he does not bear one, or lets him off without seizing his entire [share of property] and without degrading him from his caste status, [but] forces the adulterer to crawl between the husband's legs and forces him to lick the soles of his feet.

5. If someone from a Newar caste or from any of the Enslavable Parjā castes kills the adulterer of his faithful wife, and if [in his caste] there is no custom of killing one's wife's paramour from the times of his fathers and forefathers, [but] he kills the adulterer of his wife using a weapon, he shall be executed—taking life for life. If he uses a weapon [to kill the adulterer], [but] the adulterer survives, he shall be awarded  $\frac{2}{3}$  of the punishment [laid down] in the *Ain*'s [Art. 56] 'On Assault and Bodily Injury'. And if the adulterer dies, having been struck [by the aggrieved husband] with a stick or a stone while fleeing, [the aggrieved husband] shall be punished by *dāmala*, and his property confiscated, in accordance with the *Ain*. If the adulterer's limbs are broken when he is beaten, [the aggrieved husband] shall be awarded only  $\frac{2}{3}$  of the punishment [laid down] in the *Ain*'s [regulation] for breaking limbs. If someone who has taken a common woman as a concubine kills her adulterer, he shall be executed—taking life for life.

6. If someone belonging to a caste whose members bear the right to kill their wives' paramours has, as her second sexual partner, intercourse with an unmarried girl from a Water-acceptable



caste or a widow from a caste whose members bear the right to kill their wives' paramours, and if he neither brings her into his household nor keeps her by renting a room, nor provides her with the means of support for her livelihood, and if someone else has sexual intercourse with her, [her second sexual partner] shall not be allowed to kill her adulterer. If he kills the latter, he—if he is a Brahmin—shall be punished by *dāmala*, after his share of property has been confiscated, which is his according to the *Ain*. If he belongs to a caste other [than the Brahmin castes], he shall be executed—taking life for life. If he comes to complain to an *adālata*, *ṭhānā* or *amāla* office, declaring 'She is my concubine whom I have not brought into my household, [but] I have kept her outside and such and such a person has had sexual intercourse with her', the person who has had sexual intercourse with her shall be fined 10 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If [her second sexual partner] does not come to complain, the person who has had sexual intercourse with her shall not be held accountable.

7. If someone takes a married woman, unmarried girl or widow from a Sacred Thread-wearing caste, down to the Non-enslavable Alcohol-drinking castes, whose members bear the right of killing their wives' paramours, as his concubine, and he is her second sexual partner, and if someone else commits adultery with her, and if her aggrieved husband out of magnanimity does not kill her adulterer and lets him off, taking only the marriage expenses [from him], or lets him off with or without confiscating his entire share of property, the adulterer does not lose his caste status. If the aggrieved husband lets the adulterer off after removing his Sacred Thread or forcing him to lick the soles of his feet or forcing him to crawl between his legs or force-feeding him prohibited food, cooked rice from the hands of such an [adulterer] shall be unacceptable. He shall be granted expiation with respect to water only. No government post shall be assigned to him. The aggrieved husband who does not kill his wife's adulterer, [but] lets him off after imposing these punishments on him, is considered to be more magnanimous than the one who kills his wife's adulterer. If the aggrieved husband first lets off his wife's paramour after imposing these punishments on him or beating him, and later still kills him, he—if he is a Brahmin—shall be punished by *dāmala*, after having his share of property confiscated, which is his according to the *Ain*. If he belongs to a caste other [than the Brahmin castes] he shall be executed—taking life for life. If the aggrieved husband lets off his wife's adulterer, pardoning him for his adultery with or without imposing punishments on him, and if he later on still kills him, he—if he is a Brahmin—shall be punished by *dāmala*, after his share of property has been confiscated, which is his according to the *Ain*. If he belongs to a caste other [than the Brahmin castes], he shall be executed—taking life for life.

8. Regarding the matter of adultery, if someone comes to complain that 'Such and such a person came to kill me', and if it is not proven upon trial that the accused person came [with the intention] to kill him, and if it is ascertained that he came to complain just out of fear, he shall be fined 5 rupees and be let off.

9. If a person has been brought (lit. 'come') to an *aḍḍā*, *adālata*, *ṭhānā*, *amāla* or *kacaharī* office due to a matter which involves adultery, and if [the aggrieved husband] kills this person at

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the place where he is kept in detention, or kills him in the *kacaharī*, [such an aggrieved husband]—even if he has killed his wife’s adulterer—shall be [punished] by his property being confiscated, according to the *Ain*, for killing the adulterer in the *kacaharī* itself. If a *kacaharī* has sent bailiffs or soldiers to arrest a [suspected adulterer] and that person is brought to the office with an iron, wooden or leather chain on him, and if [the aggrieved] husband kills such a suspected adulterer on the way [to the office], considering him to be his wife’s adulterer after having obtained a written document [of confession] from his wife, the aggrieved husband—even if the person he killed is his wife’s adulterer—shall be fined 50 rupees, because he killed a person [against whom] a complaint [involving adultery] had been lodged at an *adālata*, *ṭhānā* or *amāla* and who therefore had been arrested by bailiffs or soldiers deployed by the *kacaharī* and was being brought [there]. If [the aggrieved] husband kills the [suspected adulterer] of his wife without obtaining a written document from her, he shall be fined 100 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

MA<sub>2</sub> 140.9kh. If someone comes to lodge a complaint that a certain person committed adultery with his wife, and if the *adālata*, *ṭhānā*, *amāla* or *kacaharī* sends infantry soldiers to arrest [the adulterer], and if the aggrieved husband kills him after he is brought [to the court] by the infantrymen, he shall be fined 100 rupees, if he has killed him because he explicitly wanted to kill his wife’s paramour. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned. If the aggrieved husband kills him on the way when he is being brought [to the court] by the infantry soldiers, or he kills [the latter] after he is arrested and put into custody at the *kacaharī* or into iron, wooden or leather fetters there, the aggrieved husband shall be punished by having his entire property confiscated, which is his according to the *Ain*, and he shall then be set free, although he killed [the adulterer] because he explicitly wanted to kill his wife’s paramour.

10. If a husband [suspects] that his wife, who has in fact not had sexual intercourse with anyone else, has had sexual intercourse with such and such a person, and if he, without a thorough investigation, unlawfully kills that person, he shall be executed for unlawfully taking the life of a person; the share of property which is his according to the *Ain* shall be confiscated and it shall be given to that woman. The woman shall be allowed to enjoy the confiscated property of her husband, irrespective of whether she had remained faithful to him or she had run off with another person. It shall be given to her.

11. If someone from the Four Varnas and Thirty-six castes, including the Sacred Thread-wearers, commits adultery with the wife of someone else who belongs to a caste whose members may bear the right to kill their wives’ paramours or may not, and if the [aggrieved husband] lets his wife’s adulterer off, having beaten him with a stick, stone, kick or shoes, the aggrieved husband, once he punishes the adulterer of his wife and lets him off, shall not again be permitted to punish him, to beat him or to kill him on the grounds that this person has committed [adultery with his wife]. If such an adulterer is a blood relative of the aggrieved husband and [committing adultery]

with that woman results in a heinous crime (*rājakhata*) for the adulterer, and if the aggrieved husband comes to make a complaint [regarding the adultery], the adulterer shall be punished according to the *Ain*'s regulations applicable to a person who commits adultery within his blood relations. If the adulterer is not a blood relative of the aggrieved husband, the adulterer—even if the aggrieved husband comes to make a complaint or he captures the adulterer and brings him [to an office]—shall not be further held accountable once he has been beaten and let off by the aggrieved husband. If the aggrieved husband kills the adulterer, who had already been beaten and let off, he—if he is a Brahmin—shall be punished by *dāmala*, after his entire property has been confiscated, which is his according to the *Ain*. If he belongs to a caste other than [a Brahmin caste], he shall be executed—taking life for life.

12. If someone from any of the Sacred Thread-wearing castes, including Upādhyāya Brahmins, Duī-Liṅga-Jaisī Brahmins and Rajapūtas, commits adultery with the wife of a person who belongs to a caste whose members bear the right to kill their wives' paramours, and if such an adulterer, being a Brahmin, while he is being beaten by the aggrieved husband, hits back and kills him, he shall be punished by *dāmala*, after his share of property has been confiscated, which is his according to the *Ain*. If he belongs to a caste [other than a Brahmin caste], he shall be executed—taking life for life.

13. If someone commits adultery [with the wife] of someone else, and if the adulterer kills the aggrieved husband, although the former has not used a weapon against him, such an adulterer—if he is a Brahmin—shall be punished by *dāmala*, after his share of property had been confiscated, in accordance with the *Ain*. If he belongs to a [another] caste, he shall be executed—taking life for life.

14. If someone commits adultery [with the wife] of someone else, and if the aggrieved husband uses a weapon and injures the adulterer, and if the adulterer survives the injury and thereupon assaults the aggrieved husband and kills him, such an adulterer who kills the aggrieved husband after he has been injured by the latter shall not be held accountable of committing a *rājakhata*. If the aggrieved husband did not assault and injure the adulterer when they encountered each other, but the adulterer first used a weapon against the aggrieved husband and killed him, he—if he is a Brahmin—shall be punished by *dāmala*, after his share of property has been confiscated, which is his according to the *Ain*. If he belongs to another caste, he shall be executed—taking life for life.

15. If someone commits adultery with the wife of someone else and takes her away, and if the aggrieved husband assaults that adulterer and injures him, but [the latter] survives the injury, and if the adulterer again [commits adultery] with another wife of the aggrieved husband and takes her away, the aggrieved husband, despite the fact that he has previously assaulted that adulterer for committing adultery with one of his wives, shall be allowed to kill him, because he has committed adultery with another wife of the aggrieved husband. The husband shall not be held accountable.

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16. If someone commits adultery with 2–3 wives of someone else, and if the aggrieved husband, after being informed about it, [attempts to] kill the adulterer who has committed adultery with 2–3 of his wives, and the adulterer is injured, but saves his life, the aggrieved husband shall not be allowed to argue that [his first attempt] at killing the adulterer was only for one of his wives and he [still has the right] to kill the adulterer for [the sexual intercourse with] the other wife. If the aggrieved husband again assaults the adulterer and kills him, the husband shall be punished by *dāmala*, after the share of property has been confiscated which is his according to the *Ain*. If the adulterer is not killed, but injured only, the aggrieved husband shall be imprisoned according to the *Ain*'s regulation [§ 63.2] which deals with the punishment to be imposed according to [the size of the wound] in *aṅgulas*.

17. If someone commits adultery with the wife of someone else, and if the aggrieved husband [attempts] to kill the adulterer, but the adulterer is not killed, but saves himself with injuries only, the aggrieved husband shall not be permitted [to attempt] again to kill him on the grounds that he is the adulterer. If the aggrieved husband [again assaults] such an adulterer and kills him on the grounds that he is the paramour [of the wife of the aggrieved husband], he—if he is a Brahmin—shall be punished by *dāmala* after the share of property has been confiscated which is his according to the *Ain*. If he belongs to a caste [other than a Brahmin-caste], he shall be executed—taking life for life. If the adulterer is not killed, but injured only, the aggrieved husband shall be imprisoned according to the *Ain*'s regulation [§ 63.2] which deals with the punishment to be imposed according to [the size of the wound] in *aṅgulas*.

18. If an Asala Rajapūta man commits adultery with the wife of a person who belongs to a caste whose members bear the right to kill their wives' paramours, and if the aggrieved husband kills the adulterer, he shall not be held accountable, on the grounds that he killed a Rajapūta man. He shall not be fined.

19. If someone knows that his wife has had sexual intercourse with another person, and if he does not kill the adulterer who committed adultery with his wife, but continues to have sexual intercourse with his adulterous wife, [such an aggrieved husband]—if he belongs to a Sacred Thread-wearing caste—shall be punished with a *nāmardi* fine of 20 rupees. He shall be fined 10 and 5 rupees, respectively, if he belongs to a Non-enslavable Alcohol-drinking or Enslavable caste. If the aggrieved husband has sexual intercourse with his wife after she has committed adultery, and if he then kills the adulterer, he—if he is from a caste whose members may be sentenced to death—shall be executed, taking life for life. If he is a Brahmin, he shall be punished by *dāmala* after the share of property has been confiscated which is his according to the *Ain*. If such an aggrieved husband removes the Sacred Thread of the adulterer or has someone remove it, he shall be fined 100 rupees. If the aggrieved husband forces the adulterer to crawl between his legs or forces him to lick the soles of his feet, he shall be fined 60 rupees. If he expels the adulterer from the village, he shall be fined 10 rupees. If he seizes the property of the adulterer, or else takes marriage expenses from him, he shall be made to return to the adulterer whatever amount he has seized or taken from him, and he shall be fined an amount equal to what he has seized or

taken from the adulterer. If he force-feeds the adulterer any prohibited food which results in the degradation of the adulterer's caste status, he shall be punished according to the *Ain*'s regulations applicable in cases where someone [commits an offence] which results in the degradation of [the victim's] caste status. If he beats the adulterer, he shall be fined or punished according to the *Ain*'s regulations on beating. Such a woman shall become a common woman, if she is from a Non-enslavable caste. She shall be enslaved, if she is from an Enslavable caste.

20. If [someone] divorces his wife by performing [the customary practise of] cutting a small piece of [bamboo] sliver [into two pieces], and if she commits adultery with someone else, [the former] shall not be permitted to kill [his former wife's] paramour. If he kills her paramour, he shall be executed—taking life for life.

21. If someone from any of the Sacred Thread-wearing castes, excluding Brahmins, commits adultery with [a woman] from his blood relations, and if the aggrieved husband does not kill the adulterer but seizes his entire property, in such a case the aggrieved husband shall not be permitted to chop off the nose of his wife. He shall set her free, cutting off her plaited hair only. If the aggrieved husband chops off the nose of his wife, he shall be fined 50 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

22. If a husband chops off the nose of his ritually married wife, his concubine or a common woman [kept by him as a wife], who has not had sexual intercourse with any other man, the husband shall be imprisoned for 12 years. If he pays the amount set in lieu of the prison term, it shall not be accepted. If the husband accuses her of having committed adultery with another person and cuts her plaited hair off, he shall be fined 90 rupees. The woman retains her caste status.

23. If a husband does not like his wife, and if also the wife declares that she does not [want] to live with that husband, and they, under mutual consent, [are separated], having performed [the customary practice] of cutting a small piece of [bamboo] sliver [into two pieces], the husband shall not be allowed to kill his wife's paramour, whomsoever she runs off with. If the husband kills her paramour, he shall be executed—taking life for life. The husband who is entitled to take marriage expenses from her paramour also shall not be allowed to take these from him. If this wife runs off with someone from a caste superior or equal to her own and having sexual intercourse with that person does not result in a *rājakhata*, that person who took her away shall not be held accountable.

24. If a woman is fined or imprisoned according to the *Ain* because she has [falsely] accused a person of committing sexual intercourse with her, and if her husband declares, 'I will pay the fine or the amount [set in lieu of the prison term for my wife] and take her back', he shall be allowed to do so. The fine [or the amount set in lieu of the prison term] shall, in accordance with the *Ain*, be collected from him and she shall be set free.

25. If [a married woman] commits adultery with a person who is not from her blood relatives, with whom committing adultery does not result in a *rājakhata*, and who is from a Water-acceptable

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caste, and if the husband of such a woman comes to declare, ‘She is my wife. Although she committed adultery with someone else, I will take her back’, and if the wife agrees to go with him, he shall be permitted to take her back, after having paid the fine for his unmanliness (*nāmardi*), according to the *Ain*.

26. If someone’s husband has gone abroad, and if the husband comes to know upon his return that his wife, whose status allows him to kill her adulterer according to the *Ain*, has become pregnant by someone else or has had sexual intercourse with this person, the aggrieved husband shall bring her to an *adālata* or *amāla* office, shall carry out a thorough investigation [to find out the actual] adulterer of his wife, and shall obtain a written document of confession from her. Then, it shall be at the aggrieved husband’s pleasure as to whether he, in accordance with the *Ain*, kills her adulterer, if the adulterer is neither a blood relative of the aggrieved husband nor from the same clan as the latter, or whether the husband imposes a different punishment on him. If the father, sons, brothers, servants or relatives of the aggrieved husband who was abroad have witnessed the adultery of his wife, the aggrieved husband, upon his return, shall [be allowed] to carry out a thorough investigation [to find out her actual paramour] at home, and then it shall be at the pleasure of the aggrieved husband as to whether he kills his wife’s adulterer, after having obtained a written document of confession from his wife, or whether he imposes a different punishment on the adulterer. If the aggrieved husband himself witnesses the adultery committed by his wife, he shall not be required to obtain a written document of confession from her. He shall, in accordance with the *Ain*, be permitted to kill the adulterer or impose on him a different punishment on the spot. He shall not be held accountable.

27. If someone’s wife, whose status allows her husband to kill her paramour according to the *Ain*, commits adultery with someone else, the aggrieved husband shall not chop off her nose, irrespective of whether he has, according to the *Ain*, killed her adulterer, or has let him off, imposing a different punishment, or has let him off without imposing any punishment. Such an aggrieved husband shall let the wife off after seizing her dowry or personal property, whatever she possesses. Someone who chops off his wife’s nose on the grounds that she committed adultery with another man shall be fined 25 rupees. He shall not be allowed to seize her dowry or personal property after he chops off her nose. [If he has seized any], it shall be returned to that woman.

28. If someone commits adultery with the wife of a person who belongs to any of the castes whose members bear the right to kill their wives’ paramours, and if that woman dies before the aggrieved husband punishes the adulterer, and if the aggrieved husband has obtained a written document of confession from her before she died, he shall, in accordance with the *Ain*, be permitted to kill his wife’s adulterer, even if she has already died. If he has not obtained a written document of confession from her, he shall not be permitted to kill her adulterer after she dies. If he does so, he—if he belongs to a caste whose members’ heads are to be shaved in lieu of the death sentence—shall be punished by *dāmala*, after his share of property has been confiscated, according to the *Ain*. If he belongs to a caste whose members may be sentenced to death, he shall be executed.

29. If an ascetic such as a Sannyāsī, Vairāgī or the like who has put on the robe, commits adultery with someone's wife, and if that woman dies before the aggrieved husband punishes her adulterer, the aggrieved husband shall not kill the adulterer if he is an Upādhyāya or Jaisī Brahmin, who has become an ascetic, or if he is someone whose parental and maternal descent is unknown and who has become an ascetic, or is someone born to an ascetic who had put on the robe by a [Brahmin] widow who is the concubine of an Upādhyāya Brahmin or a Jaisī Brahmin, and who has not had illicit sexual intercourse with anybody [so far]. Apart from killing, it shall be at the pleasure of the aggrieved husband to impose on the adulterer other [forms of] punishment according to the *Ain*. If the aggrieved husband kills such an adulterer, he—if he belongs to a caste whose members' heads are to be shaved in lieu of the death sentence—shall be punished by *dāmala*, after his share of property has been confiscated, according to the *Ain*. If he belongs to a caste whose members may be sentenced to death, he shall be executed. Apart from the ascetics mentioned [above], if any other ascetic who has put on the robe commits adultery with someone's wife, it shall be at the pleasure of the aggrieved husband not to kill the adulterer, on the grounds that he has put on the robe, or to kill him.

30. If someone [commits adultery with] the wife of someone else and takes her away, paying the aggrieved husband the *nāmardi*, *pasuvana* or *karpana* fine, and if such a woman commits adultery with another person, that person shall require no fine if [her second] aggrieved husband declares that he takes her back and also if the woman, at her own pleasure, declares that she goes back with him. If [the second] aggrieved husband does not take that woman back, the *nāmardi*, *pasuvana* or *karpana* fine paid by him [to her first aggrieved husband] shall be recovered [from the adulterer] and he shall be fined an amount equal to what he paid [to the second] aggrieved husband.

31. If someone commits adultery with the wife of someone from his blood relations or from the same clan, and if the aggrieved husband assaults the adulterer with a weapon, but [the latter] does not die and is injured only, the aggrieved husband who [has attempted] to kill the adulterer and injured him shall be fined 60 rupees if [the adulterer] is injured severely (*gyū-jakhama*), and 20 rupees if he is not [injured severely]. The aggrieved husband shall be granted expiation with respect to cooked rice and water. The adulterer, who committed adultery within his blood relations, shall be reduced in caste, after his Sacred Thread has been removed, if he bears any, and he shall be exiled from the village or city where he lives. Since the aggrieved husband [has attempted] to kill the adulterer and injured him, [the adulterer] shall neither be [punished] by confiscation nor is he to be punished by shaving his head. Cooked rice from the hands of such a person, who has committed adultery within his blood relations, shall be unacceptable. He shall be granted expiation with respect to water only.

## 142. On Illicit Sexual Intercourse with a Grass Widow

1. If a man from the Four Varnas and Thirty-six castes, including the Sacred Thread-wearing castes, has committed a crime that mandates the punishment of *dāmala*, or if he has illicit sexual intercourse [with a woman] who belongs to a caste lower than his own, or if his caste status has been degraded because he has consumed cooked rice or water from the hands of someone who belongs to a Water-unacceptable caste, or if he has committed any other crime and fled, leaving his family, and if the wife of such a person has eloped with someone else, and if she has contaminated her fellow caste members through cooked rice or water [after her elopement], such a woman shall, in accordance with the *Ain*, be punished. If the illicit sexual intercourse was consensual and with someone other than a blood relative, for which the punishment for illicit sexual intercourse is shaving of [the culprit's head] or *dāmala*, and if no fellow caste member has been contaminated through cooked rice or water [after the illicit sexual intercourse], both the man and woman shall not be held accountable. In such a case, if the aggrieved husband of such a woman has killed his wife's paramour, and if [the aggrieved husband] belongs to a caste whose members may not be sentenced to death, [his property] shall, in accordance with the *Ain*, be confiscated and he shall be punished by *dāmala*. If he belongs to a caste whose members may be sentenced to death, he shall be executed, taking life for life.

2. If a Jaisī Brahmin has consensual illicit sexual intercourse with a grass widow, from whom he may accept cooked rice, who is not his relative and whose husband has been punished [for a crime] resulting in the deprivation of his right to consume cooked rice with his fellow caste members, and who has remained faithful to such a husband, and if this Brahmin has consumed cooked rice from her hands and also has contaminated his fellow caste members through cooked rice, he shall be fined 100 rupees and be deprived of his right to consume cooked rice with his fellow caste members. If he has not consumed cooked rice from that woman, but he has contaminated his fellow caste members by making them consume cooked rice from her hands, he shall be fined 50 rupees and be granted expiation. Such a person does not lose his caste status.

3. If an Upādhyāya Brahmin has illicit sexual intercourse with an Upādhyāya grass widow, who has remained faithful to her husband—who has gone abroad and of whom no information has been found—or [with an Upādhyāya grass widow] who has remained faithful to her husband—whose caste status has been degraded because of his crime—and who is not a blood relative of this Brahmin for whom punishment for illicit sexual intercourse is written down in the *Ain*, and if [the Upādhyāya Brahmin] has consumed cooked rice or water from her hands and has also



contaminated his fellow caste members through cooked rice, he shall be fined 100 rupees and be degraded to the caste of that woman. If he has contaminated his fellow caste members by making them consume cooked rice from her hands, he shall be fined 50 rupees and be granted expiation. If he has illicit sexual relations with such a woman, but has not consumed cooked rice from her hands and has not contaminated his fellow caste members through cooked rice, he shall not be held accountable. If the aggrieved husband of such a grass widow comes from abroad and complains, [the paramour of his wife] shall, in accordance with the regulations in the *Ain* applicable to illicit sexual intercourse with a married Brahmin woman, be punished. If the aggrieved husband does not complain after he has returned home from abroad, [the paramour of his wife], who has not contaminated his fellow caste members through cooked rice, shall not be held accountable.

## 143. On Infanticide

1. If [a woman] kills a new-born infant which is alive, it shall be considered homicide. The woman from any of the Four Varṇas and Thirty-six castes who has killed such an infant shall be punished by *dāmala*. If she abandons the infant but it does not die, she shall be imprisoned for 6 years. If she pays the fine in lieu of imprisonment, it shall be accepted and she shall be set free.

2. If a woman who belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste has aborted a foetus in her womb by taking medicine or by asking someone to press her womb, even though an appropriate gestational age has not been reached, she shall be imprisoned for 1 year. If the fine in lieu of imprisonment is paid, it shall be accepted and she shall be set free. The religious judge (*dharmādhikāra*) shall not grant such a woman expiation with respect to water. If such a woman has become a common woman, water may be accepted from her hands. If a woman who belongs to an Enslavable caste has aborted a foetus in her womb, she shall be enslaved and the religious judge (*dharmādhikāra*) shall grant her expiation with respect to water by taking a fee of 2½ rupees as *godāna*.

3. If someone has pressed a woman's womb to abort a foetus, has provided her with medicine for this purpose, has given an order to do so or has hidden [the information about] the abortion, he shall be imprisoned for 1 year. If the fine [in lieu of the culprit's] imprisonment is paid, it shall, in accordance with the *Ain*, be accepted and he shall be set free. Such a culprit shall give 5 rupees to the *dharmādhikāra* as *godāna* fee and ask him for expiation.

4. If a man has abandoned a new-born infant after it has been born and which was alive, and if the infant dies, he, if he belongs to a caste whose members may be sentenced to death, shall be executed—taking life for life. If he belongs to a caste whose members are to be punished by *dāmala* in lieu of a death sentence, his share of property, in accordance with the *Ain*, shall be confiscated and he shall be punished by *dāmala*. If such an infant which had been abandoned has not died, but is still alive, the share of property of the culprit shall be confiscated and he shall be punished by *dāmala*.

5. If someone has not witnessed the killing of a new-born infant, but learns about it later, and if he hides the fact without telling it to anybody, such [a culprit] shall be fined 30 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

6. If a woman, during her delivery, is unable to deliver the baby, and if she dies because of pain and labour when her husband, a midwife or any other woman is massaging or pressing her womb or body, or if the baby, when it is taken out of the womb, is already dead, any such person who helped her shall neither be held accountable, nor does he or she require expiation.

7. If someone knowingly gives a woman medical treatment to abort a foetus in her womb, or if he gives an order to abort it, or if he presses her womb for this purpose, and if the unborn infant does not die, but is born alive, that person shall be imprisoned for 1 year. If someone knows about the medical treatment given to that woman to abort the foetus or about the plot of aborting the foetus, but hides the fact, he shall be imprisoned for 6 months. Since the infant was born alive, no expiation shall be required. If [such a culprit] pays the fine in lieu of imprisonment, it shall be accepted and he shall be set free.

8. If an infant which is born to a woman through illicit sexual intercourse with a man other than her husband has been given to someone else for upbringing, who belongs to a Water-unacceptable caste lower than that [of the mother], with the intention of not letting people know [about the illicit sexual intercourse] or with the intention of hiding it, such a mother and father shall be fined 15 and 30 rupees, respectively. The child shall be given to someone who belongs to a Water-acceptable caste for upbringing. As long as the child has not been initiated, he shall be purified by sprinkling water on him. The one who brought the child up shall not be held accountable. If [the culprit] does not pay the amount of the fine, he or she shall be imprisoned at the rate of 1 month for every 5 rupees.

## 144. On Divorce

1. If a married woman from a Newar caste comes to an *adālata*, *ṭhānā* or *amāla* office and states that she wants to get divorced from her husband, and if the husband has provided her [with sufficient means] of support, or if he has not kept a co-wife, or if he has not thrown her out of the house,<sup>515</sup> or if he has gone far abroad, or if the divorce, in accordance with the *Ain*, is not possible, she shall not be allowed to return the betel nuts<sup>516</sup> and divorce him. If, in the given situation, an official [from any of the offices mentioned] arranges her divorce, such an official shall be fined ⅓ of the marriage expenses written down [in the *Ain*] for the particular caste of the woman for whom the divorce has been arranged. Anyone who brings such a woman [to any of the mentioned offices] to arrange her divorce shall be fined at the rate of ⅓ of [the total] marriage expenses. Such a woman shall be handed over to her husband. The woman shall not be permitted to leave her husband.

2. If, among the women of a Newar caste or the like who have entered marriage and been wedded according to marriage rites, a woman whose husband has gone to Bhoṭa (Tibet), the Madhesa (Terai) or some foreign country without making arrangements for her support—except in cases where he has gone far away on state business—or [a woman] whose husband has married her, but has not [yet] brought her to his house and has not provided her with a means of support, and she has lived in misery somewhere else for [at least] 3 years, or [a woman] whose husband has migrated to a foreign kingdom—when [such] women come to [a government office] and ask for a divorce, stating that they will not live with such a husband, the *adālata*, *ṭhānā* or *amāla* shall grant them a divorce.

3. If a woman from a Newar caste whose husband has committed theft or has fled, leaving his house and family after committing a crime punishable by *dāmala*, comes [to a government office] and states that she will not live with such a husband and wants a divorce, the *adālata*, *ṭhānā* or *amāla* shall grant her a divorce.

4. If the husband of a woman who belongs to a Newar caste and who has entered marriage and been wedded according to marriage rites takes a co-wife, or if he throws [his wife] out

515 *sautāra hāli gharavāṭa nikāli*, read *sautā nahāli bā gharabāṭa nanikāli* (MA<sub>2</sub>).

516 A bride's accepting of an offering of betel nuts (Nev. *gvē biyegu*) from the groom in a Newar marriage denotes her approval of the marriage (Gutschow/Michaels 2012: 22). Any subsequent returning of these betel nuts signals an intention to dissolve the marriage.

of the house without providing her with a means of support, or if he has regular relations with a common woman and does not look after [his wife], and if she comes [to a government office] and complains, the *adālata*, *ṭhānā* or *amāla* shall grant her a divorce.

5. If a husband who belongs to a Newar caste becomes a fakir or has lost caste, the wife need not obtain a divorce. Her parental family shall be permitted to marry her off to another person. No one shall be held accountable.

6. If a husband who belongs to a Newar caste comes down, once married, with leprosy (*mahāroga*), or becomes maimed, lame, blind, paralysed in his legs, feeble, impotent or mute, and if his wife comes [to a government office] and states that she wants to divorce him, the *adālata*, *ṭhānā* or *amāla* shall grant her a divorce. Such a husband shall not force her [to live with him].

7. If a husband who belongs to a Newar caste and who has entered marriage and been wedded according to marriage rites becomes seriously ill, the wife shall not be permitted to return the betel nuts to him, leave him and go away. Nor shall the husband be permitted to divorce her by reason of his wife's inauspicious stars, stating: 'I'm releasing you; [now] you are released.' It is unacceptable [for either party] to return the betel nuts during the time when the husband is ill. [Any official] who arranges a divorce [in such a situation] shall be fined ½ of the marriage expenses written down [in the *Ain*] for the particular caste of the woman. Anyone who brings such a woman [to the authorities] to arrange a divorce shall be fined ¼ of [the total] marriage expenses. The woman shall be handed over to whomever she belongs.

8. In a lawsuit which involves the arrangement of a divorce for a woman who belongs to a Newar caste and who, in accordance with the *Ain*, is permitted to divorce, an *adālata*, *ṭhānā* or *amāla* shall do so, taking a fee of 1 rupee. [The office] shall not collect more than that.

9. In a lawsuit involving sexual wrongdoing on the part of a woman who belongs to a Newar caste and where the *Ain* permits divorce, if compensation is called for, [an *adālata*, *ṭhānā* or *amāla*] shall take 10 percent [of the total amount of the compensation as a fee]. Twenty percent is unacceptable. [Twenty percent] shall not be collected.

### **On Divorce [MA<sub>2</sub>144a]**

1. If someone brings a woman from a Non-enslavable Newar caste to an *adālata*, *amāla* office or *nāike* official to arrange her divorce, although the husband has provided her [with sufficient means] of support and he has not kept a co-wife, [the official] who arranges her divorce shall be fined 20 rupees and the person who brings her [to any of the mentioned offices or to the official] to arrange her divorce shall be fined 10 rupees. Such a woman shall be handed over to her husband.

2. If, among the women of an Enslavable or Non-enslavable Newar caste or the like who have entered marriage and been wedded according to marriage rites, a woman whose husband has gone to Bhoṭa (Tibet), the Madhesa (Terai) or some foreign country without making arrangements for her support—except in cases where he has gone far away on state business—or [a woman] whose husband has married her, but has not [yet] brought her to his house and has not provided her with a means of support, and she has lived in misery somewhere else for [at least] 3 years, or [a woman] whose husband has migrated to a foreign kingdom—when [such] women come to [a government office] and ask for a divorce, stating that they will not live with such a husband, the *adālata* or *amāla* shall grant them a divorce.

3. If a woman from an Enslavable or a Non-enslavable Newar caste whose husband has committed theft, has committed a crime punishable by *dāmala*, has had illicit sexual intercourse with a woman from a caste inferior to his own, whose caste status is degraded having consumed cooked rice and water from the hand of someone belonging to an inferior caste, or else has fled, leaving his house and family after committing any other crime, comes [to a government office] and states that she wants a divorce, the *adālata* or *amāla* shall grant her a divorce.

4. If the husband of a woman who belongs to a Newar caste and who has entered marriage takes a co-wife and throws [his wife] out of the house without providing her with a means of support, her parental family shall bring her to an *adālata* or *amāla*, arrange her divorce and marry her off with someone else. The parental family of a woman shall be allowed to marry her off with someone else, also in the case where her husband becomes a fakir, has lost caste or died. No one shall be held accountable.

5. If a husband who belongs to a Newar caste comes down, once married, with leprosy (*mahāroga*), or becomes maimed, lame, blind, paralysed in his legs, impotent or mute, and if his wife comes [to a government office] and states that she wants to divorce him, the *adālata*, *ṭhānā* or *amāla* shall grant her a divorce. Such a husband shall not force her [to live with him].

6. If a husband has neither kept a co-wife nor has he thrown [his wife] out of the house, [but] he has provided her with a means of support, such a wife shall not be allowed to return the betel nuts and leave the husband. She shall be handed over to him.

7. Among the Enslavable or Non-enslavable Newar castes, neither a wife, after she entered marriage shall be permitted to return the betel nuts [to her husband], leave him and go away arguing that he became seriously ill nor shall the husband be permitted to divorce her by reason of his wife's inauspicious stars, stating: 'I'm releasing you; [now] you are released.' It is unacceptable [for either party] to return the betel nuts during the time when the husband is ill. If any person brings the woman to an *adālata*,

*ṭhānā* or *amāla* or to a *nāike* to arrange her divorce [in such a situation], he shall be fined 20 rupees and the official [from any of the mentioned offices] who grants her a divorce shall [also] be fined 20 rupees. The woman shall be handed over to whomever she belongs.

8. If someone from a Newar caste keeps a co-wife [although] he has a ritually married wife, or keeps a common woman and does not provide [his ritually married] wife with a means of support and throws her out of the house, and if the wife goes to the husband to return the betel nuts, she shall be permitted to do so. The husband shall not be allowed to force her to live with him. The wife may decide at her own volition. If the wife comes to make a complaint at an *adālata*, *ṭhānā* or *amāla* in such a matter, and if it confirmed upon investigation that her husband, in fact, committed [the wrongdoings] as she mentioned [in the complaint], [the office] shall grant her a divorce.

9. A wife of someone belonging to a Non-enslavable or an Enslavable Newar caste, shall be considered pregnant of her husband once children are born to her from him. If such a wife keeps sexual intercourse with someone else from a different caste from whose members cooked rice is not acceptable [for her], she shall not retain her caste status and right of consuming cooked rice together with her fellow caste members.

## 145. On Illicit Sexual Relations [among Newars]

1. Among the Newar castes whose members have been punished by enslavement for [certain] crimes in the past, if [such caste members] commit a crime punishable by enslavement, they shall be punished like subjects from Non-enslavable Newar castes, if they belong to a Newar caste from whom at least water is acceptable. From now on, they shall not be enslaved. If [anyone] enslaves them, he shall be punished in accordance with the regulations laid down for someone who enslaves a free person (*ajāputra*).<sup>517</sup> Subjects who belong to a Water-unacceptable Newar caste shall be enslaved if they commit a crime punishable by enslavement.

2. If someone from a Newar caste—being the third sexual partner of a woman—brings her into his household and keeps her [as his wife], and she belongs to a Sacred Thread-wearing caste and has already had illicit sexual intercourse with [two other men] from a Sacred Thread-wearing caste, the offspring born to such a woman by that man shall belong to their father's caste. They shall also receive equal shares from the joint property as the offspring born to a ritually married wife [of that man] would receive.

3. If someone from a Newar caste keeps a woman from a Sacred Thread-wearing caste or Non-enslavable or Enslavable Alcohol-drinking caste, who has had illicit sexual intercourse with [another man] before, the offspring born to them shall belong to the Lavaṭa<sup>518</sup> Newars of a lesser degree (*kama*).

4. If someone from a Newar caste keeps a wife from a Sacred Thread-wearing caste who has had illicit sexual intercourse with [another man from] a caste inferior to the Sacred Thread-wearing castes, the offspring born to them shall belong to a Lavaṭa caste. If someone from a Newar caste—being the fourth sexual partner of a woman or further—brings her or a woman from a Sacred Thread-wearing caste, who has had illicit sexual intercourse with [three or four other men] from a Sacred Thread-wearing caste before, [into his household], the offspring born to [him by such a woman] shall belong to a Lavaṭa caste. The fellow commensals shall not be obliged to accept cooked rice [touched by] such offspring. If the fellow commensals accept cooked rice [touched by them], [the offspring] shall receive an equal share from the joint property as [offspring] born to a ritually married wife from [that man] would receive. If the fellow commensals do not

517 See § 81.6.

518 *kaṃmalavata*, read *kamalavata* (MA<sub>2</sub>).



accept cooked rice [touched by such offspring], the offspring shall receive their share from the joint property as do [members of] a Lavaṭa caste.

5. If someone from a Newar caste brings an unmarried non-Newar girl or a widow from a Non-enslavable or Alcohol-drinking Parvatīya caste, the offspring born to them shall not be acceptable in their father's caste. They shall belong to a Lavaṭa caste. They, too, shall receive their share of the joint property as [members of] a Lavaṭa caste.

6. If someone from a Newar caste brings a woman [into his household] from a Newar caste which is inferior [in status] to his own, and if the offspring born to them choose [to join] their mother's caste, to marry in accordance with the customs of their mother's caste, and are accepted by the fellow commensals of their mother's caste with respect to cooked rice, and if such offspring commit crimes, they shall be punished according to the regulations applicable to their mother's caste. If such offspring do not choose [to join] their mother's caste, but remain inferior [in status] to their father's caste, such Lavaṭa offspring shall be punished in accordance with the *Ain*'s regulations as applicable to their father's caste.

7. Amongst [subjects] from Newar castes, if someone has consensual sexual intercourse with the wife ritually married to someone of a Tharaghara or Asala Śreṣṭha caste or with a woman being brought into [the household of such an aggrieved husband] by fulfilling the marriage rites [of his caste], [the adulterer] shall be made to pay 70 rupees [to the aggrieved husband] for the marriage expenses and shall be fined 70 rupees.

8. Amongst [subjects] from Newar castes, if someone has consensual sexual intercourse with a wife ritually married to [a person] from a Śreṣṭha caste, which is inferior to the Asala Śreṣṭha caste, or from a caste superior to the Jyāpu caste including the Bāḍā and Udāsa castes, or with a woman being brought [into the household of such an aggrieved husband] by fulfilling the marriage rites [of his caste], [the adulterer] shall be made to pay 60 rupees [to the aggrieved husband] for the marriage expenses and shall be fined 60 rupees.

9. Amongst [subjects] from Newar castes, if someone has consensual sexual intercourse with a wife ritually married to [a person] from a Jyāpu caste or from a caste of an equal status, or with a woman being brought [into the household of such an aggrieved husband] by fulfilling the marriage rites [of his caste], [the adulterer] shall be made to pay 40 rupees [to the aggrieved husband] for the marriage expenses and shall be fined 40 rupees.

10. Amongst [subjects] from Newar castes, if someone [from a Newar caste] has consensual sexual intercourse with a ritually married wife of a person from [one of the following] 7 castes: Sālamī, Nakarmī, Chipā, Mālī, Khusalamusala, Ḍuī, Citrakāra or the like, or [with a ritually married wife] of someone whose caste status is equal to that of these seven castes, or with a woman being brought [into the household of such an aggrieved husband] by fulfilling the marriage rites

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[of his caste], [the adulterer] shall be made to pay 35 rupees [to the aggrieved husband] for the marriage expenses and shall be fined 35 rupees.

11. Amongst the Water-unacceptable but Touchable [Newar] castes, [such as] Kasāī, Kusle, Kulu or Doma, if a married woman [from one of these castes] commits adultery with a man [belonging to one of these castes], [the adulterer] shall be made to pay compensation of 10 rupees for the marriage expense to the aggrieved husband and shall be fined 10 rupees.

12. If [a man] from the Poḍe or Cyāmakhala caste commits adultery with a [married] woman whose caste status is equal to his own, [the adulterer] shall be made to pay 15 rupees [to the aggrieved husband] for the marriage expenses and shall be fined 5 rupees.

13. If [a married] woman commits adultery with a man, and if her husband comes and states that he will pay the *pasuvana* fine and takes back his wife with whom someone else had sexual intercourse,  $\frac{1}{4}$  of the *pasuvana* fine shall be collected from such a husband and he shall be allowed to take his wife back. He does not receive [compensation for] the marriage expenses [from the adulterer].

14. If someone commits adultery with a ritually married wife from a Newar caste, [the adulterer] shall, in accordance with *Ain*'s [regulation] applicable to someone who commits adultery with a married woman, be made to compensate [the aggrieved husband] for the marriage expenses and shall be fined an amount equal to that, [irrespective of] how many times the woman [has been divorced before] by returning the betel nuts [to her husband] or remarried [again]—ritually or by performing the marriage rites according to the [caste's] custom.

15. Amongst [subjects] from the Newar castes, if someone—being her third sexual partner—brings an unmarried girl or widow from a caste equal [in status] to his own into the household, and if his fellow commensals accept cooked rice [touched by] this woman, and if someone else commits adultery with her, [the aggrieved husband] does not need to be compensated for the marriage expenses. [The adulterer] shall only be fined according to the *Ain*'s regulation pertaining [to compensation] for the marriage expenses.

16. Amongst [subjects] from Newar castes, if someone—being her third sexual partner—brings [a woman] into the household and keeps [her as his wife] without performing the marriage rites according to [his caste's] custom, and if someone else commits adultery with her, [the adulterer] shall be fined half of the marriage expenses, irrespective of whether she has borne a child [to the aggrieved husband] or not. If someone—being her fourth sexual partner or further—brings [such a woman into the household] and keeps [her as his wife], and if someone else commits adultery with this woman, the adulterer shall be fined  $\frac{1}{3}$  of the marriage expenses, irrespective of whether she has borne a child [by the aggrieved husband] or not.

17. Amongst [subjects] from Newar castes, if a woman who is divorced by returning the betel nuts [to her former husband] with [mutual] consent, or a widow runs off with someone, gets pregnant

but does not give birth to that child, and if someone else brings such a woman who had previously had sexual intercourse with 2–3 other men and who has been accepted with respect to cooked rice by her fellow commensals [although she had sexual intercourse with 2–3 men] into his household and keeps her as his wife, handing over the keys and the sweeping brush of the house to her, and if his family members [and fellow commensals] have accepted cooked rice [touched by her], and if such a wife commits adultery with another person, [the adulterer] shall be made to compensate [her last aggrieved husband] for the marriage expenses according to the *Ain* and shall be fined an amount equal to the compensation if she was brought [into her aggrieved husband's household] after performing the marriage rites. If she was not ritually married with him, but was only brought [into his household] without [performing the marriage rites], [the adulterer] shall not need to compensate him for the marriage expenses. He shall be fined only half of the marriage expenses.

18. Concerning a case of illicit sexual intercourse amongst [subjects] from Newar castes, if a man accuses a woman of having had illicit sexual intercourse with such and such a person, or a woman accuses a man of having had illicit sexual intercourse with such and such a person, and if the accuser is unable to prove the accusation he or she has made, and if it is ascertained that the accusation was made out of anger, such an accuser shall be fined half of the marriage expense, depending on the caste of the person [wrongly] accused of having committed illicit sexual intercourse.

19. If an unmarried girl, widow, a married woman or a common woman from any of the Newar castes commits an offence of illicit sexual intercourse, and if she becomes pregnant by a man, and she continues to have sexual intercourse with other men during her pregnancy, she shall not be considered a woman pregnant [by that man] until she gives birth to the child. Once the child is born, it shall be considered the child of that man by whose sperm [the woman] was impregnated. If the woman is from a caste superior or equal [in status] to that of this man, expiation shall be granted to that woman for letting a man from a Water-acceptable caste whose status is lower than her own have sexual intercourse with her. Such a woman and her son or daughter shall be assigned to the caste of the man to whom the infant was born. If the father of such a child, [other] members of his family, his paternal uncles or their wives declare that they shall accept [the child as a member of] their own caste, they shall be allowed to do so. If they declare that they shall not accept [the child], they shall not be obliged to do so. Such children shall be considered children (lit. 'sons') of a common woman.

20. If an unmarried girl or widow from a Newar caste who is past the age of 11 has sexual intercourse with a man from a Newar caste whose caste status is lower than her own, and he contaminates her through cooked rice, he shall be fined  $\frac{2}{3}$  of the marriage expenses laid down for the caste of the woman with whom he had sexual intercourse. If he had only sexual intercourse with her, but has not contaminated her through cooked rice, and if the woman does not become pregnant by him, and if she can retain her caste status, he shall be fined  $\frac{1}{3}$  of the marriage expenses for having illicit sexual intercourse with [a woman] whose caste status is superior to his own. If the woman is pregnant by him, and she cannot retain her caste status, he shall be fined an

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amount equal to the marriage expenses. She shall be assigned to the caste of the man with whom she has had illicit sexual intercourse. If the man does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

21. If someone from a Newar caste asks for the hand of a girl in marriage from a caste superior [in status] to his own, pretending that his caste status is equal to her own, and he offers the *lākhā-supārī*<sup>519</sup>, and if the groom is proven to be from an inferior caste before the marriage takes place, and if the parents and parental family of the bride declare that he is from an inferior caste and they will not give their girl [in marriage to him], the *lākhā-supārī* [thus offered] under the pretence of a false caste status shall not be valid. [The offering] of the *lākhā-[supārī]* shall be void and the girl shall be given in marriage to another person from a caste from whom cooked rice is acceptable. [The bridal family] shall not be held accountable. If, after her parents and her parental family have betrothed her to another boy and the marriage has already taken place, [her former fiancé] seizes hold of her or comes to complain at an *adālata* or *amāla* office, stating that he was first to offer the *lākhā-[supārī]* to that girl, he shall be fined  $\frac{1}{3}$  of the marriage expenses laid down for the caste of that girl.

22. If someone from a Newar caste asks for the hand of a girl in marriage from a caste superior [in status] to his own, pretending that his caste status is equal to her own, and he marries her, he shall be fined half of the marriage expenses laid down for the caste of the woman he married under the pretence of a wrong caste status. The girl shall belong to the person she is married to. She shall not be returned. If her parents and her parental family, who first gave her in marriage without proper inquiry, later forcibly bring her back, declaring that they will not give their daughter in marriage to that man, they shall be fined  $\frac{1}{3}$  of the marriage expenses.

23. If a man, with the intention of having sexual intercourse, orders [a procurer] to seduce a woman [on his behalf] from a Newar caste who would be punished for having illicit sexual intercourse [with that man], but the sexual intercourse [between them] has not yet taken place, and if, under such circumstances, the woman comes to complain, [the seducer]—if he has ordered [a procurer] to seduce a married woman—shall be fined  $\frac{1}{3}$  of the marriage expenses laid down in the *Ain* for the caste of the woman he has tried to seduce. If he has ordered [a procurer] to seduce a widow who is committed herself to remain within the boundaries of her caste and duties, or an unmarried girl, he shall be fined  $\frac{1}{6}$  or  $\frac{1}{12}$  [of that amount], respectively. The procurer (*lamī*) who approaches and tries to seduce [the woman on behalf of someone else] shall also be fined  $\frac{1}{6}$  of the marriage expenses laid down for the caste of that woman. If the culprits do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

519 Locally known as (Nev.) *gvē biyegu*, a Newar engagement ritual of offering a set of 10 betel nuts and a coin presented in a small pot mostly made of silver by the groom's family to the bride's family as a token confirming the marriage (cf. Gutschow/Michaels 2012: 22). It is, hence, always the groom's side that confirms the marriage. If the bride's side does not return the coin, it means the bride's family wishes to receive the *lākhā* as well. The groom's side then orders the *lākhāmari*, large round sweetmeats of about 1 foot in diameter, from the sweet makers and delivers them to the bride's family who then distribute them to their close relatives. If the bride's side returns the coin, then the groom's side is free from the burden of offering *lākhā*. The bride's side itself bears the cost of *lākhāmari*.

24. If a person [helps a man] to seduce a married woman from a Newar caste and makes her have sexual intercourse with [that man] who is from a caste equal [in status] to her own with respect to the acceptability of cooked rice, such a procurer shall be fined at the rate of half of the [amount of] the fine imposed on the man who has had sexual intercourse [with that woman].

25. If a person molests a wife from any of the Newar castes, and if she herself, her family members or the members from her paternal family come to lodge a complaint, he shall be fined  $\frac{1}{3}$  of the marriage expenses laid down in the *Ain* for the caste of the woman he has molested, if he is from a caste from whom at least water is acceptable, including the Sacred Thread-wearing castes. If she is molested by someone from a Water-unacceptable [but Touchable] or Untouchable caste, [the molester] shall be fined 80 rupees. If he does not pay the amount of the fine, he shall be imprisoned.

26. If a person, with the intention of having sexual intercourse, molests the wife of [someone from] any of the Newar castes, and that wife has been taken [into marriage] by fulfilling the [caste's] customs and has been accepted for cooked rice by [her husband's] fellow commensals, and if, being informed [about the molestation], the father, brother of her husband or someone from her parental family assaults the molester and damages his limbs, such an assaulter shall be punished in accordance with the *Ain*'s [regulations] on damaging limbs.<sup>520</sup> If the limbs of the molester are not damaged, the assaulters, who have assaulted the molester for molesting their daughter or daughter-in-law, shall not be held accountable.

27. If someone molests [a married] woman from any of the Newar castes, and if her husband, being informed [about the molestation], assaults the molester, [the husband] shall—if the molester does not die, but has only been beaten to the extent that his limbs are damaged—be fined at the rate of half of the amount laid down in the *Ain*'s regulation on damaging limbs. If the husband has not damaged the limbs of the molester, such an aggrieved husband who assaulted the molester of his wife shall not be held accountable.

28. If the wife of [someone from] any of the Newar castes has sexual intercourse [with someone else], and if her husband catches them red-handed (*dekhnu*) when they are having sexual intercourse, and assaults her paramour on the spot, and if the paramour does not die but only his limbs are damaged, [the husband] shall be fined half of the amount laid down in the *Ain*'s regulation on damaging limbs. If the limbs of the paramour are not damaged, [the aggrieved husband] who assaulted [the paramour] shall not be held accountable.

29. If the wife of [someone from] any of the Newar castes has sexual intercourse [with someone else], and her husband ascertains that she has committed adultery and assaults her paramour, and if the paramour does not die, but only his limbs are damaged, [the husband] shall be fined half of the amount laid down in the *Ain*'s regulation on damaging limbs. If the limbs of the paramour are not damaged, the assaulter shall not be held accountable.

520 See Art. 56.

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30. If someone from any of the Newar castes asks for the hand of a girl in marriage and offers the *lākhā-supārī*, the *lākhā-supārī* offered to that girl] shall be returned if the boy does not come to marry the girl to whom the *lākhā-[supārī]* has been offered within 1 year. When the marriage does not take place upon mutual consent between the girl's parents and her family and the boy, or [it does not take place] because the boy has to go far away, abroad, to a foreign country or on state business, the girl's family shall marry her off to someone else at their pleasure. They shall not be held accountable. The boy shall not be permitted to force the girl [to marry him] after a period of 1 year [upon the offering of the *lākhā-supārī]* has passed, irrespective of whether he takes the *lākhā-[supārī]* back or not. If—after the one-year period has passed—the boy seizes hold of the girl or comes to make a complaint stating that he offered the *lākhā-[supārī]* to that girl, he shall be fined at the rate of  $\frac{1}{4}$  of the marriage expenses laid down for the respective caste of that girl. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

31. If someone from a Newar caste who has offered the *lākhā-[supārī]* to a girl] is suffering from epilepsy, leprosy, is maimed or paralysed, is mute, blind, impotent or belongs to a caste from whose members cooked rice is unacceptable, and if the girl's parents, elder and younger brothers declare that they shall not give the girl [in marriage] to him and he shall take his *lākhā-[supārī]* back, the girl shall not be obliged [to marry him], irrespective of whether he takes the *lākhā-[supārī]* back or not. [The girl's family] shall not be held accountable.

32. If someone from a Newar caste who has offered the *lākhā-[supārī]* to a girl], marries another girl or brings another woman [into his household as wife], the parents and family of that girl shall be permitted to marry her off to someone else. They shall not be required to return the *lākhā-[supārī]* to that boy]. If such a boy comes to seize [that girl], stating: 'I have offered the *lākhā-[supārī]* to that girl]', he shall be fined  $\frac{1}{4}$  of the marriage expenses laid down for the respective caste of that girl and shall be punished by being told that he is not permitted to get the girl.

33. If a girl from a Newar caste has been offered the *lākhā-supārī*, and if someone else has sexual intercourse with such a girl before she is married [to the groom], such an offender shall be made to compensate the expenses for the *lākhā-supārī* and be fined at the rate of half of the marriage expenses.

34. If a daughter from a Newar caste who has been given in marriage by fulfilling the caste's customs does not live in her husband's house, but at her parental house without getting a divorce, and if her parents, family members or the like accept the *lākhā-supārī* from another person and give their daughter or sister [in marriage] to him, that person who takes away that girl shall not be held accountable, if she has been given [in marriage] by her family. The family members who give a daughter or sister [who is already married] in marriage to another person after accepting the *lākhā-[supārī]* from him, but without obtaining a divorce [from her husband], shall be made to compensate the marriage expense, as laid down in the *Ain*, to her former husband, and they shall be fined the same amount.

35. If someone from whom cooked rice is unacceptable secretly (*cornu*) has illicit sexual intercourse with an unmarried girl, a widow or a woman from a Newar caste who has, under mutual consent, returned the [*lākhā*]-*supārī* [to her husband to obtain divorce] and remained [unmarried], without informing her parents [about the sexual intercourse], and if that man, before the woman is given in marriage, comes to state that he had sexual intercourse with her, he shall be fined  $\frac{2}{3}$  of the marriage expenses [laid down] for the caste of that woman for contaminating her through cooked rice. Such a meddling fellow shall not be permitted to force her [into marriage with him]. The religious judge (*dharmādhikāra*) shall grant expiation to that woman and her fellow commensals with respect to cooked rice, if she is not pregnant [by her paramour]. If she is pregnant, she shall not receive expiation with respect to cooked rice. She shall be placed in the caste of that meddling fellow. If such a meddling fellow, who belongs to a caste inferior [in status] to her own and from whom cooked rice is unacceptable, comes to reveal [the illicit sexual intercourse] after the marriage has taken place, and if the person who married such a woman has taken her with him, the meddling fellow shall only be fined an amount equal to the marriage expenses, depending on the caste of the woman, for contaminating her through cooked rice. [Her husband] shall not receive the marriage expenses. If [the husband] leaves his wife, declaring that he will not keep her, [her paramour] shall be made to compensate the marriage expenses in accordance with the same [regulation of the] *Ain*, depending on her caste, and he shall be fined an amount equal to what he had to pay in compensation. The woman shall be handed over to her parents.

36. If someone from whom cooked rice is acceptable secretly has illicit sexual intercourse with an unmarried girl, a widow or a woman from a Newar caste who, under mutual consent, has returned the [*lākhā*]-*supārī* [to her husband to obtain divorce] and remained [unmarried], without informing her parents [about the sexual intercourse], and if, as the woman is about to be given in marriage by her parents, he—before the marriage takes place—comes to declare that he had sexual intercourse with her and the woman also admits that it is true and, hence, the claim of such a meddling fellow is proven to be true, he shall not be held accountable. It shall be at the pleasure of the parents as to whether they say, ‘We shall give [our daughter in marriage] to this meddling fellow’, or, ‘He is the person who secretly had sexual intercourse [with our daughter], therefore, we shall not give [our daughter in marriage] to him.’ If the meddling fellow has not had sexual intercourse with her, but has just made a false claim (*attva lagaunu*), such a lying meddling fellow shall be fined an amount according to the marriage expenses laid down for the caste of the woman with whom he claims to have had sexual intercourse.

37. If someone secretly has illicit sexual intercourse with an unmarried girl, a widow or a woman from a Newar caste equal [in status] to his own and who, under mutual consent, has returned the [*lākhā*]-*supārī* [to her husband to obtain divorce] and remained [unmarried], without informing her parents [about the sexual intercourse], and if, after that woman has been given in marriage to another person from a caste equal [in status] to her own, having accepted the *lākhā*-*supārī* from him, this meddling fellow comes to declare that he has had sexual intercourse with that woman, or he takes that woman away from the home of her husband who had taken her

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with him [as his wife], and if the sexual intercourse is not proven upon a joint interrogation of that woman and the meddlesome fellow, such a lying meddlesome fellow shall be fined as per the marriage expenses. If the sexual intercourse is proven, and if the husband who has married the woman leaves her, the meddlesome fellow shall be made to compensate the marriage expenses in accordance with the *Ain* to him and shall be fined an amount equal to the compensation. The girl shall be handed over to her family. If the husband who has married the woman declares that he will take her back, even though she has had sexual intercourse with another person, and takes his wife back, the meddlesome fellow shall not be made to compensate the marriage expenses. He shall only be fined at the rate of half of the marriage expenses laid down in the *Ain* for the caste of the woman.

38. If an unmarried girl, a widow or a woman from a Newar caste who, under mutual consent, has returned the [*lākhā*]-*supārī* [to her husband to obtain divorce] and remained [unmarried] at her parental house has had sexual intercourse with a meddlesome fellow before, and if their sexual relation is known to her parents and family, or the sexual intercourse is revealed [to them] by either that meddlesome fellow who had sexual intercourse with her or by that girl herself, and if someone else from a caste equal in status comes to ask for her hand in marriage, and if he—although he has been informed by her paternal family about her [previous] sexual intercourse—marries her and takes [her home], neither her paternal family nor the meddlesome fellow [with whom she previously has had sexual intercourse], shall need to be fined. If [her parental family] conceals her previous sexual intercourse and gives the girl in marriage after enjoying the *lākhā*-*supārī* from the man who comes to ask for her hand in marriage, and if the person who married the girl [learns about her previous sexual intercourse] and declines to take the girl home and leaves her, her parental family shall, in accordance with the *Ain*, be made to compensate the marriage expenses to him and shall be fined half of that amount. The woman shall be handed over to her paternal family. If that person who has married that woman declares that he will take her back, although she has previously had illicit sexual intercourse with another person, and takes her [home], her parental family shall neither be made to compensate the marriage expenses to him nor shall they be fined.

39. If [the parental family of] an unmarried girl or widow from a Newar caste has first accepted the *lākhā*-*supārī* from one [suitor] and then, before the marriage takes place, they receive another *lākhā*-*supārī* for the same woman from another [suitor], the parental family of such a woman for whom the *lākhā*-*supārī* has been received twice, shall be made to return the *lākhā*-*supārī* to the second [suitor] and shall be fined  $\frac{1}{3}$  of the marriage expenses [laid down in the *Ain*] for the caste of that girl. The girl shall become [the wife of] the person who first offered the *lākhā*-*supārī*. If it is proven that the latter [suitor] offered the *lākhā*-*supārī*, even though he knew that the first [suitor] had already offered it, the second [suitor] shall also be fined  $\frac{1}{3}$  of the marriage expenses. If the marriage has already taken place, the woman shall remain [the wife] of the person to whom she has been married. The parental family of the woman that has received the *lākhā*-*supārī* twice and has given the woman in marriage shall be fined half of the marriage expenses [laid down in the *Ain*] for the respective caste. The groom who has married



[the girl] knowing that the first [suitor] had already offered the *lākhā*-[*supārī*] shall also be made to pay an amount equal to the *lākhā*-[*supārī*] to the former [suitor] and shall be fined half of the marriage expenses. If [the second suitor] is not aware that [the first suitor] had already offered the *lākhā*-[*supārī*], he shall not need to be fined. Only the parental family that has received the *lākhā*-[*supārī*] twice shall be fined.

40. If a woman from a Newar caste who, after giving birth to children by her own husband, is ascertained to be pregnant [again], and if such a woman has had sexual intercourse with another man from whom cooked rice is unacceptable, she shall not be taken back into her caste and the commensality with respect to cooked rice.

41. If the parents of a woman from a Newar caste accept the *lākhā*-[*supārī*] from one [suitor] and her brothers accept the *lākhā*-[*supārī*] from another [suitor], the *lākhā*-[*supārī*] accepted by the brothers shall be returned, irrespective of whether it was accepted before or after [the one accepted by the parents], and the *lākhā*-[*supārī*] accepted by the parents shall be approved. If it is proven that the brothers accepted the *lākhā*-[*supārī*] even though they knew that their parents had [already] accepted it from [another person], [the brothers] shall be fined  $\frac{1}{12}$  of the marriage expenses [laid down in the *Ain*] for the respective caste.

42. If someone commits punishable adultery with a woman from any of the Newar castes, and if it turns out that 2–3 other persons had illicit sexual intercourse with that woman before the sexual intercourse committed by him was revealed, the first [person] who committed adultery with her shall be made to compensate, in accordance with the *Ain*, the marriage expenses [to the woman's husband] and shall be fined [accordingly]. The second and the third person shall be punished in accordance with the *Ain*'s [Art. 130] on 'Sexual Intercourse with a Woman Engaged in Clandestine Prostitution'.

43. Among [subjects] from Newar castes who had been punished by enslavement for illicit sexual intercourse in the past, but which are from now on, according to the [present] *Ain*<sup>521</sup>, exempted from enslavement and who have committed an offence, if [anyone from] such Newar castes has consensual illicit sexual intercourse, or forces such illicit sexual intercourse, [such an offender] shall be punished, in accordance with the *Ain*'s regulations<sup>522</sup> that refer to illicit sexual intercourse by persons from Enslavable castes with someone inferior or superior [in status] to their own caste—except the punishment of the enslavement. Also, if such a Newar caste member commits any other crime, he shall be fined or imprisoned in accordance with the *Ain*'s regulations laid down for persons from an Enslavable caste. If he commits a crime which would lead to the punishment of enslavement, he shall be imprisoned for 2 years [instead]. If he pays the amount set in lieu of the prison term, it shall be accepted. He shall not be enslaved, since the *Ain*'s regulation prohibits an enslavement [of these castes]. There shall be no enslavement. No one shall enslave him.

521 See § 145.1.

522 See Art. 153.

44. If someone brings an unmarried girl or widow from any of the Water-unacceptable but Touchable castes, such as Kasāī, Kusle, Kulu or Ḍoma, [into his household] without marrying her and also accepts cooked rice [touched by] her, and if someone else from one of these Touchable castes commits adultery with such a woman, [the offender] shall only be fined 10 rupees. He shall not be made to compensate the marriage expenses. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

### **Illicit sexual intercourse by Enslavable Newar castes [MA<sub>2</sub>147a]**

1. Among the Enslavable Newar castes, neither shall a wife, after she has entered into marriage, be permitted to return [*lākhā*]-*supārī* [to her husband] and leave him, arguing that he has become seriously ill, nor shall the husband be permitted to divorce her by reason of his wife's inauspicious stars, stating: 'You are divorced [now].' It is unacceptable (*badara*) to return the [*lākhā*]-*supārī* during the time when the husband is ill. If any person brings the woman to an *adālata*, *ṭhānā* or *amāla* office or to a *nāike* official to arrange her divorce [in such a situation], [the official from any of the mentioned offices] who grants her a divorce shall be fined 20 rupees and the person who brings her [to any of the mentioned office] to arrange her divorce shall [also] be fined 10 rupees. The woman shall be handed over to whomever she belongs

2. If someone asks for the hand of a girl who belongs to an Enslavable Newar caste [in marriage] and has given her *lākhā*-*supārī* as well, and if another person gives her *lākhā*-*supārī* and marries her [although] he knows [that the first person] had already given her the *lākhā*-*supārī*, the parental family of the girl shall be made to return the *lākhā*-[*supārī*] given by the first [suitor] and shall be fined 10 rupees. [Also] that person who married her shall be fined 10 rupees. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

3. If a daughter from an Enslavable Newar caste who is married, by fulfilling the caste's customs, to someone from a caste equal in status and from whom cooked rice is acceptable, does not live in her husband's house, but at her parental household without obtaining a divorce, and if her parental family, such as her parents, brothers or the like, accept *lākhā*-[*supārī*] from another boy and give their daughter or sister in marriage to him, and this boy takes her [to his household], he who took her away after she was given to him in marriage by her parental family shall not be held accountable. [If her parental family] gives her away to someone else in marriage without obtaining a divorce from her [first husband], and if the marriage has already taken place and she already has had sexual intercourse with him, her parental family, who accepted the *lākhā*-[*supārī*] from two persons and gave the girl [to the second man], shall be made to compensate the first husband with 20 rupees for the marriage expenses and be fined 20 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

4. If it becomes apparent that someone has [already] given *lākhā-supārī* to a girl from an Enslavable Newar caste, and if someone else, although he knows that she has already been given the *lākhā-[supārī]* by the first [suitor], gives the same girl *lākhā-[supārī]* and also her parental family accepts it, and if the suitor who gave her the first *lākhā-[supārī]* comes to make a complaint before she is married to [that second suitor], her parental family, who accepted the *lākhā-[supārī]* from two persons, shall be made to return the *lākhā-[supārī]* to the first [suitor] and shall be fined 10 rupees. That person, too, who gave her the *lākhā-[supārī]* even after he knew that [the first] suitor had already given her the *lākhā-[supārī]*, shall be fined 5 rupees. If the amount of the fine is not paid, they shall, in accordance with the *Ain*, be imprisoned.

5. If the parents of a girl from an Enslavable Newar caste or her brothers accept *lākhā-supārī* from one [suitor] for [their daughter or sister], and if they do not like him [in the meantime] and accept *lākhā-supārī* from another [suitor], it shall be arranged that the girl is given to the first [suitor]. The persons who accept the *lākhā-[supārī]* from two parties shall be fined 10 rupees.

6. If someone from an Enslavable Newar caste has illicit sexual intercourse with a girl who is past the age of 11 or a widow from a Non-enslavable Newar caste, and if he even contaminates her through cooked rice, he shall be fined 40 rupees. If he has had only illicit sexual intercourse with her, [but] has not contaminated her through cooked rice, he—for having illicit sexual intercourse with [a girl or widow] from a caste superior in status to his own—shall be fined 25 rupees, if she is not pregnant by him and she can be re-admitted to her caste. If she is pregnant by him and she cannot be re-admitted to her caste, he shall be fined 50 rupees and she shall be placed in the caste of that man with whom she has had illicit sexual intercourse. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

7. If the parental family, such as parents from an Enslavable Newar caste, of an unmarried girl who is living at her parents' household, a woman who has returned the [*lākhā-*]*supārī* [to her husband to obtain a divorce] and remained [unmarried at her parent's household] or a widow whose husband has died, accept *lākhā-[supārī]* from [a suitor] whose caste status is equal to theirs and marry her off with him, and if a certain meddling fellow, in the meantime, declares: 'I have had, in fact, sexual intercourse with this woman', or [else] he takes her away from the house of her husband who married her, and if [the announced] sexual intercourse is not proven [to be true] upon investigation, after having brought both the meddling fellow and woman together, such a lying meddling fellow who, without actually having sexual intercourse with that woman, announced that he had had sexual intercourse with her, shall be fined 20 rupees. If it is proven true that [the meddling fellow] has had sexual intercourse with her, but he did not reveal it when [her parents] married her off [to another] person, and if the husband who married her after [she had had sexual intercourse with that meddling fellow]

leaves her, declaring ‘[Since] she has had sexual intercourse with [that meddlesome fellow], I do not take her back’, the meddlesome fellow shall be made to compensate [the husband] with 20 rupees for the marriage expenses. The girl shall be handed over to her parental family. If the husband who has married the woman declares that he will take her back, even though she has had sexual intercourse with another person, and takes his wife back, he shall not receive compensation for the marriage expenses. [The meddlesome fellow] shall only be fined 10 rupees. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees.

8. If an unmarried girl who is living at her parental household, a woman who has returned the [*lākhā*]-*supārī* [to her husband to obtain a divorce] and remained [unmarried at her parental house] or a widow who is living at her parental household, from an Enslavable Newar caste, previously has had sexual intercourse with a certain meddlesome fellow, and if their sexual intercourse is known to her parental family such as her parents, or the sexual intercourse is revealed [to them] by either that meddlesome fellow who had sexual intercourse with her or by that girl herself, and if someone else from a caste equal in status comes to ask for her hand in marriage, and if he—although he has been informed by her parental family about her [previous] sexual intercourse or he knows it himself—marries her and takes [her home], neither her parental family nor the meddlesome fellow with whom she previously has had sexual intercourse, shall need to be fined. If [her parental family] conceals her previous sexual intercourse and gives the girl in marriage after enjoying the *lākhā*-[*supārī*] from the man who comes to ask for her hand in marriage, and if the person who married the girl learns about her previous sexual intercourse and declines to take the girl home and leaves her, her parental family who concealed [their daughter’s] sexual intercourse and gave her in marriage shall be made to compensate that husband with 20 rupees for the marriage expenses and be fined 10 rupees. The woman shall be handed over to her parental family. If that person who has married that woman takes her back, he shall not receive the marriage expenses [from her parental family]. The parental family who concealed the fact and gave their girl to [that man], too, does not need to pay any fine.

9. If someone from a caste equal in status to hers has illicit sexual intercourse with an unmarried girl who is living at her parental household, or a woman who has returned the *lākhā*-[*supārī*] [to her husband to obtain a divorce] and remained [unmarried] or a widow, from a Non-enslavable Newar caste, without the knowledge of her parents, and if, as the woman is about to be given in marriage to another person by her parents, such a meddlesome fellow—before she is married off to that person—comes to declare in the meantime that he has had sexual intercourse with her in such and such a year, month and day and at such and such a place, and if the woman also admits that it is true and, hence, the statements of both persons match, it shall be at the pleasure of the parents as to whether they give their daughter in marriage to this meddlesome fellow [or not]. The meddlesome fellow who has had illicit sexual intercourse with her shall

not be allowed to force them to give their daughter to him in marriage. If he has not had sexual intercourse with her, but has just made a false claim, such a lying meddlesome fellow shall be fined 16 rupees.

10. If someone who belongs to an Enslavable Newar caste has [already] given *lākhā-supārī* to the parental family of a girl, but if someone else—before the marriage takes place—has illicit sexual intercourse with her, [the offender] shall be made to pay the amount of the *lākhā-supārī* and other marital fees (*dastura*) in damages and shall be fined 10 rupees. If he does not pay the amount of the fine, he shall be imprisoned.

11. Amongst Newars, if a person commits adultery with the wife of another person from an Enslavable [Newar caste] who has been brought into [the household] by the latter after fulfilling the marriage rites, [the adulterer] shall be made to compensate [the husband] with 20 rupees for the marriage expenses and shall be fined 20 rupees. If he fails to pay the marriage expenses and the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

12. Amongst the members of the Enslavable Newar castes, if a person commits adultery with the girl of another person who has brought her [into his household] without fulfilling the marriage rites or with the widow whom he brought into his household, being her second sexual partner, [the adulterer] shall be required to compensate for the marriage expenses. He shall be fined 20 rupees. If someone commits adultery with the wife of a person who brought her into his household, being her [third or] more than third sexual partner, the adulterer shall be fined 15 rupees. If he does not pay the amount of the fine, he shall, in accordance with the *Ain*, be imprisoned.

13. If one person commits adultery with a [married woman] from a Newar caste whose members may be punished for having illicit sexual intercourse (*misākhata*), and if others, around 2–3 persons, commit adultery with the same woman before the adultery committed by the [first] person is revealed, the person who first committed adultery with her shall be [given] whatever punishment is applicable to him—making him compensate [the husband] for the marriage expenses or imposing a fine on him. The person who is second or third to commit adultery with her shall require no fine.

14. If [the parents] from an Enslavable Newar caste accept *lākhā-supārī* from one [suitor for their daughter], but if they later on accept *lākhā-supārī* from another [suitor] and marry their daughter off to him, the [second suitor] shall not be held accountable, if he married her without knowing that she had been already given *lākhā-supārī* by someone else. The girl belongs to the [second suitor] who married her. Her parental family, who accepted the *lākhā-supārī* from two persons, shall be made to return the *lākhā-supārī* offered by the first [suitor] and shall be fined 20 rupees. If they do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

145. On Illicit Sexual Relations [among Newars]

15. If someone from a Newar caste brings a woman into his household, being her third sexual partner, from a Sacred Thread-wearing caste who [previously] has had illicit sexual intercourse [with two other men] from a Sacred Thread-wearing caste, the offspring born [to such a pair] shall receive the caste status of their father. They shall receive a share of the joint property as the offspring born to a ritually married wife would receive.

16. The offspring born of a person belonging to a Newar caste and a concubine from a Sacred Thread-wearing caste, or a Non-enslavable or Enslavable Alcohol-drinking caste, who [previously] has had illicit sexual intercourse with another person or persons, shall become Lavaṭa Newars of a lesser degree (*kama*).<sup>523</sup>

17. The offspring born of a person belonging to a Newar caste and a concubine from a Sacred Thread-wearing caste who [previously] has had illicit sexual intercourse with another man from a caste inferior to that of the Sacred Thread-wearers, shall become Lavaṭa Newars. The offspring born of a person belonging to a Newar caste and such a woman or a concubine from a Sacred Thread-wearing caste whom he brought [into his household], being her fourth or more than fourth sexual partner, who [previously] has had illicit sexual intercourse [with three other men] belonging to the Sacred Thread-wearing castes, shall become Lavaṭa. The fellow commensals shall not be forced to accept cooked rice from [such offspring]. If the fellow commensals accept cooked rice from such offspring, they shall receive a share of the inheritance as the offspring born to a ritually married [wife] would receive. If the fellow commensals do not accept cooked rice from them, they shall receive a share of the inheritance as Lavaṭas would receive.

18. If a person from a Newar caste brings a non-Newar girl, widow or common woman from a Parvatīya Non-enslavable or Enslavable Alcohol-drinking Parvatīya caste into his household, her offspring [by him] shall not be accepted into their father's caste. They shall become Lavaṭa [Newars]. Also, they shall receive a share of the inheritance as the Lavaṭa [Newars] would receive.

19. If a person from a Non-enslavable Newar caste brings a woman from an Enslavable Newar caste into his household, and if the offspring born to her [by him] follow the customs of the Enslavable caste, they marry according to the customs of the same caste (i.e. Enslavable caste) and they mutually accept cooked rice from the fellow commensals [belonging to the Enslavable caste], such Lavaṭa offspring shall be enslaved. They shall be punished according to the *Ain* as applicable to the members of the Enslavable castes.

523 Lavaṭa is a term designating the offspring of a Newar and non-Newar union.

20. If a person from a Non-enslavable Newar caste brings a woman from an Enslavable Newar caste [into his household], and if the offspring born [to her by him] have received a caste status just below that of their father, but they have neither accepted cooked rice from the members of Enslavable castes nor are they married to them, such Lavaṭa offspring shall be punished or fined according to the *Ain* as applicable to the members of the Non-enslavable castes.

21. If there is a case of adultery amongst the members of Kasāī, Kusle, Kulu, Doma or the like who [are classified] as Water-unacceptable but Touchable castes, [the adulterer] shall be made to compensate the aggrieved husband with 10 rupees for the marriage expenses and shall be fined 10 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

22. If members of Poḍe and Cyāmakhala commit adultery with the members of a caste equal in status to their own, [the adulterer] shall be made to compensate [the aggrieved husband] with 5<sup>524</sup> rupees for the marriage expenses and shall be fined 5 rupees. If the amount of the fine is not paid, [the offender] shall, in accordance with the *Ain*, be imprisoned.

## 146. Law on Illicit Sexual Intercourse by Upādhyāya [Brahmins]

1. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood relative, and for whom punishment is written down in the *Ain*'s [Art. on illicit sexual intercourse] for Upādhyāyas,<sup>525</sup> and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has not eaten cooked rice from her hands, but he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman, he shall be fined 100 rupees, but he shall not lose his caste status. If he has eaten cooked rice [from her hands] after the sexual intercourse and also has contaminated fellow caste members with whom cooked rice may be eaten, he shall be fined 100 rupees and he shall be degraded to the caste of that woman with whom he had sexual intercourse. Anyone who is accidentally [contaminated] shall be granted expiation.

2. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11, who is his distant relative but no blood or direct relative (*nātā nalgāgnyā kuṭūva*), and for whom punishment is written down in the *Ain*'s [Art. for illicit sexual intercourse] for Rajapūtas,<sup>526</sup> Asala Jaisīs and Sacred Thread-wearing Kṣatriyas, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman, he shall be fined 30 rupees. Someone who has accidentally eaten cooked rice from the hands of that woman shall be granted expiation. If he has eaten cooked rice [from her hands] after the sexual intercourse, he shall be degraded to the caste of that woman. If he has eaten cooked rice [from her hands] and also has contaminated fellow caste members with whom cooked rice may be eaten, he shall be fined 100 rupees and he shall be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

3. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to the Devabhājus, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [fellow caste

525 See Art. 113.

526 See Art. 114.



members] after the sexual intercourse, he shall be fined 30 rupees. Anyone who is accidentally [contaminated] shall be granted expiation.

4. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, and who has put on the robe, or belongs to a Tīna-Liṅga-Jaisī, or a Doṭyāla or Jumli Jaisī or the like, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If anybody comes to complain that he has contaminated the fellow caste members through cooked rice after the sexual intercourse, he shall be fined 20 rupees. Anyone who has accidentally eaten cooked rice from his hands shall be granted expiation in the name of that woman.<sup>527</sup>

5. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, he shall not be held accountable. If he has contaminated [fellow caste members] by [having them eat] cooked rice from that woman, he shall be fined 5 rupees, and he shall be granted expiation in the name of that woman.

6. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, he shall not be held accountable.

7. If an Upādhyāya Brahmin has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and who is his distant and indirect relative, he shall take such a woman [as his wife]. The offspring fathered by him shall become Asala Jaisīs, and they shall be entitled to receive a share of inheritance equal to that of the ritually married wife and the offspring from her side.

527 The meaning of *svāsnikā nāuko patiyā garāidinu* is unclear. Maybe the woman has to be identified as the source of pollution during the expiation.

## 147. Law on Illicit Sexual Intercourse by Rajapūtas

1. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Upādhyāya Brahmin caste, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 2 years. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 4 years. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. Anyone who is accidentally [contaminated] shall be granted expiation.

2. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood relative, and for whom punishment is written down in the *Ain*'s [Art.] on [incest] among Rajapūtas<sup>528</sup>, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman after the sexual intercourse, he shall be fined 80 rupees, but he shall not lose his caste status. If he has eaten cooked rice [from her hands] after the sexual intercourse and also has contaminated any of his fellow caste members with whom cooked rice may be eaten, he shall be fined 80 rupees and he shall be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

3. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Asala Jaisī caste, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be fined 40 rupees. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be fined 60 rupees. Anyone who is accidentally [contaminated] shall be granted expiation.

4. If a Rajapūta caste member has consensual sexual intercourse with a consenting unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood or direct relative, and for whom punishment is written down in the *Ain*'s Art. on [incest] among Sacred Thread-wearing Kṣatriyas,<sup>529</sup> and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow

528 See Art. 114.

529 See Art. 116.

caste members] by [having them eat] rice from that woman, he shall be fined 30 rupees. Anyone who has accidentally eaten rice from her hands shall be granted expiation. If [the offender] has eaten rice from her hands after he has sexual intercourse with her, he shall be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

5. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Devabhāju, Tehraūte, Bhaṭṭa, Mara-haṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow caste members] after the sexual intercourse, he shall be fined 30 rupees. Anyone who is accidentally [contaminated] shall be granted expiation.

6. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sevadā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to a Tīna-Liṅga-Jaisī, or to a Doṭyāla or Jumlī Jaisī or the like, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If anybody comes to complain that he has contaminated any of his fellow caste members through cooked rice after the sexual intercourse, he shall be fined 20 rupees. Anyone who has accidentally eaten cooked rice from his hands shall be granted expiation in the name of that woman.

7. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman, he shall be fined 5 rupees, and he shall be granted expiation in the name of that woman.

8. If a Rajapūta caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, he shall not be held accountable.

9. If a Jaisī or a Rajapūta caste member has consensual sexual intercourse with an unmarried girl who is past the age of 11 and belongs to a Jaisī or Rajapūta caste and is not his relative, his fellow caste members shall not be forced to [eat] cooked rice [together with him]. Such a woman shall be degraded to the caste of [that man] and he shall take her [as his wife]. The offspring born to them—if born to a Rajapūta girl from a Jaisī [father]—shall become a Hamāla. The offspring born to a Jaisī girl from a Rajapūta father also shall become a Hamāla. The [offspring] shall receive the *gotra* of their father. Cooked rice from their hands shall not be accepted. Moreover, [the wife and her offspring] shall be entitled to receive [an equal] share of property to that received by a ritually married wife.

## 148. Law on Illicit Sexual Intercourse by Jaisī [Brahmins]

1. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood relative, and for whom punishment is written down in the *Ain*'s [Art. on illicit sexual intercourse] for Upādhyāyas,<sup>530</sup> and if he has not contaminated [any of her fellow caste members] through cooked rice [after the sexual Intercourse], he shall be imprisoned for 2 years. But if he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 4 years. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. Anyone who is accidentally [contaminated] shall be granted expiation.

2. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and of a Rajapūta caste, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall be fined 40 rupees. If he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman, he shall be fined 60 rupees. Anyone who accidentally has eaten [cooked rice] from the hands of that woman shall be granted expiation.

3. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood relative, and for whom punishment is written down in the *Ain*'s [Art. for illicit sexual intercourse] for the respective Jaisī caste,<sup>531</sup> and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman after the illicit sexual intercourse, he shall be fined 80 rupees, but he shall not lose his caste status. If he has eaten cooked rice [from her hands] and also has contaminated any of his fellow caste members, he shall be fined 80 rupees and he shall be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

4. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a Sacred Thread-wearing Kṣatriya caste, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall

530 See §§ 113.1–15.

531 See §§ 115.1–4.

not be held accountable. If he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman after the sexual intercourse, he shall be fined 25 rupees. Anyone who accidentally has eaten [cooked rice] from the hands of that woman shall be granted expiation.

5. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarāṭī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise or Deśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has contaminated [any of his fellow caste members] after the sexual intercourse, he shall be fined 30 rupees. Anyone who accidentally eats [cooked rice with the sexual offender] shall be granted expiation.

6. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sevadā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to the Tīna-Līṅga-Jaisī, or the Doṭyāla or Jumlī Jaisī or the like, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If anybody comes to complain that he has contaminated any of his fellow caste members through cooked rice after the sexual intercourse, he shall be fined 20 rupees. Anyone who has accidentally eaten cooked rice from his hands shall be granted expiation in the name of that woman.

7. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, he shall not be held accountable. If he has contaminated [any of his fellow caste members], he shall be fined 5 rupees and [anyone who has accidentally eaten cooked rice from his hands] shall be granted expiation in the name of that woman.

8. If a member of the Asala Jaisī caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, he shall not be held accountable.

## 149. Law on Sexual Intercourse by Parvatīya Sacred Thread-wearers

1. If a member of a Parvatīya Kṣatriya or any other Parvatīya Sacred Thread-wearing caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and who belongs to an Asala Jaisī or Rajapūta caste, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 2 years. But if he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 4 years. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. Anyone who have accidentally been [contaminated] shall be granted expiation.

2. If a member of a Parvatīya Kṣatriya or [Parvatīya] Sacred Thread-wearing caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujrātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, D eśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall be fined 80 rupees. If he has contaminated [any of his fellow caste members] through cooked rice, he shall be fined 120 rupees. If he has consumed cooked rice from the hands of that woman, he shall be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

3. If a member of a Parvatīya Kṣatriya or [Parvatīya] Sacred Thread-wearing caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Daśanāmī, Jogī, Jaṅgama, Sannyāsi, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udaśī, Baghara or the like, who has put on the robe, or to the Tīna-Liṅga-Jaisī, or the Dotyāla or Jumlī Jaisī or the like, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If anybody comes to complain that he has contaminated any of his fellow caste members through cooked rice after the illicit sexual intercourse, he shall be fined 20 rupees. Anyone who has accidentally eaten cooked rice from his hands shall be granted expiation.

4. If a member of a Parvatīya Kṣatriya or [Parvatīya] Sacred Thread-wearing caste has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, he shall not be held accountable. If he has contaminated [any of his fellow caste members by having them eat] cooked rice from the hands of that woman, he shall be fined 5 rupees and [anyone who has accidentally eaten cooked rice

from her hands] shall be granted expiation in the name of that woman who had illicit sexual intercourse [with the culprit].

5. If a member of a Parvatīya Kṣatriya or [Parvatīya] Sacred Thread-wearing caste has illicit consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, he shall not be held accountable.

6. If an unmarried girl of any caste other than Upādhyāya Brahmin who is past the age of 11 and has illicit consensual sexual intercourse with someone from the same caste status, from whose hands cooked rice may be eaten, she should live with him [as his wife]. An *adālata*, *ṭhānā* or *amāla* office shall make the man who had illicit sexual intercourse with that girl eat cooked rice from her hands, shall arrange to give her a share of property equal to that of a ritually married wife, and shall make her join him.

7. If a member of the Bhāṭa [Jaisī] caste has sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to a caste similar or lower in status than his, he shall, in accordance with the *Ain*'s [regulations] for Sacred Thread-wearing Kṣatriyas [on illicit sexual intercourse],<sup>532</sup> be punished. If someone has illicit sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to such a Bhāṭa caste, [the culprit] who has had illicit sexual intercourse shall, in accordance with the *Ain*'s [regulations] for illicit sexual intercourse with an unmarried girl or widow who belongs to a Sacred Thread-wearing Kṣatriya caste,<sup>533</sup> be punished.

8. If a member of the Parvatīya Sacred Thread-wearing caste has illicit consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood relative, and for whom the punishment for a heinous crime (*rājakhata*) is written down [for illicit sexual intercourse],<sup>534</sup> and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has not eaten cooked rice from her hands, but he has contaminated [any of his fellow caste members] by [having them eat] cooked rice from that woman, he shall be fined 60 rupees and he shall be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse]. If [his fellow caste members] come to complain that they have been accidentally contaminated through [cooked rice from the hands of that man or woman], [such] fellow caste members shall be granted expiation for accidental [contamination] in the name of that woman.

532 See §§ 116.1–21.

533 See Art. 149.

534 See §§ 116.1–21.

## 150. Law on Illicit Sexual Intercourse by Devabhājus, Etc.

1. If a member of the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmin or any other Brahmin from foreign kingdoms has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Upādhyāya, Jaisī or Rajapūta [caste], and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 2 years. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 4 years. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. Anyone who is accidentally [contaminated] shall be granted expiation.

2. If a member of the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmin or any other Brahmin from foreign kingdoms has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a Sacred Thread-wearing Kṣatriya caste, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has eaten cooked rice [from her hands] and has also contaminated his fellow caste members from whom cooked rice may be accepted, he shall be fined 50 rupees and degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

3. If a member of the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmin or any other Brahmin from foreign kingdoms has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a caste similar to his or one of the castes mentioned, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has eaten cooked rice [from her hands] and has also contaminated others (i.e. his fellow caste members), he shall be fined 60 rupees and degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

4. If a member of the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmin or any other Brahmin from foreign kingdoms has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, he shall not be held accountable. If he has contaminated [any of his fellow caste members] by having them eat cooked rice from the hands of that woman, he shall be fined 5 rupees and [anyone who has accidently been contaminated] shall be granted expiation.



150. Law on Illicit Sexual Intercourse by Devabhājus, Etc.

5. If a member of the Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmin or any other Brahmin from foreign kingdoms has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, he shall not be held accountable.

## 151. Illicit Sexual Intercourse with [Members of an Ascetic Group such as the] Daśanāmīs Etc.

1. If someone who belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like, has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to an Upādhyāya [Brahmin caste], a Rajapūta, Jaisī, Kṣatriya or any Sacred Thread-wearing caste, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 2½ years. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 5 years. If he pays double the fine in lieu of his prison term, it shall be accepted. Anyone contaminated under deception shall be granted expiation.

2. If someone who belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like, has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to the Devabhājus, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 2½ years. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 5 years. If he pays double the fine in lieu of his prison term, it shall be accepted. Anyone contaminated under deception shall be granted expiation.

3. If someone who belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like, has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to a caste similar to his own or one of the castes mentioned, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has eaten cooked rice [from her hands] and has also contaminated others (i.e. his fellow caste members), he shall be fined 20 rupees and be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse]. Anyone who has accidentally eaten rice [from his hands] shall be granted expiation.

4. If someone who belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the

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robe, or to a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like, has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has eaten cooked rice [from her hands] and has contaminated his fellow caste members with whom cooked rice may be eaten, he shall be fined 20 rupees and be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse]. Anyone who has eaten rice [from his hands] under deception shall be granted expiation.

5. If someone who belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If [any of his fellow caste members] comes to complain that [the culprit] has contaminated him through cooked rice, the culprit shall be fined 10 rupees.

6. The offspring born of an Upādhyāya or Jaisī Brahmin to an unmarried concubine girl or a widow belonging to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Kanaphaṭṭā, Vairāgī, or the like shall become Bhāṭas of the respective ascetic group whose robe [the husband] has put on. They shall be entitled also to get the Sacred Thread.

## 152. Sexual Intercourse with Members of Non-enslavable Alcohol-drinking Castes

1. If a Non-enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Upādhyāya [Brahmin], Asala Jaisī, a Rajapūta, Kṣatriya or any other Sacred Thread-wearing [caste] or the like, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 3 years. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 6 years. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. Anyone who is accidentally contaminated shall be granted expiation.

2. If a Non-enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Devabhājus, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujṛāṭī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 3 years. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 6 years. If he pays double the fine in lieu of his prison term, it shall be accepted and he shall be set free. Anyone contaminated under deception through the consumption of cooked rice shall be granted expiation.

3. If a Non-enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be fined 30 rupees. If he has contaminated [any of her fellow caste members] through cooked rice after the illicit sexual intercourse, he shall be fined 40 rupees. Anyone who has eaten cooked rice under deception shall be granted expiation.

4. If a Non-enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative, but no blood relative, and for whom the punishment for a heinous crime (*rājakhata*) is written down [for illicit consensual intercourse], and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has not eaten cooked rice [from her

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hands], but has contaminated [any of his fellow caste members] by having them eat cooked rice from her hands, he shall be fined 10 rupees. He shall not lose his caste status. If he has eaten cooked rice [from her hands] and has contaminated [any of his fellow caste members] through cooked rice after the illicit sexual intercourse, he shall be fined 10 rupees and be degraded to the caste of that woman [to which she is degraded after the illicit sexual intercourse].

5. If a Non-enslavable Alcohol-drinking caste member has illicit consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste, he shall not be held accountable. If someone comes to complain that [the culprit] has contaminated him through cooked rice, [the culprit] shall be fined 10 rupees.

6. If a Non-enslavable Alcohol-drinking caste member who may have the right to kill the paramour of his wife has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to an Enslavable Alcohol-drinking caste whose members do not have the right to kill the paramours of their wives, and if he has contaminated [any of his fellow caste members] through cooked rice, he shall be fined 40 rupees. If he has not contaminated [any of his fellow caste members], he shall be fined 20 rupees. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

## 153. Sexual Intercourse with Members of Enslavable Alcohol-drinking Castes

1. If an Enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to an Upādhyāya [Brahmin], Asala Jaisī, a Rajapūta, Kṣatriya or any other Sacred Thread-wearing caste, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 1½ years and then be enslaved. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 3 years and then be enslaved. If he pays double the fine in lieu of his prison term, it shall be accepted. Anyone who is accidentally [contaminated] shall be granted expiation.

2. If an Enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to the Devabhājus, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins or to any other Brahmin caste from foreign kingdoms, and if he has not contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 1 year and then be enslaved. If he has contaminated [any of her fellow caste members] through cooked rice, he shall be imprisoned for 2 years and then be enslaved. Anyone who has accidentally eaten cooked rice [from his hands] shall be granted expiation.

3. If an Enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or a Tīna-Liṅga-Jaisī, Doṭyāla or Jumlī Jaisī or the like, he shall, irrespective of whether or not he has contaminated [any of her fellow caste members] through cooked rice, be enslaved. Anyone who has accidentally eaten cooked rice [from his hands] shall be granted expiation.

4. If an Enslavable Alcohol-drinking caste member has illicit consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, he shall, irrespective of whether or not he has contaminated [any of her fellow caste members] through cooked rice, be enslaved. He shall not be imprisoned.

5. If an Enslavable Alcohol-drinking caste member has consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to a caste whose status

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is similar to his, or who is his distant relative, but no blood relative, and for whom punishment is written down in this *Ain*'s [regulations] for Enslavable Alcohol-drinking castes, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If someone comes to complain that he has been contaminated through cooked rice, [the culprit] shall be fined 5 rupees.

## 154. Sexual Intercourse with Members of Water-unacceptable but Touchable Castes

1. If a Water-unacceptable but Touchable caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Upādhyāya or Jaisī [Brahmins], Rajapūtas, Sacred Thread-wearing castes, Devabhāju, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmin or to any other Brahmin caste from foreign kingdoms, or to [one of] the [ascetic groups such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to the Tīna-Liṅga-Jaisīs, Doṭyāla or Jumlī Jaisīs, he—in case he belongs to a caste whose members may be enslaved—shall be imprisoned for 4 years and be enslaved. If he belongs to a caste whose members may not be enslaved, he shall be imprisoned for 8 years. If he pays four times the fine in lieu of his prison term, it shall be accepted.

2. If a Water-unacceptable but Touchable caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11, who is his distant relative and belongs to a caste similar in status to his and to a Water-unacceptable [but Touchable] caste, but who is no blood relative for whom the punishment written down [for consensual intercourse] is [that for] a *rājakhata*, he shall not be held accountable. Among the [Water-unacceptable but] Touchable castes, if a member of one caste has illicit sexual intercourse with a member of another caste, and if he has contaminated [his fellow caste members] through cooked rice, he shall be fined 4 rupees.

3. If a Water-unacceptable but Touchable caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a caste inferior in status to his, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has eaten cooked rice [from her hands] after the sexual intercourse, and if he has also contaminated any other person [through cooked rice], he shall be fined 4 rupees and be degraded to the caste of that woman. Anyone who has eaten [cooked rice from his hands] shall be purified by performing his caste's custom.

4. If a Water-unacceptable but Touchable caste member who may be punished by enslavement has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to the Enslavable castes who are Water-acceptable Alcohol-drinkers, he shall be enslaved. If he belongs to a Non-enslavable caste, he shall be imprisoned for 2 years. If he pays four times the fine in lieu of his prison term, it shall be accepted.



## 155. Sexual Intercourse with Members of Untouchable Castes

1. If an Untouchable caste member, including one from the Cyāmakhala and Poḍe castes, has illicit consensual sexual intercourse with an unmarried girl or widow who is past the age of 11 and belongs to the Upādhyāya [Brahmins], Rajapūtas, Jaisīs, Sacred Thread-wearing castes, Devabhājus, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujṛāṭī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins or to any other Brahmin [caste] from foreign kingdoms, or to [an ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who have put on the robe, or to the Tīna-Liṅga-Jaisīs, Doṭyāla or Jumlī Jaisīs, or to the Non-enslavable Alcohol-drinking castes whose members are pure and from whom water may be accepted, and if the woman is married, her husband shall, in accordance with the *Ain*, have the right to decide [whether he kills his wife's paramour or not]. If the woman is married and belongs to a caste whose members may not have the right to kill their wives' paramours, or if the woman is an unmarried girl or a widow, [the culprit] shall, in accordance with the *Ain*, be punished by *dāmala* after his share of property has been confiscated. If [such a culprit] has illicit sexual intercourse with an unmarried girl or a widow who is past the age of eleven and belongs to an Enslavable Alcohol-drinking caste, he shall be imprisoned for 1 year and be enslaved. If he has sexual intercourse with an unmarried girl or a widow [who is past the age of 11] and belongs to a Water-unacceptable but Touchable caste, he shall be enslaved.

2. If an Untouchable caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a caste similar in status to his, or who is his distant relative, but no blood relative, and for whom punishment [for committing] a heinous crime (*rājakhata*) is written down [for illicit sexual intercourse], he shall not be held accountable. If someone comes to complain that, among the Untouchable castes whose members may accept water from each other but not cooked rice, an Untouchable man has had illicit sexual intercourse with an Untouchable woman and he has contaminated his [fellow caste members] through cooked rice, [the man] shall be fined 4 rupees.

3. If an Untouchable caste member has consensual sexual intercourse with an unmarried girl or a widow who is past the age of 11 and belongs to a caste inferior in status to his own, and if he has not contaminated [any of his fellow caste members] through cooked rice, he shall not be held accountable. If he has eaten cooked rice [from her hands] after the illicit sexual intercourse, and if he has contaminated [any of his fellow caste members] through cooked rice, he shall be

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fined 4 rupees and be degraded to the caste of that woman with whom he has had illicit sexual intercourse. Anyone who, under deception, is [contaminated] becomes purified by performing the customs of his caste.

## 156. On Illicit Sexual Intercourse with Members of Water-unacceptable Castes

1. If someone who belongs to the Upādhyāya [Brahmins], Rajapūtas, Jaisī Brahmins, Sacred Thread-wearing Kṣatriyas, Devabhājus, Non-enslavable Alcohol-drinking and Enslavable Alcohol-drinking castes or to any other [Brahmin caste] and who has been living in the Gorkhā Kingdom with his household and family for 1–2 generations, [such as] Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Māhārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins, or who belongs to any other Brahmin [caste] from foreign kingdoms, or to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, has illicit sexual intercourse with an unmarried girl or widow past the age of 11 and belonging to a Water-unacceptable but Touchable caste, and if he has not consumed cooked rice and water from her hands, he—if he belongs to a Sacred Thread-wearing caste or one equal to it—shall be fined 100 rupees. If he belongs to a caste which is equal in status to the Non-enslavable castes, he shall be fined 50 rupees, and if he belongs to a caste which is equal in status to the Enslavable castes, he shall be fined 25 rupees. If he pays the amount of the fine, it shall be accepted, and he shall be granted expiation by ordering him to visit 1 pilgrimage site. If the amount of the fine is not paid, [the expiation shall take place] after his prison term is over. Cooked rice and water from the hands of such a person may be accepted [by his fellow caste members]. If he has eaten cooked rice from the hands of that woman after the illicit sexual intercourse and has also contaminated his fellow caste members through cooked rice, his [property] shall, in accordance with the *Ain*, be confiscated, he shall be imprisoned for 1 year, the first letter of the caste [name] of the woman with whom he has illicit sexual intercourse shall be branded on his left cheek, he shall be deprived of his right to consume cooked rice and water with his fellow caste members, and he shall be set free after degrading him to the caste of that woman. If he has not contaminated any [of his fellow caste members] through cooked rice, he shall just be degraded to the caste [of that woman], but shall not be branded [with the initial letter of her caste name on his left cheek]. Anyone who has accidentally consumed cooked rice and water [from his hands] shall be granted expiation for the mistake.

MA<sub>2</sub> 158.1a. If someone belongs to the Upādhyāya [Brahmins] castes, Rajapūtas, Jaisī Brahmins, other Sacred Thread-wearing [Kṣatriyas] castes, Devabhājus, Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Māhārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins, or someone who belong to any other Brahmin [caste] from foreign kingdoms, or to an [ascetic group, such as the] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā,

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Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara<sup>535</sup> or the like, who has put on the robe, or to Jaisīs who are born to a mother who previously had sexual intercourse [at least] with 3 other men, to Doṭyāla Jaisī, Jumalī Jaisī, or to a Non-enslavable Alcohol-drinking or Enslavable Alcohol-drinking caste or the like from whose members water is acceptable, has illicit sexual intercourse with a married woman, widow or an unmarried girl who is past the age of 11 and is from a Water-unacceptable but Touchable caste, and if he has not consumed cooked rice and water from her hands, he—if he belongs to a Sacred Thread-wearing caste—shall be fined 100 rupees. If he belongs to a Non-enslavable Alcohol-drinking caste, he shall be fined 50 rupees, and if he belongs to an Enslavable Alcohol-drinking caste, he shall be fined 25 rupees. If he pays the amount of the fine, it shall be accepted, and he shall be ordered to visit 1 pilgrimage site. If the amount of the fine is not paid, [the penance shall take place] after his prison term is over. Cooked rice and water from the hands of such a person shall be accepted. If he consumes cooked rice from the hands of that woman after the illicit sexual intercourse with her and also contaminates his fellow caste members through cooked rice, the entire property which is his according to the *Ain* shall be confiscated, he shall be imprisoned for 1 year, the first letter of the caste [name] of the woman with whom he has illicit sexual intercourse shall be branded on his left cheek, he shall be deprived of his right to consume cooked rice and water with his fellow caste members, and he shall be set free after having been placed in the caste of that woman. He shall not regain his caste status.

2. If someone who belongs to the Upādhyāya [Brahmins], Rajapūtas, Jaisī Brahmins, Sacred Thread-wearing castes, Devabhājus, Non-enslavable Alcohol-drinking and Enslavable Alcohol-drinking castes or to any other [Brahmin caste], and who has been living in the Gorkhā Kingdom with his household and family for 1–2 generations, [such as] Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujrātī, Māhārāṣṭra, Tailaṅgī, Draviḍa, Madhise, Deśī Brahmins, or who belongs to any other Brahmin [caste] from foreign kingdoms, or to an [ascetic group such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, or to the Tīna-Liṅga-Jaisīs, Doṭyāla or Jumlī Jaisīs, or to the Enslavable or Non-enslavable Alcohol-drinking castes from whose members water may be accepted, has illicit sexual intercourse with an unmarried girl or widow past the age of 11 and belonging to an Untouchable caste, he—irrespective of whether or not he has consumed rice and water from her hands—shall, in accordance with the *Ain*, be imprisoned for 1½ years after his share of property has been confiscated, and the first letter of the caste [name] of [that woman] shall be branded on his left cheek and he shall be set free after being deprived of his right to consume cooked rice and water with his fellow caste members and after he has been degraded to the caste of that woman.

3. If a Water-unacceptable but Touchable caste member has illicit sexual intercourse with an unmarried girl, widow, or a married woman past the age of 11 and belonging to an Untouchable

535 MA<sub>2</sub> reads *aughara*.

caste, her husband—if the woman belongs to a caste whose members may, in accordance with the *Ain*, kill their wives' paramours—shall have the right to decide [whether he kills his wife's paramour or not]. If he has illicit sexual intercourse with an unmarried girl or a married woman who belongs to a caste whose members may not have the right to kill their wives' paramours, his property shall be confiscated and he shall be set free after the first letter of the caste [name] of [that woman] has been branded on his left cheek, and after he has been deprived of his right to consume cooked rice and water with his fellow caste members.

4. If a woman who belongs to a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste has knowingly let a man who belongs to a Water-unacceptable but Touchable or an Untouchable caste, from whose members water may not be accepted, have illicit sexual intercourse with her, and if she has contaminated [any of her fellow caste members] through cooked rice or water, she shall be imprisoned for 1 year, and the first letter of the caste [name] of that man with whom she has had illicit sexual intercourse shall be branded on her left cheek, and she shall be set free after she has been deprived of her right to consume water with her fellow caste members, and after she has been degraded to the caste of that man. If she pays the amount in lieu of her prison term, it shall be accepted. If she has not contaminated [any of her fellow caste members] through water, she shall be set free after the first letter [of the caste name] has been branded [on her left cheek] and after she has been degraded to the caste of that man, but she shall not be imprisoned. If the woman belongs to an Enslavable Alcohol-drinking caste, she shall be enslaved and then be set free after the first letter of the caste [name] of [that man] has been branded [on her left cheek]. If she is a slave, she shall be imprisoned for 1 year and be handed over to her master after the first letter [of the caste of that man] has been branded [on her left cheek]. If she pays a fine in lieu of her prison term, it shall be accepted and she shall be set free. Water may not be accepted from her hands.

5. If a woman belonging to a Water-unacceptable but Touchable caste has knowingly let a man who belongs to an Untouchable caste have illicit sexual intercourse with her, she shall be enslaved.

6. If a Muslim, Kusle, Kasāī, Kalavāra, Dhobī, Kulu woman or the like belonging to a Water-unacceptable but Touchable caste has let a man who belongs to a caste higher in status than hers have illicit sexual intercourse with her, and if she has contaminated him through rice or water, she shall be enslaved.

7. If a woman who belongs to an Untouchable caste has deceitfully let a man who belongs to a Sacred Thread-wearing caste, including the Water-acceptable castes, have illicit sexual intercourse with her, having lied about her caste status and pretending that she belongs to a pure caste, she—if she belongs to an Enslavable caste—shall be enslaved. The man who, under deception, had illicit sexual intercourse with such a woman shall be granted expiation with respect to rice and water. Since the man did so under deception, he shall not be punished.

156. On Illicit Sexual Intercourse with Members of Water-unacceptable Castes

8. If a man who belongs to a Sacred Thread-wearing caste commits [a crime] pertaining to cooked rice, water or illicit sexual intercourse, and if his caste status, in accordance with the *Ain*, needs to be degraded, it shall be done by removing his Sacred Thread.

9. If an unmarried girl, a widow, or a married woman belonging to a Water-unacceptable but Touchable or an Untouchable caste from whose members water may not be accepted has let a man belonging to a high or low caste from whose members water may be accepted, including the Sacred Thread-wearing castes, have illicit sexual intercourse with her, and if the man has not contaminated any of his Water-acceptable fellow caste members through cooked rice or water, the woman shall neither be held accountable nor be enslaved. If the man who has illicit sexual intercourse with her belongs to a caste whose members wear the Sacred Thread, he shall be degraded to the caste of that woman after his Sacred Thread has been removed. If he belongs to a caste whose members do not wear the Sacred Thread, he shall just be degraded to the caste of that woman. His property shall neither be confiscated nor is he required to pay a fine or suffer punishment.

10. If a high- or low-ranking caste member belonging to the Water-acceptable castes has illicit consensual sexual intercourse with a married woman belonging to a Water-unacceptable but Touchable or an Untouchable caste, and if he has not contaminated any of his Water-acceptable fellow caste members through cooked rice or water, he shall not be guilty of committing a heinous crime (*rājakhata*). The man—if he belongs to a caste whose members are to be punished by *dāmala*—in accordance with the respective law [laid down] for the respective caste of [the woman] with whom he has had illicit sexual intercourse, shall be fined, making him pay the marriage expenditures [to her aggrieved husband]. If he belongs to a caste whose members may be executed, the aggrieved husband has the right [to decide] whether he lets the paramour of his wife off or not. If the aggrieved husband decides to let his wife's paramour off unpunished, [the culprit]—if he belongs to a caste whose members wear the Sacred Thread—shall be degraded [to her caste] after his Sacred Thread has been removed. If he belongs to a caste whose members do not wear the Sacred Thread, he shall just be degraded, but his property shall neither be confiscated nor is he required to pay a fine or suffer punishment. If the aggrieved husband comes to complain that he was not able to punish his wife's paramour, the latter shall be fined by making him pay the marriage expenditures of the [aggrieved] husband. If the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

11. If a woman who belongs to an Untouchable caste, including the castes of Poḍes and Cyāmakhala, has let a man who belongs to a higher caste than hers and from whose members water may be accepted, have illicit sexual intercourse with her, and if she has contaminated him through rice and water, she shall be enslaved.

12. If a man or woman who belongs to a Water-unacceptable but Touchable caste, excluding Muslims, has illicit sexual intercourse with someone belonging to an Untouchable caste, and if the woman is not a widow, her aggrieved husband, in accordance with the *Ain*, has the right to

decide whether he kills his wife's paramour or not. If the aggrieved husband does not punish his wife's paramour, or if the woman is an unmarried girl or a widow, the illicit sexual intercourse shall be considered a *rājakhata*. Therefore, if any of his or her fellow caste members has been contaminated through rice or water after the illicit sexual intercourse, he or she shall be branded on his or her left cheek with the first letter of the Untouchable caste [name] of the person with whom he or she has had illicit sexual intercourse, and he or she shall be enslaved. If he or she has not contaminated any of his or her fellow caste members through cooked rice or water, he or she shall be set free after the first letter [of the caste name of that person with whom intercourse took place] has been branded on his or her left cheek and after he or she has been degraded to the Untouchable caste. They shall not be enslaved.

13. If a woman who belongs to a caste of Muslims has let a man who belongs to a caste higher than hers, [such as] the Water-acceptable Hindu castes including the Sacred Thread-wearing castes, have illicit sexual intercourse with her, and if she has contaminated him through cooked rice or water, she shall be imprisoned for 2 years. If she has not contaminated him, she shall be imprisoned for 1 year. If she pays double the fine in lieu of her prison term, it shall be accepted, and she shall be set free.

14. If a Brahmin from a foreign kingdom—except one who has been living in the Gorkhā Kingdom with his household and family for 1–2 generations—[such as] Tehraūte, Bhaṭṭa, Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise or Deśī Brahmins, or an ascetic [such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, has illicit sexual intercourse with a married woman, a widow, or an unmarried girl past the age of 11 and belonging to a Water-acceptable but Touchable caste, and if he has not consumed rice and water from her hands, he—if he is a Sacred Thread-wearing caste member or his caste status is equal to that of the Sacred Thread-wearing castes—shall be fined 100 rupees. If his caste status is equal to that of the Non-enslavable castes, he shall be fined 50 rupees. If his caste status is equal to that of the Enslavable castes, he shall be fined 25 rupees. If he pays the fine, it shall be accepted and he shall be granted expiation by ordering him to visit 1 pilgrimage site. If he does not pay the fine, [the expiation] shall be performed after his prison term is over. Cooked rice and water from such a person's hands may not be accepted. If he has consumed cooked rice and water from her hands after illicit sexual intercourse, and if he has also contaminated his fellow caste members, his property shall be confiscated and he shall be exiled from the country with the statement that he has been deprived of his right to consume cooked rice and water with his fellow caste members. If he has not contaminated any of his fellow caste members, he shall only be exiled with the statement that he has been deprived of his right to consume cooked rice and water with his fellow caste members. The [initial] letter [of the caste name of that woman] shall not be branded [on his left cheek]. Anyone who has, under deception, consumed rice or water [from his hands] shall be granted expiation for the mistake.

15. If a Brahmin from a foreign kingdom—except one who has been living in the Gorkhā Kingdom with his household and family for 1–2 generations—[such as] Tehraūte, Bhaṭṭa,

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Marahaṭṭā, Nāgara, Gujarātī, Mahārāṣṭra, Tailaṅgī, Draviḍa, Madhise or Deśī [Brahmins], or an ascetic [such as] Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Vairāgī, Kanaphaṭṭā, Nānaka, Udāsī, Baghara or the like, who has put on the robe, has illicit sexual intercourse with a married woman, widow, or an unmarried girl past the age of 11 and belonging to an Untouchable caste, he—whether or not he has consumed cooked rice and water from her hands—shall, in accordance with the *Ain*, be imprisoned for 1½ years after his share of property has been confiscated. [After his prison term], he shall be exiled from the country with the statement that he has been deprived of his right to consume cooked rice and water with his fellow caste members. The [initial] letter [of the caste name of that woman] shall be branded [on his left cheek]. Anyone who has, under deception, consumed cooked rice or water [from his hands] shall be granted expiation for the mistake.



## 157. On Self-degradation to a Lower Caste with Declaration

1. If a man from any of the Four Varṇas and Thirty-six castes, including the Sacred Thread-wearers, has consumed cooked rice from the hands of a caste member whose caste status is lower than his, and from whom cooked rice may not be accepted, or if he has consumed cooked rice or water from the hands of a Water-unacceptable but Touchable or an Untouchable caste, or if he has illicit sexual intercourse with a woman [who belongs to an Untouchable caste], and if he degrades himself to that caste with the declaration that he is doing so, and if he has not contaminated any of his fellow caste members through cooked rice and water, he shall be permitted to degrade himself to that caste. He shall not be held accountable. If he has been living separately after taking his share of property from his father, mother, brother, his direct sons and his wives, he shall be permitted to take his property and commodities. If property has not been partitioned, he shall not be permitted to partition the property and to take [his share of] the [joint] property and commodities. His father, sons, wives or brothers shall, in accordance with the *Ain*, be entitled to enjoy it.

2. If a man who belongs to a Parjā caste whose members may be punished by enslavement or a Water-unacceptable but Touchable caste has illicit sexual intercourse with a woman who belongs to an Untouchable caste, and if he, before contaminating any [of his fellow caste members] through cooked rice and water degrades himself to the caste of that woman with the declaration that he is doing so, he shall not be held accountable. If he has contaminated any [of his fellow caste members] through cooked rice and water, both—man and woman—shall be enslaved.

3. If someone gets married to [a woman] who belongs to a Water-unacceptable caste, and if he has contaminated<sup>536</sup> [any of his fellow caste members] through water, his share of property—if he belongs to a Sacred Thread-wearing caste—shall, in accordance with the *Ain*, be confiscated and his caste status shall be degraded to the [caste of that woman] by removing his Sacred Thread. If he belongs to any other Water-acceptable caste, his share of property shall be confiscated and his caste status shall be degraded to the caste of that woman with whom he is married. If it is ascertained that he unwittingly married her, he shall be granted expiation after he has been separated from that woman. He shall not be held accountable.

536 *pāṃyālāi*, read *pārnyālāi* (MA<sub>2</sub>).

## 158. [Law on Illicit Sexual Intercourse with] Kulus

1. If a Kulu [caste member] has illicit consensual sexual intercourse with an unmarried girl, a widow or a married woman who is past the age of 11 and belongs to a Non-enslavable Newar caste, and if he contaminates her through cooked rice and water, he shall be imprisoned for 2 years and then be enslaved. If he has not contaminated her through cooked rice and water, he shall be enslaved. If the woman contaminates [any of her fellow caste members] through water, she shall be imprisoned for 1 year, be branded with the first letter [of her partner's caste name] on her left cheek and be set free, after she has been deprived of the right to consume cooked rice and water with her fellow caste members. If she pays the amount in lieu of her prison term, it shall be accepted.

2. If a Kulu [caste member] has illicit consensual sexual intercourse with an unmarried girl, a widow or a married woman who is past the age of 11 and belongs to the Enslavable Newar castes, and if he has contaminated [any of her fellow caste members] through cooked rice and water, he shall be imprisoned for 1 year. If he has not contaminated [any of her fellow caste members] through cooked rice and water, both the man and woman shall be enslaved after depriving them of the right to consume cooked rice and water with their fellow caste members. The woman [additionally] shall be branded with the first letter [of her paramour's caste name].

3. If a Kulu [caste member] has illicit consensual sexual intercourse with a Newar woman who has not retained her caste and [the status] of rice acceptancy and who is a common woman, and if he has contaminated [any of her fellow caste members] through cooked rice and water, he shall be enslaved. The woman—if she belongs to a Non-enslavable Newar caste—shall be set free after branding her with the first letter [of her paramour's caste name] and after depriving her of the right to consume rice and water with her fellow caste members. If she belongs to an Enslavable caste, she shall be enslaved after being branded with the first letter [of her paramour's caste name]. If he takes her [as his wife] after the illicit consensual sexual intercourse without contaminating anybody through cooked rice and water, he shall not be held accountable.

4. If a Kulu [caste member] takes a common woman of a Sacred Thread-wearing caste, whose members may have the right to kill their wife's paramour, as his wife, he—irrespective of whether he has contaminated [the common woman] through water or not—shall be enslaved.

## 159. Illicit Sexual Intercourse with Water-unacceptable but Touchable Caste Members

1. If someone has illicit sexual intercourse with a Kusle, Kasāī, Kulu, Muslim, Mleccha, Kalavāra, Dhobī woman or the like who belongs to a Touchable but Water-unacceptable caste, and if he has not consumed cooked rice and water from her hands, and if he belongs to a Sacred Thread-wearing caste, or if he belongs to a Non-enslavable Alcohol-drinking caste, or if he belongs to an Enslavable Alcohol-drinking caste, he shall be fined 100, 50, and 25 rupees, respectively and be granted expiation by ordering him to visit 1 pilgrimage site. If he does not pay the amount of the fine, he shall be imprisoned at the rate of 1 month for every 5 rupees. After his prison term is over, he shall become purified through visiting 1 pilgrimage site as expiation.

2. If someone who belongs to a Sacred Thread-wearing or an Alcohol-drinking caste or the like, from whose members water may be accepted, has kept a woman as his wife, who belongs to a Water-acceptable caste and who has been deprived of her right to drink water with her fellow caste members due to her illicit sexual intercourse with another man belonging to a Water-unacceptable but Touchable caste, [such as] Kusle or Kasāī, and if such a man [belonging to a Water-unacceptable but Touchable caste] has offspring born to her, and if the man [belonging to a Water-acceptable caste] who has kept such a wife has been deprived of his right to drink water with his fellow caste members, he and his offspring shall belong to the caste [of that man] with whom [the wife] had illicit sexual intercourse that resulted in the deprivation of her right to drink water with her fellow caste members. If his fellow caste members (*duniñā*) know about his illicit sexual intercourse, but have not deprived him of his right to drink water with them, and if they have accepted water from him, his offspring shall become pure caste members who are not entitled to receive the Sacred Thread. Water may be accepted from them. The offspring shall be granted expiation for accepting water from their mother's hands. Moreover, water from such a woman shall not be accepted.

3. If someone who belongs to a pure caste, such as a Sacred Thread-wearing caste member, Magara or Gurung marries a child fathered by a Sacred Thread-wearing caste member and born of a Kusle or Kasāī woman, water from the hands of [the offspring born of such a couple] may be accepted, because they married before the codification of the *Ain* and water from them used to be accepted. Cooked rice from such offspring shall not be accepted and they shall not be entitled to receive the Sacred Thread. If the father of such offspring has consumed cooked rice from the hands of his offspring, his Sacred Thread shall be removed and water from his hands may

159. Illicit Sexual Intercourse with Water-unacceptable but Touchable Caste Members

be accepted. If he has illicit sexual intercourse with, but has not consumed cooked rice from the hands of that woman, he shall retain his Sacred Thread after expiation. His fellow caste members may not be forced to consume cooked rice together with him.

4. If a Muslim has illicit sexual intercourse with a Kasāī, Kusle, Kulu, Dhobī woman or the like, who belongs to a Water-unacceptable Hindu caste, and if he has contaminated her through cooked rice or water, he shall be fined 100 rupees. If he has not contaminated her through cooked rice or water, he shall be fined 70 rupees.

5. If a Muslim has illicit sexual intercourse with a married woman of another Muslim who belongs to a foreign territory, and who is different from a Kashmiri Muslim who is a resident of Nepāla (Kathmandu Valley), he shall be fined 100 rupees and shall be made to pay [another] 100 rupees for the marriage expenses [to her husband].<sup>537</sup> If the illicit sexual intercourse has happened with a woman who already had illicit sexual intercourse with one person and is remarried, or if it happens with a woman who already had illicit sexual intercourse with 2, 3 or 4 men, [the culprit] shall be fined 50 rupees and he shall be made to pay [another] 50 rupees for the marriage expenses. If he is unable to pay the amount of the fine and the marriage expenses, he shall be imprisoned at the rate of 1 month for every 5 rupees. Such a woman shall be permitted to live with any of her husbands at her own will.

6. If a Curaṭe (Cuḍārā) Muslim who is a resident of our realm comes to complain that a certain Muslim has had illicit sexual intercourse with his wife, [the culprit] shall be made to pay 60 rupees for the marriage expenses and shall be fined [another] 60 rupees. If the aggrieved husband takes her back, [the culprit] shall not need to pay for the marriage expenses, but he shall be fined 20 rupees. From now onwards, such an aggrieved husband shall not be permitted to kill his wife's paramour.

7. Among the Water-unacceptable but Touchable castes, if a man who belongs to a Water-unacceptable caste has an illicit sexual relationship with a woman who belongs to another similar caste, he—irrespective of whether he has contaminated her through cooked rice or not—shall be fined 20 rupees. The woman shall be fined 10 rupees and be made to join the caste of [that man]. If a man who belongs to a higher caste has illicit sexual intercourse with a woman who belongs to a Water-unacceptable caste, and if he has contaminated [his fellow caste members] through cooked rice or water, he shall be fined 20 rupees and the woman shall be fined 10 rupees. The man shall be granted expiation according to the customs of his caste. If he goes to join the caste of that woman before contaminating [any of his fellow caste members] through cooked rice or water, he shall not be held accountable.

537 According to Höfer (1979: 161, 2004: 139), even though the MA<sub>1</sub> treats Muslims as one single Water-unacceptable but Touchable caste whenever their external social relations are regulated, an internal classification between domestic ('Hill Muslims' or 'Curaṭe Muslims') and foreign Muslims (for example, Kashmiri Muslims) exists.

159. Illicit Sexual Intercourse with Water-unacceptable but Touchable Caste Members

8. If someone comes to complain that a Kashmiri Muslim or a Muslim from any foreign territory has had illicit sexual intercourse with a married wife of a Kashmiri Muslim who is a resident of Nepāla, or another Muslim, [the culprit] shall be imprisoned for 5 years. If the aggrieved husband requests his wife's paramour to be set free, the latter shall be let off. If the aggrieved husband does not [want] his wife's paramour to be set free, the paramour shall be let off after his prison term is over. Even if such culprit pays double the fine in lieu of his imprisonment, it shall not be accepted. The paramour of that woman, with whom she has had illicit sexual intercourse, shall not be entitled to get her.

## 160. On Untouchable Castes

**The regulations classifying the higher and lower castes among the Untouchables, including Kasāīs and Cyāmakhalas:**

### *Particulars*

1. The lowest among all other castes is the caste of Cyāmakhala, because they consume left-overs of the higher castes down to Poḍe.

2. The caste of Poḍe is higher than the caste of Cyāmakhala, because the [Poḍe] do not eat from the hands of Cyāmakhala, who consume others' left-overs.

3. The caste of Vādī is higher than the [above mentioned] two castes, because [the Vādī] do not eat from the hands of Cyāmakhala and Poḍe, and earn their livelihoods by singing, dancing and begging at houses, down to the Untouchable castes.

4. The caste of Gāine is higher than the caste of Vādī, because [the Gāine] do not eat from the hands of the Vādī, and earn their livelihoods by singing, playing [musical instruments] and begging.

5. The caste of Damāī is higher than the caste of Gāine, because [the Damāī] do not eat from the hands of Gāine and do not accept cooked rice from the offspring born to a concubine Gāine woman.

6. Offspring born of a Sārkī man to a concubine Kāmī woman, or born of a Kāmī man to a Sārkī woman, become Kaḍārā. Higher than the caste of Damāī is the caste of Kaḍārā, because the Damāī eat [cooked rice] from the hands of the Kaḍārā and they eat from the hands of Damāī.

7. The caste of Kāmī and Sārkī is higher than the caste of Kaḍārā, for the [following] reasons: [1] Sārkī do not consume water from the hands of Kāmī, and Kāmī do not consume water from the hands of Sārkī, but they reciprocally consume roasted and grilled food from each other; and [2] [Kāmī and Sārkī] do not consume water and cooked rice from the hands of Kaḍārā who are their half-breed [offspring]. From now onwards, cooked rice from the hands of male [members of] the Kaḍārā who are half-breeds shall not be accepted [by Kāmī and Sārkī], but water may be

accepted. No expiation is needed if Kāmī or Sārki consume water [from the hands of Kaḍārā]. If a Kāmī takes a widow or unmarried girl of a Sārki and keeps her as his wife, or if a Sārki takes a widow or unmarried girl of the Kāmī and keeps her as his wife with their mutual consent or with the consent of the woman's parents, and if he does not contaminate [any of his fellow caste members] through cooked rice, both (the Kāmī and Sārki man) shall neither be enslaved nor be held accountable. If he contaminated [any of his fellow caste members] through cooked rice, he shall be fined 10 rupees, and [the contaminated caste member] shall be granted expiation according to his caste's custom.

8. The caste of Kulu, whose profession is leather-working, is higher than all [the above-] mentioned seven castes for [the following] reasons: [1] they do not consume cooked rice and water from the hands of any of the above-mentioned seven castes, [2] they do not take women of any of the above-mentioned seven castes as concubines and do not produce offspring with them, and [3] if they are contaminated by Damāi, Kāmī or Sārki through cooked rice, water or illicit sexual intercourse, they are granted expiation, as they always have been, according to their caste's custom.

9. The caste of the Hindu Dhobī is higher than all [of the above-mentioned] castes for the [following] reasons: the Dhobī neither consume [cooked rice or water] from the hands of any of the [above-]mentioned castes, nor do they wash laundry of the Untouchable castes from whose members water may not be accepted, and the Dhobī may enter the upper storeys (*maṭān*) and sitting rooms of members of higher (pure) castes.

10. The caste of Kusle is higher than all of the above-mentioned castes, for the [following] reasons: the Kusle do not consume [cooked rice and water] from the hands of any [of the above-]mentioned castes, they brush and sweep at the houses or courtyards of the places or of the high-ranking official (*umarāva*) or in the temples, and they carry out the profession of playing musical instruments for their livelihoods, from one place to another in the temples.

11. The caste of Kasāi is higher than the caste of Kusle, because Kasāi neither consume cooked rice and water from the hands of any [of the above-] mentioned other castes, nor do they do so from the hands of Kusle, and because all members of castes higher than them accept milk<sup>538</sup> of cow or buffalo from the hands of Kasāi.

12. If a Water-acceptable caste member whose caste has been [classified] as pure touches a Cyāmakhala, Poḍe, Vādī, Gāine, Damāi, Kaḍārā, Kāmī Sārki, Cuḍārā or a Hurkyā caste member, the former shall sprinkle water [on his body for purification]. If he does not sprinkle water [on his body], he shall be fined ½ rupee and be granted expiation after paying [a fee] of 4 *ānās*.

538 *daṃḍa*, read *duda* (MA<sub>2</sub>).

160. On Untouchable Castes

13. If a Sārki man has sexual relationship with a Kāmī woman or a Kāmī man with a Sārki woman, and if the Kāmī or Sārki man has contaminated [any of his fellow caste members] through cooked rice, he shall be fined 10 rupees. If a Kaḍārā caste member has sexual intercourse with a Kāmī or Sārki woman, and if he has contaminated [any of her fellow caste members] through cooked rice, he shall be fined 12 rupees, and the woman shall be fined 8 rupees. If the amount of the fine is not paid, he or she shall, in accordance with the *Ain*, be imprisoned.

14. If a Damāi, Gāine, Vādī caste member or the like has illicit sexual intercourse with a Kāmī, Sārki or Kaḍārā woman, he—irrespective of whether or not he has contaminated [any of her fellow caste members] through cooked rice—shall be fined 20 rupees, and the woman shall be fined 10 rupees. He shall be degraded to the caste of that woman. If a man from the three castes mentioned (Kāmī, Sārki or Kaḍārā) has illicit sexual intercourse with a Damāi, Gāine or a Bhāḍa woman, and if he has contaminated the fellow caste members through water, the man and woman shall be fined 20 and 10 rupees, respectively. The man shall be degraded to the caste of that woman. If the man informs someone about [the illicit sexual intercourse] before contaminating anyone through water, and if he, at his own wish, degrades himself to the caste of that woman, he shall not be held accountable.

15. If a female slave who belongs to a Water-acceptable caste, including the Sacred Thread-wearing castes, has illicit sexual intercourse with a man who belongs to a Water-unacceptable or to an Untouchable caste, and if she has contaminated [any of her fellow caste members] or anyone who is a member of a caste similar to her caste in status through cooked rice, or any other fellow caste member through water, or if she has let [any other caste member] have illicit sexual intercourse with her, she shall be imprisoned for 1 year, be deprived of her right to drink water with her fellow caste members, and be branded with the first letter of that man's caste [name on her left cheek]. If she has not contaminated any [of her fellow caste members] through water, and if she has not let anybody else have illicit sexual intercourse with her, she shall be imprisoned for 6 months, be branded with the first letter of that man's caste [name] and be deprived of her right to drink water with her fellow caste members. If she pays double the fine [in lieu of her prison term], it shall be accepted and she shall be handed over to her master. If double the fine is not paid, she shall be handed over to her master only after her prison term is over.

16. If a female bondservant who belongs to an Enslavable caste has illicit sexual intercourse with a man who belongs to a Water-unacceptable or to an Untouchable caste, and if she has contaminated [any of her fellow caste members] who are of a caste similar to hers in status through cooked rice, or any other caste member through water, or if she has let [any other caste member] have illicit sexual intercourse with her, the credit sum of the creditor shall be taken into account, and she shall be enslaved and be branded with the first letter of that man's caste [name on her left cheek]. The credit sum of the creditor shall be returned and the surplus amount shall be taken by the *adālata* or *amāla* office where the case has been dealt with. If the female bondservant belongs to a Non-enslavable caste, she—irrespective of whether or she has contaminated anybody through



cooked rice and water or not, or whether she has let anybody have illicit sexual relationship with her or not—shall be imprisoned for 6 months. If she pays a fine [in leu of prison term], it shall be accepted and she shall be handed over to her creditor after having deprived her of the right to consume cooked rice and water with her fellow caste members, and after the first letter of that man's caste [name] has been branded [on her left cheek]. If she does not pay the fine [in leu of prison term], she shall be set free after her prison term is over.

17. If a female slave who belongs to an Untouchable caste has contaminated a Viṣṭa caste member by having him consume cooked rice or water [from her hands], or if she has contaminated him by letting him have illicit sexual intercourse with her, or if she has contaminated someone who belongs to a Sacred Thread-wearing or an Enslavable or Non-enslavable Alcohol-drinking caste through cooked rice or water, she shall be imprisoned for 3 years and then be handed over to her master.

### 1. Water-unacceptable but Touchable castes

#### *Particulars*<sup>539</sup>

Muslim	1	Dhobī	1
Telī of Madhesa	1	Kulus	1
Kasāī	1	Mleccha	1
Kusle	1	Cuḍyārā (Cuḍāro) <sup>540</sup>	1

### 2. Untouchable castes

#### *Particulars*

Sārkī	1	Damāī	1
Kāmī	1	Gāīne	1
Sunāra <sup>541</sup>	1	Bādī Bhāḍa	1
Cunārā	1	Poḍe	1
Hurkyā	1	Cyāmakhala	1

539 The numbers in the list specify that the respective caste group represents one item.

540 *curyādā*, read *cuḍyārā* (MA<sub>2</sub>).

541 *cunāra*, read *sunāra* (MA<sub>2</sub>).

## 161. On Illicit Sexual Intercourse with a Slave<sup>542</sup>

1. If a slave has illicit sexual intercourse with his master's daughter or daughter-in-law, such a slave shall be executed—irrespective of whether it was rape or consensual.

2. If any legal dispute arises regarding incest of male or female slaves within their blood relations, the punishment and judgment shall be delivered which are applicable to Bhoṭe Parjā.

3. If an unmarried girl belonging to an Enslavable caste has illicit sexual intercourse with [a man] whose caste status is higher than or similar to her own, and if she, later on, has been taken as wife by [another man] from a caste similar to her own, without the maternal side accepting the customary gifts (*rita khānu*) [from that man], and if such a Parjā woman has illicit sexual intercourse with a slave, she shall not be enslaved. She shall be regarded as a common woman. If the illicit sexual intercourse was<sup>543</sup> with a man belonging to a Water-acceptable caste, she shall be enslaved, even if she is a common woman.

4. If an unmarried girl belonging to an Enslavable caste has illicit sexual intercourse with [a man] whose caste status is higher than or similar to hers, and if she, later on, has been married by [another] man from a caste similar to hers by following the customs of their own caste, and if [the bridegroom's] fellow caste members (*jāta bhāī*) have consumed cooked lentils and rice from [their] hands, and if such a woman has illicit sexual intercourse with a slave or a man belonging to a Water-unacceptable caste, she shall be enslaved.

5. If an unmarried girl belonging to an Enslavable caste who has been living at her parental house has illicit sexual intercourse with [a man] whose caste status is higher than or similar to hers, and if, later on, she has illicit sexual intercourse with a slave, she shall neither be enslaved nor shall the slave be fined or imprisoned. She shall be regarded as a common woman.

6. If someone belonging to an Enslavable caste has illicit sexual intercourse with a widow or an unmarried girl belonging to a Non-enslavable caste, such a person shall be enslaved, and he shall become [the property] of the *amāla* office, if the dispute is settled by the *amālī* official of

542 MA<sub>1</sub> gives only *kamārāko* as title for this Art., whereas it is *kamārāko karaṇi* in MA<sub>2</sub>. Since this Art. deals with sexual offenses of slaves and not with the topic of slavery in general and is situated among other Articles dealing with sexual offences, we take the heading from MA<sub>2</sub>.

543 Om., read *bigryā* (MA<sub>2</sub>).

the respective place. If the *amālī* is unable to settle the dispute, and it is forwarded to an *adālata* or *ṭhānā* office, he shall become the property of the *adālata* or *ṭhānā*.

7. If an unmarried girl belonging to an Enslavable caste has illicit sexual intercourse with a slave and not with someone else, she shall be enslaved.

8. If a male or female bondservant has been enslaved for committing a crime which is punishable by enslavement, the *amālī* of the respective place shall be entitled to take him or her into possession. The *amālī* of the place where the bondservant's parents live shall not be entitled to own the bondservant. The *amālī*, having paid the debt to the creditor, shall take the enslaved bondservant.

9. If someone belonging to an Enslavable caste has been enslaved for committing a crime which is punishable by enslavement, and if he has a wife whom he married with before being enslaved, she shall be permitted to live with him if she declares: 'Although my husband is enslaved because of his crime, I will live with him since he is my ritually married husband.' She shall not be held accountable. Offspring born to her shall be regarded as free persons. If she prefers to live with him, she shall be permitted to do so. If she, at her own will, runs off with another man, she shall not be held accountable.

10. If a slave from any of the Four Varṇas or Thirty-six castes, including Brahmins or a Khavāsa who has remained a domestic servant (*kariyā*), has illicit sexual intercourse with any unmarried, widowed or married girl below the age of 11 belonging to a Sacred Thread-wearing caste, it shall be considered rape. If it has happened with a married girl, the aggrieved husband shall decide in accordance with the *Ain* [whether he kills his wife's paramour or not]. The slave or Khavāsa who has illicit sexual intercourse with an unmarried girl or a widow shall be executed.

11. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, widowed or married girl below the age of 11 belonging to a Non-enslavable Alcohol-drinking caste, it shall be considered rape if men equal to her caste will not marry her, if her fellow caste members will not accept cooked rice from her hands, and if she is not pregnant. If she is married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he has illicit sexual intercourse with a married girl whose husband belongs to a caste not bearing the right to kill his wife's paramour or with an unmarried or widowed girl, such a Khavāsa or slave of a Sacred Thread-wearing caste shall be imprisoned for 6 years. If he pays four times the amount of the fine in lieu of his imprisonment, it shall be accepted. He shall be handed over to the custody of his master after the prison term is over. The slave belonging to a Non-enslavable Alcohol-drinking or Enslavable caste shall be punished by *dāmala*. The slave [or Khavāsa] belonging to a Water-unacceptable but Touchable or an Untouchable caste shall be executed.

161. On Illicit Sexual Intercourse with a Slave

12. If a slave or a Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, widowed or married girl below the age of 11 belonging to a Non-enslavable Alcohol-drinking caste, it shall be considered rape if the girl may be accepted for cooked rice by her fellow caste members after she undertakes penance, if men equal to her caste may marry her,<sup>544</sup> and if she may regain her caste status after undertaking penance for her pregnancy. If he has illicit sexual intercourse with a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain*. If he has illicit sexual intercourse with a married girl whose husband belongs to a caste not bearing the right to kill his wife's paramour or with an unmarried girl, such a Khavāsa or a slave from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste shall be imprisoned for 6 years. The slave belonging to an Enslavable caste shall be imprisoned for 12 years. The slave or [Khavāsa] belonging to a Water-unacceptable but Touchable or an Untouchable caste shall be executed.

13. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, married or widowed girl below the age of 11 belonging to an Enslavable caste, it shall be considered rape. If he has illicit sexual intercourse with a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he has illicit sexual intercourse with a married girl whose husband belongs to a caste not bearing the right to kill his wife's paramour or with an unmarried or widowed girl, such a Khavāsa or slave from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste shall be imprisoned for 6 years. The slave belonging to an Enslavable caste shall be imprisoned for 7 years. The slave [or Khavāsa] belonging to a Water-unacceptable but Touchable or an Untouchable caste shall be punished by *dāmala*. Since it is a rape, the woman shall not be enslaved.

14. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with a married, widowed or unmarried girl below the age of 11 belonging to a Water-unacceptable but Touchable caste, it shall be considered rape. If he has illicit sexual intercourse with a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he has illicit sexual intercourse with a married girl whose husband belongs to a caste not bearing the right to kill his wife's paramour or with an unmarried or widowed girl, and if he has consumed cooked rice and water from her hands after the illicit sexual intercourse, and if he has contaminated fellow caste members equal to him through cooked rice and others through water, he shall be imprisoned for 7 years, the first letter of the caste [name] of that woman shall be branded on his left cheek, he shall be deprived of his right to drink water together with his fellow caste members, and he shall be handed over to his master's custody. If he has not consumed cooked rice and water from her hands after the illicit sexual intercourse, he shall be imprisoned for 6 years and shall be handed over to his master's custody after his prison term is over. Water may be accepted from his hands, thus he shall be granted water expiation. Among the Water-unacceptable castes,

544 *vihāvarī garnyā rahenachan*, read *bihābarī garnyā rahechan* (MA<sub>2</sub>).

if [a slave] belonging to a Water-unacceptable but Touchable caste has illicit sexual intercourse [with a woman of a caste equal in status to his own], he shall be imprisoned for 7 years. If [a slave] belonging to an Untouchable caste has illicit sexual intercourse [with a woman belonging to a Water-unacceptable but Touchable caste], he shall be imprisoned for 8 years. If four times the amount of the fine is paid in lieu of his imprisonment, it shall be accepted. [Such a culprit] shall be handed over to his master's custody after his prison term is over. Since it is a rape, the woman shall not be enslaved.

15. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, married or widowed girl below the age of 11 belonging to an Untouchable caste, it shall be considered rape. If a Khavāsa or the slave from a Sacred Thread-wearing, Non-enslavable Alcohol-drinking or [Water-unacceptable but] Touchable caste has contaminated fellow caste members equal to him through cooked rice and others through water after the illicit sexual intercourse, he shall be imprisoned for 7 years. If he has not contaminated [others] through water, he shall be imprisoned for 6 years, the first letter of the caste [name] of that woman shall be branded on his left cheek, he shall be deprived of his right to drink water together with his fellow caste members, and he shall be handed over to his master's custody. The slave who belongs to an Untouchable caste shall be imprisoned for 7 years. If four times the amount of the fine is paid [in lieu of imprisonment], it shall be accepted. If the amount of the fine is not paid, he shall be imprisoned and be handed over to his master's custody after his prison term is over. Since it is a rape, the woman shall not be enslaved.

16. If a slave belonging to any of the Four Varṇas and Thirty-six castes, including Brahmins, or a Khavāsa who has remained a domestic servant, has illicit sexual intercourse with an unmarried, widowed or married woman belonging to a Sacred Thread-wearing caste and who is past the age of 11 by intoxicating her, by tying her up or by gagging her, whether jointly with 2–3 people or alone, it shall be considered a rape. If she is a married woman, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If she is a widow or an unmarried woman, the Khavāsa or slave shall be punished by *dāmala*.

17. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, married or widowed woman belonging to a Non-enslavable Alcohol-drinking caste and who is past the age of 11 by intoxicating her, by tying her up or by gagging her, whether jointly with 2–3 people or alone, it shall be considered a rape. If she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If she is widowed or unmarried or married [to a man] of a caste not bearing the right to kill his wife's paramour, such a Khavāsa or slave from a Sacred Thread-wearing caste shall be imprisoned for 6 years if fellow caste members equal in status to that woman will not marry her, if her fellow caste members will not accept cooked rice from her hands and if she is not pregnant. If the slave belongs to a Non-enslavable Alcohol-drinking caste, he shall be imprisoned for 8 years. If he belongs to an Enslavable caste, he shall be imprisoned for 12 years. If he pays four times the amount of the

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fine [in lieu of imprisonment], it shall be accepted. If the slave belongs to a Water-unacceptable but Touchable or an Untouchable caste, he shall be punished by *dāmala*.

18. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, married or widowed woman belonging to a Non-enslavable Alcohol-drinking caste and who is past the age of 11 by intoxicating her, by tying her up or by gagging her, whether jointly 2–3 people or alone, it shall be considered a rape. If she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If she is a woman married [to a man] of a caste not bearing the right to kill his wife's paramour, or is widowed or unmarried, such a Khavāsa or slave from a Sacred Thread-wearing caste shall be imprisoned for 1½ years, if men of equal status to her caste status may marry her after the illicit sexual intercourse, if she may be accepted for cooked rice by her fellow caste members after she undertakes penance, and if she may re-join her caste after undertaking penance for her pregnancy. If such a slave belongs to a Non-enslavable Alcohol-drinking caste, he shall be imprisoned for 2 years, and if he belongs to an Enslavable caste, he shall be imprisoned for 3 years. If he pays twice the amount of the fine in lieu of the prison term, it shall be accepted. If he belongs to a Water-unacceptable but Touchable or an Untouchable caste, he shall be punished by *dāmala*.

19. If a slave or a Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, widowed or married woman belonging to an Enslavable caste and past the age of 11 by intoxicating her, by tying her up or by gagging her, whether jointly with 2–3 or alone, it shall be considered a rape. If she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If she is a woman married [to a man] of a caste not bearing the right to kill his wife's paramour, or is widowed or unmarried, such a Khavāsa or the slave from a Sacred Thread-wearing or Non-enslavable caste shall be imprisoned for 3 years. If he belongs to an Enslavable caste, he shall be imprisoned for 6 years. If he pays twice the amount of the fine in lieu of the prison term, it shall be accepted. If he belongs to a Water-unacceptable but Touchable or an Untouchable caste, he shall be punished by *dāmala*. Since it is a rape, the woman shall not be enslaved.

20. If a slave or Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried girl, widow or married woman belonging to a Water-unacceptable but Touchable caste and past the age of 11 by intoxicating her, by tying her up or by gagging her, whether jointly with 2–3 people or alone, it shall be considered a rape. If she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If a Khavāsa or a slave from a Sacred Thread-wearing, Non-enslavable or Enslavable caste has illicit sexual intercourse with a married woman whose husband belongs to a caste not bearing the right to kill his wife's paramour or with a widow or unmarried girl, and if he has contaminated fellow caste members equal in status to him through cooked rice and others through water, he shall be imprisoned for 3 years, the first

letter of the caste [name] of that woman shall be branded on his left cheek, he shall be deprived of his right to drink water together with his fellow caste members and he shall then be set free. If he has not consumed cooked rice and water from her hands after the illicit sexual intercourse, he shall be imprisoned for 1 year and shall be handed over to his master's custody after his prison term is over. Water may be accepted from his hands, thus he shall be granted water expiation. If the slave belongs to a [Water-unacceptable but] Touchable caste, he shall be imprisoned for 6 years, and if he belongs to an Untouchable caste, he shall be imprisoned for 7 years. If twice the amount of the fine is paid in lieu of his imprisonment, it shall be accepted. Since it is a rape, the woman shall not be enslaved.

21. If a slave or a Khavāsa who has remained a domestic servant has illicit sexual intercourse with an unmarried, widowed or married woman belonging to an Untouchable caste and past the age of 11 by intoxicating her, by tying her up or by gagging her, whether jointly with 2–3 or alone, it shall be considered a rape. If she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If a Khavāsa or a slave from a Sacred Thread-wearing, Non-enslavable, Enslavable or a Touchable [but Water-unacceptable] caste has illicit sexual intercourse with a married woman whose husband belongs to a caste not bearing the right to kill his wife's paramour or with an unmarried or widowed woman, and if he has contaminated fellow caste members equal in status to him through cooked rice and others through water, he shall be imprisoned for 3 years—if he has not contaminated them through cooked rice and water, for 1 year—, the first letter of the caste [name] of that woman shall be branded on his left cheek, he shall be deprived of his right to drink water together with his fellow caste members, and he shall be set free. If the slave belongs to an Untouchable caste, he shall be imprisoned for 6 years, and if twice the amount of the fine is paid in lieu of his imprisonment, it shall be accepted. Since it is rape, the woman shall not be enslaved.

22. If a slave belonging to any of the Four Varṇas and Thirty-six castes, including Brahmins, or a Khavāsa who has remained a domestic servant, has illicit consensual sexual intercourse with an unmarried girl, a married woman or widow belonging to a Sacred Thread-wearing caste and past the age of 11, and if she is a married woman, the aggrieved husband shall decide [how he punishes his wife's paramour]. The Khavāsa or the slave who has had illicit sexual intercourse with a widowed or unmarried woman shall be punished by *dāmala*.

23. If a slave or a Khavāsa who has remained a domestic servant has illicit consensual sexual intercourse with a married woman, widow or an unmarried girl past the age of 11 and belonging to a Non-enslavable Alcohol-drinking caste, and if she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he has illicit sexual intercourse with a married woman whose husband belongs to a caste not bearing the right to kill his wife's paramour or with a widowed or an unmarried woman, such a Khavāsa or slave from a Sacred Thread-wearing caste shall be imprisoned for 3 years, if men of castes equal in status to her caste will not marry her, if

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her fellow caste members will not accept cooked rice from her hands, and if she is not pregnant. After his prison term is over, he shall be handed over to his master's custody. The slave belonging to an Enslavable or a Non-enslavable Alcohol-drinking caste shall be imprisoned for 6 years. If he pays four times the amount of the fine [in lieu of imprisonment], it shall be accepted. The slave belonging to a Water-unacceptable but Touchable or an Untouchable caste shall be punished by *dāmala*.

24. If a slave or a Khavāsa who has remained a domestic servant has illicit consensual sexual intercourse with an unmarried, married or widowed woman who is past the age of 11 and belongs to a Non-enslavable Alcohol-drinking caste, and if she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he has illicit sexual with a married woman whose husband belongs to a caste not bearing the right to kill his wife's paramour or with an unmarried girl or widow, such a Khavāsa or slave from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste shall be imprisoned for 3 years, and if he belongs to an Enslavable caste, for 6 years, if her fellow caste members may accept cooked rice from her hands, men of a caste equal to her caste in status may marry her, and if she may re-join her caste after she undertakes expiation for her pregnancy. After his prison term is over, he shall be handed over to his master's custody. If he pays twice the amount of the fine [in lieu of imprisonment], it shall be accepted. He shall be handed over to his master's custody after his prison term is over. The slave belonging to a Water-unacceptable but Touchable or an Untouchable caste shall be punished by *dāmala*.

25. If a slave or a Khavāsa who has remained a domestic servant has illicit consensual sexual intercourse with an unmarried, married or widowed woman past the age of 11 and belonging to an Enslavable caste, and if she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain*. If he has illicit sexual intercourse with a married woman whose husband belongs to a caste not bearing the right to kill his wife's paramour or with a widowed or an unmarried woman, such a Khavāsa or slave from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking caste shall be imprisoned for 1 year. The slave who belongs to an Enslavable caste shall be imprisoned for 6 years. If he pays twice the amount of the fine [in lieu of imprisonment], it shall be accepted. The slave who belongs to a Water-unacceptable or an Untouchable caste shall be punished by *dāmala*. The woman shall be enslaved. If the woman is a common woman, neither the Khavāsa nor the slave shall be held accountable.

26. If a slave or a Khavāsa who has remained a domestic servant has illicit consensual sexual intercourse with a married woman, widow or unmarried girl who is past the age of 11 and belongs to a Water-unacceptable but Touchable caste, and if he has contaminated fellow caste members equal to him in status through cooked rice and others through water, such a Khavāsa or slave from a Sacred Thread-wearing, Non-enslavable or Enslavable caste shall be imprisoned for 1½ years, the first letter of the caste [name] of that woman shall be branded on his left cheek, he



shall be deprived of his right to drink water together with his fellow caste members, and he shall be set free and be handed over to his master's custody. Water may be accepted from his hands, he shall be granted expiation with respect to water. If the deed has been committed by a slave who belongs to a Water-unacceptable but Touchable caste, he shall be imprisoned for 4 years, and if it was committed by a slave who belongs to an Untouchable caste, he shall be imprisoned for 6 years. If he has contaminated the woman through water, he shall be imprisoned for 7 years. If he pays four times the amount of the fine [in lieu of imprisonment], it shall be accepted. He shall be handed over to his master's custody after his prison term is over. The woman shall be enslaved.

27. If a slave or a Khavāsa who has remained a domestic servant has illicit consensual sexual intercourse with a married woman, widow or unmarried girl who is past the age of 11 and belongs to an Untouchable caste, and if she is a woman married [to a man] of a caste bearing the right to kill his wife's paramour, the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he has illicit sexual intercourse with a married woman whose husband belongs to a caste not bearing the right to kill his wife's paramour or with a widowed woman, such a Khavāsa or slave from a Sacred Thread-wearing or Non-enslavable Alcohol-drinking, Enslavable Alcohol-drinking or Water-unacceptable but Touchable caste shall be imprisoned for 1½ years, if he has contaminated fellow caste members equal in status to his caste through cooked rice and others through water. If he has not contaminated [anyone] through cooked rice or water, he shall be imprisoned for 1 year, the first letter of the caste [name] of that woman shall be branded on his left cheek, he shall be deprived of his right to drink water with his fellow caste members, and he shall be set free and be handed over to his master's custody. If the slave who belongs to an Untouchable caste has such illicit sexual intercourse, he shall be imprisoned for 4 years. He shall be handed over to his master's custody after his prison term is over.

28. If a bondservant or a slave tries to convince his master's wife, daughter or daughter-in-law to have illicit sexual intercourse with him or if he asks somebody else to persuade her [on his behalf] for this purpose, he shall be imprisoned for 2 years. If he has tried to convince someone else other than his master's wife for this purpose or he asks somebody else to convince her, he shall be imprisoned for 1 year. If he pays the amount in lieu of his prison term, it shall be accepted and he shall be set free.

29. If someone has illicit sexual intercourse with a woman belonging to an Enslavable caste when he is still a slave, and if it has not been reported before, and if such illicit sexual intercourse is reported after he has been emancipated and has become a [member of the] Ghartī caste, and if the woman is married [to a man], the aggrieved husband shall decide in accordance with the *Ain* [how he punishes his wife's paramour]. If he had illicit sexual intercourse with an unmarried or widowed woman, he shall not be enslaved [again]. If [the woman] comes to complain that he has contaminated her through cooked rice after the illicit sexual intercourse, such a Ghartī shall be fined 20 rupees. If he has not contaminated her through cooked rice, he shall not be held accountable.

## 162. On Illicit Sexual Intercourse with Bondservants<sup>545</sup>

1. If a bondservant belonging to a Water-acceptable caste rapes his master's wife, daughter or daughter-in-law of the house where he is living as a bondservant, he shall be imprisoned by increasing [the term] to 1½ times that which is laid down in the *Ain*'s [Art.] 'On Rape'.<sup>546</sup> If he has illicit consensual sexual intercourse with an unmarried, widowed or married woman [of his master's house], the bondservant shall be imprisoned by increasing [the term] to 1½ times that which is laid down in the *Ain* for the respective castes, depending on the respective caste status [of the offenders].<sup>547</sup> If he has such an illicit sexual intercourse with an unmarried girl or widow below the age of 11, he shall be imprisoned for twice the term.

2. If a bondservant belonging to a Water-acceptable caste has illicit sexual intercourse with a woman other than his master's daughter, daughter-in-law or wife [from the household] where he is living as a bondservant, irrespective of whether he rapes a married woman, widow or unmarried girl below or past the age of 11 or has consensual illicit sexual intercourse with a married woman past the age of 11, he shall be fined and imprisoned in accordance with what is laid down in the *Ain* for the respective castes.

3. If a bondservant belonging to a Water-unacceptable<sup>548</sup> but Touchable caste rapes his master's wife, daughter or daughter-in-law, or if he has illicit consensual sexual intercourse with her, his property shall, in accordance with the *Ain*, be confiscated. Ten percent of [the confiscated property] shall be taken and be given to the woman. He shall be punished by *dāmala*.

4. If a bondservant belonging to a Water-unacceptable<sup>549</sup> but Touchable caste rapes a woman other than his master's wife, daughter or daughter-in-law, or if he has illicit consensual sexual intercourse with her, he shall be fined and imprisoned in accordance with what is laid down in the *Ain* for the respective caste of the woman.

545 MA<sub>1</sub> gives only *bādhāko* as title for this Art., whereas it is *bādhāko karaṇi* in MA<sub>2</sub>. Since this Art. deals with the sexual offences of bondservants and not with the topic of debt bondage in general and is situated among other Articles dealing with sexual offences, we take the heading from MA<sub>2</sub>.

546 See Art. 132–133.

547 See Art. 146–160.

548 *pānī calanyā*, read *pānī nacalanyā* (MA<sub>2</sub>).

549 *pānī calanyā*, read *pānī nacalanyā* (MA<sub>2</sub>).

162. On Illicit Sexual Intercourse with Bondservants

5. If a bondservant belonging to an Untouchable caste rapes his master's wife, daughter or daughter-in-law, or if he has illicit consensual sexual intercourse with her, he shall be executed.

6. If a bondservant belonging to an Untouchable caste rapes a woman other than his master's wife, daughter or daughter-in-law, or if he has illicit consensual sexual intercourse with her, he shall be fined and imprisoned in accordance with what is laid down in the *Ain* for the respective caste of the woman.

7. If a bondservant has illicit sexual intercourse with 2–3 women among his master's family, be it the wife, daughter or daughter-in-law of the house where he lives as a bondservant, then, depending on his caste the bondservant shall be punished in accordance with what is laid down in the *Ain* for illicit sexual intercourse for the respective castes.

## 163. Sexual Intercourse with Animals

1. If someone belonging to any of the Sacred Thread-wearing castes has sexual intercourse with a cow, his share of property shall, in accordance with the *Ain*, be confiscated, his Sacred Thread shall be removed and he shall be placed in a Non-enslavable Śūdra caste. If someone belonging to a Non-enslavable Alcohol-drinking caste has sexual intercourse [with a cow], his [share] of property shall be confiscated and he shall be placed in a Parjā caste. Water from the hands of such a person may be accepted. He shall be granted expiation with respect to water, a fee of 2½, 2, 1½, and 1 rupees, respectively, being taken from [the person] of the *abbala*, *doyama*, *sima* and *cahāra* [categories].

2. If anybody from the Four Varṇas and Thirty-six castes intends to have sexual intercourse with a cow and prepares to do so, and if his intention of that kind is revealed and he could not have illicit sexual intercourse [with the cow], such a person shall be fined 20 rupees. If the amount [of the fine] is not paid, he shall be imprisoned.

3. If a male slave who has been enslaved [by punishment] has sexual intercourse with a cow, he shall be imprisoned for 1 year. If he pays the fine in lieu of his imprisonment, it shall not be accepted. If he pays double the fine, he shall be granted expiation with respect to water in that a fee of 2 *ānās* is taken. Such a slave shall be handed over to his master, to whom he belongs, after his prison term is over.

4. If a cow with whom someone has sexual intercourse belongs to another person, the owner shall be made to receive the price for the cow from the confiscated [property] of the person who has sexual intercourse with it. An *adālata*, *ṭhānā* or *amāla* office shall take the cow and hand it over to an Untouchable caste member (*puhunī/paunī*) other than a Sārki. [The cow] shall not be given to a Sārki caste member or the like who consumes cow [meat]. No one belonging to the pure castes shall consume milk from such a cow. If someone consumes milk from such a cow, he shall be granted expiation by being fined at the rate of 2½ rupees, 1 rupee and one *sukā*, ½ rupee and one *sukā*, respectively, the fee being taken from [a person] of the *abbala*, *doyama*, *sima* and *cahāra* [category]. Someone who unwittingly consumes [milk from such a cow] shall not need to be fined. He shall be granted expiation, taking a fee of 1 rupee as *godāna*.

5. Someone who has sexual intercourse with his own she-buffalo shall be fined 30 rupees, and he shall be granted expiation in paying a fine of 1½ rupees, 1 rupee, ½ rupee, and 1 *sukā*,

respectively, from [a person] of the *abbala*, *doyama*, *sima* and *cahāra* [category]. If [the she-buffalo] belongs to another person, the one who has sexual intercourse with her shall be made to pay the price of [the she-buffalo]. The she-buffalo which has been polluted by such a person [through sexual intercourse] shall be considered a *cakuū*. An *adālata*, *ṭhānā* or *amāla* office shall auction it off among the people who belong to Untouchable castes. No one belonging to the Water-acceptable castes or the like shall keep such a she-buffalo or consume its milk. Also, the persons who are permitted to consume [buffalo]-meat shall not consume its meat. Whoever consumes milk or meat [from such a she-buffalo] shall be granted expiation by having to pay [a fine] of 1 rupee and 1 *sukā*, ½ rupee, 1 *sukā*, and 2 *dāma*, respectively, from [a person] of *abbala*, *doyama*, *sima* and *cahāra* [category]. Someone who unwittingly consumes under deception shall not be fined, [but] he shall be granted expiation<sup>550</sup> by paying [a fee] of 2 *ānās*.

6. Someone who has sexual intercourse with [his own] she-goat or ewe shall be fined 10 rupees, and expiation shall be granted to him through the religious judge (*dharmādhikāra*) taking 1½ rupees, 1 rupee, and ½ rupee and one *sukā*, respectively, as *godāna* from [a person] of the *abbala*, *doyama*, *sima* and *cahāra* [category]. If the she-goat or ewe belongs to another person, the owner shall receive the price in dispute from the person who has sexual intercourse with it. An *adālata*, *ṭhānā* or *amāla* shall auction off such she-goats or ewes among the people who belong to the Untouchable castes which have been polluted by a man through sexual intercourse. No one belonging to Water-acceptable castes shall keep such [she-goats or ewes] and consume their milk and meat. Someone who consumes such milk or meat shall be granted expiation, in that [a fine] is taken of 1 rupee and 1 *sukā*, ½ rupee, or 1 *sukā* and 2 *dāma*, respectively, from [a person] of the *abbala*, *doyama*, *sima* and *cahāra* [category]. Someone who unwittingly consumes such milk or meat shall not be fined, [but] he shall be granted expiation and [a fee] of ½ rupee shall be taken.

7. Someone who has sexual intercourse with a female horse, donkey or camel shall be fined 20 rupees and be let off. Such a person requires neither expiation nor penance.

8. A man who has sexual intercourse with a female dog or pig shall be fined 35 rupees, and he shall be granted expiation with respect to cooked rice and water, in that 1½ rupees, 1 rupee, ½ rupee or 1 *sukā*, respectively, is taken from [a person] of the *abbala*, *doyama*, *sima* and *cahāra* [category].

9. If someone accuses someone else of having had sexual intercourse with a cow, buffalo, goat, horse, donkey, camel, dog or pig or he has let somebody do so, and if [the accusation] cannot be proved by the accuser, and if it is confirmed that [the accusation] was made out of anger, such a false accuser who has accused [the victim] of having sexual intercourse with a cow shall be imprisoned for 11 months. If he pays the fine in lieu of his imprisonment, it shall be accepted and he shall be set free. If he has accused [the victim] of having sexual intercourse with [an animal] other [than a cow], he shall be fined according to the fine written down for [sexual intercourse]

550 *patiyā garānīnu*, read *patiyā garāidīnu* (MA<sub>2</sub>).

163. Sexual Intercourse with Animals

with the respective animal. If the amount of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned.

10. If a woman who belongs to an Enslavable caste lets a dog or pig have sexual intercourse with her, she shall be enslaved and be granted expiation with respect to water. If she belongs to a Non-enslavable caste, she shall be imprisoned for 1 year, shall be degraded from her caste, shall be granted expiation with respect to water, fined 1 rupee and 1 *sukā*, ½ rupee, 1 *sukā* or 2 *dāma*, respectively, to be taken from [a person] of the *abbala*, *doyama*, *sima* and *cahāra* [category], and then she shall be set free.

## 164. On Anal Sexual Intercourse [MA<sub>2</sub>]<sup>551</sup>

1. Amongst men, if someone from any of the Four Varṇas and Thirty-six castes who belongs to an inferior caste from whose members cooked rice is unacceptable penetrates the anus of someone else from a caste superior to his own, [the man of inferior caste status] who penetrated the anus [of the other man from a superior caste] shall be fined 100 rupees. The man who is penetrated anally shall be fined 50 rupees, after the Sacred Thread has been removed if he bears any; if he does not bear the Sacred Thread, he shall be fined 50 rupees only. Such a person shall be placed in the caste [of that person who penetrated him anally]. He shall not be accepted [as a member] of [his original] caste.

2. If someone from any of the Four Varṇas and Thirty-six castes penetrates the anus of someone from a caste equal or inferior to his own, both, the one who penetrated and the one who was penetrated shall be fined 40 rupees. Both shall be granted penance. They may be accepted [as members of their original castes].

3. If someone from an Enslavable caste penetrates the anus of someone from a Sacred Thread-wearing or Non-enslavable caste, he shall be enslaved. The person who was penetrated anally shall be fined 50 rupees and shall be placed in the caste of the person who penetrated his anus.

4. If someone from any of the Untouchable castes penetrates the anus of someone from a Sacred Thread-wearing caste, such as an Upādhyāya Brahmin, Rajapūta, Jaisī Brahmin or Kṣatriya, or someone from a Non-enslavable Alcohol-drinking caste, [the person who penetrated] shall be punished by *dāmala*, after the share of property which is his according to the *Ain* has been confiscated. The person who was penetrated anally shall be fined 100 rupees. He shall be placed in the caste of the [one who penetrated him] after the first letter of this caste [name] has been branded [on his left cheek]. [If a member of an Untouchable caste] penetrates the anus of someone from an Enslavable Alcohol-drinking or [Water-unacceptable but] Touchable caste, the person who was penetrated anally shall be enslaved, after the first letter [of the caste name of the person who penetrated him anally] has been branded [on his left cheek]. The person who penetrated his anus shall only be enslaved.

551 Art. 166 in MA<sub>2</sub>.

5. If someone from a Water-unacceptable but Touchable caste penetrates the anus of someone from a Sacred Thread-wearing caste, such as an Upādhyāya Brahmin, Rajapūta, Jaisī Brahmin or Kṣatriya, or from a Non-enslavable or Enslavable Alcohol-drinking caste, the person who was penetrated anally shall be placed [in the caste of] the person who penetrated him, after the first letter of that caste [name] has been branded [on his left cheek] and he has been fined 100 rupees. If [the person who was penetrated] belongs to an Enslavable caste, he shall be placed [in the caste of the person by whom he was penetrated] and be enslaved, after the first letter of [that man's] caste [name] has been branded [on his left cheek]. If the [amount] of the fine is not paid, he shall, in accordance with the *Ain*, be imprisoned. If someone from an Enslavable caste penetrates the anus of someone from one of the above-mentioned castes (i.e. Upādhyāya Brahmin, Rajapūta, Jaisī Brahmin or Kṣatriya, or from a Non-enslavable or Enslavable Alcohol-drinking caste), he shall be imprisoned for 4 years and be enslaved. If he is from a Non-enslavable caste, he shall be imprisoned for 8 years. If he pays four times the amount set in lieu of the person term, it shall be accepted [and he shall be set free].

6. If someone from a Sacred Thread-wearing caste from whose members' hands water may be accepted is penetrated anally by a person from a Water-unacceptable but Touchable caste, or penetrates the anus of someone from such a caste, and if he, without informing anyone that he had anal sex, has sexual intercourse with his ritually married wife or concubine and also feeds her cooked rice [touched by him], the wife who unwittingly allowed her husband to have sexual intercourse with her without knowing that he had had anal sex [with a person from a Water-unacceptable but Touchable caste], shall receive expiation. The foetus in her womb, too, as well as the offspring born afterwards, becomes pure by their mother's expiation. Cooked rice and water shall be acceptable from them. The wife who allows him to have sexual intercourse knowing that he had penetrated the anus of someone from a Water-unacceptable but Touchable caste or was penetrated anally by someone of such a caste, and the offspring born of them, shall be placed in the caste of the man with whom her husband had anal sexual intercourse. Her husband [shall also be placed in that caste], after 1 [initial] letter of that man's caste [name] has been branded [on his left cheek]. Cooked rice and water shall not be accepted from them.

7. If someone from a Sacred Thread-wearing caste from whose members' hands water may be accepted is penetrated anally by a person from an Untouchable caste, or penetrates the anus of someone from such a caste, and if he, without informing anyone that he had had anal sex, has sexual intercourse with his ritually married wife or concubine and also feeds her cooked rice and water [touched by him], and if the wife who allowed her husband to have sexual intercourse with her, without knowing that he had had anal sex with a person from an Untouchable caste and consumed cooked rice and water from his hands, is not pregnant, such a wife shall be granted expiation with respect to cooked rice and water. If she becomes pregnant, cooked rice shall not be accepted from her. She shall be granted expiation for water only. Also, from the offspring born to her afterwards, only water shall be acceptable, [but] not cooked rice. The wife who wittingly allowed her husband to have sexual intercourse with her, knowing that he had had anal sex with someone from an Untouchable caste, shall not be granted expiation with respect to cooked rice



and water, although she has had sex with her own husband. She shall be placed in the caste of the person with whom her husband had anal sex. Her husband shall be placed in that [man's] caste, after the first letter of this caste [name] has been branded [on his left cheek]. A person who unwittingly becomes contaminated shall be granted expiation.

8. If someone sleeps with his ritually married wife before it is revealed that he was penetrated anally by someone from a caste inferior to his own, and if it is then revealed, like his fellow caste members who have been contaminated by him through cooked rice, his wife shall also receive expiation with respect to cooked rice for being unwittingly contaminated. If the wife, of her own volition, wishes to join the caste of her husband, she shall be allowed to do so. She shall be placed in her husband's caste. If she does not wish to join this caste, she shall not be forced to do so.

9. If someone is penetrated anally by someone from a caste inferior to his own, from whose hands water may be accepted, and if he, without informing anyone about it, has sexual intercourse with his ritually married wife, concubine or any other [type] of wife, and if it turns out that such a woman, without knowing that her husband was penetrated by someone from an inferior caste, unwittingly allowed her husband to have sexual intercourse with her, she shall be granted expiation. Her foetus, as well as the offspring born afterwards, shall become pure through the expiation of their mother. A wife who allowed her husband to have sexual intercourse with her while knowing that her husband had been penetrated anally by someone from an inferior caste, and the offspring born to her [afterwards], shall not receive expiation. They shall enter the caste [of that man] by whom the husband was penetrated anally.

10. If someone from a superior caste penetrates the anus of someone from a Touchable but Water-unacceptable caste, and it turns out that he has not consumed cooked rice and water from the hands [of the person he penetrated], he shall be fined 100 rupees and be granted penance, being ordered to pay a visit to 1 pilgrimage site [e.g.] Muktinātha or Kāśī. If such a person [from a superior caste] consumes cooked rice and water from the hands of the person with whom he had anal sex, he shall not be granted penance. He shall be placed in the caste of that person from whose hands he consumed cooked rice and water after the anal sexual intercourse, and he shall be branded with the first letter of that person's caste [name on the left cheek]. The person who was penetrated anally shall be fined 50 rupees. If [the guilty parties] do not pay the amount of the fine, they shall, in accordance with the *Ain*, be imprisoned.

11. If someone from a superior caste penetrates the anus of someone from an Untouchable caste, and if he has also contaminated himself by accepting cooked rice and water [from the latter's hands], he shall be placed in the caste of the person with whom he had anal sex, after the share of property which is his according to the *Ain* has been confiscated. If he has not contaminated himself by accepting cooked rice and water from [the hands of the person whose anus he penetrated], he shall not be [punished] by confiscation. He shall be placed in the caste of that person [with whom he had anal sex], after being fined 100 rupees and having the initial letter

of the caste [name] of that person branded [on his left cheek]. The person who was penetrated anally shall be enslaved.

12. If someone makes an allegation that such and such a person was penetrated anally by a certain person, or a certain person penetrated the anus of such and such a person, but he fails to prove the allegation upon interrogation, the accuser—if he has made the allegation against someone who would have been punished by a fine [if the allegation had been proven]—shall be fined according to what would have been applicable to such [an offender]. If he has made the allegation against someone who would have lost his caste status [if the allegation had been proven], he shall be imprisoned for 2 years. If he pays the amount set in lieu of the prison term, it shall not be accepted. If he pays double the amount set in lieu of the prison term, it shall be accepted, and he shall be set free. If a woman makes such an allegation, she shall be punished by half of what a man would have received. If the woman pays the amount set in lieu of the prison term, it shall be accepted.

13. If someone penetrates the anus of a common woman, the man who penetrated her anus shall be fined 15 rupees. The [common] woman who has been penetrated anally shall be fined 5 rupees.

14. If someone is penetrated anally by someone from a caste superior or equal to his own, and if his wife allows him to have sexual intercourse with her, with or without knowing about that or under deception, the offspring born to her shall retain the caste status of the father. If a husband was penetrated anally by someone from a caste inferior to his own and from whose hands, at least, water may be accepted, and if [the former's] wife allows him to have sexual intercourse with her, without knowing about this or under deception, the offspring born to her shall become pure through their mother's expiation. Cooked rice [from their hands] shall be acceptable. They shall also receive their share from [the joint property], as legitimate offspring would receive. If a woman allows her husband to have sexual intercourse with her, knowing that he has been penetrated anally by someone from a Sacred Thread-wearing caste whose status is inferior to his own, the offspring born to her shall, at least, receive the Sacred Thread, [but] they shall be placed in the caste of the person who penetrated [their father] anally. Cooked rice from their hands shall not be acceptable. They shall receive  $\frac{1}{3}$  of what the legitimate offspring would receive [from the joint property]. If a woman allows her husband, who is from a Sacred Thread-wearing caste, to have sexual intercourse with her, knowing that he has had anal sex with someone from a Non-enslavable or Enslavable Alcohol-drinking caste, or if a woman allows her husband, who is from a Non-enslavable Alcohol-drinking caste, to have sexual intercourse with her, knowing that he has had anal sex with someone from an Enslavable caste, the offspring born to such a woman shall not receive the Sacred Thread. They shall be placed in the caste of the person who penetrated their father anally. Each of them shall receive  $\frac{1}{3}$  of what the legitimate offspring would receive [from the joint property]. If such a father does not have any legitimate offspring, they shall be entitled to enjoy the entire property of their father. If someone from a Sacred Thread-wearing caste or Non-enslavable Alcohol-drinking caste is penetrated anally by someone who is not entitled to

receive the Sacred Thread or who does not bear it, he, after removing his Sacred Thread, shall be placed in the caste of that person who penetrated him anally. Such a person receives the status (*jāta*) of a sodomite (*gāḍu*). The offspring of such a person from a Sacred Thread-wearing caste or the like shall be placed in a Non-enslavable Alcohol-drinking caste. If they are from a Non-enslavable Alcohol-drinking caste, they shall be placed in an Enslavable Parjā caste.

15. If [a man] who is above the age of 12 masturbates, he shall be fined 2½ rupees and be granted expiation, after being charged an [expiatory] fee of eight *ānās*.

16. If someone from a Non-enslavable or Enslavable Alcohol-drinking caste penetrates the anus of a boy from a Sacred Thread-wearing caste who is under the age of 12, the one who penetrates the anus shall, in accordance with the *Ain*, be punished. The one who is penetrated anally shall only be placed in the caste of that person who penetrated him anally. Because he is a minor, he shall not be fined.

## 165. On Madhesa [MA<sub>2</sub>]<sup>552</sup>

Two regulations ordering the *hākimas*, *ḍiṭṭhās*, *bicārīs* or the like, who settle legal cases and are stationed in the various offices of Madhesa and Terai—east from the [river] Mahākālī and west from [the river] Mecī—from now on to settle legal cases concerning the subjects of our realm [only] after consulting and considering the *Ain*:

1. Throughout the districts of Madhesa and Terai, east from the [river] Mahākālī and west from [the river] Mecī, legal cases concerning anyone from Madhesa or the hill region (*parvatīya*) shall be settled in accordance with this *Ain* in disputes relating to business, loan agreements, etc., transactions, cash, kind, gold, silver, jewelleryes, utensils, quadrupeds or the like, or relating to verbal abuse, physical assault, theft, injuries resulting from the blow of a sword or stick, or relating to murder or sexual intercourse with someone from a Water-unacceptable or Untouchable caste.

2. Throughout the districts of Madhesa and Terai, east from the [river] Mahākālī and west from the [river] Mecī, legal cases concerning anyone from Madhesa or the hill region in matters relating to incest, enslavement, sexual intercourse between persons from superior and inferior castes, or in caste-related issues, or matters pertaining to contamination through cooked rice and water, shall be settled for people from Madhesa according to what has been practised from earlier times to the present day. If a legal case arises which [can neither be settled] according to [the customs] practised from earlier times, nor can it be settled according to the *Ain*, it shall be referred to [the Kausala] in writing, as shall all such cases. [The Kausala] shall investigate the [matter] of the written document and shall introduce [any required new law]. Action [regarding such a case which is referred to the *Ain* Kausala] shall be taken according to the instructions given [by the Kausala].

552 Art. 167 in MA<sub>2</sub>.

## Glossary

<i>abbala</i>	The best of four land categories (cp. <i>doyama</i> , <i>cahāra</i> , <i>sima</i> ), also used for the tenants on such land.
<i>adālata</i>	A law court at the district level or in frontier areas, superordinated to <i>ṭhānās</i> and <i>amālas</i> .
<i>aḍḍā</i>	1) A law court superordinated to <i>adālatas</i> , <i>ṭhānās</i> and <i>amālas</i> ; 2) An office, post or station where state functionaries carry out their duties.
<i>adhiyā</i>	A system of share-cropping in the central hill region, under which the cultivator paid half of the rice-crop as rent.
Aghorī	A group of Hindu ascetics whose spiritual practice is focused on the attainment of a state of non-discrimination characterised as <i>aghora</i> (lit. ‘non-terrible’).
<i>ahada</i>	(International) treaty.
Ainkhānā	The law office established by Jaṅga Bahādura Rāṇā in 1851 or 1852. It was responsible for amending and cancelling existing laws or for drafting new legislation at the initiative of the prime minister.
<i>akarnanāmā</i>	In legal procedure, a report assembling all evidence brought forth in a case.
<i>akrāra</i>	Written acknowledgement of rights.
<i>alipatra</i>	Deed of relinquishment of title.
<i>amāla</i>	A village level revenue collection office with judicial functions. In the <i>Ain</i> , <i>adālatas</i> , <i>ṭhānās</i> and <i>amālas</i> were the central institutions for judicial administration.
<i>amālī</i>	Chief of an <i>amāla</i> office, a revenue functionary of a regional administrative unit with judicial powers.
<i>amānata</i>	Revenue collection by a salaried official.
<i>ānā</i>	A monetary unit worth 1/16 of a rupee with 4 <i>ānā</i> constituting 1 <i>sukā</i> .
<i>aṅgula</i>	A measure of length equivalent to a finger’s breadth.
<i>aputālī</i>	Property in default of a son as heir; escheatable property.
<i>arjabegī</i>	Superintendent of a prison.
Asala Jaisī	A class of Brahmins inferior to Upādhyāya Brahmins, born from the union of an Upādhyāya man and his Upādhyāya concubine or a Jaisī woman ritually married to him.
Asala Rajapūta	Group classified as the highest among the Rajapūtas.

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Asala Śreṣṭha	A clan within the Newar Śreṣṭha caste group considered inferior to Chatharīya Śreṣṭhas and superior to other Śreṣṭhas of lower rank.
<i>asarphī</i>	A gold coin.
Āṭhyā	'a sort of remittent fever occurring on every eighth day, regarded as very fatal' (TND s.v. <i>āṭhe</i> ).
<i>āvārje</i>	Abstract account.
Bāḍā	A Newar caste group consisting of Śākyas and Vajrācāryas, considered inferior to the Śreṣṭhas.
Bādi Bhāḍa	See Bhāḍa.
<i>bādhā</i>	Collateral; property pledged by a borrower such as substantial property, valuables or human chattel; a borrower or his family members could also pledge themselves.
<i>baḍhakarāra</i>	A loan agreement secured by a collateral with a stipulated term.
Baghara	An ascetic group wearing tiger-skin robes, probably belonging to a Śaiva sect.
<i>bahī(-patra)</i>	Account, balance sheet.
<i>bajira</i>	(Prime) Minister.
<i>bakasabirtā</i>	A tax-free, inheritable and transferable <i>birtā</i> grant.
<i>baksāunī</i>	A judicial fee levied by the government for settling disputes or permitting sales.
<i>bāṇaliṅga</i>	Egg-shaped pebbles declared to be a <i>śivaliṅga</i> ; a type of self-existing ( <i>svayambhū</i> ) or natural <i>liṅga</i> .
<i>bārudakhānā</i>	An ammunition magazine.
<i>beḍī</i>	A fee for the initiation of a trial concerning debt recovery.
<i>begārī</i>	Forced labour services for the government, to be provided by tenants, especially for portage or construction works.
<i>bekha</i>	An inheritable <i>birtā</i> grant.
<i>besautyā</i>	Trader.
<i>beṭhī</i>	A type of forced labour service.
Bhāḍa	An untouchable caste whose members work as singers, dancers or live on begging. Their caste status is equal to that of the Vādīs.
<i>bhāibhāradāra</i>	See <i>bhāradāra</i> .
<i>bhalā manisā</i>	Nobles or elders who exercised judicial authority on the local level.
<i>bhāṅga</i>	An eatable or drinkable preparation of cannabis.
<i>bhāradāra</i>	A generic term for a member of the royal family or high-level state functionaries, also <i>bhāibhāradāra</i> .
Bhāṭa	Offspring born from the union of a Brahmin man and his Upādhyāya concubine, or a Jaisī woman with whom he is not related, but who was previously married with two husbands; offspring born from the union of an Upādhyāya or Jaisī Brahmin with a concubine or widow belonging to the Daśanāmī, Jogī, Jaṅgama, Sannyāsī, Sebaḍā, Kanaphaṭṭā, Vairāgī or other kinds of ascetics.

Bhaṭṭa Brahmin	A class of Brahmins who came originally from Maharashtra and were brought to Kathmandu by the Malla Kings.
<i>bhatuvā</i>	A servant working only for his keep.
Bhoṭe	An umbrella term designating Tibetanoid groups classified as Enslavable Alcohol-drinkers; also for a non-ethnically defined legal status.
<i>bicārī</i>	Magistrate, ranked under <i>ḍiṭṭhā</i> .
<i>birtā</i>	A royal land grant with far-reaching privileges in terms of tax-exemption, revenue collection and judicial authority.
<i>birtābitalapa</i>	An often tax-exempted type of <i>birtā</i> grant which obliges its beneficiary to work for the state when called upon to do so.
<i>bisauda</i>	A court fee of 20 percent of the amount involved in litigation, mostly to be paid by the losing party of a lawsuit.
<i>bisaulī</i>	A weight measure equalling 112 <i>tolās</i> .
<i>bitalapa</i>	See <i>birtābitalapa</i> .
<i>boḍī</i>	A weight measure equalling 27 <i>tolās</i> .
<i>boksī</i>	Witch.
Bubhaḍela	Residential Title Office responsible for the registration of land transfers and land disputes.
<i>cahāra</i>	The worst of four land categories (cp. <i>abbala</i> , <i>doḃama</i> and <i>sima</i> ), also used for the tenants on such land.
<i>cāka</i>	A low-caste man punished by enslavement for a sexual offence.
<i>cakuī</i>	1) A low-caste woman punished by enslavement for a sexual offence; 2) Cattle confiscated by the state for killing a person or after being a victim in a bestiality case.
<i>cāndrāyaṇa</i>	1) A series of fasts where the food portions increase or decrease according to the lunar fortnights; 2) A fee substituting the performance of this type of penance.
<i>cāradāma (ṭhekī)</i>	A fee to be paid by a tenant upon the confirmation or renewal of his tenure.
<i>caudharī</i>	A headman or landlord vested with revenue-collection rights, especially in the Tarai.
<i>cautariyā</i>	A high-ranking title with no specific functions attached, granted to several male descendents of the Śāha kings at a time.
<i>chaiṭhi</i>	A post-natal ritual on the 6 <sup>th</sup> day after birth.
<i>chaiṭī</i>	A court fee of 6 percent of the amount involved in litigation.
<i>chāmṅrā</i>	Betrothal gifts offered by a suitor, mostly from an Enslavable or Non-enslavable Alcohol-drinking caste.
<i>chāpa</i>	var. <i>chapelā</i> ; 1) Seal or stamp; 2) Land granted by the state to individuals on a lifetime basis in return for their service.
Chebhaḍela	Building authority, also responsible for building and renovating state houses and properties.
Chipā	A Newar caste whose members are cloth dyers by profession.

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Citrakāra	A Newar caste whose members are painters by profession, considered inferior to the Jyāpu castes.
<i>cumāvana</i>	A levy imposed on occasion of the life-cycle initiation ( <i>vratabandha</i> ) of the king or the crown prince.
Cunāro/Cunārā	Woodworker castes.
Cuḍyāro (Cuḍāro)	A caste group whose members traditionally work as stonemasons; classified as a Water-unacceptable, but Touchable caste.
Curauṭe	‘Hill Muslims’; Muslim community native to Kathmandu Valley, renowned for their bracelet manufacture.
<i>custā</i>	Military riding trousers which are baggy from waist to knee and are tight from knee to ankle, also known as ‘jodhpurs’.
Cyāmakhala	A Newar caste similar to Poḍes in occupation, yet considered lower to Poḍes in social gradation; the lowest among the Untouchable castes.
Cyāṅgrākausī	An alternative designation for Sadaradaphadarakhānā.
<i>cyuṭi</i>	A volumetric unit equal to 1/10 of one <i>muṭhī</i> .
<i>ḍagola</i>	A land surveyor.
<i>dakṣiṇā</i>	Sacrificial fee or wage paid to the priest at the end of a ritual.
<i>dāma</i>	1/4 of 1 <i>paisā</i> .
Damāi	A caste group whose members traditionally work as tailors or musicians; the 5 <sup>th</sup> lowest among the Untouchable castes.
<i>dāmala</i>	Replacement for execution for perpetrators from castes exempted from the death penalty; the offender is branded on his left cheek, his entire property is confiscated and he is imprisoned for life.
<i>dānapatra</i>	Deed of gift; the founding charta of a charitable endowment.
<i>daṇḍa(-kuṇḍa)</i>	A generic term for judicial fines and penalties.
Danuvāra	An ethnic group in the lowland.
<i>daphadara</i>	Land registry, cf. Sadaradaphadarakhānā, Kampu Daphadara.
Daphadarakhānā	See Sadaradaphadarakhānā.
<i>daphtarī</i>	A revenue functionary responsible for the accounts of land assignments to army personnel.
<i>darabāra</i>	A royal court.
Darai	An ethnic group in the low land, living as fishermen and farmers.
<i>darbha</i>	A holy grass used in sacrifices, <i>Desmostachya bipinnata</i> (L.) STAPP.
<i>darśanabheṭa</i>	A cash levy paid to the king and principal members of the royal family by civil and military personnel at the time of their (re-)appointment.
Dasaī	Festival to worship the goddess Durgā as slayer of the buffalo demon, held over the bright half of the autumn month of Āśvina ( <i>baḍādasāī/mahādasāī</i> ) and, on a smaller scale, over the bright half of the spring month of Caitra ( <i>caitedasāī</i> ).
Daśanāmī	An order of Śaiva ascetics said to be founded by Śaṅkarācharya.
<i>dasauda</i>	A court fee of 10 percent of the amount involved in litigation, mostly to be paid by the winning party of a lawsuit.



<i>daskhata</i>	A missive signed by the prime minister.
<i>dastābeja</i>	Legal document, producible in evidence.
<i>deśī</i>	An inhabitant of the Indian plains.
Devabhāju	A Hindu Newar priest, also known as Rājopādhyāyas.
<i>devāli (guthī)</i>	A <i>guthī</i> of a Newar lineage-group for the performance of the rituals of their clan deity.
<i>ḍhaka</i>	A measure of weight (corresp. to two maunds [or man] or 164 lbs. avdp) made out of bronze or iron.
<i>ḍhākre</i>	A former state employee.
<i>ḍhapoṭ</i>	Personal account entries.
<i>dharmādhikāra</i>	Chief judge in religious jurisdiction whose main duties are to grant expiation and rehabilitation to polluted individuals. The term is exclusively used for Brahmins.
<i>dharmapatra</i>	Religiously solemnised document or deed.
<i>dharmasālā</i>	Pilgrim shelter.
<i>dhārṇī</i>	A measure of weight equal to 2 <i>bisaulī</i> .
<i>dharoṭa syāhā</i>	Deposit ledger.
<i>ḍhikuro</i>	Funeral mound of earth erected after the death of a deceased person.
Dhobī	See Hindu Dhobī.
<i>dhokryā</i>	Grain speculator.
<i>ḍhoti</i>	A loincloth worn by men.
<i>ḍhuṅgo chuvāunu</i>	Lit. ‘to make sb. touch a stone’; probably a rite at the end of a trial where the losing party has to touch a stone representing Viṣṇu or the king and has to place a fee on it, maybe for the purpose of expiation.
<i>ḍiṭṭhā</i>	A loincloth worn by men.
<i>ḍoko-boko</i>	Labour services and payments in cash or in kind due on <i>kīpaṭa</i> land.
<i>ḍolājī</i>	A son-in-law living in the home of his parents-in-law.
Ḍoma	A Water-unacceptable caste group.
Dotyāla Jaisī	A category of low-caste Brahmins inferior to Upādhyāyas, Asala- and Tīna-Liṅga-Jaisīs.
<i>doyama</i>	The second best of four land categories (cp. <i>abbala</i> , <i>sīma</i> and <i>cahāra</i> ), also used for the tenants on such land.
Draviḍa Brahmin	A class of Brahmins of South Indian descent.
Ḍuī	A Newar caste whose members are considered inferior to the Jyāpu castes, also known as Putuvāra.
Duī-Liṅga-Jaisī	A Jaisī whose mother was previously married to two other men.
<i>dvāre</i>	A local revenue collection official with minor police and judicial powers.
fakir	A generic term for all sorts of ascetics.
<i>gādīmumārakha</i>	Levy collected on a country-wide basis to finance the expenses of a royal coronation.
Gāine	A caste group whose members were singers and dancers by profession. The 4 <sup>th</sup> lowest among the Untouchable castes.

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<i>gaṇḍī</i>	A monetary unit consisting of 4 <i>paisās</i> ; equivalent to 1 <i>ānā</i> .
<i>gauḍā</i>	Frontier offices under military administration.
<i>gaurāi</i>	Payment of earnest.
<i>gauruñ</i>	Village agent.
Gāyatrī	Also called Sāvitrī; verse from the <i>Ṛgveda</i> (3.62.10), sometimes considered as essence of the Veda.
<i>ghaḍī</i>	A measure of time equal to 24 minutes.
Ghale	A clan among the Guruṅga, descendants of the Ghale dynasty, who are categorised as Non-enslavable Alcohol-drinkers.
<i>gharabārī</i>	Farmhouse with adjoining land.
Ghartī	An umbrella term to classify people of ‘notorious’ origin such as offspring from certain incestuous or hypergamous unions.
<i>ghāṭa</i>	An access to a river, used for ritual bathing or cremation.
<i>ghiu-khānī</i>	Lit. ‘ghee fee’; additional payment to a creditor or landlord in order to supply him with ghee.
<i>goḍadhuvā</i>	Tax levied to finance the wedding and dowry of the reigning king’s eldest daughter.
<i>godāna</i>	Lit. ‘gift of a cow’; a fine to be paid by a polluted person to the <i>dharmā-dhikāra</i> for expiation.
Golaghara	A cage-shaped prison located in the middle of the central jail of Nepal.
<i>gotra</i>	Line of descent of a mythical seer ( <i>ṛṣi</i> ), which originally represented a sacrificial community.
Gujarātī Brahmin	A class of Brahmins of Gujarati descent.
<i>gumastā</i>	A revenue collection assistant.
<i>guru</i>	A spiritual master, mentor or teacher.
Guruṅga	A Tibeto-Burman ethnic group in the central hills.
<i>guṭhī</i>	1) Endowment of land or other sources of revenue for financing religious and charitable functions. 2) An organisation responsible to carry out such functions.
<i>guṭhīyāra</i>	Trustee or member of a <i>guṭhī</i> .
<i>hākima</i>	Chief of an administrative unit, government office or court.
<i>hale</i>	A <i>pākho</i> land holding in the hill region which could be ploughed by one ox-team in one day.
Hamāla	The offspring born of extramarital unions of Jaisīs and Rajapūtas.
<i>haṇḍī</i>	An earthen pot of alms given out by the government or other charitable institution to ascetics, students or the poor.
Harivaṃśa	‘Genealogy of Hari’; sacred text of the Hindu tradition dealing with the ancestry and exploits of Kṛṣṇa and believed to be a supplement to the <i>Mahābhārata</i> .
Hijra	Community of eunuchs, intersex and transgender people.
Hindu Dhobī	A washermen caste; the 9 <sup>th</sup> lowest among the Untouchable castes.

Hiṭṭcoka	The office for meeting the sudden and petty expenses of the royal court in kind.
<i>huddā</i>	A low-ranking military or police functionary who could also be assigned to civilian offices.
<i>hukuma</i>	Order, especially from the king or members of the Rāṇā family.
<i>hulāka</i>	A system of transportation for official mail and civil and military supplies through relays of porters.
Hurkyā	An untouchable caste which ranks below the Sārki, Kāmī, Cunāro and Cunārā castes.
<i>ijārā</i>	System under which the government granted to an individual the exclusive right to collect revenue from a specified source, subject to the payment of a sum stipulated in advance.
<i>ijārādāra</i>	Holder of an <i>ijārā</i> .
<i>insāyena</i>	Junior military officer.
<i>istihāra</i>	Public proclamation.
Iṭācapali	Criminal Court. One of the four central courts ( <i>cāra adālata</i> ) located in Kathmandu, others being Koṭīliṅga, Ṭaksāra, and Dhanāsāra.
<i>jabānabandī</i>	Written statement of the acceptance of a court decision.
<i>jagerā</i>	Land held in reserve by the state for special appointments, rewards or endowments.
<i>jāgira</i>	Land assigned to government employees in lieu of salaries.
<i>jāgīradāra</i>	A government employee who is remunerated for his services by the assignment of taxation rights on land.
<i>jamādāra</i>	A low-ranking commissioned officer in the army who could also be assigned to civil offices.
<i>jamānipatra</i>	Written declaration of suretyship.
<i>jaminadāra</i>	Landholder, zamindar.
<i>janai</i>	Sacred Thread differentiating the Twice-born ( <i>dvija</i> ) from the Single-born ( <i>ekaja</i> ) castes.
<i>janai supārī</i>	Betrothal ritual where the bride receives the Sacred Thread ( <i>janai</i> ) and betel nuts ( <i>supārī</i> ) from the groom.
Jaṅgama	A group of wandering Liṅgāyat ascetics.
<i>japhatī</i>	Land confiscated by the government which is converted into state-owned land and reassigned to a new landlord or tenant.
<i>jethā-budhā</i>	A village headman responsible for local affairs such as the maintenance of law and order.
<i>jethāka</i>	The share of the joint-family property received by the eldest wife or son during property partition.
<i>jhākrī</i>	Wizard.
<i>jhannā-pannā</i>	Probably a certain unorthodox doctrine rejected by Hindus.
<i>jhārā</i>	Forced labour, unpaid work or assistance exacted from the people by the government or a landlord.

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<i>jhāraphuka</i>	Shamanic treatment by which mantras are blown on the body of a sick person.
<i>jhuttāvāla</i>	A subordinate to a <i>mukhiyā</i> .
Jhelakhānā	State prison authority.
<i>jillā</i>	A category of land rights.
<i>jimmāvāla</i>	A revenue collection functionary in the hill districts.
<i>jitāpatra</i>	Certificate of court victory or of exoneration.
<i>jitāuri</i>	Court fee to be paid by the winning party in a lawsuit.
<i>jiunī</i>	Land or other property meant to ensure subsistence; in the course of the sub-division of ancestral property, it refers to additional wealth transferred to a co-parcener on top of the share he or she is legally entitled to.
Jogī	An ascetic, religious mendicant; specif. a follower of the Nātha tradition. See also Kanaphaṭṭā.
Jumli Jaisī	A Brahmin caste group of low status, inferior to Upādhyāyas, Asala Jaisīs, Uhī-Liṅga-Jaisīs, Duī-Liṅga-Jaisīs, Tīna-Liṅga-Jaisīs and Dotyāla Jaisīs.
Jyāpu	A Newar clan consisting of different caste groups whose main occupation is agriculture; considered to be inferior to Udāsas.
<i>kabuliyata</i>	Written agreement, contract or consent.
<i>kacaharī</i>	An administrative office with judicial powers.
Kaḍārā	The 6 <sup>th</sup> lowest among the Untouchable castes.
<i>kājī</i>	An official of ministerial rank in the civil and military administration.
Kalavāra	A Water-unacceptable but Touchable caste group, predominately settling in the Tarai.
<i>kaldāra</i>	See <i>kallāra</i> .
<i>kallāra</i>	A gold coin issued under the Mughal emperors.
<i>kāmadāra</i>	A steward, manager, agent.
Kāmī	The 7 <sup>th</sup> lowest among the Untouchable castes; often blacksmiths, iron-workers or armourers by profession.
<i>kampanī</i>	A military company. One of three categories of army units, the other two being <i>palṭana</i> and <i>kampu</i> .
<i>kampu</i>	Regular army. One of three categories of army units, the other two being <i>palṭana</i> and <i>kampanī</i> .
Kampu Daphadara	Registry responsible for land assignments of the military personnel belonging to a <i>kampu</i> .
Kanaphaṭṭā	Ascetics with pierced ears; followers of Gorakhanātha.
<i>kānugoi</i>	A local official responsible for tax collection and record-keeping in the Terai regions.
<i>kanyādāna</i>	Lit. ‘gift of the virgin girl (daughter)’; climax of the marriage ritual when the girl is handed over to her husband.
<i>kapālī tamasuka</i>	Deed for an unsecured loan agreement.
<i>kapardāra</i>	Chief of the royal household, chamberlain.

<i>kāringdā</i>	An official under the authority of a <i>hākima</i> .
<i>kariyā</i>	A servant.
<i>karpana</i>	A fee of five rupees taken by the court from each party. By paying, the litigants express their will to have the case decided by ordeal.
Kasāī	An untouchable caste group whose members live by selling meat and fruits; the 11 <sup>th</sup> lowest among the Untouchable castes.
<i>kāṭhamahala</i>	Forestry office, responsible for timber management.
<i>kaṭuvāla</i>	A civil functionary.
Kausala	State Council, court of judicial review consisting of the most important state officials.
Kausītoṣākhānā	Central state treasury which served several additional functions, such as the expenses for and storage of goods for the royal palace and the appointment of <i>subbās</i> in the Tarai.
<i>kāyelanāmā</i>	A written confession.
<i>khāḍī</i>	A type of blanket, often worn as a cloak, knitted on a loom.
<i>khajāñcī</i>	Chief royal treasurer and <i>hākima</i> of the Kausītoṣākhānā.
<i>khānagī</i>	Emoluments of government employees and functionaries, often in the form of land assignments.
Khāna-Khavāsa	Royal slaves recruited from orphans, cp. Khavāsa.
<i>kharaḍāra</i>	Writer, secretary, official scribe.
<i>khātā</i>	An account book, ledger, especially of a creditor.
<i>khatachita</i>	Sexual offence.
Khavāsa	An umbrella term for current or former slaves of the nobility and the offspring born of unions between nobles and slave women
<i>kheta</i>	Irrigated land in the hill region suitable for the cultivation of rice and wheat.
Khusalamusala	A Newar caste considered inferior to Jyāpu caste.
<i>khuvā</i>	Land given as emolument for <i>jāgīra</i> holders.
<i>kipaṭa</i>	A system of communal land tenure traditional amongst several ethnic groups.
Kirāti	An umbrella term for the Limbus and Rāīs of eastern Nepal.
<i>kodāle</i>	A <i>pākho</i> holding in the hill region which was too small to be ploughed by oxen and therefore was cultivated with spades.
<i>kośa</i>	A measurement unit of distance varying between 3.2 and 3.6 kilometres in ancient India, equivalent to a quarter of a <i>yojana</i> .
<i>koṭa</i>	A fort or arsenal.
<i>koṭavāla</i>	Chief police officer of a town or a district.
<i>kote ḍiṭṭhā</i>	An officer in charge of arms and ammunition, ranking above a <i>mukhiyā</i> , but lower than a <i>subbā</i> .
Kṣatriya	Member of the warrior estate ( <i>varṇa</i> ).
Kulu	An Untouchable caste group whose members are leather-workers; the 8 <sup>th</sup> lowest among the Untouchable castes.

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Kumāla	An ethnic group of the inner Terai whose traditional main occupation is pottery.
Kumārīcoka	Central office and court of audit.
<i>kuruvā</i>	Volumetric unit equivalent to two <i>mānā</i> , or 20 <i>muṭhī</i> .
<i>kuśa</i>	Sacrificial grass, <i>Desmostachya bipinnata</i> (L.) STAPF.
<i>kuśabirtā</i>	Land grant made to Brahmins with religious motives, following a commitment ( <i>saṃkalpa</i> ) made with holding <i>kuśa</i> grass.
Kusle	An untouchable caste group whose members work as sweepers and musicians in royal households or temples; the 10 <sup>th</sup> lowest among the Untouchable castes.
<i>kuta</i>	A system of tenancy under which a cultivator paid a fixed quantity of produce or a fixed amount of money as rent to the owner of the field.
<i>lagata</i>	Register.
<i>lājimā diṭṭhā</i>	Auxiliary or non-combatant personnel in a military company.
<i>lākha</i>	One hundred thousand.
<i>lākhā-(supārī)</i>	A Newar engagement ritual of offering a set of 10 betel nuts and a coin presented in a small pot, mostly made of silver, by the groom's family to the bride's family as a token confirming the marriage.
<i>lāla</i>	A unit of weight equalling $\frac{1}{10}$ <i>māsā</i> .
<i>lālamohora</i>	Royal order or decree bearing a red seal.
<i>lamī</i>	A matchmaker or procurer.
Lavaṭa	A term used for mixed castes originating from hypergamous unions among Newars and Non-Newars.
<i>lekhata</i>	Document, written statement.
<i>lephṭena</i>	Lieutenant.
Limbu	An ethnic group in the far-eastern hill region.
<i>liphā</i>	A blank document bearing a client's signature, thumbprint or seal.
Madhise	Residents of Madhesa.
Madhise Brahmin	Brahmin castes inhabiting or originating from Madhesa.
Magara	An ethnic group in the central hills.
<i>mahājāca</i>	Auditor general.
<i>mahānāike</i>	A chief or principal leader of a community or locality entrusted with judicial authority.
<i>mahāne</i>	A local revenue functionary in the Kathmandu Valley.
<i>mahāpātaka</i>	A grievous sin causing the loss of caste. Five are enumerated: killing a Brahmin, drinking liquor, theft, committing adultery with one's teacher and associating with anyone guilty of these crimes.
<i>mahārāja</i>	Great king.
<i>mahārogī</i>	Lit. 'heinous disease'; white leprosy.
<i>mahasūla</i>	A certain type of land tax.
<i>mahasulyā</i>	Irrigated paddy or unirrigated upland-fields in the hill regions, which were taxed in cash.

<i>mahatau</i>	A village headman in the Terai districts.
Mājhī	An ethnic group of the inner Terai whose traditional main occupation is boat building and river transportation service.
Mālī	A Newar caste whose members are gardeners by profession.
<i>mālika</i>	Lord, master; head of a family, office or state.
<i>mānā</i>	A volumetric unit equivalent to 0.568 litres, or 1/8 of a <i>pāthi</i> .
<i>mānācāmala</i>	A land grant given to a <i>bhāradāra</i> or a high-ranking officer in order to provide him with daily supplies of food; given under the condition that it shall become state-owned ( <i>raikara</i> ) land upon his death; also known as <i>khuvā-birtā</i> .
<i>mañjuranāmā</i>	Letter of consent.
Marahaṭṭā Brahmin	A class of Brahmins of Maharashtrian descent.
<i>marauṭa</i>	A governmental land grant endowed to the family of a person who gave his life for the welfare of the kingdom.
<i>marjī</i>	(Prime ministerial) order.
<i>māsā</i>	A measure of weight, equaling 1/10th of a <i>tolā</i> .
<i>mayāyu</i>	A type of land grant made to a person out of compassion or love.
<i>megajina</i>	Military arsenal where weapons and armory were stored or produced.
<i>mijhāra</i>	A headman of ethnic groups of low caste status; responsible for the collection of levies, fines or escheats from the families falling under his jurisdiction.
<i>misākhata</i>	Illicit sexual intercourse among or by Newars.
Mleccha	‘Foreigner’, an outsider to the Brahmanic socio-ritual order, also used for Christians.
<i>mohora</i>	See <i>lālamohora</i> and <i>mohora rūpaiyā</i> .
<i>mohora rūpaiyā</i>	A monetary unit equivalent to two eight- <i>ānā</i> silver coins ( <i>mohoras</i> ), 4 <i>sukās</i> , 16 <i>ānās</i> or 64 <i>paisās</i> .
<i>mohoratāmrapatra</i>	Royal copperplate deed.
<i>mohorū</i>	See <i>mohora rūpaiyā</i> .
<i>moṭha</i>	Consolidated sum, tax assessment.
Moṭha Tahabila	Land tax registry and assessment office.
<i>muculkā</i>	1) Report; 2) Witnessed written declaration.
Mugalāna	Lit. ‘land of the Mughals’; The Indo-Gangetic plains of North India.
<i>mukaddama</i>	Headman of a village, caste or corporation, usually charged with the realisation of revenue.
<i>mukhiyā</i>	A designation for an administrative post used at the local, district and central level. At the local level <i>mukhiyās</i> functioned as village headmen and revenue functionaries. District headmen were also called <i>mukhiyās</i> . In the central administration, <i>mukhiyās</i> were writers who kept accounts or supervised officials of lower ranks.
<i>mukhtiyāra</i>	Prime minister and commander-in-chief.
<i>mulukī</i>	1) Pertaining to a realm; 2) Royal.

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Mulukīkhānā	Central Treasury.
<i>munsī</i>	Writer, author, teacher or a translator. <i>Munsīs</i> were properly trained scribes and secretaries of the courts.
<i>murī</i>	Unit of land measurement in the hill region, comprising $\frac{1}{4}$ <i>ropanī</i> with 100 <i>murīs</i> in 1 <i>kheta</i> .
Musalamāna	Muslim; Muslims were classified as a Water-unacceptable but Touchable caste group.
<i>muṭhī</i>	A volumetric unit equivalent to $\frac{1}{10}$ of a <i>mānā</i> .
Nāgara Brahmin	A class of Brahmins, probably the one which is primarily found in Gujarat and Rajasthan.
<i>nāike</i>	A leader of any kind of group or locality, especially of a Newar village.
<i>naivedya</i>	Offering of eatables presented to a deity.
Nakarmī	A Newar caste group, blacksmiths by profession.
<i>nāmardī</i>	Lit. 'unmanliness (fee)'; 1) a compensation to be paid by an adulterer to the aggrieved husband; 2) a fine to be paid by an aggrieved husband who continues to have sexual intercourse with his adulterous wife.
Nānaka	Sikh.
<i>nānakāra</i>	Land-revenue rights enjoyed by <i>chaudharis</i> , <i>guraus</i> , <i>kānugois</i> and the likes in the Tarai districts.
Nepāla	Kathmandu Valley.
<i>pagarī</i>	The turban worn by high-ranking civil and military personnel, also a term for the class of officials wearing it.
Paharī	An ethnic group in the vicinity of Kathmandu Valley speaking a Tibeto-Burmese language.
<i>paisā</i>	A monetary unit equal to $\frac{1}{4}$ of an <i>ānā</i> .
<i>pākho</i>	Unirrigated high or hillside land on which only dry crops can be grown.
<i>pala</i>	A measure of weight equal to 1 <i>tolā</i> .
<i>paḷāna</i>	Regiment, battalion. One of three categories of army units, the other two being <i>kampu</i> and <i>kampanī</i> .
<i>pānaphula</i>	A small fee (lit. for <i>pāna</i> , i.e. paan, a preparation combining betel leaf with areca nut) offered in compensation.
<i>panaunī</i>	Reward handed over to the finder of a lost object by its owner.
<i>pañca</i>	A assembly of elders forming a local judicial body.
<i>pañcaḡavya</i>	A mixture of the five products of a cow (milk, curd, ghee, urine and dung); often used for ritual purification.
<i>paramabhaṭṭā</i>	A deed, prepared by the seller, formalizing the sale of a slave.
Pāre Ghartī	Caste group consisting of former slaves and their offspring; assigned to the Enslavable castes.
Parjā	An umbrella term for Bhoṭe, Cepāṅga, Darai, Mājhi, Hāyu, Danuvāra, Kumāla and Paharī, who are classified as enslavable.
<i>parvatīya</i>	The Nepālī-speaking population of hill origin.



<i>pasuvana</i>	Lit. '(fee) for animal-like (behaviour)'; a compensation to be paid to an aggrieved husband by his wife's paramour.
<i>pāthī</i>	A volumetric unit equivalent to 4.546 litres comprising 8 <i>mānās</i> .
<i>patiyā</i>	A penalty through which one keeps or regains one's caste status, see also <i>prāyaścitta</i> .
<i>patra</i>	Letter, document.
<i>paṭṭā</i>	Deed of lease.
<i>peṭiyā(-kharca)</i>	A category of governmental land grant endowed for maintaining the recipient's livelihood.
<i>pevā</i>	Dowry; the private property of a married woman, often bequeathed to her by her husband or the paternal side of her family, but also self-earned.
<i>phāarakatī,</i> var. <i>phāarakha</i>	Quitclaim deed, a written receipt or acquittance.
<i>phārchyāpatra</i>	Quitclaim letter.
<i>pharmāisī</i>	A non-inheritable <i>birtā</i> grant to members of the royal or Rāṇā family.
<i>phaujadāra</i>	An officer invested with the charge of police, jurisdiction and tax collection in the Tarai.
<i>phikadāra</i>	Inheritable <i>birtā</i> grant made to persons of status below Brahmin castes in appreciation of services, for which the <i>lālamohora</i> bore the mark of betel juice spat by the king.
<i>phukādāma</i>	A monetary unit of small denomination, equivalent to ¼ of a <i>dāma</i> .
<i>piṇḍa</i>	Rice-balls offered to ancestors during the <i>śrāddha</i> rites.
Poḍe	The second lowest among the Untouchable castes.
<i>potadāra</i>	Weigher and assayer of coins.
<i>pradhāna</i>	A low-ranking local state functionary or community headman.
<i>pramāṅgī</i>	Order or authorisation letter from the king, prime minister or a high-ranking government official.
<i>prāṇāyāma</i>	Blocking the correct nostril while controlling the breath.
<i>prasāda</i>	(Food) gifts for gods, part of which the giver retains.
<i>prāyaścitta</i>	Ceremony of penance undertaken by a polluted person for absolution.
<i>puchryā chāpa</i>	Seal or stamp affixed at the bottom margin of a deed or document.
<i>pūjā</i>	Ritual worship, mainly of a divinity.
<i>purjā</i>	Rent collection receipt, cp. <i>tirjā</i> .
<i>pūrjī</i>	Writ, a written notice.
<i>pustā</i>	Degree of kinship between two persons determined by the most remote shared male ancestor; especially important in the marriage and incest law.
<i>pyāja-khāni</i>	Lit. '(a fee) in order to consume onion'; a small fee to be paid by a plaintiff as food allowance to the bailiffs arresting the defendant at the plaintiff's request.
<i>rāhādāni</i>	Travel permit, passport.
<i>raibandī</i>	A system of redistribution of rice-land among local tenants in proportion to the size of their families.

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<i>raikara</i>	State-owned land.
<i>rāiṭara</i>	Writer or clerk.
<i>rājaguru</i>	A preceptor or guru to a member of the royal family.
<i>rājaguṭhī</i>	Royal <i>guṭhīs</i> ; trusts set up by a reigning king or queen of Gorkhā following the performance of a <i>saṃkalpa</i> .
<i>rājakhata</i>	A heinous crime such as Brahmin murder or incest, maybe considered either as a crime against or punishable by the king.
Rajapūta	A member of the royal family or other high class Kṣatriya castes, such as Ṭhakurīs.
<i>rājīnāmā</i>	1) A deed of relinquishment of rights; 2) A declaration of will.
<i>rakama</i>	1) Contract for the exclusive rights to the income generated from a revenue item; 2) Land held in return for providing labour services to the government.
<i>rakamī</i>	A holder of a <i>rakama</i> contract.
<i>ramatā</i>	An individual itinerant ascetic.
<i>rasīda</i>	Receipt.
<i>rudrākṣa</i>	Seeds of the <i>Elaeocarpus ganitrus</i> used as prayer bead.
<i>rukkā</i>	Missive of high-ranking officials, often the king and prime minister.
Sadaradaphadara (-khānā)	General registry office for land and revenue assignments in lieu of pay.
Sadaramulukīkhānā	See <i>Mulukīkhānā</i> .
<i>sadāvarta</i>	A charitable foundation for the provision of food to the poor, mendicants and pilgrims.
<i>sādhaka</i>	Written verdict.
<i>sāheba</i>	Honorific to address a high-ranking person, sir; especially used for British dignitaries.
<i>sāhipāṭa</i>	Marriage contract.
<i>śālagrāma</i>	Black-shale ammonite fossils worshipped as representations of Viṣṇu.
<i>salāmi</i>	Payments due to the government, including fines, levies, fees.
Sālamī	Lit. 'oil-presser'; a sub-caste among the Newar, also known as Mānandhar.
<i>saṃkalpa</i>	Ritual declaration, ritual commitment.
<i>sanada(-patra)</i>	A grant, charter, appointment or endorsement, often signed by a ruling authority.
Sannyāsī	A generic term for ascetics or their male heirs leading a householder life.
<i>sapiṇḍa</i>	Lit. 'Having common <i>piṇḍas</i> '; kinsman connected by the offering of the funeral oblation to the deceased male ancestor ( <i>piṇḍa</i> ), i.e. any person of seven generations in direct line of ascent or descent
<i>sardāra</i>	A top-ranking official next in hierarchy to a <i>kājī</i> .
<i>sardu</i>	A type of blanket, probably worn as a cloak, knitted on a domestic loom.
<i>sarkāra</i>	1) King, monarch; 2) government.
Sārki	A caste group whose members work as leather workers. The 7 <sup>th</sup> lowest among the Untouchables castes.

<i>satī</i>	1) Widow, concubine or female slave who follows her deceased husband or master into death by immolating herself either on her husband's or master's fire, or on a separate funeral pyre; 2) the ritual of self-immolation.
<i>sāunephāgu</i>	A homestead levy collected in the hill districts, including Kathmandu Valley, during the months of Śrāvaṇa and Phālguna every year.
<i>savāla</i>	Ordinances; a set of directives issued especially for administrative purposes.
<i>sāyeradāra</i>	Holder of customs and market duties collection rights.
<i>Sebaḍā</i>	A Jaina ascetic.
<i>serā</i>	Crown lands, lands assigned for the supply of provision to the royal households.
<i>serāguṭhī</i>	Land endowed to a <i>guṭhī</i> in order to provide the supply for members of the royal household.
<i>sermā</i>	An annual homestead tax collected in cash on <i>pākho</i> land.
<i>sevābirtā</i>	A category of <i>birtā</i> grants made to individuals for the performance of specified services, especially in the Kathmandu Valley and usually of religious nature.
<i>sidhā</i>	1) A plate of uncooked rice, lentils, vegetables, salt, turmeric powder and ghee, etc. given to a Brahmin priest by his patron during a ritual or sacrifice; 2) Alms or food rations regularly given by the government or charitable endowments to poor people, ascetics, students and prisoners.
<i>silakhānā</i>	Office responsible for securely storing military arsenals.
<i>silāpatra</i>	Stone inscription.
<i>sima</i>	The worst of four land categories (cp. <i>abbala</i> , <i>cahāra</i> and <i>doyama</i> ), also used for the tenants on such land.
<i>sinko kāṭṇu</i>	Lit. 'to cut a twig'; splitting a bamboo twig into two pieces to effect a divorce.
<i>sipāhī</i>	A soldier or a non-combatant person employed as policeman or office attendant.
<i>sirabandī</i>	Written authorisation, especially issued by the parties of a legal dispute, empowering the jury to decide their caste.
<i>sirako banda</i>	Compilation of account headings.
<i>sirto</i>	Tribute paid by vassal states to the Central government.
<i>śrāddha</i>	Periodic ancestor worship.
<i>śrāddhaguṭhī</i>	<i>Guṭhī</i> endowed for the performance of the periodic worship of common ancestors.
<i>śrestā</i>	Account book, ledger.
<i>śrestādāra</i>	An accountant, registrar.
<i>Śreṣṭha</i>	A Newar caste group comprising different clans with varying caste status, such as the Asala Śreṣṭhas or the Chatharīya Śreṣṭhas.
<i>subbā</i>	Governor or chief administrative officer of a province or district.
<i>subedāra</i>	A military official, in charge of a <i>ṭhānā</i> .

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<i>sudāmata</i>	A kind of levy to be paid by farmers.
Śūdra	Member of the servant estate ( <i>varṇa</i> ).
<i>sukā</i>	A monetary unit worth ¼ of a rupee and comprising 4 <i>ānās</i> .
<i>sunābirtā</i>	Land ownership emerging when <i>raikara</i> (state-owned) land is sold to individuals.
<i>sunāguṭhī</i>	A type of <i>guṭhī</i> ; probably when <i>birtā</i> land bought from the state is endowed as <i>guṭhī</i> .
Sunāra	A caste of gold workers, classified as an Untouchable caste.
Sunuvāra	An ethnic group in the eastern hills of Nepal.
<i>suvāro</i>	Hillside land.
<i>syāhā</i>	Account book, ledger.
<i>tahabila</i>	Office for revenue accounts.
<i>tahabiladāra</i>	Government treasurer, cashier.
<i>tahasiladāra</i>	Revenue collector.
Tailaṅgī Brahmin	A class of Brahmins with descent from Telangana.
<i>talsiṅboṭī</i>	The landlord's share of the crop or income derived from his land and to be collected from his tenant.
<i>tālukadāra</i>	A local revenue collector, such as an authorised landlord or a community headman.
<i>tamasuka</i>	Loan agreement.
Tehraūte Brahmin	A class of Brahmins with descent from the Tirhut region, especially Jhā or Miśra Brahmins.
Telī	A caste of oil sellers from the Terai, classified as a Water-unacceptable, but Touchable caste.
<i>ṭhānā</i>	A police or military office with judicial functions.
<i>ṭhāni</i>	A local non-official tax collection functionary.
<i>ṭharaghara</i>	1) A member of one of the six ruling clans of Nepal (the Pādes, Panthas, Aryjālas, Khanālas, Rāṅā, and Bohorās); 2) Nev. Syasyaḥ, the highest group among the Śreṣṭha castes.
<i>ṭharī</i>	A clan elder or headman functioning as a tax collector.
<i>ṭheka</i>	Contracts given out for revenue and tax collection rights.
<i>ṭhekadāra</i>	Holder of a <i>ṭheka</i> ; a contractor to whom rights to revenue, tax collection or land usage are transferred by the government for a stipulated period.
Ṭhokryā	A caste group whose members work as producers and sellers of metal vessels and utensils.
<i>thuma</i>	An administrative subdivision comprising a number of villages in the hills.
Tihāra	Festival celebrated over five days, from the 13 <sup>th</sup> of the dark fortnight to the 2 <sup>nd</sup> of the bright fortnight of Kārttika.
<i>tihāu</i>	A system of tenancy under which a cultivator paid ⅓ of the produce as rent to the owner of the field.

<i>tīkā</i>	An ornamental spot applied on the forehead as part of rituals or worn as a sectarian mark.
Tīna-Liṅga-Jaisī	A Jaisī whose mother was previously married to three men in her life. Among other criteria, Jaisīs were hierarchised according to the number of the mother's former husbands.
<i>tirjā(-purjā)</i>	A certificate empowering <i>jāgiradāras</i> to collect the rent from their land.
<i>tolā</i>	A unit of weight and standard measure for gold and silver comprising 100 <i>rati</i> , 10 <i>māsās</i> and being 1/80th of a <i>sera</i> .
Toṣākhānā	See Kausī(-toṣākhānā).
Udāsa	A Newar caste group considered inferior to Bāḍās and superior to Jyāpus.
Udāsī	An ascetic affiliated to the Sikh tradition.
<i>ujarāta</i>	Suspense account.
<i>ukāsa</i>	Unclaimed land.
<i>umarāva</i>	High-ranking (military) official.
Upādhyāya	Preceptor in Vedic texts; the highest status group among Brahmins in the officially endorsed caste hierarchy.
<i>urdī</i>	An official written order.
Vādī	A caste group whose members who made their living as singers and dancers. The 3 <sup>rd</sup> lowest among the Untouchable castes.
<i>vaidya</i>	Physician; also name of a caste.
Vairāgī	A Vaiṣṇava ascetic of the Rāmānandī Sampradāya.
<i>vājavi</i>	A homestead tax.
<i>vaṃśāvalī</i>	Chronicle.
<i>vāsila bāki</i>	Collections and balances, total account.
<i>veśyā</i>	1) 'Common woman', a woman who has had sexual intercourse with more than two different men; 2) A prostitute.
<i>vijayāhoma</i>	Initiation rite after which the novice becomes a full member of an ascetic community.
Viṣṭa	Name of a particular clan of Chetris; a general name for all higher castes, especially when addressed by Damāīs and Kāmīs.
<i>vratābandha</i>	Hindu investiture ritual.
<i>vṛṣotsarga</i>	Symbolic release of a bull, touching a bull, a cow or gold; also performed on the 10 <sup>th</sup> or 11 <sup>th</sup> day of the Hindu death ritual.
<i>yādadāsta</i>	Memorandum.
Yamapañcaka	See Tihāra.
<i>yantra</i>	Holy, power-charged diagram.



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The *Mulukī Ain* of 1854—the law code with constitutional features drafted at the initiative of Prime Minister Jaṅga Bahādura Rāṅā—is the foundational legal text for modern Nepal. It covers almost every aspect of public, criminal, private and religious law, ranging from the organisation of the state and courts to murder and other delicts, the workings of the caste system and the joint family, matters of purity and penance, customary law, widow-burning and witchcraft. As such, the *Mulukī Ain* is a unique source not only for the political, social and economic life of 19<sup>th</sup>-century Nepal, but also for the place of traditional Hindu jurisprudence in South Asian legal cultures.



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